

ACT POOL BARRIER INFORMATION.

In the ACT, there are a number of requirements in relation to swimming pools. A swimming pool means an excavation, structure or vessel that can be filled with water to a depth of more than 300mm that can be used for swimming, wading, paddling or any other human aquatic activity. This includes a bathing or wading pool and a spa but, does not include a bath or spa bath in a bathroom. Swimming pools can be described in many ways, which may include but not be limited to blow-up, demountable, children's, toddler's, in-ground, permanent, temporary or portable pools and spas.

In the ACT a proposed swimming pool or spa associated with a residential building that can hold water deeper than 300mm is required to have a swimming pool safety barrier certified in accordance with Australian Standards and a Certificate of Occupancy & Use issued under the Building Act 2004. In the case of demountable swimming pools or spas that are exempt from building approval, the certification of the barrier should be in place before the swimming pool or spa is able to hold water.

The safety barrier must be certified as compliant with the *Building Act 2004*, by an ACT licensed building surveyor otherwise known as a building certifier.

Construction:

Swimming pools (including reinforced concrete swimming pools, reinforced plastic liner pools, demountable swimming pools, inflatable paddling pools and spas) are considered Class 10 structures. Class 10 structures may be exempt from requiring development approval or building approval if they meet certain provisions of the *Planning and Development Regulation 2008* or *Building (General) Regulation 2008*, respectively.

Swimming pools usually don't require development approval, depending on factors such as capacity, height and location.

All pools for water depths of 300 mm or less are exempt from requiring a building approval and child safety barrier. Certain pools that are not demountable by hand or with hand tools, without breaking the pool, can also be exempt from requiring building approval, if the exemption conditions are met. The exemption conditions include providing the child safety barrier required by law before the pool can hold water. Non-demountable pools require building approval and child barrier.

Child safety barriers to all pools can also be exempt from requiring building approval, if the exemption conditions are met. The exemption conditions include compliance with building code, construction in a proper and skilful way, and inspection and certification as law compliant by a certifier.

Swimming pool fencing or other pool barriers may be exempt from requiring building approval providing they are compliant with the *Building (General) Regulation 2008*. However, they are only exempt from building work and not exempt from other parts of the act, more specifically Building occupancy, therefore a Certificate of Occupancy and Use still needs to be obtained for the installation.

Swimming pool fencing or other pool barriers are only exempt providing they meet the following conditions:

1. Fencing and barriers must comply with building code; and
2. Fencing and barriers must be constructed in a proper and skilful way; and
3. Fencing and barriers must be inspected and certified as compliant with the Act (other than part 3) by a certifier.

Fences and barriers:

Fencing and other safety barriers for a swimming pool or spa that requires building approval, and that is associated with a residential building, must comply with the Building Code of Australia (BCA).

Generally, a safety fences and gates must be at least 1.2m high with non-climbable vertical supports and no gaps exceeding 100mm. Land boundary fences that are part of the barrier must be at least 1.8m high.

Pool and spa owners who use a boundary fence as part of the safety fence may later need to install a separate safety fence because the boundary fence can become an ineffective safety barrier. For example, when neighbours place an object in their yard that causes the boundary fence to be ineffective. Certain objects are not permitted within a 1.2m arc swung from the top of the fence because a child could use them to climb over the fence.

An outdoor pool area must not be accessible through a door. A pool gate is required. Gates must swing away from the pool area and be self-closing. The gate's latch release mechanism should be 1.5m above ground level or, if lower, must be shielded in accordance with the BCA to restrict access to the mechanism by children.

Older or pre-existing pools and spas:

If a pool or spa was lawfully built in the ACT, there is no specific requirement to upgrade the pool or spa's barrier if the pool or spa or the barrier has not be altered or relocated since installation. Alterations must comply with the Building Act. Ensuring that pools or spas comply with the Building Act can help prevent children from drowning, or from severe injury from nearly drowning. Continuous adult supervision of children near pool or spa water is recommended, rather than a reliance on safety barriers.

Certificate of occupancy and use:

The lessee/s of the property where the swimming pool fence/barrier is installed must complete the Certificate of Completion and Application for Certificate of Occupancy and Use - Swimming Pool Fencing or Barrier.

The following documentation must be provided with the completed form:

A site plan showing:

- The block or unit boundaries; and
- The location and description of the subject pool fencing or pool barrier

This type of application cannot be submitted via e-Development.