

## Background notes to the Building (Pools) Amendment Act 2016

### November 2016

One of New Zealand's most successful pieces of legislation, the Fencing of Swimming Pools Act (1987), has been disbanded in favour of a new Building (Pools) Amendment Act 2016. From a height of sixteen deaths in the late 1980s, fewer than two young children currently drown in home pools per annum.

The Amendment Act repeals the Fencing of Swimming Pools Act 1987 (FoSPA) and includes pool safety provisions under the Building Act 2004. It also creates new Building Code clause F9, which relates to residential pool barriers. Changes under the Amendment Act take effect from 1 January 2017.

Currently, Building Code clause F4 requires swimming pools to have barriers that restrict access by young children. The Schedule to FoSPA is an Acceptable Solution for clause F4. Proposed AS1 will largely reflect the Schedule to FoSPA. The main differences between the proposed Acceptable Solutions and the existing Acceptable Solutions in the Schedule to FoSPA relate to:

- **Safety covers for spas and hot tubs** – the Amendment Act provides that a safety cover can be used as a barrier instead of the current requirement to fence.

*WAI: The removal of the requirement to fence does increase risk to young children because it creates the need for personal behaviour to replace the spa/hot tub cover. WaterSafe Auckland recognises this increased risk is relatively small due to the very small numbers of drowning in above ground spas/hot tubs.*

- **Door alarms** – the Amendment Act provides for door alarms to be used to help ensure doors are kept closed, this is required because there is now no requirement to fence a pool, doors as part of a house can be an approved barrier.

*WAI: The removal of the requirement to fence a pool is of great concern. The scientific evidence shows four sided fences are superior to three-sided fences in reducing home pool drowning for young children, and both are many times safer than no fences. In addition, Council inspectors often find doors propped open or door alarms disabled or not working, thereby leaving no barrier for unauthorised access to the pool for young children.*

- **Doors that open toward a pool area.**

*WAI: Doors that open outward of the pool area are safer because they are harder for young children to open (all pool fence gates must open outwards). Introducing doors that open in to the pool area has been necessary because house doors open out of the house.*

*The proposed Acceptable Solutions would make doors that open towards a pool area acceptable if the door closer is strong enough to restrict access by a young child. Again, this is a real concern as it increases risk, and there has been no thought to child development regarding a door being strong enough to restrict access by a young child.*

- **Boundary fences**

*WAI: Acceptable Solutions are proposed for boundary fences, so that, if the fence is high enough, owners will not need to ensure the other side of the fence remains clear.*

- **Garden ponds** – Unlike the FoSPA, the new legislation excludes garden ponds.

*WAI: An average of three people drown every year in ponds, almost the same as the number that drown in home pools. Removing garden ponds from legislation further increases risk to young children.*

- **Three yearly inspections**

*WAI: The only improvement of safety in the new legislation is the requirement of three yearly inspections for home pools. In practise this new requirement will affect very few home owners. The University of Otago reviewed home pool inspections and found that Territorial Authorities already inspected 60% of home pools, and reported another 20% were inspected periodically. Territorial Authorities responsible for the other 20% did not respond to the survey.*

- **Spa pools and hot tubs no longer require inspections**

*WAI: WaterSafe Auckland fails to see how relaxing the standards to allow the estimated 100 000 portable spa pools or hot tubs in New Zealand to not require any inspections will save lives. Lack of maintenance often means the cover on the lock doesn't lock, or the cover has deteriorated enough to let a young child access a pool.*

WaterSafe Auckland is concerned the increased ease of compliance has come about with a reduction in safety. The decreased cost of compliance has come about by the removal of portable spa pools and garden ponds from the inspection regime or the requirement to comply. MBIE is currently seeking submissions for acceptable Solutions containing specifications for safety cover, door alarms, doors opening towards a pool, and boundary fences. Submissions close 16 December 2016.