

SWIMMING POOL AND SPA BARRIER FAQS

This Information sheet provides responses to questions frequently asked by consumers about swimming pools, spas and associated barrier requirements. Swimming pools and spas are classified as Class 10b buildings under the Building Code of Australia (National Construction Code Series Volumes One and Two), and their construction and maintenance are regulated in Victoria by the *Building Act 1993* and the *Building Regulations 2018*.

Complying with the requirements for swimming pool barriers goes a long way to protecting young children, but they should always be actively supervised near water.

1. Do I need a safety barrier for my pool or spa?

All swimming pools and spas with a depth greater than 300 mm (30 cm) must have a compliant safety barrier. This is to restrict access to young children (under the age of 5) to the pool area.

This includes:

- In-ground pools and spas
- Indoor pools and spas
- Above-ground pools and spas
- Relocatable (including inflatable) pools and spas
- Hot tubs and jacuzzis.

Safety barriers are not required for structures not used principally for swimming, paddling or wading, such as:

- Bird baths
- Fish ponds
- Fountains
- Water supply/storage tanks
- Dams
- Baths used for personal hygiene and emptied after each use
- Pools and spas (including relocatable and inflatable toddler or wading pools) which

- cannot hold more than 300 mm (30 cm) of water
- Spas inside a building used for personal hygiene (such as a spa bath in a bathroom).

2. If I have an above-ground swimming pool or spa, do I need a safety barrier?

The walls of an above-ground swimming pool or spa provide a barrier if they are at least 1.2 m high from the ground level, and do not have a surface that allows a child to gain a foothold and climb into the swimming pool or spa.

Any objects that could be climbable by a young child, such as a permanent pool ladder, pool filter and pump equipment, should be properly fenced.

3. I have recently purchased an inflatable swimming pool for temporary use. Do I need a building permit to install the pool?

No, you do not need a building permit to construct or install a relocatable or inflatable swimming pool or spa can hold more than 300 mm of water provided it is erected temporarily in an area enclosed by an approved barrier.

To install the safety barrier, you will need to obtain a building permit and have the barrier approved before installing the inflatable pool within the barrier.

The inflatable pool or spa should not be used until the safety barrier has been installed and a certificate of final inspection has been issued by the Relevant Building Surveyor (RBS).

Inflatable or other temporarily erected relocatable pools and spas containing less than 300 mm of water do not require a building permit or a safety barrier. Young children should be actively supervised around these pools and it is recommended that these pools are emptied when not in use.

4. How do I know if the barrier around my swimming pool or spa complies with the law?

The regulations for swimming pool and spa barriers have changed over time.

The VBA has developed three checklists (based on the relevant barrier standard associated with the date that the pool or spa was installed) and a self-assessment tool to help you check the safety of your barrier.

However, if you have any doubt about compliance, it is recommended that you engage a registered building surveyor or registered building inspector to assist you to determine whether your barrier is compliant.

5. Can I have a door leading from my dwelling into the pool?

Pool safety barriers installed from 1 May 2010, must not provide direct access from any building, such as a house or garage, into an outdoor pool area.

For all swimming pools and spas constructed, or for which a building approval or building permit was issued, before 1 May 2010, a door that forms part of the safety barrier must be child-resistant, self-latching and self-closing.

In the case of screen doors, it is recommended that these be of solid construction with a securely fitted mesh screen. The door must be kept closed and latched at all times, except when a person is using the door to enter or leave the pool area.

6. I have recently purchased a house where there is no safety barrier around the swimming pool or spa. Whose responsibility is it to install a fence?

As the new owner, you are responsible for ensuring that the safety barrier is provided.

You will need to obtain a building permit and either engage a registered builder to install a barrier that meets the current barrier regulations and standards or become an owner-builder.

7. I am renting a house where there is no safety barrier around the swimming pool or spa. Whose responsibility is it to install a fence?

It is the home-owner's responsibility to install the safety barrier. Contact the owner or their agent to request that a safety barrier be installed as a matter of urgency.

However, as the occupier of the house you are responsible for ensuring that the barrier is operating effectively at all times.

The owner of the property must take all reasonable steps to ensure that the barrier is properly maintained.

8. I have recently installed a cover over my swimming pool or spa. Does it comply with the legislation as a safety barrier?

No. The placing of a cover or lid over the swimming pool or spa does not meet safety barrier regulations. You are required by law to provide a permanent safety barrier.

9. I need to replace my current barrier. Do I need a building permit?

If you are replacing an existing safety barrier with a new barrier you will need to comply with the current regulations. This work will require a building permit.

10. I need to repair my current barrier. Do I need a building permit?

You do not need a building permit if you are repairing your current barrier. However, you will need to ensure that the repaired components of the barrier are compliant with the relevant standard.

11. I am installing a new pool or spa and have decided to engage separate swimming pool and safety barrier installers. Whose responsibility is it to install and maintain the temporary safety barrier during construction?

This depends on who (if anyone) is on-site and who has responsibility for the building work. If you

are living on-site and have engaged a builder to construct the pool, they will have responsibility for installing the temporary safety barrier and maintaining the barrier while they are on-site. You may have responsibility for maintaining the barrier when the builder is off-site. Discuss this with your builder, so that you are both clear on your responsibilities, and request a clause to be included in the building contract to clarify responsibilities.

Owner-builders are responsible for installing and maintaining the temporary barrier at all times until the permanent barrier is installed, as they are the "person in charge of building work", and will be nominated as builder in the building permit.

12. What if I am engaging a builder and they ask me to be an owner-builder?

Be wary if a builder asks you to sign an application for a building permit as an owner-builder, even though they will be doing the work. Telling the building surveyor that you intend to be the owner-builder when you have in fact engaged a builder is false and misleading, and may expose you to potential penalties and significant risks, including the work not being covered by domestic building insurance or being carried out by a builder who may not be registered and competent to do the work.

13. A person claiming to be a building surveyor or inspector has recently visited my home requesting to inspect my pool or spa. Am I required to provide them with access to my home?

Home-owners are legally required to comply with the regulations and standards for swimming pools and spas, including following the building permit process and obtaining a certificate of final inspection from a registered building surveyor at the end of construction. Home-owners also have an ongoing obligation under the regulations to maintain their pool or spa safety barriers so that they operate effectively at all times.

To confirm that the swimming pool or spa and associated safety barriers are compliant, and that the correct building permit process has been followed, a municipal building surveyor, or a VBA building inspector, may request access to your property. The owner must be given notice of the inspection and asked to give consent to allow access. It is recommended that you allow access so that an inspection can occur, and any safety issues can be resolved. If you choose not to allow access, the council or VBA may use their enforcement powers to allow them to enter without your consent. Request to see the officer's identification and, if you have any concerns, contact your local council or the VBA on 1300 815 127 to confirm their identity.

14. What are the penalties for non-compliance?

The *Building Act 1993* and the regulations prescribe fines that can be imposed on an owner or occupier who fails to comply with the swimming pool or spa regulations. Depending on the circumstances, fines can be several thousand dollars. Local councils are responsible for enforcing the regulations. The VBA can also prosecute for breaches of the swimming pool and spa regulations.

An example of non-compliance may be a failure to install self-closing or self-latching devices, or a failure to maintain your swimming pool or spa barrier so that it operates effectively at all times.

15. What do I need to do to maintain the barrier of my swimming pool or spa?

As the owner and/or occupier of a home, you are responsible for taking all reasonable steps to ensure that any swimming pool or spa safety fence or barrier is regularly maintained and operating effectively. We recommend that you check the safety of your barrier using the appropriate VBA checklist at least annually. Below are some useful tips for maintaining safety barriers.

- Promptly repair any faults in gates, doors (where permitted at time of construction) and

windows, such as self-closers, latches, fly screens, catches and bolts, as required to keep in good working condition.

- Make sure there are no chairs, boxes, pool pumps, tree branches, pot plants or other items close to the barrier that could be used to climb the safety barrier to gain access to the pool or spa area.
- Make sure any fences (especially timber paling fences) are in good condition, non-climbable and have no gaps larger than 100 mm.
- Ensure all gates or doors (where permitted at time of construction) that provide access to the swimming pool or spa area are closed at all times, except when entering or leaving the area.
- Request neighbours of adjoining properties to remove potential hazards or climbable objects where applicable.

It is recommended that you have your pool and spa safety barriers inspected by a registered building surveyor or registered building inspector every three years, to ensure that the barriers comply with the regulations and do not pose a safety risk to young children.

Further Information

Contact the VBA, your local council, a private building surveyor or a building inspector.

Want to know more?

If you have a technical enquiry, please email technicalenquiry@vba.vic.gov.au or call 1300 815 127.

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