



QUEENSLAND BUILDING AND
CONSTRUCTION COMMISSION



Home owner's
Guide

POOLS AND SAFETY

Home owner's guide to ensure that your pool is safe



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WELCOME

Drowning is one of the leading causes of death in Queensland for children under the age of five years old. Supervising young children, teaching them to swim and having effective pool fencing can save lives.

Owners of pools, spas and portable pools in Queensland must ensure their pool barrier complies with the pool safety standard. This home owner's guide has been created to provide tools and tips to help navigate through the legal requirements so that you can learn more about your responsibilities as a pool owner.





ABOUT US

The QBCC supports the growing Queensland community by providing information, advice and regulation to ensure the maintenance of proper building standards, and provide assistance for defective building work. By doing this we promote confidence in the building and construction industry. Led by the Commissioner and governed by a board, the QBCC consists of a skilled and expert team of staff that work hard to meet the needs of industry participants and the community.

The Commission regulates the building industry throughout Queensland. To provide the best customer service possible, service centres are located throughout the state including Brisbane, Gold Coast, Sunshine Coast, Toowoomba, Maryborough, Rockhampton, Mackay, Townsville and Cairns.

With over 4 million people currently living in Queensland and more than 10 per cent of those residents working in the construction sector, the QBCC has an important task in serving our customers, contributing to the growth of the Queensland economy and regulating the industry.

If you would like to get in touch with us call **139 333** or visit qbcc.qld.gov.au.

WHAT CLASSES AS A SWIMMING POOL?

A swimming pool is an above or belowground structure principally used for swimming or bathing, and includes some portable pools and spas. If your portable pool or spa can hold at least 300mm of water, then the pool safety laws apply.

The standard applies to pools at houses, unit complexes, hotels, motels, backpacker accommodation, caravan parks and mobile van parks.

DOES YOUR POOL COMPLY?

The standard covers such things as the height and strength of barriers, non-climbable zones, gates and their latching requirements and preventing direct access from a building into a pool area.

POOL BARRIERS OR FENCES

- minimum barrier height from finished ground level to the top of the barrier is 1200mm
- if the sides of your aboveground pool or spa are 1200mm high and nonclimbable, the sides can form part of the barrier and there must also be a designated access point with a compliant barrier and gate around it
- maximum allowable gap from finished ground level to the bottom of any barrier is 100mm
- gaps between vertical members must not exceed 100mm
- if there are horizontals within the 900mm nonclimbable zone, the gaps between verticals must not exceed 10mm and the horizontals must have 60-degree fillet attached
- climbable objects must be at least 900mm away from the pool barrier on the outside and 300mm on the inside
- no objects (decks, sills, etc.) can be so close as to reduce the minimum 1200mm fence height
- if it is not possible to achieve a 900mm nonclimbable zone on the outside, then the fence height can be raised to 1800mm and a 900mm nonclimbable zone created at the top on the inside, with no objects like decks below the nonclimbable zone that would reduce the 1800mm height/drop from the top of the fence
- even spas with lockable lids need a compliant barrier

POOL BARRIER GATES

- pool gates must not open toward the pool area
- pool gates must be self-closing and latching from all positions
- the bottom of any latch release mechanism on the outside of the gate must be at least 1500mm above the ground and 1400mm above the top of the highest lower horizontal member
- pool gate hinges must be at least 900mm apart or the lower hinge must have a nonclimbable (sixty degree) safety cap affixed to prevent climbing
- any latches inside the gate must be at least 150mm below the top of the gate (or any hand-hole) and be shielded with a 450mm radius with no gaps greater than 10mm

DOOR AND WINDOWS

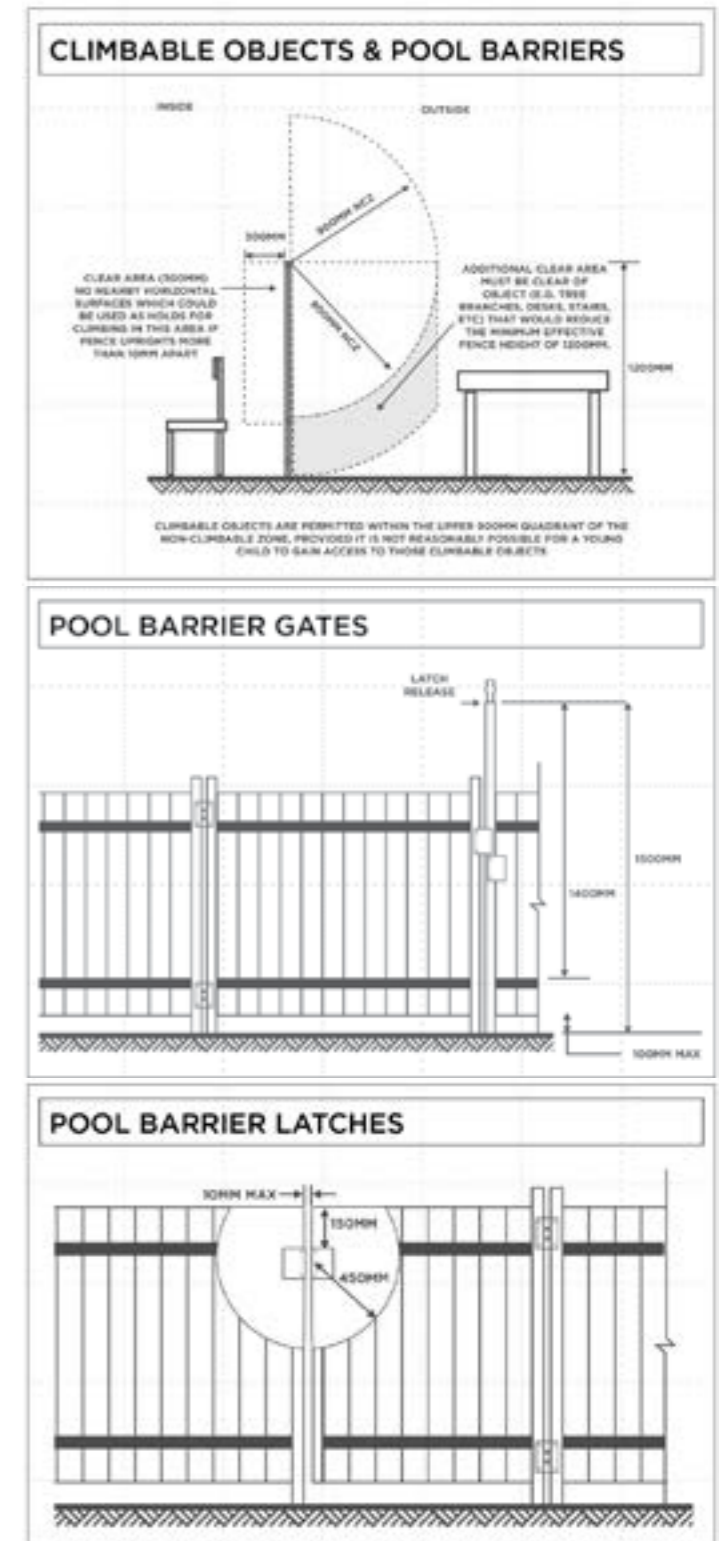
- there is no direct access through a door from the house to the pool area
- windows opening onto the pool area must not open more than 100mm or must be security screened

BALCONIES

- for balcony over or within 900mm of the pool barrier, the balustrade must comply with the pool safety standard.

SIGNAGE

- a compliant CPR sign must be displayed and either be attached to the barrier for the pool, or displayed near the pool, so that the sign is conspicuous and easily visible to anyone near the pool



TIPS ON MAKING YOUR POOL SAFER

- ✓ reduce the height of surrounding ground levels and garden beds
- ✓ adjust the self-closing mechanism or replace the hinges to make the gate self-closing
- ✓ oil the gate hinges
- ✓ shield any climbable objects with a nonclimbable material such as flat polycarbonate sheeting
- ✓ trim climbable vegetation and tree branches that are within 900mm of the pool barrier - if branches overhang from an adjacent property, negotiate with your neighbour to remove them
- ✓ secure all moveable objects near the pool
- ✓ permanently adjust windows that provide access to the pool area so they can't open more than 100mm (using a window lock alone does not comply)
- ✓ install permanently fixed security screens on windows
- ✓ louvres with a gap of more than 100mm do not comply
- ✓ installing window locks is not acceptable as they can be easily left unlocked

WHO ENFORCES POOL COMPLIANCE?

Local councils inspect pools when they receive written complaints about noncompliance. They can take any enforcement action necessary.

They may also undertake random compliance audits of swimming pools.

SHOULD MY POOL BE REGISTERED?

All pools in Queensland must be registered with the QBCC. To list your pool on the pool safety register, visit qbcc.qld.gov.au.

WHEN IS A POOL A 'SHARED' POOL?

If residents of two or more dwellings can use a pool (e.g. a residential unit complex, motel or caravan park), it is a shared pool.

Otherwise it's a non-shared pool—only accessible to residents of one dwelling—e.g. a private house or private spa on a unit balcony.

CERTIFICATES—ONLY REQUIRED IN EVENT OF SALE OR LEASE

You must have a certificate in effect before leasing any property with a nonshared pool.

A property with a **nonshared** pool may be sold without a certificate, but the seller must give the purchaser a Form 36 Notice of no certificate before entering into the contract for sale.

When buying a property with a non-shared pool (house) that doesn't have a current certificate, you must obtain one within 90 days after settlement.

A property with a **shared** pool (unit or townhouse) may be sold or leased with **no certificate**, but for a sale you must give the prospective buyer a Form 36 Notice of no certificate before entering into the contract for sale. You must also give a Form 36 to the body corporate and QBCC before settlement (or the new lease). The pool owner (body corporate) must obtain a certificate within 90 days after settlement of the sale (or the lease).

QBCC issues on-the-spot fines of over \$2,000 for individuals and over \$6,000 for corporations who breach these requirements.



WHEN DOES A POOL SAFETY CERTIFICATE NEED TO BE DISPLAYED?

When it is for a shared pool. It must be displayed at the main entrance to the premises, or at a gate or door accessing the pool.

HOW DO I GET A POOL SAFETY CERTIFICATE?

Only a pool safety inspector licensed by QBCC can issue a pool safety certificate.

Check if there is already a certificate for the pool by searching at my.qbcc.qld.gov.au/s/pool-register

Find a list of all licensed pool safety inspectors by searching at my.qbcc.qld.gov.au/s/pool-safety-inspector-search

For recently built pools, a Form 17 -Final inspection certificate or a Form 11 -Certificate of classification given by the building certifier can be used as a pool safety certificate for 1 year from its date of issue for a shared pool, and 2 years for a non-shared pool.

WHAT HAPPENS IF THE POOL DOESN'T COMPLY?

The inspector must issue a non-conformity notice (Form 26) advising how the pool doesn't comply and what is needed to be done to make it comply.

The owner may personally perform the repairs to make the pool legislatively compliant if the value of the building work (including cost of materials) is not more than \$11,000 or the repairs are "accepted development" under the Building Act 1975 and Schedule 1 of the Building Regulation 2006.

If the pool owner decides to engage a contractor to carry out the repairs and the repairs involve building work which exceeds \$3,300 (including the cost of materials), the contractor must hold an appropriate contractor's licence under the Queensland Building and Construction Commission Act 1991.

Schedule 2B of the Building Regulation 2006 sets out prescribed minor repairs that an inspector may carry out with the agreement of the owner. An inspector who carries out prescribed minor repairs must hold an appropriate contractor's licence under the Queensland Building and Construction Commission Act 1991 if the value of the building work exceeds \$3,300 (including the cost of materials).

If you need the pool re-inspected within three months after receiving the nonconformity notice, you must reengage the original

inspector. It is an offence to engage a different inspector in that three month period without written approval from QBCC.

If you don't ask the inspector to re-inspect within three months, they must notify the local government.

If a pool owner disagrees with a nonconformity notice (Form 26), they may appeal to a Development Tribunal established under the *Planning Act 2016*.

WHAT ARE THE PENALTIES FOR NON-COMPLIANCE?

The courts can impose penalties of over \$20,000 for individuals and over \$100,000 for corporations for non-compliance with the pool safety laws. These fines also apply to anybody who props open a pool gate.

Local governments issue on-the-spot fines of over \$900 for individuals and over \$2,600 for corporations for noncompliance.

QBCC issues on-the-spot fines of over \$2,000 for individuals and over \$6,000 for corporations for failure to obtain a pool safety certificate in the event of sale or lease.

Similar penalties apply for occupiers of a property, including tenants, who don't ensure gates and doors giving access to a pool are kept securely closed at all times when not in use.

A real estate agent who collects a commission for a new lease with a non-shared pool with no pool safety certificate faces potential disciplinary proceedings by their regulator.

Tenants who install their own pool, such as a portable pool or spa, are responsible for ensuring the pool complies with the pool safety standard and obtain all required building approvals.

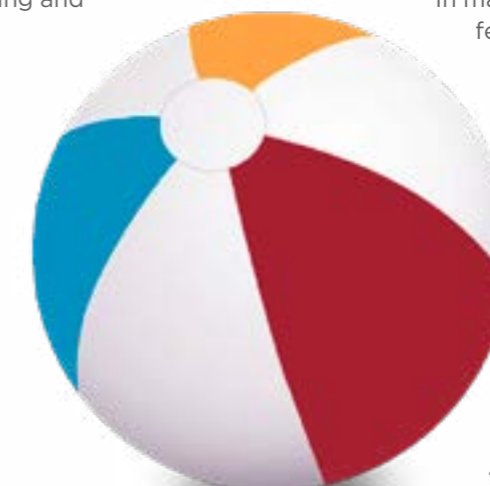
Permission from the property owner may also be required.

DIVIDING FENCES AND POOL OWNERS

In many cases, using a common boundary fence is the most efficient way to comply with pool safety requirements.

Provisions in the *Building Act 1975* and the *Neighbourhood Disputes Resolution Act 2011*, facilitate a common-sense approach to fencing work such as encouraging agreements between neighbours and 'like for like' replacement of fences.

For more information about pool barriers on common boundaries go to www.qbcc.qld.gov.au/sites/default/files/Pool_safety_dividing_fences.pdf



Need more information?

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