

## PRIVATE SWIMMING POOL SAFETY BILL

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### EXPLANATORY NOTE

The need for restrictions on access to private swimming pools has never been contested. A standard model by-law has been produced by the Standards Association of New Zealand, and the Government, in July 1980, provided local authorities with the power to introduce such a by-law.

Generally speaking local bodies have not exercised their power. Only about 20 out of approximately 250 local authorities have acted to introduce controls although the number of drownings doubled between 1980 and 1981.

The bill provides for the standard model by-law to be implemented by all local authorities.

The by-law was intended to provide an effective method of protecting home pools and thus preventing infant drownings. There is a good deal of flexibility for individual interpretation by local authorities, who can choose for instance, whether they will require the pool itself to be fenced or whether a fence around the property is sufficient.

The group at highest risk from drownings by this means are the active pre-schoolers who are too young to swim properly (deaths in this group numbered 16 last year in private swimming pools double the number for the previous year). The legislation applies only to ground level pools because the type of pool which is raised above the ground is considered safe.

*Clause 1* relates to the Short Title and provides for the Act to come into force on 1 April 1983.

*Clause 2* defines the term "local authority".

*Clause 3* provides that the model by-law set out in the Schedule is to apply to every local authority.

*Clause 4 (1)* exempts local authorities which, as at 1 April 1983, have by-laws on pool safety which are at least as stringent as the model by-law.

*Subclause (2)* permits local authorities to adopt more stringent by-laws after 1 April 1983. In this case the more stringent provisions will apply rather than the model by-law.

*Subclause (3)* provides for the Minister of Local Government to determine whether a local authority by-law is as stringent as the model by-law. The Minister must consult the Standards Association and the Water Safety Council in deciding such a matter.

The Schedule sets out the model by-law.

*Mr Terris*

## PRIVATE SWIMMING POOL SAFETY

### ANALYSIS

Title	3. Private swimming pool safety standards
1. Short Title and commencement	4. Exemptions from model by-law
2. Interpretation	Schedule

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### A BILL INTITULED

#### **An Act to implement standards for private swimming pool safety in New Zealand**

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

**1. Short Title and commencement**—(1) This Act may be cited as the Private Swimming Pool Safety Act 1982.

(2) This Act shall come into force on the first day of April 10 1983.

**2. Interpretation**—In this Act “local authority” means any Borough Council, County Council, District Council, Regional Council, United Council or Town Council.

**3. Private swimming pool safety standards**—Subject to 15 the provisions of this Act, the by-law set out in the Schedule to this Act restricting access to private swimming pools shall apply to every local authority.

**4. Exemptions from model by-law**—(1) If at the 20 commencement of this Act there is in force any local authority by-law regulating access to private swimming pools for safety purposes which is at least as stringent in its provisions as the by-law set out in the Schedule to this Act, that local authority by-law shall continue in force to the exclusion of the by-law prescribed by this Act.

(2) If at any time after the commencement of this Act any local authority makes any by-law regulating access to private swimming pools for safety purposes which is more stringent in its provisions than the by-law set out in the Schedule to this Act, the by-law prescribed by this Act shall cease to apply to 5 that local authority.

(3) If any question arises as to whether a local authority by-law is as stringent as or more stringent than the by-law prescribed by this Act the Minister of Local Government shall decide after consulting the Standards Association of 10 New Zealand and the New Zealand Water Safety Council.

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## SCHEDULE

### BY-LAW RESTRICTING ACCESS TO PRIVATE SWIMMING POOLS

**1. Interpretation**—In this by-law, unless inconsistent with the context:

“Swimming pool” means an excavation or structure in the open air that is capable of holding water, that is solely or principally used for the purpose of swimming, wading, or paddling:

Provided that any structure shall be exempted from the provisions of this by-law which has:

(a) No portion of the top of its side walls less than 600 mm above the adjacent ground level or decking; or

(b) A capacity of 1500 litres or less:

“Fence” means an approved barrier not less than 1.2 m high formed by an assembly of components which may, with the approval of the local authority’s Engineer, include items such as posts and panels, sides of buildings, walls, hedges or embankments. Such a barrier shall completely enclose:

(a) The property on which the pool is located; or

(b) That part of the property within which the pool is situated:

“Gate” means any portion of the fence that is designed to provide access.

**2. Provision of safety requirements**—(1) On completion of erection or installation of a swimming pool, the owner thereof shall as soon as possible and in not more than six months provide and thereafter maintain a fence as defined in clause 1 of this by-law.

(2) In respect of swimming pools completed or installed at the date of the coming into force of this by-law, the owner shall within the period specified in subclause (1) above or within such extended period as the local authority’s Engineer may determine, provide and maintain a fence as defined in clause 1 of this by-law.

**3. Materials**—All fencing materials and components shall be of a durable nature to the satisfaction of the local authority’s Engineer.

SCHEDULE—*continued*

**4. Height of fence**—(1) Fences and gates shall have an effective height of at least 1.2 m at every point along their length on the outside of the fencing.

(2) Subject to subclause (1) above, the height of the fence shall be such that the top of the fence at every point has a minimum clearance of 1.2 m to finished ground level outside the perimeter of the fence or to any permanent projections from or permanently based on such finished ground level.

**5. Ground clearance**—The height of any opening between the bottom of the fence and finished ground level shall not exceed 100 mm.

**6. Outside surface**—The outside surface of all fences shall be of such a texture as to inhibit climbing.

**7. Horizontal members**—(1) All fencing supports, rails, wires or bracings shall be placed on the inside of the fencing.

(2) All horizontal members shall be spaced 900 mm or more apart unless the outside of the fence is close-boarded.

**8. Vertical members**—The spacing between any adjacent vertical pales, rods, or wires shall not exceed 100 mm at any point.

**9. Mounting of gates**—Gates in the fence shall meet the requirements of clauses 3 to 8 of this by-law and shall unless otherwise approved by the local authority's Engineer be so mounted that—

- (a) They do not open inward, unless abutting on a public place;
- (b) They are clear of any obstruction that could hold the gate open;
- (c) When lifted upward, movement of the gate does not release the latching device, unhinge the gate, or provide a ground clearance greater than 100 mm.

**10. Latching device**—The latching device shall be located in such a position that it is accessible only by reaching over the fence or gate, or through a hole in the gate the lowest point of which is not less than 1.2 m above finished ground level.

**11. Automatic closing device**—All gates shall be fitted with a device that will automatically return the gate to the closed position and operate the latching device.

**12. Dispensation and exemptions**—Notwithstanding the provisions of this by-law the owner of any swimming pool may apply to the local authority or its duly authorised officer for dispensation from all or any of the provisions of this by-law, and the local authority or its duly authorised officer may in its discretion grant such dispensation wholly or in part.

**13. Other by-laws**—No provisions in this by-law shall derogate from the requirements of any other by-law relating to swimming pools.