

Warnings and bans on building products

Last updated: 3 April 2018

If you are concerned that a building product (which may include a building method) might not comply with the Building Code, you should notify MBIE. You can also find out about warnings and bans, including the step-by-step process and any bans already in place.

Current warnings and bans issued under the Building Act

- [Foil insulation ban \(https://www.building.govt.nz/building-code-compliance/warnings-and-bans-on-building-products/foil-insulation-ban/\)](https://www.building.govt.nz/building-code-compliance/warnings-and-bans-on-building-products/foil-insulation-ban/): Ban on the installation and/or repair of foil insulation in residential buildings with an existing electrical installation.
- [Loop bar warning \(https://www.building.govt.nz/building-code-compliance/warnings-and-bans-on-building-products/loop-bar-warning/\)](https://www.building.govt.nz/building-code-compliance/warnings-and-bans-on-building-products/loop-bar-warning/): Warning on the use of the loop bar details in flange-hung, double-tee precast concrete flooring units.

Our roles and responsibilities

If a building or any building work fails to comply with the Building Code due to a building product, or is likely to fail, MBIE's Chief Executive can issue a warning about, or ban the use of that building product.

MBIE's role and responsibilities in relation to building products includes:

- monitoring the market
- providing education and guidance to product manufacturers and suppliers and others in the industry
- investigating complaints where necessary
- dealing with products (including building methods) that don't comply with the performance requirements of the Building Code.

Contact MBIE if you have concerns

If you have any concerns about a building product and its compliance with the Building Code we encourage you to get in touch with us.

You need to provide the following information so we can investigate your concerns fully:

- the name of the building product or a description of the building method
- where the product was purchased from or who it was manufactured or supplied by, if this is known
- any compliance information you have for the product provided by the manufacturer or supplier; such as test reports, assessments or calculations, claims of compliance with the Building Code, the products scope of use as defined by the manufacturer, technical information, etc
- the reasons why you believe the product does not comply with the Building Code, and what Code clauses it doesn't comply with
- any evidence of failure (such as photographs, or locations where it was used)
- any other information you think supports an investigation.

[Contact us \(https://www.building.govt.nz/contact-us-old/\)](https://www.building.govt.nz/contact-us-old/) has information about where to send your complaint.

Official information

All information we receive is public information. If requested, under the Official Information Act 1982, we may have to release details about your complaint to other individuals or organisations.

There might be grounds under that Act to withhold information you have provided (such as privacy concerns or commercial sensitivity). Please indicate in your email or correspondence if there is any information you would want withheld. If MBIE decides to withhold any information, the person requesting the information can ask the Ombudsman to review the decision.

Complaints process

MBIE will generally follow the process below for complaints received about building products.

Step 1: Determining the nature of the complaint

We will carry out an initial assessment of the information you have provided to determine whether the complaint is likely to be a Building Code compliance issue that we can deal with using the tools MBIE has under the Building Act.

We may decide at this stage to take no further action if we believe your concerns are not substantiated, are minor, or do not fall within MBIE's jurisdiction.

Step 2: Refer to appropriate agency

If MBIE cannot deal with the complaint under the Building Act, we may refer the complaint onto another agency or suggest that you do so.

This may include the Commerce Commission who is responsible for dealing with misleading advertising and false or unsubstantiated claims made about a product by the manufacturer or supplier. Please note that sometimes a complaint can be dealt with by both the Commerce Commission and MBIE if it relates to misrepresentation as well as potential non-compliance with the Building Code.

Often the failure of a building product is the result of incorrect or negligent installation rather than an issue with the product itself. Complaints that relate to the conduct of the builder or tradesperson should be referred to the relevant licensing body (such as the LBP Board) if they hold a licence in their trade. You may also be able to take legal proceedings against a builder through the court system if they have breached the contract they have with you or the implied warranties in the Building Act.

[Resolving problems \(https://www.building.govt.nz/resolving-problems/\)](https://www.building.govt.nz/resolving-problems/) explains different resolution options.

Step 3: Further analysis by MBIE

If, after our initial assessment, we believe there may be an issue with the product and its compliance with the Building Code we will conduct a more in depth analysis of the product.

A more in-depth analysis may involve any or all of the following:

- seeking further information from you
- talking to the product manufacturer or supplier about the complaint
- carrying out a review of the technical information for that product.

At this stage MBIE will decide whether to proceed with a warning and bans investigation or whether another avenue may be a more suitable option for dealing with any potential non-compliance.

Other options may include issuing guidance to the public, the building industry or both, or providing more education to those involved in manufacturing, supplying, specifying or installing the building product.

We may also decide to close out a complaint at this stage if we have no evidence that it does not comply with the Building Code.

Step 4: Warning and ban investigation

A warning and ban investigation by MBIE is an in-depth investigation of a product and the evidence provided by the manufacturer or supplier about that product and its compliance with the Building Code to determine whether the product is safe and Building Code complaint, and if not whether a warning or a ban needs to be declared on the use of the product.

The timeframe for this investigation varies and is likely to depend on a range of factors including the complexity of the product, the consequences

of its failure, and the amount of evidence we have received about any non-compliance. Generally MBIE needs a substantial amount of evidence that proves a product is likely to result in a building, or building work, being non-compliant with the Building Code before its Chief Executive can consider issuing a warning or a ban.

A ban on a building product completely prevents the use of the product (this could be in some or all situations).

A warning still permits the product to be used but places caution on its use and may suggest some best practice guidance to follow if you do decide to use the product.

The investigation process is likely to involve site visits, interviews, expert assessments (such as an opinion or calculations from an engineer) as well as any other method MBIE considers necessary to assess the products compliance.

Step 5: Consulting on warning or ban

Prior to issuing a warning or ban on the use of a building product, MBIE, as required by the Building Act, will publicly consult on its proposal to issue the warning or ban. The public will be given at least 10 working days to make submissions on the statement of proposal.

If MBIE considers that the warning or ban needs to be declared urgently we may issue it prior to running the consultation process. In this case we will consult on the warning or ban within six months of issuing it and depending on the outcome of the consultation we will amend or revoke the ban if necessary.

Step 6: Issuing a warning or ban under the Building Act

Following the consultation process we will review all submissions received and take these into account when making our final decision. The warning or ban will be published on our website and will remain in place until amended or revoked.

Penalties for breaching a ban

It is considered an offence under section 27 of the Building Act to breach a ban. Any person who breaches a ban is liable on conviction to a fine of up to \$200,000.

Territorial Authorities are primarily responsible for enforcing the ban but in some instances the Ministry may take prosecutions under section 11 of the Building Act.

This information is published by the Ministry of Business, Innovation and Employment's Chief Executive. It is a general guide only and, if used, does not relieve any person of the obligation to consider any matter to which the information relates according to the circumstances of the particular case. Expert advice may be required in specific circumstances. Where this information relates to assisting people:

- with compliance with the Building Act, it is published under section 175 of the Building Act
- with a Weathertight Services claim, it is published under section 12 of the Weathertight Homes Resolution Services Act 2006.