

Section 124 FAQ's

What is a section 124 notice and what does it mean for the owner of a home that has one?
There are two main types of Section 124 notices, dangerous property notices and insanitary property notices.

These notices are issued when a building is not safe for people to enter. When a notice is in place no one may enter the building.

Dangerous properties (Section 121): Properties can be classed as dangerous due to structural damage resulting from the earthquake or very high life risk from hazards in the area, such as potential rockfalls or unstable land. The Building Act definition of a dangerous building is:

S121. Meaning of dangerous building - Building Act 2004

(1) A building is dangerous for the purposes of this Act if, —

(a) in the ordinary course of events (excluding the occurrence of an earthquake), the building is likely to cause—

(i) injury or death (whether by collapse or otherwise) to any persons in it or to persons on other property;

or

(ii) damage to other property;

Insanitary properties (Section 123): Properties can be classed as insanitary due to issues with sewerage, power, weather tightness etc. The Building Act definition of an insanitary building is:

S123. Meaning of insanitary building - Building Act 2004

*A building is **insanitary** for the purposes of this Act if the building—*

(a) is offensive or likely to be injurious to health because—

(i) of how it is situated or constructed; or

(ii) it is in a state of disrepair; or

(b) has insufficient or defective provisions against moisture penetration so as to cause dampness in the building or in any adjoining building; or

(c) does not have a supply of potable water that is adequate for its intended use; or

(d) does not have sanitary facilities that are adequate for its intended use.

How do I get the section 124 notice lifted?

To get the notice lifted, you need to complete the actions listed on the accompanying report, then have the building reassessed by Council.

Where can I go for help with housing, getting my repairs done, and looking after myself, my family or my tenants while I get the notice sorted?

We recommend you contact the following agencies and seek their advice and support:

- Your insurer and EQC to discuss your options
- MBIE for temporary accommodation needs and support: phone 0508 754 163 or email temp.accom@mbie.govt.nz website <https://temporaryaccommodation.mbie.govt.nz/>
- Kaikoura District Council's Community services team for help getting connected to all available support services: phone 021 236 1890 and leave a message and someone will get back to you
- Kaikoura District Council's building and regulatory staff for more information about your notice and the steps you need to take: phone 03 319 5026.

My properties earthquake sticker doesn't match the 124 notice, why is that?

A property being red or yellow stickered during the earthquake response and the Council using Building Act powers are two different processes. They use different criteria and guidelines so not all yellow or red stickered properties will receive a 124 notice.

Why does my home have a Section 124 prohibited access notice but my neighbour's doesn't?

Although the hazards to be found in a general area may be similar, it is possible for one building to be dangerous while the neighbouring building has been assessed as safe to access.

My home appears undamaged, why is there a Section 124 notice that prohibits unauthorised access to my property?

A prohibited access notice may be issued under section 124 of the Building Act because of hazards other than the damage to buildings or land on the property itself, such as potential rockfall and cliff collapse that threaten buildings.

When will the Section 124 prohibited access notice on my home be removed?

The main purpose of a prohibited access notice is to protect public safety. A notice can be lifted once known hazards have been removed or made safe to the extent the building is no longer considered dangerous.

Does the 124 notice affect my insurance or EQC claim?

Generally speaking, the notice shouldn't affect your insurance. However you should call your insurer to discuss this with them.

Why am I not allowed to access my own property if I am prepared to take the risk?

It would be irresponsible for the Council to allow access to a building where there is an unacceptable level of risk. When an individual enters a dangerous building, they are not just putting themselves at risk, but others such as emergency services or a rescue team if an emergency occurs

I have seen other people coming and going from their homes in my neighbourhood. Is this allowed?

In general, people are free to go on to the land around their buildings. The section 124 prohibited access notice only applies to buildings to prevent them from being occupied. People are free to go on to land to feed stock, mow lawns or tend gardens. They may also be authorised to enter other buildings on their property under certain circumstances for a short period (less time means less risk).

What happens if someone accesses their home or other buildings without authorisation?

Section 124 prohibited access notices are primarily to ensure people's safety, but they are also legally enforceable.

I have heard that some people are occupying their homes and have refused to leave. What will happen to them?

A prohibited access notice is placed on a building because it is not safe for people to be in the building. The notice is legally enforceable. The Council will take reasonable steps to encourage people to leave, for their own safety and the safety of others who would need to rescue them if an emergency occurs.

Who placed a section 124 prohibited access notice on my building?

Council issues prohibited access notices under section 124 of the Building Act.