

# Building certifiers obtaining help from competent persons for fire protection work

Guidelines under the *Building Act 1975*

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**Queensland**  
Government

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## Purpose

This guideline is for building certifiers assessing the licensing requirements, qualifications and experience of *competent persons* under section 18 of the Building Regulation 2006 (BR) in relation to fire protection work as defined by the *Queensland Building and Construction Commission Act 1991* (QBCC Act).

This guideline is to provide building certifiers guidance on:

- how to meet their responsibilities under the BR when obtaining help from *competent persons* about fire protection work, and
- the fire protection licensees and fire engineers that can certify that fire protection work is compliant.

## Authority

This guideline is made under section 258 of the *Building Act 1975* (BA). Under section 258(1), the chief executive may make guidelines for matters within the scope of the BA to help compliance with the BA.

Under section 133A of the BA, a building certifier must have regard to guidelines made under section 258 that are relevant to performing a function under the BA.

Evidence of regard to guidelines made under the BA may assist a building certifier in the event of a *complaint* about the performance of a *building certification function*.

## Background

### General

In Queensland, building certifiers play an important role in the assessment, approval and inspection of new building work. They must ensure high standards of building control are achieved across the community.

Building certifiers who assess, approve and inspect new building work are responsible for ensuring compliance with the minimum standards of health, safety, amenity and sustainability. These standards are set out under the BA and are designed to protect the people who occupy and use all buildings constructed in Queensland.

With sufficient information supporting the *building development approval* (BDA), building certifiers can decide to approve and inspect the building work without assistance from other building industry professionals.

However, there are provisions in the BR allowing a building certifier to rely on design or inspection help from other building industry practitioners about an aspect of the building work. The BR recognises these practitioners as '*competent persons*' who can provide design or inspection help.

Even though a building certifier can rely on a certificate from a *competent person* when approving or inspecting building work, they are ultimately responsible for ensuring the building work complies with the BA.

The BR<sup>1</sup> also provides that if under the relevant laws an individual must be licensed or registered to be able to give help, then they must be so licensed or registered. For example, an individual must be a licensed fire safety professional to be competent to give inspection help to a building certifier for the inspection of buildings against the fire performance legislation.

The building certifier must then assess the individual as not just being appropriately licensed or registered but of having the appropriate experience, qualification or skills to determine if they are a *competent person*.

## Building work involving fire protection work

The BA requires an application for the approval of building work to be assessed against specific technical and legislative provisions. These are called *building assessment provisions* (BAPs) and include the Building Code of Australia (BCA) (now part of the National Construction Code).

Among other things, the BCA contains the minimum necessary standards of relevant safety (including structural safety as well as safety from fire). Provisions for safety from fire include passive or active systems or a combination of both:

- passive systems can include such things as fire-rated walls, ceilings, columns and doors. They are components that are built into the building fabric, and
- active systems include fire and smoke alarms, smoke exhaust systems, fire hydrant, hose reel and sprinkler systems. These systems may detect, suppress or extinguish a fire.

As an aspect of the building work, it is a building certifier's responsibility to ensure these fire protection systems are inspected for compliance with the BCA and relevant standards. Because these are specialised systems, they could be beyond the scope of a building certifier's technical expertise to assess the design or inspect the installation.

It is therefore common for a building certifier to obtain help from a *competent person* to confirm compliance of these systems.

## Legislation

### *Building Act 1975*

- Section 10(b) provides that the giving of a compliance certificate in the *approved form* is a building certifying function for the aspects of building assessment work.
- Section 10(c) provides that for a building development approval, inspecting work to decide whether to certify the work is a building certifying function.
- Section 10(d)(ii) provides that for building work for a single detached class 1a building or class 10 building or structure, the giving of a final inspection certificate is a building certifying function.

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<sup>1</sup> BR, section 18(2)

## Building Regulation 2006

- Section 17(2) provides that a building certifier may decide that an individual may give the certifier inspection help.
- Section 18(2) provides that if under any relevant law, an individual must be licensed or registered to be able to give inspection help, the individual must be so licensed or registered. This section also provides that the building certifier must assess an individual to be competent to be able to give the inspection help.
- Section 19 provides that if a building certifier decides a person is competent to give help, the certifier must keep a record stating who the person is, the matters for which a person is decided to be competent, the day the decision was made, details of information relied upon to decide and the reasons for the decision must be kept for at least five years.
- Section 48 provides that a certificate by a *competent person* must, be in the *approved form*, be signed by the *competent person* and state in detail the basis for giving the certificate and the extent tests and other documents have been relied upon.
- Section 49 provides that, among other things, a building certifier may accept and, without further checking, rely on a certificate from a *competent person* but only if it is in the *approved form*.

## Definitions

The following are definitions used in this guideline and defined in the BA, BR and QBCC Act, however these are a guide only and the precise wording of a definition should always be consulted in the legislation itself.

**Approved form** means a form approved by the chief executive under section 254 of the BA. These forms are available on the department's website.

**Aspect inspection certificate** means a certificate given under section 47 of the BR.

**Building development approval** means a development approval to the extent it is for building work.

**Building certifying function** is carrying out any of the things set out in section 10 of the BA.

**Competent person** is an individual the subject of a decision under section 17 of the BR.

**Competent person (inspections)** is a person decided under section 17(1)(b) of the BR.

For the purpose of this guideline the following expressions are used:

**Contractor license** means an individual who holds a license under Schedule 2 of the Queensland Building and Construction Commission Regulation 2018 that allows them to enter into a contract with a member of the public to do building work.

**Form 15** means the *approved form* titled *Compliance certificate for building design or specification*.

**Form 16** means the *approved form* titled *Inspection Certificate/Aspect Certificate/QBCC Licensee Aspect Certificate*.

## Help from competent persons regarding fire protection work

If a building certifier chooses to accept help from a *competent person*, the help must be provided in the *approved form*, (*Form 15 or 16*) if they want to rely on the help without further checking<sup>2</sup>.

### Step 1: Assessing licensing and registration requirements

In Queensland, an individual must be licensed or registered to undertake aspects of fire protection work.

As a result, the first step in deciding if a person is suitable as a *competent person* to provide design or inspection help for fire protection work is to establish if they are properly licensed or registered to provide the help that the building certifier needs.

#### Fire protection work licensees

Under the QBCC Act, a licence is required to perform fire protection work that falls within a licence scope set out under the *Queensland Building and Construction Regulation 2018* (QBCC Regulation).

The QBCC Regulation has four scopes of work for licenses that apply to fire protection work namely, 'certify', 'install' 'inspect and test' and 'maintain'.

Only the 'certify' licence scope extends to giving advice that a fire protection system complies with Australian and international standards, Building Code of Australia requirements and manufacturer's specifications.

Where the purpose for seeking design or inspection help is confirmation that fire protection work is compliant, a building certifier should only accept help from a licensee whose scope of work includes the ability to certify fire protection work.

Appendix 1 sets out all QBCC Regulation licences that include certification of fire protection work in their scope.

In addition, the building certifier should ensure that the person they are proposing to obtain design or inspection help from either holds a QBCC Act contractor's licence<sup>3</sup>, or works under the umbrella of a QBCC Act contractor's licence.

#### Fire engineering

Under the *Professional Engineers Act 2002* an engineer must be a Registered Professional Engineer of Queensland (RPEQ) to undertake engineering services for buildings located in Queensland.

Where engineering services include fire engineering or fire safety engineering an RPEQ must also meet qualification and competency requirements set by an assessment entity approved by the Board of Professional Engineers Queensland (BPEQ). BPEQ has approved the following assessment entities:

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<sup>2</sup> BR, section 49.

<sup>3</sup> Refer to licences in Schedule 2 of the QBCCR – set out in Appendix 1.

- Institute of Fire Engineers Australia for fire engineering; and
- Engineers Australia for fire safety engineering.

## Step 2: Assessing experience, qualifications and skills

Once a building certifier is satisfied a person is appropriately licensed or registered, a decision about their competence to help with the inspection function must be made.

Building certifiers should consider the level of experience, qualifications and skills a person has in the type of work to be certified. For example, a building certifier requesting inspection help for a complex hydrant system should ensure the person can clearly demonstrate they have carried out that kind of work in other similar buildings. It may not be appropriate for a person who has only ever been involved in small scale commercial installations to be considered competent to provide help in relation to complex commercial installations.

## Step 3: Keeping records of decisions

The building certifier must keep records of their decision to accept a person as a *competent person*<sup>4</sup>.

The decision must be documented in a way that clearly demonstrates a person's ability to not only carry out the work but to inspect and assess it upon completion.

These records must be kept for at least five years. Breaches of this offence may result in an on-the-spot fine of 2 penalty infringement notice points per offence for individuals (\$266) or if prosecuted, a maximum penalty of up to 20 penalty units (\$2,669).

## Amendments to approved designs

At the *building development approval* stage, the project's fire protection system design is often submitted to the building certifier with a *Form 15* stating that the design complies with the BA and any relevant Australian Standard.

However, as the project develops, designs and product specifications can change significantly, particularly under a commercial design and construct contract.

Where changes impact on the design of the fire protection system the building certifier will need to assess these changes and a new *Form 15* must be provided stating that the amended design complies with the relevant Australian Standard.

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<sup>4</sup> BR, Section 19.

## Appendix 1

This Appendix sets out the licences under the QBCC Regulation Schedules 2 and 3 that include certification of fire protection work in their scope of work.

### Schedule 2: Classes of licences and licence requirements

Part	Licence	Class
22	Passive fire protection—fire doors and shutters licences	Certify
23	Passive fire protection—fire collars, penetrations and joint sealing licences	Certify, install and maintain
24	Passive fire protection—fire and smoke walls and ceilings licences	Certify
25	Special hazard suppression systems - restricted to gaseous, water mist and reticulated foam proportioning systems licences	Certify
25	Special hazard suppression systems - restricted to chemical and foam special hazard systems licences	Certify
26	Sprinkler and suppression systems (reticulated water-based) licences	Certify
26	Sprinkler and suppression systems (reticulated water-based) - restricted to commercial or industrial type licences	Certify
26	Sprinkler and suppression systems (reticulated water-based) - restricted to domestic or residential types licences	Certify
27	Fire pump licences	Certify
28	Fire hydrants and hose reels licences	Certify
29	Portable fire equipment and hose reels (hose reels down stream of stop cock only) licences	Certify
30	Fire detection, alarm and warning systems licences	Certify
31	Emergency lighting licences	Certify
33	Fire safety professional licence	Certify, inspect and test



## Schedule 3: Classes and requirements of fire protection occupational licences

Part	Licence	Class
1	Passive fire protection—fire doors and shutters occupational licences	Certify
2	Passive fire protection—fire collars, penetrations and joint sealing occupational licence	Certify, install and maintain
3	Passive fire protection—fire and smoke walls and ceilings occupational licence	Certify
4	Special hazard suppression systems occupational licences - restricted to gaseous, water mist and reticulated foam proportioning systems	Certify
4	Special hazard suppression systems occupational licences - restricted to chemical and foam special hazard systems	Certify
5	Sprinkler and suppression systems (reticulated water-based) occupational licences	Certify
5	Sprinkler and suppression systems (reticulated water-based) occupational licences - restricted to commercial or industrial type	Certify
5	Sprinkler and suppression systems (reticulated water-based) occupational licences – restricted to domestic or residential types	Certify
6	Fire pumps occupational licences	Certify
7	Fire hydrants and hose reels occupational licences	Certify
8	Portable fire equipment and hose reels (hose reels down stream of stop cock only) occupational licences	Certify
9	Fire detection, alarm and warning systems occupational licences	Certify
10	Emergency lighting occupational licences	Certify
12	Fire safety professional occupational licence	Certify, inspect and test