

Guideline for the assessment of competent persons

Effective 1 October 2020



Queensland
Government

Guidelines for the assessment of competent persons

Legal Status

This Guideline is made by the Chief Executive under section 258 of the *Building Act 1975* (BA) to provide guidance for a building certifier assessing an individual as competent to perform certification functions that help the certifier perform building certification functions.

Section 18(4) of the Building Regulation 2006 (BR) requires the building certifier to comply with this guideline when assessing an individual as competent to give design/specification help or inspection help.

Assessing whether a person is a competent person

Section 17 of the BR provides that a building certifier may decide an individual is competent to help the certifier perform building certifying functions for:

- building design or specification (**design/specification help**); or
- the inspection of assessable building work (**inspection help**).

Under section 18 of the BR, a '**competent person (design/specification)**' and '**competent person (inspections)**' for building work means a person who:

- a) is assessed by the building certifier for the work as competent – having regard to the person's experience, qualifications and skills for the matter – to give help for building certifying functions relating to:
 - building design or specification (i.e. a **competent person (design/specification)**); and/or
 - inspection of the building work (i.e. a **competent person (inspections)**); and
- b) if required under a relevant law, is registered or licensed to practice in the aspect the subject of the help; and
- c) is assessed by the building certifier under this Guideline as having appropriate experience, qualifications or skills to be a person competent to give the help where no relevant law requires the individual to be licensed or registered to be able to give the help.

The building certifier must assess the person as a competent person for the inspection before the person inspects the building work¹. In contrast, for design/specification help a building certifier may determine that a person is or has from a particular day been competent to help the certifier perform building certifying functions.

A building certifier may accept from an appointed competent person a certificate stating that a stage or an aspect of the stage of building work complies.

If the competent person performs the inspection and issues the certificate of inspection, they must give the certificate to the builder. The certificate of inspection must:

- be in the approved form; and
- signed by the inspecting person; and
- provide details about the inspection, any test, specifications, rules, standards, codes or practice or other publications relied upon in carrying out the inspection and the basis for giving the certificate.

¹ Section 22(2) of the BR

The certificate of inspection for a stage, or an aspect of a stage, must certify the inspected work complies with the building development approval.

*Building Form 16—Inspection certificate / aspect certificate **must** be used by the competent person and provided to the builder to meet the requirements of section 32 of the BR.*

When assessing whether a person has the appropriate experience, qualifications and skills to perform in the role of a competent person, the following matters should be considered.

1. What aspects of building work are to be certified and what is the extent of the certification?

Building certifiers must ensure the competence of a competent person is appropriate to the extent of certification help being provided. For example, a certificate may be certifying the structural adequacy of footings or siting provision compliance of a single detached class 1a building. Where the building certifier chooses to appoint a competent person for inspection help with these aspects, they must appoint an appropriate competent person as required under section 18A of the BR.

Under section 18A, a competent person **must** be:

- a registered professional engineer for inspection help for the reinforcement of footing system aspect of building work; or
- a cadastral surveyor for inspection help for the siting provision aspect of building work.

Only a person who is a registered professional engineer or a cadastral surveyor may be appointed as competent to inspect and certify the respective aspects of building work as described above. They must also have a thorough knowledge of the relevant requirements of the BA and appropriate experience, qualifications and skills to provide the relevant certificate.

Where the aspect has been inspected by an appointed competent person, the building certifier responsible for approving the work may accept and rely on the certificate of inspection from the competent person without personally inspecting the aspect².

For all other aspects, there are no restrictions on who a building certifier decides may be a competent person provided they are assessed and appointed in accordance with the requirements of section 18 of the BR. However, a building certifier **must not** accept an aspect certificate (also referred to as a Form 16) for all aspects of the final stage. While a building certifier may rely on inspection help from competent persons for selected aspects of the final stage, a building certifier must still personally inspect the final stage.

2. Is the competent person registered or licensed under the law?

To practice in certain aspects of designing, building or inspecting building work, some practitioners are required to be registered or licensed under various laws applying in Queensland. Examples of practitioners required to be registered or licensed include:

- a practising professional engineer registered as a professional engineer (RPEQ) with the Board of Professional Engineers of Queensland under the *Professional Engineers Act 2002*.
- a practising architect registered by the Board of Architects of Queensland under the *Architects Act 2002*.
- a specialist tradesperson licensed by the Queensland Building and Construction Commission (QBCC) under the *Queensland Building and Construction Commission Act 1991*. For example, a glazier, termite or pest control operator, mechanical ventilation system (air-conditioning) installer or waterproofer.

² Sections 49 and 50 of the BR

Only a registered professional engineer should provide certification where the design/specification or inspection of the aspect of a building constituted a professional engineering service. For example, a large and/or complex air-conditioning system such as one forming part of a required smoke-control system within a building would require engineering analysis to certify both design and construction compliance.

However, the installation of a simple system that does not require engineering analysis, such as a required mechanical ventilation system in a class 1 building, could be inspected by a person who:

- is experienced in the installation of such systems; and
- the QBCC licences for installation work; and
- has been appointed by the certifier as a competent person in accordance with section 18 of the BR.

Although a registered professional engineer may provide design certification of an aspect of a building, a person who is not a registered professional engineer may legitimately provide an inspection certificate for the aspect in certain cases. For example, an accredited building certifier would be competent to inspect and certify that the structural frame of a building complied with the design drawings prepared by an engineer. However, any departure from the design drawings would require certification by an engineer, preferably the design engineer.

Section 18(2) of the BR prevents a building certifier from appointing a competent person if the individual is not licensed or registered as required under a relevant law. For instance, to verify an individual is appropriately licensed, the building certifier may conduct a licence check on the [QBCC Licence Search website](#). The QBCC Licence Search also provides further information on a licensee's disciplinary history, which the building certifier may consider in making their assessment of the person's competency.

3. Is the person a member of a professional association whose members would be competent to certify that a particular aspect of building work meets the appropriate requirements of the BA?

Only a person registered or licensed when required under a law applying in the State to practice in the aspect of the design, building or inspection of the building work may be assessed as a competent person. However, membership of a professional association or accreditation body may also be an indication of the competence of a practitioner. Professional associations or accreditation bodies have individual requirements that need be satisfied, such as a code of ethics and/or minimum academic and practical requirements in a particular aspect.

The building certifier should obtain details of the person's professional affiliations or accreditation and enquire with those organisations as to the suitability and appropriateness of a person to undertake specific certification tasks.

The Board of Professional Engineers of Queensland (BPEQ) provides information on practitioners who are a RPEQ. To find a current RPEQ contact the BPEQ directly or visit the [BPEQ website](#).

The National Engineering Register (NER), maintained by Engineers Australia, lists engineers in a number of areas of practice. This enables easy identification of the engineering field within which the competences of practitioners have been assessed.

It should be noted that registration on NER is not an alternative to registration as a RPEQ. The NER should only be used to assist in the assessment of a RPEQ's competence. The [NER website](#) provides a full listing of qualified engineers. Or visit the [Engineers Australia website](#) to contact the organisation directly for further information.

As previously indicated, a person must be registered or licensed under a law applying in the State when required to provide certification help for an aspect of a stage or a stage of assessable building work as a competent person. Various building product manufacturers also accredit persons as installers of their products. However, these persons must be appropriately registered or licensed when required if they are to act as competent persons.

4. Has the person had specific experience in the type of work being certified?

The building certifier should obtain a resume from the person detailing projects or aspects of building work previously certified of a similar nature to the type of work being certified. For example, a registered professional engineer appointed to inspect a reinforced concrete structure should be able to detail projects he/she has been required to inspect/certify involving reinforced concrete of a similar size and complexity.

5. Will the person show objectivity in their decision-making?

The building certifier should be careful of accepting certificates from competent persons who may have questionable objectivity or a potential conflict of interest such as those certifying their own work. Self-certification of an aspect of a stage of building work by a competent person is not unlawful. However, this practice is not considered to be desirable and should not be permitted to become standard practice.

Note. A competent person appointed to give inspection help to a certifier (i.e. 'competent persons (inspections)'), **cannot** sign a certificate of inspection for a stage of building work if they are the builder for the work or have carried out building work for any aspect of that stage³.

6. Who should sign the certificate?

Certificates provided by a person should contain their personal signature, which may be in electronic form (for example, an electronic signature) in accordance with the *Electronic Transactions (Queensland) Act 2001*. Certificates provided by a competent person should contain the personal signature of the person who has been appointed by the building certifier as competent to certify a material, system, method of building, aspect design or other thing under the provisions of the BR.

However, section 21 of the BR restricts who may sign a certificate of inspection. A competent person, who is not a building certifier, **cannot** sign a certificate of inspection for assessable building work for a single detached class 1a building or class 10 structure for:

- the stage of work that is after excavation of the foundation material and before any footings are laid; or
- the final stage of the work.

The above restriction does not prevent a competent person (inspections), who is not a building certifier, from giving other inspection help (i.e. assisting) for either of the above stages if they have been appointed by the relevant building certifier.

7. Documentation of reasons

Section 19 of the BR requires the building certifier to keep a record:

- stating the individual;
- the matters for which the individual was decided to be a competent person;
- the decision day;

³ Section 22(3) of the BR

- details of the documents or information relied on by the building certifier in deciding the individual giving the certificate is a competent person; and
- the building certifier's reasons for the decision that the person giving the certificate is a competent person for the work.

The building certifier must keep the record of competency for at least seven years after the day the decision was made to appoint the individual as the competent person⁴.

8. What is the difference between a competent person and a QBCC licensee for the provision of a certificate?

A QBCC licensee is not a competent person unless they are appointed by the relevant building certifier to provide design/specification help or inspection help. A QBCC licensee who is appointed as a competent person by the building certifier must follow the requirements of the BR described within this Guideline when providing a certificate.

A QBCC licensee who is not an appointed competent person but has the authority to carry out and certify the aspect work under their licence may provide a building certifier or competent person with a QBCC licensee certificate (Form 16) that the aspect work complies with the building development approval for a detached class 1a building or class 10 building or structure⁵.

If the aspect work is accepted building work which complies with the building assessment provisions, then the QBCC licensee may provide the certificate to the builder or owner of the building.

A building certifier, as well as an appointed competent person, may choose to accept and rely on a QBCC licensee certificate in performing their functions under section 49(2) and 50(3) of the BR.

Note. Section 42(1)(c) of the BR requires that a QBCC licensee can only provide a certificate where the licensee holds a current QBCC licence of a class that the aspect work can be carried out under. However, the QBCC licensee cannot provide a QBCC licensee certificate if the aspect work was carried out when:

- a) there was more than one class of licence under the *Queensland Building and Construction Commission Regulation 2018* (QBCC Regulation) under which the aspect work may be carried out; and
- b) under the QBCC Regulation, Schedule 2, only a licence (a **certification licence**) of one or some of the classes allows the QBCC licensee to give a QBCC licensee certificate for the aspect work; and
- c) the QBCC licensee does not hold a class of licence to certify.

⁴ Section 19 of the BR

⁵ Section 43 of the BR