



Version 1, August 2018

BCA Final Certificate Protocol.

The Building Act 1984 (Act) imparts a duty on a person carrying out building work, to comply with Building Regulations. The person carrying out the work must give notice to a local authority in accordance with the building regulations. The Building Control Body (BCB) may be Local Authority (Building Notice or Full Plans Application) or Approved Inspector (Initial Notice). It is the responsibility of the BCB to take such steps as are reasonable to be satisfied that the work complies with building regulation requirements.

Section 51 (1) of the Act 1984 provides that an Approved Inspector shall issue a final certificate (FC) where they are satisfied that any work to which an initial notice relates has been completed. There is no time limit for compliance with this requirement in the Act, but under regulation 17 of the Building (Approved Inspectors etc.) Regulations 2010 there are time limits related to the completion of work or occupation before completion under which the initial notice will lapse.

The Act provides that part final certificates may be issued in respect of part of work to which an initial notice relates. Regulation 17 (6) does not prevent an initial notice from lapsing once a part final certificate has been issued.

The requirement to issue a final certificate under Section 51 (1) of the Act **is not** satisfied by the issue of a part final certificate.

Part Final Certificates

Section 50 (5) of the Building Act 1984 (applied to final certificates by section 51 (2)) provides that a final certificate “may relate either to the whole or to part only of the work to which the initial notice concerned relates”. Paragraph 2 of Form 5 in Schedule 1 of the Approved Inspector Regulations 2010 includes an option for the approved inspector to issue a final certificate in respect of part of the work described in an initial notice.

The Act does not specify the different circumstances where a part final certificate could be given. However, BCAs view is that a Partial Final Certificate should only be issued for distinct parts of the work, covered by the Initial Notice, which can be independently occupied. Examples of this would be

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- a) A dwelling.
- b) An apartment in a larger block
- c) Floor of an office or commercial building

When issuing a Partial Final Certificate Approved Inspectors should satisfy themselves that all areas of the regulations have been complied with for that part of the works. For example for an apartment in a block the common areas and means of escape serving that apartment are complete and free from obstruction at all times and any statutory consultations have been carried out.

Requirement to issue a final certificate

The Approved Inspector remains responsible for the remaining work covered by the Initial Notice. The issuing of a Partial Final Certificate does not absolve the AI of their responsibility to issue a Final Certificate under Section 51 (1) of the Act.

Issuing Final Certificates where works involved work carried out by Third Party Competent Persons

Building Regulations allow third party certification for certain parts of the work (such as energy efficiency, water efficiency and sound testing). The Regulations also allow a Building Control Body (BCB) to accept third party certificates attesting compliance for some types of work notably that described in Schedule 3 for competent persons schemes.

Conflicting timing allowances and constraints within the legislation may compromise the issuing of a Final Certificate by an AI where work covered within the scope of the Initial Notice has been carried out by a Third Party Competent Person.

This guidance is intended to ensure the Building Owner (or person carrying out the work) is not left with a responsibility or liable to prosecution for failure of a third party to correctly issue a certificate of compliance and to avoid cancellation of an IN by default.

The following actions are appropriate where all parties have reason to believe that the functional requirements of building regulations have been or will be satisfied, but appropriate third party certificates have not been received by the BCB within an appropriate time after occupation of a building.

- The Approved Inspector could satisfy themselves by their own inspection or sight of relevant site or homeowner records to verify that the packages of work have been carried out by suitably qualified Competent Persons such that an appropriate compliance certificate will be forthcoming from the competent person scheme operator. This for example could be a benchmark certificate or a building owner certificate.
- If the above information is not available, a Final Certificate or Partial Final Certificate should **not** be issued and an Extension of Time should be requested from the local authority in accordance with Regulation 17(7) of the AI regulations.

Process for Extension of Time

Regulations require an AI to issue a final certificate within 4 weeks of occupation (buildings other than dwellings) or 8 Weeks (dwellings).

Regulation 17(7) of the Approved Inspector Regulations allows a local authority to extend the above time periods either before or after expiry. Therefore to avoid lapse of the Initial Notice and automatic reversion to the relevant local authority, it is recommended the following action be taken as soon as reasonably practicable after the AI becomes aware that the IN will cease or has ceased to be in force.

BCAs view is that it is inappropriate to request an EOT where the matters preventing the issuing of a Final or Partial Final Certificates are life safety issues, for example Means of Escape.

The Approved Inspector remains responsible for the remaining work covered by the Initial Notice. The agreement by a Local Authority to an Extension of Time does not absolve the AI of their responsibility to issue a Final Certificate under Section 51 (1) of the Act.

The AI should make a request in writing to the local authority for an extension of time. Although not considered necessary at this stage the AI may wish to share the reasons for requesting the extension of time. Local Authorities are encouraged to give favourable consideration to requests for extensions of time and are encouraged to consider the wider interests of the home/building owner.

There is no obligation on a local authority to extend a relevant period and an AI must not assume a request for extension of time will automatically be granted. In instances where the Local Authority has reasonable concerns about granting the need for an EOT, for example:

- The local authority has concerns that the building or the part of the building covered by the EOT is clearly not in an occupiable state or
- If discussions have already taken place between the Approved Inspector and the Local Authority about reverting the initial notice.

It may be appropriate for the Local Authority to contact the AI and request the following information:

- The reason for the request being made and the circumstances that make it necessary, including details of any outstanding work included in the IN, any known building regulation contraventions and outstanding third party certification of work by competent persons.
- An indication of the length of time needed to resolve outstanding matters.

Where the AI provides reasonable justification local authorities are encouraged to give favourable consideration to requests for EOT that include the above information providing:

- The request is made before the IN has lapsed or within a reasonable time after the IN ceased to be in force.
- There is reason to believe that outstanding matters can be resolved within the extended time period
- The local authority has not itself taken positive steps to supervise the work on reversion of work described in the IN

An AI should not cancel an IN before or after expiry of the relevant period, without giving notice in writing to the person carrying out the work, of any contraventions in accordance with regulation 18 of the Building (Approved Inspectors etc.) Regulations 2010.

All requests and responses should be in writing (e-mail is considered suitable).
