



Version 1, August 2018 (superseded)

Version 2, December 2021

BCA Final Certificate Protocol.

The Building Act 1984 (the 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 provides that an Approved Inspector shall issue a final certificate 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 the 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 Act (applies to a final certificate by virtue of 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, the BCAs view is that a part 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:

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

When issuing a part final certificate, Approved Inspectors should satisfy themselves that all areas of the regulations have been complied with for that part of the work. For example, for an apartment in a block, that 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 part final certificate does not absolve the Approved Inspector of their responsibility to issue a final certificate under Section 51(1) of the Act.

Issuing Final Certificates where building work also includes work carried out by Competent Persons

The Building Regulations allow certification to be provided for certain parts of the work (such as energy efficiency, water efficiency and sound testing). The Regulations also permit a Building Control Body (BCB) to accept certificates attesting compliance for some types of work, notably those described in Schedule 3, to be self-certificated by an installer who is a member of an appropriate competent person's schemes.

[Competent person scheme - current schemes and how schemes are authorised - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/competent-person-scheme-current-schemes-and-how-schemes-are-authorized)

Conflicting timing allowances and constraints within the legislation may compromise the issuing of a final certificate by an Approved Inspector where work covered within the scope of the initial notice has been carried out by a 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 the failure of a competent person to issue a certificate of compliance and to avoid cancellation of an initial notice by default.

The following actions are appropriate where all parties have reason to believe that the functional requirements of building regulations have been satisfied, but where an appropriate competent person's scheme certificate has not been received by the BCB within an appropriate time after occupation of a building.

- The Approved Inspector should satisfy themselves, by either their own inspections or by having had sight of an appropriate compliance certificate from the competent person scheme operator. This for example could be a 'Benchmark' certificate to the building owner/occupier.
- If the above information is not available, a final certificate or part 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 Building (Approved Inspector etc.) Regulations.

Process for Extension of Time (EOT)

Regulations require an Approved Inspector 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 cancellation by the relevant local authority, it is recommended that the following action be taken as soon as reasonably practicable after the Approved Inspector becomes aware that the initial notice will cease or has ceased to be in force.

The BCA's view is that it is inappropriate to request an EOT where the matters preventing the issuing of a final or part final certificate are life safety issues, for example: 'Means of warning and escape'.

The Approved Inspector remains responsible for the remaining work covered by the initial notice. The agreement by a Local Authority for an EOT does not absolve the Approved Inspector of their responsibility to issue a final certificate under Section 51(1) of the Act.

The Approved Inspector should make a request in writing to the local authority for an EOT. The BCA are of the view that the Approved Inspector should share their reasons for requesting the EOT with the local authority at the time of making any such request. Local Authorities are encouraged to give favourable consideration to requests for an EOT 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 Approved Inspector must not assume a request for an EOT will be automatically granted, and there might be instances where the Local Authority has reasonable concerns about agreeing to an EOT, for example:

- 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 cancelling the initial notice.

The Approved Inspector should volunteer any relevant information to the Local Authority in order that it can properly consider a request for an EOT and give any such agreement based on reasoned argument. Consequently, the following information should be provided:

- The reason for the request being made and the circumstances that make it necessary, including details of any outstanding work included in the initial notice, any known building regulation contraventions, and outstanding certification of any work by a competent person(s).
- An indication of the length of time needed to resolve any outstanding matters.

Where the Approved Inspector has provided reasonable justification, local authorities are encouraged to give favourable consideration to a request for an EOT and which includes the above information providing:

- The request is made before the initial notice has lapsed, or within a reasonable time after the initial notice has 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 as a result of the cancellation of any of the building work described in the initial notice.

An Approved Inspector should not cancel an initial notice 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).

Attention is also drawn to BCA Policy Note 3 : Transfer of an ongoing project from an Approved Inspector to another Building Control Body
