

## **OCTOBER 2020 QLD BUILDING ACT & BUILDING REGULATION CHANGES**

### **BACKGROUND**

The *Building Industry Fairness (Security of Payment) and Other Legislation Amendment Act 2020* (BIFOLA Act) received assent on 23 July 2020 and among other things, amends the Building Act to implement the first phase of certification reforms in the 2017 Queensland Building Plan and address issues identified through the national Building Confidence Report. The Building Act amendments, except for the alternative licensing pathway provisions, commence on 1 October 2020.

#### **Amdt to Section 124A**

At any time before completing the final stage inspection of building work, if a certifier is satisfied the stage of building work complies with the building development approval and the certifier has issued a certificate for the stage of building work, the certifier must give the owner a copy of any inspection documentation for the inspection if requested by the owner. The certifier must within 5 business days provide all of the inspection documentation unless the certifier has a reasonable excuse.

#### **Amdt to Section 127 and 136**

Emphasis on the duty to act in the public interest when performing building certifying functions and that this is taken not to create a conflict of interest.

#### **Amdt to Section 143**

Where a private certifier is engaged by a client and the client is the owner of the building or the applicant of the building development application, the private certifier must within 5 business days after the engagement starts, give notice of the engagement to the local government, unless the certifier has a reasonable excuse.

#### **Insertion of 143A**

Where a private certifier is engaged by a client and the client is not the owner of the building, the client must within 10 business days after the engagement starts, give the private certifier the owners name and contact details, unless the client has a reasonable excuse.

The private certifier must within 15 business days after the engagement starts, give the owner notice of the engagement unless the private certifier has a reasonable excuse. Further, the private certifier must within 15 business days after the engagement starts, give notice of the engagement to the local government unless the certifier has a reasonable excuse.

Within 5 business days after becoming aware of a change in the owner's name or contact details, the client must give notice of the change to the private certifier unless the client has a reasonable excuse.

### **Insertion of Section 143B**

Where a private certifier is engaged by a client or applicant to perform building certifying functions who is not the owner, the owner may request the building certifier to performance additional certifying function.

The owner must provide an **additional certification notice** to the client within 10 business days of the owner receiving the notice of engagement and state the details of the certifying function being requested by the certifier. The client then must give the additional certification notice to the building certifier within 5 busines days after receiving the notice.

The building certifier must perform the certifying function stated in the additional certification notice on or before the agreed day unless the certifier has a reasonable excuse. The certifier must also give the owner copies of all documents relevant to that function within 5 business days unless the certifier has a reasonable excuse.

The owner is liable for the reasonable costs of the performance of a certifying function by the building certifier as requested.

### **Amdt to Section 150**

Certifiers are required to keep inspection documentation for 7 years after the building works in completed in lieu of the previous 5 years.

### **Amdt to Section 352**

A reference to a certificate of classification is taken to be a certificate of occupancy.

## **OVERVIEW OF OTHER AMENDMENTS**

- Require accreditation standards bodies to have their professional development schemes regularly reviewed.
- Enhance compliance through new laws regarding disqualification and the introduction of a demerit point scheme for certifiers where certifiers are disqualified if they are accrue 30 demerit points within a 3 year period.
- Enhance the professional standards and the independence of building certifiers.
- Giving effect to the replacement of the Code of Conduct for Building Certifiers.
- Provision of amended and new building forms to facilitate compliance with the Act and Regulation changes.
- Updated guidelines for inspections of all classes of buildings, the assessment of competent persons and certificates of occupancy.

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