

## COMPLAINT AGAINST A BUILDING CERTIFIER

### LEGISLATION

The statutory requirements for investigation of complaints are outlined in sections 190, 191, 194, 195, 198, 199, 201, 204 and 205 of the *Building Act 1975* (the Act). Other matters relating to building certifier's are stated in sections 10, 48, 49, 126, 127 and 128 of the Act.

It is advisable that you obtain a copy of this Act and familiarise yourself with these relevant sections. This legislation may be obtained from the following website link:

[www.legislation.qld.gov.au/view/html/inforce/current/act-1975-011](http://www.legislation.qld.gov.au/view/html/inforce/current/act-1975-011)

### GROUNDS FOR COMPLAINT

Section 190 of the Act states that "A person may make a complaint to QBCC about a building certifier if the person believes the building certifier has engaged in unsatisfactory conduct or professional misconduct." A complaint may only be made against a building certifier or former building certifier (only an individual) and not a company or business name.

**NOTE: The QBCC may recommend mediation if it considers this method of resolution appropriate.**

### COMPLAINT PROCEDURES

Section 190 of the *Building Act 1975* contains details of the process for making a complaint against a building certifier.

Under the Act:

A person may make a complaint to the QBCC about a building certifier if the person believes the building certifier has engaged in unsatisfactory conduct or professional misconduct.

1. A complaint about conduct of a building certifier must be made before the cut-off day, unless the certifier's conduct has or may have caused significant financial loss or other serious harm.

The cut-off day means:

If the conduct relates to certification of building work the subject of a building development approval, the cut-off day is seven (7) years after:

- a. A certificate of occupancy or final inspection certificate is issued for the building work; or
- b. if the building development approval lapses before a certificate of occupancy or final inspection certificate is issued for the building work—the building development approval lapses; or

If the conduct relates to building work for a building development application where the above does not apply:

- a. One (1) year after a private certifier is engaged for the application; or
- b. One (1) year after the application is received by the local government if a private certifier is not engaged for the application; or

Otherwise - One (1) year after the complainant becomes aware of the conduct.

2. A complaint must:
  - a. be in writing
  - b. contain particulars of the allegations on which it is founded
  - c. be verified by statutory declaration.
3. QBCC may require the complainant to give further particulars of the complaint.
4. QBCC may dismiss any complaint without taking further action under this division if the further particulars are not given or if the complaint or the further particulars are not verified by statutory declaration, or if the complaint is frivolous or vexatious, or lacks substance or credibility.
5. The building certifier must be advised of complaint. Section 191 of the Act states the following:

After receiving the complaint, the QBCC must, by notice:

  - a. inform the building certifier of the nature of the complaint
  - b. invite the building certifier to make, representations to the QBCC about the complaint within a stated time.

If the QBCC makes a decision about the complaint under section 204, regard to the representations must be given.
6. The QBCC must not disclose to another person unproved complaints against a building certifier.

### NOTE

Under section 194(2) of the Act, the QBCC must conduct an investigation into the complaint as soon as practicable.

Under section 192 of the Act the QBCC can recommend mediation if it considers this could achieve resolution.

Under section 204 of the Act, the QBCC must give an information notice about its decision to the building certifier and if the decision is the result of a complaint, give the complainant a copy of the notice.

### EXAMPLES OF COMPLAINT

Breaches should include documentation as demonstrated below:

- building certifier has not lodged the building approval documentation with local council - refer to attached documentation
- building certifier has issued a frame inspection certificate when truss tie down was not installed on the northern wall of the dwelling - refer to attached photos, structural tie-down report and approved drawings
- Final inspection certificate issued but the storm water discharge not adequate - refer to attached photos, hydraulic consultants report and approved drawings.
- Certificate of Occupancy issued when the building work does not comply with the approval and the building is not substantially complete - refer to attached Decision Notice, inspection report and Certificate of Occupancy.

**PRIVACY NOTICE**

QBCC is collecting the information on this form to investigate whether a breach of the *Building Act 1975* or other legislation has occurred. Some of the information you provide will be sent to the relevant building certifier, including the list of complaint items, your name, your supporting documents and your declaration at page 4 of this form.

This information may be used in taking disciplinary action or criminal proceedings. You may be required to give evidence in Court or Tribunal about the information collected. The information collected may be requested by other government agencies which have certain powers to request this information or disclosed by order of a Court or Tribunal of competent jurisdiction. All information held by the QBCC may be subject to application for access under the Right to Information and Privacy legislation or as authorised or required by law.

For further information visit the Privacy Policy on the QBCC website at [qbcc.qld.gov.au](http://qbcc.qld.gov.au)

**COMPLETING THIS FORM**

This is an interactive PDF form that you may complete in the web browser or Acrobat Reader and save before submitting. If you are completing this form in hard copy please:

- Use BLACK pen only
- Print clearly in BLOCK LETTERS
- DO NOT use correction fluid – cross out and initial amendments

**RETURN YOUR COMPLETED FORM AND ALL DOCUMENTS BY:**

Post: GPO Box 5099 Brisbane QLD

In person: QBCC service centres are listed on our website [qbcc.qld.gov.au](http://qbcc.qld.gov.au).

I/We have read and accept the contents of the Information Statement provided with this form:	Yes	No
QBCC has identified the use of e-mail for the Service of Documents is considerably more efficient.	Yes	No
I/We consent to QBCC providing the Service of documents relating to this complaint via e-mail correspondence.	Yes	No

**1. COMPLAINANT'S DETAILS**

Title	Mr	Mrs	Miss	Ms	Other
Surname					
First name					
Company name					
Postal address					
				State	Postcode
Home phone		Mobile		Work	
Email					

**2. SITE RELEVANT TO THE COMPLAINT**

House number	Unit no.
Street address	
	State
	Postcode
Local government area (LGA)	


**3. CERTIFIERS DETAILS**

**PLEASE NOTE: A complaint can only be lodged against an individual**

Name of building certifier	
Licence number	

<b>OFFICE USE ONLY</b>	CRN	<input type="text"/>	Licence number	<input type="text"/>
	Action officer	<input type="text"/>	File number	<input type="text"/>

#### 4. COMPLAINT ITEMS

 **NOTE: A complete list of complaint items must be provided in the table below for your matter to be investigated - attaching emails, letters, building reports etc is considered insufficient.**

Item no. COMPLAINT ITEMS -  
Description of building certifiers alleged breach/es (these must be specific and be supported by evidence/documentation).

1

2

3

4

5

6

7

8

9

10

5. DECLARATION



**WARNING: KNOWINGLY PROVIDING FALSE OR MISLEADING INFORMATION MAY LEAD TO PROSECUTION FOR AN OFFENCE**

I, (full name)

of (street address)

in the state of,

I/we do solemnly and sincerely declare the particulars in this complaint form and any accompanying statements are true and correct. I/We make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the *Oaths Act 1867*.

I/We declare the information provided in this complaint is correct to the best of my/our knowledge.

Signature

(signature of applicant)

Date

D	D	/	M	M	/	Y	Y	Y	Y

Taken and declared before me at

(name of town or city and suburb where affidavit signed)

this

(date)

day of

(month)

year

(year)

before me.

Full name of the person before whom the declaration is made

Signature of Justice of the Peace/Commissioner for Declarations/Notary Public/Lawyer