

UNDER REVIEW

# Work instruction

Assessment of experience - Applications for a licence

V3.0 September 2020

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## 2 Document Control

### 2.1 Document Information

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### 2.2 Document History

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1.0	July 2019	Created
2.0	October 2019	Grammatical and language errors corrected
3.0	September 2020	Addition of CRBI Licence experience

### 2.3 Document Approvals

Role	Name	Signature	Date
Licensing Manager	G Easterby		July 2019
Director Licensing Services Branch	I Grant		July 2019
Licensing Manager	G Easterby		September 2020

# 1 Purpose of Work Instruction

The purpose of this work instruction is to provide guidance to licensing staff when making decisions as to whether an applicant for a contractor's licence or nominee supervisor's licence meets the prescribed practical experience requirements for the following classes of licence:

- Builder low rise,
- Builder medium rise and
- Builder open (excluding projecting management services licence).
- Completed Residential Building Inspection

## 2 Background

### 2.1 Legislation

One of the requirements for an applicant to be entitled to a contractor's or nominee supervisor's licence under the QBCC Act is that the QBCC must be satisfied that the applicant meets legislated minimum practical experience requirements.

The prescribed practical experience requirements for each of the licence classes relevant to this work instruction are as follows for **Builder Classes**:

**"Experience requirements**

**The experience requirements are the following—**

**(a) for a person who has a technical qualification required under part 3 or 16—2 years experience in—**

- (i) the scope of work for the class; or**
- (ii) other work the commission is satisfied is at least equivalent to experience in the scope of work for the class;**

**(b) otherwise —4 years experience in—**

- (i) the scope of work for the class; or**
- (ii) other work the commission is satisfied is at least equivalent to experience in the scope of work for the class."**

The prescribed practical experience requirements for **Completed Residential Building Inspection** are as follows for:

**Five years experience—**

**(a) in the scope of work for any of the following licence classes—**

- (i) builder—low rise;**
- (ii) builder—medium rise;**

(iii) builder—open; or

(b) as a building surveyor, assistant building surveyor or building surveyor technician.

## 3 Criteria for assessing experience

An applicant for a contractor's licence or nominee supervisor's licence must satisfy all of the following criteria.

**Criteria (1):** The applicant must have experience in critical skill areas relevant to the licence class.

**Criteria (2):** At least 50% of the experience must be in work exclusive to the licence class.

**Criteria (3):** Experience must be lawful experience.

**Criteria (4) –** Experience must be supported by evidence.

### 3.1 Criteria 1 – Applicants must have experience in critical skill areas relevant to the builder licence class

Applicants must demonstrate that they have the mandatory experience stated in the following fact sheets.

- [Builder Low Rise;](#)
- [Builder Medium Rise;](#)
- [Builder Open.](#)

### 3.2 Criteria 2 – 50% of experience must be exclusive to the licence class

#### **Builder low-rise requirement**

The applicant must be able to demonstrate that they have at least 2 years' experience (if they have Carpentry or Brick and Blocklaying qualification) or 4 years' experience in the following:

- Building work on a class 1 building; and or
- Building work on a class 2-9 building that relies on a methodology that aligns with Class 1 work.

If the above 50% requirement is satisfied, the applicant may use building work for a class 10 building for the purposes of demonstrating the remaining practical experience component.

An applicant may demonstrate the above experience though personally performing the work or supervising the work. An applicant can rely on experience acquired under a previous or currently held contractor's licence provided the work was not undertaken in contravention of the QBCC Act (e.g. in breach of section 42 (*Unlawful carrying out of building work*) of the QBCC Act).

### **Builder medium rise requirement**

The applicant must be able to demonstrate that they have at least 2 years' experience (if they have Carpentry or Brick and Blocklaying qualification) or 4 years' experience in performing or supervising building work for a class 2 to 9 building (the "50% requirement").

If the 50% requirement is satisfied, the applicant may use building work on a class 1 or 10 building for the purposes of demonstrating the remaining practical experience component.

An applicant may demonstrate the above experience though personally performing the work or supervising the work. An applicant can rely on experience acquired under a previous or currently held contractor's licence provided the work was not undertaken in contravention of the QBCC Act (e.g. in breach of section 42 (*Unlawful carrying out of building work*) of the QBCC Act).

### **Builder open requirement**

The applicant must be able to demonstrate that they have at least 2 years' experience (if they have Carpentry or Brick and Blocklaying qualification) or 4 years' experience in personally performing or supervising building work for the following:

- Building(s) exceeding 3 storey's in height; and/or
- Type A construction on classes 4-9 buildings.

If the 50% requirement is satisfied, the applicant may use building work within the scope a builder low rise or medium rise licence for the purposes of demonstrating the remaining practical experience component.

An applicant may demonstrate the above experience though personally performing the work or supervising the work. An applicant can rely on experience acquired under a previous or currently held contractor's licence provided the work was not undertaken in contravention of the QBCC Act (e.g. in breach of section 42 (*Unlawful carrying out of building work*) of the QBCC Act).

### **Completed residential building inspection requirement**

Experience requirement is 5 years within the scope of work for a builder, which is not limited to being a licensed builder for the past 5 years.

- If an applicant holds a current builder licence, the experience provided with a recent application can be taken into consideration as meeting part of the legislative experience requirement (i.e. 2 or 4 years). If so, then they only need to provide the gap to make the 5 years of evidence.
- Detailed experience, using the above experience fact sheets in the relevant class of building work
- Review how long the applicant has held a builder licence, though holding a licence is not deemed builder experience, however, will assist in identifying the period that experience may be gained from.
- Review construction notifications in salesforce
- Written reference/s and or referee report/s

Experience requirement is 5 years within the scope of work for a building surveyor, assistant building surveyor or building surveyor technician

- Detailed experience as a Building Certifier for any of the classes of licensed Building Certification.
- Because the QBCC does not receive any experience with a Certifier application, the applicant will need to detail 5 years of certification experience.
- Where an applicant relies on experience as an unlicensed Certifier, however they provide experience as a building surveyor, assistant building surveyor or building surveyor technician, the matter is to be discussed with the Licensing Manager.

### 3.3 Criteria 3 – Practical experience must have been obtained lawfully

An applicant cannot rely on experience that is unlawful, including where there is a reasonable belief that the experience is contrary to section 42 (*Unlawful carrying out of building work*) of the QBCC Act.

If the applicant is relying on experience carried out through working for a builder, the experience relied upon must be as:

- An employee of the builder; or
- As an appropriately licensed subcontractor for the work.

The QBCC Act does not define the meaning of an “employee”. The common law definition of “employee” therefore applies. The fact that the applicant and building contractor may describe their contractual relationship as a “subcontract” is not determinative as to whether the applicant was in fact a subcontractor or an employee.

Indicators that an individual is an employee as opposed to an independent contractor at common law are as follows:

Employee	Contractor
<b><u>Ability to subcontract/delegate:</u></b> the worker can't subcontract/delegate the work – they can't pay someone else to do the work.	<b><u>Ability to subcontract/delegate:</u></b> the worker can subcontract/delegate the work – they can pay someone else to do the work.
<b><u>Basis of payment</u></b> – the worker is paid either: <ul style="list-style-type: none"> <li>○ for the time worked</li> <li>○ a price per item or activity</li> <li>○ a commission.</li> </ul>	<b><u>Basis of payment:</u></b> the worker is paid for a result achieved based on the quote they provided. A quote can be calculated using hourly rates or price per item to work out the total cost of the work.

<p><b>Equipment, tools and other assets:</b></p> <ul style="list-style-type: none"> <li>○ your business provides all or most of the equipment, tools and other assets required to complete the work, or</li> <li>○ the worker provides all or most of the equipment, tools and other assets required to complete the work, but your business provides them with an allowance or reimburses them for the cost of the equipment, tools and other assets.</li> </ul>	<p><b>Equipment, tools and other assets:</b></p> <ul style="list-style-type: none"> <li>○ the worker provides all or most of the equipment, tools and other assets required to complete the work</li> <li>○ the worker does not receive an allowance or reimbursement for the cost of this equipment, tools and other assets.</li> </ul>
<p><b>Commercial risks:</b> the worker takes no commercial risks. Your business is legally responsible for the work done by the worker and liable for the cost of rectifying any defect in the work.</p>	<p><b>Commercial risks:</b> the worker takes commercial risks, with the worker being legally responsible for their work and liable for the cost of rectifying any defect in their work.</p>
<p><b>Control over the work:</b> your business has the right to direct the way in which the worker does their work.</p>	<p><b>Control over the work:</b> the worker has freedom in the way the work is done, subject to the specific terms in any contract or agreement.</p>
<p><b>Independence:</b> the worker is not operating independently of your business. They work within and are considered part of your business.</p>	<p><b>Independence:</b> the worker is operating their own business independently of your business. The worker performs services as specified in their contract or agreement and is free to accept or refuse additional work.</p>

The QBCC accepts that a person is an employee if they are categorised as such using the [ATO decision tool](#). Officers are encouraged to use this tool when assessing whether an applicant is an employee or contractor.

### 3.4 Criteria (4) - Experience must be supported by evidence

An applicant must show evidence that supports that they have the experience referred to in their application. This evidence may take the form of

- Construction notifications
- Referee statements
- Interview referees (telephone)
- Employment confirmation
- Photos of the property
- Contracts or scope of work performed
- Employment contract or letter of service from employer
- Other evidence or documents that verifies that the applicant has carried out the work( e.g. email)

The applicant must demonstrate that the work they have carried out is of a competent standard. To demonstrate this, the applicant would ordinarily provide a referee report from an appropriately licensed contractor who was responsible for, or otherwise supervised the applicant's work. The referee report needs to be confirmed through a telephone interview.

In some cases it is not possible to obtain a referee report in such cases the applicant is to be referred to the licensing manager to consider and approve for the applicant to be interviewed by a qualified QBCC building inspector to confirm the applicant's knowledge and experience.



**Experience not considered acceptable by the QBCC for an application includes:**

- Experience gained under an owner builder permit
- Experience gained unlawfully
- Experience gained on a volunteer basis
- Experience gained as part of training
- Experience gained prior to the qualification being obtained
- Experience gained as a labourer
- Experience gained in work for which Australian standards and legislation was not applicable unless approved by a Case Manager, Licensing Manager or Operational Team Leader.

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