

Certification Handbook

For schemes approved under Section 7(2) and
direct appointments under Section 7(1) of the
Building (Scotland) Act 2003

May 2012

Edition 3

Building Standards Division
Local Government and Communities Directorate



The Scottish
Government

Crown Copyright 2012
Produced by the Building Standards Division
May 2012
Third Edition Version 1.0

Document Version Control

Title: Certification Handbook

Purpose: The Certification Handbook provides clarification on the certification procedures underpinning the Scottish building standards system as set out in the Building (Procedure) (Scotland) regulations 2004 and the Building (Scotland) Act 2003 to assist with practical operations.

| Edition | Date | Notes |
|---------|----------------|---|
| 3 | 1 May 2012 | General updating to reference BSD and introduction of remote and targeted auditing procedures |
| 2 | 4 January 2009 | Incorporates changes from 4 January 2009 by Building (Fees) (Scotland) Amendment Regulations 2008 |
| 1 | 1 May 2005 | First edition at the introduction of the new building standards system |

THE SCOTTISH BUILDING STANDARDS Certification Handbook

Contents

1. **INTRODUCTION**
 - Principles*
 - Why Use Certification Services?*
2. **CERTIFICATION REGISTER**
3. **CERTIFICATION FUNCTIONS AND RESPONSIBILITIES**
 - **Certification Schemes under Section 7(2) of the Building (Scotland) Act 2003**
 - Certification Schemes*
 - Audit of the Scheme*
 - **Functions of a Scheme Provider under Section 7(2) of the Building (Scotland) Act 2003**
 - Scheme Providers*
 - Scheme Membership*
 - Issue of Certificates*
 - Audit of the Scheme Membership*
 - Recording of Information*
 - **Function of an Approved Certifier under Section 7(2) of the Building (Scotland) Act 2003**
 - Scheme Membership*
 - Issue of Certificates*
 - Recording of Information*
 - **Function of an Approved Body under Section 7(2) of the Building (Scotland) Act 2003**
 - Scheme Membership*
 - Issue of Certificates*
 - **Direct Appointments under Section 7(1) of Building (Scotland) Act 2003**
 - Appointment under Section 7(1)*
 - Audit of Directly Appointed Approved Certifiers under Section 7(1)*
 - **Function of a Directly Appointed Approved Certifier under Section 7(1) of the Building (Scotland) Act 2003**
 - Certification Assessors*
 - Certification Services*
4. **CERTIFICATION PROCESS**
 - **Certificate of Design**
 - How does Certification Work in Practice?*
 - How do I obtain a Certificate of Design?*
 - Action to be taken by the Approved Certifier of Design*
 - What details should be completed on the Certificate of Design?*

Action taken by the Verifier
Reporting Invalid Certificates
Changes to Design, staged warrants and amendments to warrants

- **Certificate of Construction**
After issue of the building warrant
How do I obtain a Certificate of Construction?
Notice of Intent
Action to be taken by the Approved Certifier of Construction
Completion
What details should be completed on the Certificate of Construction?
Action taken by the verifier
- **Action to be taken on discovery of an error in Certification**
Certification of non-compliant work
- **Discovery of certified non-compliant work after submission to verifier**
- **False or misleading statements and reckless certification**
Misrepresentation

5. APPLICATION PROCESS FOR:

- **APPROVAL OF A SCHEME UNDER SECTION 7(2)**
- **APPOINTMENT AS A SCHEME PROVIDER UNDER SECTION 7(2)**
- **DIRECT APPOINTMENT AS AN APPROVED CERTIFIER UNDER SECTION 7(1)**
- **How do I apply?**
Application for a Scheme and appointment as a Scheme Provider under Section 7(2) - Assessment Criteria
Application for Direct Appointment as an Approved Certifier under Section 7(1) - Assessment Criteria
- **Assessment Process**
Role of the BSD Certification Manager
- **Application Stages**
Pre Application Stage
Application Stage - Application Checks and Associated Costs
Certification Panel
Decision
Certification Process - Summary

Appendix A – Complaints procedures for schemes

Appendix B – Application Process Flowchart

Appendix C – Sample Certificates

Glossary

1. INTRODUCTION

1.1.1 The Building (Scotland) Act 2003 introduced the option of certifying design or the construction of building work as complying with the Building (Scotland) Regulations 2004. The certification system is based on the principle that suitably qualified and experienced building professionals and tradesmen can be responsible for ensuring that specified works comply with building regulations.

1.1.2 However, the building professionals and tradesmen must be approved to carry out certification tasks. They are required to demonstrate that they have the relevant qualifications and experience for this role and must be employed by a reputable company which operates a system of careful checking. The use of an Approved Certifier removes the need for the detailed scrutiny of designs or inspections by verifiers.

1.1.3 The certification system is operated by the Scottish Government Building Standards Division (BSD). Further details about the BSD can be found at www.scotland.gov.uk/bsd Queries on certification issues should be sent to the Building Standards mailbox, buildingstandards@scotland.gsi.gov.uk.

1.1.4 This purpose of this Handbook is to explain:

- how the **certification system** operates
- how **certification schemes** are approved and controlled
- how Approved Certifiers can be **directly appointed**
- the role and responsibilities of **those involved in the certification process** and
- the **application process** for:
 - a certification scheme
 - scheme provider status and
 - direct appointment as an Approved Certifier

1.1.5 Any reference within this handbook to the Building (Procedure) (Scotland) Regulations 2004, the Building (Scotland) Regulations 2004 should be read as including all subsequent amendments in force.

Principles

1.2.1 Certification is an **optional** procedure for the implementation of building regulations in Scotland, and is **only** relevant to works subject to the building warrant process. Certification is the statement by an Approved Certifier that specified aspects of a design proposal, or of a completed construction, comply with the Building (Scotland) Regulations 2004.

1.2.2 Certification is usually delivered through schemes approved by Scottish Ministers by scheme providers. Where this is not possible, Scottish Ministers may directly appoint an Approved Certifier.

1.2.3 The legislative framework for the certification process is set out in the Building (Scotland) Act 2003, under the following parts:

| Section | Purpose |
|---|---|
| <i>Section 7</i> 'Verifiers & certifiers' | Enables the Scottish Ministers to approve certification schemes, appoint verifiers and approve certifiers. |
| <i>Section 11</i> 'Building warrants: certification of design' | Establishes the role of applicants and the duties of verifiers and Approved Certifiers with regard to building warrant applications. |
| <i>Section 19</i> 'Completion Certificates: certification of construction' | Establishes the role of applicants and the duties of verifiers and Approved Certifiers with regard to completion certificate submissions. |
| <i>Schedule 2</i> 'Verifiers & certifiers' | Gives requirements for the appointment of verifiers and Approved Certifiers, and for the relationships between them. |

1.2.4 This framework is expanded in the Building (Procedure) (Scotland) Regulations 2004 and explained in the Procedural Handbook issued by the BSD.

1.2.5 Certification may only be undertaken by persons directly appointed under Section 7(1) of the Act or by members of schemes approved under Section 7(2) of the Act. These sections state that:

Section 7(1) Scottish Ministers may **appoint persons** (whether individuals or bodies corporate or unincorporate and including public bodies and office-holders) as:

- (a) verifiers
- (b) Approved Certifiers of Design
- (c) Approved Certifiers of Construction

Section 7(2) The Scottish Ministers may **approve schemes** in accordance with which persons (whether individuals or bodies corporate or unincorporate) who are for the time being members of the schemes are entitled to exercise for the purposes of this Act the functions of (either or both):

- (a) an Approved Certifier of Design
- (b) an Approved Certifier of Construction

1.2.6 Schemes and directly appointed certifiers receive authority to act for a fixed period, usually one year. Individual timescales may be agreed between the BSD and the scheme provider/directly appointed Approved Certifier based on risk assessment.

1.2.7 Certification activities will be monitored through a series of audits; to ensure that approved schemes; the membership of those approved schemes and Approved Certifiers directly appointed under Section 7(1) operate within the regulations and in accordance with their approved status.

Why use certification services?

1.3.1 An applicant for a building warrant or an amendment to a warrant may choose to include certificates issued by Approved Certifiers of Design as part of the application process. On completion of the project, the relevant person (usually the building owner or developer) has the option to include certificates by Approved Certifiers of Construction as part of the completion certificate submission.

1.3.2 As these certificates provide the verifier with confirmation of compliance with current building regulations, the number of checks to be undertaken by the verifier is greatly reduced. The benefits to applicants using certification services include:

Certificate of Design

- a discount in warrant fee(s) except in the case of an amendment to warrant when the estimated value of the additional work does not exceed £5000 and
- a reduction in the length of time required to process the building warrant.

Certificate of Construction

- a discount on the warrant fee and
- a reduction in the length of time required to accept a completion certificate.

1.3.3 However, in order to qualify for these benefits the applicant **must** ensure that the correct notifications and certificates are submitted at the relevant time, paragraphs 4.1.1 and 4.2.1 refer.

2. CERTIFICATION REGISTER

2.1.1 The BSD runs the only authoritative on-line certification register. The register contains details of all approved schemes and those who have been approved to undertake certification services, both individuals and firms.

2.1.2 The Certification Register has been developed to support the certification of building warrants at the design stage and certification of completion certificates at the construction stage.

The Certification register will also allow:

Members of the public to:

- identify certification schemes
- find an Approved Body or
- check the registration of a firm that they know.

and local authority verifiers to:

- check validity of a certificate of design
- check notice of intent to use an Approved Certifier of Construction or
- check validity of a certificate of construction

2.1.3 The Certification Register can be accessed through the BSD website at www.scotland.gov.uk/bsd. The website also contains instructions on how to use the system.

3. CERTIFICATION FUNCTIONS AND RESPONSIBILITIES

3.1 Certification Schemes under Section 7(2) of the Building (Scotland) Act 2003

Certification Schemes

3.1.1 An organisation may apply to the BSD to deliver a particular scheme. A scheme must be solely concerned with the certification of conformity with the Building (Scotland) Regulations 2004 with regard to certain aspects of either design or construction.

3.1.2 The scheme must have a specific scope and relate to a particular discipline or type of project. The scheme may also identify specialised aspects of work; these specialisms are referred to as 'designations'.

3.1.3 Schemes may choose not to identify designations, but to incorporate requirements on how certifiers may certify work with parts which are out with their professional experience. A scheme may be extended by the addition of designations. In order to amend the terms of appointment, approval must be sought from the BSD.

3.1.4 A scheme must be clearly identified as a scheme that is specific to the certification of the Building (Scotland) Regulations 2004, and must not be confused with, or rely on, the membership of any one professional institute or trade association.

3.1.5 If the proposed scheme meets the criteria defined in legislation and is deemed to be a viable proposal for the industry it will be considered for approval by the Scottish Ministers. Schemes which are approved by Scottish Ministers will be delivered by an organisation or body referred to as the 'scheme provider'. In some cases more than one scheme provider may be appointed to operate a scheme. Schemes must not exclude any individual or firm on the basis of membership of a trade association, professional institution or the like.

3.1.6 An application for a scheme covering aspects of works included within an existing scheme, will be considered within the limitations and standards of that existing scheme.

3.1.7 The criteria for membership vary between different schemes depending on the scope of work to be certified. Criteria for membership are set by the scheme provider, subject to approval by the BSD.

Audit of the Scheme

3.1.8 The BSD will appoint a team to undertake an audit of each approved scheme, usually on an annual basis.

3.1.9 Continued approval of a scheme is subject to review. The scheme will be audited by the BSD on the basis of both the current criteria for approval and the performance of the scheme provider and its members. Established schemes that have received at least 2 successful audits will move to a less frequent audit cycle and benefit from remote or targeted audits.

3.1.10 The performance of the scheme will be measured against the terms and conditions of approval and the performance of the membership. Performance will be taken into account in taking a decision on re-appointment.

3.1.11 A scheme may be terminated or reviewed subject to conditions in the event of an unsatisfactory audit. Should this situation arise, members of the scheme will be given the opportunity to make representations to Scottish Ministers before a decision is taken.

3.2 Functions of a Scheme Provider under Section 7(2) of the Building (Scotland) Act 2003

Scheme Providers

3.2.1 A Scheme Provider appointed under Section 7(2) is an organisation - trade association; professional body or company formed by such organisations to deliver certification services. A scheme provider cannot be appointed until a scheme has been approved.

3.2.2 There is no limit on the number of schemes that may be operated by an approved scheme provider, provided that the organisation supports the scheme with appropriate expertise and administrative resources. Scheme providers are asked as part of the application process to demonstrate that they have the capacity to deliver – see section 5 ‘Application Process’.

3.2.3 Scheme providers must develop and publish clear guidance on the operation of the certification scheme including the conditions of membership. This guidance must be made available to prospective applicants. Approval of the guidance must be sought from the BSD before issue; this includes future amendments to the document before being made available to members.

Scheme Membership

3.2.4 The scheme provider is responsible for the appointment of Approved Certifiers and Approved Bodies for the scheme. Approved Certifiers must have the appropriate qualifications and experience relating to the scope of the scheme and must be employed by an Approved Body.

3.2.5 An ‘Approved Body’ may be a firm, public body or other organisation that is a member of the scheme, which employs at least one Approved Certifier and which adopts suitable professional practices including procedures to check compliance with the Building (Scotland) Regulations 2004.

3.2.6 Scheme providers must control the membership application process. The scrutiny of individuals and bodies **may** be delegated to agents. However, the decision-making control over approvals, audits, and disciplinary procedures **must** be retained by the scheme provider.

3.2.7 Approved Bodies may, when appropriate, subcontract certification work to other Approved Certifier(s) from the same scheme, provided that this is covered by appropriate insurance.

3.2.8 Scheme providers must put in place procedures to review membership, at a period specified by the scheme provider and agreed by the BSD. Refer to paragraph 3.2.14 ‘Audit of the Scheme Membership’.

3.2.9 The scheme provider must assess the competency of self employed/sole practitioners who wish membership as an Approved Certifier and Approved Body. Self employed/sole practitioners must demonstrate that they have adequate personal liability insurance for both Approved Body and Approved Certifier status.

3.2.10 An appropriate code of conduct, complaint, disciplinary and appeal procedures must be devised and adopted as set out in Appendix A ‘Complaints Procedures for Schemes’.

Issue of Certificates

3.2.11 The scheme provider must put in place procedures to ensure that Approved Certifiers and Approved Bodies do not certify work which is outside the defined scope of the scheme. In addition, the Scheme Provider must ensure that an Approved Certifier does not certify work that they have not done themselves or supervised on an ongoing basis. If designations have been identified, only those scheme members with the appropriate skills may certify these specialised aspects of work.

3.2.12 It is the responsibility of the scheme provider to ensure the control and security of certificate issue. They must ensure that irregularities are investigated, and the appropriate action taken.

3.2.13 Scheme providers must ensure that assistance is provided to those persons who have notified verifiers of the intention to provide a certificate of construction to accompany a completion certificate submission, which may include resolving problems regarding certification that arise when an Approved Body ceases to trade.

Audit of the Scheme Membership

3.2.14 Scheme providers will be required to audit all Approved Bodies and Approved Certifiers at least once during the membership period. Audits should normally take place at three yearly intervals, but different frequencies may be agreed between the BSD and the scheme provider on the basis of a risk assessment prior to approval of the scheme.

3.2.15 Membership audits will inspect the Approved Body and Approved Certifier's functions based on both the current criteria for membership and performance in practice. Logbooks will be used to assess compliance against declarations of expertise and experience made at the time of application(s) for approval. Audits may also be undertaken in the event of a complaint or at random.

3.2.16 Membership may be terminated or applications for renewal of membership rejected in the event of an unsatisfactory audit.

3.2.17 If applications for membership or renewal of membership are rejected, the scheme provider must notify the applicant of the reasons for rejection and inform them of the appeals procedure. See Appendix A Complaints Procedures for Schemes.

Recording of Information

3.2.18 The scheme provider must ensure that the grounds for rejection of approvals, renewals, and the findings of emergency audits and complaints procedures are recorded and copied to the BSD for information.

3.2.19 The scheme provider must ensure that Approved Certifiers submit to them details of all certificates issued to enable them to complete a quarterly return to the BSD. Information relating to scheme performance and take up must be issued to the BSD.

3.3 Function of an Approved Certifier under Section 7(2) of the Building (Scotland) Act 2003

Scheme Membership

3.3.1 Individuals are required to join an approved certification scheme to be considered for membership as an Approved Certifier of Design or an Approved Certifier of Construction under Section 7(2). There is no limit to the number of scheme memberships or designations that an individual may hold provided that they meet the relevant scheme criteria.

3.3.2 In order to gain membership of a certification scheme applicants must demonstrate that they have the appropriate level of competency which is measured by assessing:

- qualifications
- experience and
- understanding of the role of Approved Certifier to certify that specified aspects of design or construction comply with the Building (Scotland) Regulations 2004.

3.3.3 A sole practitioner could hold membership as an Approved Certifier, an Approved Body and also take the role of certification co-ordinator. However, this will be subject to the applicant meeting the necessary criteria as published by the scheme provider. This includes having adequate personal liability insurance for Approved Body and Approved Certifier status.

3.3.4 If any Approved Certifier wishes to resign their membership of the scheme, they must inform the scheme provider so that the register can be updated. They must supply the scheme provider with an up-to-date copy of their logbook on the day before the resignation takes effect.

3.3.5 An Approved Certifier must be employed by an Approved Body or hold Approved Body membership status. See paragraph 3.3.3.

Issue of Certificates

3.3.6 Approved Certifiers must ensure that they certify within their competency and in accordance with their approval by the scheme provider.

3.3.7 A unique number must be assigned to each certificate. The format of the certificate number may be specified by the scheme provider. For example, this may comprise of the Approved Certifier's registration number and a further six digit numbers. Specific details on how this should be done will be provided for each scheme within the Scheme Guide.

3.3.8 Certificates of design and certificates of construction must be counter-signed by the certification co-ordinator of the Approved Body.

3.3.9 During the course of a construction, an incoming Approved Certifier of Construction must satisfy themselves of the compliance of any relevant work already undertaken, in order that they can certify the work at completion. If they cannot do so, they must inform the applicant and the scheme provider that they are not prepared to certify the work.

Recording of Information

3.3.10 Approved Certifiers must record details of each certificate issued in a logbook, which may be kept electronically and/or on paper. The certificate details should also be submitted to the scheme provider for checking, audit and statistical purposes.

3.4 Function of an Approved Body under Section 7(2) of the Building (Scotland) Act 2003

Scheme Membership

3.4.1 An Approved Body is granted membership by a scheme provider to supply certification services. Membership applies to a firm, public body or other organisation approved by a scheme provider. An Approved Body can belong to any number of schemes, provided that it meets relevant membership criteria for the scheme.

3.4.2 An Approved Body must directly employ one or more Approved Certifiers to deliver certification services. If the Approved Body ceases to employ an Approved Certifier, they must inform the scheme provider immediately, and must **not** offer certification services until an Approved Certifier is employed.

3.4.3 Each Approved Body must adopt appropriate professional practice to operate a certification service and must:

- maintain a system for checking compliance with the Building (Scotland) Regulations 2004
- provide access for Approved Certifiers to up-to-date versions of codes, regulations and other guidance
- maintain appropriate levels of insurance cover and
- provide access to relevant training for Approved Certifiers.

3.4.4 The Approved Body must designate a **certification co-ordinator** for each scheme. The same person may undertake this role for more than one scheme. The certification co-ordinator does not have to be an Approved Certifier.

Issue of Certificates

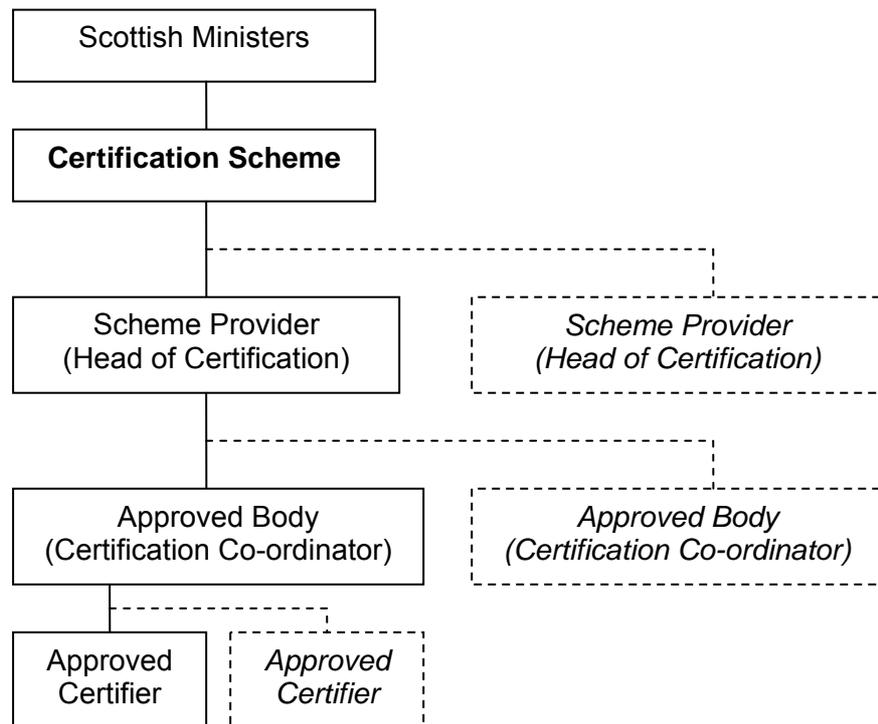
3.4.5 Only the **certification co-ordinator** of the Approved Body may counter-sign certificates. The certification co-ordinator is the contact point for the Approved Body and is responsible for:

- ensuring that the Approved Body continues to meet the conditions of membership of the scheme
- managing the procedures for complaints regarding certification and
- informing the scheme provider of the resignation of an Approved Certifier or Approved Body.

3.4.6 The nomination of an 'alternative co-ordinator' who may cover for periods of leave including extended sick leave is permissible. However, this is an operational matter for each scheme provider.

3.4.7 A sole practitioner seeking membership for their firm as an Approved Body must also apply for individual membership as an Approved Certifier, provided that they meet the relevant scheme criteria. They must designate a certification co-ordinator as outlined in paragraph 3.3.3.

Schemes Approved under Section 7(2) of the Building (Scotland) Act 2003



Note: The dotted lines show where multiple appointments are possible. A Scheme may have more than one provider and scheme membership usually consists of multiple Approved Bodies and Approved Certifiers.

3.5 Direct Appointments under Section 7(1) of Building (Scotland) Act 2003

Appointment under Section 7(1)

3.5.1 Appointment under Section 7(1) relates to approval of a firm, public body or other organisation as an Approved Certifier of Design, or Approved Certifier of Construction. Directly appointed Approved Certifiers are accountable to the Scottish Ministers. Such appointments will be restricted to works where a certification scheme would not be viable, where works are of a specialised nature or where the numbers of those capable of certification is exceptionally limited.

3.5.2 The Approved Certifier **must** directly employ one or more members of staff with the qualifications, experience and understanding of legislation to confirm that works comply. These members of staff are referred to as certification 'assessors'.

3.5.3 To be considered for direct appointment under Section 7(1) as an **Approved Certifier of Design or Approved Certifier of Construction**, applicants must demonstrate that they have the appropriate:

- qualifications
- experience and
- understanding of the role of Approved Certifier to certify that specified aspects of design or construction comply with the Building (Scotland) Regulations 2004.

3.5.4 An Approved Certifier must adopt suitable professional practices to provide a certification service, including procedures to check compliance with the Building (Scotland) Regulations 2004. As with a certification scheme, the direct approval will be for a specific scope and relate to a particular discipline or type of project.

3.5.5 In appointing an Approved Certifier the Scottish Ministers will detail the scope of certification specific to each Approved Certifier. Approved Certifiers and those to be engaged as certification assessors are **not** permitted to certify any works which fall outside the approved scope or beyond their experience and capability. The Scheme Provider must also ensure that an Approved Certifier does not certify work what they have not done themselves or supervised on an ongoing basis.

Audit of Directly Appointed Approved Certifiers under Section 7(1)

3.5.6 The BSD will review the appointment of an Approved Certifier, subject to a successful audit. The audit will follow similar procedures as those outlined for approved certification schemes.

3.6 Function of a Directly Appointed Approved Certifier under Section 7(1) of the Building (Scotland) Act 2003

Certification Assessors

3.6.1 An **Approved Certifier of Design** or **Approved Certifier of Construction** is a firm, public body or other organisation directly appointed under Section 7(1) by the Scottish Ministers to supply certification services.

3.6.2 The Approved Certifier must directly employ one or more certification assessors with the appropriate

- qualifications
- experience and
- understanding of the role of the certification assessor to confirm compliance with the Building (Scotland) Regulations 2004.

Certification Services

3.6.3 The Approved Certifier is responsible for the issue of certificates. A record of all certificates issued must be recorded on a logbook for future inspection.

3.6.4 An Approved Certifier must establish a method to identify the assessor who has undertaken the assessment of compliance as part of its internal management and auditing procedures.

3.6.5 If the Approved Certifier ceases to employ an appropriately approved assessor, they must inform the BSD immediately and must not offer certification services until another assessor is employed.

3.6.6 If an assessor changes during the course of a construction project, a new assessor must be appointed. The new assessor must satisfy themselves of the compliance of any relevant work already undertaken, in order that they can certify the work at completion. If they are unable to do so, the Approved Certifier must inform the applicant that they are not prepared to certify the work. The applicant must inform the verifier, who may choose to inspect the work.

3.6.7 Approved Certifiers are not permitted to sub-contract assessment to any other firm or individual. Where appropriate, they may obtain evidence from individuals or bodies that it considers to be competent as a means to establish compliance.

3.6.8 Approved Certifiers must develop and publish clear guidance on its operation of the certification service which must be approved by the BSD. This document must be made available to all prospective clients and verifiers. Any revisions to the document must be approved by the BSD before issue to clients and verifiers.

3.6.9 An Approved Certifier must designate at least one **certification co-ordinator**. The certification co-ordinator is responsible for signing certificates on behalf of the Approved Certifier. The certification co-ordinator does not have to be an assessor.

3.6.10 The certification co-ordinator has specific **responsibility** for maintaining a system for checking compliance with the Building (Scotland) Regulations 2004. They must provide certification assessors with access to up-to-date versions of codes, regulations and other guidance. They must ensure that amendments to certification

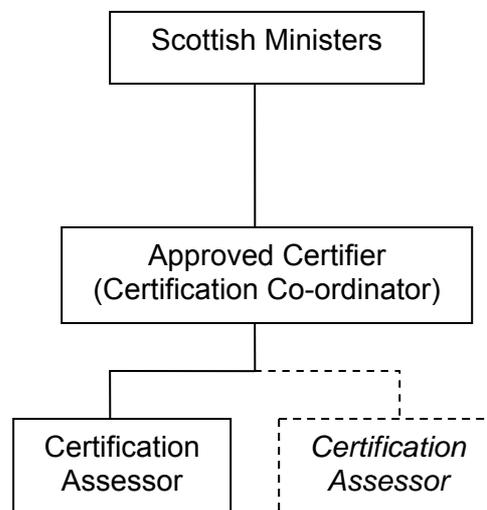
guidance documents are approved by the BSD before issue. Access to relevant training for assessors, and appropriate other administrative staff should also be provided.

3.6.11 All complaints should be addressed to the certification co-ordinator who will arrange for the relevant paperwork to be issued to the BSD.

3.6.12 The certification co-ordinator must also ensure that appropriate levels of insurance cover are maintained by the firm.

3.6.13 Should the Approved Certifier wish to resign, they must inform the BSD and provide an up-to-date copy of their logbook of certificates the day before resignation takes effect. The BSD will then arrange for the Approved Certifier's details to be removed from the certification register.

Direct Approval under Section 7(1) of the Building (Scotland) Act 2003



Note: The dotted lines show where multiple appointments are possible. A directly appointed Approved Certifier may have more than one Certification Assessor.

4. CERTIFICATION PROCESS

4.1 How does Certification of Design Work in Practice?

4.1.1 An applicant for a building warrant using the certification process should indicate on the warrant application that certification services are being used and include the relevant design certificate. Failure to do so will result in refusal of the discount and may increase the length of time required to process the application by the verifier. However, a certificate may be submitted to the verifier at any stage of the building warrant process.

4.1.2 A certificate of design will cover the design of a building, part of a building, services or fittings or equipment certifying compliance against:

- a. specified building standards in schedule 5 of the Building (Scotland) Regulations 2004 or
- b. all the standards within one of the seven sections of the Technical Handbooks and in both cases
- c. all the requirements of the Building (Scotland) Regulations 2004 applicable to the application.

If a number of elements are to be certified which cover two or more schemes, a certificate for the works relevant to **each** scheme must be submitted.

How do I obtain a Certificate of Design?

4.1.3 A list of all approved certification schemes, and those approved to carry out certification duties are listed within the Certification Register on the BSD website. Before engaging an Approved Certifier, applicants should confirm that:

- the Approved Body employs an Approved Certifier of Design under a relevant scheme with any relevant designation or
- the Approved Body currently employs an Approved Certifier of Design under a relevant scheme, but would delegate or sub-contract the work, or some part of the work, to another Approved Certifier of Design with any relevant designation or
- if directly appointed, the Approved Certifier employs certification assessor(s) who have skills to certify the proposed works.

Action to be taken by the Approved Certifier of Design

4.1.4 Individual Approved Certifiers have responsibility to ensure compliance of each specified aspect of design of the works in accordance with the scope of the relevant scheme. There must not be, for example, different Approved Certifiers of building structures for the design of foundations and superstructure.

Approved Certifiers of Design who are members of schemes approved under Section 7(2) have four options for certification of compliance with the regulations:

| | |
|----|--|
| 1. | The Approved Certifier is the designer, with an independent check carried out by others who are qualified to make such checks. |
| 2. | The Approved Certifier checks the design that has been carried out by others ; for example Approved Certifier is a supervisor. |
| 3. | The Approved Certifier carries out an independent assessment (subject to limitations in terms of experience and/or nature of work certified specified by scheme). |
| 4. | The Approved Certifier uses the competence of an identified third party to give them the appropriate basis to certify compliance (subject to procedures and limitation on selection of third parties specified by scheme). |

Approved Certifiers of Design directly approved under Section 7(1) have three options for certification of compliance with the regulations:

| | |
|----|--|
| 1. | The certification assessor is the designer, with a check carried out by others who are qualified to make such checks using a checklist provided by the Approved Certifier. |
| 2. | The certification assessor checks the design that has been carried out by others ; using a system of checking specified by the Approved Certifier. |
| 3. | The certification assessor uses the competence of an identified third party to give them the appropriate basis to certify compliance (subject to procedures and limitation on selection of third parties specified by the Approved Certifier). |

What details should be completed on the Certificate of Design?

4.1.5 An example of a certificate of design is included in Appendix C. Design certificates issued as part of a **certification scheme** will consist of two parts.

Part A will be completed by the Approved Certifier of Design as a declaration:

- a. of the nature of work certified
- b. that the design of the work described in the application for building warrant complies with the current Building (Scotland) Regulations 2004, either with respect to specified standards or for all relevant standards
- c. that the Approved Certifier is registered by the BSD as competent to certify such matters.

Part B is completed by the Approved Body to declare:

- a. that the person signing Part A of the certificate is an Approved Certifier of Design
- b. whether the person signing Part A of the certificate is a principal in or is employed by the Approved Body
- c. that it is registered by the BSD to provide relevant, specified, certification services
- d. that the person signing Part B of the certificate is registered as a certification co-ordinator for that body. The certification co-ordinators details are stored on the certification register as part of the Approved Body's record.

4.1.7 Certificates issued by Approved Certifiers who have been **directly appointed under Section 7(1)** will comprise of one section only. The Approved Certifier will make five declarations:

- a. of the nature of work certified
- b. that the design of the work described in the application for building warrant complies with the Building (Scotland) Regulations 2004, either with respect to specified standards or for all relevant standards
- c. that the assessment of compliance has been undertaken by an appropriately qualified and experienced certification assessor
- d. that the Approved Certifier is registered by the BSD to provide specified certification services
- e. that the person signing the certificate is the certification co-ordinator for the Approved Certifier. The certification co-ordinators details are stored on the certification register as part of the Approved Certifier's record.

4.1.8 All Approved Certifiers and certification assessors must record details of each certificate for future inspection in a logbook. Detailed information of any third parties and consultation procedures used must be recorded as this information will form the basis for audits. Further guidance on the use of the logbook should be provided by the scheme provider or the directly appointed Approved Certifier.

Action taken by the Verifier

4.1.9 On receipt of the building warrant application, the **verifier** will check that all the necessary documentation and the correct fee have been submitted. The certificate of design will be checked to ensure that:

- the scope of certification corresponds with the details shown on the building warrant
- the Approved Certifier of Design and Approved Body were registered under the same scheme at the date(s) of signing and
- the scope of the scheme is relevant to the work being certified.

4.1.10 Verifiers do not check certified designs. However the certificate is checked against the BSD certification register, and cross referenced to the warrant application.

4.1.11 If the verifier has concerns regarding the status of the Approved Certifier; Approved Body or authenticity of the certificate they should contact the certification co-ordinator of the Approved Body or the Head of Certification at the scheme provider.

Reporting Invalid Certificates

4.1.12 Verifiers should check the validity of all certificates to ensure that the signatories were approved on the date of signing. Certificates which fail the validation check on the BSD certification register must be reported using the 'report invalid certificate' facility on the certification register. Any certificates that have been customised and deviate from the approved format should also be reported as invalid.

Changes to Design, staged warrants and amendments to warrants

4.1.13 The applicant for the building warrant (or their successor) must apply for an amendment to warrant for **any** changes to the design. The Approved Certifier of Design must be informed of changes to non-certified work or work by other Approved Certifiers, in order that they may assess the implications for the matters they have certified.

4.1.14 The Approved Certifier of Design must consider the relevance of the changes to the matters originally certified and check the compliance of the changed design. If necessary, they must issue a new certificate, or provide confirmation in writing that the changes have no impact on the certified design.

4.1.15 If the Approved Certifier cannot confirm the compliance of the changed design, they must inform the applicant that they are not prepared to certify the work. If, following efforts to resolve the issues, it is decided that a certificate cannot be issued, the verifier must be informed.

4.1.16 If the original Approved Certifier is not available to certify an amendment to warrant, for instance due to retirement or incapacitation, the Approved Body may identify an alternative Approved Certifier, or the applicant may seek the help of the scheme provider to identify another Approved Body that is willing to take over certification of the project. Otherwise the applicant must inform the verifier that the original Approved Certifier is not available to certify the amendment to warrant.

4.1.17 For staged warrants, the same Approved Certifier should be used for each stage. If an alternative Approved Certifier must be used because the original Approved Certifier is not available, for instance due to retirement or incapacitation, they must satisfy themselves of the compliance of matters certified in earlier stages.

4.1.18 The same procedures apply when the project has been certified by a **directly appointed Approved Certifier**. If the same certification assessor is unavailable to check compliance for an amendment to warrant then the Approved Certifier must identify another assessor. The applicant for building warrant should contact the BSD for assistance should the original Approved Certifier cease to trade.

4.2 How does Certification of Construction work?

4.2.1 A certificate of construction is submitted to the verifier with the completion certificate. However, in order to qualify for a discount on the warrant fee, the applicant must confirm on the Application for Building Warrant form that an Approved Certifier of Construction is to be used. If this is not done or the Approved Certifier's details change, the applicant must provide the verifier with details relating to the new Approved Certifier and Approved Body **before** the work starts. The applicant does have the option to use the "Notice of Intention to Use an Approved Certifier of Construction" form, known as 'notice of intent', if the warrant application form is not used or to inform the verifier that there has been a change in Approved Certifier or Body. The discount on the fee is only available when the applicant has confirmed their intention to use an Approved Certifier of Construction on the building warrant application form. A certificate of construction may still be submitted to the verifier at any stage of the completion certificate process.

How do I obtain a Certificate of Construction?

4.2.2 A list of all approved certification schemes, and those approved to carry out certification duties are listed within the Certification Register on the BSD website. Before engaging an Approved Certifier, applicants should confirm that:

- the Approved Body employs an Approved Certifier of Construction under a relevant scheme with any relevant designation or
- the Approved Body currently employs an Approved Certifier of Construction under a relevant scheme, but would delegate or sub-contract the work, or some part of the work, to another Approved Certifier of Construction with any relevant designation or
- if directly appointed, the Approved Certifier employs certification assessor(s) who have skills to certify the proposed works.

Notice of Intent

4.2.3 The notice of intent is required to inform the verifier that an inspection of certified work will not be required and allows a validity check to be carried out on the Approved Certifier and Approved Body details. On receipt of the notice of intent, the verifier must check the current registration details of the Approved Certifier and Approved Body using the online BSD certification register. The requirement to give notice to the verifier of the intention to use an Approved Certifier of Construction is stated in Regulation 59 of the Building (Procedure) (Scotland) Regulations 2004. If the registration details are current, the notification will be accepted. If the details are not current, the notification should be rejected.

4.2.4 Responsibility lies with the building owner, developer or other relevant person to notify the Scheme Provider, or in the case of a direct appointment, the BSD of this rejection.

4.2.5 The verifier should be notified immediately of any changes during the construction period, including changes to the:

- Approved Body

- Approved Certifier
- changes in the personnel involved in the project or
- the types of work to be certified.

4.2.6 The verifier must check this new information using the Certification Register.

4.2.7 The verifier will not undertake an inspection of the certified elements of the work, provided a valid certificate of construction has been received, but may choose to inspect non-certified works.

Action taken by the Approved Certifier of Construction

4.2.8 During construction and at completion, the nominated Approved Certifier of Construction must satisfy themselves that the work complies with the Building (Scotland) Regulations 2004. Approved Certifiers establish conformity to the regulations in four ways:

- Certification Scheme(s) Approved under Section 7(2)

| | |
|----|--|
| 1. | The Approved Certifier is the constructor, with an independent check carried out by others using an approved checklist provided by the scheme provider. |
| 2. | The Approved Certifier checks construction by others ; using an approved checklist provided by the scheme provider. |
| 3. | The Approved Certifier carries out an independent assessment (subject to limitations in terms of experience and/or nature of work certified specified). |
| 4. | The Approved Certifier uses the competence of an identified third party to give them the appropriate basis to certify compliance (subject to procedures and limitation on selection of third parties specified by scheme). |

- Directly Approved Certifiers Appointed under Section 7(1)

| | |
|----|--|
| 1. | The certification assessor is the constructor, with an independent check carried out by others using an approved checklist provided by the Approved Certifier. |
| 2. | The certification assessor checks construction by others ; using a system of checking specified by the Approved Certifier. |
| 3. | The certification assessor uses the competence of an identified third party to give them the appropriate basis to certify compliance (subject to procedures and limitation on selection of third parties specified by Approved Certifier). |

Completion

4.2.9 Whilst Approved Certifiers of Construction are only responsible for compliance with the Building (Scotland) Regulations 2004, the relevant person is additionally responsible for compliance with the building warrant and should make appropriate contractual arrangements to ensure conformity.

4.2.10 When works have been completed, the building owner, developer, or other relevant person submits a completion certificate attaching the certificate(s) of construction. Each certificate must relate to a specific scheme, such as Certification

of Construction (Electrical installations to BS 7671) and be completed in full. An example of a certificate of construction is provided at Annex C.

4.2.11 Only one Approved Certifier per scheme or designation may certify in support of each completion certificate under a single building warrant. For example, there should not be different Approved Certifiers of electrical installations for different houses within a development, even if the development is completed with a series of completion certificates.

4.2.12 In the case where a warrant covers multiple dwellings, a separate completion certificate must be submitted for each dwelling and the certificate of construction must cover all the work covered by the completion certificate. The final completion certificate for the last dwelling cannot be accepted until all the common items are complete.

4.2.13 Certificates of construction must clearly indicate what is certified for the benefit of the Approved Certifier, verifier and client. A single warrant covering multiple buildings may have multiple certificates. Each one must identify the reference and description of work on the warrant together with the building covered by the individual certificate. Responsibility lies with the Approved Certifier to ensure that the issue of certificates for each dwelling cumulatively covers the communal areas and larger building.

What details should be completed on the Certificate of Construction?

4.2.14 The format of certificates of construction as part of a certification scheme will consist of two parts.

Part A will be completed by the Approved Certifier of Construction as a declaration:

- a. of the nature of work certified
- b. that the specified aspects of the construction work comply with the Building (Scotland) Regulations 2004 applicable to the building warrant for all relevant standards
- c. that the Approved Certifier is registered by the BSD as competent to certify such matters.

Part B is completed by the Approved Body to declare:

- a. that the person signing Part A of the certificate is an Approved Certifier of Construction
- b. whether the person signing Part A of the certificate is employed or sub-contracted by the Approved Body
- c. that it is registered by the BSD to provide relevant, specified, certification services
- d. that the person signing Part B of the certificate is registered as certification co-ordinator for that body. The certification co-ordinator's details are stored on the Certification Register as part of the Approved Body's record.

4.2.15 Certificates issued by Approved Certifiers who have been **directly appointed under Section 7(1)** will comprise of one section only. The Approved Certifier will make four declarations:

- a. of the nature of work certified
- b. that the construction of such work complies with the current Building (Scotland) Regulations 2004 applicable to the building warrant
- c. that the assessment of compliance has been undertaken by an appropriately qualified and experienced certification assessor
- d. that the Approved Certifier is registered by the BSD to provide specified certification services
- e. that the person signing the certificate is the certification co-ordinator for the Approved Certifier.

Action taken by the verifier

4.2.16 The verifier should carry out the same validity checks on the certificates as those detailed for certification of design certificates, as outlined in paragraphs 4.1.9 - 12.

4.3 Action to be taken on discovery of an error in Certification

Certification of non-compliant work

4.3.1 If a mistake, omission, or inaccuracy is discovered in work which has been certified, the person making the discovery should ensure that the relevant person is informed immediately. The relevant person is responsible for compliance with the Building (Scotland) Regulations 2004.

4.3.2 If work was certified through a certification scheme, the applicant must inform the Approved Body, who must investigate and establish compliance. If work is found to be non-compliant, the Approved Body:

- **must** arrange for the Approved Certifier to check that the corrected design or construction work complies with the Building (Scotland) Regulations 2004 and to re-certify the work as corrected.
- **must** advise the applicant to inform any designers, contractors or Approved Certifiers of the mistake, omission, or inaccuracy and the related changes.

4.3.3 An Approved Certifier is responsible for checking that the corrected design or construction work complies with the Building (Scotland) Regulations 2004 and should re-certify the work as corrected. However, they must refuse to re-certify if the design or construction work is not amended to comply with the regulations and should report this to the applicant, the verifier and the Scheme Provider.

4.3.4 If for whatever reason the Approved Body cannot use the original Approved Certifier the scheme provider should be contacted for assistance in identifying an alternative Approved Certifier.

4.3.5 If the Approved Body does not make such arrangements to re-certify the works the applicant should contact the scheme provider for assistance.

4.3.6 Where certification has been completed by a **directly appointed** Approved Certifier, they are responsible for taking the action outlined in paragraph 4.3.2 above, and any queries/problems should be reported to the BSD.

4.4 Discovery of certified non-compliant work after submission to verifier

4.4.1 If a mistake, omission, or inaccuracy is discovered in certified work:

- after submission to a verifier as part of an application for building warrant or completion certificate submission the **applicant** should also inform the verifier
- after issue of the warrant the **applicant** should also inform the verifier and must apply for an amendment to the warrant
- after the completion certificate has been accepted the **applicant** should inform the verifier and take appropriate action to correct the work.

4.4.2 As with any work that is discovered not to comply after acceptance of a completion certificate, the local authority may take enforcement action. In the case of certified work the verifier must inform the BSD, which will in turn inform the scheme provider.

4.4.3 If a mistake, omission, or inaccuracy is discovered in certified work by a scheme provider as the result of investigations following termination of membership of an Approved Certifier, the scheme provider must inform the BSD, who will inform the verifier in order that they may take enforcement action.

4.4.4 Charges in connection with mistakes, omissions, or inaccuracies in certified design or construction work are a matter for contractual arrangement and are not covered by this guidance.

4.5 False or misleading statements and reckless certification

4.5.1 If an Approved Certifier makes false or misleading statements within a certificate or recklessly issues a certificate, they are guilty of an offence under clause 11(4) of the Building (Scotland) Act 2003.

4.5.2 If it is suspected that an Approved Certifier has acted in breach of clause 11(4), the applicant, verifier, or scheme provider should inform the local authority. Local authorities are one of the non-police reporting bodies who can submit a report to the Procurator Fiscal.

4.5.3 An example of reckless certification may be considered to be the certification of work without checking for compliance with the Building (Scotland) Regulations 2004.

Misrepresentation

4.5.4 Examples of misrepresentation by scheme members might include: an Approved Certifier of Construction signing a certificate of design; an Approved Certifier who does not hold the designations appropriate to the project or an Approved Body that is not approved under the relevant scheme. The Scheme Provider must also ensure that an Approved Certifier does not certify work that they have not done themselves or supervised on an ongoing basis.

4.5.5 If persons that sign a certificate were not registered to do so on the date of signing, the verifier should inform the scheme provider: the Certification Register will automatically generate a report form for emailing to the scheme provider.

4.5.6 Examples of misrepresentation by persons who are not scheme members might include: an individual signing a certificate who is not registered as an Approved Certifier or a firm counter-signing that is not registered as an Approved Body.

5. APPLICATION PROCESS FOR:

- APPROVAL OF A SCHEME UNDER SECTION 7(2)
- APPOINTMENT AS A SCHEME PROVIDER UNDER SECTION 7(2)
- DIRECT APPOINTMENT AS AN APPROVED CERTIFIER UNDER SECTION 7(1)

5.1 How do I apply?

5.1.1 Those wishing to apply for a scheme, scheme provider status or a direct appointment should complete the application forms available on the BSD website, www.scotland.gov.uk/bsd. Application forms and guidance notes for completion can be obtained from the BSD or downloaded from the BSD website. Advice can also be obtained from BSD staff.

Application for a Scheme and appointment as a Scheme Provider under Section 7(2) - Assessment Criteria

5.1.2 Applicants for a scheme or for scheme provider status under Section 7(2) must demonstrate that they meet the following legislative requirements:

- that the members of the scheme are representative of the aspects of design or construction in respect of which the scheme is to operate
- that the governing body of the scheme is accountable to its members
- that the conduct and membership of the scheme is transparent to the members of the scheme and to the general public
- that the members of the scheme promote good practice and
- in relation to the members of the scheme their knowledge, experience and understanding of the role and responsibilities of certifiers.

5.1.3 In terms of legislation, members of a scheme are considered to promote '**good practice**' if they can produce evidence to demonstrate:

- financial probity
- insurance relevant to certification
- adoption of quality assurance systems and codes of practice with regard to checking design and/or construction work and
- ready access to any British and European Standards: or guidance documents relevant to the aspects of design and construction in respect of which the scheme is to operate.

Application for Direct Appointment as an Approved Certifier under Section 7(1) - Assessment Criteria

5.1.4 Applicants for a direct appointment as an Approved Certifier of Design or Approved Certifier of Construction status under Section 7(1) must demonstrate that they have the:

- qualifications
- competence
- accountability to the public and
- impartiality

5.1.5 Applicants must also demonstrate that they meet the relevant requirements set out in paragraphs 5.1.2 and 5.1.3.

5.2 Assessment Process

5.2.1 The procedures developed by the BSD ensure that there is consistency, reliability, fairness, and transparency when considering applications.

5.2.2 The BSD adopts standard procedures to process all applications under Sections 7(1) and 7(2), including checking of the application for completeness, assessment by a certification panel, and evaluation by the Head of Building Standards Division prior to a recommendation to the Scottish Ministers for the approval of a certification scheme or a directly appointed Approved Certifier.

5.2.3 Appointment of a scheme provider is the responsibility of the Head of Building Standards Division.

5.2.4 A fee may be levied for each formal application submitted. Details relating to current charges are published on the BSD website, www.scotland.gov.uk/bsd.

5.2.5 All applications, supporting information and associated reports will be treated as commercial and in confidence. However, as a Scottish public authority, the BSD is bound by the provisions of the Freedom of Information (Scotland) Act 2002 and are obliged to consider requests made under that Act for access to information that it holds. Any such information where the release would substantially prejudice the commercial interests will be exempt under the Act. Note that the determination of what constitutes 'substantial prejudice' is likely to be strict, and the release of information can be expected in some cases.

5.2.6 Checking, assessment and evaluation of applications and recommendations to Ministers shall be conducted in a non-discriminatory manner and the procedures shall not be used to impede or inhibit any serious applicant. The BSD shall not impose undue financial or other conditions on applicants.

5.2.7 Checking, assessment, evaluations and recommendations to Ministers shall be confined to matters directly related to the certification of design or construction work as complying with the Building (Scotland) Regulations 2004.

5.2.8 The Head of Building Standards Division, the BSD Certification Panel and the application checkers shall be free from any commercial, financial or other pressure which might influence the results of the certification process and shall declare any possible conflict of interest.

5.2.9 Any co-opted adviser shall declare any connection with the applicant or any commercial interest in the area of work that is subject of a certification proposal.

Role of the BSD Certification Manager

5.2.6 The BSD certification manager is the first point of contact for information about certification. Their role is to promote certification, to provide advice to potential applicants on the application process and general guidance on the scope of a potential scheme within the building regulations. Whilst the certification manager can assist in bringing forward an application, it is the applicant's sole responsibility to ensure the accuracy of the information contained within the application, including supporting evidence provided for consideration. The advice and guidance given does not commit the Scottish Ministers to approving the application.

5.3 Application Stages

5.3.1 There will normally be four stages to the assessment and decision process for all applications.

- Pre application
- Application
- Certification Panel and
- Decision

Pre Application Stage

5.3.2 The certification manager can provide informal advice on any proposed scheme or application for scheme provider status or direct appointment.

Application Stage - Application Checks and Associated Fees

5.3.3 When application forms have been completed in detail and supporting documentation provided, the certification manager will check the application content. The certification manager will carry out an initial check for accuracy and completeness. The BSD will then provide the applicant with an estimate of the costs of processing the application.

5.3.4 If the applicant accepts the estimated fee they must confirm acceptance in writing to the BSD. If the applicant rejects the estimate, or fails to respond within a period of 56 days the application will be considered to be withdrawn.

5.3.5 If the estimate is accepted, the certification manager will carry out a full check of the application content to ensure that sufficient detail has been submitted to allow the application to progress to the Certification Panel.

Applications which are 'Incomplete'

5.3.6 If key information is omitted, the applicant will be advised that the application is '**incomplete**'. The certification manager will identify the additional information required, and will provide a deadline for receipt of this information.

Applications which are 'Inadequate'

5.3.7 If having had the opportunity to resubmit or to submit additional information, the application is considered to be lacking the requisite information to allow the Certification Panel to make a decision, the application will be considered to be 'inadequate' by the certification manager. The applicant will be advised of this decision, and informed that the application will not progress to the Certification Panel. In these circumstances the applicant may request a review of the decision by the Certification Panel Chair.

5.3.8 If an application is incomplete or inadequate the applicant may amend and resubmit the application, or withdraw the application.

5.3.9 If, having reviewed the information submitted, the certification manager considers that sufficient details have been submitted to allow the certification panel to take a decision, the application will be considered to be 'complete' and will progress to the Certification Panel.

Certification Panel

5.3.10 A summary report will be compiled by the certification manager who will also have responsibility for convening the Certification Panel. All applications are evaluated by the BSD Certification Panel, which usually comprises of an Assistant Head of Building Standards and another senior technical member of staff from within the BSD. Where appropriate, an independent member will be co-opted onto the panel. Recommendations will be based on the criteria specified in legislation as outlined in paragraphs 5.1.2 and 5.14.

5.3.11 There may be occasions where the Certification Panel request that the applicant attends an interview in order to clarify particular issues or processes. In these cases the applicant will be given a minimum of 21 days notice of the proposed interview.

5.3.12 A summary of the application will be presented to the Certification Panel by the certification manager who will also, where possible, answer questions posed by the Certification Panel. The certification manager will not make any recommendations affecting the decision of the Panel and is responsible for presentation of the factual case only.

5.3.13 Having considered the application against the specified criteria, the Certification Panel may choose to defer a decision pending submission of additional information; or make a recommendation to the Head of Building Standards Division.

Decision

Deferral

5.3.14 If further information is required the applicant will be notified of the additional information deemed to be necessary to allow the Certification Panel to take a decision together with a timescale for submission of this information. Under these circumstances it may not be necessary to re-convene the Panel; a decision can be reached by written procedure.

Withdrawal of an Application

5.3.15 Applicants may withdraw an application at any stage of the assessment process. A refund of the fee will be subject to negotiation between the applicant and the BSD.

Refusal of an Application

5.3.16 If having considered the application the Certification Panel recommends refusal, the applicant will be notified of the proposed decision and the reasons why this decision was taken. No application will be refused without first allowing applicants the opportunity to make written representation to Ministers. In this situation, applicants will be allowed a period of 21 days to submit further details, should they wish, for consideration by the Head of Building Standards Division.

Approval

5.3.17 All recommendations by the Certification Panel will be considered by the Head of Building Standards Division. The Head of Building Standards Division has the authority to appoint a scheme provider on behalf of Scottish Ministers, all applications for a scheme and for a direct appointment as an Approved Certifier under Section 7(1) must be approved by Ministers.

5.3.18 Applications which are approved will be subject to terms and conditions of appointment, to which the applicant must agree. This includes in all cases being audited by the BSD for which a charge will be levied.

5.3.19 Those operating Schemes must operate within the guidelines defined in Appendix A.

Certification Process – Summary

Approval

| | | | | | | |
|--|---|--|---|---|---|-----------------|
| Application checked by certification manager/technical staff and passed to Certification Panel | → | Certification Panel evaluate the application | → | Certification Panel recommend approval to Head of Building Standards Division/Scottish Ministers for decision | → | Decision issued |
|--|---|--|---|---|---|-----------------|

Refusal

| | | | | | | |
|---------------------------------------|---|--|---|--|---|-----------------|
| Certification Panel recommend refusal | → | Applicant notified and comments invited within 21 days | → | Written representations received and considered by Certification Panel Certification Panel recommendation passed to Head of Building Standards Division for consideration | → | Decision issued |
|---------------------------------------|---|--|---|--|---|-----------------|

5.3.20 Any concerns relating to how the application was handled should be addressed to the Head of Building Standards Division at:

Building Standards Division
Denholm House
Almondvale Business Park
Livingston
EH54 6GA
Tel: 01506 600400
Fax: 01506 600402
email: buildingstandards@scotland.gsi.gov.uk

APPENDIX A

Complaints procedures for schemes

Functional requirements for a code of conduct and for complaints, disciplinary, and appeals procedures for schemes approved under Section 7(2) of the Building (Scotland) Act 2003.

A1 Codes of conduct

A1.1 Approved Certifiers of Design, Approved Certifiers of Construction, scheme providers, and Approved Bodies must undertake all certification activities in accordance with:

- a. The Building (Scotland) Act 2003
- b. The Building (Procedure) (Scotland) Regulations 2004
- c. The conditions, limitations, and rules of the scheme(s) to which they belong **and with due regard to**
- d. Guidance in the Procedural Handbook issued in association with the Building (Procedure) (Scotland) Regulations 2004 and
- e. Guidance in the Certification Handbook issued in association with the Building (Procedure) (Scotland) Regulations 2004.

A1.2 Scheme providers must take due account of any complaint received from:

- an applicant for building warrant
- a member of the public, a building owner or developer or other relevant person
- a verifier
- a local authority
- an Approved Certifier of Design or Construction
- another scheme provider or
- the Scottish Building Standards Division

which concerns the conduct of the membership of its scheme(s) in connection with the certification of design or construction under the Building (Scotland) Act 2003 and the Building (Procedure) (Scotland) Regulations 2004. Scheme providers must also take due account of an appeal against a decision on membership of schemes.

A2 Roles and responsibilities

A2.1 Scheme providers must allocate responsibilities for response to complaints and disciplinary proceedings as follows:

- a. A **head of certification**, responsible for co-ordinating the response to any complaint concerning Approved Certifiers of Design, Approved Certifiers of Construction, or Approved Bodies, by requesting and collating information, convening meetings, and notifying relevant parties
- b. A **certification conduct panel**, responsible for deciding whether or not any complaint merits consideration by the certification disciplinary panel,

or may be resolved by requiring specific work or other action (except fines), or should be rejected

- c. A **certification disciplinary panel**, responsible for hearing and determining any complaint concerning a member of a scheme that alleges a breach of Section 11(4) of the Building (Scotland) Act 2003, or any other complaint that the certification conduct panel considers merits a hearing
- d. An **appeals panel**, responsible for determining any appeal against a decision of the certification conduct panel or certification disciplinary panel, or any decision regarding membership of the scheme.

Guidance on Membership

A2.2 The scheme provider must publish the conditions of membership of each panel:

- a. The **certification conduct panel** should comprise of the head of certification and at least one other person, who should not be directly involved in the assessment of members of schemes run by the scheme provider, but may be involved in the approval or auditing of members of schemes, or a member of the governing body, any parent organisation, or an independent professional body
- b. The **certification disciplinary panel** should comprise of at least three persons who are not directly involved in the assessment, approval, or auditing of members of schemes run by the scheme provider, but who may be members of the governing body, any parent organisation, or an independent professional body
- c. The **appeals panel** must be chaired by a person who is independent of the scheme provider and any parent organisation and must not have an interest in those bodies, the complainant, or the subject of the complaint; the independent chair shall nominate two others as personal members; the panel must sit with the full membership of the chair and the two others
- d. For each complaint, the majority of the membership of the certification conduct panel and the certification disciplinary panel must be different;
- e. The membership of the appeals panel must be entirely different from the membership of either the certification conduct panel or disciplinary panel.

A3 Complaints procedures

A3.1 The scheme provider must publish the procedures that will be adopted in response to a complaint, which must include requirements for:

- a. Prompt acknowledgement of the complaint
- b. Prompt notification of the complaint to the subject of the complaint including a request for a prompt response
- c. Provision for resolution between the complainant and the subject of the complaint if the complaint does not allege a breach of Section 11(4) of the Building (Scotland) Act 2003

- d. Prompt convention of the certification conduct panel
- e. Prompt notification to the Building Standards Division of the decision of the certification conduct panel that a complaint should be heard by the certification disciplinary panel
- f. Notification at the same time as (e) to the local authority. If the certification conduct panel decides that a complaint alleges that an Approved Certifier of Design or an Approved Certifier of Construction has acted in breach of Section 11(4) of the Building (Scotland) Act 2003
- g. Prompt notification of the decision of the certification conduct panel to the complainant and the subject of the complaint, including the grounds for the decision
- h. Any notification of a hearing by the certification disciplinary panel to the complainant and the subject of the complaint must give the date of the hearing, require their attendance, and describe the process of the hearing; if a complaint is made against both an Approved Certifier and an Approved Body, the disciplinary panel will hold separate interviews of the Approved Certifier and the certification co-ordinator or other representative of the Approved Body
- i. Prompt convention of the certification disciplinary panel if the complaint is referred by the certification conduct panel
- j. Prompt notification of the decision of the certification disciplinary panel to the complainant and the subject of the complaint, including grounds for appeal and arrangements for any appeal
- k. Prompt notification to the Building Standards Division of the decision of the certification disciplinary panel and any notification of an appeal
- l. Prompt notification of appeals procedures to be issued to any individual or body whose application for membership or renewal of membership is rejected, or who is reprimanded, or whose membership is terminated
- m. Prompt notification to the Building Standards Division of any appeals panel decision
- n. Publication of determinations by the certification disciplinary panel and appeals panel on the scheme provider website
- o. Use of standardised reports/checklists to ensure consistent reporting by each panel
- p. Use of recorded delivery postage and email to promote certainty in delivery of notifications
- q. Appropriate time limits for each stage of the process, expressed in terms of the number of working days excluding Saturdays and Sundays, and any public holiday in Scotland, or day appointed for public thanksgiving or mourning in Scotland
- r. Time limits that do not allow more than:
 - i. 20 days between receipt of a complaint and notification to the Building Standards Division that a complaint is to be heard by the certification disciplinary panel
 - ii. 40 days between notification that a complaint is to be heard by the certification disciplinary panel and determination of the complaint
 - iii. 10 days between notification of the determination of the complaint and receipt of notification of an appeal
 - iv. 10 days between receipt of notification of a decision on membership and notification that an appeal is to be lodged
 - v. 40 days between receipt of notification of an appeal and determination of the appeal.

A4 Termination of membership

A4.1 The scheme provider must notify its membership that the following action will be taken in the case of a decision to terminate membership of a scheme:

- a. On notification that no appeal is to follow the determination by the certification disciplinary panel, the scheme provider will advise the Building Standards Division to record the date of termination on the Certification Register or
- b. On determination of an appeal, the scheme provider will advise the Building Standards Division to record the date of termination on the Certification Register and
- c. The scheme provider will investigate any certificate issued by the person terminated after the date of receipt of the complaint and
- d. If such investigation reveals the non-compliance of design or construction certified by the former member, the scheme provider must inform the Building Standards Division which will contact the relevant local authority in order that it may issue a building regulations enforcement notice.

A5 Decisions

A5.1 The scheme provider must publish the grounds on which decisions may be made by each panel:

- a. The certification conduct panel or the certification disciplinary panel may reject a complaint on the grounds that it does not directly concern certification of design or construction under the Building (Scotland) Act 2003, or is outside the scope of the scheme
- b. The certification conduct panel must always refer a complaint that alleges a breach of Section 11(4) of the Building (Scotland) Act 2003 to the certification disciplinary panel
- c. The certification conduct panel should refer any complaint alleging that an Approved Certifier of Design or an Approved Certifier of Construction has not acted in accordance with other rules, limitations, or conditions of the scheme to the certification disciplinary panel
- d. If the complaint appears to concern a simple mistake, the certification conduct panel may recommend that the complaint would merit a hearing by the certification disciplinary panel if the subject of the complaint does not satisfactorily complete certain work within a specified period
- e. The certification disciplinary panel must always terminate membership if they consider that an Approved Certifier of Design or an Approved Certifier of Construction has acted in breach of Section 11(4) of the Building (Scotland) Act 2003
- f. The certification disciplinary panel may recommend sanctions if an Approved Certifier of Design or Approved Certifier of Construction has not acted in accordance with other rules, limitations, or conditions of the scheme; sanctions may include termination, reprimand or reprimand with an extraordinary audit within 6 months, but should not include fines

- g. The only grounds for an appeal against a decision of the certification conduct panel or certification disciplinary panel should be that the panel was not properly constituted or conducted
- h. In the case of appeals against a decision on membership taken following assessment of an application for membership or renewal for membership, or following audit, the complaint may be rejected if the complainant did not attend an interview with the appeals panel in person, if requested to do so, or failed to demonstrate that the assessment or audit was not properly conducted or the rules, limitations, or conditions of the scheme were not correctly applied.

A5.2 Decisions of the certification disciplinary panel are, subject to appeal, binding on the subject of the complaint.

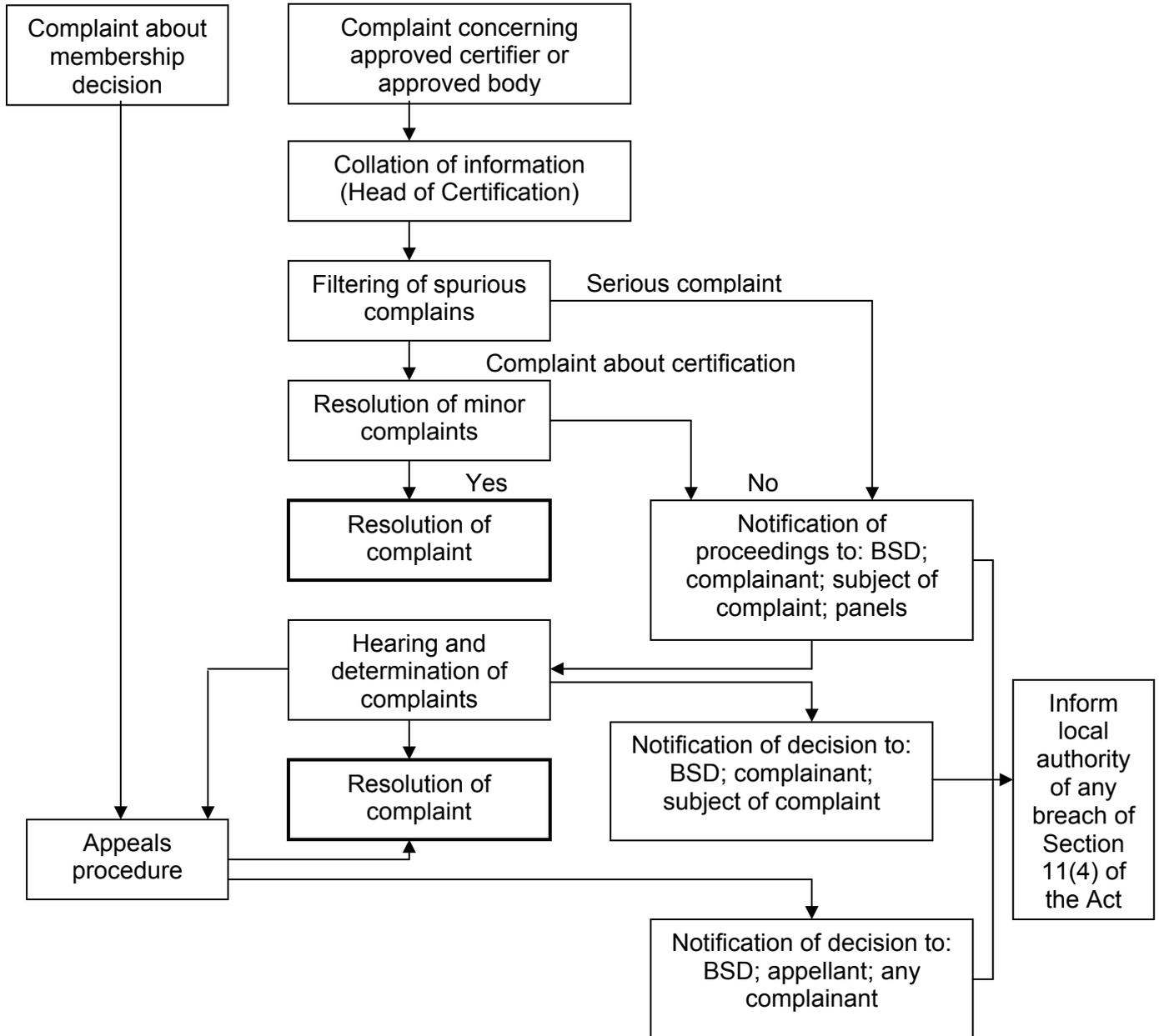
A6 Matters outside the certification system

A6.1 Disciplinary procedures concerning certification should not preclude action by professional institutions concerning their members following publication of the determination of a complaint, but the proceedings should remain confidential.

A6.2 The Scottish Ministers may not advise on the award of costs of any disciplinary process.

APPENDIX B

Procedures to respond to complaints



Certificate of Design - Sample

| | | | |
|---|--|-----------------|--|
| Certificate No. | | Schedule 1 Form | |
| Project Ref. | | | |
| Project Location (As described in Warrant Application) | | | |
| Parent Certificate (Staged Certificate) | | | |
| Building Warrant Number (if known) | | | |

**STRUCTURAL ENGINEERS REGISTRATION LIMITED
CERTIFICATE OF DESIGN (BUILDING STRUCTURES)
CONVERSION
Part A: To be completed by Approved Certifier of Design**

| | |
|---|--|
| Description of Conversion (To include existing and proposed use) | |
|---|--|

I certify that, having exercised reasonable skill care and diligence in consideration of the design proposal for the project described in the application:

- i) The building, when converted in accordance with the warrant application, will comply with the requirements applicable to structure contained within Regulation 12 of the Building (Scotland) Regulations 2004 (as amended), (see note 2).
- ii) An assessment of the condition of the existing building has been undertaken.
- iii) I am registered by the Scottish Government Building Standards Division as competent to certify the design of such work.

Note 1: This certificate has been issued in support of an application for building warrant under the Building (Scotland) Act 2003 only and must not be used or relied upon for any other purposes including under any contract to which the Certifier is not a party.

Note 2: This certificate must relate to the building regulations in force at the date the building warrant application is made.

Note 3: This certificate relates solely to the design of the building (or the design up to the stage of construction to which the certificate relates) and does not certify any aspects of construction.

Note 4: Any structural details which have yet to be designed in detail and for which a performance specification has been supplied with the building warrant application are listed in Schedule 1 accompanying this certificate.

| | | | | | | | | | | | | |
|------------|--|-----|---|---|-------|---|---|------|-----|---|--------------------------------|--|
| Signature: | <input style="width: 150px; height: 20px;" type="text"/> | Day | <input style="width: 20px; height: 20px;" type="text"/> | <input style="width: 20px; height: 20px;" type="text"/> | Month | <input style="width: 20px; height: 20px;" type="text"/> | <input style="width: 20px; height: 20px;" type="text"/> | Year | 200 | <input style="width: 20px; height: 20px;" type="text"/> | Certifier registration number: | <input style="width: 100px; height: 20px;" type="text"/> |
| Name: | <input style="width: 150px; height: 20px;" type="text"/> | | | | | | | | | | SER1-D- | |

Part B: To be completed by the certification coordinator of the Approved Body

I confirm that the person signing Part A is an Approved Certifier of Design and is a principal in or is employed by this body. This body is registered by the Scottish Government Building Standards Division to provide certification services for Design (Building Structures) and employs at least one approved certifier under that scheme. I am registered as certification coordinator for this body.

| | | | | | | | | | | | | |
|------------|--|-----|---|---|-------|---|---|------|-----|---|---------------------------|--|
| Signature: | <input style="width: 150px; height: 20px;" type="text"/> | Day | <input style="width: 20px; height: 20px;" type="text"/> | <input style="width: 20px; height: 20px;" type="text"/> | Month | <input style="width: 20px; height: 20px;" type="text"/> | <input style="width: 20px; height: 20px;" type="text"/> | Year | 200 | <input style="width: 20px; height: 20px;" type="text"/> | Body registration number: | <input style="width: 100px; height: 20px;" type="text"/> |
| Name: | <input style="width: 150px; height: 20px;" type="text"/> | | | | | | | | | | SER1-DB- | |

| | |
|------------|--|
| Body Name: | <input style="width: 500px; height: 20px;" type="text"/> |
|------------|--|

Certificate of Construction - Sample

EXAMPLE CERTIFICATE OF CONSTRUCTION



Certificate of Construction (Electrical Installations to BS 7671)

Warrant Number: 05/24589/ALT
 Verifier Issuing Warrant: Midlothian Council
 Certificate Number: SEL1-C-44444-2041077

Part A: To be completed by the Approved Certifier of Construction

1) Project Address: 2 Mill Bank Road Anytown Midlothian
 2) Brief Description of Work: New dwelling
 3) Building use (tick as appropriate; could be both domestic and non-domestic)
 Domestic: Non-Domestic: N/A

4) Nature of Work and Supporting Documents used to check compliance (tick as appropriate)

| | Nature of work | Scheme checklist | BS Certificate |
|---|-------------------------------------|-------------------------------------|-------------------------------------|
| Low and Extra-low Voltage Electrical Installations to BS 7671 | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Emergency Lighting Systems for premises other than dwellings and certain places of entertainment to BS 5266 | N/A | N/A | N/A |
| Fire Detection and Fire Alarm Systems for dwellings to BS 5839-6 | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Fire Detection and Fire Alarm Systems for buildings other than dwellings to BS 5839-1 | N/A | N/A | N/A |

I certify that the electrical installation included in the construction work described in this Certificate complies with the Building (Scotland) Regulations 2004. I am registered by the Scottish Government Building Standards Division as competent to certify the construction of such work.

5) Is this part of a multiplot?
 Plot: 2 of 10
 Is this the final plot? N/A

Signature
 Name T Certifier

Date 16/09/2010
 Certifier Registration Number SEL1-C- 4 4 4 4 4

Part B: To be completed by the Certification Co-ordinator of the Approved Body

I confirm that the person who signed Part A of this Certificate is an Approved Certifier of Construction (Electrical Installations to BS 7671) and is employed by this body. This body is registered by the Scottish Government Building Standards Division to provide certification services for Certification of Construction (Electrical Installations to BS 7671) and employs at least one approved certifier under that scheme.

I am registered as certification co-ordinator for this body.

Signature
 Name Co-ordinator name
 Company Name Test Electrics

Date 01/10/2010
 Body Registration Number SEL1-CB- 9 9 9 9 9

CERTIFICATION

GLOSSARY

| Term | Definition |
|---|---|
| Act | The Building (Scotland) Act 2003 |
| Applicant | The applicant for a building warrant is usually a building owner or a developer. The applicant must demonstrate the compliance of their proposals with the Building (Scotland) Regulations 2004 and they may choose to do so by submitting certificates of design in support of their application for a building warrant. An applicant may use an agent to make an application. |
| Approved Body | A firm, public body, or other organisation that employs at least one Approved Certifier and operates systems to check compliance with Building (Scotland) Regulations 2004. They must also hold appropriate insurances, provide access to up-to-date regulations, codes, guidance and training for their Approved Certifiers. |
| Approved Certifier of Construction | An individual with appropriate qualifications, experience and understanding of the role of Approved Certifier to certify that specified aspects of the construction of completed buildings comply with the Building (Scotland) Regulations 2004. Approved Certifiers of Construction may be approved by a scheme provider under Section 7(2) of the Act or by the Scottish Ministers under Section 7(1) of the Act. They may only issue certificates that are countersigned by the certification co-ordinator of an Approved Body. They must keep a record of all the certificates of construction that they issue. |
| Approved Certifier of Design | An individual with appropriate qualifications, experience and understanding of the role of Approved Certifier to certify that specified aspects of design comply with the Building (Scotland) Regulations 2004. Approved Certifiers of Design may be approved by a scheme provider under Section 7(2) of the Act or by the Scottish Ministers under Section 7(1) of the Act. They may only issue certificates that are countersigned by the certification co-ordinator of an Approved Body. They must keep a record of all the certificates of design that they issue. |
| Assessor | Individuals employed by directly appointed Approved Certifiers under Section 7(1) of the Act who have the appropriate qualifications, experience and understanding of the role of an assessor to certify that specified aspects of design comply with the Building (Scotland) Regulations 2004. |

| Term | Definition |
|--|---|
| Building Standards Division (BSD) | The Scottish Government's Building Standards Division – formerly the Scottish Building Standards Agency (SBSA). |
| Building Warrant | <p>A warrant granted under Section 9 of the Building (Scotland) Act 2003. A building warrant is required for-</p> <p>(a) any work for:</p> <ul style="list-style-type: none"> (i) the construction or demolition of or (ii) the provision of services, fittings or equipment in or in connection with (iii) a building of a description to which building regulations apply <p>(b) any conversion of a building.</p> |
| Certificate of construction | <p>A building owner, developer or other relevant person may use a certificate of construction to support the submission of a completion certificate. A certificate of construction certifies that construction work complies with the Building (Scotland) Regulations 2004 and is only valid under the Act when issued by an Approved Certifier of Construction.</p> <p>Each certificate that is issued by a Section 7(2) Approved Certifier of Construction must be countersigned by the certification co-ordinator of an Approved Body that belongs to the same scheme.</p> <p>A certificate of construction issued by a directly appointed Approved Certifier will be signed by the certification co-ordinator only.</p> |
| Certificate of design | <p>A building owner or developer may use a certificate of design to support an application for building warrant. A certificate of design certifies that design described in the application complies with the Building (Scotland) Regulations 2004 and is only valid under the Act when issued by an Approved Certifier of Design.</p> <p>Each certificate that is issued by a Section 7(2) Approved Certifier of Design must be countersigned by the certification co-ordinator of an Approved Body that belongs to the same scheme.</p> <p>A certificate of design issued by a directly appointed Approved Certifier will be signed by the certification co-ordinator only.</p> |

| Term | Definition |
|-----------------------------------|--|
| Certification Co-ordinator | An individual registered as responsible for countersigning certificates on behalf of an Approved Body. The certification co-ordinator acts as the contact point for the Approved Body and is responsible for maintaining the system of checking, insurance policies, access to documents, training and handling complaints. |
| Completion Certificate | Once the building is complete the relevant person must certify that the building complies with both the Building (Scotland) Regulations 2004 and the building warrant. They may choose to support their completion certificate with certificates by Approved Certifiers of Construction. The completion certificate is submitted to the verifier, who must make 'reasonable enquiry' to decide whether they should accept it. |
| Designation | A particular element or specialism described within the scope of a scheme/direct appointment. |
| Notice of Intent | A notification to the verifier advising that an Approved Certifier of Construction is to be used. This must be submitted to the verifier before work begins. |
| Relevant Person | The person in terms of Section 17 of the Building (Scotland) Act 2003, who in relation to a building is: (a) where the work was carried out, or the conversion made, otherwise than on behalf of another person, the person who carried out the work or made the conversion (b) where the work was carried out, or the conversion made by a person on behalf of another person, that other person (c) if the owner of the building does not fall within the paragraph (a) or (b) and the person required by those paragraphs to submit the completion certificate has failed to do so, the owner. |
| Scheme | A membership scheme under the terms of Section 7(2) of the Building (Scotland) Act 2003. Approved schemes must be operated by an appointed scheme provider and must be specific to the certification of certain aspects of design or construction. The scheme must include both individual Approved Certifiers and Approved Bodies. Schemes must not exclude any individual or firm on the basis of membership of a trade association. |
| Scheme Guide | A document produced by the Scheme Provider and approved by the BSD setting out the terms and conditions for membership of the scheme. |

| Term | Definition |
|-----------------------------------|--|
| Scheme Provider | An organisation that operates one or more schemes to certify compliance with Building (Scotland) Regulations 2004 for specified aspects of a project. The BSD criteria for appointment of scheme providers include evidence of status, expertise in relevant aspects of design or construction, expertise and capacity to operate schemes, financial probity, and appropriate disciplinary procedures. |
| Certification Scheme Scope | The technical parameters within which an Approved Certifier or scheme is authorised to operate. |
| Verifier | Verifiers are appointed to verify that work complies with the Building (Scotland) Regulations 2004, both in terms of design and construction. The Scottish Ministers have appointed the 32 local authorities in Scotland as verifiers. The work of verification will usually be undertaken by their Building Standards Departments. Verifiers verify applications for building warrants and must make reasonable enquiry to assess whether completion certificates should be accepted. They must accept certificates by registered Approved Certifiers of design or construction as conclusive of the matters certified. Verifiers do not scrutinise certified matters and are only expected to check that, for Section 7(2) approvals, the Approved Certifier and Approved Body were appropriately registered on the date the certificate was signed. |