

Frequently Asked Question's

Transfer of Building Surveyor Functions

(Sections 80C & 80D - *Building Act 1993*)

Summary

The following Frequently Asked Questions (FAQs) identify the expected queries building practitioners and consumers may ask in relation to the Transfer of Building Surveyor Functions under Sections 80C and 80D of the *Building Act 1993* (Act).

Transfer of building surveyor functions under Section 80C of the Building Act 1993

1. In what circumstances should a transfer of Private Building Surveyor functions be considered?

The transfer of functions from a Private Building Surveyor (PBS) to another Building Surveyor may be considered for a variety of reasons including the PBS taking leave, retiring, recovering from an illness or relocating their business.

A transfer may be for a specified period, or it may be permanent and may be related to single or multiple sites.

In any case, the transfer of functions must be initiated by the PBS. A person who appointed the PBS (e.g. the owner, or agent of the owner) cannot request a transfer under this provision.

Refer to the VBA website for the process to transfer Private Building Surveyor functions:

<http://www.vba.vic.gov.au/reforms/change-of-building-surveyor-functions/transfer-of-private-building-surveyor-functions>

2. I no longer wish to engage the Private Building Surveyor that I have appointed. Can I transfer their functions to another Building Surveyor?

No. As stated above, the transfer of PBS functions must be initiated by the PBS.

If you wish to engage another Building Surveyor, you must first seek consent from the VBA to terminate the appointment of the first Building Surveyor.

Refer to the VBA website for the process to seek the consent of the VBA to terminate the appointment of a Private Building Surveyor:

<http://www.vba.vic.gov.au/consumers/terminating-the-appointment-of-a-private-building-surveyor>

You cannot appoint a new Building Surveyor without the VBA terminating the appointment of the first Building Surveyor.

If the appointment of a PBS is terminated with the consent of the VBA, a PBS or MBS must not complete the first PBS's functions in respect of the building work without the written consent of the VBA.

3. Are there any instances where the transfer of functions could be viewed as inappropriate?

Prior to accepting the transfer of functions and appointment, the new Building Surveyor should consider relevant matters, including whether any enforcement action or directions to fix apply to the building or land. The transfer process is not recommended where enforcement action or compliance issues are present.

4. Who can authorise or organise a transfer of functions?

Section 80C of the Act enables a transfer of functions by a PBS to another Building Surveyor (refer to (1) for guidelines on circumstances for when this may be appropriate) subject to agreement by the person who appointed the transferring Building Surveyor and the new relevant Building Surveyor. If these parties do not agree, then a transfer under this provision cannot be performed.

5. Why is the term “the person who appointed the transferring Building Surveyor” used?

This wording allows for the agent of the owner who carried out the initial appointment of the Building Surveyor to agree to the section 80C transfer of functions.

6. Where the person who appointed the transferring Building Surveyor does not agree to the transfer, are there other ways to transfer functions to another Building Surveyor?

Consideration may be given to lodging an application with the VBA for the termination of appointment of a PBS in the circumstances listed on the VBA website. Where a dispute is in effect, it may also be possible to refer the dispute to the Building Appeals Board for assistance in resolving the matter.

7. Following a transfer of functions, must the new Building Surveyor re-issue the building permit detailing their own registration number?

No. Where a Building Surveyor becomes responsible for a building permit issued by another Building Surveyor, the original building permit number is to be referenced for administrative purposes.

8. Does the new Relevant Building Surveyor (RBS) have a prescribed time in which to serve the section 80C transfer form to the relevant Council?

There is no specified time in which the transfer form must be given to Council. However, a transfer does not take effect until the later date that a copy of the transfer form is given to the VBA, the relevant Council or the date specified in the transfer form (if any) on which the transfer is to take effect.

9. Must a new RBS (private) notify Council of their appointment?

The completed ‘Transfer Form’ must be sent to the relevant Council. This will enable Council to update their information to record the new RBS. This must be done for the transfer to take effect.

10. Are additional costs incurred for the transfer of functions?

This is a commercial consideration for which the Act does not impose any additional fees on the process associated with the transfer of functions between Building Surveyors. However, depending on the circumstances, additional costs may be charged by the new Building Surveyor for their services. Relevant parties need to discuss and agree on fees prior to effecting the transfer.

11. Can a transfer of functions be utilised by a body corporate registered as a Building Surveyor?

Yes. This process is available to all PBSs and a body corporate registered as a Building Surveyor can accept appointment as a PBS.

VBA to direct the transfer of Building Surveyor functions under Section 80D of the Building Act 1993

12. Under what circumstances can the VBA direct the transfer of functions of an employee Building Surveyor?

The VBA may only direct the transfer of functions to another employee or designated Building Surveyor within the same company under the following circumstances:

- where the registration of an employee or designated Building Surveyor has been suspended, or cancelled;
- the employee or designated Building Surveyor has died, been imprisoned, become a represented person under the Guardianship and Administration Act (1986) or has become an insolvent under administration;
- the employee or designated Building Surveyor, in the opinion of the VBA, is incapable of, or has ceased to carry out, the functions of a Building Surveyor.