Building and Plumbing Newsflash 561

Implementing a new Minimum Financial Requirements for licensing framework

Purpose

To advise of the new framework for the Minimum Financial Requirements (MFR) for licensing in the building and construction industry that is to be implemented from 1 January 2019.

Background

Insolvencies and corporate collapses in Queensland's building and construction industry can have wide-ranging financial and social impacts.

Queensland's building regulator, the Queensland Building and Construction Commission (QBCC), has historically required regular financial information to be provided by applicants and licensees. This is to help identify those who may not be operating a financially sustainable business and take appropriate action to mitigate the potential impacts.

Since 2014, however, the QBCC's access to a licensee's financial information has been reduced. Due to a stated aim of red tape reduction, the current Minimum Financial Requirements (MFR) Policy removed the requirement for a licensee to lodge financial information annually. This means that regular, detailed information is no longer being provided to the QBCC about a licensee's financial situation.

The Queensland Government has committed through the Queensland Building Plan to create new laws that strengthen the MFR for licensing. The *Building Industry Fairness (Security of Payment) Act 2017* was enacted on 10 November 2017 and includes a legislative head of power for the MFR to be prescribed in regulation.

A discussion paper titled 'The proposed improvements to the Minimum Financial Requirements for licensing in the building and construction industry' was released for four weeks' consultation from 12 September 2018. Consultation closed on 9 October 2018, with over 50 responses received.

The new framework

Based on the results of consultation, the reforms are being progressed which aim to:

- strengthen reporting requirements
- provide clarity about what can be included when calculating a licensee's assets and revenue
- improve data quality and availability for the QBCC.

These changes will ultimately enable the QBCC to more effectively detect and mitigate the impact of potential insolvencies and corporate collapses.

How will the changes be implemented?

To expedite financial transparency while giving industry time to adjust, the reforms will be advanced in two phases.

Phase 1 is to commence on 1 January 2019 and will:

- introduce a regulation that will operate alongside the current MFR Policy
- re-introduce mandatory annual reporting
- require licensees in categories 4-7 to report decreases in Net Tangible Assets of 20 percent or more
- provide clarity about calculating a licensee's assets (i.e. exclusion of recreational vehicles such as dirt bikes and golf buggies), and how to treat money held in Project Bank Accounts).

Phase 2 will be implemented from 1 April 2019 and will:

- repeal the current MFR Policy and strengthen the regulation further
- raise the standard of reporting, particularly for larger, high-risk licensees.
- enable the QBCC to seek independent accountancy advice to substantiate information in an MFR report
- require any significant changes made by an accountant to an MFR report to be clearly identified and supported by updated financial information
- require licensees who wish to rely on a Deed of Covenant and Assurance or related entity loan (in order to meet their asset thresholds) to provide the QBCC with more detailed financial information to show the agreement can be honoured
- introduce stronger penalties and enforcement provisions.

Industry will be supported through these changes through communication and education activities.

More information

To find out more about the proposed reforms and how they will be implemented visit the Department of Housing and Public Works' website www.hpw.qld.gov.au.

Contact us

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