

QBCC Minimum Financial Requirements 2018 (MFR)

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INTRODUCTION

Master Electricians Australia (MEA) is a trade association representing electrical contractors, recognised by industry, government and the community as the electrical industry's leading business partner, knowledge source and advocate. MEA currently has a membership base of approximately 3000 electrical contractors in Australia. MEA understands the current and potential issues facing electrical contractors today.

Master Electricians Australia has a dedicated team that provides comprehensive technical advice to electrical contractors. MEA has supported many of the reforms from the Housing and Public Works (HPW) Department through the QBCC and other legislative changes in the past 2 years.

MINIMUM FINANCIAL REQUIREMENTS

MEA wishes to bring to the Minister's attention a niche in the cross over between QBCC Licensed trades and those of electrical contracting, predominately in air-conditioning.

Electrical contractors are licensed through the Electrical Safety Act. The Electrical Safety Regulation 2013 states;

48 Eligibility requirements for electrical contractor licence

- (1) *To be issued an electrical contractor licence, the applicant for the licence must—*
 - (a) *have at least 1 qualified business person and 1 qualified technical person to perform electrical work; and*
 - (b) *satisfy the insurance requirements under [section 51](#); and*
 - (c) *satisfy the regulator that electrical work to be performed by the applicant as a licensed electrical contractor is proposed to be—*
 - (i) *performed by a qualified technical person for the applicant under the person's electrical work licence; or*
 - (ii) *supervised by a qualified technical person for the applicant who is authorised to perform the work under the person's electrical work licence.*
- (2) *The regulator must endorse the electrical contractor licence with the name of at least 1 qualified business person and 1 qualified technical person for the applicant.*
- (3) *The applicant may, before the issue of the electrical contractor licence, or at any time after its issue but while the electrical contractor licence is in force, apply to the regulator to have other names endorsed on the electrical contractor licence as the names of qualified business persons or qualified technical persons for the applicant.*
- (4) *The regulator must endorse a person's name in accordance with the application if the regulator is satisfied the person is a qualified business person or qualified technical person for the applicant.*

51 Insurance requirements for applicant for electrical contractor licence

An applicant for an electrical contractor licence must give the regulator—

- (a) *evidence that the applicant has public and products liability insurance for at least \$5,000,000 under a contract of insurance approved by the regulator; and*
- (b) *evidence that the applicant has consumer protection insurance for at least \$50,000 under a contract of insurance approved by the regulator.*

Qualified technical person (QTP)

A qualified technical person for an electrical contractor licence:

- *must be competent to perform electrical work,*
- *must hold a Queensland electrical mechanic work licence (for at least 12 months), and*
- *must have completed the following units of competency within the last 3 years:*

- UEENEEG197A - Apply currency of safe working practices and compliance verification of electrical installations
- UEENEEG122A - Conduct compliance inspection of single phase LV electrical installations
- UEENEEG123A - Conduct compliance inspection of LV electrical installations with demand exceeding 100 A per phase.

Only a qualified technical person can sign documents on behalf of the business about the performance of electrical work.

Qualified business person (QBP)

A qualified business person for an electrical contractor licence:

- *must be competent to perform the business aspects of performing electrical work, and*
- *must have completed the following units of competency within the last 3 years:*
 - *UEENEEE101A - Apply Occupational Health and Safety regulations, codes and practices in the workplace*
 - *UEENEEG175A - Develop compliance policies and plans to conduct an electrical contracting business, and either*
 - *BSBSMB401A - Establish legal and risk management requirements of small business (within the last three years), or*
 - *a business qualifications of diploma level or higher (e.g. Bachelor of Business) regardless of the time of completion, or*
 - *a course of instruction equivalent to BSBSMB401 (within the last three years).*
- OR
- *must provide evidence of having operated a business for a period of or periods totalling five years. e.g. tax returns for a self-employed person, or a statutory declaration from an accountant financial institution officer, employer, or other applicable business officer.*

As is evident from the above comparison, electrical contractors are required to have five times the insurance compared to QBCC license holders and are required to undertake four times the amount of training in relation to conducting a business. In addition, electrical contractors are required to have coverage of \$50,000 for consumer insurance.

Many mid-sized electrical contractors do engage refrigeration staff and hold relevant supervisory status to legally conduct the work. However, in the MFR it is a common issue that the overall turnover of the electrical work far outweighs the QBCC licensed area. Due to the double licensing requirements and duplication, the electrical business' overall turnover impacts on the level of license and therefore the MFR required.

MEA would therefore submit that for electrical contractors legally operating under the QBCC supervisor license in an area which is incidental to the main electrical business should be exempt from calculating their MFR on the entire turnover of the business.

As an example, an electrical contractor working in the commercial sector with ten staff may be turning over \$4,000,000 a year. However, if they have employed two refrigeration staff with relevant qualifications and licenses and these two staff turnover approximately \$400,000 a year in work that is covered by QBCC.

Under the current proposed system, the electrical contractor would have to declare and report on \$4,000,000 turnover and incur license fees and additional accounting costs that are obviously disproportionate to builder of the same size where 100% of their turnover is QBCC building work without the additional costs and licenses fees of electrical contractors. In the alternative the electrical contractor may well then create another business entity, creating additional cost, regulation and red tape and then have to comply with some of the more onerous and confusing suggestions made later in

the discussion paper. This adds additional cost and complexity for no real gain and certainly not covered or targeted in the QBCC risk analysis.

The MFR and licenses need to expressly exclude non-building/licensed work not covered by the QBCC, this will go some way to address the issue but achieve the integrity of the system improvement sought.

The Queensland Government, if it does not address this issue is double taxing and adding a significant cost in an area of the building industry, which is low risk. The results will be high costs and disproportionate red tape on small to medium business. The department's own risk based QBCC processes are not intended to categorise these as high risk as they are not in Categories 4-7, as is stipulated in the discussion paper.

As further evidence in the reverse scenario, if a refrigeration business wanted to undertake electrical contracting there are no disproportionate costs based on turnover, however there are increased insurance and education requirements. These are far less of a barrier to entry and profitability compared to the disproportionate effect that the proposed miss classified MFR have on electrical contractors.

RISK BASED TARGETED ANNUAL REPORTING REQUIREMENTS

Proposal 1 MEA does support the reintroduction of annual reporting.

Proposal 2 MEA does agree that the three-tiered approach to reporting seems to consider the variety in the industry. However, we do not agree that this tiered reporting is risk based. Risk based reporting appears in this to be primarily related to size of organisation and what may lead to adverse media attention in the event of a major corporate collapse. We do not believe that this is a suitable risk based approach. ASIC data does not show that the size of a corporation is in any way linked to the prospect of insolvency, in actual fact small companies are more likely to suffer from insolvency due to poor management action and lack of understanding of cashflow and profitability.

Early warning of insolvency will not be achieved by QBCC based on financial returns once every 12-months. Unscrupulous operators may well ignore or provide false details, unless there are personal liabilities attached to the data provided by both the Licensee and the Accountant to discourage the false or non-reporting. ASIC reports that directors are more aware of early signs of insolvencies in three ways

- Non-payment of statutory debts (PAYGW, SGC and GST) (3,002 reports, or 76.8%)
- Difficulties paying debts when they fall due (e.g. evidenced by letters of demand, recovery proceedings, increasing age of accounts payable (1,942 reports, or 49.7%).
- Financial statements that disclose a history of serious shortage of working capital, unprofitable trading (1,843 reports, or 47.1%)

[ASIC reports on corporate insolvencies 2016-17](#)

MEA believes that the proposal in the discussion paper goes some way to address two of these early signs by directors and should be further considered by the Government, particularly PAYGW, SGC and GST non-payment can better indicate across a broader cross section of building industry participants. We strongly recommend that data matching with ATO and others about submission of these payments will be far more powerful in targeting insolvency early when combined with NTA and other financial reporting as described in the discussion paper.

Proposal 3 MEA has no view on the reducing of the trigger for categories 4-7

Proposal 4 MEA cannot support this proposal in its current form, there is a lack of detail concerning what the score card is, how it will apply to the 9 levels of MFR contractors and whilst it does seem to address some of our points raised earlier a lack of detail means that we cannot judge how it will impact on large and or small contractors in terms of a cost benefit analysis.

Proposal 5 MEA supports the self-calculation of Current Ratio and it's self-reporting. However, MEA would question its effectiveness given our earlier comments regarding

- Electrical contractors and mixed work which we believe should only apply to QBCC licensed work and not to electrical contracting work.

The proposal does not explain how the education of this ratio will be implemented with industry and given stakeholders view that many within the industry have limited financial literacy it is imperative that additional education and implementation plans are put in place to achieve a smooth implementation.

Proposal 6 MEA again states that Electrical Contractors with a mix of Electrical and QBCC work should only apply to QBCC licensed work and not to electrical contracting work.

MEA also disagrees that this system should be a user pays system. Currently the QBCC is using resources to challenge and prosecute these issues and cost is born by QBCC through the license fees collected. If this is now a user pays system, costs are transferred to contractors with no equivalent reduction in license fees charged to offset the savings being introduced.

This system will also require accountants prequalified by the QBCC to participate in a similar system as adjudicators to ensure they are trained and kept up to date on MFR and accounting practices.

Proposal 7 MEA is unclear if the proposal is referring to the system of disqualification of accountants as proposed in proposal 6 or if the "clarification" is for the current system of accountants preparing MFR's.

MEA is also concerned that the proposal being based on a Commissioner's guideline is unsatisfactory and limits many of the usual protections. We are particularly concerned with this and how it will interplay with Queensland Building and Construction Commission Act 1991 Part 7 Jurisdiction of tribunal Subdivision 2 Section 85 – 87.

- Proposal 8 MEA cannot ascertain from the discussion paper what the “improved criteria” under which information provided to QBCC can be amended. Without details and examples no comment can be given as to their effect. As examples what;
- is a material change in a MFR? Currently not defined in QBCC Act
 - period has elapsed since the MFR?
 - happens if QBCC are delayed in assessing MFR
 - if a new MFR is due within a 4 week period

Proposal 9 to 16

MEA does not support moving away from accepted Australian Accounting Standards. The outcomes of this is additional cost and confusion particular in the SC1 and SC2 and level 1 areas where accounting advice is not a feature of internal resources.

- Proposal 17 MEA supports the accounting methodology of monies within the PBA. However, we also bring to the Minister’s attention that the Murray Review has made significant recommendations that would be of huge benefit to the whole construction industry. We would encourage the Minister to examine not only PBA for contracts over \$1 million in the private sector but to embrace Deemed Statutory Trusts as proposed by the Murray Review for the whole industry.

- Proposal 18 Whilst it may present information to QBCC again it will only be those companies not in financial difficulties. We refer to our comments above concerning data matching with the ATO in relation to PAYGW Super and Payroll tax as early indicators for Directors and therefore also QBCC as to early identification of stress in business across the entire landscape of the industry rather than just the QBCC high risk are of levels 4-7.



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