



Queensland

*Queensland Building and Construction Commission Act 1991*

# **Queensland Building and Construction Commission (Minimum Financial Requirements) Regulation 2018**

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Queensland

# Queensland Building and Construction Commission (Minimum Financial Requirements) Regulation 2018

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# Queensland Building and Construction Commission (Minimum Financial Requirements) Regulation 2018

## Part 1 Preliminary

### 1 Short title

This regulation may be cited as the *Queensland Building and Construction Commission (Minimum Financial Requirements) Regulation 2018*.

### 2 Commencement

This regulation commences on 1 January 2019.

### 3 Main purpose

The main purpose of this regulation is to prescribe, for section 116(2)(ab) and schedule 2 of the Act, definition *minimum financial requirements*, the minimum financial requirements for—

- (a) an applicant for a contractor's licence; and
- (b) a licensee who holds a contractor's licence.

*Notes—*

- 1 An applicant for a contractor's licence must satisfy the minimum financial requirements for the grant or renewal of a licence. See section 31 of the Act.
- 2 A contractor's licence is, under section 35(3) of the Act, subject to conditions about satisfaction of the minimum financial requirements.
- 3 The commission may take action under section 50C of the Act in relation to a licensee's satisfaction of the minimum financial requirements.

## 4 Definitions

The dictionary in schedule 3 defines particular words used in this regulation.

### 4A Reference to licensee includes reference to applicant

In this regulation, if the context permits, a reference to a licensee includes a reference to an applicant for a contractor's licence.

### 4B Meaning of *prescribed accounting standard*

- (1) A *prescribed accounting standard* means any of the following documents published by the Australian Accounting Standards Board—
  - (a) Australian Accounting Standards;
  - (b) Statements of Accounting Concepts;
  - (c) Interpretations;
  - (d) Framework for the Preparation and Presentation of Financial Statements.
- (2) Also, if a document mentioned in subsection (1) is amended or replaced, a *prescribed accounting standard* includes the document as in force immediately before it was amended or replaced.
- (3) However, subsection (2) applies in relation to a document only for a period of 12 months starting on the day the amendment or replacement takes effect.

## Part 2 Exemptions

### 5 Exemption for holders of particular classes of contractor's licence

This regulation, other than part 4B and section 17N, does not apply to a licensee if—

- (a) the licensee holds a contractor's licence of a following class under the *Queensland Building and Construction Commission Regulation 2018*, schedule 2—
  - (i) building design—low rise licence;
  - (ii) building design—medium rise licence;
  - (iii) building design—open licence;
  - (iv) hydraulic services design licences;
  - (v) site classifier licences; and
- (b) the professional indemnity insurance held by the licensee under part 4B covers the scope of work for the class mentioned in the *Queensland Building and Construction Commission Regulation 2018*, schedule 2; and
- (c) the licensee carries out work that is solely within the scope of work for the licence class.

## **6 Exemption for holders of builder—project management services class of contractor's licence**

This regulation, other than part 4B and section 17N, does not apply to a licensee if—

- (a) the licensee holds a licence of the class builder—project management services under the *Queensland Building and Construction Commission Regulation 2018*, schedule 2; and
- (b) the professional indemnity insurance held by the licensee under part 4B—
  - (i) covers the scope of work for the class mentioned in the *Queensland Building and Construction Commission Regulation 2018*, schedule 2; and
  - (ii) provides for a minimum limit of indemnity for a claim of at least \$1M; and
- (c) the licensee carries out work that is solely within the scope of work for the licence class.

## **7 Exemption for special purpose vehicles**

This regulation, other than part 4B and section 17N, does not apply to a licensee that is a special purpose vehicle to the extent the licensee carries out building work under the public-private partnership for which the special purpose vehicle was established.

# **Part 3 Requirements for preparing and giving information**

## **Division 1 General requirements**

### **8 Requirements for information or documents**

- (1) This section applies if a licensee is required to keep, or give the commission, information or documents under this regulation.
- (2) The information or documents must comply with the prescribed accounting standards.
- (3) However, if a requirement of this regulation is inconsistent with the prescribed accounting standards, the information or documents must comply with this regulation to the extent of the inconsistency.
- (4) The information or documents must be in English.
- (5) All references to monetary amounts in a document must be expressed in Australian dollars according to the rate of exchange that applies in Queensland on the day the document is prepared.

### **8A Requirements for particular information—group companies**

- (1) This section applies if a licensee that is a group company is required to prepare or give any of the following information under another provision of this regulation—

- (a) an MFR report;
  - (b) internal management accounts;
  - (c) signed financial statements.
- (2) To comply with the requirement, the licensee must give the information mentioned in subsection (1) for the licensee's corporate group.
- (3) For subsection (2), a reference in this regulation to the licensee includes a reference to the licensee's corporate group.

## **Division 2                      Information to accompany applications**

### **8B            Particular information must accompany applications**

- (1) An application for a contractor's licence under section 33 of the Act must be accompanied by the following information—
- (a) if the applicant's proposed maximum revenue for a reporting year is not more than \$800,000—a declaration in the approved form about the applicant's compliance with the minimum financial requirements;
  - (b) if the applicant's proposed maximum revenue for a reporting year is more than \$800,000—an MFR report.
- (2) However, an application need not be accompanied by the information mentioned in subsection (1) if—
- (a) the applicant is the holder of a contractor's licence (an *existing licence*) of a class other than the licence being applied for; and
  - (b) the licensee's total actual revenue will not exceed the maximum revenue approved for the existing licence, if the licence the subject of the application is granted.
- (3) An application for a licence under section 33 of the Act must also be accompanied by the following information for the applicant's professional indemnity insurance—

- (a) a copy of the certificate of currency for the insurance;
- (b) if the professional indemnity insurance does not comply with part 4B—a declaration, in the approved form, about the non-compliance;
- (c) if the professional indemnity insurance complies with part 4B—a statutory declaration verifying compliance;
- (d) if the insurance policy for the professional is arranged by an insurance broker—a receipt given by the broker for payment for the insurance.

## **Division 3                      Financial information**

### **9                      What is *financial information* for a licensee**

The *financial information* for a licensee is the following—

- (a) for a category SC1 or SC2 licensee—a declaration, in the approved form, about the licensee’s revenue and net tangible assets;
- (b) for a category 1, 2 or 3 licensee—the licensee’s internal management accounts;
- (c) for a category 4, 5, 6 or 7 licensee—signed financial statements.

### **9A                      Licensee must give commission financial information**

A licensee must, on or before the licensee’s annual reporting day, give the commission the licensee’s financial information for the most recent reporting year ending before the annual reporting day.

Maximum penalty—20 penalty units.

### **10                      Licensee’s annual reporting day**

- (1) If the commission grants a licence under the Act, the commission must, when the licence is granted, give the

licensee a written notice stating the licensee's annual reporting day.

- (2) The commission may, on application by the licensee, change the licensee's annual reporting day.

## **11 Licensee must give commission copies of particular reports**

- (1) This section applies if a licensee is required to do either of the following—
  - (a) lodge a report under the Corporations Act, section 319 for a reporting year;
  - (b) give the ASX copies of ASX annual documents for a reporting year.
- (2) When the licensee complies with the requirement, the licensee must also give the commission a copy of the report or documents.
- (3) If the licensee complies with subsection (2), the licensee is taken to have complied with section 9A for the reporting year.
- (4) In this section—

*ASX* means ASX Limited ACN 008 624 691.

*ASX annual documents* means the annual documents required to be given to the ASX under chapter 4, section 4.5 of the ASX listing rules.

*ASX listing rules* means rules made by the ASX for the listing of corporations on the Australian stock exchange.

## **Division 4 MFR reports**

### **11A Licensee must ensure MFR report is prepared by qualified accountant**

A licensee must ensure an MFR report for the licensee is prepared by a qualified accountant.

## **11B Requirement to give replacement MFR report**

- (1) This section applies if the licensee becomes aware that the most recent MFR report given by the licensee to the commission contains information that is incorrect in a material particular.

*Examples of information that may be incorrect in a material particular—*

- a calculation error affecting amounts used to work out net tangible assets
  - a mistake resulting from applying the prescribed accounting standards incorrectly
  - a statement based on a misinterpretation of facts
  - a statement or calculation based on circumstances that have changed or that the licensee was not aware of previously
- (2) For subsection (1), information is not incorrect in a material particular only because it is a minor error or other matter that, if a change were made to the report to correct the error or matter, would not be a change of substance.
- (3) The licensee must, as soon as the licensee becomes aware, or ought reasonably to be aware, of the matter mentioned in subsection (1), give the commission notice of the matter.

Maximum penalty—20 penalty units.

- (4) Also, the licensee must, as soon as practicable after giving notice under subsection (3), give the commission a new MFR report.

Maximum penalty—20 penalty units.

- (5) The new MFR report must indicate all changes made since the last MFR report given by the licensee to the commission.

## **11C Information contained in MFR report must be current**

- (1) The information contained in an MFR report must be no more than 4 months old as at the day the report is signed by a qualified accountant.



- (2) An MFR report must be signed by a qualified accountant no more than 30 days before the day the report is given to the commission.

## **Division 5                      Additional requirements**

### **11E      Licensee must keep internal management accounts**

- (1) A licensee must prepare internal management accounts for each quarter of the licensee's reporting year.
- (2) The commission may, by written notice, ask the licensee to give the commission a copy of the licensee's internal management accounts.
- (3) The licensee must comply with the written notice within 14 days after the licensee receives the notice, unless the licensee has a reasonable excuse.

Maximum penalty—20 penalty units.

- (4) This section does not apply to an applicant.

### **11F      Licensee must give commission information about significant change to business**

- (1) This section applies if there is a significant change to the business carried out under a licence.
- (2) The licensee for the licence must, as soon as practicable, give the commission—
  - (a) for a category SC1 or SC2 licensee—a declaration, in the approved form, about the licensee's compliance with the minimum financial requirements; or
  - (b) for another category of licensee—an MFR report.
- (3) In this section—

*significant change*, to a business, means a change to the structure of the business that may impact its financial position, including the following—

- (a) a change of ownership of the business;
- (b) if the licensee is a corporation—a change to an executive officer of the corporation;
- (c) if the licensee carries on business in a partnership—a change to the partners in the partnership, or another substantial change to the partnership agreement;
- (d) if the licensee is a trustee of a trust—a change to the trustees of the trust, or a substantial change to the trust instrument.

**11G Commission may require category SC1 or SC2 licensees to give MFR report**

- (1) The commission may, by written notice, ask a category SC1 or SC2 licensee to give the commission an MFR report.
- (2) The notice must state a reasonable time of at least 21 days within which the MFR report must be given.
- (3) The licensee must comply with the notice unless the licensee has a reasonable excuse.

Maximum penalty—20 penalty units.

## **Part 3A Licensee categories**

### **11H Categories**

A licensee who has the following maximum revenue for a reporting year has the category stated for the amount for the reporting year—

- (a) for a maximum revenue of not more than \$200,000—SC1;
- (b) for a maximum revenue of more than \$200,000 but not more than \$800,000—SC2;
- (c) for a maximum revenue of more than \$800,000 but not more than \$3M—category 1;

- (d) for a maximum revenue of more than \$3M but not more than \$12M—category 2;
- (e) for a maximum revenue of more than \$12M but not more than \$30M—category 3;
- (f) for a maximum revenue of more than \$30M but not more than \$60M—category 4;
- (g) for a maximum revenue of more than \$60M but not more than \$120M—category 5;
- (h) for a maximum revenue of more than \$120M but not more than \$240M—category 6;
- (i) for a maximum revenue of more than \$240M—category 7.

#### **11I Restriction on holders of builder contractor’s licenses**

A licensee for a builder contractor’s licence under the *Queensland Building and Construction Commission Regulation 2018* must not have a category of SC1.

## **Part 3B Maximum revenue**

#### **11J What is a licensee’s *maximum revenue***

- (1) A licensee’s *maximum revenue* for a reporting year is—
  - (a) the amount worked out under section 11K for the licensee (the *calculated maximum revenue*); or
  - (b) an amount, nominated by the licensee, that is less than the licensee’s calculated maximum revenue.
- (2) However, if the licensee’s maximum revenue is changed under section 11M or reduced under section 11N, the licensee’s *maximum revenue* for the reporting year is the amount as changed or reduced, and notified to the licensee under section 17O.

### **11K Working out calculated maximum revenue**

The calculated maximum revenue for a licensee for a reporting year is the amount worked out for the licensee under schedule 1.

### **11L Licensee's obligation if actual revenue may exceed maximum revenue**

If a licensee's actual revenue, for a reporting year, is likely to exceed the licensee's maximum revenue for the year by more than 10%, the licensee must, before the actual revenue exceeds the maximum revenue, apply to the commission under section 11M to increase the licensee's maximum revenue.

### **11M Application to change maximum revenue**

- (1) A licensee may apply to the commission at any time to change the licensee's maximum revenue.
- (2) The application must be—
  - (a) in the approved form; and
  - (b) accompanied by—
    - (i) for a category SC1 or SC2 licensee—a declaration in the approved form; or
    - (ii) otherwise—an MFR report.
- (3) The commission may approve the application if satisfied the amount of the licensee's net tangible assets is sufficient to support the proposed maximum revenue.

### **11N Commission may reduce maximum revenue**

- (1) This section applies if the commission becomes aware the amount of net tangible assets of a licensee has reduced in a way that will reduce the licensee's calculated maximum revenue.

- (2) The commission may reduce the licensee's maximum revenue to the amount of the calculated maximum revenue worked out based on the licensee's reduced net tangible assets.

### **11O Working out actual revenue—particular classes of licensee**

- (1) This section applies to the following licensees—
  - (a) a construction manager;
  - (b) a project manager;
  - (c) the holder of a building design licence mentioned in the *Queensland Building and Construction Commission Regulation 2018*, schedule 2, part 11, 12 or 13.
- (2) If the licensee carries out building work under a contract that is a part of a wider project of building work, for working out the licensee's actual revenue only the amount payable to the licensee under the contract is to be included.

### **11P Working out actual revenue—trustees, partnerships or group companies**

- (1) If a licensee is a trustee of a trust, the licensee's actual revenue includes—
  - (a) all revenue received by the trust; and
  - (b) for a trustee of a project bank account for a building contract—all amounts held on trust under the project bank account.
- (2) If a licensee carries on business in a partnership, the licensee's actual revenue includes all revenue received by the partnership.
- (3) If a licensee is a group company, the licensee's actual revenue is the revenue received by the corporate group for the group company.

## **11Q Amounts to be disregarded for working out actual revenue**

For working out a licensee's actual revenue, the following amounts are to be disregarded—

- (a) amounts received by the licensee as the licensee's salary or wages;
- (b) an amount received for GST payable by the licensee.

# **Part 4 Net tangible assets**

## **Division 1 Requirements for holding net tangible assets**

### **12 Requirement to hold minimum amount of net tangible assets**

- (1) A licensee must hold net tangible assets, excluding any deed of covenant asset, of not less than \$0.
- (2) Also, a licensee must, at all times, unless the licensee has a reasonable excuse, hold at least the net tangible assets, including any deed of covenant asset, worked out for the licensee under schedule 1, part 2.
- (3) A licensee for a builder contractor's licence under the *Queensland Building and Construction Commission Regulation 2018*, must hold net tangible assets of at least \$46,000.

## **Division 2 When licensee must give information**

### **13 Licensees must give commission information about particular decreases in net tangible assets**

- (1) This section applies to a licensee if—

- (a) the licensee has given the commission written notice of the licensee's net tangible assets; and

*Examples of how a licensee may have notified the commission—*

A licensee may have notified the commission of the licensee's net tangible assets in the licensee's application for a licence or when complying with a requirement under an approved audit program or other requirement to give financial information under the Act.

- (b) the commission has given the licensee a written notice that the commission accepts the net tangible assets notified under paragraph (a) (the *accepted NTA*); and
- (c) the licensee's net tangible assets decrease by more than—
- (i) for a category SC1, SC2, 1, 2 or 3 licensee—30% below the licensee's most recent accepted NTA; or
  - (ii) for any other licensee—20% below the licensee's most recent accepted NTA.
- (2) The licensee must, within 30 days after the licensee becomes aware, or ought reasonably to have become aware, of the decrease, give the commission—
- (a) for a category SC1 or SC2 licensee—a declaration about the decrease in the approved form; or
  - (b) otherwise—an MFR report for the licensee.
- Maximum penalty—20 penalty units.

## Division 3 Working out net tangible assets

### 14 Meaning of *net tangible assets* of a licensee

The *net tangible assets* of a licensee is the amount worked out by subtracting all of the following amounts from the total amount of assets of the licensee under section 15—

- (a) the total amount of the licensee's liabilities;

- (b) the total amount of the licensee's intangible assets worked out under the prescribed accounting standards;

*Examples—*

- Australian Accounting Standard AASB 138
- Australian Accounting Standard AASB 3
- Australian Accounting Standard AASB 112
- Australian Accounting Standard AASB 123

- (c) the total amount of the licensee's disallowed assets under section 17.

## **15 Working out licensee's assets**

- (1) A licensee's assets include the following—
- (a) cash;
  - (b) an amount held in a project bank account in which the licensee has a beneficial interest under the *Building Industry Fairness (Security of Payment) Act 2017*, section 9(3);
  - (c) an amount payable to the licensee for building work, construction work or building work services carried out by the licensee under a building contract for which the licensee has not yet been paid, other than an amount mentioned in paragraph (b);
  - (d) the full amount owing to the licensee by a debtor, if the debtor has been given an invoice for the amount 180 days or less before the day the assets are worked out;
  - (e) half of the amount owing to the licensee by a debtor, if the debtor has been given an invoice for the amount more than 180 days, but less than 1 year, before the day the assets are worked out;
  - (f) the value of inventory;
  - (g) an investment made by the licensee, if the terms of the investment allow it to be converted to cash on the day the assets are worked out;



- (h) an investment valued using the equity method under Australian Accounting Standard AASB 128 for a general purpose financial report under the Australian Accounting Standards;
  - (i) the value of a motor vehicle;
  - (j) plant and equipment valued at carrying amount under Australian Accounting Standard AASB 116;
  - (k) the value of real property;
  - (l) a loan given by the licensee to a related entity if, on the day the licensee's assets are worked out, the related entity—
    - (i) holds net tangible assets in its own right, excluding any deed of covenant asset, of at least \$0; and
    - (ii) has a current ratio of at least 1;
  - (m) the value of shares in companies listed on a stock exchange;
  - (n) the value of tools of trade;
  - (o) the amount of a deed of covenant asset, if division 4 is complied with for the deed.
- (2) For subsection (1)(l)(i), the net tangible assets of a related entity must be worked out under this division as if a reference to a licensee were a reference to the related entity.
- (3) In this section—

*project bank account*, for a building contract, see the *Building Industry Fairness (Security of Payment) Act 2017*, section 9(1).

*value*, of an asset, means the value of the asset worked out under the Australian Accounting Standards.

## 16 Working out a licensee's liabilities

- (1) A licensee's liabilities include—
- (a) an amount owing by the licensee to a related entity; and

- (b) the amount of a deficiency in trust assets of a trust for which the licensee is a trustee; and
  - (c) the full amount of a loan for which the licensee is in default if the lender has not waived its rights in relation to the default.
- (2) The trust assets of a trust mentioned in subsection (1)(b) must be worked out under this division as if—
- (a) a reference to net tangible assets were a reference to trust assets; and
  - (b) a reference to a licensee were a reference to the trustee of the trust.

## **17 Working out a licensee's disallowed assets**

- (1) The following are disallowed assets of a licensee—
- (a) a recreational vehicle;
  - (b) an unregistered vehicle mentioned in the *Transport Operations (Road Use Management—Vehicle Registration) Regulation 2010*, section 6(2);
  - (c) a racehorse;
  - (d) a collectors item;  
*Examples—*  
paintings, stamps, coins
  - (e) contingent assets under Australian Accounting Standard AASB 137;
  - (f) furniture used solely or predominantly for a personal purpose;
  - (g) investments in, or shares of, companies other than companies listed on a stock exchange;
  - (h) investments valued using the equity method under Australian Accounting Standard AASB 128 for a special purpose financial statement under the Australian Accounting Standards;

- (i) non-monetary credits, including, for example, goods or services owed to the licensee in exchange for other goods or services;
  - (j) assets held on trust by the licensee for a beneficiary other than the licensee;
  - (k) units in trusts that are not listed on a stock exchange;
  - (l) superannuation benefits that can not be accessed by the licensee on the day the disallowed assets are worked out;
  - (m) life or income protection insurance policy benefits;
  - (n) an amount owing to the licensee by a debtor, if an invoice for the amount has been given to the debtor more than 1 year from the day the disallowed assets are worked out;
  - (o) a deed of covenant asset for which the licensee is the covenantor under the deed.
- (2) In this section—

***recreational vehicle*** means the following—

- (a) a motorbike under *Transport Operations (Road Use Management) Act 1995*, schedule 4, that is designed to be used off-road;
- (b) a quad bike under the Queensland Road Rules, schedule 5;
- (c) a motorised golf buggy under the *Transport Operations (Road Use Management—Vehicle Registration) Regulation 2010*, schedule 8;
- (d) a ship under the *Transport Operations (Marine Safety) Act 1994*, section 10;
- (e) a personal watercraft under the *Transport Operations (Marine Safety) Act 1994*, schedule 1;
- (f) an aircraft under the *Air Navigation Act 1937*, section 4;

- (g) a racing vehicle under the *Transport Operations (Road Use Management—Vehicle Registration) Regulation 2010*, schedule 8.

### **17A Working out net tangible assets for group companies**

If a licensee is a group company, the licensee's net tangible assets include the net tangible assets of the corporate group for the group company.

## **Division 4 Deeds of covenant and assurance**

### **17B Amounts under deed of covenant and assurance that may be included as assets of licensee**

- (1) A deed of covenant asset may be included as an asset of the licensee only if—
  - (a) the licensee is a person other than an individual who is a sole trader; and
  - (b) the licensee is a category 1, 2, 3, 4, 5, 6 or 7 licensee; and
  - (c) the covenantor under the deed of covenant and assurance is eligible to enter the deed as covenantor under section 17C; and
  - (d) subsection (2) is complied with in relation to the deed.
- (2) For subsection (1)(d), the original deed of covenant and assurance must be—
  - (a) in the approved form; and
  - (b) given to the commission; and
  - (c) accompanied by—
    - (i) a statement of financial position, in the approved form, for the covenantor under the deed; and
    - (ii) a copy of each document relied on by the licensee in assessing the covenantor's eligibility to enter the

deed, including, for example, evidence of the net tangible assets of the covenantor.

- (3) The licensee must, if reasonably practicable, ensure the statement of financial position mentioned in subsection (2) is prepared by the accountant who prepares any MFR report for the licensee that includes the deed of covenant asset for working out the licensee's net tangible assets.

### **17C Who is eligible to be covenantor under deed of covenant and assurance**

- (1) A person is eligible to enter a deed of covenant and assurance as a covenantor in favour of a licensee that is a corporation, if the person is—
  - (a) a director of the corporation; or
  - (b) a related body corporate of the corporation.
- (2) Also, a person is eligible to enter a deed of covenant and assurance as a covenantor in favour of a licensee if the person is—
  - (a) for a licensee who is a trustee of a trust—a beneficiary of the trust; or
  - (b) for a licensee who is, or is to be, an entity carrying on business in a partnership—another partner in the partnership; or
  - (c) for a licensee that is a group company—another group company in the same corporate group.
- (3) However, a person is only eligible under subsection (1) or (2) if the person holds net tangible assets, worked out under division 1 as if a reference to a licensee were a reference to the person, of an amount that is at least equal to the value of the deed of covenant asset.
- (4) In this section—

***related body corporate***, of a corporation, means—

  - (a) a related body corporate of the corporation under the Corporations Act, section 50; or

- (b) another corporation that has the same shareholders or directors as the corporation.

**17D Requirement to give commission information—amount under deed of covenant and assurance no longer included as asset**

- (1) This section applies if a licensee intends to stop including a deed of covenant asset for working out the licensee's net tangible assets.
- (2) The licensee must give the commission—
  - (a) an MFR report demonstrating the licensee's net tangible assets are, without the deed of covenant asset, sufficient for the licensee's maximum revenue for the relevant reporting year; or
  - (b) an application under section 11M to reduce the licensee's maximum revenue, accompanied by an MFR report.

**17E Requirement to give commission information—revocation of deed of covenant and assurance**

- (1) This section applies if a licensee includes a deed of covenant asset for working out the licensee's net tangible assets, and either—
  - (a) a covenantor wishes to revoke the deed; or
  - (b) the licensee becomes aware that the covenantor is no longer eligible to be the covenantor under section 17C.
- (2) The licensee must, as soon as practicable, give the commission an MFR report that does not include the deed of covenant asset for working out the licensee's net tangible assets.

Maximum penalty—20 penalty units.

**17F Requirement to give commission information—change to deed of covenant and assurance**

- (1) This section applies if—
  - (a) a licensee includes a deed of covenant asset for working out the licensee’s net tangible assets; and
  - (b) the deed is amended.
- (2) The licensee must, as soon as practicable, give the commission an MFR report showing how the amendment affects the licensee’s net tangible assets.

Maximum penalty—20 penalty units.

## **Part 4A Current ratio**

### **Division 1 Requirement to maintain current ratio of 1 or more**

**17G Licensee must maintain current ratio of 1 or more**

A licensee must, at all times, have a current ratio of at least 1.

### **Division 2 Working out current ratio**

**17H What is a licensee’s *current ratio***

- (1) A licensee’s *current ratio* is worked out using the following formula—

$$CA/CL$$

where—

*CA* means the licensee’s current assets.

*CL* means the licensee’s current liabilities.

- (2) The ratio must not be rounded up.
- (3) For subsection (1), an asset is a **current asset** of a licensee if, when the current ratio is worked out—
  - (a) the asset is treated as an asset of the licensee for working out the licensee's net tangible assets under part 4; and
  - (b) the asset—
    - (i) is of the type that is realised, sold or consumed in the ordinary course of carrying on the licensee's business; or
    - (ii) is to be realised within 12 months after the day the current ratio is being worked out; or
    - (iii) is held for trading within the meaning of Australian Accounting Standard AASB 9; or
    - (iv) is cash or a cash equivalent, other than an asset that is restricted from being exchanged or used to settle a liability under the Australian Accounting Standards; or
    - (v) is a loan given by the licensee to a related entity if, on the day the current ratio is worked out, the related entity has current assets that are sufficient to repay the loan in full.
- (4) However, an asset is not a **current asset** if the asset—
  - (a) is real property, unless the property is—
    - (i) listed on the market for sale when the current ratio is worked out; and
    - (ii) valued under the Australian Accounting Standards at cost, or the net realisable value of the property, whichever is lower; or
  - (b) is a deed of covenant asset.
- (5) For subsection (1), a liability is a **current liability** of the licensee if the liability is payable by the licensee within 12 months after the day the current ratio is worked out.



- (6) This section applies subject to section 17I.

## **17I Working out current ratio for trustees, partnerships or group companies**

- (1) For working out the current ratio of a licensee, in addition to the current assets and current liabilities of the licensee, the following must be included—
- (a) if the licensee is a trustee of a trust—the current assets and current liabilities of the trust;
  - (b) if the licensee carries on business in partnership—the current assets and current liabilities of the partnership;
  - (c) if the licensee is a group company—the current assets and current liabilities of the corporate group for the group company.
- (2) Section 17H applies for working out the current assets and current liabilities of a trust, partnership or group company under this section, as if a reference in that section to the licensee were a reference to the trust, partnership or group company.

## **Part 4B Professional indemnity insurance**

### **17J Licensee must maintain professional indemnity insurance**

- (1) This section applies to a licensee who holds a class of licence stated in schedule 2, table, column 1 and mentioned in the provision of the *Queensland Building and Construction Commission Regulation 2018* stated in column 2 opposite the class of licence.
- (2) The licensee must maintain professional indemnity insurance for at least the amount stated in schedule 2, table, column 3 opposite the class of licence, for any 1 claim and in total during any 1 period of insurance.

- (3) However, if the licensee is the holder of a fire detection, alarm and warning systems licence mentioned in the *Queensland Building and Construction Commission Regulation 2018*, schedule 2, part 30, section 1(1), the licensee may either—
  - (a) maintain the professional indemnity insurance required under subsection (1); or
  - (b) maintain public and products liability insurance for at least \$5M.
- (4) The licensee must, before the expiry of the licensee's professional indemnity insurance, give the commission—
  - (a) evidence that the licensee has renewed the policy, or has entered into a new policy for professional indemnity insurance; and
  - (b) a statutory declaration verifying the licensee's professional indemnity insurance complies with this part.
- (5) A licensee who is a director or employee of a corporation, or partner in a partnership, maintains the professional indemnity insurance required under this section if the corporation or partnership maintains the professional indemnity insurance mentioned in this section.

### **17K Minimum standard of professional indemnity insurance**

- (1) The terms of a licensee's professional indemnity insurance policy must—
  - (a) insure the licensee for liability arising from an act or omission by the licensee in the course of conducting business under the licence; and
  - (b) insure the licensee for liability arising from misleading or deceptive conduct, other than fraud or another illegal act or omission by the licensee; and
  - (c) for a corporation—insure the licensee for liability arising from an act or omission by a current or former partner, director or employee of the licensee who holds

- or held a licence to carry out building work, or supervise building work carried out, under the licensee's contractor's licence; and
- (d) for a licensee mentioned in section 17J(3) who elects to maintain the public and products liability insurance mentioned in section 17J(3)(b)—insure the licensee for the certification of a system mentioned in the *Building Act 1975*, schedule 2, definition *special fire service*, paragraph (e); and
  - (e) insure the licensee for costs and expenses incurred with the consent of the insurer for defending or settling a claim.
- (2) Also, the terms of the policy must not provide for an exclusion for the performance of building work performed by the licensee, other than an exclusion under the insurer's standard terms for professional indemnity insurance for a business of the type carried on by the licensee.
- (3) For subsection (1)(e), the insurance may, for any 1 claim, be limited to the following, whichever is greater—
- (a) 20% of the limit of insurance under the policy;
  - (b) \$100,000.

## **17L Commission may waive professional indemnity insurance requirements**

- (1) This section applies if a licensee reasonably believes—
- (a) professional indemnity insurance under section 17K is not available to the licensee; or
  - (b) it is not financially viable for the licensee to obtain professional indemnity insurance that meets the requirements of section 17K, having regard to the cost of the insurance and the amount of the licensee's maximum revenue.
- (2) The licensee must give the commission notice, in the approved form, stating—

- (a) the licensee reasonably believes a matter mentioned in subsection (1)(a) or (b) applies to the licensee; and
  - (b) the reasons for the licensee's belief.
- (3) If the commission is satisfied a matter mentioned in subsection (1)(a) or (b) applies for the licensee, the commission may, by written notice given to the licensee, waive the requirements mentioned in sections 17J and 17K for the licensee.

### **17M Licensee must notify consumers of waiver**

- (1) This section applies if, under section 17L, the commission waives the requirements mentioned in section 17J or 17K.
- (2) The licensee must, before entering a building contract with a consumer, give the consumer written notice stating—
  - (a) the requirements have been waived for the licensee; and
  - (b) a summary of the insurance, if any, the licensee holds that is relevant to the work proposed to be carried out by the licensee under the contract.

## **Part 4C Miscellaneous**

### **17N Requirement to pay debts**

- (1) It is a minimum financial requirement that a licensee must pay a debt owing by the licensee to a contracted party, or a supplier of goods or services, on or before the day the debt becomes due and payable.
- (2) A debt does not become due and payable under subsection (1) if—
  - (a) before the day the debt becomes due and payable, an adjudicator, court or tribunal decides the debt is not payable by the licensee; or

- (b) on the day the debt becomes due and payable, the amount of the debt is equal to or less than an amount owed by the creditor to the licensee.
- (3) Also, if the debt is the subject of a dispute when the debt becomes due and payable—
  - (a) subsection (1) does not apply until the dispute is decided and applies only if the debt is owed by the licensee under the decision; and
  - (b) the debt is due and payable—
    - (i) within the time stated by an adjudicator, court or tribunal; or
    - (ii) within the time provided for under an Act; or
    - (iii) if subparagraphs (i) and (ii) do not apply—within 28 days after the day the dispute is decided.
- (4) For subsection (1), a debt becomes due and payable by a licensee—
  - (a) for an amount payable under a subcontract mentioned in section 67U of the Act—the day provided for under the contract that is no later than 25 business days after submission of the payment claim; or
  - (b) for another contract, including an amount payable to a supplier—
    - (i) within the time required under an Act; or
    - (ii) otherwise—on the day worked out under payment terms agreed between the parties to the contract.
- (5) Subsection (4) applies subject to subsections (2) and (3).
- (6) For subsection (3), a debt is the subject of a dispute if the commission is satisfied that grounds may exist for the licensee to refuse to repay the debt, including, for example, because—
  - (a) it relates to—
    - (i) defective or incomplete work; or

- (ii) a claim that the contractual obligation relating to the debt has not been met; or
  - (b) a proceeding, or a proceeding for an appeal, has started in a court or tribunal in relation to the debt; or
  - (c) an adjudication application has been made in relation to the debt.
- (7) In this section—

*adjudicator* see the *Building Industry Fairness (Security of Payment) Act 2017*, schedule 2.

*contracted party*, for a building contract, means the party to the contract who is to carry out the building work or construction work the subject of the contract.

*payment claim* see the *Building Industry Fairness (Security of Payment) Act 2017*, section 68.

## **170 Commission must give licensees notice of particular matters**

- (1) The commission must give a licensee written notice of the matters mentioned in subsection (2), as soon as practicable after any of the following happens—
- (a) the grant of a licence to the licensee;
  - (b) the renewal or restoration of the licensee’s licence;
  - (c) a reduction in the licensee’s maximum revenue under section 11N;
  - (d) the licensee’s maximum revenue changes.
- (2) For subsection (1), the matters are—
- (a) the licensee’s category; and
  - (b) the maximum revenue for the licensee; and
  - (c) the day the matters stated in paragraphs (a) and (b) take effect.

**17P Commission may require valuation of asset**

- (1) The commission may, at any time, give a licensee a notice—
  - (a) asking the licensee to give the commission a copy of a valuation by a registered valuer of an asset mentioned in the licensee's financial information or MFR report; and
  - (b) stating a reasonable time of at least 21 days within which the licensee must comply with the requirement under paragraph (a).
- (2) The licensee must comply with the notice.  
Maximum penalty—20 penalty units.

**17Q Commission may audit financial information and MFR reports and recover costs**

- (1) This section applies if the commission reasonably believes financial information or an MFR report given to the commission contains false or misleading information.
- (2) The commission may ask an accountant who is a registered company auditor under the Corporations Act to audit the financial information or MFR report.
- (3) The commission may recover the reasonable costs of the audit from the licensee as a debt.

**17R Expiry of policy—Act, sch 1, s 76**

For schedule 1, section 76(2) of the Act, the policy called 'Minimum financial requirements' made by the board on 28 August 2015 expires on the commencement.

## **Part 5 Transitional provisions**

### **Division 1 Transitional provisions for SL No. 218 of 2018**

#### **18 Minimum financial requirements—continued MFR policy is prescribed**

The continued MFR policy is prescribed for section 116(2)(ab) of the Act until the day the continued MFR policy expires under schedule 1, section 76 of the Act.

#### **19 Relationship of this regulation with continued MFR policy**

Subject to section 12, if this regulation is inconsistent with the continued MFR policy, this regulation prevails to the extent of the inconsistency.

#### **20 Application of s 8 to existing licensees**

- (1) This section applies to a person who, on the commencement, is a licensee to whom this regulation applies.
- (2) Section 8 applies to the person as if—
  - (a) the following day were the annual reporting day for the person—
    - (i) if the person is a category 4, 5, 6 or 7 licensee under the continued MFR policy—31 March 2019;
    - (ii) if the person is a category SC1, SC2, 1, 2 or 3 licensee under the continued MFR policy—31 December 2019; and
  - (b) the year stated in the notice given to the person under subsection (4) were the most recent reporting year in relation to the day mentioned in paragraph (a).



- (3) However, the person does not commit an offence against section 8 if the person can not comply with that section because—
  - (a) the person does not have the financial information required to be given under that section in relation to a period occurring before the commencement; and
  - (b) the financial information was not, before the commencement, required to be kept by the person under the Act or another Act or law.
- (4) Within 20 business days after the commencement, the commission must give the person a written notice stating details of the person's obligation to comply with section 8 as it applies under this section, including the year for which the person must give financial information.
- (5) The licensee may not apply under section 10(2) to change the day mentioned in subsection (2)(a).
- (6) This section does not limit the application of section 8 in relation to an annual reporting day for the person that is after the day mentioned in subsection (2)(a).

## **21 Commission must notify existing licensees of annual reporting day**

- (1) The commission must give each person who holds a licence on the commencement a written notice stating the annual reporting day for the licensee.
- (2) The notice must—
  - (a) be given at least 40 business days before the annual reporting day stated in the notice; and
  - (b) state that the licensee may apply, under section 10(2), to change the licensee's annual reporting day.

## **22 Application of pt 4 to existing licensees**

- (1) This section applies to a person who was a licensee immediately before the commencement.

- (2) Part 4 does not apply to the licensee until the first annual reporting day to occur after the commencement as stated in the notice given to the person under section 21.
- (3) The continued MFR policy, part 2 continues to apply to the person until the day mentioned in subsection (2).

## **Division 2                      Transitional provisions for Queensland Building and Construction Commission (Minimum Financial Requirements) and Other Legislation Amendment Regulation 2019**

### **23            Definition for division**

In this division—

*expired MFR policy* means the policy expired under section 17R, as in force immediately before the commencement.

### **24            Continuation of expired MFR policy for particular applications**

- (1) This section applies if—
  - (a) before the commencement—
    - (i) an application for a licence, or renewal of a licence, was made under the Act; or
    - (ii) a proceeding about the compliance with the expired MFR policy by a licensee was started; and
  - (b) on the commencement—
    - (i) the application has not been decided; or
    - (ii) the proceeding has not ended.

- (2) This regulation as in force immediately before the commencement, and the expired MFR policy, continue to apply in relation to the application or proceeding as if the *Queensland Building and Construction Commission (Minimum Financial Requirements) and Other Legislation Amendment Regulation 2019* had not commenced.
- (3) For subsection (2), the expired MFR policy is prescribed for section 116(2)(ab) of the Act for deciding the application or proceeding.
- (4) In this section—  
*proceeding* includes—
  - (a) the giving of a written notice under section 50C(2) of the Act; and
  - (b) a public examination mentioned in section 92(b)(i) of the Act.

## **25 Continuation of maximum revenue under expired MFR policy**

- (1) This section applies to a licensee if, immediately before the commencement, an amount of maximum revenue applied to the licensee under the expired MFR policy.
- (2) On the commencement, the amount mentioned in subsection (1) is taken to be the licensee's maximum revenue under this regulation until the day the commission first gives the licensee a notice under section 170.

## **26 Continuation of minimum net tangible asset requirement for particular licensees**

- (1) This section applies to a person if—
  - (a) any of the following apply—
    - (i) the person was a category SC2 licensee under the expired MFR policy immediately before the commencement;

- (ii) the person was a category 1 licensee who, under the expired MFR policy, had a maximum revenue of between \$600,000 and \$800,000 immediately before the commencement;
    - (iii) a licence is granted for an application mentioned in section 24, and the licensee for the licence is, under the expired MFR policy, a category SC2 or category 1 licensee who has a maximum revenue of between \$600,000 and \$800,000; and
  - (b) on the commencement, the person would, but for this section, be required under section 12 to hold net tangible assets of a higher amount than the amount required immediately before the commencement under the expired MFR policy.
- (2) If the licensee continues to hold the net tangible assets required under the expired MFR policy immediately before the commencement, section 12 does not apply to the licensee until 31 December 2019.

## **27 Re-categorisation of particular category 1 licensees as SC2 licensees**

- (1) This section applies to a person if—
- (a) immediately before the commencement, the person was a category 1 licensee who, under the expired MFR policy, had a maximum revenue of between \$600,000 and \$800,000; or
  - (b) a licence is granted for an application mentioned in section 24, and the licensee for the licence is, under the expired MFR policy, a category 1 licensee who has a maximum revenue of between \$600,000 and \$800,000.
- (2) On the commencement, the person is a category SC2 licensee under this regulation.
- (3) Subsection (4) applies if the licensee included a deed of covenant asset for working out the licensee's net tangible assets under the expired MFR policy.

- (4) Despite section 17B(1)(b), the licensee may continue including the asset for working out the licensee's net tangible assets until 31 December 2019.

## **28 Particular accountants taken to be qualified accountants**

If, immediately before the commencement, a licensee was entitled to engage a particular accountant for the purposes of complying with the expired MFR policy, the accountant is taken to be a qualified accountant for the licensee until the earlier of the following—

- (a) the day the commission gives the licensee written notice stating that the accountant is not approved for section 11D(1)(b);
- (b) the day the licensee first gives the commission an MFR report prepared by the accountant after the commencement.

## **Schedule 1      Calculated maximum revenue and minimum net tangible assets**

sections 11K and 12

### **Part 1              Calculated maximum revenue**

#### **1              Definitions for part**

In this schedule—

*CMR* means calculated maximum revenue.

*NTA* means the net tangible assets of a licensee worked out for the licensee under part 4 of this regulation.

*M* means 1 million.

#### **2              Licensees holding NTA of at least \$12,000 but not more than \$45,999**

If a licensee holds NTA of \$12,000 or more but not more than \$45,999, the licensee's calculated maximum revenue is \$200,000.

#### **3              Licensees holding NTA of \$46,000**

If a licensee holds NTA of \$46,000, the licensee's calculated maximum revenue is \$800,000.

#### **4              Licensees holding NTA of more than \$46,000 but not more than \$156,000**

If a licensee holds NTA of more than \$46,000 but not more than \$156,000, the licensee's calculated maximum revenue is the amount worked out using the formula—

$$\text{CMR} = ((\text{NTA} - 46,000) / 110,000) \times (3\text{M} - 800,000) + 800,000$$

**5 Licensees holding NTA of more than \$156,000 but not more than \$480,000**

If a licensee holds NTA of more than \$156,000 but not more than \$480,000, the licensee's calculated maximum revenue is the amount worked out using the formula—

$$\text{CMR} = ((\text{NTA} - 156,000) / 324,000) \times (12\text{M} - 3\text{M}) + 3\text{M}$$

**6 Licensees holding NTA of more than \$480,000 but not more than \$1.2M**

If a licensee holds NTA of more than \$480,000 but not more than \$1.2M, the licensee's calculated maximum revenue is the amount worked out using the formula—

$$\text{CMR} = ((\text{NTA} - 480,000) / 720,000) \times (30\text{M} - 12\text{M}) + 12\text{M}$$

**7 Licensees holding NTA of more than \$1.2M but not more than \$2.4M**

If a licensee holds NTA of more than \$1.2M but not more than \$2.4M, the licensee's calculated maximum revenue is the amount worked out using the formula—

$$\text{CMR} = ((\text{NTA} - 1.2\text{M}) / 1.2\text{M}) \times (60\text{M} - 30\text{M}) + 30\text{M}$$

**8 Licensees holding NTA of more than \$2.4M but not more than \$4.8M**

If a licensee holds NTA of more than \$2.4M but not more than \$4.8M, the licensee's calculated maximum revenue is the amount worked out using the formula—

$$\text{CMR} = ((\text{NTA} - 2.4\text{M}) / 2.4\text{M}) \times (120\text{M} - 60\text{M}) + 60\text{M}$$

**9 Licensees holding NTA more than \$4.8M but not more than \$14.4M**

If a licensee holds NTA of more than \$4.8M but not more than \$14.4M, the licensee's calculated maximum revenue is the amount worked out using the formula—

$$\text{CMR} = ((\text{NTA} - 4.8\text{M}) / 9.6\text{M}) \times (240\text{M} - 120\text{M}) + 120\text{M}$$

**10 Licensees holding NTA of more than \$14.4M**

If a licensee holds NTA of more than \$14.4M, the licensee's calculated maximum revenue is the amount worked out using the formula—

$$\text{CMR} = \text{NTA} \times 16.67$$

## **Part 2 Minimum net tangible assets**

**11 Definitions for part**

In this part—

*M* means 1 million.

*Max*, for a licensee, means the licensee's maximum revenue.

*mNTA* means the minimum amount of net tangible assets a licensee must hold.

**12 Category SC1 licensees**

A category SC1 licensee must hold minimum net tangible assets of \$12,000.



**13 Category SC2 licensees**

A category SC2 licensee must hold minimum net tangible assets of \$46,000.

**14 Category 1 licensees**

A category 1 licensee must hold at least the amount of net tangible assets worked out using the following formula—

$$\text{mNTA} = [\{(\text{Max} - 800,000) / (2.2\text{M})\} \times 110,000] + 46,000$$

**15 Category 2 licensees**

A category 2 licensee must hold at least the amount of net tangible assets worked out using the following formula—

$$\text{mNTA} = [\{(\text{Max} - 3\text{M}) / (9\text{M})\} \times 324,000] + 156,000$$

**16 Category 3 licensees**

A category 3 licensee must hold at least the amount of net tangible assets worked out using the following formula—

$$\text{mNTA} = [\{(\text{Max} - 12\text{M}) / (18\text{M})\} \times 720,000] + 480,000$$

**17 Category 4 licensees**

A category 4 licensee must hold at least the amount of net tangible assets worked out using the following formula—

$$\text{mNTA} = [\{(\text{Max} - 30\text{M}) / (30\text{M})\} \times 1.2\text{M}] + 1.2\text{M}$$

**18 Category 5 licensees**

A category 5 licensee must hold at least the amount of net tangible assets worked out using the following formula—

$$\mathbf{mNTA = [ \{ (Max - 60M) / (60M) \} \times 2.4M ] + 2.4M}$$

**19 Category 6 licensees**

A category 6 licensee must hold at least the amount of net tangible assets worked out using the following formula—

$$\mathbf{mNTA = [ \{ (Max - 120M) / (120M) \} \times 9.6M ] + 4.8M}$$

**20 Category 7 licensees**

A category 7 licensee must hold at least the amount of net tangible assets worked out using the following formula—

$$\mathbf{mNTA = MR / 16.67}$$

## Schedule 2 Professional indemnity insurance

section 17J

Class of licence	Provision of Queensland Building and Construction Commission Regulation 2018	Minimum amount of professional indemnity insurance \$
Building design—low rise	schedule 2, part 11	500,000
Building design—medium rise	schedule 2, part 12	500,000
Building design—open	schedule 2, part 13	500,000
Completed residential building inspection	schedule 2, part 14	1M
Passive fire protection—fire doors and shutters, to certify	schedule 2, part 22, section 1(1)	1M
Passive fire protection—fire collars, penetrations and joint sealing	schedule 2, part 23	1M
Passive fire protection—fire and smoke walls and ceilings	schedule 2, part 24	1M
Special hazard suppression systems, to certify restricted to gaseous, water mist and reticulated foam proportioning systems	schedule 2, part 25, section 1(1)	1M
Special hazard suppression systems, to certify restricted to chemical and foam special hazard systems	schedule 2, part 25, section 1(2)	1M
Sprinkler and suppression systems (reticulated water-based), to certify	schedule 2, part 26, section 1(1)	1M

Schedule 2

<b>Class of licence</b>	<b>Provision of Queensland Building and Construction Commission Regulation 2018</b>	<b>Minimum amount of professional indemnity insurance</b> \$
Sprinkler and suppression systems (reticulated water-based), to certify restricted to commercial or industrial type	schedule 2, part 26, section 1(2)	1M
Sprinkler and suppression systems (reticulated water-based) to certify restricted to domestic or residential types	schedule 2, part 26, section 1(3)	1M
Fire pump, to certify	schedule 2, part 27, section 1(1)	1M
Fire hydrants and hose reels, to certify	schedule 2, part 28, section 1(1)	1M
Portable fire equipment and hose reels (hose reels down stream of stop cock only), to certify	schedule 2, part 29, section 1(1)	500,000
Fire detection, alarm and warning system, to certify	schedule 2, part 30, section 1(1)	5M
Emergency lighting, to certify	schedule 2, part 31, section 1(1)	1M
Hydraulic services design	schedule 2, part 38, section 1(1)	1M
Hydraulic services design excluding design of on-site domestic waste water management	schedule 2, part 38, section 1(2)	1M
Site classifier	schedule 2, part 51, section 1(1)	1M
Site classifier excluding on-site domestic waste water management	schedule 2, part 51, section 1(2)	1M

<b>Class of licence</b>	<b>Provision of Queensland Building and Construction Commission Regulation 2018</b>	<b>Minimum amount of professional indemnity insurance</b> \$
Termite management—chemical	schedule 2, part 56, section 1	500,000
Fire suppression systems—special hazards	section 79 and schedule 7A, part 2	1M
Fire suppression systems—special hazards restricted to certification of, and preparation of reports about, certain work	section 79 and schedule 7A, part 2	1M

## Schedule 3 Dictionary

### section 4

**actual revenue**, for a licensee for a reporting year, means all the revenue the licensee receives during the reporting year, regardless of when the revenue became due and payable, worked out under sections 11O, 11P and 11Q.

**annual reporting day**, for a licensee, means—

- (a) the day notified by the commission to the licensee under section 10(1) or 21(1); or
- (b) if the day is changed under section 10(2)—the changed day.

**applicant** means an applicant for a contractor's licence.

**building contract** includes a building contract or construction contract under the *Building Industry Fairness (Security of Payment) Act 2017*, section 8 or 64.

**calculated maximum revenue** see section 11J(1)(a).

**category**, for a licensee, means the category for the licensee as worked out under section 11H.

**construction work** see the *Building Industry Fairness (Security of Payment) Act 2017*, section 65.

**corporate group** means all corporations that are a party to the same deed of cross guarantee.

**current asset** see section 17H(3) and (4).

**current liability** see section 17H(5).

**current ratio**, for a licensee, see section 17H.

**deed of covenant asset**, of a licensee or other entity, means an asset the subject of a deed of covenant and assurance given in favour of the licensee or entity.

**deed of cross guarantee** has the meaning given under the order called 'ASIC corporations (wholly-owned companies)

instrument 2016/785' made under the Corporations Act, section 341(1).

*Editor's note—*

The order called 'ASIC corporations (wholly-owned companies) instrument 2016/785' can be found on the federal register of legislation website at [www.legislation.gov.au](http://www.legislation.gov.au).

***financial information***, for a licensee, see section 9.

***group company*** means a corporation that—

- (a) is a party to a deed of cross guarantee; and
- (b) elects to comply with this regulation as a member of a corporate group to which the order called 'ASIC corporations (wholly-owned companies) instrument 2016/785' made under the Corporations Act, section 341(1) applies.

***internal management accounts***, of a licensee, means a report about the licensee's financial position and performance, including the following prepared under the prescribed accounting standards—

- (a) a profit and loss statement;
- (b) a balance sheet;
- (c) an aged debtors and creditors report that includes the date each invoice is due to be paid or received;
- (d) a statement of cashflows.

***licensee*** means the holder of a contractor's licence.

***maximum revenue***, for a licensee for a reporting year, see section 11J.

***MFR report***, for a licensee, means a report about the licensee's financial position that—

- (a) is in the approved form and signed by a qualified accountant; and
- (b) complies with part 3, division 4; and
- (c) includes signed financial statements for the licensee; and

- (d) relates to—
- (i) if the report is given to the commission within 4 months after the end of a reporting year—the reporting year; or
  - (ii) otherwise—the reporting year in which the report is prepared, for the part of the year that has expired no more than 30 days before the report is given to the commission.

***net tangible assets***, of a licensee, see section 14.

***prescribed accounting standard*** see section 4B.

***project bank account***, for a building contract, see the *Building Industry Fairness (Security of Payment) Act 2017*, section 9(1).

***related entity*** see the *Building Industry Fairness (Security of Payment) Act 2017*, section 19.

***reporting year***, for a licensee, means—

- (a) if the licensee is required to lodge annual financial reports with ASIC under the Corporations Act, part 2M.3—a financial year under that Act; or
- (b) if paragraph (a) does not apply—
  - (i) a calendar year starting on a day agreed between the licensee and the commission; or
  - (ii) otherwise—a financial year.

***signed financial statements***, for a licensee, means all of the following—

- (a) financial statements prepared under the prescribed accounting standards, including—
  - (i) a profit and loss statement; and
  - (ii) a balance sheet; and
  - (iii) an aged debtors and creditors report that includes the date each invoice is due to be paid or received; and
  - (iv) a statement of cashflows;



- (b) notes to the financial statements mentioned in paragraph (a) required under the prescribed accounting standards;
- (c) a declaration signed by the licensee, or an executive officer of the licensee, verifying the information contained in the documents mentioned in paragraphs (a) and (b);
- (d) a description of—
  - (i) the measurement, within the meaning of the prescribed accounting standards, on which the financial statements mentioned in paragraph (a) are based; and
  - (ii) the accounting policies or reports relevant to the financial statements;
- (e) for a category 4, 5, 6 or 7 licensee—details of each debtor for the licensee, categorised according to whether the amounts owing became due and payable in the following periods—
  - (i) less than 90 days before the day the statements are made;
  - (ii) 90 to 179 days before the day the statements are made;
  - (iii) 180 to 365 days before the day the statements are made;
  - (iv) more than 365 days before the day the statements are made.