

Queensland Building and Construction Commission (Minimum Financial Requirements) Amendment Regulation 2024

Explanatory notes for Subordinate Legislation 2024 No. 6

made under the

Queensland Building and Construction Commission Act 1991

General Outline

Short title

Queensland Building and Construction Commission (Minimum Financial Requirements) Amendment Regulation 2024

Authorising law

Section 116 of the *Queensland Building and Construction Commission Act 1991*

Policy objectives and the reasons for them

The *Queensland Building and Construction Commission (Minimum Financial Requirements) Regulation 2018* (MFR Regulation) commenced in Queensland on 1 January 2019. The MFR Regulation establishes a minimum financial requirements (MFR) framework that applies to contractor-type licensees that are licensed with the Queensland Building and Construction Commission (QBCC). The framework seeks to reduce the risk and impacts of financial failure, liquidations, and bankruptcy within the building and construction industry, and help ensure that people are paid for their work.

Licensees are required to comply with certain financial reporting requirements to demonstrate that their business is financially sustainable under the MFR Regulation. The requirements apply to contractor licensees across 9 financial categories: self-certifying categories 1 and 2 (SC1 and SC2), and categories 1-7.

In essence, the framework means that these licensees need to:

- provide annual financial information to the QBCC, such as their turnover, assets and debts, and
- report significant changes in circumstances to the QBCC, such as a change in assets or business structure. This generally requires an MFR report to be provided to the QBCC so they can assess whether the licensee continues to have sufficient working capital and

can cover their debts.

Under the MFR Regulation, the signed financial statements that must be provided as part of the MFR report must comply with ‘prescribed accounting standards’, which includes the Australian Accounting Standards (AAS) and certain documents published by the Australian Accounting Standards Board (AASB).

Previously, under the AAS, category SC1, SC2, 1, 2, and 3 licensees used a Special Purpose Financial Statement (SPFS) and category 4, 5, 6 and 7 licensees used a General Purpose Financial Statement (GPFS) to prepare financial statements to satisfy the legislative requirements for MFR reports. As the GPFS requires more detailed information and represents a greater cost to a licensee than an SPFS, its requirements are considered to be commensurate with category 4, 5, 6 and 7 licensees, which present a greater overall risk due to their higher maximum revenue.

However from 1 July 2021 the AASB, through the *AAS 2020-2 Amendments to Australian Accounting Standards – Removal of Special Purpose Financial Statements for Certain For-Profit Private Sector Entities* removed the ability for some for-profit entities, including those required by legislation to prepare financial statements that comply with either AAS or accounting standards, to use an SPFS. This change is intended to improve the consistency, comparability, transparency, and enforceability of the financial reporting framework.

As a result, category SC1, SC2, 1, 2, and 3 licensees who were previously able to use an SPFS to prepare ‘signed financial statements’ under ‘prescribed accounting standards’ (to satisfy the legislative requirements for MFR reports) have been impacted by these changes.

Due to a 12-month transitional provision in the MFR Regulation relating to changes from the AASB, these changes took effect for QBCC licensees on 1 July 2022.

In accordance with the Queensland Government Better Regulation Policy, a summary Impact Analysis Statement was undertaken by the department, which assessed the proposed amendments as being minor in nature. The amendments do not represent a change to policy.

Consequently, the policy objective of the *Queensland Building and Construction Commission (Minimum Financial Requirements) Amendment Regulation 2024* (Amendment Regulation) is to clarify the requirements for SC1, SC2, 1, 2 and 3 licensees to prepare signed financial statements for MFR reports in a format that is commensurate with the former SPFS requirements, and with their licence category. This is intended to reduce unnecessary administrative burden and costs for these licensees in relation to MFR reports.

Achievement of policy objectives

To achieve its objective, the Amendment Regulation will make minor amendments to the MFR Regulation to provide:

- that a category SC1, SC2, 1, 2 or 3 licensee must prepare an MFR report in accordance with the requirements in new section 11D. New section 11D is intended to enable category SC1, SC2 and 1, 2 or 3 licensees to prepare signed financial statements for an MFR report in a way that is commensurate with the former SPFS requirements.
- a transitional provision enabling a licensee that is providing a category SC1, SC2, 1, 2 or 3 MFR report for the most recent quarter reporting period (immediately prior to

commencement of the Amendment Regulation) to prepare the MFR report in accordance with the requirements in new section 11D.

The Amendment Regulation is consistent with the original policy intent, as it ensures that a licensee's MFR reporting requirements continue to be commensurate with the former SPFS requirements and with their licence category.

The Amendment Regulation will also provide greater equity, clarity, and certainty to licensees, particularly in relation to the requirements for MFR reports.

A minor amendment has also been made to address an incorrect cross-reference in the definition of related entity.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the policy objectives of the *Queensland Building and Construction Commission Act 1991*, specifically to regulate the building industry to ensure the maintenance of proper standards in the building industry, to achieve a reasonable balance between the interests of building contractors and consumers, and to provide for the proper, efficient and effective management of the commission in the performance of its functions.

Inconsistency with policy objectives of other legislation

The Amendment Regulation is not inconsistent with the policy objectives of other legislation.

Alternative ways of achieving policy objectives

There are no alternative ways of achieving the policy objectives.

Benefits and costs of implementation

The implementation of the Amendment Regulation will provide greater clarity and certainty to licensees, particularly in relation to the requirements for MFR reports. It will also reduce the costs associated with the preparation of signed financial statements for MFR reports for category SC1, SC2, 1, 2, and 3 licensees, as these licensees will not be required to prepare a GPFS to satisfy the legislative requirements.

There are not expected to be costs associated with implementing the Amendment Regulation.

Consistency with fundamental legislative principles

The Amendment Regulation is consistent with the fundamental legislative principles as required under the *Legislative Standards Act 1992*.

Consultation

The Department of the Premier and Cabinet, Queensland Treasury, the Queensland Building and Construction Commission and industry stakeholders were consulted.