

Attachment 10 - Capital Threshold Requirement

Table 1: Method to determine capital threshold requirement - examples from other jurisdictions

Name of licensing scheme	Formula for calculation threshold capital requirement	Amount	Purpose
Queensland Building and Construction Commission	The QBCC do not have a specific threshold capital requirement. Rather, they have general financial requirements which includes advice of a builder's financial capacity.	Do not have set amount.	Implemented to ensure licensees operating in the industry remain financially viable.
Labour Market Intermediaries in Italy	There is a minimum capital requirement of €600,000 to obtain a licence as a labour market intermediary in Italy.	There is a minimum capital requirement of €600,000.	Implemented to ensure licensees operating in the industry remain financially viable.

Table 2: Proposed methods to determine capital threshold requirement– submissions to the Issues Paper

Submission	Suggested Formula
Queensland Council of Unions	Submitted that funds should be demonstrated by the labour hire licence holder to cover any potential contingency. Further submitted that the threshold capital requirement amount needs to be commensurate with level of exposure the LHP has in the case of being unable to make payment to employees. Highlighted that the amount should depend on the number of employees and that there would be a greater need to demonstrate sufficient capital to avoid the practice of phoenixing using shelf companies.
Maurice Blackburn Lawyers	Submitted that amount should be based on assessment of assets, revenue and cash flow.
Dr Elsa Underhill	Submitted that amount should be calculated based on liquid assets, including cash, term deposits, investments in shared etc. Submitted that for larger LHPs, the threshold should extend to fixed assets such as building, plant and machinery. Considered that a reasonable amount could be enough to cover two-three months wages of the LHPs typical workforce, or the equivalent of 25% of their annual turnover.
Lockyer Valley Regional Council	Proposed that the threshold capital amount be calculated on the peak period turnover of the given LHP. Proposed that in the initial period of application these turnover levels could be self-assessed and thereafter calculated from the annual audited report and/or taxation lodgement declarations.
Construction, Forestry, Mining and Engineering Union	Proposed that there should not be a specific amount required, but that it should depend on the specific circumstances of each application for a licensee (capital, assets, size of operation, etc.).
National Union of Workers	Propose that a threshold capital requirement should be based on an assessment of assets, revenue and cash flow. Propose that it is necessary as it could act as an effective barrier to entry and would exclude small, undercapitalised companies from entering the market unless they have sufficient capital to properly fund the necessary costs of operation, including ongoing licence fees, tax liabilities and employee wages and entitlements, including superannuation payments.

Attachment 10 - Capital Threshold Requirement

Ai Group	Submitted that the no capital threshold requirement should be imposed on labour hire companies, as it would be a significant barrier to entry, particularly for smaller businesses.
Apprentice Employment Network	Submitted that the amount may be difficult to calculate, but suggested that annual checks to ensure that the provider can meet employee entitlements may be appropriate.
Queensland Nurses Union submitted that	Submitted that companies must be able to demonstrate they have the capital to operate a legitimate business.
Australasian Meat Industry Employee's Union	Supported QCU submission.
Australian Manufacturing Workers' Union Qld & NT	Submitted that in order to satisfy the fit and proper person test, the responsible officer must show that they satisfy the threshold capital requirement.
Local Government Association of Queensland	Supported for evidence of sufficient capital to meet business and employee obligations prior to granting of a licence.
Electrical Trades Union	Supported for a capital requirement to function as a barrier to entry. Submitted that there needs to be a formula that is adequate to cover all financial risks, taking into account the level of exposure of the individual labour hire operator.