

Attachment 11 – Bond

Table 1: Examples of bond arrangements in other licensing schemes

| Name of licensing scheme | Formula for calculation of bond | Amount | Purpose of bond |
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| Ministry of Manpower Employment Agencies (Singapore) | Requires a security deposit or bond. Amount is calculated with reference to the provider's track record and volume of placements. The amount is decreased or increased depending upon past performance/breaches (demerit points). This provides a positive incentive to organisations to comply with legislative requirements. For the first year of operation the minimum security deposit is \$57 500 | Ranges from \$19,100 to \$57,500 | The bond is used as an incentive for organisation to comply with the legislative requirements as it varies depending on past breaches. It is also used as a financial hurdle to deter 'fly-by-night' operators. The bond is discharged 6 months after termination or upon expiry of the licence. |
| Luxembourg Labour Code | Requires authorisation of agencies by the Ministry of Labour and Employment, as advised by the Employment agency and the Work and Mines Inspectorate, taking into account evidence of the professional worthiness and qualifications of the applicant. Approval is subject to a financial guarantee to cover wage and taxation obligations in the event of failure. This is currently set at €87,000 for the first year then fixed at 11 percent of turnover. Amount is held for at least 12 months after the termination, revocation or expiry of a licence, to protect workers against continued liabilities. | Set at €87,000 for the first year then fixed at 11 percent of turnover. | The purpose of the bond is to cover wage and tax obligations in the event of failure. If no failure occurs, bond is returned upon termination or expiry. |
| Queensland Building and Construction Commission (QBCC) | QBCC Builders and Contractors must pay a bond no less than 4 per cent of assets. | For example, a 'Maximum Revenue' of \$600,000 requires Net Tangible Assets of \$36,000 and a Maximum Revenue of \$4,000,000 requires Net Tangible Assets of \$210,000. | Implemented to ensure licensees operating in the industry remain financially viable. |
| Australian Financial Services (AFS) Licence | NB: To obtain an AFS licence you are no longer required to lodge a security deposit (bond) | Between \$20 000 and \$250 000 | Implemented so that ASIC could apply part or all of the bond to a |

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| | The maximum security deposit prescribed for investment advisers and dealers was previously \$20,000. ASIC had determined that the maximum amount for liquidators is \$250,000. | | claim made by a client for loss due to the failure of the licensee. Bond was refundable once ASIC satisfied that no further claims against the licensee would be made (onus on licensee to apply for this). |
| Business Queensland environmental Licences and permits | Businesses (usually mining companies) may have to pay financial assurance before carrying out any activities authorised by their licence. Financial assurance (Bond) is based on the likely costs and expenses that the Queensland Government may incur when taking action to rehabilitate or restore and protect the environment because of environmental harm that a business may cause. | Up to a maximum of \$32 million per year | Bond is required to cover the likely costs of preventing, minimising, rehabilitating or restoring an environment in which the licence holder's business is being conducted. Bond is discharged upon application of the licences holder. |

Table 2: Submissions to Issues Paper regarding considerations for a bond for a Queensland labour hire licensing scheme

| Submitted by: | Suggested formula for calculation, amount and purpose of a bond |
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| Queensland Council of Unions The Australasian Meat Industry Employee's Union, Australian Manufacturing Workers' Union Electrical Trade Union | Submitted the Luxembourg Labour Code as a formula for the calculation of a bond. Submitted that an amount of 11 percent of turnover is their initial position. Submitted that was necessary to secure employees against unpaid wages and outstanding entitlements in the event of liquidation. Propose that the payment of a security bond is to be held against liabilities, mitigate risk against liquidation, acts as 'payroll insurance' and secures employees against unpaid wages and other outstanding entitlements in the event of liquidation. |
| National Union of Workers | Suggest to look to the Singapore model in relation to the formula for which security bonds are calculated, which takes into consideration previous performance/breaches by the agency. Noted the formula used in Luxembourg is also notable whereby in the first year of activity, the agency is required to provide a 'financial guarantee' of 87,000 euros. Propose that the payment of a security bond is to be held against liabilities, mitigate risk against liquidation, acts as 'payroll insurance' and secures employees against unpaid wages and other outstanding entitlements in the event of liquidation. |
| Queensland Law Society | Support a bond but do not propose an amount. |

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| Maurice Blackburn Lawyers | Proposed that calculation of a bond should equate to payroll insurance and secure employees against unpaid wages and outstanding entitlements in the event of liquidation. |
| Dr Elsa Underhill | Bond should be based on the Singaporean experience which has a starting bond of A\$50,000. Noted that the Singaporean government increases or decreases the amount dependent upon past performance, which provides a positive incentive to organisations to comply with licensing requirement, whilst penalising those who breach requirements. |
| Lockyer Valley Regional Council | Proposed that if contractors have the threshold capital to pay one week, peak time wages per employee (not FTE) then this could be secured as a minimum bond amount. Proposed that a scale would need to be implemented depending on the size of the operation and the usual duration of labour hire e.g. some larger operators provide labour for a period of more than eight (8) weeks at a time, bond should be based on an eight week, peak period wage assurance. |
| Construction, Forestry, Mining and Engineering Union | Proposed that a bond be calculated based on amount of wages paid by licensee to employees over the course of the licence and, similarly to a WorkCover premium paid by employers, adjusted each year. |
| Electrical Trade Union | If the labour hire operator is newly established, an initial guarantee of \$125,000 should be required for the first 12 months, and then revert to the formula that applies to other licensees thereafter Further proposed that the amount should be held at least 12 months after the termination, revocation or expiry of a licence, to protect workers against continued liabilities. |
| Apprentice Employment Network | Disputed that a bond is required, as all companies are required to follow legislative requirements and regulations in Queensland, and that serious penalties exist if they do not comply. |
| Ai Group | Opposed a bond requirement, as it would impose a significant barrier to entry to the industry, particularly by smaller businesses. |
| Local Government Association of Queensland | Did not support a bond requirement. |