

# EXCLUDED INDIVIDUALS AND COMPANIES

To ensure public confidence in QBCC's licensing system, and to promote security of payment in the building and construction industry, the *Queensland Building and Construction Commission Act 1991* (the "Act") contains anti-phoenix provisions which prevent those responsible for poor financial management from running a business in the building industry.

These provisions prevent people who:

- become bankrupt or enter into a Part IX or Part X agreement; or,
- are responsible for a company failure,

from holding a QBCC Contractor or Nominee Supervisor licence, or from being in a position of control or influence for a QBCC-licensed company.

The period of exclusion is 5 years from the date of the insolvency events that occur before 1 July 2015.

The period of exclusion is 3 years from the date of the insolvency event for events that occur from 1 July 2015.

A person involved in 2 separate insolvency events faces life exclusion.

## **Under what circumstances will a person become an excluded individual?**

A person becomes an "excluded individual" if the individual is a director, secretary or influential person for a company at any time up to two years before the company has a provisional liquidator, liquidator, administrator or controller appointed, or is wound up or ordered to be wound up for the benefit of the creditor.

An influential person, for a company, is an individual, other than a director or secretary of the company, who is in a position to control or substantially influence the company's conduct.

A person also becomes an "excluded individual" if they become bankrupt or take advantage of the

laws of bankruptcy by entering into a Part IX or Part X agreement.

For insolvency events that occur from 1 July 2015, a failed company will only lead to exclusion if the company was a construction company. This means that it directly or indirectly carries out building work or building work services within 2 years of the insolvency event.

## **What is the effect of someone being an excluded individual?**

The excluded individual's QBCC contractor or nominee supervisor licence will be cancelled and they will be unable to reapply for another licence until their exclusion period ends. They are also prevented from being a director, secretary or influential person for a QBCC-licensed company during this time.

## **Under what circumstances will a company become an excluded company?**

A company becomes an excluded company if an excluded individual is a director, secretary or influential person for the company.

## **What is the effect of a company being an excluded company?**

The excluded company's QBCC licence will be cancelled and they will be unable to reapply for another licence until the exclusion period ends unless the excluded individual stops being a director, secretary or influential person.

## **Need more information**

Check out our website at [www.qbcc.qld.gov.au](http://www.qbcc.qld.gov.au) or visit your local QBCC office.