

**Form 4**

# Fit and proper person declaration

If you are applying for a labour hire licence under the *Labour Hire Licensing Act 2017* (Qld) (the Act), or are a proposed nominated officer or executive officer to an application, the Chief Executive will need to determine that you are fit and proper to provide labour hire services.

The *Fit and proper person declaration* must be completed as part of the application process.

Matters relevant to determining whether a person is fit and proper are set out in section 27 of the Act and in various provisions of the Labour Hire Licensing Regulation 2018 (Qld).

## Completing this declaration

Section 15(a) of the Act requires each of the following persons to be fit and proper:

- each applicant (including where the applicant is a corporation)
- proposed nominated officers
- each executive officer (if the applicant is a corporation).

Each of the above people must complete this declaration.

The applicant is required to retain a signed copy of this declaration for each person. The applicant must be able to provide copies of this declaration to the Office of Industrial Relations if requested.

This declaration must be answered with true and correct information. It is a serious offence to provide false and misleading information.

## Answering 'yes' to questions in the *Fit and proper person declaration*

Where a 'yes' answer has been provided to one or more of the fit and proper questions closer consideration will be given to an application.

A 'yes' answer will not automatically result in a determination that you are not fit and proper to provide labour hire services, but is likely to require further review about the circumstances of that answer to better inform a decision about the fit and proper status of the person.

## Further information

The Act allows the collection of personal information to assess the suitability of each person to provide labour hire services and to assess compliance with the Act.

Personal information will only be provided to other persons or agencies with the permission of the relevant person or where permitted or required by law.

Further information about the *Fit and proper person declaration* is available at [labourhire.qld.gov.au](http://labourhire.qld.gov.au). If you require assistance in completing your declaration please phone 1300 576 088.

## Definitions

### Executive officer

Any person who is concerned or takes part in the management of the corporation. It includes the directors or members of a corporation's governing body.

### Relevant law

- a) The *Labour Hire Licensing Act 2017* (Qld)
- b) A provision of an Act or law of the State, the Commonwealth or another state imposing an obligation on a person in relation to workers, including, for example, obligations about:
  - keeping records about workers
  - the payment of tax or superannuation for workers
  - ensuring the health and safety of workers.

### Examples

- *Age Discrimination Act 2004* (Cth)
- *Anti-Discrimination Act 1991* (Qld)
- *Australian Human Rights Commission Act 1986* (Cth)
- *Building and Construction Industry (Portable Long Service Leave) Act 1991* (Qld)
- *Child Employment Act 2006* (Qld)

- *Coal Mining Safety and Health Act 1999 (Qld)*
  - *Contract Cleaning Industry (Portable Long Service Leave) Act 2005 (Qld)*
  - *Disability Discrimination Act 1992 (Cth)*
  - *Electrical Safety Act 2002 (Qld)*
  - *Explosives Act 1999 (Qld)*
  - *Fair Work Act 2009 (Cth)*
  - *Fire and Emergency Services Act 1990 (Qld)*
  - *Heavy Vehicle National Law Act 2012 (Qld)*
  - *Independent Contractors Act 2006 (Cth)*
  - *Industrial Relations Act 2016 (Qld)*
  - *Labour Hire Licensing Act 2017 (Qld)*
  - *Migration Act 1958 (Cth)*
  - *Mining and Quarry Safety and Health Act 1999 (Qld)*
  - *Payroll Tax Act 1971 (Qld)*
  - *Queensland Building and Construction Commission Act 1991 (Qld)*
  - *Racial Discrimination Act 1975 (Cth)*
  - *Radiation Safety Act 1999 (Qld)*
  - *Residential Services (Accreditation) Act 2002 (Qld)*
  - *Residential Tenancies and Rooming Accommodation Act 2008 (Qld)*
  - *Safety in Recreational Water Activities Act 2011 (Qld)*
  - *Sex Discrimination Act 1984 (Cth)*
  - *Superannuation Guarantee (Administration) Act 1992 (Cth)*
  - *Transport Operations (Marine Safety) Act 1994 (Qld)*
  - *Transport Operations (Passenger Transport) Act 1994 (Qld)*
  - *Work Health and Safety Act 2011 (Qld)*
  - *Workers' Compensation and Rehabilitation Act 2003 (Qld)*
  - a law of the Commonwealth or another state that provides for the same, or substantially the same matter as any Acts or provisions mentioned above.
- c) a provision of a law, including a local law, about the standards of buildings and structures, to the extent it relates to a building or structure used to provide accommodation to a worker.

Please note, this list is not exhaustive and other relevant laws might apply in each case.

### **Serious criminal offence**

- a) An offence against an Act or another law of the State, the Commonwealth, another state or another country involving any of the following and punishable on conviction by imprisonment for two years or more.
- the intentional use of violence towards another person
  - the causing of death or injury to a person
  - the endangerment of the life or health of a person
  - the rape or sexual assault of a person
  - the indecent treatment of a child
  - child pornography
  - the abduction, kidnapping or deprivation of liberty of a person
  - the theft of property
  - the importation or exportation of, dealing with, trafficking in, or production of, drugs
  - burglary or the unlawful entry of property
  - the importation, sale, misuse or concealment of weapons
  - fraud, dishonesty, extortion or bribery
  - the damage or destruction of property or the environment
  - a breach of the peace or public order
  - the hindrance of, or interference with, the administration of law or justice or the conduct of a government entity or public authority.
- b) An offence against an Act or another law of the State, the Commonwealth, another state or another country of counselling or procuring the commission of an offence mentioned in paragraph (a).
- c) An offence against an Act or another law of the State, the Commonwealth, another state or another country of attempting, or of conspiring, to commit an offence mentioned in paragraph (a).

**Form 4**

# Fit and proper person declaration

Labour Hire Licensing Act 2017 (Qld)

|  |                                       |
|--|---------------------------------------|
| Name:  |                                       |
| Applicant/ executive officer/ nominated officer: |                                       |
| Date of birth (if you are the applicant):        | Position in business (if applicable): |
| Business name:                                   |                                       |
| Any other trading name(s) (if applicable):       |                                       |
| ABN (if applicable):                             | ACN or ARBN (if applicable):          |

| Question  | Yes                      | No                       |
|---|--------------------------|--------------------------|
| 1. Have you ever been convicted of a serious criminal offence?<br>(See page 1 for a definition of serious criminal offence and Appendix A for a list of examples.)  | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. In the past five years, have you been convicted of an offence under a relevant law?<br>(See page 1 for a definition of a relevant law.)  | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. Have you ever applied for, or held a Queensland or interstate labour hire licence? (If no, go to question 5.)  |                          |                          |
| 4. In relation to Question 3, in the past five years, have you had:   | <input type="checkbox"/> | <input type="checkbox"/> |
| • the application refused?  | <input type="checkbox"/> | <input type="checkbox"/> |
| • a condition imposed on the licence?   | <input type="checkbox"/> | <input type="checkbox"/> |
| • the licence suspended?  | <input type="checkbox"/> | <input type="checkbox"/> |
| • the licence cancelled?  | <input type="checkbox"/> | <input type="checkbox"/> |
| • other disciplinary action taken in relation to the licence?   | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. Have you applied for, or held a licence, accreditation or other authority under another Act to carry out a business or practice in an occupation? (If no, go to question 7.) (E.g. a practicing certificate, a security provider licence.) | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. In relation to Question 5, in the past 5 years, have you had:  |                          |                          |
| • the application refused?  | <input type="checkbox"/> | <input type="checkbox"/> |
| • a condition imposed on the accreditation or authority?  | <input type="checkbox"/> | <input type="checkbox"/> |
| • the authority or accreditation suspended?   | <input type="checkbox"/> | <input type="checkbox"/> |
| • the authority or accreditation cancelled?   | <input type="checkbox"/> | <input type="checkbox"/> |
| • other disciplinary action taken in relation to the accreditation or authority?  | <input type="checkbox"/> | <input type="checkbox"/> |
| 7. In the past five years, has an industry or professional body:  |                          |                          |
| • refused to grant you membership?  | <input type="checkbox"/> | <input type="checkbox"/> |
| • reprimanded you?  | <input type="checkbox"/> | <input type="checkbox"/> |
| • taken any disciplinary action against you?  | <input type="checkbox"/> | <input type="checkbox"/> |
| • suspended your membership of the professional body?   | <input type="checkbox"/> | <input type="checkbox"/> |
| • cancelled your membership of the professional body?   | <input type="checkbox"/> | <input type="checkbox"/> |
| 8. In the past five years have you:   |                          |                          |
| • had an enforceable undertaking accepted under section 715 of the <i>Fair Work Act 2009</i> (Cth)?   | <input type="checkbox"/> | <input type="checkbox"/> |
| • been issued an infringement notice under the <i>Migration Act 1958</i> (Cth)? (E.g. an Illegal Worker Warning Notice.)  | <input type="checkbox"/> | <input type="checkbox"/> |
| 9. In the past five years have you had a work health and safety undertaking accepted under the <i>Work Health and Safety Act 2011</i> (Qld) or under a law of another state or the Commonwealth that provides for similar matters?            | <input type="checkbox"/> | <input type="checkbox"/> |

| Question   | Yes                      | No                       |
|--|--------------------------|--------------------------|
| 10. In the past five years have you been given an infringement notice under the <i>Fair Work Act 2009</i> (Cth)?   | <input type="checkbox"/> | <input type="checkbox"/> |
| 11. In the past five years, have you been convicted of an offence against the <i>Anti-Discrimination Act 1991</i> , <i>Sex Discrimination Act 1984</i> (Cth) or another law, former law, a law of another state that has or had the same jurisdiction (Qld)?   | <input type="checkbox"/> | <input type="checkbox"/> |
| 12. In the past five years, have you been the subject of a complaint alleging sexual harassment under an anti-discrimination law? (E.g. the <i>Anti-Discrimination Act 1991</i> , <i>Sex Discrimination Act 1984</i> (Cth) or another law, former law, a law of another state that has or had the same jurisdiction (Qld)? | <input type="checkbox"/> | <input type="checkbox"/> |
| 13. If you are an individual, have you been made insolvent under administration under the <i>Corporations Act 2001</i> (Cth)?  | <input type="checkbox"/> | <input type="checkbox"/> |
| 14. Have you been an executive officer of a corporation that has been placed into administration, receivership or liquidation?   | <input type="checkbox"/> | <input type="checkbox"/> |
| 15. Have you been disqualified from managing corporations under the <i>Corporations Act 2001</i> (Cth)?  | <input type="checkbox"/> | <input type="checkbox"/> |
| 16. Are you under the control of, or substantially influenced by another person who the Chief Executive may consider not to be a fit and proper person to provide labour hire services?  | <input type="checkbox"/> | <input type="checkbox"/> |

If you answered yes to any of the questions 1-16 above, you may wish to provide further details below. This may assist your business in responding to any requests for further information.

If completing a paper-based version of this document copy the table as many times as required.

| Question answered Yes: | Year event occurred: | Details: |
|------------------------|----------------------|----------|
|                        |                      |          |
|                        |                      |          |
|                        |                      |          |
|                        |                      |          |
|                        |                      |          |

## Declaration

This section must be completed by the person named in the declaration. If a corporation is making this declaration please make the declaration as required under the *Corporations Act 2001* (Cth).

I, \_\_\_\_\_ declare that the information I have provided in this *Fit and proper person declaration* is true and correct.

I understand that a person who intentionally makes a false statement in this declaration is guilty of an offence under section 91 of the *Labour Hire Licensing Act 2017* (Qld).

I believe that the statements in this declaration are true in every particular.

| Name | Signature | Date |
|------|-----------|------|
|      |           |      |

## Appendix A

| Type of offence  | Examples of this offence   |
|--|--|
| Homicide and related offences  | Murder, attempted murder, manslaughter   |
| Acts intended to cause injury  | Torture, wounding, assault occasioning grievous bodily harm  |
| Sexual assault and related offences  | Rape, incest, indecent treatment of a child, child pornography offences  |
| Dangerous or negligent acts endangering persons                                    | Dangerous or negligent operation of a vehicle  |
| Abduction, harassment and other offences against the person                        | Abduction, kidnapping, deprivation of liberty, false imprisonment, harassment and threatening behaviour  |
| Unlawful entry/burglary, break and enter   | Break and enter with violence or threat  |
| Theft and related offences   | Theft, motor vehicle theft, receiving or handling proceeds of a crime  |
| Illicit drug offences  | Importing or exporting illicit drugs, dealing or trafficking illicit drugs, manufacturing or cultivating illicit drugs   |
| Prohibited and regulated weapons and explosive offences                            | Importing, selling or using regulated weapons; unlawfully concealing or misusing regulated weapons   |
| Misleading and deceptive offences  | False pretence, fraud, extortion, bribery  |
| Property damage and environment pollution  | Arson, property damage   |
| Public order offences  | Riot, criminal intent, trespass, consorting, gambling offences, liquor offences by licensees   |
| Offences against justice procedures, government security and government operations | Breach of violence and non-violence order, offences against government security or government operations, immigration offences (including people trafficking and visa offences), bribery |