

# DIRECTOR IDENTIFICATION NUMBER



Nearly three years ago the Federal Government announced its plans to merge the multiple Australian business registers. The intention was to update the IT infrastructure behind the Australian Business Register and Australian Securities and Investment Commission's (ASIC) thirty-one registers which date back to the 1990's. This decision has required approval of new bills into parliament. On 22 June 2020 the "[Treasury Laws Amendment \(Registries Modernisation and Other Measures\) Bill 2019](#)" was passed in parliament.

## Unified Australian Business Register

As part of the new Deregulation Agenda, the Government's plan for implementing the [Modernising Business Registers \(MBR\) Program](#) is to support businesses in an evolving digital economy. It is hoped the MBR Program will unify the Australian Business Register (ABR) and 31 registers administered by the Australian Securities and Investments Commission (ASIC) on a contemporary, digital registry system. This includes the registers for companies, business names, Australian business numbers (ABN) and others. It is anticipated that the unified registers will make it easier for organisations to meet their registration obligations, enhance trust in the business information and improve registry service transaction efficiency.

The most pressing and significant change is the Director Identification Number. So what does this all mean for charities and not-for-profits who operate under a company structure?

## Director Identification Number

The aim of the Director Identification Number (DIN) is to prevent the appointment of fictitious directors and enable their profiles and relationships with companies to be traced. Directors will be registered for life within the system and assigned with a unique number.

As individuals become a director of a registered company they will have to confirm their identity prior to being assigned a DIN. If an individual ceases to be a company director their DIN will remain in the system and will be required if the person takes up a new director role with a different company. The DIN applies to directors of charities that are registered companies such as company limited by guarantee.

The new changes, expected to be in place by the first half of 2021, requires individuals to apply for a DIN before they can be appointed as a director unless they have been granted an exemption or extension by the registrar. The Din will be administered by the Australian Business Register.

## Existing vs New Directors

Transition rules are in place for the new system for the first 12 months. New directors will have 28 days to verify themselves and obtain their DIN. After the transition period new directors will require a DIN before they can be registered as a director.

Current directors will be given 18 months to verify their identity.

### Why is this needed?

The new DIN was introduced following a [2015 Productivity Commission report](#) which highlighted the issue of phoenixing which is when companies deliberately avoid paying debts by winding up the company and transferring assets to another company. It is estimated this practice costs the Australian economy between \$2.9 billion and \$5.13 billion per year.

There are a number of stakeholders impacted by phoenix practices including the creditors, contractors, employees and the government with avoidance of paying tax.

Aside from phoenixing activities, including the use of fictitious identified, this practice will improve data quality overall by ensuring a consistent and single record for each director. This overcomes historical issues such as incorrect spelling of names and reversal of given and middle names for example.

### Penalties for Failure to Apply

The DIN will make it easier to investigate and prevent repeated unlawful behaviour as well as making directors more accountable for past activities. Criminal and civil penalties are possible for any director who fails to apply for a DIN, for providing false identity information and for knowingly applying for a second DIN when one already exists.

The following penalties concerning obligations have been detailed in the [Explanatory Memorandum published under Treasury Laws Amendment](#):

## Director Identification Number - What you need to know

### Obligation

### Maximum Penalty

Requirement to apply for a director identification number prior to appointment or within such other period as allowed by the regulations or registrar

*Corporations Act*

Criminal – 60 penalty units (strict liability) Civil penalty – Greater of 5,000 penalty units or three times the benefit derived or detriment avoided because of the contravention

*CATSI Act*

Criminal – 25 penalty units (strict liability)

Civil penalty – \$200,000

Requirement to apply for a director identification number if directed by the registrar

*Corporations Act*

Criminal – 60 penalty units (strict liability)

Civil penalty – Greater of 5,000 penalty units or three times the benefit derived or detriment avoided because of the contravention

*CATSI Act*

Criminal – 25 penalty units (strict liability)

Civil penalty – \$200,000

Applying for additional DINs

*Corporations Act*

Criminal – 120 penalty units or imprisonment for 12 months, or both

Civil penalty – Greater of 5,000 penalty units or three times the benefit derived or detriment avoided because of the contravention

*CATSI Act*

Criminal – 100 penalty units or imprisonment for 12 months, or both

Civil penalty – \$200,000

## Director Identification Number - What you need to know

### Obligation

### Maximum Penalty

Misrepresenting a DIN

*Corporations Act*

Criminal – 120 penalty units or imprisonment for 12 months, or both

Civil penalty – Greater of 5,000 penalty units or three times the benefit derived or detriment avoided because of the contravention

*CATSI Act*

Criminal – 100 penalty units or imprisonment for 12 months, or both

Civil penalty – \$200,000

Accessorial liability (being involved in a contravention of one of the above obligations)

*Corporations Act*

Civil penalty (natural person) – Greater of 5,000 penalty units or three times the benefit derived or detriment avoided because of the contravention

Civil penalty (body corporate) – Greater of: 50,000 penalty units; three times the benefit derived or detriment avoided because of the contravention; or, 10 per cent of the annual turnover of the body corporate up to a maximum amount of 2.5 million penalty units *CATSI Act*

Civil penalty – \$200,000 for a natural person

## Summary

No doubt there will be teething problems when the new system commences but from a governance perspective this a welcome introduction. It will improve data quality, reduce fraud activity and allow greater transparency of the number of Boards individual directors sit on. The introduction of the central business register will also reduce red tape which is always welcome.



The [Impact Suite](#) was founded with a view that all social impact organisations, irrespective of their location or size, should have access to the best experts and ideas in order to maximise their impact for our community. Too many organisations struggle with limited resources, meanwhile stakeholders and donors tend to focus on simple measures like 'administrative expenses' while missing the value of impact. With founders from all aspects within the sector including charity founders, board/committee members, consultants, technology developers, and analysts - we have developed a proprietary Social Impact Rating which focuses on governance aspects and social impact of Australian charities.

The Impact Suite's proprietary [Social Impact Rating](#) is only for Australian Charities and other social impact organisations. We have extensively researched and consider 5 key factors important to an organisation's sustainability and effectiveness in order for them to make a difference in our community. The Impact Suite has taken the symbolism of the lotus flower and used it as a vital measure of an organisation's sustainability with each petal representing the 5 key success factors - Purpose, People, Process, Impact and Review. The [Social Impact Rating](#) helps anyone instantly identify good organisations.

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