



Final Call on Director Identification Numbers (DIN's)

You may recall our newsletters on this topic sent in November 2021 and again in April 2022. This is your **final reminder** that if you do not have a Director Identification Number (DIN) you need to get one very soon, time is running out and significant penalties may apply.

It is a new requirement being brought in by our Federal Government to cut down on fraud and to standardise people's names across all Government databases. We have prepared a diagram that explains the timeline of when you need a DIN. Existing directors still have **until 30 November 2022** to get a DIN, unless they want to be added as a director to a new or existing company. We have attached a visual summary of the deadline dates.

The Identification process will be done through MyGov ID which is different to MyGov (!). It is not something we can do for you as it is all based on verifying your personal identification. You will need to have documents handy such as your birth certificate, drivers licence, current passport, etc as the app will cross reference your full name and ID across all of those databases. Your name must be exactly the same across all databases with your middle name(s) included and spelt correctly. Hyphens and symbols like the French circumflex ^ are bound to cause some headaches. We have attached for your information a link to [How to Setup a MyGov ID](#).

Also, you may need to use **Google Chrome** when using the internet, other search engines are proving to be problematic.

Once you have your ID sorted out, then head to the Australian Business Registry Service (ABRS) to obtain your DIN. The link is [here](#).

If you cannot obtain a DIN using MyGov ID, then you will need to call the ABRS on 13 62 50. As we get closer to 30 November 2022, that line is going to be super busy so do not leave it too late.

***** BREAKING NEWS *****

We have just learned this week that the obligation to obtain a DIN also applies to any client who was a director **on or before 31 October 2021**, even if they have since resigned from all directorship roles and have no intention to ever be appointed in the role of director of any Australian or foreign company AND even if they passed away after 31 October 2021 (!). Whilst the inclusion of deceased directors under the requirements was likely an unintentional outcome, it remains at this point in time a requirement and we await some sensible guidance from the Australian Taxation Office (ATO).

Once you have your DIN, please let us know as soon as possible. At some stage, your DIN will be linked to the company(ies) where you are a director. Meanwhile, the Australian Restructuring Insolvency & Turnaround Association recently sought clarification about the status of directors who fail to get IDs.

The ABRS responded:

“1. If a director does not have a director ID:

a. Will the director lawfully remain a director?

Yes — provided that they were lawfully appointed.

b. Will their actions/decisions be valid?

Yes — provided that their actions/decisions are lawful.

c. Will a director appointment made after 30 November 2022 be valid?

Yes — provided that the appointment is lawful.

2. However, a director must also comply with their director ID obligations under the Corporations Act 2001.”

While actions and decisions taken by director remain unaffected by whether they have an ID or not, the ABRS cautioned that: “Civil and/or criminal penalties may apply for failure to have a director ID. Civil penalties may also be applied to a person (such as a tax agent) who is ‘involved’ in a contravention of the director ID requirement.

“The Registrar can direct a director to apply for a director ID. Civil and/or criminal penalties may be applied for failure to comply with such a direction.”

“Civil penalties may also be applied to a person (such as a tax agent) who is ‘involved’ in a failure to comply with such a direction.”

The ATO confirmed the registrar did have the power to take firmer action if “a director’s behaviour is egregious or demonstrates an unwillingness to comply with the requirements to obtain a director ID”.

Failure to have a director ID when required to do so or failure to apply when directed by the registrar can carry a maximum **criminal penalty of \$13,200 or up to \$1,100,000 under civil law.**

As always, if you have any questions, please contact our office.