



## DIRECTOR IDENTIFICATION NUMBERS: WHAT YOU NEED TO KNOW

From 1 November 2021, a new regime will take effect which will require directors of companies to apply for and obtain a Director Identification Number (**Director ID**). The regime was introduced under the *Treasury Laws Amendment (Registries Modernisation and Other Measures) Act 2020*, which implements a new Part 9.1A into the *Corporations Act 2001* (Cth) (**Corporations Act**) and a new Part 6-7A into the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth) (**CATSI Act**) to set out the obligations surrounding Director ID's and the consequences of failing to adhere to those requirements.

The measures, which form part of the arrangements which will consolidate all existing ASIC registers and the Australian Business Register into a single platform named the Australian Business Registry Services (**ABRS**), are designed to combat identity fraud and illegal phoenixing activity (that is, where a new company – for little to no value – continues the business of a liquidated company to avoid paying the latter's debts).

### What is a Director ID?

A Director ID is a unique 15-digit identifier given to a director, or someone who intends to become a director, who has verified their identity with the ABRS. The Director ID will be permanently attached to the director in question, irrespective of whether they cease being a director, become a director of a different company, change their name or relocate interstate or overseas.

### Who Is Required to Hold a Director ID?

A Director ID is required if an individual is or intends to be the director of:

- A company, a registered Australian body or a registered foreign company under the Corporations Act; or
- A corporation registered under the CATSI Act.

Anyone who is a director of a company, or an alternate director who is acting in that capacity, will need to have their own Director ID. Currently, the law does not require company secretaries (assuming they are not also a director themselves) to have a Director ID, but that may be subject to change in the future.

Directors of incorporated associations are not required to obtain a Director ID, unless the association has an Australian Registered Body Number (ARBN).

## How to Apply for a Director ID?

There is a multi-step process required in order for a person to obtain their Director ID, as set out below:

1. First, the applicant must set up a “MyGovID” account, which they can do [here](#).
2. Once they have done so, the applicant must verify their identity on that platform by providing two identity documents from a list given on the platform. This can be done from 1 November 2021 onwards.
3. Finally, the applicant must complete and submit the Director ID application form. This form will also be available on the ABR website from 1 November 2021.

It is critical for directors to be aware that they must apply for their Director ID themselves; no-one else is able to do this for them (given the identity verification requirement).

Applications for a Director ID are free of charge.

## Timeframes for Application

Different deadlines will apply, depending on whether a director is already a director prior to the commencement of the regime as well as on whether the person is (or will be) a director of an entity registered under the Corporations Act or the CATSI Act. These timeframes are set out in the tables below.

### Corporations Act Directors

Date you become a director	Deadline for application
On or before 31 October 2021	30 November 2022
Between 1 November 2021 and 4 April 2022	Within 28 days of appointment
From 5 April 2022	Prior to appointment as director



## CATSI Act Directors

Date you become a director	Deadline for application
On or before 31 October 2022	30 November 2023
From 1 November 2022	Prior to appointment as director.

A person who misses the relevant deadline will be able to apply for an extension. Details on how such applications are to be made will be published on the ABRIS websites from November 2021.

A person who is not a director but expects to become one within the next 12 months can apply for a Director ID. If they are not then appointed within that 12-month period, their Director ID will be cancelled.

## What Happens If a Director Fails to Comply?

The consequences for failing to hold a Director ID could be severe. Civil and criminal penalties may be applied.

A director of a Corporations Act entity that has not obtained a Director ID by the relevant deadline (without being granted an extension) could face a fine amounting to 5000 penalty units. This currently stands at \$1.1 million.

A director of an entity registered under the CATSI Act could face a fine of \$200,000.

Penalties can also be imposed against people who are “involved” in contraventions of the registration requirements, which could include the director’s/prospective director’s advisers.

Further penalties may also be imposed as a result of other conduct which abuses the requirements of or intent behind the Director ID regime, including where a person applies for multiple Director ID’s (unless they are directed by the Registrar of the regime to do so), provides false identity information, misrepresents their Director ID to another party or otherwise provides false or misleading information.

## How We Can Help

The new Director ID regime imposes a number of additional requirements which directors and prospective directors must comply with in order to avoid heavy penalties. Murfett Legal can assist directors to navigate their own personal obligations to ensure they comply in a timely and efficient fashion.



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Note: The above is a summary for general information purposes only. It is not intended to be comprehensive or constitute legal advice. You should seek formal legal or other professional advice in relation to your particular circumstances before relying on the content of this article.

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