SETTING UP A COMPANY IN AUSTRALIA

BDWelsh

Accountants and Business Advisors

An Australian company is its own legal entity and can do business throughout Australia. There is no restriction on the type of business activities a company conducts, provided that the activities are not illegal.

The most common type of company in Australia is a proprietary limited company, which has the “Pty Ltd.” designation, and is the equivalent of a limited liability company (LLC).

COMPANY MANAGEMENT

At least one of the directors must reside in Australia, but does not need to be an Australian citizen or permanent resident.

It is possible to establish a company with a minimum share capital of $1 dollar.You must decide the number of shares to be issued, class of share and issue price (ordinary shares are usually issued).

LL COMPANY DIRECTORS MUST APPLY FOR A DIRECTOR IDENTIFICATION NUMBER (DIN)

All current or intending directors are required to obtain a director identification number (DIN) prior to incorporating a company. This includes both resident and non-resident directors.

In the case of non-resident directors, normally a paper application must be submitted when applying for a DIN.

The paper application requires two different certified identification documents. We are able to incorporate a company within 24 hours of all directors lodging a DIN application.

Once a director obtains a DIN, it will apply to all companies they currently are, or intend to become a director of.

ADDRESS

When you register a company, the company requires a physical address. You cannot use a post-office box as a registered address.

You are able to use our address as the registered office address of your company.

TRADING NAME

A company name may not be available if there is an existing company with a similar name. Therefore, it is important to have several options for a company name.

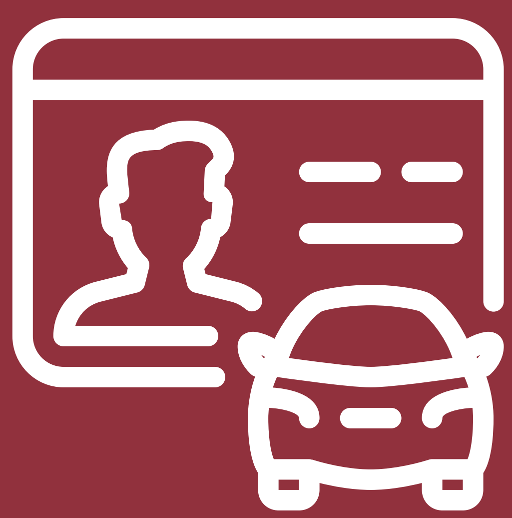
Companies and other businesses can also register a business name, where the company does not trade under its own name.

OPENING A BANK ACCOUNT

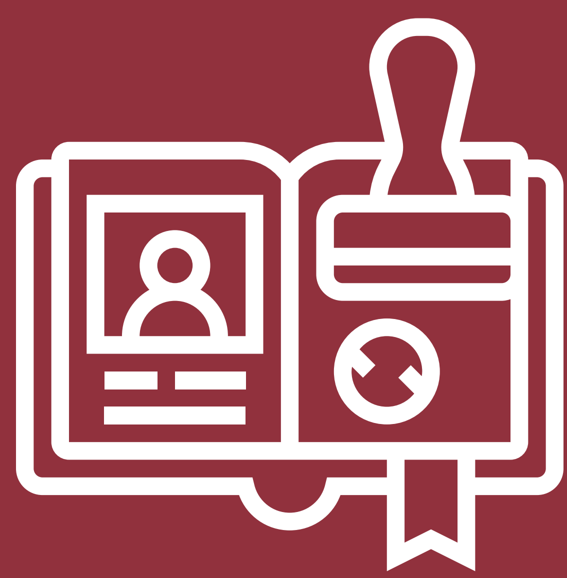
In order for a company to open up a business bank account in Australia, the bank will need to verify the identity of each director and signatory (authoriser) of the bank account.

Australian banks use a points system for required documentation whereby each director and signatory will need to obtain 100 points worth of documentation in order to open up the bank account.

Relevant identification documents and their respective points **include:**



Driver's License
(40 Points)



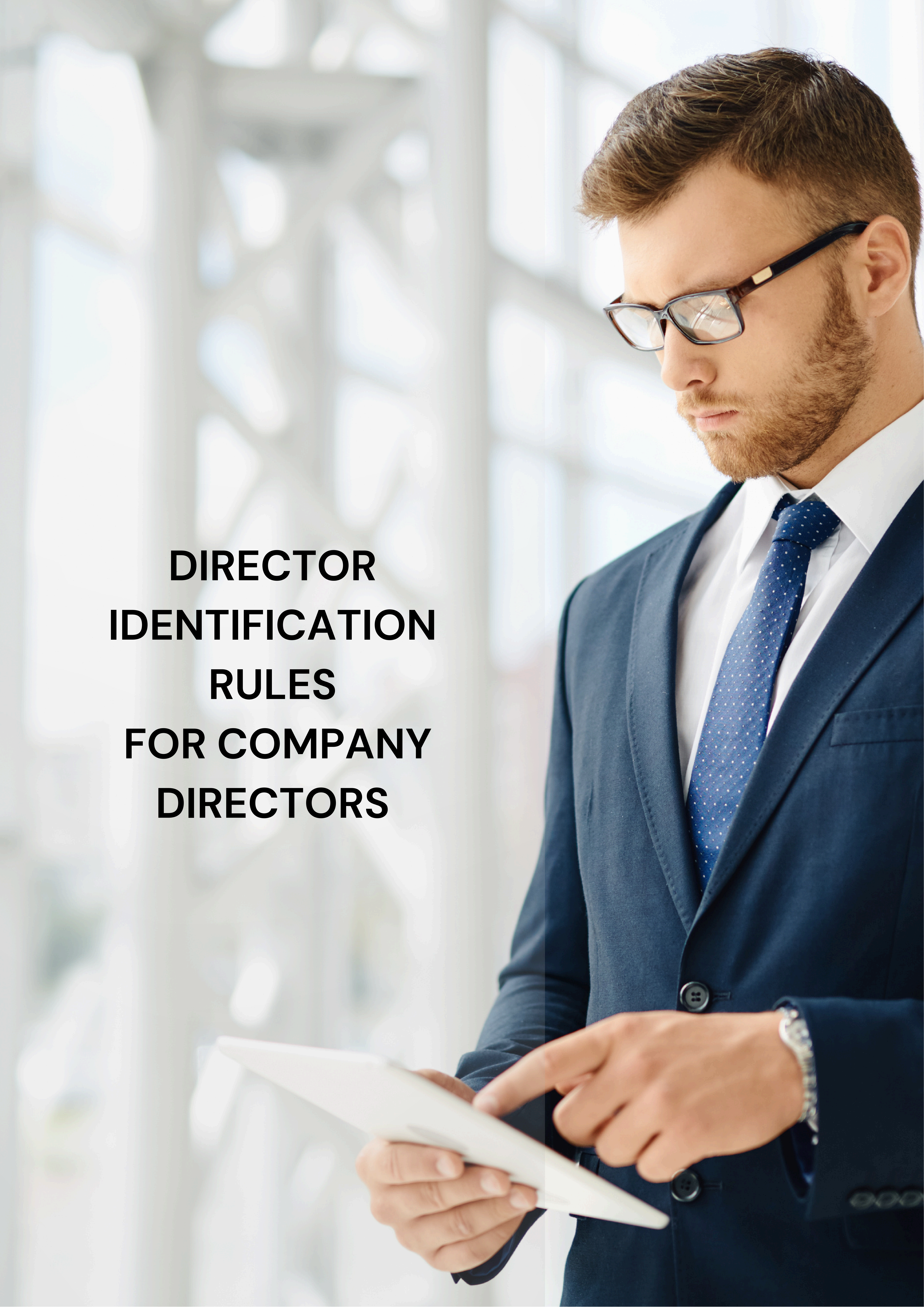
Passport
(70 Points)

ID Card
(40 Points)

OTHER REQUIRED DETAILS

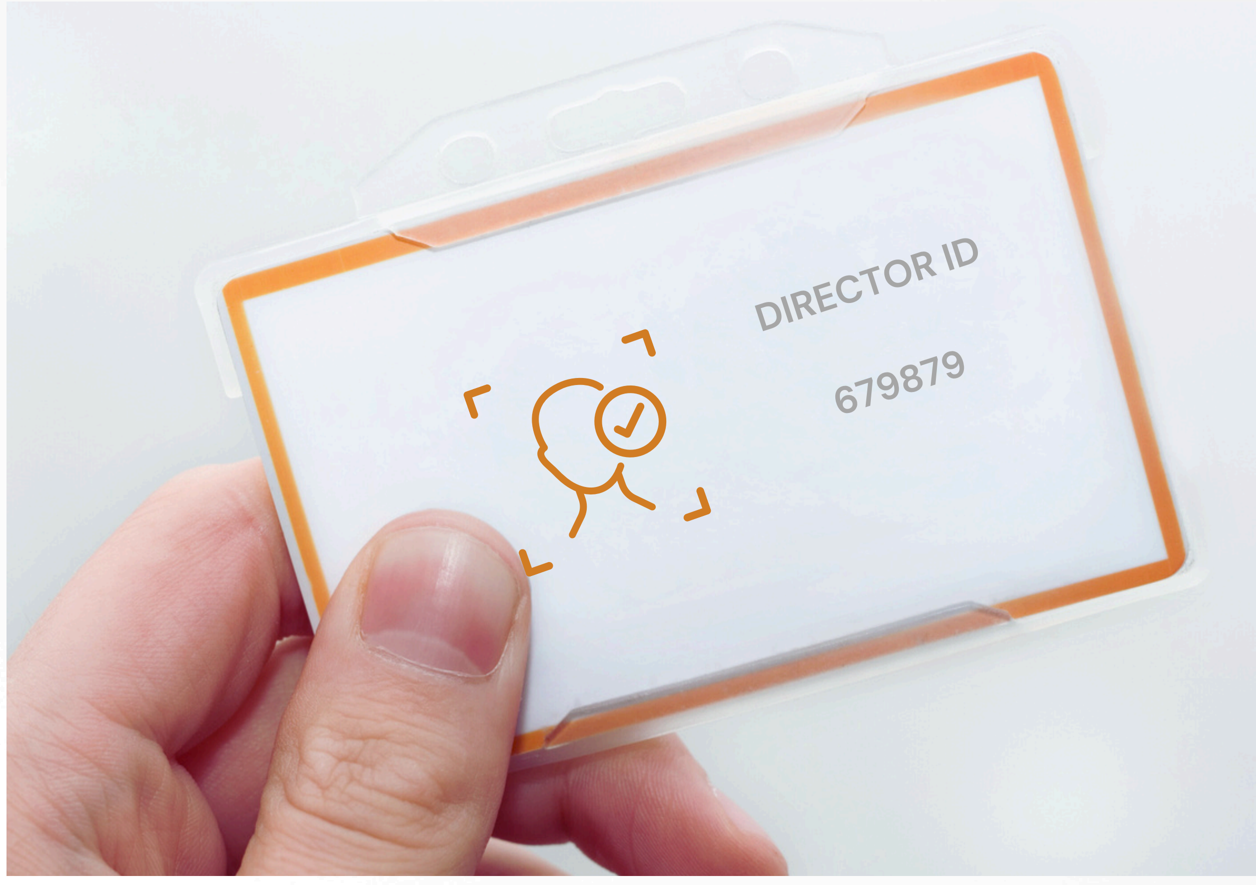
Each company is issued with a unique number called an ACN (Australian Company Number).

Companies must obtain an Australian Business Number (ABN) at the time they commence business.



DIRECTOR IDENTIFICATION RULES FOR COMPANY DIRECTORS

Starting from 1 November 2021, company directors including foreign directors are required by law to apply for a director identification number (director ID) following recent legislation passed by the government.



WHAT IS A DIRECTOR ID?

A director ID is a unique identifier issued by the Australian Business Registry Services (ABRS), which a director will apply for once and keep forever. The director ID aims to help prevent the use of false or fraudulent director identities.

It will help regulators trace directors' relationships with companies over time and identify situations where a director may be involved in unlawful activities such as illegal phoenixing activities.

WHO NEEDS TO APPLY FOR A DIRECTOR ID?

If you are currently a director, or intend to become one, you will need a director ID. This includes anyone who is, or wants to be, a director of a company, a registered foreign company, a registered Australian body or an Aboriginal and Torres Strait Islander corporation.

It is important to note that directors must apply for a director ID themselves as they will need to verify their identities with the authority. No one can apply on their behalf. However, we as your authorised tax agent can provide you advice on what the requirements are for applying for a director ID.

Furthermore, for overseas directors who need to apply for a director ID using a paper form, most overseas couriers will not deliver to the ABRS's P.O. Box address. In this case you may wish to send the completed paper form and identification documents to our address and we can deliver the documents on your behalf to the ABRS's address.

WHEN DO YOU NEED TO APPLY BY?

The date of when a director must apply for a director ID will depend on when they were appointed as a director for the first time:

- New directors appointed for the first time between 1 November 2021 and 4 April 2022 must apply **within 28 days of their appointment**.

- From 5 April 2022, new directors must apply for a director ID **prior to** being **appointed** as company directors.

- Existing directors appointed before 1 November 2021 have **until 30 November 2022** to apply.

HOW TO APPLY FOR A DIRECTOR ID?

There are three ways to apply for a director ID:

- **Online**: If you already have a myGovID with a Standard or Strong identity strength, you can apply for your director ID online through the ABRS website. This will generally be the fastest process.

- **By phone**: If you are unable obtain a my Gov ID with a Standard or Strong identity strength, you can apply for a director ID by phone. However, you will need to have an Australian tax file number (TFN) and the required information to verify your identity over the phone.

- **By mail**: If you cannot apply online or over the phone, you can apply via paper form and provide certified copies of two identity documents. This will generally be a slower process.

WHAT TO DO AFTER OBTAINING YOUR DIRECTOR ID?

Once you receive your director ID, you will need to pass it on to the record-holder of your organisation, who may be either your company secretary, another director, a contact person or an authorised agent of the company.

If you are appointed as a director of any other companies in the future, you will need to provide your director ID to the relevant record-holders. There are also on-going obligations in managing the director ID and updating the ABRS.

The ABRS is responsible for the implementation and administration of director IDs while the Australian Securities and Investments Commission (ASIC) will be responsible for the enforcement of associated offences. It is important to note that it is a criminal offence if you do not apply for a director ID on time.

HOW TO INCORPORATE A COMPANY

A 3-STEP GUIDE.

STEP 1. DECIDE THE NAME OF THE COMPANY

- The name of the company must not be identical to another existing business name.
- Decide who the shareholders will be.
- A minimum of 1 shareholder is required.
- Decide number of shares to be issued (minimum 1 dollar share capital must be issued)
- New shareholders can be added later, existing shareholders can sell or transfer their shares to other shareholders.
- Register an office address (office address must be in Australia)
- If you do not have an office in Australia, we can provide you with a registered office address.
- Decide who the directors are. (1 director must be an Australian resident director)

You must apply for a director's identification number (DIN) before you can nominate a director.

Once you have applied for a DIN, you can nominate a director of the company, even if you have not yet received your DIN. Non-resident directors can be appointed at the same time the company is incorporated.

IMPORTANT!

STEP 2 - APPLY FOR AN AUSTRALIAN BUSINESS NUMBER (ABN))

- Through Australian Business Registry Services (ABRS). You can apply for an ABN as soon as the company is incorporated.
- Generally if 1 shareholder of the company is an Australian resident, you will receive the ABN as soon as you have submitted your application.

If you choose to apply for an ABN without an Australian resident shareholder it will generally take up to two months to receive an ABN as the Australian Taxation Office (ATO) will require proof of identity checks of non-resident shareholders, as well as a certificate of incorporation, and the company constitution.

Once you receive your ABN, the resident shareholder may transfer his/her share to the parent company or any non-resident shareholders.

STEP 3 - OPEN A BANK ACCOUNT

- Opening up an online bank account (e.g. Ebury) generally takes up to two weeks.
- Opening up a bank account with the big Australian banks (ANZ, Westpac, CBA, NAB) generally takes up to two months.

For more information

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