

# Legal Aspects of starting a business in Australia



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What to expect?

**Starting** a business is a fun and challenging experience. Legal aspects of starting a business are important parts that sometimes being neglected or not being paid enough attention.

Australian Federal and state governments have handful of requirements and legislations you must follow and do before starting any business. It is very important to find out what your obligations are before jumping into a business in Australia. If you are from another country and want to start a business in Australia, remember your country's rules do not apply here. Australia has quite strict legislations and boundaries for many businesses and failing to comply with them, might lead you to a warning, fine or closure of your business or even serious consequences.

To start with you need some basic steps to begin with. Here we mention these steps:

Get your Australian business number (ABN):

An **ABN** is a unique 11 digit number that identifies your business to the government and community. Registering for an ABN through the Australian

Government's Business Registration Service is free and can be done in less than an hour via <https://www.abr.gov.au/>

**Note: Not everyone is entitled to an ABN. You must operate your business in Australia to be able to get an ABN. By visiting ABR and ATO you can get enough information about its requirements.**

### Choose your business structure:

One of the key decisions you will make when starting a business in Australia is its structure. Your choice of structure will depend on the size and type of business and how you want to run it. Each structure may have an impact on key areas such as tax you are liable to pay, asset protection and costs to set up. There are a number of structures that you can choose from when starting or expanding your business. (<https://www.business.gov.au/>)

There are four commonly used business structures in Australia:

- Sole trader
- Partnership
- Company
- Trust

It is important to understand the responsibilities of each structure because the structure you choose may affect:

- the tax you are liable to pay
- asset protection
- costs



**You are** not locked into any structure and you can change the structure as your business changes or grows.

If you're unsure which structure to choose, we recommend you talk to your tax, business or legal adviser. ([www.ato.gov.au](http://www.ato.gov.au))

When you decide on a structure for your business, choose the one that best suits your business needs. Consider each option carefully, as there are key factors and rules to consider for each structure.

Your business structure can determine:

- the licenses you require
- how much tax you pay
- whether you are considered an employee, or the owner of the business
- your potential personal liability
- how much control you have over the business
- ongoing costs and volume of paperwork for your business

- Check whether you need to register for GST:

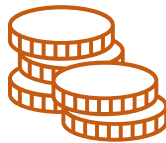
Goods and services tax (GST) is a tax of 10% on most goods, services and other items sold or consumed in Australia. If your business is registered for GST, you have to collect this extra money (one-eleventh of the sale price)

from your customers. You pay this to the Australian Taxation Office (ATO) when it's due.

Check if your business needs to register for GST

You must register for **GST** if:

- your business has a GST turnover of \$75,000 or more
- your non-profit organisation has a GST turnover of \$150,000 or more



Get complete information about your GST here:

<https://www.ato.gov.au/business/gst/registering-for-gst/>

Register your business name:

You should register name via ASIC (Australian Securities and Investment Commission). A business name is the name your business operates under. You

need to register a business name if you conduct business under a name other than your own.

You can register your business name for 1 or 3 years and both are under \$100. It is something you can do yourself and do not need to pay someone else to register it for you. There are multiple steps you should take to register a business name. They are explained in these videos by ASIC:

Register a business name: <https://www.youtube.com/watch?v=hgbqtT6jP7I>

How to register a business name for the first time:

<https://www.youtube.com/watch?v=HJLYNf8C9G4&t=10s>



Registering a business name does not provide exclusive ownership of **your business name**. It also does not prevent other people from being able to register and use similar names. To be protected you should consider registering for *Trademark*.





## Register your Trademark:

A trademark is a way of identifying a unique product or service. It is a form of brand protection which distinguishes between your products or services and those belonging to your competitors.

A trademark is not just 'a logo'. A registered trademark provides you with exclusive rights to use, license and sell the mark. It's also a valuable marketing tool because the value of your trademark increases with the success of your business. Trademarks gives you the exclusive rights to that mark, which makes it easier for you to take legal action to prevent others from using it.

Registered trademark is different to business, company and domain names.

There are different ways to apply for a trademark and all can be done via the Australian government website for intellectual properties:

[www.ipaustralia.gov.au](http://www.ipaustralia.gov.au)

There are plenty of good information about trademarks, patents and intellectual property in this website. Do your due diligence to find out what best suits your business needs.

## Get the right insurance for your business



If you run a business in Australia, you must have a certain level of insurance just to clarify as a simple rule. There are variety of insurance covers for any type of business. The most common one is the **public liability**. AON insurance explains this as below:

“Public liability insurance is designed for professionals who interact with customers or members of the public. It helps protect against claims of personal injury or property damage that a third party suffers (or claims to have suffered) as a result of your business operations.

In real terms, this means that if someone slips and falls on your business premises, or their property is damaged while you're providing a service, they may take legal action against you or your business to recover their loss. Public liability insurance is designed

to help protect your business depending on the policy you take out, covers incidents that occur in your workplace, as well as incidents at other locations.

Public liability insurance only covers claims made by external parties, not those made by your own employees. If you work with clients or customers, or in public spaces, it is important to protect your business against claims of damage or injury.”



Some other types of business insurance in Australia are:

- **Product liability insurance.** If your products cause harm, loss or damage to customers, this type of insurance can also cover your legal costs and any compensation awarded.
- **Professional indemnity.** Professional indemnity covers a business if it has been found negligent, or 'in breach of its professional duty' due to any service or advice they have provided. For example, if an estate planner made an error on an important document, their professional indemnity insurance would cover the costs of any lawsuit levelled at the business as a

result, as well as any claims investigation costs and damages awarded against them.

- **Management liability insurance.** This type of insurance provides cover if someone takes legal action against your business due to a breach of director's duties, mismanagement, discrimination, legislative breaches and more.

(<https://www.comparethemarket.com.au/business-insurance/types/>)

**You** can your **insurance quotes** directly from the insurance providers or insurance brokers. Using an insurance broker is sometimes a good idea if you are not sure what level of cover you may need. An experienced broker can help you get the right cover usually in the same price range. However, it is recommended to shop around and find the best option for your business yourself. As a business owner it is one your main responsibilities. By searching business insurance in Google, you will find many providers and even sometimes you can get instant online quotation.



*Good Read:*

*[Do I need insurance for my online business?](#)*

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*Work cover or compensation* is another type of insurance you must have in Australia if you have employees.

Check its requirements for Victoria here:

<https://www.worksafe.vic.gov.au/do-i-need-register-workcover-insurance>

Check it for NSW here:

<https://www.icare.nsw.gov.au/employers/who-needs-workers-insurance/who-needs-a-policy/#gref>

And for Queensland here:

<https://www.worksafe.qld.gov.au>

*For other states you can easily find relevant information by an internet search.*



## License and permits:

Australia is famous for the extensive number of permits and licences required before you start a business. While it is a great tool to make businesses doing the right thing, it is also confusing and sometime hard to meet all the requirements. Every state across Australia has different requirements for licensing and permits, and they differ across industries. Licences and permits either:

- give your business approval to do an activity, or
- help protect your business and employees

Obtaining the right licences and permits you must consider federal, state and city (council) requirements. Search your state government's websites also can be very helpful to find out your responsibilities.

The best way to explore and find out what you need to do is to use the government website for:

[Australian Business Licence and Information Service \(ABLIS\)](#)



**ABLIS**  
business.gov.au

Welcome to the Australian Business Licence and Information Service (ABLIS)

## Find information about licences you may need for your business



### Guided search

Not sure where to start? Answer a few questions and we'll give you information about licences, regulations, council approvals and compliance requirements to help you start, grow or close your business.

Note: This process could take up to 10 minutes.



### Find a specific form or service

Already know what you need? Find specific licences, registration forms and compliance information using this search.

If you are going to operate a home-based business, you will need to comply with some guidelines set by council. In some situations, you may need a council planning permit. The best way to find out is to contact your local council and talk to a person in charge, they are normally very helpful and friendly.



If your business is complicated and needs to cover plenty of legislations and rules, it is always recommended to get proper advice from a relevant solicitor or an expert as well.

Some other examples of licences and permits are:

- Police check
- Work with children
- Signage and advertisements
- Industry memberships

**NOTE:**



If you are going to use music tracks in your workplace or commercials you must get you APRA AMCOS Licence. APRA AMCOS consists of Australasian Performing Right Association (APRA) and Australasian Mechanical Copyright Owners Society (AMCOS), both copyright management organisations



or copyright collectives which jointly represent over 100,000 songwriters, composers and music publishers in Australia and New Zealand. The two organisations work together to license public performances and administer performance, communication and reproduction rights on behalf of their members, who are creators of musical works, aiming to ensure fair payments to members and to defend their rights under the Australian Copyright Act (1968).



### Make your contracts ready:

To be able to avoid lots of troubles in the future, it is necessary to have different contracts and agreements ready. It is essential to reduce the business risks and ensure legal compliance.

Some of the contracts you must prepare before starting a business are:

- Customer contracts
- Partnership contracts

- Confidentiality agreements
- Supplier agreement
- Employee agreement
- Payments and refunds policy
- Terms and conditions
- Disclaimers

Check this link to get more information about writing a good terms and conditions:

<https://www.smallbusiness.wa.gov.au/sites/default/files/How-to-prepare-standard-terms-and-conditions-april.pdf>

Use the links provided and the attached checklist to make a list of your legal requirements.

## Appendices:

- [Officewise: A guide to health and safety in the office handbook](#)
- [Small business insurance](#)

## Disclaimer:

The content of this document do not constitute legal advice and provided for general information purposes only. The information provided "As is" without warranty of any kind. We do not accept any responsibility or liability for the accuracy, content, completeness, legality, and reliability of the information contained in this document. You use this information all at your own risk.