

Do I Need a Public Officer for Company Registration?

While your company is a legal person by virtue of a certificate of registration, it will still need a live human being to perform specific acts on its behalf, like signing and submitting documents. For purposes of your company's registration and operations, you will need to appoint a public officer to represent your company in dealings with government agencies like the Australian Tax Office (ATO) and the Australian Securities and Investments Commission (ASIC).

The Income Tax Assessment Act of 1936 requires all companies doing business in Australia to have a public officer. Under this law, a public officer is a natural person, at least 18 years of age and a resident of Australia who understands his role as your company's representative. The appointment must be made immediately and no later than three (3) months from the time that your company has started doing business.

Government offices require you to designate a public officer for your company's dealings because existing laws prohibit the wrongful release of company information to unauthorised persons, and they are careful not to violate privacy laws. To ensure the smooth running of your company, and its protection, you must appoint an authorised representative and inform ASIC and the ATO of the identity of your public officer.

Australian law requires your company to have a public officer at all times. This means that if your public officer has resigned, has passed away, is incapacitated or terminated, then you should appoint a replacement immediately.

When there is a change in the identity of your company's public officer, you are required by law to communicate such fact and identity to ASIC within twenty eight (28) days. Without any such notification, the name of the public officer last appearing in the database of the ATO and ASIC will be deemed properly authorized.

For your company's protection, you are strongly advised to notify ASIC or the ATO of the new public officer's name as soon as you can without exhausting the twenty-eight day period.

The position of a public officer is a highly responsible one. Your public officer is expected to manage all instruments the law requires your company to lodge and to keep the required records. The public officer is responsible for your company's compliance with all of its legal requirements.

Furthermore, whatever your company's public officer does while in the performance of his duties is deemed an act of your company. Official notices received by your public officer are deemed to have been properly received by your company. Legal proceedings against your public officer are also deemed instituted against your company and the company shall be jointly liable with the public officer for any penalty that may be imposed on him or her.

So it is necessary to not only appoint a company representative, but such a person should be carefully selected as they hold the key to your company's compliance welfare.