

Directors get ID 'for life' to fight phoenixing

Tom Burton

Government editor

All current and new company directors will need to verify their identity and get a director's number for life under new anti-phoenixing laws passed by federal Parliament.

The new identity system is expected to begin in the first half of 2021, once the application system has been developed and deployed.

The new business registration law also enables the creation of a mega-business registry to be formed from 32 different registries, as part of a \$60 million program to simplify and streamline business reporting and licensing.

The program will consolidate 31 ASIC business registers including the Companies Register, with about 2.6 million registered companies, and the Australian Business Register, with about 7.9 million active ABNs.

The Australian Taxation Office will be the operator of the new super registry, which will provide a powerful foundation to manage fraud and to build regulatory functions.

The aim is to also link the new super registry into private business systems to automate compliance and other requirements.

The ATO allows private accounting systems to integrate with its single-touch payroll reporting system, creating a powerful platform of services and applications.

The ATO will also manage the administrative data associated with the registries. Near real-time ATO payroll data has been used during the pandemic to better understand the impact of business closures.

The passage of the business registration bill late last week comes as the Deregulation Task Force reviews electronic communications laws.

The aim is to enable businesses to lawfully transact with government and each other using digital communications and applications, including blockchain and other technologies.

Assistant Minister to the Prime Minister Ben Morton is leading the government's deregulation program.

He announced Treasury will be working with the states to simplify occupational licensing and promote national recognition of qualifications.

"Twenty per cent of workers in the economy are required to be licensed or registered, while there are in excess of 800 licences in manual trades across states and territories," Mr Morton said.

Under the transition rules for the new director identity system, for the first 12 months of the system new directors will have 28 days to verify themselves and obtain a director's identity number. After that period, new directors will have to have a director's identity number before they can be registered. Current directors are to be given 18 months to verify their identity.

Directors now do not have to verify identity, leading to many false names being used, including Elvis Presley, Bob Marley and Homer Simpson.

The new director's identity number (DIN) laws follow a 2015 Productivity Commission report highlighting the practice of phoenixing. The government announced it would roll out the DIN in 2017.

Phoenixing is when companies deliberately avoid paying liabilities by shutting down an indebted company and transferring assets to another.

This hurts trade creditors, employees and the public through lost taxes.

According to the explanatory memorandum, phoenixing costs the Australian economy between \$2.9 billion and \$5.1 billion a year.

The DIN is a unique identifier that a director will keep forever, enabling regulators to better track directors of failed companies who use fictitious identities.

The Modernising Business Registers program was announced in the 2018-19 budget, and given \$60 million funding late last year as part of a push to reduce red tape.

NSW has created a business concierge service the government claims has reduced business start-up times.

"Easy to do business pilots have slashed red tape by cutting the time, cost and complexity of starting up a cafe, restaurant or small bar," Minister for Customer Service Victor Dominello said.

"Instead of waiting up to 18 months and filling out up to 48 forms, an aspiring cafe, restaurant or small bar owner can expect to open in less than 90 days by using one online platform and with the help of a Service NSW Business Concierge."