

Indigenous corporations

Legal information for community organisations

This fact sheet covers:

- ▶ what is an Indigenous corporation?
 - ▶ what legislation governs the setting up of an Indigenous corporation?
 - ▶ what are the advantages of incorporating as an Indigenous corporation?
 - ▶ are all Indigenous corporations not-for-profit?
 - ▶ how do you set up a not-for-profit Indigenous corporation?
 - ▶ what is a director identification number?
-

An Indigenous corporation is a type of incorporated legal structure that may be suitable for some not-for-profit organisations.



Note

This fact sheet provides general information about setting up (incorporating) a group as an Indigenous corporation. This information is intended as a guide only and is not legal advice. If you or your organisation has a specific legal issue, you should seek legal advice before deciding what to do.

Please refer to [the full disclaimer](#) that applies to this fact sheet.

What is an Indigenous corporation?

An Indigenous corporation is an incorporated legal structure only available for Aboriginal and Torres Strait Islander organisations. It's not available for non-Indigenous organisations.

However, it may not necessarily be the most suitable legal structure for your organisation and Indigenous organisations are free to choose another more suitable structure (such as an incorporated association, company limited by guarantee or co-operative).

Like companies limited by guarantee, Indigenous corporations are incorporated under Commonwealth law and can operate anywhere in Australia. Members of an Indigenous corporation can choose to have limited liability.



What legislation governs the setting up of an Indigenous corporation?

The *Corporations (Aboriginal and Torres Strait Islander) Act 2006 (Cth)* (**the Act**) regulates how Aboriginal and Torres Strait Islander organisations set up and run an Indigenous corporation.

The government office responsible for regulating Indigenous corporations is the Office of the Registrar of Indigenous Corporations (**ORIC**).



Note

Directors of Indigenous corporations are now required to have a Director Identification Number (**DIN**). See below for more information.

What are the advantages of incorporating as an Indigenous corporation?

Advantages of incorporating as an Indigenous corporation (over other forms of incorporation) include:

- the rules or constitution for the company (known as the rule book) can consider Aboriginal or Torres Strait Islander customs and traditions
- registration is free (unlike for incorporated associations and companies limited by guarantee)
- the ORIC may exempt an Indigenous corporation from producing annual reports (especially if the corporation is small)
- Indigenous corporations deal with a specialist regulator (ORIC) rather than the Australian Securities and Investments Commission (**ASIC**) (for companies limited by guarantee)
- ORIC can provide more specialist support (for example, face-to-face training in remote areas, a dispute resolution service, telephone advice), and
- Indigenous corporations can access free legal advice on a variety of legal issues through [the 'LawHelp' service](#) operated by ORIC

Indigenous corporations can also meet their governance responsibilities more flexibly in unexpected circumstances.

Are all Indigenous corporations not-for-profit?

No. An Indigenous corporation can be structured so that the profits are put back into the corporation or distributed to members. Only Indigenous corporations that are structured so that the profits are put back into the corporation are suitable for not-for-profit groups.



More information

For more information, see our webpage ['What does not-for-profit mean?'](#)



How do you set up a not-for-profit Indigenous corporation?

The Act sets out requirements for registration as an Indigenous corporation which include:

- the Indigenous corporation must have at least five members (unless a request is made for an exemption on one of the grounds set out in the Act)
- the majority of members must be 'Aboriginal and Torres Strait Islander persons' (as defined in the Act) who are over 15 years of age
- having a rule book or constitution (which complies with the Act) to govern the activities of the Indigenous corporation, and
- having as part of its name the words 'Aboriginal corporation', 'Torres Strait Islander corporation', 'Aboriginal and Torres Strait Islander corporation', 'Torres Strait and Islander corporation' or 'Indigenous corporation'

To be considered a not-for-profit organisation, your organisation's rule book must include rules that prohibit the distribution of profit or assets to members or board members, either while the corporation is operating or when it ends or winds up.



More information

For more information, see:

- ORIC's [step-by-step guide](#) to setting up an Indigenous corporation for organisations that meet the criteria, and
- the ['LawHelp' service](#) operated by ORIC
- the [Indigenous Governance Toolkit](#) published by Reconciliation Australia (this provides guidance and information about governance for Indigenous corporations)



Can a not-for-profit Indigenous corporation also register as a charity?

A not-for-profit Indigenous corporation may also apply to register as a charity under the Australian Charities and Not-for-profits Commission (**ACNC**). See [our webpage 'Should your group register as a charity?'](#) for more information.

Indigenous corporations registered as charities with the ACNC continue to be regulated by ORIC.

What is a director identification number?

A Director Identification Number (**DIN**) is a unique 15-digit number that is issued to a director (or someone who intends to be a director) by the [Australian Business Registry Services](#) after their identity has been verified.

A director (or an alternate director who is acting for a director) of an Indigenous corporation (or a company registered under the *Corporations Act 2001* (Cth)) must have a DIN.

The following DIN deadlines for Indigenous corporation directors apply:

- directors who were appointed on or before 31 October 2022 have until 30 November 2023 to apply for a DIN
- directors who are appointed from 1 November 2022 must apply for a DIN before being appointed.

Penalties and fines may apply if a person is required to have a director ID and doesn't have one



You can apply for a DIN online, by phone or by filling in a paper form.



More information

For more information, see:

- [ORIC's webpage on 'Director ID for CASTI Act directors'](#), and
- [the Australian Business Registry Services webpage on 'who needs to apply for a DIN and when'](#)