

BUSINESS COMPLIANCE CHECKLIST

Prepared for:

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DISCLAIMER

This document is not intended to be a definitive or exhaustive review of all business compliance requirements, but merely a process that explores possible areas for improvement.

This checklist briefly covers the following areas that are relevant to the general operations of a business:-

- 1.Regulatory compliance
- 2.Employment Compliance
- 3.Occupational Health & Safety Compliance
- 4.Owner Compliance

REGULATORY COMPLIANCE

Regulatory compliance may be broken down into legislation and regulations imposed by Local, State and Commonwealth Government.

Local Government

Confirm that the business is carried on in accordance with the applicable zoning regulations.

Ensure that a copy of the development consent (as applicable) is available and regularly reviewed for compliance.

Confirm that the business is not in breach of health or other relevant Local Government regulations such as those pertaining to matters such as signs etc.

Check fire safety requirements of local council (eg annual submission of compliance certificate).

State Government

Business name/licence

Confirm that the business name is registered and that the certificate is prominently displayed.

Confirm that all requisite licences are held by the business.
Check procedure for re-registration of all applicable licences.

Consumers

If involved in the provision of credit or finance note the Consumer Credit Act and Code.

If involved in the retail of goods or services and/or their advertisement note Sale of Goods Act 1923 and the Fair Trading Act 1987.

Note that there are provisions applicable to misleading and deceptive conduct, unconscionable conduct and conditions, warranties, refunds and the like. If abuse of power note Contracts Review Act 1980.

Is there specific legislation that is applicable to the business?

Activities

Is the business involved in any activities that are covered by legislation including the Environment Protection Amendment Legislation Act 2002 and the Environmentally Hazardous Chemicals Act 1985.

Commonwealth Government

Consumers

Note that the Trade Practices Act applies to situations relating to activities by corporations and includes the following:-

- where there is unconscionable conduct
- where there is misleading or deceptive conduct
- conditions and warranties
- goods not of merchantable quality
- collusive conduct
- abuse of market power
- infringement of intellectual property

Document handling

Where a business is involved in dealings with personal information in particular circumstances regard must be had to the Privacy Act 1988 and the Privacy Amendment (Private Sector) Act 2000.

Financial sector

Where a business is involved in the provision of financial advice and products regard must be had to the Financial Services Reform Act and the Corporations Act, 2001.

The Financial Transaction Reports Act 1988 imposes a duty to report particular transactions to the applicable regulatory authority.

Revenue Authorities

Regard must be had to applicable legislation.

OCCUPATIONAL HEALTH & SAFETY (OH & S) COMPLIANCE

Basic Requirements:

OHS policies should be displayed and communicated to all employers and contractors who have dealings with the business;
Identify and address hazards;
Establish an OHS committee;
OHS training;

Summary

Occupation Health and Safety (OH&S) obligations commenced in New South Wales on 1 September 2002 in respect of businesses that employed greater than 20 staff. These obligations include requiring employers to develop procedures for OH&S consultation and risk assessments.

Employers with 20 or less employees have until 1 September 2003 to comply with the obligations.

Checklist

Consulted with employees in respect to all matters at the time that affect their health, safety and welfare.

Consulted with employees when conducting risk assessment and when changes may affect the premises where persons work, or to a systems or methods or work, or to the plant of substances used for work.

Identified hazards, assessed the risks involved and introduced control measures to eliminate those risks or if that is not practicable, minimised those risks as far as is reasonably practical.

Developed a policy for OH &S consultation and communicated this policy to all employees.

Maintained adequate records of consultation and risk management activities.

Example of risk : Staff responsible for banking daily takings. Instructions to staff about what actions, procedures etc to follow in this regard.

Failure to consult is a criminal offence attracting a maximum of \$82,500.00 for a corporation with a previous conviction under the legislation.

EMPLOYMENT COMPLIANCE

The business's staff are employed by way of the following legal arrangements:

- Contract;
- Enterprise Agreement;
- State/Federal Award.

Confirm that there is compliance with the relevant contract, award, agreement.

Confirm that there are procedures in place for the engagement and termination of staff.

Confirm that adequate records are kept in respect of long service leave, sick leave and the like.

Check that superannuation contributions paid on relevant pay, ie not applicable to overtime and other payments.

Regard must also be had to the applicability and impact of the following relevant State/Commonwealth legislation with regard to issues such as unfair dismissal, discrimination and the like.

Workplace Relations Act 1996;
Employment Protection Act 1982 (NSW);
Anti-Discrimination Act 1977 (NSW);
Racial Discrimination Act 1976 (Commonwealth)
Sex Discrimination Act 1984 (Commonwealth)
Disability Discrimination Act 1992 (Commonwealth)

BUSINESS OWNER COMPLIANCE

Company Director Corporations Act 2001 – Civil and Criminal sanctions are applicable.

Partner Joint and several liability
Partnership Act

Income tax and related revenue legislation requires that business records be maintained for a period of 5 years.

The Corporations Act requires that accounting records be maintained for a period of 7 years after completion of the transaction to which they relate.

Note that there are penalties imposed for non compliance. Confirm that the records are kept in a secure location. Confirm that computer records are adequately backed up - is the backed up data kept in a secure location off site?

SUMMARY

Recommendations

Regulatory Compliance

OH & S Compliance

Employment Compliance

Owner Compliance