



# Things you have to do to start your business a practical guide





# Things you have to do to start your business

Starting a new business is an exciting time. While there is no single place to 'register' your business, there are a few things all new business owners must do before starting to trade. If you want your business to survive and thrive, we recommend that (once you've read this quick guide), you book a place at our free 'Starting a Business' workshop. Available every week, it covers all the essentials to get your business started.

Finding the right information at the right time can make a real difference to business success. As Western Australia's primary provider of independent advice and guidance for the small business sector, many people visit our Perth office to access research reports and attend workshops. Assistance is also available by telephone, email or through our website, where you'll find a range of online tools, templates and guides, and a wealth of information on running a business.

Perhaps you'd like to take advantage of a one-on-one session with a business adviser where you'll gain greater insight into your particular business needs. Discussing your plans with an adviser at the early stages of setting up your business will help you to prepare for the future and avoid problems, which could cost you time and money.

## Do your research

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Regardless of whether you have an original business idea, created an innovative approach to an existing product or service, or decided to turn a hobby or skill into a business, preliminary research is essential to determine whether there is a market for your product or service.

It is important to consider market trends, how much you should be charging and what is happening in your chosen industry. While market research offers huge benefits, the cost can often be huge too.

Take advantage of free access to many research resources, including IBISWorld, by visiting our Perth office. IBISWorld provides insights and financial benchmarking across more than 500 industries in Australia.

You will also be able to discuss your findings with an experienced business adviser who can help you use this information to plan and develop your business.

Background research should form part of a detailed business plan outlining your operational and financial strategies.

Market research can help you assess the viability of your business idea. Although your concept may be well intended, it may not be commercially successful in terms of customer demand or cost.

Further research may improve your business idea or provide new options.

## Choose your business structure

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Once you have established the viability of your business idea, you will need to decide on a structure that best suits the business and its particular circumstances.

Some things to consider include:

- set-up and ongoing costs
- how the entity will be taxed regarding income, capital gains and land tax
- asset protection
- control and succession
- flexibility to adjust as circumstances change
- exit strategy

You should aim to minimise taxation, protect your assets, and retain control.

It is likely that at some point you will need the services of an accountant, lawyer or other professional. For help in finding professional assistance, see the SBDC's *'Building your support team'* guides, at [smallbusiness.wa.gov.au](http://smallbusiness.wa.gov.au)

The four most common structures in Australia are:

### Sole trader

This is the simplest business structure and relatively easy to set up. As a sole trader you will be legally responsible for all aspects of the business and will be making all the decisions about starting and running your business. Sole traders are allowed to hire staff.

### Pros

- relatively easy and inexpensive to establish
- you retain complete control of your assets and business decisions
- you are allowed to use your individual tax file number (TFN) to lodge returns
- It will be easy to change your structure if circumstances change
- losses incurred by your business activities may be offset against other income, such as investments or wages
- you are not considered an employee of your own business and therefore don't pay payroll tax, superannuation or workers' compensation on income you draw from the business

### Cons

- unlimited liability, which means all your personal assets are at risk if things go wrong
- little opportunity for tax planning - you can't split business profits or losses with family members and you are personally liable to pay tax on all business income
- the business ceases to exist when the sole trader stops working (including retirement, permanent incapacitation or death)

If you already have a tax file number, you don't need to do anything special to register as a sole trader. Just follow the directions in the rest of this guide.



## Choose your business structure (continued)

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### Partnership

Partnerships are formed when two or more people (up to 20) go into business together. They can be general (where all partners contribute to the day-to-day running of the business), or limited (where some partners invest money in the business but have little involvement in its day-to-day running).

#### Pros

- inexpensive and easy to set up
- minimal reporting requirements
- income and assets belong to all partners jointly (all partners are jointly and separately liable)
- shared risk with business partners
- opportunities for tax planning (eg. income splitting between family members)
- relatively easy to dissolve the partnership or to resign and recover your share
- partners are not employees - superannuation contributions and workers' compensation insurance are not payable for partners

#### Cons

- you will not have full control over operations
- you are potentially liable for any shortfall if the business fails and a partner can't afford to pay their share of any debts
- potential for disputes over profit sharing, administrative control and business direction
- changes of ownership can be difficult and generally requires a new partnership to be established

While you can set up a partnership yourself, we recommend consulting a lawyer for help to draft a formal partnership agreement.

### Company

A company is a separate legal entity, capable of holding assets in its own name and conducting business in its own right. It is owned by members (shareholders) and run by directors. A company is a complex business structure and has high set-up and reporting costs. You can form a company as either a private (proprietary) or public entity. A registered company must have at least one director (and one company secretary unless it is a private company). A director is responsible for managing the company's business activities.

To become a company, an entity must:

- be incorporated under the *Corporations Act 2001*
- be registered with the Australian Securities and Investment Commission (ASIC)

#### Pros

- limited liability for shareholders
- able to raise significant capital
- can carry losses forward to offset against future profits
- easy to sell and pass on ownership - the business can survive the death or retirement of shareholders or directors
- profits can be reinvested in the company or paid to the shareholders as dividends

#### Cons

- significant set-up and maintenance costs
- do not retain complete control
- complex reporting requirements
- can't distribute losses to its shareholders
- directors can be held personally liable if the company fails to meet legal obligations

To establish a company, speak with an accountant. You can also purchase an existing 'shelf company' from a re-seller.

If you're thinking about structuring your business as a partnership, we strongly recommend you create a formal partnership agreement. This should outline how the partnership will operate, the sharing of any profits and losses, the responsibilities of each partner, and a dispute resolution process. In the absence of a formal agreement, partnerships are governed by the Partnership Act 1895 and all partners are assumed to have an equal share.

## Trust

A trust is a structure where a trustee (an individual or a company) carries out business on behalf of the trust's members (beneficiaries). They are often used in connection with running a business for the benefit of others. Unlike a company, a trust is not a legal entity.

The trustee is legally liable for the trust's debts and may use its assets to meet those debts. However, if there is a shortfall the trustee is responsible for the difference. A trust is set up through a trust deed and there are two main types; discretionary or unit trusts.

A trustee is required to lodge tax returns but generally doesn't pay tax, as the income is distributed to the beneficiaries.

Beneficiaries must pay tax; individual beneficiaries pay based on their marginal tax rates; a company beneficiary at the company rate; and the trust pays tax on undistributed income at the highest marginal tax rate.

### Pros

- limited liability if the trustee is a company
- assets are protected
- flexible asset and income distribution
- good choice for family businesses

### Cons

- can be expensive to set up and administer
- not suitable for short-term operations
- not suitable for non-family operations
- difficult to dissolve, dismantle, or make changes once established, particularly if children are involved
- any profits retained to reinvest into the business will incur penalty tax rates
- can't distribute losses, only profits

For further information speak with an accountant.

### The two most common types of trust are:

**Discretionary trust (family trust)** - distribution from the trust is at the trustee's discretion.

**Fixed trust (unit trust)** - distribution from the trust is determined according to the number of units held.

For detailed information on business structures and their implications visit [ato.gov.au](http://ato.gov.au)



## Conduct a business licence search

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Your business could require licences, permits or registrations. Your industry and geographical location will determine which licences etc. you need before you can start trading.

Visit [smallbusiness.wa.gov.au](http://smallbusiness.wa.gov.au) and follow the link on the homepage to the **Business Licence Finder**. After entering your details, you will receive a personalised report showing which licences, permits and registrations you need; details of the agency that administers the licences etc., and details of fees.

Your report will include many of the general topics covered in this guide, however there are likely to be other mandatory regulations that are unique to your industry or location.

### Example

Jane needs to register and license her new business; a mobile beauty salon (visiting clients in their homes) based at her home in the City of ABC. She won't be hiring employees and expects to turn over approximately \$85,000 in her first year.

#### Initial business registrations for Jane

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| ✓ ABN (Australian business number) | Jane can obtain her ABN online at the Australian Business Register at <a href="http://abr.gov.au">abr.gov.au</a>            |
| ✓ TFN (tax file number)            | As a sole trader Jane can use her personal tax file number.   |
| ✓ GST                              | As turnover from her business is more than \$75,000 Jane has to register for GST.   |
| ✓ Business name                    | Jane can register her business name 'Jane's Mobile Beauty' on the Australian Business Register when registering for an ABN. |

#### Licences

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| ✓ Notification of a Skin Penetration Premises | Required for any procedure which involves tearing, cutting, puncturing or shaving of the skin.   |
| ✓ Home occupation licence                     | A premise for a business has to be registered regardless of it being mobile. As Jane's address is in the City of ABC, she needs to seek a licence from that council. |

#### Code of practice

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| ✓ Code of Practice for Skin Penetration Procedures | Jane needs to follow her industry's code of practice. |
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## Obtain an Australian Business Number (ABN)

Obtaining an ABN is free and available online from the Australian Business Register at [abr.gov.au](http://abr.gov.au)

Businesses require an ABN when dealing with other businesses or the government. If you don't register for an ABN, other businesses making payments to you will withhold tax at the top rate of 49 per cent.

Similarly, if a supplier does not provide you with their ABN, you will need to withhold 49 per cent from their payment, unless they provide you with a 'Statement by a supplier' form (available from the Australian Tax Office at [ato.gov.au](http://ato.gov.au)).

You can operate multiple businesses under one ABN (ie. a sole trader can run a lawn mowing business and a bicycle shop with just the one ABN).

## Register your business name

A business name is registered nationally with the Australian Securities and Investments Commission (ASIC). If you're trading under your own name, you don't need to register a separate business name. If you will be operating under a company business structure, your company name must be registered with ASIC. However, if you want to trade using a different name, then you will need to register this as a business name.

Legal name	Business or trading name	Do I need to register?
John Smith	John Smith's Bricklaying	Yes
John Smith	John Smith	No
John Smith and Mark Brown	John and Mark's Electrical	Yes
John Smith and Mark Brown	John Smith and Mark Brown	No
Mary Smith Pty Ltd	Smith Builders	Yes
Mary Smith Pty Ltd	Mary Smith Pty Ltd	No

## Choosing your business name

Your business name will create a first impression of your business, so it's worth making an effort to get it right. Choose a name that reflects what your business is about, and will continue to be relevant as the business grows and evolves. For example, 'Simply Cupcakes' leaves no room to move with market trends if cupcakes go out of fashion.

### Try to make your name:

- short and memorable
- easy to pronounce and spell
- original and not too similar to existing business names, company names or trademarks
- appropriate, professional and not offensive
- descriptive and functional (eg. Marketing Results) or new and quirky (eg. Blue Banana)



## Register your business name (continued)

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### How to register your business name

Once you've decided on a name, the next step is to register it online with ASIC – you can check if your chosen name is available and register it at the same time.

#### To register your name:

1. Have your ABN on hand.
2. Log onto [asic.gov.au](http://asic.gov.au)
3. Follow the step-by-step guide to registering your business name online.
4. Pay the application fee (for one or three years) online or have an invoice mailed to you.
5. Remember to renew your registration before it expires.

Will you be servicing a particular region? For instance a mobile electrician only servicing the northern suburbs could incorporate this into their business name – making the area you cover clear to potential clients.

### Business name availability

Just because your chosen name hasn't been registered with ASIC, doesn't mean it isn't being used in other ways.

#### Before registering your business name:

- Check the Australian Trade Mark Online Search System at IP Australia to confirm the name is not infringing a registered or pending trademark.
- Visit [ausregistry.com.au](http://ausregistry.com.au) to see if the name can be registered as a pending trademark.
- Conduct a general online search to see what appears when you type in the name. A different meaning, or an established international business under the same name, could confuse customers who are looking for your business.

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

To apply to register a business name you will need to have applied for, or already have an ABN.

## Register your domain name

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Your domain name is your website's address on the internet (for example, [yourbusiness.com.au](http://yourbusiness.com.au)). It's a valuable part of your business identity and an important marketing tool to help customers find and identify with your business.

It's a good idea to register a domain name with a recognised retailer through .au Domain Administration as soon as you can, even if you don't have an actual website yet.

This will ensure your domain name is available when or if you need it.

Before registering, confirm that your chosen domain name:

- is not already registered as a business name or company (ASIC)
- is not registered or pending trademark (IP Australia)

[auda.org.au](http://auda.org.au)

[asic.gov.au](http://asic.gov.au)

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

## How to register your domain name

Go to [ausregistry.com.au](https://ausregistry.com.au) and choose an authorised registrar to take you through the process.

Registrars are the retail channel for domain name registrations; they can also provide other online services. Prices, products and services will vary depending on which registrar you use.

### Generally the best domain names:

- reflect the name of your business
- are short and easy to remember
- are available for registration on social media channels

## Register for tax

To ensure you are complying with all regulations, it's important to know which registrations apply to your business.

### Tax file number (TFN)

A TFN is a unique nine-digit number issued by the Australian Taxation Office. All businesses need a TFN. Sole traders can use their personal TFN, while partnerships, trusts and companies need a separate TFN for the business.

### Goods and services tax (GST)

GST is a tax applied to most goods, services and other items sold or consumed in Australia. You need to register for GST if your business:

- has a current or projected turnover is \$75,000 or more
- wants to claim fuel tax credits
- is a taxi operation (regardless of turnover)

If you are not registered for GST you will need to check each month whether you have reached the threshold, you will then need to register for GST within 21 days.

### Pay as you go (PAYG) withholding

This is the system for withholding amounts from payments you make to employees and businesses so they can meet their end of year tax liabilities.

These can include payments made to:

- employees, company directors and office holders

- individuals under labour hire arrangements
- contractors who have a voluntary agreement with you
- businesses that do not quote their ABN
- employees on termination of their employment

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- individuals under labour hire arrangements
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- businesses that do not quote their ABN
- employees on termination of their employment

You must apply to register for PAYG withholding by the day on which you are first required to withhold an amount from a payment.

### How to apply for registration

There is no cost to apply for any registrations with the Australian Taxation Office. However, your accountant or tax agent may charge a fee to assist you with registering.

You can register your business for tax purposes:

- online at the Australian Business Register where you can apply for an ABN, GST and PAYG in a single application; or
- through your accountant or tax agent

[abr.gov.au](https://abr.gov.au)



Personal drawings are not considered a wage and sole traders and partnerships are not required to withhold amounts from these drawings. However, it's a good idea to set money aside to cover any personal income tax payments you may need to make.

## Protect your intellectual property (IP)

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You can maintain a competitive advantage by protecting your IP. When starting a new business, registering a new business name or developing a new product, you should also consider protecting your original business idea – your IP. Registering a business name or domain name doesn't automatically give you exclusive rights to that name. For instance if you register a new business name with ASIC but don't protect it, a competitor can register a similar:

- company name with ASIC
- trademark with IP Australia
- domain name with any registered retailer

There are a number of options for protecting your business. IP Australia has plenty of practical information. The four most common forms of IP protection are:

### 1. Copyright

In Australia, the moment an idea or creative concept is documented, on paper or electronically, it is automatically protected by copyright. Copyright protects the original expression of ideas, but not the ideas themselves. Because it is automatic, there is no official registry or application process for copyright protection.

Copyright doesn't protect you from others creating similar works. The Australian Copyright Council provides more information on copyright, including international options.

### 2. Trademark

A trademark is a way of identifying a unique product or service and it can be your most valuable marketing tool.

Sometimes called a brand, a trademark is your identity – the way you show your customers who you are. A trademark can be a letter, number, word, phrase, sound, smell, shape, logo, picture and/or an aspect of packaging. It is not compulsory to register a trademark, however consider if a trademark would improve your business and if you want to retain exclusive rights to its use.

### 3. Patent

A patent is a legal right granted for any device, substance, method or process that is new, inventive, and useful. It gives you (the owner) exclusive rights to commercially exploit the invention for the life of the patent. Before you apply, research to see if a patent is appropriate for your product.

### 4. Design

A design refers to the features of shape, configuration, pattern or ornamentation which give a product a unique appearance and must be new and distinctive in order to be registered. A registered design allows the owner to use it for commercial purposes, to licence or sell it. Registered designs tend to relate to form, whereas patents relate to function.

[ipaustralia.gov.au](http://ipaustralia.gov.au)  
[copyright.org.au](http://copyright.org.au)

## Purchase insurance

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In WA the only compulsory insurance you need as a small business owner is workers' compensation insurance (if you have employees). It's up to you to decide (based on your business type, activities, and industry) what other insurance you may need.

Keep in mind that many insurance companies will require you to have business registrations and licences in place before they will agree to provide insurance.

There are various types of insurance to protect your business, which can be divided into three main categories:

1. liability
2. employees
3. assets and revenue

Many insurance providers will offer several types of insurance bundled into a package. It is important to ensure this adequately meets your business needs. Don't rely upon the insurer to know this.

Insurance is a complex area, so make sure you understand all the terms and conditions of the insurance contract and obtain independent advice before you sign.

Insurance cover may be arranged through an insurance company, agent or broker. Insurance brokers are required by law to act as your representative and work in your interest, whereas insurance agents are acting in the interests of the insurance companies.

You can contact a broker through the National Insurance Brokers Association or the Insurance Brokers Network of Australia.

If you want to liaise directly with an insurance company, the Insurance Council of Australia provides information about its members and their contact details.

[niba.com.au](http://niba.com.au)

[ibna.com.au](http://ibna.com.au)

[insurancecouncil.com.au](http://insurancecouncil.com.au)

If your business relies on a key employee with certain skills or qualifications, and your cash flow would be severely affected by their absence, you should consider insuring against their incapacity or death.

## Start building your business skills

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When it comes to succeeding in business and gaining a competitive edge, knowledge is power.

Covering a range of business topics, our practical workshops will provide you with key information needed to build a successful, profitable and dynamic small business.

We suggest starting with our free 'Starting a Business' workshop held every week in our Perth CBD office.

This two-hour workshop will help get your idea off the ground by guiding you through the initial steps of establishing and running your own business. Even if you've already started your business you'll still learn something new.

You will also receive a practical workbook that can be the foundation of your business plan.



## Start building your business skills (continued)

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Once you have the basics under control, we encourage you to attend our other low-cost workshops.

Our presenters are specialists in their field and will provide you with a deeper understanding of essential business topics.

We can help at every stage of starting out on your own. If you can't make it into our office or you live in regional WA, contact us by email or phone, or visit one of our Business Local providers.

There is much more to starting a profitable and sustainable small business than just meeting the basic regulatory requirements.

To develop the skills to succeed in business and gain a competitive edge visit [smallbusiness.wa.gov.au](http://smallbusiness.wa.gov.au), book a workshop, or visit us at 140 William Street (just above Perth Underground train station) to talk to a member of our team.

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Visit [smallbusiness.wa.gov.au](http://smallbusiness.wa.gov.au) for more information or contact one of our business advisers on 13 12 49.

Sign up for our monthly **e-news** via our website homepage and follow us on [facebook.com/smallbusinesswa](https://facebook.com/smallbusinesswa) to receive handy hints and tips on running your business.

We also encourage you to join thousands of WA small business owners in our Facebook group '**I'm a small business owner in Western Australia**' – the perfect place to ask questions and share ideas with your peers.

**Note: This information is not a substitute for legal advice.**

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