



**ASIC**

Australian Securities & Investments Commission

## Application for ASIC reinstatement

Company name \_\_\_\_\_

ACN \_\_\_\_\_

Contact person \_\_\_\_\_

Contact address \_\_\_\_\_

Phone \_\_\_\_\_ Fax \_\_\_\_\_

### Application checklist

- Complete and sign statutory declaration on pp. 3–5
- Provide supporting documentation as annexures to the statutory declaration
- Include payment for \$35.00 application fee
- Include payment for all outstanding amounts owing to ASIC including:
  - any outstanding penalties, fines and ASIC court costs
  - any outstanding fees
  - any outstanding annual review fees
  - any late payment fees for issued annual reviews
  - any late lodgement fees

### Further information on fees and charges:

*Annual review fees* must be paid within two months of the date of review. When a company is reinstated, it is taken as never having been deregistered. This means that annual review fees for the period of deregistration are now payable.

*Late payment fees* may apply if an annual review fee was payable at the time of deregistration.

- If paid up to one month late—\$69 late payment fee; or
- If paid one month or more late—\$287 late payment fee.

### Late review fee

If an annual statement was issued before the company was deregistered and it was not correct, you must notify ASIC of the changed information by lodging a Form 484 *Change to company details*. You have 28 days from the date of issue of the annual statement to notify us.

Information sheets provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.

If the correct information is not supplied within the 28 day review period, the company will be charged a late review fee:

- If notified up to one month late—\$69 late review fee
- If notified one month or more late—\$287 late review fee

**Note:** Multiple late review fees will apply where a company fails to notify ASIC of changes that should have been advised at the time of, or prior to, the issue of earlier annual statements.

**Late lodgement fee**

A late lodgement fee may be charged in addition to a late review fee. This is because any changes to company details should normally be supplied by lodging a Form 484 within 28 days of the original change occurring.

Notifications lodged outside this 28 day period will incur a late lodgement fee:

- If lodged up to one month late—\$69 late lodgement fee; or
- If lodged one month or more late—\$287 late lodgement fee.

**Attach this *Application for ASIC reinstatement* to all documents relating to this application and send to:**

Reinstatement Applications  
Australian Securities and Investments Commission  
PO Box 4000  
Gippsland Mail Centre  
VIC 3841

Commonwealth of Australia

STATUTORY DECLARATION  
*Statutory Declarations Act 1959*

1 *Insert the name, address and occupation of person making the declaration*

I,<sup>1</sup>

make the following declaration under the *Statutory Declarations Act 1959*:

2 *Set out matter declared to in numbered paragraphs*

2

1. Upon the reinstatement of

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*(insert name and ACN of applicant company)*

(the "company") I will hold the office of a director of the company.

2. If the registration of the company is reinstated, the company will be able to pay its debts as and when they fall due.

3. Tick the appropriate option below:

- The company was deregistered under s601AB(1) of the Corporations Act 2001, where:
- (a) the response to a return of particulars given to the company (or an annual return under s1447) is at least 6 months late; and
- (b) the company has not lodged any other documents under the Act in the last 18 months; and
- (c) ASIC has no reason to believe that the company is carrying on business.
- The company was deregistered under s601AB(1A) of the Corporations Act 2001 for non-payment of the review fee.
- The company was voluntarily deregistered via Form 6010 *Application for voluntary deregistration of a company*.

4. Tick the appropriate option/s below

- The company was carrying on business or was in operation at, and subsequent to, the time that the registration of the company was cancelled.
- I have provided information, which substantiates the claim that the company should not have been deregistered. This information is attached as Annexure A.\*

\*Annexures attached to the statutory declaration must be signed by the Justice(s) of the Peace (or as the case may be) before whom the declaration was made.

I understand that a person who intentionally makes a false statement in a statutory declaration is guilty of an offence under section 11 of the *Statutory Declarations Act 1959*, and I believe that the statements in this declaration are true in every particular.

3 *Signature of person making the declaration*

3

4 *Place*

Declared at <sup>4</sup>

on <sup>5</sup>

of <sup>6</sup>

5 *Day*

6 *Month and year*

Before me,

7 *Signature of person before whom the declaration is made (see over)*

7

8 *Full name, qualification and address of person before whom the declaration is made (in printed letters)*

8

*Note 1* A person who intentionally makes a false statement in a statutory declaration is guilty of an offence, the punishment for which is imprisonment for a term of 4 years — see section 11 of the *Statutory Declarations Act 1959*.

*Note 2* Chapter 2 of the *Criminal Code* applies to all offences against the *Statutory Declarations Act 1959* — see section 5A of the *Statutory Declarations Act 1959*.

**A statutory declaration under the *Statutory Declarations Act 1959* may be made before—**

(1) a person who is currently licensed or registered under a law to practise in one of the following occupations:

Chiropractor	Dentist	Legal practitioner
Medical practitioner	Nurse	Optometrist
Patent attorney	Pharmacist	Physiotherapist
Psychologist	Trade marks attorney	Veterinary surgeon

(2) a person who is enrolled on the roll of the Supreme Court of a State or Territory, or the High Court of Australia, as a legal practitioner (however described); or

(3) a person who is in the following list:

- Agent of the Australian Postal Corporation who is in charge of an office supplying postal services to the public
- Australian Consular Officer or Australian Diplomatic Officer (within the meaning of the *Consular Fees Act 1955*)
- Bailiff
- Bank officer with 5 or more continuous years of service
- Building society officer with 5 or more years of continuous service
- Chief executive officer of a Commonwealth court
- Clerk of a court
- Commissioner for Affidavits
- Commissioner for Declarations
- Credit union officer with 5 or more years of continuous service
- Employee of the Australian Trade Commission who is:
  - (a) in a country or place outside Australia; and
  - (b) authorised under paragraph 3 (d) of the *Consular Fees Act 1955*; and
  - (c) exercising his or her function in that place
- Employee of the Commonwealth who is:
  - (a) in a country or place outside Australia; and
  - (b) authorised under paragraph 3 (c) of the *Consular Fees Act 1955*; and
  - (c) exercising his or her function in that place
- Fellow of the National Tax Accountants' Association
- Finance company officer with 5 or more years of continuous service
- Holder of a statutory office not specified in another item in this list
- Judge of a court
- Justice of the Peace
- Magistrate
- Marriage celebrant registered under Subdivision C of Division 1 of Part IV of the *Marriage Act 1961*
- Master of a court
- Member of Chartered Secretaries Australia
- Member of Engineers Australia, other than at the grade of student
- Member of the Association of Taxation and Management Accountants
- Member of the Australasian Institute of Mining and Metallurgy
- Member of the Australian Defence Force who is:
  - (a) an officer; or
  - (b) a non-commissioned officer within the meaning of the *Defence Force Discipline Act 1982* with 5 or more years of continuous service; or
  - (c) a warrant officer within the meaning of that Act
- Member of the Institute of Chartered Accountants in Australia, the Australian Society of Certified Practising Accountants or the National Institute of Accountants
- Member of:
  - (a) the Parliament of the Commonwealth; or
  - (b) the Parliament of a State; or
  - (c) a Territory legislature; or
  - (d) a local government authority of a State or Territory
- Minister of religion registered under Subdivision A of Division 1 of Part IV of the *Marriage Act 1961*
- Notary public
- Permanent employee of the Australian Postal Corporation with 5 or more years of continuous service who is employed in an office supplying postal services to the public
- Permanent employee of:
  - (a) the Commonwealth or a Commonwealth authority; or
  - (b) a State or Territory or a State or Territory authority; or
  - (c) a local government authority;
 with 5 or more years of continuous service who is not specified in another item in this list
- Person before whom a statutory declaration may be made under the law of the State or Territory in which the declaration is made
- Police officer
- Registrar, or Deputy Registrar, of a court
- Senior Executive Service employee of:
  - (a) the Commonwealth or a Commonwealth authority; or
  - (b) a State or Territory or a State or Territory authority
- Sheriff
- Sheriff's officer
- Teacher employed on a full-time basis at a school or tertiary education institution



ASIC

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## INFORMATION SHEET 4

# Reinstatement of a company's registration

This is a guide for company officers seeking to restore their company to the Australian company register. All legislative references are to the *Corporations Act 2001* (Corporations Act).

## What is reinstatement?

When a company becomes deregistered, it is no longer recorded on our database as a registered company, and is therefore unable to trade or take any action as a body corporate.

Reinstatement returns the company to registered status as if it was never deregistered.

## How can a company be reinstated?

There are two different methods to request reinstatement of a company. You may apply to us if you meet the reinstatement criteria outlined below. If you do not meet the criteria for ASIC reinstatement, you may apply to the court for an order that ASIC reinstates the company.

### 1. Applying to ASIC for reinstatement

#### If there are grounds to believe that deregistration was incorrect

We can reinstate the registration of a company if we are satisfied that the company should not have been deregistered.<sup>1</sup> You must be able to demonstrate the relevant facts to support this.

For companies deregistered by us for not lodging annual returns or returns of particulars<sup>2</sup> or for not paying review fees<sup>3</sup>, you must be able to provide valid proof demonstrating:

- a defect or oversight in the procedure leading to the deregistration, or
- the company was carrying on business or was in operation at the time it was deregistered.

<sup>1</sup> s601AH(1) of the Corporations Act.

<sup>2</sup> s601AB(1) of the Corporations Act.

<sup>3</sup> s601AB(1A) of the Corporations Act.

Information sheets provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.

For companies deregistered voluntarily<sup>4</sup> or wound up (liquidation)<sup>5</sup>, you must be able to provide valid proof demonstrating a defect or oversight in the procedure leading to deregistration.

### **What is required before a company can be reinstated?**

To apply to ASIC for the reinstatement of your company, you must complete the attached *Application for ASIC Reinstatement* and:

- lodge a statutory declaration supported by appropriate documentation (where applicable),
- pay all outstanding annual review fees, late review and late lodgement fees (if any) in full,
- pay any outstanding penalty issued under a penalty notice to the company or one of the officers of the company, court-ordered fines and ASIC court costs, and
- pay the prescribed fee for the application for reinstatement.

You should contact us to ask for details of outstanding lodgement fees, late fees, penalty notices and any unpaid fees for your company. You can telephone us on 1300 300 630 and we will email or post this information to you within 10 business days.

Send the completed *Application for ASIC Reinstatement*, together with supporting documents (including the statutory declaration) and payment for fees, to:

Reinstatement Applications  
Australian Securities and Investments Commission  
PO Box 4000  
Gippsland Mail Centre VIC 3841

You do not need a corporate key to submit your reinstatement application. The corporate key is cancelled when a company is deregistered and a new corporate key is issued to a company when it is reinstated.

### **How long will it take for my company to be reinstated to the register?**

It takes between 14 and 28 business days to process an application and reinstate a company, provided that we receive all the relevant documents with the application.

## **2. Applying to the court for reinstatement**

If you cannot meet the requirements to apply to us for the reinstatement of the company, you can apply for a court order that ASIC reinstates the company (either the Federal Court of Australia or the Supreme Court of one of the states or territories).<sup>6</sup>

People who feel disadvantaged by the deregistration of the company (e.g. creditors, other bodies taking legal action against the company, a former liquidator) may also apply to the court for the reinstatement of the company.

The court can make an order that we reinstate a company upon being satisfied that the company should be reinstated. The court may also make an order validating acts between deregistration and reinstatement, and any other order it considers appropriate.<sup>7</sup>

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<sup>4</sup> s601AA of the Corporations Act.

<sup>5</sup> s601AB(2) of the Corporations Act.

<sup>6</sup> s601AH(2) of the Corporations Act.

<sup>7</sup> s601AH(3) of the Corporations Act.

## What to do if you obtain a court order

Upon obtaining an order for reinstatement from the court, a copy of the order bearing an originally stamped seal of the registry of the court must be lodged with us<sup>8</sup>, together with a completed [Form 105 Cover page for office copy of a court order](#), before we will restore the company's registration to the register.

If you need to take up this option, you should seek your own independent legal advice.

Applications for court reinstatement must be served on the addresses listed below for the relevant state or territory.

### Queensland

Sarah Heke  
Australian Securities and Investments Commission  
Level 20, 240 Queen Street  
Brisbane QLD 4000

GPO Box 9827  
Brisbane QLD 4001

Tel: (07) 3867 4860 Fax: (07) 3867 4800

### All other states and territories

ASIC Court Officer  
Australian Securities and Investments Commission  
14–22 Grey Street  
Traralgon VIC 3844

PO Box 4000  
Gippsland Mail Centre VIC 3841

Tel: (03) 5177 3050  
Fax: (03) 5177 3999

**Note:** This list only applies to court applications for reinstatement. For other reinstatement matters and contact details, see [What is required before a company can be reinstated?](#) above.

## How long will it take for my company to be reinstated to the register?

It generally takes three business days for us to reinstate a company to the register after we receive a court order.

## What if someone else has used my company name while my company was deregistered?

When a company is deregistered, an application for registration of another company with the same name as the deregistered company is permitted. If the company name is no longer available, you will need to make an application to the court. We will then request that the court makes an order changing the name of the company.

## What happens if my company is reinstated?

The company is taken to have never been deregistered. All the existing company officers are restored to their roles from the date the company was deregistered.<sup>9</sup>

<sup>8</sup> S601AH(2) of the Corporations Act.

<sup>9</sup> s601AH(5) of the Corporations Act.

## What happens if my company is not reinstated?

Your company cannot trade because it is not registered. Any remaining company assets become controlled by us and may be sold or redeemed due to a company ceasing to exist on deregistration.<sup>10</sup>

You can apply to the court for this to be reconsidered.

## Where can I get more information?

- Go to [www.asic.gov.au](http://www.asic.gov.au) to download copies of our regulatory guides, including Regulatory Guide 83 *Reinstatement of companies* (RG 83)
- ASIC 1300 300 630

## Important notice

Please note that this information sheet is a summary giving you basic information about a particular topic. It does not cover the whole of the relevant law regarding that topic, and it is not a substitute for professional advice. You should also note that because this information sheet avoids legal language wherever possible, it might include some generalisations about the application of the law. Some provisions of the law referred to have exceptions or important qualifications. In most cases your particular circumstances must be taken into account when determining how the law applies to you.

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<sup>10</sup> s601AD of the Corporations Act.