# Topic 3

# Address compliance requirements for new business ventures

## Learner Guide

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# BSBESB305 – Address compliance requirements for new business ventures

## Application

This unit describes the skills and knowledge required to source advice and specialist services to assist in addressing business compliance relating to regulatory, taxation and insurance requirements.

The unit applies to those establishing a business providing self-employment, as well as those establishing a new venture as part of a larger organisation.

No licensing, legislative or certification requirements apply to this unit at the time of publication.

## Performance Criteria

| **Element**<br>*Elements describe the essential outcomes.* | **Performance Criteria**<br>*Performance criteria describe the performance needed to demonstrate achievement of the element.* |
|---|---|
| **1. Research compliance requirements of new business venture** | **1.1** Identify regulatory, taxation and insurance requirements relevant to new business venture<br>**1.2** Access information that assists in interpreting and explaining identified compliance requirements<br>**1.3** Research relationships between legislation, regulations, codes of practice, associated standards and accessed information to determine compliance requirements of the business venture |
| **2. Seek specialist advice on compliance and risk minimisation** | **2.1** Identify sources of specialist advice and services relevant to identified compliance requirements and business venture profile<br>**2.2** Select and access identified specialist advice and services according to business needs, available resources, and workplace procedures<br>**2.3** Clarify and confirm compliance requirements and their appropriateness for business, and risk minimisation needs with advisors<br>**2.4** Review and document advice and procedures |
| **3. Take action to support business compliance** | **3.1** Arrange insurance cover for the business according to business needs, available resources, and workplace procedures<br>**3.2** Implement compliance procedures according to specialist advice received<br>**3.3** Seek feedback on implemented compliance procedures from required personnel |

## Assessment Requirements

### Performance Evidence

The candidate must demonstrate the ability to complete the tasks outlined in the elements, performance criteria and foundation skills of this unit, including evidence of the ability to:

- Implement procedures to address at least two different compliance requirements for a business or new business venture.

In the course of the above, the candidate must:

- Identify, select and access sources of advice on compliance and risk minimisation procedures
- Identify regulatory, taxation and insurance compliance requirements, and risk minimisation needs.

### Knowledge Evidence

The candidate must be able to demonstrate knowledge to complete the tasks outlined in the elements, performance criteria and foundation skills of this unit, including knowledge of:

- Regulatory, taxation and insurance compliance information, and specialist advice and services in relation to operation of new business ventures, including:
  - industry codes of practice and standards
  - registration and licensing
  - work health and safety (WHS) requirements and responsibilities
  - required insurances
- Workplace procedures that support compliance of new business venture, including for:
  - selecting and accessing specialist advice and services
  - arranging business insurance cover
- Key components of compliance procedures:
  - following taxation and industrial relations principles
  - updating and maintaining legal documents
  - investigating areas of non-compliance
  - monitoring provision of products and/or services
  - taking corrective action where necessary.

# Chapter 1: Research compliance requirements of new business venture

## 1.1 – Identify regulatory, taxation and insurance requirements relevant to new business venture

**By the end of this chapter, the learner should be able to:**

- Identify the regulatory requirements for a new business venture
- Identify the taxation requirements that apply
- Identify the relevant insurance requirements.

### Regulatory requirements for a new business venture

It is not easy for an entrepreneur to start a new business venture in the prevailing business environment. Establishing an enterprise calls for complying with all the legal and jurisdiction requirements to avoid fines and disciplinary action.

**The following are regulatory requirements for business ventures:**

- **Set up a business structure:** The entrepreneur has to decide upon the structure of the business venture. There are different types of business structures with their own advantages and disadvantages

  - sole trader – this is the simplest business structure, and it is inexpensive to set up because there are few legal and tax formalities. Operating as a sole trader means you are responsible for all aspects of the business, including any debts the business incurs. There are no limits on this liability. You do not need to register the business with the Australia Securities and Investments Commission (ASIC) unless you are conducting a business under a name other than your personal name
  - partnership – this is when two or more people or entities do business as partners or receive income jointly. In this case, control or management of the business would be shared. A partnership is not a separate legal entity meaning you and your partners would be liable for all debts and obligations of the business. It is common to draw up a formal partnership agreement. However, this is not essential. The information required when registered a business name will depend on who holds that name
  - joint venture – this is when two or more people or entities join to do business together for a particular purpose, usually a one-off project rather than an

ongoing business. This will often have a joint venture agreement

- trust – this is an obligation imposed on a person, the trustee, to hold property or business assets for the benefit of others (known as beneficiaries). This requires a formal deed to set up, as well as the completion of yearly administrative tasks. The trustee would be responsible for its operation. A trustee can be a company registered with ASIC. However, if the trust does business under a name other than its own, the name must be registered as a business name with ASIC

- company – this is a separate legal entity, meaning it has the same rights as a natural person and can incur debt, sue and be sued. The company's owners, known as members or shareholders, can limit their personal liability and are generally not liable for the company's debts. Companies are taxed at a different rate. A company is a complex business structure and usually has higher set-up and administrative costs. Companies must be registered with ASIC, and company officeholders have legal obligations under the Corporations Act

- **Register the name of the business venture:** A business name is a name your business operates under. You will need to register a business name if you conduct business under a name other than your own. To register a business name, you will need to have or consider the following:

  - an Australian business number (ABN), or be in the process of applying for one with the Australian Business Register (ABR). You can apply for an ABN using the Australian Government's Business Registration Service: https://register.business.gov.au/

  - business name availability – you will need to check to see if a business name is available using the ASIC business name availability search: https://connectonline.asic.gov.au/RegistrySearch

  - business name registration fees – the fees for registering a business name are $37 for one year or $88 for three years. There are no fees for updating or cancelling a business name

  - protect your business name – to ensure your business name does not infringe on an existing trademark, you should use the IP Australia's Australian trademark search to check for any existing trademarks: https://search.ipaustralia.gov.au/trademarks/search/quick

  - you may choose to register your business name with a private service provider (PSP) which could be your accountant, solicitor, or another business that provides online services with ASIC. They will usually charge a fee for their services, in addition to what ASIC would charge

- **Apply for a tax file number:** A tax file number (TFN) is a unique number issued by the Australian Taxation Office (ATO) to individuals and organisations. Registering for a TFN is an important step when starting a new business venture. As a business, you will be required to give your TFN to:
  - investment bodies responsible for paying interest, dividends and unit trust distributions
  - government bodies, such as the ATO, when applying for an Australian business number (ABN) or lodging tax returns

  The type of TFN required will depend on your business structure. If you run a partnership, company or trust, you will need a separate TFN for your business. If you are a sole trader, you can use your individual TFN when you deal with the ATO. You can apply for a TFN for business on the Australian Business Register website: https://www.abr.gov.au/business-super-funds-charities/applying-other-registrations/apply-tfn-business.

## Taxation requirements for a new business venture


Every registered company and business venture has to pay taxes. The type and amount of taxes to be paid will depend upon the structure of the company. Taxes in Australia are administered and collected by the Australian Taxation Office (ATO) and, in some cases, state government revenue offices. Businesses can save money by paying the right amount of taxes on time and taking advantage of any tax concessions they are entitled to. The key taxes affecting businesses are Company (income) tax, Capital Gains Tax (CGT) and the Goods and Services Tax (GST). There may be other taxes that apply depending on the state or territory and business activities.

**Taxation requirements may include:**

- Company (income) Tax – A company resident in Australia will be subject to company tax, at a rate set by the Australian Government. A non-resident company is taxed on its Australian source income at the same rate as a resident company. Taxable income and the tax rate may vary depending on the industry or business structure
- Capital Gains Tax (CGT) – This applies to any capital gain made through the disposal of assets. It is paid as part of income tax. For example, foreign entities may be required to pay CGT on assets acquired and used in carrying on a business in Australia. It is a requirement for businesses to keep records when acquiring assets in case they are subject to CGT in the future. Small businesses may be eligible for CGT concessions under certain circumstances

- Goods and Services Tax (GST) – This is a national, widespread consumer tax on most goods and services sold or consumed in Australia. Most businesses will be required to register for GST with the Australian Taxation Office. Businesses that have acquired business supplies inclusive of GST will be entitled to claim an equivalent input tax credit. Certain businesses may also be eligible for GST concessions

- Payroll tax – This is a state tax on the wages paid to employees. It is calculated on the amount of wages paid per month and must be paid if the total Australian wages exceed the exemption threshold. The exemption threshold and the payroll tax rate will vary between states and territories

- Fringe Benefits Tax (FBT) – This is a tax that employers pay on benefits that are paid to an employee (or associate). FBT is calculated on the taxable value of the benefits provided and is separate from income tax. You are required to register for FBT if you offer any benefits to employees. For example, fringe benefits could include:


    - a car for private purposes
    - goods at a discount
    - low-interest loans
    - reimbursement for private expenses, such as school fees

- Taxes on the property – If your business owns or buys property, there may be certain local taxes that apply, which will vary depending on the location of your property. Taxes that could affect your business include:

    - stamp duty – this is charged by state or territory governments on transactions such as buying property
    - rates – this is charged by local governments (councils) on property that you own in their area. Rates are usually charged every quarter, and the amount you pay will depend on the value of your property
    - land tax – this is charged by most state/territory governments on land you own. It is an annual tax that applies everywhere except for the Northern Territory

- Lodging and paying taxes – You will be required to lodge an income tax return every year, and most businesses will also need to lodge business activity statements. Tax must be lodged and paid on time to avoid any penalties. The Australian Taxation Office provides a range of online services for lodging and paying tax. To protect your privacy, you will need an authenticated login service to access most of the services, such as AUSkey or Manage ABN Connections. However, if you are a sole trader, you can use your myGov account, which is linked to the ATO

- Tax record keeping – Under taxation law, businesses are required to keep records of all transactions related to the business's tax and superannuation affairs. Records can be kept electronically or in paper form.

## Insurance requirements for a new business venture

A business venture is exposed to several emerging risks. Having the right insurance can help protect your business, your customers and your income. Before choosing a policy, you will need to evaluate your insurance needs. Some insurance will be compulsory depending on your type of business.

**Some of the insurance requirements of a new venture are as follows:**

- Compulsory insurance – Some types of insurance are compulsory for Australian businesses, such as:
  - workers' compensation insurance – this is compulsory if you have employees in the business. It covers you and your workers against financial hardship due to an accident or illness. It must be provided through an authorised insurer. If you are a sole trader, you will need to consider your own personal, death, illness, and disability insurance to cover yourself
  - public liability insurance – this covers you for third party death or injury and is compulsory for certain types of companies
  - third party personal injury insurance – this is compulsory if you own a motor vehicle. It is often part of your vehicle registration fee
- Personal or loss of income insurance – There are different types of personal insurance. Some are investment-type funds where you contribute over a certain time and receive money at the maturity date, while others cover things that could happen to you:
  - income protection or disability insurance
  - life insurance
  - total and permanent disability insurance
  - trauma insurance
  - business interruption or loss of profits insurance
  - management liability
  - employee dishonesty

- Stock, products and assets insurance – This is necessary if you have important business assets, property, stock or products that you cannot afford to lose. Insurance options for this include:
    - building and contents insurance
    - burglary insurance
    - deterioration of stock
    - electronic equipment
    - farm insurance
    - goods in transit insurance
    - machinery breakdown
    - tax audit insurance
    - property in transit insurance

- Accident and liability insurance – This protects you if you are liable for damages or injuries to another person or property. It is important to consider this if the likelihood of legal action is high in your business. In some industries, this type of insurance will be mandatory before you are legally allowed to operate. The different types of liability insurance could include:
    - management liability insurance
    - product liability insurance
    - professional indemnity insurance
    - public liability insurance
- Technology and cybercrime insurance – If you have plenty of technology in your business, you may need insurance coverage to protect against new risks. Types of insurance could include:
    - electronic equipment insurance – this covers your electronic items from theft, destruction of damage
    - cyber liability insurance – this protects your business against cybercrime. It covers the cost of keeping your data secure as well as the expenses from the disruption to your business.

**Sources:** ASIC, Setting up a business structure: https://asic.gov.au/for-business/small-business/starting-a-small-business/setting-up-a-business-structure/

ASIC, Registering a business name: https://asic.gov.au/for-business/registering-a-business-name/

Australian Government Business, Register for a tax file number: https://business.gov.au/registrations/register-for-taxes/register-for-a-tax-file-number

Austrade, Australian business taxes: https://www.austrade.gov.au/international/invest/guide-to-investing/running-a-business/understanding-australian-taxes/australian-business-taxes

Australian Government Business, Taxes on your property: https://business.gov.au/finance/taxation/taxes-on-your-property

Australian Government Business, Business insurance: https://business.gov.au/risk-management/insurance/business-insurance

## 1.2 – Access information that assists in interpreting and explaining identified compliance requirements

**By the end of this chapter, the learner should be able to:**

- Identify methods and information that can be used to interpret and explain compliance requirements
- Identify the sources of specialist feedback.

### Interpreting compliance requirements


Establishing policies and procedures and ensuring all the compliance requirements are met requires involvement and collaboration among different departments. You will need to identify the right methods and information that can be used to interpret and explain compliance requirements to the relevant people.

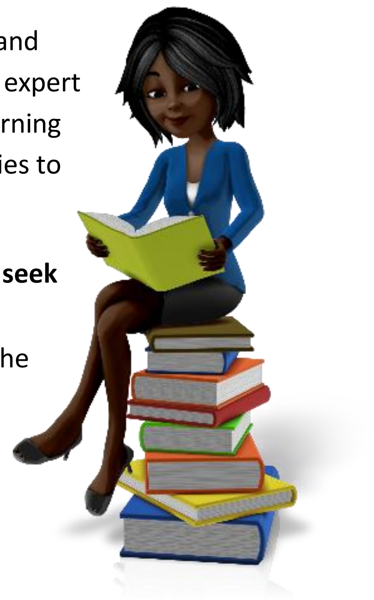
**The following are the steps to interpret and explain compliance requirements:**

- **Ensure that policies and procedures are feasible:** The first step in identifying and ensuring that compliance requirements are feasible is by involving leaders of the business venture that understand the daily tasks with each department. Every enterprise will need to abide by its own set of compliance requirements; these are legal compliance, business and operating licences, and so on. Businesses must ensure that these policies and procedures are understandable and make sense to the employee
- **Select the best format of policies and procedures:** Departments within the company or enterprise may have many policies to implement. These policies must be demonstrated to the employees and to ensure full compliance, the most effective format must be chosen. This will depend on the personalities, schedules and daily tasks in the different departments. You will need to consider whether they have access to computers during the workday or whether they are out most of the day and use a smartphone for contact. For example, chosen formats could be making an audio or video presentation of the compliance report, written documentation and so on
- **Make the policies and procedures easily accessible:** The guidelines must be easily accessible by everyone in the business. This will ensure that everyone is aware of the policies and how to comply with them. For example, meetings could be arranged to share the policies and procedures, or they could be shared with everyone through a business network or by email. Employees and managers should know where to look for their policies and procedures, and they must be easy to access to avoid frustration. The naming convention for folders should include the department name and type of policy, and links could be shared with the appropriate people

- **Set deadlines for acknowledging policies:** After the compliance framework has been created and is accessible by everyone, meetings should be conducted regularly to ensure employees have acknowledged and understand the compliance requirements. A stipulated deadline must be set for all the employees to acknowledge and comply with the procedures. For example, you could send out surveys to each employee and scheduled email reminders for them to guarantee they have received the policies and procedures, and are aware of the deadlines.

**Source:** Converge Point, Slideshare: 5 steps to ensure compliance with policies and procedures: https://www.convergepoint.com/policy-management-software/policy-procedure-best-practices/5-steps-ensure-compliance-policies-procedures/

## Identifying sources of specialist guidance



The initial years can be very tough for a business as profits are generally low, and operational costs are high. Many entrepreneurs or business owners may seek expert guidance and information in the initial stages to help them as they are still learning the ropes. Expert guidance is usually required at the time of formulating policies to ensure the business understands its compliance requirements.

**The following are some of the relevant sources where the entrepreneur can seek guidance on compliance requirements:**

- **Business books, seminars and events:** They can be some of the most important reference material that business owners rely on. Business books, conferences, seminars, and so on teach and inspire budding entrepreneurs and new-age businesses. In addition, they provide general advice and highlight the basic principles of business

- **Business coaches:** Self-help resources, such as journals, case studies, books and so on, provide a very generic idea and advice. If the business seeks more detailed business solutions that are tailor-made to their respective company, it is wise to consult a business coach. A good business coach and mentor has several years of industry experience. Therefore, they can first understand the business model, identify pain points, and eventually suggest improvements. They carry rich industry expertise and can help fine-tune sales and profit margins. They can also offer advice on how to attract new customers and retain customers at a later stage

- **Consultants:** At a later stage when the business is established, hiring an external consultant makes sense and can be economically feasible. Consultants offer very niche and specialised services and advice, such as setting up the accounting system and setting a marketing and high-level business plan. They may either charge an hourly fee, fixed percentage or a fixed amount depending on the business and services offered.

## 1.3 – Research relationships between legislation, regulations, codes of practice, associated standards and accessed information to determine compliance requirements of the business venture

**By the end of this chapter, the learner should be able to:**

- Identify the relevant codes of practice for their business/industry
- Identify relevant legislation and regulations
- Identify the relationship between legislation, regulations, and code of practice.

### Industry codes of practice and standards

When starting a business venture, you will need to find out which codes of practice are relevant to the business. Codes of practice are referenced in Acts and Regulations, and they may include general statements of principle and practical advice for how a business or industry should operate. They may also include detailed business practices where businesses must comply with certain standards. You must comply with the instructions in a code of practice, and staff must be trained to ensure they know how to comply with the relevant codes. This should be covered in staff induction training and revisited regularly for refresher training to ensure everyone is aware of their responsibilities.

**Many industries will have codes of practice in areas such as:**

- Work health and safety
- Electrical safety
- Animal welfare
- Environmental.


To find out the codes of practice that apply to your business, you will need to contact your business or industry association and the relevant authority for your state or territory.

### Legislation and regulations requirements

There are different laws and regulations that may apply to your business. Australian Government and state and territory government legislation exist to protect consumers, the environment and the community. It also promotes fair trading and competition. These laws govern how businesses interact with their suppliers, customers and other businesses. They also outline the rights of businesses and business owners when it comes to conflict. You may need to consult with a legal expert or business adviser to help you understand which laws you will need to comply with.

**Legislation governing business activity in Australia includes:**

- **Competition laws –** There is a national statutory framework in place to ensure that trading is fair for businesses and consumers. It is administered and enforced by the Australian Competition and Consumer Commission (ACCC). State and Territory laws also govern consumer protection. There is a fair trading office in each state or territory that provides advice on business rights and obligations

- **Consumer laws –** The Australian Consumer Laws (ACL) provides regulations on unfair contract terms, consumer rights guarantees, product safety laws, unsolicited consumer agreements, lay-by agreements and penalties, and other areas

- **Product liability regulation –** There is a national statutory framework in place to regulates product safety and information standards. The standards are designed to ensure harmful products are not marketed in Australia. They are enforced by the Australian Competition and Consumer Commission (ACCC). State and territory government fair trading offices are also involved in enforcing product safety roles. Their main role is to assist consumers with issues

- **Environmental legislation –** Environmental protection is jointly administered by the Australian Government, state and territory governments, and local governments. Australian Government legislation governs the process of assessment and approval of national environmental and cultural concerns

- **Privacy laws –** There is national privacy legislation in Australia called The Privacy Act 1988, which is overseen by the Office of the Australian Information Commissioner (OAIC). This regulates how businesses can collect, access and store personal information and communication. There are certain requirements for the management of sensitive information, such as medical records. Privacy legislation applies to many different activities and sectors. States and territories also have individual privacy laws that may apply

- **Work health and safety –** Business owners have a legal responsibility to manage health and safety in their workplace. They will need to understand the health and safety requirements that apply to their business type and location, and put measures in place as soon as they start their business. Work health and safety (WHS), or sometimes called occupational health and safety (OH&S), involves the management of risks to the health and safety of everyone in the workplace, including customers, visitors and suppliers. Creating a safe work environment is a legal requirement and is critical to the long term success of a business. Under WHS laws, businesses must do the following to ensure the health and safety of workers:

    - provide a safe work environment
    - provide and maintain safe machinery and structures
    - provide safe ways of working
    - ensure safe use, handling and storage of machinery, structures and substances
    - provide and maintain adequate facilities
    - provide any information, training, instruction or supervision needed for safety

- monitor the health of workers and conditions at the workplace

Each state or territory has its own WHS laws and a regulator to enforce them. There will be a framework available for each state. The WHS requirements of your business will depend on the risks present in your workplace.

## Relationship between legislation, regulation and codes of practice

Legislation is the set of laws drafted and enacted by a legislative body, and they must be strictly followed. People who fail to abide by the legislation can be penalised and prosecuted as this legislation is governed by law. The intent is to ensure the protection of workers and others as much as possible from anything that may cause harm. The purpose is to control risks to injury or health that could occur in the workplace.

Codes of practice are guidelines and rules that members of a profession, trade, occupation or organisation are expected to adhere to. They do not usually carry the force of legislation, as they are rules often created by the members of a workgroup as a result of actual or potential dangers that have been observed on the job. Codes of practice are designed to protect the safety of its members.

Workplace policies are rules that an employee must follow. They are usually created by the employer to safeguard employees, avoid worker deaths and injuries, reduce the costs of workplace absences due to injury, and avoid lawsuits. Policies are usually written in employee handbooks, and they may also be posted in the workplace for everyone to have access to.

**Sources:** Business Queensland, Codes of practice: https://www.business.qld.gov.au/starting-business/licensing-obligations/codes-practice

Austrade, Australian business and environment laws: https://www.austrade.gov.au/international/invest/guide-to-investing/running-a-business/understanding-australian-business-regulation/australian-business-and-environment-laws

Australian Government Business, Work health and safety: https://business.gov.au/risk-management/health-and-safety/work-health-and-safety

Safeopedia, What is the difference between code of practice and legislation: https://www.safeopedia.com/7/4107/personal-protective-equipment-ppe/what-is-the-difference-between-code-of-practice-and-legislation

# Chapter 2: Seek specialist advice on compliance and risk minimisation

## 2.1 – Identify sources of specialist advice and services relevant to identified compliance requirements and business venture profile

**By the end of this chapter, the learner should be able to:**

- Determine the need for specialist advice
- Identify sources of specialist advice and services.

### Sources of specialist advice and services

A new business venture is risky and fraught with danger, with a higher probability of failure in the initial years. When a serious problem arises, many businesses do not have the level of skills required to overcome it. As a result, they often turn to specialist services to help them overcome major shortcomings and hurdles and remain compliant. However, the costs for this can be very high and may not be affordable for some smaller businesses. Depending on the nature of the business, different types of specialists may need to be consulted for advice. Specialists can provide pieces of advice in terms of financial, legal and other business solutions.

**The following are sources of specialist advice and services:**

- **Advice from own staff:** One of the most economical and quickest sources of advice could be the company's staff. People will often have held different roles in businesses of varied sizes and sectors where they have developed skill sets and expertise. You may find that someone has the right skills and knowledge to fix or advise on a problem. Bring the entire team together to participate in a brainstorming session and see if they can come up with an effective solution to the problem

- **Advice from connections:** Consulting your network can be an effective option as someone may have a solution to your problem. This could include school or university friends, other friends, family and business contacts you have connected with in the past. LinkedIn is a good platform for reaching out to your connections about business challenges and issues. You can check people's skills and experience before you contact them, and it can potentially be much cheaper than a consulting firm. They may also know someone else within their network who can help

- **Advice from consultants:** Consultants are industry experts with decades of experience in different sectors and industries. They can give advice ranging from human resources, IT, finance, sales and marketing etc. They are either self-employed or work for a consulting firm. You may be able to post your challenge to a network of experienced consultants for free to get a brief solution overview. Alternatively, you may choose to follow up with the consultant for more in-depth guidance. This can be a very expensive source of advice, and it is your responsibility to assess the solution and accept the risk involved if it does not work. A consultant is only responsible for their area of expertise, and they may help you navigate specific hurdles in the business

**Advice from a legal expert:** If you have exhausted your personal networks, you might consider trying an expert network. These are companies that connect businesses with relevant experts from around the world. You can send your challenge to them, then they will find a suitable expert and then connect you. It can be costly to speak to them, and it is not always clear how long it will take to find a solution. Legal experts possess several levels of expertise and can help solve a wide range of issues. Some of the legal services experts can offer include:

- drafting the legal documents and understanding the contracts
- suggesting on the business structure
- applying for licenses from the regulatory agencies and help to comply with them
- matters related to debt and bankruptcy
- legal aspects when seeking to raise external financing

➢ **Consulting an Accountant:** Businesses often seek the help of accountants when it comes to income tax return filing, costing and other relevant aspects of the business. Accountants can offer the following advice:

- how to expand and acquire a business
- tax filing
- payment to employees, salaries and bonuses
- better cost management
- managing finances in terms of net profit and profit margins

➢ **Consulting a banker:** When a company wishes to expand in different geographies and locations, it will need to raise capital in debt or equity. Professional bankers have a complete understanding of the business requirements and can advise the business in the following:

- manging stringent cash flows
- banking services conducted online
- investment banking services
- payroll management system
- raising of finances through loans and other options
- better return on investment strategies.

**Source:** Company Bug, When small businesses need specialist advice who should they turn to?: https://www.companybug.com/when-small-businesses-need-specialist-advice-who-should-they-turn-to/

## 2.2 – Select and access identified specialist advice according to business needs, available resources, and workplace procedures

**By the end of this chapter, the learner should be able to:**

- Determine the needs of the business, available resources, and workplace procedures
- Identify how to select and access specialist advice effectively.

### Selecting and accessing specialist advice

When selecting and accessing specialist advice, it is important to carefully consider the needs of your business, the resources available and workplace procedures. The knowledge and skillsets of experts will vary, so it is vital to select the right person who can help you find a solution to the problem. They must be a good fit for your business to ensure you are getting the best results and value. They must also be provided with clear instructions and expectations, so they know what is expected from them.

**The following are steps to follow while accessing and engaging in specialist advice:**

- **Build a relationship:** It is important to build a balanced relationship with external consultants. They need a different management approach from that used with freelancers, contractors, or permanent team members. Consultants and external experts are expensive resources and need to be guided carefully; exerting too much control and pressure on them may strain the relationship and affect their productivity
- **Clarify the role of the consultant:** Everyone within the company or project, including the consultant, needs to be aware of the role of the consultant and why they were hired. The consultant must be provided with the mission and vision statement of the company and other essential documents. They should also be aware of any underlying issues that have not been openly discussed. It might not be possible for the company's employees to provide solutions to all types of problems. Some probing issues are best left to the expert to solve
- **Define direction:** Experts and consultants need to have a sense of direction regarding goals for a better and more holistic performance. They need to know the goals and expectations of what the company is trying to achieve to provide better consulting services and solutions. Consultants will need measurable goals, so you should work with them to set SMART goals; which are specific, measurable, attainable, relevant, and time-bound goals. This will allow you to measure their progress and performance
- **Provide feedback:** Consultants will need to receive input and feedback from management on their performance. They should be given clear, detailed instructions and feedback, and the resources they need to work efficiently. This is important so they can identify what they are doing well and where they need to improve.

## 2.3 – Clarify and confirm compliance requirements and their appropriateness for business, and risk minimisation needs with advisors

**By the end of this chapter, the learner should be able to:**

- Clarify and confirm compliance requirements
- Identify the different types of risks a business faces
- Identify ways to manage and minimise risks.

### Compliance requirements

Depending on the sector in which your business operates, there will be both internal and external rules and regulations that will dictate what your business can and can't do, and what you need to be aware of. It is important to comply with these regulations to avoid detrimental effects on the business, which can range from financial penalties to imprisonment. Compliance is defined as the outcome of adhering to a rule. Compliance risk captures the legal and financial penalties for failing to act under regulations and legislature. To ensure compliance in a business, the rules and regulations must be clearly defined.

All businesses face risks, which can vary by industry and the nature of the business. A risk can be defined as an event or circumstance that has a negative effect on your business. It is important to identify and understand the risks to your business and find ways to minimise them. Risk management is the process used for identifying, assessing and treating risks that could potentially affect business operations. Creating a risk management plan can help you prepare and protect your business by detailing how you would deal with certain risks. Allocating time and resources to this can help you provide a safe workplace and reduce the chances of negative impacts on your business.

**The main types of risks a business faces are:**

- Strategic – Decisions that affect or are created by an organisation's business strategy or strategic objectives
- Compliance – The need to comply with laws, regulations, standards and codes of practice to avoid threatening the organisation's financial or reputational standing
- Financial – Financial transactions, systems and structure of the business
- Operational – Your operational and administrative procedures
- Environmental – External events that the business has little or no control over, such as unfavourable weather or economic conditions
- Reputational – The character or goodwill of the business.

**Some other types of risks in businesses could be related to:**

- Health and safety
- Equipment and technology
- Security
- Stakeholder management.

## Risk management and minimisation

There are four ways of dealing with risks. A business can accept the risk, transfer the risk, mitigate the risk or eliminate the risk. The company may choose to accept the risk as the cost to eliminate the risk may be too high. On the other hand, the company can reduce the risk by entering into strategic risk management contracts or eliminate the risk entirely.

The process of risk management is not a one-time process; it is an ongoing activity in a business. The entire risk management process must be continuously monitored and reviewed for the success of the business. The monitoring method ensures that risks are correctly identified and assessed, and appropriate risk controls are in place. You will need to discuss your risk management and minimisation needs with advisors when sourcing specialist advice and services. You may already be aware of current risks in your business, in which case you should let the advisor know, or you may need help with identifying the risks your business faces if you are struggling with this.

**You can develop a risk management plan by following these steps:**


- **Identify the risk** – Undertake a review of your business to identify any potential risks. Some useful techniques for identifying risks are:
  - evaluate each function in your business and identify anything that could have a negative impact on your business
  - review your business records such as safety incidents or complaints to identify any previous issues that have occurred
  - consider any external risks that could impact your business
  - brainstorm with your staff
- **Assess the risk** – You can assess each identified risk by establishing:
  - the likelihood (frequency) of it occurring
  - the consequence (impact) if it occurred

The level of risk can be calculated using this formula: Level of risk = likelihood x consequence. To determine the likelihood of each risk occurring, identify how each risk is currently controlled. For example, controls may include:

- elimination
- substitution
- engineering controls
- administrative controls
- personal protective equipment

- **Manage the risk** – This involves developing cost-effective options to deal with the risks, including:
  - avoiding – changing business processes, equipment or material to achieve a similar outcome but avoid the risk
  - minimising – reduce the likelihood and consequence of the risk occurring by doing some of the following:
    - training staff
    - documenting procedures and policies
    - complying with legislation
    - maintaining equipment
    - practising emergency procedures
    - keeping records safely secured
    - contingency planning


  - transferring – transfer some or all of the risk to another party through contracting, insurance, partnerships, joint ventures, etc.
  - accepting – sometimes businesses choose to accept risks and not spend any resources on avoiding them if they don't have other options. For example, the cost of treatment may be higher than the risk level, or the benefits of taking the risk may outweigh the possible damage

- **Monitor and review** – It is important to regularly monitor and review your risk management plan to ensure the control measures and insurance cover is adequate. You can then make changes if something is not working or having the desired effect. You may need to discuss your risk management plan with your insurer.

**Sources:** Australian Government Business, How to manage risk: https://business.gov.au/risk-management/risk-assessment-and-planning/how-to-manage-risk

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## 2.4 – Review and document advice and procedures

**By the end of this chapter, the learner should be able to:**

- Identify ways to review and document advice
- Create a risk register to document, monitor and review risks.

### Review and document advice

The purpose of the risk management process is to review and regularly monitor the risks inherent in the business. You will need to test, evaluate and update your risk management plan regularly as risks can change often depending on changes in your business, industry and environment. As risks evolve and change from time to time, it is important to regularly detect the emerging risks and plan to mitigate them. Reviewing your risk management plan regularly is vital for identifying new risks and monitoring the effectiveness of your risk treatment strategies.

Your advisor may have created a risk management plan for your business and advised you on measures and corrective actions that could be taken to mitigate or eliminate the risks. You will need to review and document their advice and implement a strategy for dealing with these risks specific to your business.

### Documenting risks

The risk management process should be documented by maintaining and using a risk register, also known as a risk log. The risk register is an essential part of the risk management process. It is a document that is usually created on Excel and is used to identify, log and track potential project or business risks. It is essentially a table of project risks that allows you to track each risk and any important information about it. The risk register will need to be updated regularly; as and when new risks are discovered, they will need to be added to this risk register.

**A risk register contains the following elements:**


- Identification number (to quickly refer to or identify each risk)
- Name or brief description of the risk
- Risk categories (whether it's internal or external, material-related, labour-related, etc.)
- Probability (how likely is the risk to occur)
- Impact (if the risk takes place, how seriously will it impact your project)
- Rating (where does this risk fall on your priority list)
- Approach (will you monitor the risk, try to mitigate it, avoid it, etc.)
- Action (if you plan to mitigate or avoid the risk, what are the steps involved, and when will they occur)
- The person who is responsible for overseeing or mitigating the risk.

## Business continuity

Your risk management plan should be part of a broader business continuity plan which includes strategies for responding to and recovering from incidents should they happen. You should make sure your business continuity plan is consistent and up to date; this will help you reduce the impact on your business if an incident occurs. Some risks will be unexpected or impossible to plan for. Preparing an incident response plan and a recovery plan could help you deal with these situations if they happen. Your business continuity plan should be treated as a living document that is updated regularly, around every six months. You may need to update it regularly with any improvements or changes in your business, industry or the location you operate in.

**Sources:** Business Queensland, Review and update your risk management plan: https://www.business.qld.gov.au/running-business/protecting-business/risk-management/preparing-plan/review-update

Wrike, What is a risk register in project management: https://www.wrike.com/blog/what-is-a-risk-register-project-management/

# Chapter 3: Take action to support business compliance

## 3.1 – Arrange insurance cover for the business according to business needs, available resources, and workplace procedures

**By the end of this chapter, the learner should be able to:**

- Identify different types of business insurance cover
- Arrange insurance cover for the business depending on the requirements.

### Arranging insurance cover

All businesses operate in an environment of risk and uncertainties. Some of those risks and uncertainties can be mitigated, whereas others cannot. Businesses can arrange insurance cover to protect the business against events that could occur. As every business is different, the type of insurance required will vary. You will need to evaluate your insurance needs depending on the needs of your business, your available resources and workplace procedures. Some insurance companies will offer insurance packages tailored specifically for different types of businesses. You may need to consult a business advisor or insurer to discuss what types of business insurance you will need. Depending on your business, some types of insurance will be compulsory and vital to ensure compliance.

**Some types of business insurance cover include:**

- Compulsory insurance – Some types of insurance are compulsory for Australian businesses, such as:
  - workers' compensation insurance – this is compulsory if you have employees in the business. It covers you and your workers against financial hardship due to an accident or illness. It must be provided through an authorised insurer. If you are a sole trader, you will need to consider your own personal, death, illness and disability insurance to cover yourself
  - public liability insurance – this covers you for third party death or injury and is compulsory for certain types of companies
  - third party personal injury insurance – this is compulsory if you own a motor vehicle. It is often part of your vehicle registration fee
- Personal or loss of income insurance – There are different types of personal insurance. Some are investment-type funds where you contribute over a certain time and receive money at the maturity date, while others cover things that could happen to you:
  - income protection or disability insurance

- life insurance
- total and permanent disability insurance
- trauma insurance
- business interruption or loss of profits insurance
- management liability
- employee dishonesty

➢ Stock, products and assets insurance – This is necessary if you have important business assets, property, stock or products that you cannot afford to lose. Insurance options for this include:

- building and contents insurance
- burglary insurance
- deterioration of stock
- electronic equipment
- farm insurance
- goods in transit insurance
- machinery breakdown
- tax audit insurance
- property in transit insurance

➢ Accident and liability insurance – This protects you if you are liable for damages or injuries to another person or property. It is important to consider this if the likelihood of legal action is high in your business. In some industries, this type of insurance will be mandatory before you are legally allowed to operate. The different types of liability insurance could include:

- management liability insurance
- product liability insurance
- professional indemnity insurance
- public liability insurance.

**Source:** Australian Government Business, Business insurance: https://business.gov.au/risk-management/insurance/business-insurance.

## 3.2 – Implement compliance procedures according to specialist advice received

**By the end of this chapter, the learner should be able to:**

- identify steps to ensure compliance in a business
- Implement compliance procedures according to specialist advice.

### Implementing compliance procedures

Business compliance is the process of making sure your business and employees follow the laws, regulations, standards, and ethical practices that apply. A compliance program is a set of internal policies and procedures created by a business to reduce the risk of breaching any laws, remedy any breaches that may occur, and create a culture of compliance. Compliance programs should be designed to meet the needs of your business, and they should also comply with the requirements of the Australian Competition and Consumer Act 2010 (CCA). You may have received guidance from a specialist on how to implement compliance procedures effectively.

Additionally, the Australian Competition and Consumer Commission (ACCC) provides compliance program templates that can be used to help businesses build suitable, compliant programs.

**Compliance program templates provide specific examples, such as:**

- A compliance program that the ACCC is likely to accept
- A compliance program that resolves a matter after the ACCC has taken enforcement action against a business
- What the ACCC considers advisable for businesses to implement in voluntary compliance programs.

**The following are some steps every business should follow to ensure compliance:**

- **Stay updated with changing laws and regulations**: Compliance is a continuous process that businesses need to work to achieve. It requires researching changing laws and regulations, identifying the areas in which it impacts your business, changing and implementing new policies and monitoring them. Businesses must be aware of which laws and regulations apply to them and ensure they stay on top of any changes to avoid any surprises

- **Involve specialists**: Smaller and growing businesses are at risk of breaching laws inadvertently as they are learning. To prevent this, it is important to ensure that the business is transparent in its operations, and hires specialists or consultants when needed to make sure everything is in order. This will allow business owners to ask for advice when required and make sure their actions are compliant. It will also help them develop compliant policies and procedures

- **Make sure employees follow procedures**: Policies must be followed by employees for them to be effective. However, the workforce may not always adapt well to policy changes and may be reluctant to change. It is vital to involve human resources in the process and to also communicate policies and procedures well to make sure people understand them and why they have changed. Policies should be documented and easily accessible in different formats to people in the business. You may need to implement training to encourage employees to adopt the procedures to their work. You may also consider implementing a reward system for employees who comply

- **Conduct internal audits regularly**: Conducting internal audits is an effective way to detect inadequate and ineffective procedures that can lead to non-compliance. This can help you resolve problems before they occur. Internal audits may focus on operational, technological and financial aspects of the company. An internal auditor must be independent when reviewing compliance and implement generally accepted auditing standards (GAAS)

- **Use the right software**: Using the right tools and software can make it easier for businesses to be compliant and can reduce the risk of human errors. Compliance software often has built-in tools for organising documents and automatically generates audit trails to make it easier to demonstrate compliance when needed.

**Sources:** Australian Government Business, Why build a compliance program: https://business.gov.au/products-and-services/fair-trading/why-build-a-compliance-program

Be Informed, 5 steps to ensure compliance: https://www.beinformed.com/blog/5-steps-to-ensure-compliance/

## 3.3 – Seek feedback on implemented compliance procedures from required personnel

**By the end of this chapter, the learner should be able to:**

- Identify different methods for seeking feedback on compliance procedures
- Identify relevant personnel to gather feedback from.

### Seeking feedback on compliance procedures

After implementing compliance procedures, you will need to know if they are working effectively, and they will need to be checked to make sure they stay compliant. Scheduling regular compliance audits is a good way to check if your processes and procedures are current and compliant. A compliance audit is a review of an organisation's adherence to regulatory guidelines, and it can help you identify any gaps in your compliance plan. Audits should be conducted both announced and unannounced at least quarterly for new processes and twice a year otherwise.

You will need to gather feedback from relevant personnel such as employees and other members of staff who are directly affected by the procedures. Seeking feedback from different sources will help you identify what changes need to be made to the compliance procedures. Gathering feedback will also allow you to evaluate the effectiveness of the policies and procedures.

**Some methods for seeking feedback include:**

- **Gathering feedback through surveys:** Conducting surveys is a very useful and productive method as it is generally easy to set up, send out and analyse the results. Sending out anonymous surveys also encourages people to give their honest opinions and suggest things they might not be comfortable with sharing face to face. You should use open-ended questions in the surveys to encourage more detailed responses from people. Make sure you acknowledge and thank everyone who completes a survey, as this will encourage them to continue providing feedback

- **Creating a feedback group or forum:** A business may create a feedback group or forum comprising all the relevant personnel. The assembled group can then give collective or individual feedback and discuss ideas for improvement together. This feedback tends to be more diverse and useful as different people in the business will give their views based on their understanding and experience

- **Asking for feedback directly:** It is always wise to ask for feedback from relevant personnel directly. This could be requested through a casual or formal conversation, emails, meetings and conferences etc. Most people will appreciate being asked directly about their opinions as this shows that they are valued and that the company is committed to continuous improvement. Make sure you thank everyone for their feedback, regardless of whether it will be implemented in the business.

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***These suggested references are for further reading and do not necessarily represent the contents of this unit.***

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*All references accessed on and correct as of 11/08/2021, unless otherwise stated.*