



# Modernising the CATSI Act

Since the CATSI Act was introduced in 2007, there have been significant changes to how information is stored, managed and distributed. Also, we now increasingly use social media, email and phone-based messaging to communicate. The CATSI Act could be updated to reflect these and other changes to better meet the needs of Aboriginal and Torres Strait Islander people.

## Disclosure of information

Under the CATSI Act, information collected by the Registrar in performing his or her role—protected information—can only be shared with specific people and in certain circumstances. Sometimes though it is not clear who can receive protected information from the Registrar.

- Do you agree that the CATSI Regulations should be clearer about who can receive protected information?

Researchers, peak bodies, academics and other stakeholders are interested in the information held by the Registrar and ORIC. They often ask for information but the Registrar and ORIC are not allowed to share it even if it is de-identified.

- Do you think that the Registrar should be able to share de-identified information with interested stakeholders?

## Providing notices

The Registrar has to give public notice of some actions he or she takes under the CATSI Act—such as granting class exemptions or placing a corporation under special administration. The CATSI Act requires that this be done by publishing notices in the *Australian Government Gazette*, and/or in some newspapers. Not only does this represent a cost to ORIC, it is now outdated.

- Should the Registrar be able to publish notices on modern communication platforms such as ORIC's website?

When notifying people or corporations directly, usually the Registrar is required to do so by post or in person. This can be slow and sometimes difficult when people and corporations are in remote locations.

- Should the CATSI Act be changed to enable the Registrar to contact people and corporations using electronic channels?



## Information storage

Some sections of the CATSI Act says that corporations can store their information on computer. The CATSI Act does not say that corporations can store their information on cloud servers.

- Do you agree that the CATSI Act should make it clear that corporations can store their information on cloud servers?
- Do corporations need minimum security standards for the information they hold?

## Contact information

The CATSI Act requires people and corporations to provide their physical addresses as their contact details and does not require the collection of email addresses and telephone numbers. These contact details will be needed if there is support for allowing corporations and the Registrar to make contact via email, phone and SMS.

The Registrar needs to be told of changes to a director’s contact details. If a person is a director for more than one corporation, the CATSI Act does not allow the Registrar to change the director’s details for all of the different corporations—the Registrar can only change the details for the corporations that advise him or her. The Registrar should also be able to update a director’s contact details on the register when the Registrar is aware they are incorrect.

Do you agree the CATSI Act should be updated to:

- require telephone numbers and email addresses as part of contact information
- allow the Registrar to update a director’s contact details when he or she is aware that they are incorrect?

## False and misleading information

It is an offence for anyone to distribute false and misleading information about a corporation, without taking reasonable steps to avoid it. The Corporations Act has a similar provision, but outlines what those ‘reasonable steps’ are whereas the CATSI Act doesn’t.

Currently, under the CATSI Act, penalties for making false and misleading statements are not consistent.

- Should the CATSI Act also include an explanation of reasonable steps?
- Should the penalties for making false and misleading statements be consistent?



## Whistleblower protection

Whistleblowers are protected under the CATSI Act when they have reasonable grounds to suspect that a corporation, or a director or employee, has breached the CATSI Act.

- Do you agree that these provisions should be expanded, in line with recent amendments to the Corporations Act?

## ORIC examinations

After ORIC has examined a corporation, it will issue a compliance notice, a 'show cause' notice or a 'management letter'. The management letter is not required under the CATSI Act and is sometimes confused with an auditor's management letter.

- Should the CATSI Act be changed so that an 'Examination Outcome Letter' is issued at the end of an examination so that the corporation and stakeholders know that the examination process has concluded?

## Accounting standards

CATSI corporations need to prepare their financial reports in line with the Australian Accounting Standards but this is not clear in the CATSI Regulations.

- Do you think the CATSI Regulations should be updated to make it clear that financial reports need to be in accordance with the Accounting Standards?

## Auditor provisions

The CATSI Regulations currently only set out the provisions for the resignation of an auditor, not for the appointment of a replacement auditor outside of a general meeting if required.

- Do you agree that the CATSI Act should be updated to say how a replacement auditor should be appointed when one resigns? If so, how should a replacement auditor be appointed and who should make the appointment?

Under the Corporations Act, auditors have qualified privilege but they don't under the CATSI Act. This means that when an auditor gives information to an authorised person, they can do so without the risk of defamation.

- Should auditors have qualified privilege under the CATSI Act too?



## Payment controls

The approval requirements of ‘negotiable instruments’—that is, bills of exchange, promissory notes, cheques, letters of credit—should be updated to include electronic fund transfers.

- Do you agree that the definition of ‘negotiable instruments’ under the CATSI Act should be updated?

## Registrar’s name

The name of the Registrar’s position is set out in the CATSI Act. But the Registrar of Aboriginal and Torres Strait Islander Corporations is often referred to as the Registrar of Indigenous Corporations, as is the Registrar’s Office.

- Should the Act be amended to allow changes to the title of the Registrar and the Registrar’s Office without the requirement to make legislative change?

### Contact the CATSI Act Team

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