



Powers and functions of the Registrar

Existing powers and functions

The CATSI Act establishes the role of the Registrar of Aboriginal and Torres Strait Islander Corporations (the Registrar) and the Office of the Registrar of Indigenous Corporations (ORIC). It sets out the powers and functions of the Registrar including:

- calling a Registrar initiated general meeting and a meeting of interested persons
- directing a CATSI corporation to change its name
- exercising enforcement powers, including
 - appointing an authorised officer to examine the books of a corporation
 - requiring people to give information, produce books of a corporation and answer questions
 - applying for a warrant to seize books of a corporation
- appointing a special administrator to a CATSI corporation
- intervening in court proceedings relating to a CATSI Act matter.

Should the Registrar have additional regulatory powers?

In 2017, the Technical Review of the CATSI Act found that, despite having similar responsibilities, the Registrar does not have all the regulatory powers of the Australian Securities and Investments Commission (ASIC).

In addition some stakeholders felt that the Registrar needed a wider range of powers that were less severe in scope or consequence to the current powers. Expanding the Registrar's powers would benefit corporations, with the Registrar being able to intervene earlier when there is a breach and respond in a more proportionate manner.



Imposing fines

Unlike ASIC, the Registrar cannot currently impose fines if a corporation doesn't lodge its reports. The only action available to the Registrar is to start legal proceedings, which may be a very heavy-handed approach in some cases. As an alternative, the Registrar should have the power to issue fines. This would be in the form of an infringement notice that a corporation could challenge in court if it disagreed with it.

- Do you agree the Registrar should have the power to issue fines in cases of minor non-compliance?

Enforceable undertakings

This is when a person or a corporation agrees to take action or fix problems with non-compliance with the CATSI Act. The agreement is legally enforceable. It means the Registrar could avoid taking court action for relatively minor breaches of the Act. It is proposed that the Registrar be able to accept enforceable undertakings and to take action to address a contravention of an undertaking.

- Do you agree the Registrar should be able to accept enforceable undertakings?

Investigation powers

Notice period

Currently the Registrar has to give a person 14 days' notice to produce books of the corporation. Such a delay can prevent quick regulatory action, especially when it is reasonable that the books be produced immediately. In comparison, ASIC is able to specify the timeframe within which a person must produce books which can be less than 14 days.

- Should the CATSI Act be amended so that the Registrar also has the power to specify the timeframe within which books must be produced?

Issuing notices

The Registrar's powers to issue a notice requiring a person to produce books is limited compared with ASIC. For example, ASIC can require officers of a corporation, auditors and bankers to produce books and the Registrar can only issue a notice to someone who the Registrar believes has some knowledge of the corporation's affairs.

- Do you think that the CATSI Act should be amended to provide the Registrar with similar powers to ASIC to issue notices to produce books?



Powers when books are produced or seized

The CATSI Act expressly provides authorised officers (that is, someone appointed by the Registrar) with a range of powers that are not expressly provided to the Registrar. For example, authorised officers can use books from a CATSI corporation that have been produced or seized under a warrant for a proceeding and the Registrar is not explicitly provided with this power.

- Should the CATSI Act be amended to provide the Registrar with the same powers?

Extending power

ASIC can take action against a current or former employee or officer of the corporation, as well as the corporation itself. In comparison, the Registrar can only take action against a corporation.

- Do you agree that the CATSI Act should be amended to allow the Registrar to take action against a current or former employee or officer as well as a corporation?

Should the CATSI Act be strengthened?

- Are there powers available to other Commonwealth regulators that should also be available to the Registrar? Should they be altered in some way to better support CATSI corporations? Which powers would be most appropriate and why?

The Registrar can give general advice, a formal advisory opinion and facilitate conferencing between disputing parties. ORIC staff can attend corporation meetings as observers and present information or provide advice.

- Are the current dispute resolution powers of the Registrar adequate —if not, how could they be improved?

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