

## What's a 'person'? Legal entities in hospitality businesses

**Author :** Richard Edwards

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You may have heard the idea that a person includes companies. That sounds a little odd. Lawyers, on the other hand, don't blink at that sentence.

Section 2C of the [Acts Interpretation Act 1901 \(Cth\)](#) says that a reference to a "person" (amongst others) in a piece of Federal legislation includes a reference to individuals, bodies politic and corporations.

Why does this matter? It's all about referring to the correct thing. Precision. In this case, we're talking about kinds of legal entities.

A legal entity is a reference to the thing that **can sue and be sued, and can own property in their own right.**

The most common legal entities in business are:

### **Sole trader**

An individual trading on their own.

They can employ employees.

They have unlimited liability.

## **Partnership**

A number of individuals or corporations running a business together.

Each partner has unlimited liability for the actions or omissions of the business which includes the other partners.

## **Corporation**

These are those things with "Pty Ltd" or "Ltd" at the end of their name.

There are three types of 'persons' when talking about a corporation:

- the corporation itself;
- its shareholders or members; and
- its directors.

Each are separate.

## **Trust**

A trust involves:

- the trust, which owns the property;
- the trustee, who administers the trust; and
- the beneficiaries of the trust.

There are many different kinds of trusts: fixed unit trusts, discretionary family trusts, hybrid trusts - the list goes on.

It's becoming more common to see a corporation as the trustee of a trust.

## **Incorporated Association**

Another is an incorporated association, which is common for sports clubs and for charitable organisations. Profits can't be distributed to members - they must be used in a way consistent with the objectives of the incorporated association, which are defined in the association's constitution or rules.

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## Your business structure

Choosing the legal entity to operate your hospitality business is best informed by:

- your business goals and visions;
  - your personal financial circumstances;
  - advice from your accountant; and
  - [legal advice from us](#).
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## Things that are not legal entities includes:

### Business names

A registration which lets the legal entity use a different name.

a.k.a. trading name.

### ACN

An identifier for a corporation.

Find out about the corporation using the ACN and [ASIC](#).

### BN

An identifier for a legal entity which has an ABN.

Find out about the legal entity behind an ABN or business name using [ABR](#).

### Joint ventures

Although some JVs may create a corporation, trust or partnership.

## **Unincorporated association**

A way to describe a group of people who want to sound organised.

## **Franchise**

A name for a contractual arrangement where (put simply) a franchisor grants a franchisee a right to use a trade mark.

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## **Want more information?**

[Contact us](#) for advice tailored to you.