



Who can apply for bus operator accreditation or registration?

Under the *Bus Safety Act 2009* (Vic) any person may apply for bus operator accreditation or bus operator registration.

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A person may be a natural person (a real human being) or an artificial, legal or juristic person. For example an organisation that the law treats for some purposes as if it were a person distinct from its members or owner.

The following are common types of entities that may make an application for accreditation or registration:

1. A natural person

A real human being, as distinguished from a corporation which is often treated at law as a fictitious person. A natural person may operate as a sole trader, and use a trade name or business name other than his or her legal name. However, the accreditation or registration can only be granted in the individual's full legal name, i.e. Mary Jane Smith (trading as MJ Bus Lines).

2. A partnership

A partnership, like a company, is a type of association but narrower because it can only be for commercial purposes. An incorporated limited partnership must have at least one general partner (but no more than 20) and be at least one limited partner. There is no limit on the number of limited partners. The members of a partnership can be natural persons or artificial legal persons provided they have legal capacity to make a partnership agreement.

3. A company

A body corporate registered in Australia under the *Corporations Act 2001* (Cth). For a full legal definition refer to section 9 of that Act. Companies are registered by the Australian Securities and Investments Commission (ASIC).

A company name will include one of the following legal elements:

- > Proprietary Limited (Pty Ltd)
- > Unlimited Proprietary (Pty)
- > Limited (Ltd)
- > No Liability (NL)

Each company is allocated a unique Australian Company Number (ACN). The general characteristics of a company are:

- > it is a corporate body created by law
- > it has all the powers of an individual and a corporation
- > it can sue and be sued in its own right
- > it has officeholders (director(s), secretary)
- > it has a registered office
- > it has member(s)
- > it has perpetual succession, for example, it continues even if its members die or resign.

4. An incorporated association

There are more than 35,000 incorporated associations in Victoria. They are clubs or community groups, operating not for profit, whose members have decided to give their organisation a formal legal structure. You can recognise an incorporated association by the word 'Incorporated' or the abbreviation 'Inc.' after its name. When a club or community group incorporates it acquires a new legal status and it becomes a legal entity in its own right, separate from the individual members. The general characteristics of an incorporated association are:

- > it is a corporate body created by law
- > it is a legal entity
- > it can sue and be sued in its corporate name
- > it has perpetual succession, for example, it continues even if its members die or resign
- > it has a public officer and a committee
- > it has members
- > its profits, if any, can only be used to promote its objectives (non profit making).

Incorporated associations are registered by the State or Territory in which the association is based.

Related information:

- > www.online.justice.vic.gov.au/cav/br-home
- > *Associations Incorporation Act 1981 (Vic)*.

5. Unincorporated associations

An unincorporated association is not a legal entity and is not usually accorded recognition by the legal system. Unincorporated associations are formed when persons who share a common lawful purpose agree to further that interest by collective action. The association is formed by the voluntary action of those people who agree to its formation and the terms of association.

Members of an unincorporated association are subject to the powers of the association's constitution, capable of entering into contracts and doing things on behalf of other people in the association. They are also individually and personally responsible for any debts incurred in the name of the association. Where a contract is signed on behalf of an unincorporated association, the individual members are responsible and may be sued.

6. Schools

- > All government schools in Victoria - apart from the Distance Education Centre Victoria - are governed by a school council. Each school council is a legal entity in its own right, a body corporate, constituted by an Order made under section 2.3.2 of the *Education and Training Reform Act 2006 (Vic)* or its predecessor, section 13 of the *Education Act 1958 (Vic)*. Subject to the constituting order, the school council is capable of exercising all the functions of a body corporate, suing and being sued, holding land, having perpetual succession and having a common seal. A school council can exercise and discharge, in relation to a Government school or group of schools, powers, duties and functions that may from time to time be conferred and imposed on the council by or under the Act. The constituting order, among other things, specifies the school council membership and the rules that govern school council elections.
- > Private schools - may be incorporated associations, a company or an unincorporated association (most catholic schools are unincorporated associations).

7. Hospitals and health services

- > All public hospitals in Victoria are incorporated by legislation (*Health Services Act 1988 (Vic)* (the Act) Division 4 - Public hospitals).
- > Private hospitals are registered under the Act.
- > Health services must be registered under Division 2 of Part 3 of the Act, which provides for the registration of an 'agency'. An agency under this Division does not include public hospitals, denominational hospitals or privately-operated hospitals.

Lists of hospitals can be found from the following links:

- > www.health.vic.gov.au/privatehospitals/index.htm
- > www.healthcollect.vic.gov.au/directories/Metrohos.htm
- > www.healthcollect.vic.gov.au/directories/ruralhos.htm

List of community health centres and services may be found from the following link:

- > www.health.vic.gov.au/communityhealth/service_provider/community_health_directory.htm.

8. Retirement villages

By law, a retirement village is a community where most residents are aged 55 years or over or are retired from full-time employment (or are spouses/partners of such people). Residents are provided with accommodation and services, other than services provided in a residential care or aged care facility.

Retirement villages are registered with Consumer Affairs and a list maybe found at www.consumer.vic.gov.au.

9. Other organisations incorporated by legislation

These are generally government departments which are incorporated by an act, and which will have the department name in the title of the Act.

Where to get more information

Hotline: 03 9655 8922

Website: www.transportsafety.vic.gov.au

Email: info@transportsafety.vic.gov.au

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