RISK PROTECTOR

Your First Line of Defence Against Director Liability, ATO Enforcement and Asset Exposure

BUSINESS & DIRECTOR RISK IDENTIFIER TOOL — NO. 11

Director Penalty Notice
First Response Plan

What to do in the first 72 hours — before options close

admin@riskprotector.com.au | +61 466708100 | www.riskprotector.com.au | ABN 71 696 228 770

BEFORE YOU BEGIN — READ THIS FIRST

A Director Penalty Notice (DPN) is one of the most serious documents an Australian company director can receive. It is a formal ATO notice that makes you personally liable for your company's unpaid PAYG withholding or Superannuation Guarantee Charge. It is not a negotiating letter. It is not a warning. It is the beginning of a legally defined process that, if not responded to correctly within the timeframe, results in automatic personal liability that can be enforced against your personal assets.

There are two types of DPN and they have completely different rules:

LOCKDOWN DPN: If the company's BAS and super were not lodged on time, you CANNOT avoid personal liability — even by placing the company into liquidation or administration. You are personally liable from the moment the DPN is issued.

NON-LOCKDOWN DPN: If lodgements were on time, you have 21 days from the date of the DPN to take one of three actions — pay the debt, appoint an administrator, or appoint a liquidator — to avoid personal liability. After 21 days, the liability locks in permanently.

HOW TO USE THIS PLAN

This is a first response action plan — not a solution. It tells you what to do in the first 72 hours to preserve your options, gather critical information and engage the right help before the clock runs down. Work through every step in order. Tick each one when complete. Record the date and time it was done.

This plan does not replace qualified legal and financial advice. It prepares you to engage that advice as quickly and effectively as possible.

PHASE 1 — Immediate Actions

Hours 0 to 4 — Do these first, before anything else

STEP	Action Required	Done	Completed
1 CRITICAL	**Secure and read the DPN document completely** Read the entire notice. Do not assume you know what type it is. Note the date on the notice, the amount claimed, the debt type (PAYG or SGC or both) and any reference numbers. The date on the DPN — not the date you received it — starts the 21-day clock.	☐ DONE	Date / Time
2 CRITICAL	**Determine the DPN type immediately** Check whether your company's BAS lodgements and super returns were filed on time before the debt arose. If YES — you have a Non-Lockdown DPN with a 21-day window. If NO — you have a Lockdown DPN and personal liability may already be fixed. This is the single most important fact you need to establish right now.	☐ DONE	Date / Time
3 CRITICAL	**Calculate the 21-day deadline and write it down** Count 21 days from the date shown on the DPN notice (not the postmark, not the date you received it). Write this date in large print and put it somewhere you will see it every day. This is your absolute deadline. Every option available to you closes on this date.	☐ DONE	Date / Time
4 CRITICAL	**Do NOT ignore it, defer it or assume it will resolve**	☐ DONE	Date / Time

	Do not contact the ATO without advice. Do not make any payments to other creditors from company funds until you have taken advice. Do not transfer any personal or company assets. Do not assume your accountant has this under control unless you have specifically spoken to them about this notice today.		
5 CRITICAL	**Photograph or scan the DPN and all related documents** Create a digital copy immediately. Email it to yourself and to your accountant or solicitor. This ensures the document cannot be lost and creates a timestamp of when you first had it.	☐ DONE	Date / Time

DPN Date: ____________ **| Amount: $**____________ **| Type (Lockdown / Non-Lockdown):** ____________ **| 21-Day Deadline:** ____________

PHASE 2 — Engage Qualified Help

☐ Hours 4 to 24 — Engage the right advisers before taking any other action

STEP	Action Required	Done	Completed
6 CRITICAL	**Contact a specialist in DPN and director liability — today** Your general accountant and solicitor may not have the specific expertise required. You need someone who specialises in ATO enforcement, director penalty notices and corporate insolvency. Contact Risk Protector to understand your full structural exposure before engaging other advisers.	☐ DONE	Date / Time
7 CRITICAL	**Contact your accountant for compliance information only — do not engage them to act** At this stage you need information, not action. Ask these specific questions only: Were all BAS lodgements filed on time for every period the DPN relates to? Were all superannuation returns lodged on time? What is the exact outstanding PAYG and SGC amount according to their records? Are there any other outstanding ATO obligations they are aware of? Do NOT ask them to contact the ATO, negotiate or respond on your behalf. Their answers determine your DPN type. Once you have that information contact Risk Protector before taking any further steps.	☐ DONE	Date / Time
8 CRITICAL	**Contact your solicitor to confirm your legal position only — do not instruct them to act** At this stage you need to understand your position, not trigger legal costs or actions that may not yet be appropriate. Ask these specific questions only: Am I currently named as a director of the company shown on the DPN? Are there any other legal proceedings or notices connected to this matter I should know about? What is the general consequence if no action is taken before the 21-day deadline? Do NOT instruct them to respond to the ATO, write letters or take formal action yet. Contact Risk Protector first for a free A13 Structural Exposure Assessment — it will give you and your advisers a clear and complete picture before anyone acts.	☐ DONE	Date / Time
9 IMPORTANT	**Do NOT contact the ATO without advice** Any communication you have with the ATO about the DPN can affect your legal position. Do not call the ATO to negotiate, dispute or request an extension without first taking qualified advice on what to say and what not to say.	☐ DONE	Date / Time
10 IMPORTANT	**Assess the company's current financial position** You need to know immediately: Can the company pay the debt in full? Does the company have assets that could be liquidated? Is	☐ DONE	Date / Time

	the company solvent? What other creditors are owed money? This information will drive every decision you make in the next 21 days.		

Accountant contacted: ____________ | Solicitor contacted: ____________ | Company can pay debt: YES / NO / UNSURE

PHASE 3 — Assess Your Options

Hours 24 to 72 — Understand every option before the window closes

STEP	Action Required	Done	Completed
11 IMPORTANT	**Option A — Pay the debt in full** If the company can pay the full DPN amount to the ATO within the 21-day window, your personal liability is extinguished. This is the cleanest outcome. Confirm with your accountant whether this is feasible and what the impact is on the company's other creditors and obligations.	☐ DONE	Date / Time
12 IMPORTANT	**Option B — Appoint a voluntary administrator** If the company cannot pay, appointing a voluntary administrator within the 21-day window can extinguish personal liability on a Non-Lockdown DPN. This does not apply to Lockdown DPNs. Discuss this with your solicitor as a matter of urgency if payment is not possible.	☐ DONE	Date / Time
13 IMPORTANT	**Option C — Appoint a liquidator** Appointing a liquidator within the 21-day window can also extinguish Non-Lockdown DPN personal liability. Your solicitor and accountant should advise you on whether this is appropriate given the company's overall financial position and creditor obligations.	☐ DONE	Date / Time
14 CRITICAL	**Confirm your personal asset protection position** Regardless of which option you pursue, you need to know right now whether your personal assets — home, savings, investments — are adequately protected from enforcement if the DPN liability cannot be extinguished. Contact Risk Protector immediately if you do not have a clear answer to this.	☐ DONE	Date / Time
15 IMPORTANT	**Document every decision and every conversation** Keep a written record — date, time, who you spoke to, what was discussed and what was decided. If the matter escalates to formal enforcement or litigation, this record will be critical evidence that you acted promptly and in good faith.	☐ DONE	Date / Time

Option being pursued: ____________ | Adviser managing response: ____________ | Personal assets protected: YES / NO / UNSURE

WHAT NOT TO DO — ACTIONS THAT WILL MAKE YOUR SITUATION WORSE

✕ **Do NOT ignore the DPN or hope it goes away.** There is no mechanism by which a DPN expires without action. Ignoring it results in automatic personal liability being enforced against your personal assets.

✕ **Do NOT transfer personal or company assets.** Any transfer of assets — company or personal — after receiving a DPN can be challenged as a fraudulent conveyancing attempt and reversed. This can also expose you to additional criminal liability.

✖ **Do NOT make preferential payments to selected creditors.** Paying some creditors and not others after receiving a DPN can be challenged by a liquidator. All creditors must be treated equally once insolvency becomes relevant.

✖ **Do NOT resign as a director to avoid liability.** Resignation after a DPN is issued does not extinguish the personal liability created by the notice. The liability follows you regardless of whether you remain a director.

✖ **Do NOT assume your accountant has resolved it.** Unless your accountant has specifically told you they have contacted the ATO and the DPN liability is resolved, do not assume it is being handled.

YOUR MOST IMPORTANT NEXT STEP

A DPN does not sit in isolation. Your response options, your personal liability exposure and your ability to protect your assets all depend on the full structural picture — your entity structure, your trust, your personal guarantees and your overall ATO position. Understanding that picture is what the A13 is designed for.

The Risk Protector A13 Structural Exposure Assessment

Free. Confidential. The only forensic structural assessment of its kind available to Australian directors.

Visit **www.riskprotector.com.au** and click the GET MY FREE A13 ASSESSMENT button.

No obligation. No cost. Absolute discretion.

Risk Protector Pty Ltd | ABN 71 696 228 770 | +61 466708100 | www.riskprotector.com.au

This tool is a self-awareness resource only. It is not legal or financial advice and does not replace professional advice. Seek qualified legal and financial assistance immediately when facing a Director Penalty Notice.

Risk Protector Pty Ltd provides strategic advisory services only. Not legal or financial advice. Covered by $50M Professional Indemnity Insurance.