Requirements for reporting entities under the Act
The Security of Critical Infrastructure Act 2018 (the Act) creates specific requirements for owners and operators of critical infrastructure assets to provide information on the Register of Critical Infrastructure Assets (the Register). The Register maintains information on who owns, controls and has access to critical infrastructure assets. This information allows the Australian Government to work with critical infrastructure owners and operators to identify and manage the national security risks of espionage, sabotage and coercion.

To determine if you are an owner or operator of a critical infrastructure asset, please refer to the Act and supporting documentation such as the ‘Coverage of the Security of Critical Infrastructure Act 2018’ Factsheet.

Who will be required to report information on the Register?

The reporting entity for a critical infrastructure asset is required to report information on the Register. Reporting entities are either ‘direct interest holders’ or ‘responsible entities’.

A direct interest holder (as per section 8 of the Act) is an entity that:

- together with any associates of the entity, holds an interest of at least 10 per cent in the asset (including if any of the interests are held jointly with one or more other entities), or
- holds an interest in the asset that puts the entity in a position to directly or indirectly influence or control the asset.

An entity can be an individual, a body corporate, a body politic, a partnership, a trust, a superannuation fund, or an unincorporated foreign company.

In most circumstances, moneylenders would not be considered direct interest holders, unless the moneylender is in a position to directly or indirectly influence or control the asset. If a moneylender, through either the holding of the security interest or through enforcement of the security interest, is in a position to directly or indirectly influence or control the asset, then it would be considered a direct interest holder.

A responsible entity (as per section 5 of the Act) is a body licensed to operate the critical infrastructure asset. Responsible entities have sector specific meanings:

- for a critical electricity asset or a critical gas asset—the entity that holds the licence, approval or authorisation (however described) to operate the asset to provide the service to be delivered by the asset
- for a critical water asset—the water utility that holds the licence, approval or authorisation (however described), under a law of the Australian Government, a State or Territory, to provide the service to be delivered by the asset
• for a critical port—the port operator (within the meaning of the Maritime Transport and Offshore Facilities Security Act 2003) of the port

Reporting entities are to provide the required information through an online form at www.cicentre.gov.au. The online form allows reporting entities to upload relevant documents as required.

An agent such as a lawyer may report information on behalf of a direct interest holder or responsible entity.

**When will reporting entities be required to report information on the Register?**

Reporting entities have the following obligations:

• an initial obligation to report information on the Register from 11 July 2018 or when an asset becomes a critical infrastructure asset (as per section 23 of the Act), and

• ongoing reporting obligations triggered by a notifiable event (as per section 24 of the Act).

**Initial reporting**

Reporting entities are required to report information on the Register within six months of the Act commencing (11 July 2018). If an asset becomes a critical infrastructure asset after this six-month period, the reporting entity will have up to six months (from the date the asset becomes a critical infrastructure asset) to report the required information.

**Ongoing reporting**

Entities are required to ensure the accuracy of the information reported on the Register. The information on the Register must be updated if a notifiable event occurs. Entities are required to update information within 30 days of a notifiable event. A notifiable event includes:

1. If an entity becomes a reporting entity for a critical infrastructure asset. This may be as a result of a change in ownership structure.

2. If a reporting entity for the asset becomes an entity to which the Act applies. This includes circumstances where an entity changes its structure to meet the definition of entity in the Act.

3. For direct interest holders, the interest and control information on the Register becomes incomplete or incorrect.
   • The direct interest holder is required to provide any information that is required to correct or complete the previously reported information.

4. For responsible entities, the operational information on the Register becomes incomplete or incorrect.
   • The responsible entity is required to provide any information that is required to correct or complete the previously reported information.

A reporting entity will not be required to report the first notifiable event if there are two notifiable events which occur within the same 30 day period, and the second event has the effect of rendering the information in relation to the first event incorrect.
Example of a notifiable event for a direct interest holder

Having already reported its interest and control information to the Register, Interest Holder A sells down its 100 per cent shareholding in Asset A to Interest Holder B who acquires a 20 per cent interest in Asset A. In this example, in accordance with section 24 of the Act, within 30 days, Interest Holder A would need to report its new shareholding as 80 per cent. Additionally, Interest Holder B, as a direct interest holder in Asset A, would need to report its newly acquired 20 per cent shareholding as well as all other required information.

Example of a notifiable event for a responsible entity

Company X, which owns an electricity distribution asset, decides against renewing its arrangement with the current asset operator. In a new arrangement, Company X engages Company A to be the entity that will hold the licence to operate its electricity distribution asset. The licence arrangement results in Company A being the responsible entity for the electricity distribution asset. In accordance with subsection 26(b) of the Act, Company A would need to report its operational information to the Register.

What information must be reported?

Reporting requirements differ for direct interest holders and responsible entities. Please retain a personal copy of all reported information, as once submitted, you will not be able to access to this information.

Responsible entity

Responsible entities are required to provide operational information (set out in section 7 of the Act) in relation to the asset. This includes:

Personal details of the person completing the form, including:
1. Legal name
2. Whether the person completing the form is doing so as the responsible entity, or as an agent or representative
3. Employer’s name
4. Job title or position
5. Contact details

Details on the critical infrastructure asset, including:
1. Legal name of the asset
2. Description of the asset’s location
   The description is found on a rates notice or a valuation notice, and can comprise various formats, including:
   • lot numbers within a deposited or legal plan number
   • crown allotment numbers and section numbers within a county name, or
   • a combination of various numbers and plans.
3. Description of the area the asset services
   This information may be outlined in a licencing document or described in terms of the geographic locations in which services are provided.
Information on the responsible entity, including:

1. Legal name
   The legal name will depend on the type of entity and its organisational or business structure. For example, the legal name of a corporation would be the name registered with the Australian Securities and Investments Commission (ASIC) or similar overseas bodies.

2. Type of entity
   This may be one of the following:
   - an individual, whether or not a resident in Australia or an Australian citizen
   - a body corporate, whether or not formed, or carrying on business, in Australia
   - a body politic, whether or not an Australian body politic
   - a partnership, whether or not formed in Australia
   - a trust, whether or not created in Australia
   - a superannuation fund, whether or not created in Australia
   - an unincorporated foreign company.

3. Country of incorporation or creation

4. Business registration number (or other similar business number if incorporated, formed or created outside Australia)

5. Legal name of the Chief Executive Officer, or equivalent officer (responsible entity only)

6. Country of citizenship held by the Chief Executive Officer, or equivalent officer (responsible entity only)

7. Data arrangements (set out in the rules to the Act)
   Responsible entities will be required to report any outsourced arrangements in relation to the following data sets:
   - bulk holdings of personal information (as per the Privacy Act 1988)
   - sensitive information (as per the Privacy Act 1988)
   - research and development information (focussing on asset research and development)
   - operational systems information (data on how your asset operates)
   - information relating to the asset’s risk management and/or business continuity frameworks
   - consumption information (any data relating to a consumer’s consumption of electricity, water or gas).

   The description of the data arrangements must provide an outsourced entity’s details including:
   - the name of the entity
   - ABN or other similar business number
   - whether the entity is incorporated, formed or created outside of Australia
   - address of the entity’s head office or principle place of business
   - the country in which the entity was incorporated, formed or created
   - any address at which data is held to the extent that the information can be obtained
   - for data held using a cloud service - the name of the cloud service
   - the kind of data (as set out above).
Details on asset operators

The responsible entity for a critical infrastructure asset is required to report certain information on the Register in relation to those entities that are considered to be an operator under section 5 of the Act. Operators are those entities in a position to be able to exercise some level of operational control over the day to day running of a critical infrastructure asset.

1. Legal name
   The legal name will depend on the type of entity and its organisational or business structure. For example, the legal name of a corporation would be the name registered with ASIC or similar overseas bodies.

2. Type of entity
   This may be one of the following:
   - an individual, whether or not resident in Australia or an Australian citizen
   - a body corporate, whether or not formed, or carrying on business, in Australia
   - a body politic, whether or not an Australian body politic;
   - a partnership, whether or not formed in Australia;
   - a trust, whether or not created in Australia;
   - a superannuation fund, whether or not created in Australia, or
   - an unincorporated foreign company.

3. Country of incorporation or creation

4. Business registration number (or other similar business number if incorporated, formed or created outside Australia)

5. Address of head office or principle place of business

6. Details of the arrangements under which the entity operates the asset or part thereof

How do I know which entities are captured as an operator under the Act?

An operator under the Act are those entities which meet one of the following sector specific criteria:

1. For critical ports, operators are defined as port facility operators within the meaning of the Maritime Transport and Offshore Facilities and Security Act 2003 (MTOFSA). Practically, this means that operators of critical ports will be those entities with an approved port facility operator Maritime Security Plan.

2. For critical infrastructure assets other than a critical port, operators are those entities that are:
   - authorised by a responsible entity to independently operate a critical infrastructure asset, or part of the asset, and
   - directly contributing to ensuring the asset fulfils its function (the function of the asset is determined by the subsector it is captured under in the Act. For example, the function of an electricity transmission network is to transport power from generators to distributors). This would include, but not be limited to:
     - Managing, controlling and/or participating in an asset’s control room or network operations centre (or however else described). This includes those entities that manage and/or control an asset’s industrial control systems (such as SCADA systems).
Examples of operators
The responsible entity for an electricity transmission network contracts an entity to independently manage an electricity substation. In this example, the contracted entity is an operator as the responsible entity has provided them with the authority to independently operate a part of the transmission network which directly contributes to the network transporting electricity from generators to distributors.

The responsible entity for a critical water asset has contracted an entity to independently manage a water treatment plant. In this example, the contracted entity is an operator as the responsible entity has provided them with the authority to independently operate a part of the water network which directly contributes to the network servicing at least 100,000 connections.

Example of an entity that is not captured as an operator
The responsible entity for a gas pipeline has contracted an entity to independently manage the asset’s physical security. This provides the contracted entity with express authorisation to access critical areas of the asset. However the contracted entity is not an operator (for the purposes of the Act) as in fulfilling its contract, which requires the entity to maintain the physical security of the asset, they do not have express authorisation to operate the asset and therefore do not directly contribute to transporting gas.

- Independently managing or controlling key assets or network elements (whether remotely or not), including:
  - water treatment plants
  - wastewater treatment plants
  - water distribution assets such as pump stations or service reservoirs
  - electricity substations, or
  - gas pump stations.

Why capture operators?
Requiring the responsible entity to report on an asset operators on the Register provides the Government visibility of those entities with control, and access to influence the operation, of critical components of an asset which if destroyed, degraded, or rendered unavailable for extended period, would have a significant impact on the asset fulfilling its function as determined by the Act.

Additional information
Responsible entities are also able to provide any additional information that may assist the Australian Government to work with critical infrastructure owners and operators to identify and manage the national security risks of espionage, sabotage and coercion.
Direct interest holder

Direct interest holders are required to provide influence or control information (set out in section 8A of the Act) in relation to the asset. This includes:

Details on the critical infrastructure asset
1. Legal name of the asset
2. Reason for registration
   For example, the acquisition of an asset through purchase or inheritance, or, if the asset was an existing holding but is being registered because of the enactment of the Act.

Personal details of the person completing the form
1. Legal name
2. Whether the person completing the form is doing so as the responsible entity, or as an agent or representative
3. Employer’s name
4. Job title or position
5. Contact details

Access to networks or systems by the Board or Governing Body
1. Provide information about the ability of any person appointed to a governing body, who has authorisation and access to networks or systems necessary for the operation or control of the asset. For example, this may include board members’ access to industrial control systems and security or corporate systems of the asset.

Details of the direct interest holder
1. Legal name
   The legal name will depend on the type of entity and its organisational or business structure. For example, the legal name of a corporation would be the name registered with ASIC or a similar overseas body.
2. Type of entity
   This may be one of the following:
   • an individual, whether or not a resident in Australia or an Australian citizen;
   • a body corporate, whether or not formed, or carrying on business, in Australia;
   • a body politic, whether or not an Australian body politic;
   • a partnership, whether or not formed in Australia;
   • a trust, whether or not created in Australia;
   • a superannuation fund, whether or not created in Australia; or
   • an unincorporated foreign company.
3. Type and level of interest in asset
4. Entity head office, or principal place of business:
   • for an entity other than an individual or body politic – the address of the entity’s head office or principal place of business; and the country in which the entity was incorporated, formed or created (however described),
   • for an entity that is an individual – the residential address of the entity; the country in which the entity usually resides; and the country or countries of which the entity is a citizen
   • for an entity that is a body politic – the address of the entity’s head office or principal place of business; and the country in which the entity was formed or created (however described) as a body politic.
5. Business registration number (or other similar business number if incorporated, formed or created outside Australia)
6. Original date of acquisition of the asset
Information on direct interest holder’s influence or control over the asset

1. Provide information on the direct interest holder’s ability to directly or indirectly influence or control the asset. As per section 8A of the Act, an entity is in a position to directly or indirectly influence or control an asset if:
   • the entity is in a position to exercise voting or veto rights in relation to the body that governs the asset;
   • the entity is in a position to make decisions that materially impact on the running of, or strategic direction in relation to, the asset;
   • the entity has the ability to appoint:
     – persons to the body that governs the asset
     – key personnel involved in running the asset
   • the entity is in a position to influence or determine decisions relating to:
     – the business plan, or any other management plan, for the asset
     – major expenditure relating to the asset
     – major contracts or transactions involving the asset, or
     – major loans involving the asset.

Other entities with influence or control over the asset

The direct interest holder is also required to report information on behalf of any other entity (controlling entity) that through the direct interest holder, or another entity (controlled entity) in that ownership chain, is able to directly or indirectly influence or control the asset. As per section 8A of the Act, a controlling entity is able to exert influence or control over a controlled entity if the controlling entity:

1. is in a position to exercise voting or veto rights in relation to the controlled entity
2. is in a position to make decisions that materially impact on the running of, or strategic direction of, the controlled entity
3. has the ability to appoint persons to the board of the controlled entity
4. is in a position to influence or determine decisions relating to:
   • the business plan, or any other management plan, for the controlled entity
   • major expenditure relating to the controlled entity
   • major contracts or transactions involving the controlled entity
5. together with any associates of the controlling entity, holds an interest of at least 10 per cent in the controlled entity (including if any of the interests are held jointly with one or more other entities).

The direct interest holder will be required to report the following information for each other entity:

1. Legal name
   The legal name will depend on the type of entity and its organisational or business structure. For example, the legal name of a corporation would be the name registered with ASIC or similar overseas bodies.

2. Type of entity
   This may be one of the following:
   • an individual, whether or not a resident in Australia or an Australian citizen
• a body corporate, whether or not formed, or carrying on business, in Australia
• a body politic, whether or not an Australian body politic
• a partnership, whether or not formed in Australia
• a trust, whether or not created in Australia
• a superannuation fund, whether or not created in Australia, or
• an unincorporated foreign company.

3. Interest in entity
4. Entity head office, or principal place of business:
   • for an entity other than an individual or body politic – the address of the entity’s head office or principal place of business; and the country in which the entity was incorporated, formed or created (however described)
   • for an entity that is an individual – the residential address of the entity; the country in which the entity usually resides; and the country or countries of which the entity is a citizen
   • for an entity that is a body politic – the address of the entity’s head office or principal place of business; and the country in which the entity was formed or created (however described) as a body politic.

5. Business registration number (or other similar business number if incorporated, formed or created outside Australia)
6. Details on the influence or control the entity can exercise An entity is in a position to directly or indirectly influence or control an asset if:
   • the entity is in a position to exercise voting or veto rights in relation to the body that governs the entity;
   • the entity is in a position to make decisions that materially impact on the running of, or strategic direction in relation to, the entity;
   • the entity has the ability to appoint:
     – persons to the body that governs the entity;
     – key personnel involved in running the entity
   • the entity is in a position to influence or determine decisions relating to:
     • the business plan, or any other management plan, for the entity;
     • major expenditure relating to the entity;
     • major contracts or transactions involving the entity, or
     • major loans involving the entity.
Example 1

Tas Electricity Co owns an electricity distribution network in Tasmania, which is a critical infrastructure asset. Tas Electricity Co is 50 per cent owned by Electricity Holdings. Electricity Holdings only has one shareholder, Mr Smith, who is an American citizen and lives in New Zealand. Tas Electricity Co, is the first entity and direct interest holder of the critical infrastructure asset. As the director interest holder, it will report the following to the Register:

- Name - subsection 6(1)(a)
- business number (if applicable) - subsection 6(1)(b)
- relevant address - subsection 6(1)(c) or (d)
- the type and level of interest it holds - subsection 6(1)(e)
- information about the influence or control it is in a position to directly or indirectly exercise - subsection 6(1)(f)
- information about the ability of any person it has appointed to the governing body, to directly access networks or systems that are necessary for the operation or control of the asset - subsection (1)(g)
- the name, business number (if applicable), address and type and level of interest, for each other entity that is in a position to directly or indirectly exercise influence or control over it - subsection 6(1)(h)(i), (1)(h)(ii) and (1)(ha).

Tas Electricity Co would report details on Electricity Holdings and Mr Smith, as they are entities that are in a position to directly or indirectly influence or control Tas Electricity Co. This will include details on Mr Smith’s shareholding in Electricity Holdings, Electricity Holdings’ shareholding in Tas Electricity Co, and Mr Smith’s residential address and citizenship details, as well as the ‘influence or control they are each able to exert.
Example 2
Tas Electricity Co holds a 40 per cent interest in an electricity distribution network in Tasmania, the critical infrastructure asset. Tas Electricity Co is wholly-owned by Electricity Holdings, which is wholly-owned by Electricity Co, which is a subsidiary of Electricity Group Co.

Electricity Group Co:
- holds an interest of greater than 10 per cent in each of the holding entities of Tas Electricity Co
- is in a position to appoint persons to run the asset; and
- exercise veto rights in relation to Tas Electricity Co.

Tas Electricity Co is required to report on each of these entities, up to the ultimate owner, Electricity Group Co:
- Electricity Holdings, an entity that is in a position to directly or indirectly influence or control the first entity (direct interest holder) - subsection 6(1)(h)(i)
- Electricity Co, an entity that is in a position to directly or indirectly influence or control any entity covered by a previous application of this paragraph - sub subsection 6(1)(h)(ii);
- Electricity Group Co, the ultimate owner - subsection 6(1) (h)(ii).
Example 3

Tas Electricity Co, the direct interest holder, is 50 per cent owned by Electricity Holdings. Tas Electricity Co is the controlled entity and Electricity Holdings is the controlling entity. Electricity Holdings also holds a 50 per cent interest in Electricity Co, which holds a 5 per cent interest in Tas Electricity Co. Electricity Co is also a controlling entity of Tas Electricity Co, as Electricity Holdings and Electricity Co are considered to be associates under section 8B.

Electricity Holdings, together with its associate Electricity Co, jointly hold an interest of 55 per cent in Tas Electricity Co. Electricity Group Co is the ultimate holding company of both Electricity Holdings and Electricity Co.

Tas Electricity Co, as the direct interest holder would be required to report details on Electricity Holdings, Electricity Co and Electricity Group Co.