

Queensland



# **BUSINESS NAMES ACT 1962**

**Reprinted as in force on 9 May 2003  
(includes commenced amendments up to 2003 Act No. 19)**

**Reprint No. 4K**

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This Act is reprinted as at 9 May 2003. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes. Also see list of legislation for any uncommenced amendments.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of reprints is included in the endnotes.

**Also see endnotes for information about—**

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

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# BUSINESS NAMES ACT 1962

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# BUSINESS NAMES ACT 1962

[as amended by all amendments that commenced on or before 9 May 2003]

## **An Act to make provision with respect to the registration and use of business names and for other purposes**

### **1 Short title**

This Act may be cited as the *Business Names Act 1962*.

### **3 Definitions**

In this Act—

**“approved form”** see section 31A.<sup>1</sup>

**“business”** includes trade and profession.

**“business name”** means a name, style, title, or designation under which a business is carried on.

**“carrying on business”** includes establishing a place of business and soliciting or procuring any order from a person in the State, and **“to carry on business”** has a corresponding meaning.

**“corporation”** means any body corporate formed or incorporated, whether in the State or outside the State, and includes any foreign company within the meaning of the Corporations Act.

**“data processor”** means a mechanical, electronic or other device for the processing of data.

**“director”**, in relation to a corporation, includes any person occupying the position of director of the corporation, by whatever name called.

**“firm”** means an unincorporated body of persons (whether consisting of individuals or of corporations or partly of individuals and partly of

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<sup>1</sup> Section 31A (Approval of forms)

corporations) associated together for the purpose of carrying on business.

**“initial”** includes a recognised abbreviation of a given name.

**“prescribed fee”** means the fee prescribed under a regulation.

**“register”** means a register of business names kept under this Act.

**“registrar”** means any registrar of business names under this Act.

**“repealed Act”** means the *Registration of Firms Act 1942*.

**“secretary”**, in relation to a corporation, includes any person performing the duties of secretary of the corporation and in relation to a corporation registered under the Corporations Act, part 5B.2, division 2 includes the agent of the corporation appointed for the purpose of that division.

**“transparency”** see *Evidence Act 1977*, part 7.

### **3A Meaning of carrying on business within State**

For the purposes of this Act a person shall not be regarded as carrying on business within the State for the reason only that within the State the person—

- (a) is or becomes a party to any action or suit or any administrative or arbitration proceeding, or effects settlement of an action, suit or proceeding or of any claim or dispute; or
- (b) maintains an account at a financial institution; or
- (c) effects any sale through an independent contractor; or
- (d) creates evidence of any debt or creates a charge on real or personal property; or
- (e) secures or collects any of the person’s debts or enforces the person’s rights in regard to any securities relating to such debts; or
- (f) conducts an isolated transaction that is completed within a period of 31 days, but not being 1 of a number of similar transactions repeated from time to time; or
- (g) invests any of the person’s funds or holds any property.



**3B When business name taken to be registered in relation to person**

For the purposes of this Act a business name shall be deemed to be registered under this Act in relation to a person if it appears from the register that the person either alone or together with other persons is carrying on business under that name.

**3C How prescribed fee may be paid**

(1) This section applies if a provision of this Act requires—

- (a) payment of a prescribed fee; or
- (b) an application to be accompanied by a prescribed fee; or
- (c) a document to be lodged together with the prescribed fee.

(2) The fee may be paid in any way approved by the chief executive.

*Example of how prescribed fee may be paid—*

The chief executive may approve that the prescribed fee can be paid by lodging an authorisation to debit a credit account with the application form.

**3D How documents may be lodged**

If a person is required to lodge a document under this Act, the person may lodge the document by post, fax or in any other way approved by the chief executive.

**4 Registrar and other staff**

(1) A registrar of business names is to be employed under the *Public Service Act 1996*.

(2) Deputy registrars of business names may be employed under the *Public Service Act 1996*.

(3) A deputy registrar may exercise the powers of the registrar.

**4A Registrar may enter into arrangements with ASIC**

(1) The registrar, with the prior consent of the Minister, may enter into an arrangement or agreement with ASIC in respect of the administration of this Act.

(2) An arrangement or agreement under subsection (1) may relate to the making available of information recorded under this Act to ASIC.

#### **4B Registrar may appoint clerk of the court as agent**

The registrar, with the prior approval of the chief executive of the department, may appoint a clerk of the court to be his or her agent in a Magistrates Court district for the purpose of enabling any person to search the register for information by means of a data processor situated at the office of the clerk of the court.

#### **4C Delegation by administrator**

(1) An administrator may delegate the administrator's powers under this Act to an appropriately qualified officer of the department.

(2) In subsection (1)—

**“administrator”** means—

- (a) the chief executive; or
- (b) the registrar.

**“appropriately qualified”** includes having the qualifications, experience or standing appropriate to exercise the power.

*Example of ‘standing’—*

The level at which a person is employed within the department.

### **5 Certain business names to be registered**

(1) A person shall not either alone or in association with other persons carry on business in the State under a business name unless—

- (a) the business name consists of the name of that person and the name of each other person (if any) in association with whom that person is so carrying on business without any addition; or
- (b) the business name is registered under this Act in relation to that person and each other person (if any) in association with whom that person is so carrying on business;

and where the business name is so registered such of the provisions of section 12 as are required to be complied with by or on behalf of the person

or persons in relation to whom the name is registered have been complied with.

Maximum penalty—40 penalty units. Default penalty.

(2) For the purposes of subsection (1) the name of a person consists of—

- (a) in the case of an individual—the person’s full name, or family name together with—
  - (i) the person’s given name or names; or
  - (ii) the initial or initials of the person’s given name or names; or
  - (iii) a combination of 1 or more of the person’s given names and the initial or initials of the person’s remaining given name or names; or
  - (iv) the given name or names by which the person is commonly known or the initial or initials by which the person is commonly known or any combination of 1 or more of such names and such initials;
- (b) in the case of a corporation—the corporate name of the corporation.

(3) The addition to a business name of words indicating that the business is carried on in succession to a former owner of the business shall for the purposes of subsection (1) be deemed not to be an addition to the business name.

(4) Where a business is carried on by an official receiver a trustee in bankruptcy or a trustee under a deed or scheme of arrangement entered into under a law of the Commonwealth relating to bankruptcy or by a receiver manager or other person appointed by any court or under the powers contained in any instrument to carry on the business the business shall for the purposes of this Act be deemed to be carried on by the person who carried on the business immediately before the appointment of the receiver trustee manager or other person.

(5) Notwithstanding anything in this Act a contravention of or failure to comply with any provision thereof shall not operate to avoid any agreement transaction act or matter.

## **6 Register of business names**

(1) The registrar shall keep a register of business names registered under this Act in such form as the registrar thinks fit.

(4) A statement lodged under this Act in relation to a business name registered under this Act, whether lodged before or after the registration shall for the purposes of this Act be deemed to be incorporated with and to form part of the register kept by the registrar.

(5) A copy, certified under the hand of the registrar to be correct and furnished pursuant to this section, of a statement lodged under this Act in relation to a business name registered under this Act, whether the statement was lodged before or after the registration, shall for the purposes of this Act be deemed to be incorporated with and to form part of the register of business names kept by the registrar.

## **7 Registration of business names**

(1) An application for the registration of a business name shall be made by lodging with the registrar a statement in the approved form which shall be signed by the person or persons carrying on or proposing to carry on business in the State under that name shall be accompanied by the prescribed fee and shall set out—

- (a) the business name; and
- (b) a concise description of the true nature of the business carried on or proposed to be carried on under that name by the applicant or applicants; and
- (c) the address of each place in the State where the business is or is proposed to be carried on showing, if the business is or is proposed to be carried on at more than 1 place in the State, which of those places is or is to be the principal place of business; and
- (d) a postal address to which correspondence may be directed; and
- (e) the given names and family name, the date and place of birth and the usual place of residence of each applicant who is an individual and the corporate name and the place of the registered office of each applicant which is a corporation; and
- (f) the date or proposed date of commencement of the carrying on of business in the State under the business name by the applicant or applicants; and
- (g) whether the term of the proposed registration of the business name is 1 year or 3 years; and
- (h) where the business name is a name adopted by the applicant or applicants in substitution for another name—that other name.

(3) Subject to this Act the registrar shall upon the lodging of a statement under subsection (1) in relation to a business name register the business name for the term stated in the application for registration.

(3A) The term of the registration of the business name can not be changed during the current term of the registration.

(4) The registrar shall upon registering a business name issue a certificate of registration in the approved form signed by the registrar.

(5) The registrar may upon payment of the prescribed fee issue a further certificate of registration.

(6) A business name shall not be registered under this Act if the statement referred to in subsection (1) is lodged with the registrar on a date preceding by more than 2 months the date shown in the statement as the proposed date of commencement of carrying on business.

(7) The registrar may refuse to register a business name if the registrar is not satisfied that the particulars set out in the statement lodged under subsection (1) are correct.

(9) Where the applicant or applicants seek the registration of a business name in substitution for a business name (the “**substituted name**”) already registered under this Act in relation to the applicant or applicants he or she, or as the case may be, each of them shall in the statement referred to in subsection (1)—

(a) apply to the registrar for the cancellation of the registration of the substituted name (which cancellation, the registrar is hereby empowered to effect); and

(b) include the following notification—

‘TAKE NOTICE that the applicant or applicants in relation to whom this application is being made formerly carried on business under the business name of which name is abandoned. AND TAKE FURTHER NOTICE that an application is being hereby made in this application for the cancellation of that business name.’

## **7A Application not made until prescribed fee paid**

If an application for registration of a business name is not accompanied by the prescribed fee, the application is taken not to have been made until the fee is paid to the registrar.

**7B Registrar's power to ask applicant for further information**

(1) The registrar may, by written notice given to an applicant for registration of a business name under section 7(1),<sup>2</sup> ask the applicant to give to the registrar, within a stated reasonable time, another document or further information the registrar reasonably believes is necessary—

- (a) to enable the registrar to decide whether to register, or refuse to register, the business name;<sup>3</sup> or
- (b) to satisfy the registrar that the applicant is carrying on, or will carry on, the business in the State.

(2) If the applicant fails to comply with the request within the stated time, the applicant is taken to have withdrawn the application.

**9 Restriction on registration of business names that are undesirable etc.**

(1) Except with the consent of the Minister a business name shall not be registered under this Act if the business name is a name that is in the opinion of the registrar undesirable or is a name or a name of a kind that the Minister has for the purposes of this Act directed the registrar not to accept for registration.

(2) The Minister shall cause a direction given by the Minister under subsection (1) to be published in the government gazette and a copy of the direction to be forwarded to the Attorney-General of the Commonwealth and the Minister of the Crown of each other State who is responsible for the administration of the laws of that State relating to the registration of business names.

**10 Power to cancel registration of business names that are undesirable etc.**

(1) If a business name which could not be registered under this Act without contravention of section 9(1) is registered through inadvertence or otherwise, the registrar may send by post a notice addressed to the person or persons in relation to whom the name is so registered at the place shown in the register as the place where business is carried on under that name—

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2 Section 7 (Registration of business names)

3 For grounds for refusal of registration see, for example, sections 7(6) and (7) and 16.

- (a) stating that the registrar proposes to cancel the registration of that name upon the expiration of such period (being a period of not less than 28 days) as is specified in the notice; and

- (b) setting out the reasons for the proposed cancellation;

and upon the expiration of that period the registrar may cancel the registration of that name.

(3) The Minister may at any time before the expiration of the period specified in a notice given by the registrar under subsection (1) annul the notice.

(4) The registrar may remit any fee payable in respect of an application for the registration of a new business name in place of a business name the registration of which is cancelled under subsection (1).

## **10A Term of registration**

The registration of a business name remains in force for the term of 1 year or 3 years registered by the registrar under section 7(3).

## **11 Renewal of registration**

(1) The person or 1 of the persons in relation to whom a business name is registered may, before the expiry of the registration of the business name, apply to the registrar to renew the registration in any way approved by the chief executive.

(1A) The application for renewal must—

- (a) state whether the term of the proposed renewal is 1 year or 3 years; and
- (b) be accompanied by the prescribed fee.

(2) The renewal of a registration shall be effected for a further term of 1 year or 3 years stated in the application for renewal as from the day on which the previous registration expires.

(2A) The term of the renewal of the registration can not be changed during the term of the renewal.

(3) The registrar shall after the expiration of the registration of a business name send by post to the person or persons in relation to whom the business name was registered at the place shown in the register as the

place where business is carried on under that name a notice of the date on which the registration has expired.

(4) Where the registration of a business name has expired the registrar shall not accept for registration from any person or persons other than the person or persons in relation to whom the business name was registered any business name that is identical with that business name or that in the opinion of the registrar so nearly resembles it as to be calculated to deceive until the expiration of 1 month after the sending of the notice referred to in subsection (3) and, where the registrar has extended the period within which that business name may be registered, until the expiration of that further period.

(6) Where the registration of a business name expires by effluxion of time and the registration thereof is not renewed or further renewed pursuant to subsection (1), every person in relation to whom the business name was registered shall be guilty of an offence against this Act unless the person proves—

- (a) that the person or all the persons in relation to whom the business name was registered ceased to carry on business in the State under that name before the date of the expiration of the registration of that business name and a statement required by the provisions of section 12(3) to be lodged was lodged in accordance with those provisions or, if not so lodged, that the person took all reasonable steps to ensure compliance with those provisions; or
- (b) that the person took all reasonable steps to secure the renewal or further renewal of the registration in accordance with this section.

Maximum penalty for subsection (6)—2 penalty units.

## **12 Notification of changes in particulars relating to registered business names, cessation of business etc.**

(1) Subsection (1A) applies if—

- (a) a person has a business name registered under this Act; and
- (b) a place where business is carried on under that name (a “**place of business**”), or the address of a place of business, changes.

(1A) The person must, within 1 month after the change, lodge with the registrar a statement in the approved form—



- (a) signed by the person or another person in whose name the business name was registered at the time of the change; and
- (b) stating when the change occurred and particulars of the new place of business or address.

(2) Where a change occurs in the given names or family name of any person being an individual in relation to whom a business name is registered under this Act or in the corporate name or the place of the registered office of a person being a corporation in relation to which a business name is registered under this Act there shall be lodged with the registrar within 1 month thereafter a statement in the approved form signed by that person notifying the registrar of particulars of and of the date of the change.

(2A) A corporation is taken to have complied with subsection (2) if, within the time referred to therein, the change in the corporate name or, as the case may be, the change in the place of the registered office has been notified to ASIC under the Corporations Act.

(3) Where a business name is registered under this Act in relation to a person or persons and that person ceases or all or any of those persons cease to carry on business in the State under that name there shall be lodged with the registrar within 1 month thereafter a statement in the approved form notifying the registrar of the cessation and of the date thereof signed by each person who was carrying on business under that name immediately before the cessation or in the case of a deceased person by the deceased person's personal representative.

(4) Where a business name is registered under this Act in relation to a person or persons and another person or other persons commences or commence to carry on business in the State under that name in place of or in association with any person or persons in relation to whom the name is already registered, there shall be lodged with the registrar within 1 month thereafter, a statement in the approved form signed by each person carrying on business under that name immediately after that other person or those other persons so commenced carrying on business under that name, setting out the date on which that other person or those other persons so commenced to carry on business and in relation to each person required to sign the statement—

- (a) who is an individual—the given names and family name, the date and place of birth and the usual place of residence of the individual; or

- (b) who is a corporation—the corporation name and the place of the registered office of the corporation.

(5) If a statement required by a provision of this section to be lodged with the registrar is not lodged in accordance with the provision, or if lodged does not comply with the provision, each person required or authorised by the provision to sign the statement shall unless the person proves that the person took all reasonable steps to ensure compliance with the provision be guilty of an offence against this Act.

Maximum penalty—4 penalty units. Default penalty.

(6) Where by reason of a person commencing to carry on business under a business name registered under this Act a statement is lodged with the registrar in accordance with and within the time prescribed by subsection (4) neither that person nor any other person shall be guilty of an offence against section 5 by reason only that before the lodging of the statement the person carried on business under that name.

(7) Any statement required to be lodged with the registrar under this section with respect to any matter may be combined with a statement required to be lodged under this section with respect to another matter.

## **12A Provisions relating to statements etc.**

(1) Where it is provided in this Act that a statement, document or matter shall be lodged with the registrar within a specified period, the registrar may (irrespective of whether that period has expired or not) in relation to a business name, extend that period for such further period as the registrar thinks fit.

(2) If default has been made in lodging a statement, document or matter in accordance with this Act within the period specified, such statement, document or matter may, subject to this Act, be lodged notwithstanding such default.

(3) The lodgment of a statement in accordance with subsection (2) in relation to the renewal or further renewal of the registration of a business name shall be deemed to effect the renewal of the registration of that business name for a further period of 12 months as from the day on which the previous registration expired.

(4) Subsections (2) and (3) shall not affect the liability of any person or persons in respect of such default.

### **13 Duty to furnish information**

(1) The registrar may by notice in writing require any person to furnish within a period specified in the notice (being a period of not less than 28 days) or within such further period as the registrar may allow such information as appears to the registrar to be necessary to enable the registrar to ascertain whether or not a person—

- (a) is carrying on business either alone or in association with other persons under a business name that is required to be registered under this Act; or
- (b) has failed to lodge with the registrar a statement required to be lodged under this Act.

(2) A person required under subsection (1) to furnish information to the registrar shall within the period specified in the notice or within such further period as the registrar has allowed furnish such information as it is within the person's power to furnish and shall not furnish any information which to the person's knowledge is false in any material particular.

Maximum penalty—4 penalty units.

(3) A person shall not be excused from furnishing any information where required to do so under subsection (1) on the ground that the information might tend to incriminate or make the person liable to a penalty but the information furnished by the person shall not be admissible in evidence against the person in any proceedings civil or criminal except proceedings for an offence against subsection (2).

### **14 Disability of persons in default**

(1) Where a person who is carrying on business under a business name in contravention of section 5 or a person who, being required to lodge a statement under section 12 in relation to a business name, fails to lodge that statement commences any suit or action in that business name or in respect of a cause of action arising out of any dealing in or under that business name, the court before which the suit or action is commenced may order the person to cease to contravene section 5 or to cause the statement to be lodged, as the case may be, and may stay all proceedings in the suit or action until the order is complied with or may allow the proceedings to be continued on an undertaking being given by the person that the person will comply with the order within such time as is limited by the court.

(2) The power given by this section to a court may be exercised in the case of the Supreme Court by a judge thereof in chambers in the case of the

District Court by a judge thereof in chambers or in the case of a Magistrates Court by a magistrate in chambers.

## **15 Signing of statements**

(1) Any statement lodged with the registrar under this Act shall be deemed to be signed by a person who is required to sign the statement if—

- (a) in the case of an individual—it is signed on the person's behalf by a person authorised in writing to so sign the statement; or
- (b) in the case of a corporation—it is signed by a director or the secretary of the corporation.

(2) Notwithstanding any other provision of this Act where the registrar is satisfied that it is not practicable to obtain the signature of a person required by this Act to sign a statement the registrar may accept the statement for registration without its being signed by that person, but a person is not relieved of the requirement to sign a statement and a statement not signed by any person is not by reason only of its registration under this Act evidence relating to that person's interest in a business.

## **16 Registrar's powers about statements that are incomplete etc.**

(1) This section applies if the registrar reasonably believes that a statement required to be lodged by a person under this Act—

- (a) contains—
  - (i) an alteration or erasure; or
  - (ii) matter contrary to law; or
- (b) is incomplete because of an omission from, or misdescription in, it; or
- (c) does not comply with this Act.

(2) The registrar may, by written notice, ask the person to—

- (a) amend or complete the statement and relodge it; or
- (b) lodge another statement in its place.

(3) If the registrar makes a request under subsection (2), the statement is taken not to have been lodged until the person complies with the request.

**16A Verification of information**

(1) If the registrar believes it is necessary in a particular case, the registrar may ask a person who gives the registrar information under this Act to verify the information by a statutory declaration made by the person.

(2) The registrar may refuse to act on the information until the verification is made.

**17 Penalty for false statement**

A person shall not sign or lodge with the registrar a statement made or purporting to be made for the purposes of this Act which to the person's knowledge is false in any material particular and a person shall not authorise or permit the lodging with the registrar of such a statement which to the person's knowledge is false in any material particular.

Maximum penalty—4 penalty units or 3 months imprisonment.

**18 Notice of proposed cancellation**

(1) Where the registrar has reasonable cause to believe that a person or persons in relation to whom a business name is registered under this Act is not or are not carrying on business in the State under that name the registrar may send by post a notice addressed to the person or persons at the place shown in the register as the place where business is carried on under that name inquiring whether the person is or the persons are carrying on business under that name and stating that unless the registrar is satisfied within 1 month from the date of the notice that business is being carried on in the State by that person or those persons under that name the registration of the business name may be cancelled.

(2) Where the registrar has reasonable cause to believe that any provision of section 12 which is required to be complied with by or on behalf of the person or persons in relation to whom a business name is registered under this Act has not been complied with the registrar may send by post a notice addressed to the person or persons at the place shown in the register as the place where business is carried on under that name stating that unless within 1 month from the date of the notice that provision is complied with or the registrar is satisfied that there was in fact no failure to comply with the provision the registration of the business name may be cancelled.

(3) The registrar may ask a person to whom a notice is sent under subsection (1) to give the registrar documentary proof, including specified documentary proof, showing the business is being carried on in the State by the person under the business name stated in the register.

## **19 Cancellation of registration**

(1) The registrar may cancel the registration of a business name—

- (a) if there is lodged with the registrar a statement under section 12 notifying the registrar that the person or all the persons in relation to whom the business name is registered has or have ceased to carry on business in the State under that name and it does not appear from that statement or another statement accompanying that statement that another person has or other persons have commenced to carry on business in the State under that name; or
- (b) if the registrar has sent notice to any person or persons in respect of the business name under section 18(1) and that person does not, or those persons do not satisfy the registrar within 1 month from the date of the notice that business is being carried on in the State by that person or those persons under that name; or
- (c) if the registrar has sent a notice to any person or persons under section 18(2) and within 1 month after the date of the notice the provision of section 12 to which the notice relates has not been complied with or that person does not or those persons do not satisfy the registrar that there was no failure to comply with the provision; or
- (d) if the business name is registered in relation to a corporation only and the name of the corporation has been struck off any register of corporations kept under the Corporations Act, or the corporation has been dissolved.

(2) The registrar may on any grounds which the registrar thinks sufficient revoke any cancellation of the registration of a business name and in that event the business name shall be deemed to have continued to be registered as if the registration had not been cancelled.

(3) Where the registration of a business name has been cancelled under this section a person in relation to whom the business name was registered immediately before the cancellation may apply to the District Court for an

order directing the registrar to restore the registration of the business name and the decision of the court upon the application shall be final.

(4) On an application under subsection (3) the District Court may if it is satisfied that the applicant is carrying on business under the business name and that it is just and equitable so to do make the order applied for upon such terms as the court thinks fit.

(5) Upon the making of an order by the District Court under subsection (4) the business name shall be deemed to have continued to be registered as if the registration had not been cancelled and the registrar upon the lodging with the registrar of an office copy of the order shall make such entries and alterations in the register as the registrar considers necessary for the purposes of the order.

### **19A Cancellation for nonpayment of prescribed fee**

(1) The registrar may cancel the registration of a business name if—

- (a) payment of the prescribed fee for the registration or renewal of registration was made in a way that has not been effective; and
- (b) 21 days have passed since the application for registration or renewal was made.

*Examples—*

- 1. A cheque for payment was not honoured on presentation.
- 2. Authorisation for payment made by credit card was rejected by the relevant financial institution.

(2) If the registrar cancels a registration under subsection (1), the registrar must give to the applicant for the registration written notice of the cancellation.

(3) The notice must—

- (a) state that the registration has been cancelled for nonpayment of the prescribed fee; and
- (b) be posted to the applicant at the place mentioned in section 31.<sup>4</sup>

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4 Section 31 (As to service of notices and lodging of statements)

**19B Fees not refundable if registration cancelled**

(1) This section applies if the registrar cancels the registration of a business name, other than under section 10.

(2) A person can not obtain any refund of the prescribed fee paid for the registration or renewal of registration of the business name.

**20 Use and exhibition of business name**

Where a business name is registered under this Act—

- (a) a person or persons in relation to whom the business name is registered shall not issue or sign in connection with the carrying on of that business any business letter statement of account invoice official notice publication order for goods or receipt unless the business name appears in legible characters thereon; and
- (b) the business name shall at all times be displayed in a conspicuous position on the outside of every place at which business is carried on under that name;

and in the event of a contravention of this section each person carrying on business under that name shall unless the person proves that the person took all reasonable steps to ensure compliance with this section be guilty of an offence against this Act.

Maximum penalty—2 penalty units. Default penalty.

**21 Registrar may correct errors in register etc.**

(1) The registrar may on such evidence as to the registrar appears sufficient correct any error in any entry in the register or in any certificate of registration of a business name.

(3) Any entry or certificate corrected under this section shall have the same validity and effect as if the error had not been made.

(4) The registrar may accept and register a statement lodged to correct any error in or to supply any particular omitted from a statement previously lodged and registered, and in that event the statement previously lodged and that lodged under this subsection shall be read as one and shall both be incorporated with and form part of the register kept by the registrar.



## **22 Records**

(1) A person may, on payment of the prescribed fee—

- (a) inspect any document lodged with the registrar; or
- (b) require a copy of or extract from any document that the person is entitled to inspect under paragraph (a) to be given, or given and certified, by the registrar.

(1A) A person may pay the fee, in advance or in arrears, under an arrangement approved by the chief executive.

(2) A person is not entitled under subsection (1)(a) to require the production of the original of a document if the registrar keeps by means of a mechanical, electronic or other device a record of information set out in the document and—

- (a) the registrar produces to the person for inspection a writing that sets out what purports to be the contents of the document; or
- (b) the registrar causes to be displayed for the person what purports to be the contents of the document and, as at the time of the displaying, the person has not asked for the production of a writing of the kind referred to in paragraph (a).

(3) Where—

- (a) a person makes under subsection (1)(b) a requirement that relates to a document; and
- (b) the registrar keeps by means of a mechanical, electronic or other device a record of information set out in the document; and
- (c) pursuant to that requirement, the registrar gives a writing or document that sets out what purports to be the contents of—
  - (i) the whole of the document; or
  - (ii) a part of the document;

then, for the purposes of that paragraph, the registrar is taken to have given, pursuant to that requirement—

- (d) if paragraph (c)(i) applies—a copy of the document; or
- (e) if paragraph (c)(ii) applies—an extract from the document setting out that part of it.

(4) Where—

- (a) the requirement referred to in subsection (3)(a) includes a requirement that the copy or extract be certified; and
- (b) pursuant to that requirement, the registrar gives a writing or document as mentioned in subsection (3)(c);

then—

- (c) the registrar may certify that the writing or document sets out the contents of the whole or part of the document, as the case requires; and
- (d) the writing or document is, in any proceedings, admissible as prima facie evidence of the information contained in it.

## **22A Obtaining information from register**

(1) The registrar may permit a person to search or inspect, otherwise than by using a data processor, the register.

(2) The registrar may permit a person to search or inspect the register by using a data processor in order to obtain information from the register.

(3) The registrar may make available to a person information (in the form of a document or otherwise) that the registrar has obtained from the register by using a data processor.

(4) Nothing in this section limits—

- (a) a power or function that the registrar has apart from this section; or
- (b) a right that a person has apart from this section.

## **22B Extract from register**

(1) A person may, on payment of the prescribed fee, require an extract from the register to be given, or given and certified, by the registrar.

(1A) A person may pay the fee, in advance or in arrears, under an arrangement approved by the chief executive.

(2) A requirement under subsection (1) may relate to a registered business name or to a business name the registration of which has expired or been cancelled.

(3) Where—

- (a) a person makes under subsection (1) a requirement; and
- (b) the registrar keeps the register by means of a mechanical, electronic or other device; and
- (c) pursuant to that requirement, the registrar gives a writing that sets out what purports to be the contents of a part of the register;

then, for the purposes of that subsection, the registrar is taken to have given, pursuant to that requirement an extract from the register setting out that part of it.

(4) Where—

- (a) the requirement referred to in subsection (3) includes a requirement that the extract be certified; and
- (b) pursuant to that requirement, the registrar gives a writing as mentioned in subsection (3)(c);

then—

- (c) the registrar may certify that the writing sets out the contents of part of the register; and
- (d) the writing is, in any proceedings, admissible as prima facie evidence of the information contained in it.

## **23 Certificates of registration or non-registration**

(1) The registrar shall upon request by any person and payment of the prescribed fee issue to that person—

- (b) a certificate under the registrar's hand that a business name was on a date or during a period specified in the certificate registered under this Act in relation to a person; or
- (c) a certificate under the registrar's hand that a business name was not on a date or during a period specified in the certificate registered under this Act in relation to a person.

(1A) A person may pay the fee, in advance or in arrears, under an arrangement approved by the chief executive.

(2) The registrar shall not be required to issue a certificate under subsection (1)(b) or (c) in respect of a date or a period ending on a date earlier than the commencement of this Act or more than 12 years before the date of the receipt of the request.

**24 Evidentiary provisions**

A document purporting to be—

- (a) a certificate of registration issued under this Act; or
- (b) a copy of or extract from any document lodged with the registrar and certified by the registrar; or
- (c) an extract from the register certified by the registrar; or
- (d) a certificate issued under section 23(1)(b) or (c); or
- (e) a combination of any of the above;

is, in any proceedings, admissible as prima facie evidence of the information contained in the document.

**24A Provision of information**

(1) Where the form in which the register is kept enables the registrar to do so, the registrar may on the request of a person and payment of the prescribed fee make available to that person any of the following—

- (a) a list of the business names registered under this Act on a particular day;
- (b) a list of the business names registered under this Act by reference to the types of business carried on under those names;
- (c) a list of business names registered under this Act by reference to any area where the businesses are carried on;
- (d) a list of business names registered under this Act by reference to the person or persons who carry on business under those names.

(2) A person may pay the fee, in advance or in arrears, under an arrangement approved by the chief executive.

**24B Protection from liability**

(1) The registrar is not civilly liable for an act done, or an omission made, honestly and without negligence under this Act.

(2) If subsection (1) prevents a civil liability attaching to the registrar, the liability attaches instead to the State.

**25 Authority of registrar to destroy documents**

(1) The registrar may, if in the registrar's opinion it is no longer necessary or desirable to retain them, destroy any statement, notice or other document lodged or filed under this Act or under the repealed Act—

- (a) if the statement is a statement of renewal of registration that has been lodged or filed for a period of not less than 1 year; or
- (b) if the statement is other than a statement referred to in paragraph (a); or
- (ba) if the notice or document is a notice or document, that has been lodged or filed in respect of a business name or firm-name the registration of which has not been in force during the preceding 7 years; or
- (c) if it is a statement, notice or document a transparency of which has been incorporated with a register kept by the registrar.

(2) Subsection (1) is subject to the *Public Records Act 2002*.

**26 Invitations to the public to make deposits or loans**

(1) A person shall not—

- (a) in any—
  - (i) invitation to; or
  - (ii) advertisement inviting;the public to deposit money with, or to lend money to; or
- (b) in connection with any deposit of money with or loan of money to;

that person or any other person or persons use or make reference to any name that is registered, or required to be registered, under this Act as a business name or, if a person or firm were carrying on business in the State under that name, would be required to be so registered.

Maximum penalty—20 penalty units.

(2) This section does not apply—

- (a) to an invitation to the public made by a public company in conformity with the requirements of the Corporations Act; or

- (b) to the use of or a reference to a business name registered under this Act in connection with any deposit of money with, or loan of money to, the person or firm carrying on business in the State under that name where no invitation to the public, or advertisement inviting the public, to deposit money with, or lend money to, that person or firm has been made, issued, given, published or disseminated.

## **27 Proceedings—general penalty provisions**

(1) A person who—

- (a) does that which by or under this Act the person is forbidden to do; or
- (b) does not do that which by or under this Act the person is required or directed to do; or
- (c) otherwise contravenes or fails to comply with any provision of this Act;

shall be guilty of an offence against this Act.

(4) All offences against this Act may be prosecuted in a summary way under the *Justices Act 1886*.

(5) Proceedings for any offence against this Act may be taken by the registrar or with the written consent of the registrar, by any person.

(6) Proceedings for an offence against this Act may be instituted at any time within 12 months after the commission of the offence or within 6 months after the commission of the offence comes to the knowledge of the complainant, whichever is the later period.

## **28 Default penalty**

(1) Where in or at the foot of any section or part of a section there appears the expression ‘Default penalty’ it shall indicate that any person who is convicted of an offence against this Act in relation to that section or part shall be guilty of a further offence against this Act if the offence continues after the person is so convicted and liable to an additional penalty for each day during which the offence so continues of not more than 1 penalty unit.

(2) Where any offence is committed by a person by reason of the person’s failure to comply with a provision of this Act by or under which

the person is required or directed to do anything within a particular period, that offence for the purposes of subsection (1) shall be deemed to continue so long as the thing so required or directed to be done by the person remains undone, notwithstanding that that period has elapsed.

## **29 Offences committed by corporations**

Where a person guilty of an offence against this Act—

- (a) is a corporation; or
- (b) is a person who purported to act for or on behalf of a corporation; any director, secretary or other officer of the corporation who was knowingly a party to the offence shall also be guilty of that offence.

## **30 Evidentiary provisions**

If in any proceedings for an offence against this Act proof is given that a business name has been displayed on any premises, and evidence is given from which the court may infer that the business name has reference to any business carried on at the premises, the person or persons carrying on the business shall in the absence of proof to the contrary be deemed to be carrying on the business under that business name.

## **31 As to service of notices and lodging of statements**

(1) Where by this Act the registrar is required or permitted to send a notice to the person or persons in relation to whom the business name is registered at the place where business is carried on under a business name the notice may be sent by post addressed to the business name—

- (a) at the place shown in the register as the place where business is so carried on; or
- (b) where more than 1 place is shown in the register as the place where business is carried on—
  - (i) at the place shown in the register as the principal place where business is so carried on; or
  - (ii) if no place is so shown as the principal place, at the place shown which appears first in the register as a place where business is so carried on.

(2) Any statement required to be lodged with the registrar under this Act shall be lodged with the registrar or any clerk of the court.

### **31A Approval of forms**

The chief executive may approve forms for use under this Act.

## **32 Regulation-making power**

(1) The Governor in Council may make regulations under this Act.

(2) A regulation may—

- (a) prescribe the duties of the registrar for the purposes of this Act; and
- (b) prescribe generally the conduct and regulation of registration under this Act; and
- (c) prescribe—
  - (i) the time and manner of the submission of documents to the registrar for the lodging or registration; and
  - (ii) the requirements with which documents lodged or to be lodged with the registrar for the purposes of this Act shall comply; and
  - (iii) the manner in which, and the persons by whom, and the directions or requirements in accordance with which, the forms approved for the purposes of this Act, or any of them, shall or may be signed, prepared, or completed;

and generally regulate the submission of documents to the registrar and the signing, preparation, and completion of forms approved for the purposes of this Act; and

- (d) prescribe the fees to be paid to the registrar under this Act; and
- (e) prescribe the cases in which, and conditions under and subject to which, the payment of fees may be waived by the Minister or by the registrar; and
- (f) prescribe and regulate the payment of additional fees on the late lodgment of documents; and



- (g) require that, in such cases as may be prescribed, documents required by or under this Act to be lodged with the registrar shall be verified by statutory declaration; and
- (h) impose penalties, not exceeding 1 penalty unit, for offences against the regulations.

### **35 References to repealed Acts**

A reference in an Act or document to either of the following Acts is taken to be a reference to this Act—

- *Registration of Firms Act 1902*
- *Registration of Firms Act 1942.*

## ENDNOTES

### **1 Index to endnotes**

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### **2 Date to which amendments incorporated**

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 9 May 2003. Future amendments of the Business Names Act 1962 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No.[X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
o in c	= order in council	s	= section
om	= omitted	sch	= schedule
orig	= original	sdiv	= subdivision
p	= page	SIA	= Statutory Instruments Act 1992
para	= paragraph	SIR	= Statutory Instruments Regulation 2002
prec	= preceding	SL	= subordinate legislation
pres	= present	sub	= substituted
prev	= previous	unnum	= unnumbered

### 4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

#### TABLE OF REPRINTS

Reprint No.	Amendments included	Effective	Reprint date
1	to 1990 Act No. 99	9 September 1991	25 February 1994
2	to 1994 Act No. 87	1 December 1994	23 December 1994
3	to 1995 Act No. 58	28 November 1995	30 April 1996
3A	to 1996 Act No. 56	1 December 1996	17 January 1997
3B	to 1997 Act No. 17	1 July 1997	4 July 1997
4	to 1997 Act No. 17	1 July 1997	11 February 1998
4A	to 1999 Act No. 63	1 July 1997	5 January 2000
4B	to 1999 Act No. 63	10 March 2000	10 March 2000
4C	to 2000 Act No. 24	27 June 2000	7 July 2000
4D	to 2001 Act No. 45	15 July 2001	14 September 2001
4E	to 2002 Act No. 13	24 April 2002	8 May 2002
			(Column discontinued)
			Notes
4F	to 2002 Act No. 13	1 July 2002	
4G	to 2002 Act No. 13	2 September 2002	

Reprint No.	Amendments included	Effective	Notes
4H	to 2002 Act No. 52	11 November 2002	
4I	to 2002 Act No. 61	14 November 2002	
4J	to 2003 Act No. 4	4 March 2003	
4K	to 2003 Act No. 19	9 May 2003	

## 5 Tables in earlier reprints

### TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Comparative legislation	1
Obsolete and redundant provisions	2, 3
Renumbered provisions	1

## 6 List of legislation

### **Business Names Act 1962 No. 12**

date of assent 26 November 1962  
 commenced on 1 January 1963 (see s 1(2))  
 amending legislation—

### **Business Names Act Amendment Act 1965 No. 50**

date of assent 1 December 1965  
 commenced on date of assent

### **Companies Act Amendment Act 1971 No. 8 ss 174–5**

date of assent 16 April 1971  
 commenced 1 January 1972 (proc pubd gaz 18 December 1971 p 1818)

### **Business Names Act Amendment Act 1976 No. 90**

date of assent 17 December 1976  
 commenced on date of assent

### **Business Names Act Amendment Act 1979 No. 19**

date of assent 15 May 1979  
 commenced 1 September 1979 (proc pubd gaz 1 September 1979 p 95)

### **Companies (Consequential Amendments) Act 1981 No. 111 s 23 sch**

date of assent 16 December 1981  
 commenced 1 July 1982 (see s 2(4) and proc pubd gaz 29 June 1982 p 2102)

### **Companies (Administration) Act 1981 No. 112 s 25**

date of assent 16 December 1981  
 commenced 1 July 1982 (proc pubd gaz 29 June 1982 p 2102)

**Public Service (Administrative Arrangements) Act 1990 (No. 2) No. 80 s 3 sch 6**

date of assent 14 November 1990

commenced on date of assent

**Corporations (Consequential Amendments) Act 1990 No. 99 pt 2**

date of assent 12 December 1990

s 2.7(b) commenced 9 September 1991 (proc pubd gaz 7 September 1991 p 78)

remaining provisions commenced 1 January 1991 (proc pubd gaz 22 December 1990 p 2270)

**Statute Law (Miscellaneous Provisions) Act (No. 2) 1994 No. 87 ss 1–3 sch 2**

date of assent 1 December 1994

commenced on date of assent

**Statute Law Revision Act 1995 No. 57 ss 1–2, 4 sch 2**

date of assent 28 November 1995

commenced on date of assent

**Statute Law Revision Act (No. 2) 1995 No. 58 ss 1–2, 4 sch 1**

date of assent 28 November 1995

commenced on date of assent

**Public Service Act 1996 No. 37 ss 1–2, 147 sch 2**

date of assent 22 October 1996

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 1996 (1996 SL No. 361)

**Consumer Law and Other Justice Legislation (Miscellaneous Provisions) Act 1996  
No. 56 pts 1, 4**

date of assent 20 November 1996

commenced on date of assent

**Miscellaneous Acts (Non-bank Financial Institutions) Amendment Act 1997 No. 17  
ss 1–2, 74 sch**

date of assent 15 May 1997

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 1997 (1997 SL No. 163)

**Equity and Fair Trading (Miscellaneous Provisions) Act 1999 No. 63 pts 1, 4**

date of assent 6 December 1999

ss 1–2 commenced on date of assent

remaining provisions commenced 10 March 2000 (2000 SL No. 36)

**Equity and Fair Trading (Miscellaneous Provisions) Act 2000 No. 24 pts 1, 5**

date of assent 27 June 2000

commenced on date of assent

**Corporations (Ancillary Provisions) Act 2001 No. 45 ss 1–2, 29 sch 3**

date of assent 28 June 2001

ss 1–2 commenced on date of assent

sch 3 commenced 15 July 2001 (see s 2(2) of Act 2001 No. 45 (Qld) and Corporations Act 2001 No. 50 (Cwlth) and proc pubd Cwlth of Australia gaz 13 July 2001, No. S285)

remaining provision commenced immediately before 15 July 2001 (see s 2(1) of Act 2001 No. 45 (Qld) and Corporations Act 2001 No. 50 (Cwlth) and proc pubd Cwlth of Australia gaz 13 July 2001, No. S285)

**Public Records Act 2002 No. 11 ss 1, 2(2), 62 sch 1**

date of assent 24 April 2002

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2002 (2002 SL No. 115)

**Tourism, Racing and Fair Trading (Miscellaneous Provisions) Act 2002 No. 13 ss 1, 2(3), pt 5, s 124 sch**

date of assent 24 April 2002

ss 1–2, 14–15, 19, 124 sch commenced on date of assent

remaining provisions commenced 2 September 2002 (2002 SL No. 208)

**Tourism, Racing and Fair Trading (National Competition Policy) Amendment Act 2002 No. 52 ss 1, 2(2), pt 2**

date of assent 24 September 2002

ss 1–2 commenced on date of assent

remaining provisions commenced 11 November 2002 (2002 SL No. 296)

**Fair Trading and Another Act Amendment Act 2002 No. 61 pts 1–2**

date of assent 14 November 2002

ss 1–2, 4 commenced on date of assent

remaining provisions not yet proclaimed into force (see s 2)

**Financial Services Reform (Consequential Amendments) Act 2003 No. 4 pts 1–2**

date of assent 4 March 2003

commenced on date of assent

**Statute Law (Miscellaneous Provisions) Act 2003 No. 19 ss 1, 3 sch**

date of assent 9 May 2003

commenced on date of assent

## **7 List of annotations**

**Short title**

**s 1** amd 1995 No. 58 s 4 sch 1

**Transitory provisions**

**s 2** amd R1 (see RA ss 38 and 40)  
om 1995 No. 58 s 4 sch 1

**Definitions**

- prov hdg** sub 1995 No. 58 s 4 sch 1
- s 3** amd 1971 No. 8 s 174; 1995 No. 58 s 4 sch 1  
 (2) renum as 3A 1995 No. 58 s 4 sch 1  
 (3) renum as 3B 1995 No. 58 s 4 sch 1  
 def “**approved form**” ins 1995 No. 58 s 4 sch 1  
 def “**Australian Securities Commission**” ins 1990 No. 99 s 2.2(a)  
 om 2003 No. 4 s 3  
 def “**christian name**” om 2003 No. 19 s 3 sch  
 def “**Commissioner**” ins 1971 No. 8 s 174(a)  
 sub 1981 No. 112 s 25  
 om 1990 No. 99 s 2.2(b)  
 def “**corporation**” amd 1981 No. 111 s 23 sch; 1990 No. 99 s 2.2(c); 2001  
 No. 45 s 29 sch 3  
 def “**Crown Law Officer**” amd 1990 No. 80 s 3 sch 6  
 om 1995 No. 58 s 4 sch 1  
 def “**data processor**” ins 1990 No. 99 s 2.2(d)  
 def “**individual**” om 1995 No. 58 s 4 sch 1  
 def “**initial**” amd 2003 No. 19 s 3 sch  
 def “**Minister**” ins 1990 No. 80 s 3 sch 6  
 om 1994 No. 87 s 3 sch 2  
 def “**prescribed fee**” ins 2002 No. 13 s 124 sch  
 def “**principal executive officer**” ins 1990 No. 99 s 2.2(e)  
 om 2003 No. 19 s 3 sch  
 def “**registrar**” sub 1971 No. 8 s 174(b)  
 def “**repealed Act**” amd 1995 No. 58 s 4 sch 1  
 def “**secretary**” amd 1981 No. 111 s 23 sch; 1990 No. 99 s 2.2(f); 2001  
 No. 45 s 29 sch 3  
 def “**Section**” om 1979 No. 19 s 3  
 def “**transparency**” ins 1979 No. 19 s 3  
 sub 1995 No. 58 s 4 sch 1

**Meaning of carrying on business within State**

- s 3A** (prev 3(2)) renum 1995 No. 58 s 4 sch 1  
 amd 1997 No. 17 s 74 sch

**When business name taken to be registered in relation to person**

- s 3B** (prev 3(3)) renum 1995 No. 58 s 4 sch 1

**How prescribed fee may be paid**

- s 3C** ins 2002 No. 13 s 15

**How documents may be lodged**

- s 3D** ins 2002 No. 13 s 15

**Registrar and other staff**

- s 4** amd 1971 No. 8 s 174(c)–(j); 1979 No. 19 s 4  
 sub 1990 No. 99 s 2.3; 1996 No. 37 s 147 sch 2

**Registrar may enter into arrangements with ASIC**

- prov hdg** amd 2001 No. 45 s 29 sch 3; 2003 No. 19 s 3 sch  
**s 4A** ins 1990 No. 99 s 2.4  
 amd 2001 No. 45 s 29 sch 3; 2003 No. 19 s 3 sch

**Registrar may appoint clerk of the court as agent**

**s 4B** ins 1990 No. 99 s 2.4  
amd 1995 No. 58 s 4 sch 1

**Delegation by administrator**

**s 4C** ins 1990 No. 99 s 2.4  
sub 1995 No. 58 s 4 sch 1; 2003 No. 19 s 3 sch

**Certain business names to be registered**

**s 5** amd 1976 No. 90 s 3 sch; 1995 No. 58 s 4 sch 1; 2002 No. 61 s 4; 2003 No. 19 s 3 sch

**Register of business names**

**s 6** amd 1971 No. 8 ss 174(k)–(p), 175 sch 2; 1979 No. 19 s 5; 1990 No. 99 s 2.14; 1995 No. 58 s 4 sch 1

**Registration of business names**

**s 7** amd 1965 No. 50 s 2; 1971 No. 8 ss 174(q), (r), 175 sch 2; 1979 No. 19 s 6; 1990 No. 99 ss 2.5, 2.14; 1995 No. 58 s 4 sch 1; 2002 No. 13 s 16; 2002 No. 61 s 5; 2003 No. 19 s 3 sch

**Application not made until prescribed fee paid**

**s 7A** ins 1996 No. 56 s 36  
sub 2002 No. 61 s 6

**Registrar's power to ask applicant for further information**

**s 7B** ins 1996 No. 56 s 36

**Resident agent**

**s 8** amd 1971 No. 8 s 175 sch 2; 1990 No. 99 s 2.14  
om 2002 No. 52 s 4

**Restriction on registration of business names that are undesirable etc.**

**s 9** amd 1971 No. 8 ss 174(s), 175 sch 2; 1990 No. 99 ss 2.6, 2.14; 1995 No. 58 s 4 sch 1

**Power to cancel registration of business names that are undesirable etc.**

**s 10** amd 1971 No. 8 s 175 sch 2; 1990 No. 99 s 2.14; 1995 No. 58 s 4 sch 1

**Term of registration**

**s 10A** ins 2002 No. 13 s 17

**Renewal of registration**

**s 11** amd 1965 No. 50 s 3; 1971 No. 8 s 175 sch 2; 1976 No. 90 s 3 sch; 1990 No. 99 s 2.14; 1995 No. 58 s 4 sch 1; 2002 No. 13 s 18

**Notification of changes in particulars relating to registered business names, cessation of business etc.**

**s 12** amd 1971 No. 8 s 175 sch 2; 1976 No. 90 s 3 sch; 1979 No. 19 s 7; 1990 No. 99 ss 2.7, 2.14; 1995 No. 58 s 4 sch 1; 2001 No. 45 s 29 sch 3; 2002 No. 52 s 5; 2002 No. 61 s 7; 2003 No. 19 s 3 sch

**Provisions relating to statements etc.**

**s 12A** ins 1965 No. 50 s 4  
amd 1971 No. 8 s 175 sch 2; 1990 No. 99 s 2.14



**Duty to furnish information**

**s 13** amd 1971 No. 8 s 175 sch 2; 1976 No. 90 s 3 sch; 1990 No. 99 s 2.14; 1995 No. 58 s 4 sch 1

**Signing of statements**

**s 15** amd 1971 No. 8 s 175 sch 2; 1981 No. 111 s 23 sch; 1990 No. 99 s 2.14; 2003 No. 19 s 3 sch

**Registrar's powers about statements that are incomplete etc.**

**s 16** amd 1971 No. 8 s 175 sch 2; 1990 No. 99 s 2.14  
sub 1996 No. 56 s 37

**Verification of information**

**s 16A** ins 1996 No. 56 s 37

**Penalty for false statement**

**s 17** amd 1971 No. 8 s 175 sch 2; 1976 No. 90 s 3 sch; 1990 No. 99 s 2.14; 1995 No. 58 s 4 sch 1

**Notice of proposed cancellation**

**s 18** amd 1971 No. 8 s 175 sch 2; 1990 No. 99 s 2.14; 1996 No. 56 s 38

**Cancellation of registration**

**s 19** amd 1971 No. 8 s 175 sch 2; 1981 No. 111 s 23 sch; 1990 No. 99 ss 2.8, 2.14; 2001 No. 45 s 29 sch 3

**Cancellation for nonpayment of prescribed fee**

**s 19A** ins 1996 No. 56 s 39  
amd 2002 No. 13 s 19

**Fees not refundable if registration cancelled**

**s 19B** ins 2002 No. 13 s 20

**Use and exhibition of business name**

**s 20** amd 1976 No. 90 s 3 sch; 1995 No. 58 s 4 sch 1

**Registrar may correct errors in register etc.**

**s 21** amd 1971 No. 8 s 175 sch 2; 1979 No. 19 s 8; 1990 No. 99 s 2.14

**Records**

**s 22** amd 1971 No. 8 s 175 sch 2  
sub 1990 No. 99 s 2.9  
amd 2000 No. 24 s 24

**Obtaining information from register**

**s 22A** ins 1990 No. 99 s 2.9

**Extract from register**

**s 22B** ins 1990 No. 99 s 2.9  
amd 2000 No. 24 s 25

**Certificates of registration or non-registration**

**s 23** amd 1971 No. 8 s 175 sch 2; 1979 No. 19 s 9; 1990 No. 99 ss 2.10, 2.14; 2000 No. 24 s 26

**Evidentiary provisions**

**s 24** sub 1990 No. 99 s 2.11

**Provision of information**

**s 24A** ins 1990 No. 99 s 2.11  
amd 2000 No. 24 s 27

**Protection from liability**

**s 24B** ins 1999 No. 63 s 21

**Authority of registrar to destroy documents**

**s 25** amd 1971 No. 8 s 175 sch 2  
sub 1979 No. 19 s 10  
amd 1990 No. 99 s 2.14; 1995 No. 57 s 4 sch 2; 1996 No. 56 s 40; 2002 No. 11 s 62 sch 1

**Invitations to the public to make deposits or loans**

**s 26** amd 1976 No. 90 s 3 sch; 1981 No. 111 s 23 sch; 1990 No. 99 s 2.12; 1995 No. 58 s 4 sch 1; 2001 No. 45 s 29 sch 3

**Proceedings—general penalty provisions**

**s 27** amd 1971 No. 8 ss 174(t), 175 sch 2; 1990 No. 99 s 2.14; 1995 No. 58 s 4 sch 1

**Default penalty**

**s 28** am 1976 No. 90 s 3 sch; 1995 No. 58 s 4 sch 1

**Offences committed by corporations**

**s 29** amd 1981 No. 111 s 23 sch; 2003 No. 19 s 3 sch

**As to service of notices and lodging of statements**

**s 31** amd 1971 No. 8 ss 174(u), (v), 175 sch 2; 1979 No. 19 s 11; 1990 No. 99 s 2.14; 2002 No. 52 s 6

**Approval of forms**

**s 31A** ins 1995 No. 58 s 4 sch 1

**Regulation-making power**

**prov hdg** sub 1995 No. 58 s 4 sch 1

**s 32** amd 1971 No. 8 s 175 sch 2; 1976 No. 90 ss 2, 3 sch; 1990 No. 99 s 2.14; 1995 No. 58 s 4 sch 1

**Publication of proclamations, regulations etc.**

**s 33** om 1995 No. 58 s 4 sch 1

**Transitional provision about forms**

**s 34** ins 1990 No. 99 s 2.13  
sub 1995 No. 58 s 4 sch 1  
exp 28 May 1996 (see s 34(3))

**References to repealed Acts**

**s 35** ins 1994 No. 87 s 3 sch 2

**Transitional provision about directions to the registrar**

**s 36** ins 1995 No. 58 s 4 sch 1  
exp 28 November 1995 (see s 36(3))  
AIA s 20A applies (see s 36(2))

**SCHEDULE**

om R1 (see RA s 40)

## **8 Provisions that have not commenced and are not incorporated into reprint**

The following provisions are not incorporated in this reprint because they had not commenced before the reprint date (see Reprints Act 1992, s 5(c)).

**Fair Trading and Another Act Amendment Act 2002 No. 61 ss 5–7 read as follows—**

### **5 Amendment of s 7 (Registration of business names)**

Section 7—

*insert—*

‘(2) For an applicant who is an individual, the application must be accompanied by proof of the applicant’s identity prescribed under a regulation.’.

### **6 Replacement of s 7A (Application not made until prescribed fee paid)**

Section 7A—

*omit, insert—*

#### **‘7A Application not made until prescribed fee paid and proof of identity provided**

‘An application for registration of a business name is taken not to have been made unless—

- (a) the prescribed fee for the application is paid to the registrar; and
- (b) if the applicant is an individual, the application is accompanied by proof of the applicant’s identity prescribed under a regulation.’.

### **7 Amendment of s 12 (Notification of changes in particulars relating to registered business names, cessation of business etc.)**

Section 12—

*insert—*

‘**(4A)** If the person commencing to carry on business under a name already registered under this Act is an individual, the statement lodged under subsection (4) must be accompanied by proof of the person’s identity prescribed under a regulation.’.