



New South Wales

Business Names Regulation 2000

under the

Business Names Act 1962

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Business Names Act 1962*.

JOHN WATKINS, M.P.,
Minister for Fair Trading

Explanatory note

The object of this Regulation is to repeal and remake, with no major changes in substance, the *Business Names Regulation 1995*. The new Regulation makes provision for the following matters:

- (a) general requirements for documents lodged with the Director-General (clause 4),
- (b) application for the Minister's consent to register a business name (clause 5),
- (c) penalty notice offences under the *Business Names Act 1962* (clause 6 and Schedule 1),
- (d) fees payable under the Act (clause 8 and Schedule 2),
- (e) other matters of a minor, consequential or ancillary nature.

This Regulation is made under the *Business Names Act 1962*, including section 32 (the general power to make regulations).

This Regulation comprises or relates to matters of a machinery nature and matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

This Regulation is made in connection with the staged repeal of statutory rules under Part 3 of the *Subordinate Legislation Act 1989*.

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Business Names Regulation 2000

1 Name of Regulation

This Regulation is the *Business Names Regulation 2000*.

2 Commencement

This Regulation commences on 1 July 2000.

3 Definitions

(1) In this Regulation:

Director-General means the Director-General of the Department of Fair Trading.

the Act means the *Business Names Act 1962*.

(2) The explanatory note and table of contents do not form part of this Regulation.

4 General requirements for documents lodged with Director-General

Documents lodged for registration with the Director-General under the Act or this Regulation are to be of such a standard, and are to be completed in such a manner, as to ensure that they are suitable for microfilming and electronic filming (that is, recording electronically by means of computer scanning).

5 Application for Minister's consent to register a business name

An application under section 9 (1) of the Act for the Minister's consent to the registration of a business name must be lodged with, or sent to, the office of the Department of Fair Trading.

6 Penalty notice offences

(1) For the purposes of section 28A of the Act:

- (a) an offence under a provision of the Act specified in Column 1 of Schedule 1 is a prescribed offence, and
- (b) the amount specified in Column 4 of Schedule 1 in respect of such an offence is the prescribed amount of penalty for the offence.

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- (2) If the reference to a provision in Column 1 of Schedule 1 is qualified by words that restrict its operation to specified kinds of offence or to offences committed in specified circumstances, an offence created by the provision is a prescribed offence only if it is an offence of a kind so specified or is committed in the circumstances so specified.

7 Short descriptions of offences

- (1) For the purposes of section 145B of the *Justices Act 1902*, the prescribed expression for an offence created by a provision of the Act specified in Column 1 of Schedule 1 is the IPB code set out in relation to the offence in Column 2 of Schedule 1, together with:
 - (a) the text set out in relation to the offence in Column 3 of Schedule 1, or
 - (b) if a choice of words is indicated in that text, the words remaining after the omission of the words irrelevant to the offence.
- (2) For the purposes of any proceedings for an offence created by a provision specified in Column 1 of Schedule 1, the prescribed expression is taken to relate to the offence created by the provision, as the provision was in force when the offence is alleged to have been committed.
- (3) The amendment or repeal of a prescribed expression does not affect the validity of any information, complaint, summons, warrant, notice, order or other document in which the expression is used.
- (4) Subclause (3) applies to any information, complaint, summons, warrant, notice, order or other document (whether issued, given or made before or after the amendment or repeal) that relates to an offence alleged to have been committed before the amendment or repeal.
- (5) In this clause:

Infringement Processing Bureau means the Infringement Processing Bureau within the Police Service.

IPB Code, in relation to an offence, means the code allocated to the offence by the Infringement Processing Bureau.

8 Fees

- (1) The fees specified in Schedule 2 are payable to the Director-General for the matters so specified.
- (2) If a person's application for registration of a business name is refused because of section 9 (1) of the Act, the Director-General:
 - (a) may waive such part of the relevant fee as exceeds \$17 for any subsequent such application made by that person within one month after the refusal, or
 - (b) may refund such part of the relevant fee as exceeds \$17 if no subsequent such application is made by that person within one month after the refusal.
- (3) If more than 10 inspections referred to in item 8 of Schedule 2 are made by any one person on any one day, the Director-General, may for the eleventh and any subsequent inspection, waive such part of the inspection fee that would otherwise be payable as exceeds \$2.00.
- (4) The Director-General may waive any fee that would otherwise be payable in connection with the administration of the Act if satisfied:
 - (a) that the fee relates to a matter that has arisen as a consequence of a failure in the operation of the registration procedures under the Act, or
 - (b) that it would be unfair, in the circumstances of the case, to require payment of the fee.

9 Repeal

- (1) The *Business Names Regulation 1995* is repealed.
- (2) Any act, matter or thing that, immediately before the repeal of the *Business Names Regulation 1995*, had effect under that Regulation continues to have effect under this Regulation.

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Schedule 1 Penalty notice offences and short descriptions

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(Clauses 6 and 7)

Column 1	Column 2	Column 3	Column 4
Offence	IPB Code	Short description text	Penalty
Section 5 (1)	6622	Carry on business under unregistered business name	\$200
Section 12 (9)	6623	Fail to lodge statement/provide details required under s 12	\$100
Section 13 (3) (a)	6624	Fail to give information/produce documents required under s 13	\$100
Section 13 (3) (b) in relation to the giving of false or misleading information	6625	Give materially false/misleading information	\$100
Section 13 (3) (b) in relation to the production of false or misleading document	6626	Produce materially false/misleading document	\$100
Section 13 (3) (c)	6627	Hinder/obstruct authorised officer exercising powers under s 13	\$100
Section 20 in relation to the use or display of business name	6628	Fail to use on documents/display registered business name	\$200
Section 20 in relation to exhibiting certificate of registration	6629	Fail to exhibit certificate of registration of business name	\$200

Schedule 2 Fees

(Clause 8)

Matter	Fee \$
1 Application under section 7 (1) of the Act for registration of a business name	114
2 Application under section 7 (5) of the Act for a further certificate of registration	17
3 Application under section 9 (1) of the Act for the Minister's consent to the use of a business name	135
4 Lodgment of a statement under section 11 (1) of the Act in connection with the renewal of registration of a business name	88
5 Application under section 11 (1) of the Act for an extension of time to lodge a statement in connection with the renewal of registration of a business name	41
6 Lodgment of statement of change in certain particulars under section 12 of the Act	21
7 Lodgment of statement of change in persons under section 12 of the Act	21
8 Inspection under section 22 (1) of the Act of a statement relating to a business name	10 for each inspection
9 Application under section 22 (1) of the Act by a person who has the written approval of the Director-General to scan the computerised register of business names to obtain information for sale	5
10 Written inquiry under section 22 (2) of the Act	21 for each business name specified in the inquiry

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Schedule 2 Fees

Matter	Fee \$
11 Application under section 22 (3) of the Act for an uncertified reproduction or transparency or extract from a document or transparency forming part of the register, or a copy of or extract from a computerised record relating to a business name:	
(a) if a fee has been paid for inspection of the document, transparency or record under section 22 (1) of the Act:	
(i) for up to 3 pages	Nil
(ii) for each additional page	1
(b) if a fee has not been paid for inspection of the document, transparency or record under section 22 (1) of the Act:	
(i) for up to 3 pages	10
(ii) for each additional page	1
12 Application under section 23 (1) (a) of the Act for a certified copy of or extract from the register or a copy of or extract from a document, transparency or computerised record forming part of the register:	
(a) for one page	10
(b) for each additional page	2
13 Application under section 23 (1) (b) of the Act for a certificate of registration or non-registration of a business name	17

BY AUTHORITY