

Registration of Firms.

Act No. 100, 1902.

An Act to provide for the Registration of Firms.
[17th December, 1902.]

REGISTRATION
OF FIRMS.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "Registration of Firms Act," Short title.
1902."

2. This Act shall come into operation on the first day of Commencement of Act.
January, one thousand nine hundred and three.

3. In this Act, unless the context otherwise requires,— Interpretation.

"business" includes trade and profession;

"firm" means any two or more persons lawfully associated for the purpose of carrying on any business, but shall not include a company registered or incorporated within the British Dominions under, by, or in pursuance of any Act of Parliament, Letters Patent, or Royal Charter;

"firm-name" means the name or style under which any business is carried on, whether in partnership or otherwise;

"prescribed" means prescribed by regulations made in pursuance of this Act;

"usual name" includes a signature habitually used for business purposes;

"Registrar-General" includes a Deputy Registrar-General and Deputy Registrar lawfully appointed for the time being.

4. From and after the commencement of this Act—

(a) every firm carrying on business or having any place of business in New South Wales under a firm-name which does not consist of the full or the usual names of all the partners without any addition; and

(b) every person carrying on business or having any place of business in New South Wales under any firm-name consisting of or containing any name or addition other than the full or the usual name of that person—

shall register in the manner directed by this Act the name under which their or his business is or is intended to be carried on.

5. Registration under this Act shall be effected by Manner and particulars of registration.
sending by post or delivering to the Registrar-General a statement in writing containing the following particulars—

(a) the firm-name;

(b) the nature of the business;

(c)

Firms and persons
to be registered.

Registration of Firms.

- (c) the place or places where the business is carried on, or is intended to be carried on, in New South Wales ;
- (d) the full name, usual residence, and other occupation (if any) of the person or persons carrying on or intending to carry on the business ;
- (e) if the business is commenced after the commencement of this Act, the date of the commencement of the business.

Particulars to be written by persons registering, and attested.

6. (1) The person or persons carrying on or intending to carry on any business required to be registered as aforesaid shall sign or acknowledge a statement of the particulars required for registration, if in New South Wales, in the presence of the Registrar-General or a justice of the peace, or a commissioner of the Supreme Court for taking affidavits, or a barrister or solicitor practising in New South Wales, and if elsewhere than in New South Wales in the presence of a British Consul, a notary public, or the Agent-General of the State of New South Wales, or a commissioner for affidavits for New South Wales, by whom respectively such signatures or acknowledgments shall be attested.

(2) The foregoing provisions of this section shall be deemed to be complied with if any partner in New South Wales signs or acknowledges the said statement.

(3) If there is in New South Wales no partner carrying on or intending to carry on a business carried on under a firm-name, the foregoing provisions of this section shall be deemed to be sufficiently complied with if the said statement is signed or acknowledged by any person who has previously filed in the office of the Registrar-General a statutory declaration or produced a power of attorney showing that he is duly authorised by and on behalf of such person or persons as is or are described in such declaration or power of attorney to carry on the business the firm-name of which he desires to have registered.

(4) A fee of two shillings and sixpence shall be paid to the Registrar-General on filing any such statutory declaration or producing such power of attorney.

Time for registration

7. (1) Firms and persons required to be registered under this Act, who at the commencement of this Act are carrying on business in New South Wales, shall comply with the provisions of this Act within six months after such commencement.

(2) Other firms and persons required to be registered under this Act shall register accordingly before they commence business.

Registration of changes in firm.

8. Where a change occurs in the constitution of a registered firm, the members of the firm as reconstituted shall, within one month after such change, send by post or deliver to the Registrar-General a statement thereof in the form in the Schedule to this Act or in any other prescribed form ; and the same provision shall apply where a change occurs in the ownership of any business carried on by one person and required to be registered under this Act.

9.

Registration of Firms.

9. Where a change occurs in the firm-name of any firm or person required to be registered under this Act, such firm or person shall re-register, as in the case of a new business, and the statement sent or delivered to the Registrar-General shall mention the former firm-name as being abandoned, as well as the particulars required for a new registration.

Re-registration on change of firm-name.

10. If any person by this Act required to send or deliver any statement shall make default without reasonable excuse in sending or delivering the same within the prescribed time after a written demand in that behalf by the Registrar-General or in the manner and within the time specified by this Act, he shall on conviction be liable to a penalty not exceeding two pounds for the first offence, and for every subsequent conviction to a penalty not exceeding five pounds.

Penalty for default in registration.

11. (1) Where any firm or person by this Act required to send or deliver any statement to the Registrar-General has therein made default, and during such default commences any suit or action in any court in the firm-name or for a cause of action arising out of any dealing by such firm or person in the firm-name, such court shall order the firm or person in default to send or deliver to the Registrar-General the proper statement as required by this Act, and may stay all proceedings in the suit or action until the order be complied with, or allow proceedings to be continued on an undertaking to comply with such order within a time to be limited by the court.

Persons in default bringing action shall be ordered by court to register.

(2) The power by this section given to the court may be exercised by a Supreme Court Judge in chambers, or by a District Court Judge, or by a police or stipendiary magistrate, or by two or more justices sitting in petty sessions.

12. If any firm or person required to be registered as provided in this Act shall fail to register accordingly, all proceedings in any court of competent jurisdiction may be taken and prosecuted against such firm or person in the name under which such firm or person is carrying on business, and such name shall for the purposes of such proceedings be a sufficient designation of such firm or person in all writs, summonses, complaints, and other legal documents and instruments: Provided however that nothing in this section shall be construed to exempt any firm or person from compliance with any of the provisions of this Act.

Proceedings against non-registered firms.

13. Every person who wilfully makes, signs, acknowledges, or sends or delivers to the Registrar-General any false statement purporting to be made under this Act shall be guilty of a misdemeanour, and shall on conviction be liable to imprisonment for a term not exceeding two years.

Making false returns under this Act to be a misdemeanour.

14. Informations for offences against this Act (other than those referred to in the last preceding section) or for breaches of any regulations

Informations for offences.

Registration of Firms.

regulations made under this Act shall be heard and determined in a summary way by a court of petty sessions. An appeal shall lie from any conviction for any such offence or breach.

Registrar to file statement and issue certificate.

15. The Registrar-General on receiving any statement made in pursuance of this Act, shall cause the same to be filed, and shall send by post or deliver a certificate of the registration thereof to the firm or person registering.

Register and index to be kept.

16. The Registrar-General shall keep in proper books, to be provided for the purpose, a register and an index of all the firm-names of firms and persons registered under this Act, together with the statements registered in reference thereto.

Inspection of statements registered.

17. (1) Any person may inspect make a copy of or extracts from the statements filed by the Registrar-General, and there shall be paid for every such inspection a fee of one shilling.

(2) Any person may require a certificate of the registration of any firm or person, or a copy of, or extract from any registered statement to be certified by the Registrar-General, and there shall be paid for every such certificate of registration a fee of five shillings, and for every such copy or extract a fee at the rate of sixpence for each folio of seventy-two words, or such other fees as may be prescribed by the Governor.

(3) A certificate of registration or a copy of or extract from any statement registered under this Act purporting to be signed and certified by the Registrar-General shall in all courts of justice within the State of New South Wales be admitted as prima facie evidence of the fact and date of registration as shown thereon and of the other particulars therein contained.

Registrar-General to send reply to inquiries.

18. It shall be the duty of the Registrar-General on receiving payment of such fees as may be prescribed to send by post a reply to any inquiry made of him by letter in reference to any registration effected under the provisions of this Act.

Registrar-General to report offences against this Act.

19. It shall be the duty of the Registrar-General to take cognizance of and to report to the Attorney-General or the Solicitor-General every contravention on the part of any firm or person of any of the provisions of this Act or of any regulations made hereunder.

Regulations.

20. The Governor may make regulations to take effect after the commencement of this Act—

- (a) prescribing the fees to be paid to the Registrar-General under this Act: Provided that for the registration of any one statement the fee shall not exceed the sum of five shillings;
- (b) prescribing the forms to be used and the mode of payment of fees under this Act;
- (c) prescribing the duties or additional duties to be performed by the Registrar-General for the purposes of this Act;

(d)

Registration of Firms.

(d) prescribing generally the conduct and regulation of registration under this Act and as to any matters incidental thereto; and may in those regulations authorise any penalty not exceeding five pounds to be imposed for any breach of the same. All such regulations shall be published in the Government Gazette, and shall be laid before both Houses of Parliament within fourteen days after such publication, if Parliament is sitting, but if Parliament is not sitting, then within fourteen days after the next meeting of Parliament.

21. For the purpose of making the statements required by this ^{Forms.} Act, the forms in the Schedule to this Act or any prescribed forms to the same effect may be used, and if used, shall be sufficient.

SCHEDULE.

FORMS OF STATEMENT.

REGISTRATION OF FIRMS ACT, 1902.

A.—*Original Registration of a firm [or person].*

The firm-name is

The business of the firm [or person] is

It is intended to carry on the business at

Name [or names] of person [or persons] carrying on [or intending to carry on] the business

Full name (to be written or acknowledged by each person himself).	Usual residence.	Other occupation, description, and addition (if any).

Date of intended commencement of business or establishment of new place of business, if after the commencement of the Act

Signed and declared at on the day of 19 .

Before me,—
 Registrar-General; *or* }
 Deputy Registrar-General; *or*
 Deputy Registrar; *or*
 A Justice of the Peace; *or*
 A Commissioner for taking Affidavits; *or*
 Barrister; *or*
 Solicitor; *or*
 British Consul at ; *or*
 Notary public of ; *or*
 Agent-General of the State of New South Wales [*as the case may be*].

Registration of Firms.

Registered firm-name
and Co.

REGISTRATION OF FIRMS ACT, 1902.

B.—Notice of Change in Constitution of Registered Firm.

WE [*or I*] the undersigned [*the members of the firm as reconstituted, or the new proprietor of the business, as the case may be*] hereby give notice that on the _____ day of _____ 19____, the following change took place in the constitution of the firm [*or person*] registered by the name of _____ and Company, that is to say—

- *As the case may be. *A.B. retired from the firm.
- *C.D. became a member of the firm.

†As upon an original
registration.

†Description of a New Member.

Full name.	Usual residence.	Other occupation, description and additions (if any).

Signed and declared at _____ on the _____ day of _____ 19 .

Before me,—

Registrar-General; *or* }
 Deputy Registrar-General; *or*
 Deputy Registrar; *or*
 A Justice of the Peace; *or*
 A Commissioner for taking Affidavits; *or*
 Barrister; *or*
 Solicitor; *or*
 British Consul at _____ ; *or*
 Notary public of _____ ; *or*
 Agent-General of the State of New South Wales [*as the case may be*].

Mining on Private Lands (Amendment).

REGISTRATION OF FIRMS ACT, 1902.

Registered firm-name
and Co.

C.—*Notice of Change of Registered Firm-name.*

(In addition to Form A).

THE persons [*or person*] now registering are [*or is*] the persons [*or person*] who heretofore carried on business under the registered firm-name of _____ and Company, which is abandoned as from the date of this notice.
