

1995—No. 217

## BUSINESS NAMES ACT 1962—REGULATION

(Business Names Regulation 1995)

NEW SOUTH WALES



*[Published in Gazette No. 74 of 16 June 1995]*

HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Business Names Act 1962, has been pleased to make the Regulation set forth hereunder.

FAYE LO PO' MP  
Minister for Consumer Affairs.

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### Citation

1. This Regulation may be cited as the Business Names Regulation 1995.

### Commencement

2. This Regulation commences on 1 July 1995.

### Definitions

3. In this Regulation:

“**approved information broker**” means a person who has the written approval of the Commissioner to scan the computerised register of business names to obtain information for sale;

“**penalty notice**” means a penalty notice referred to in section 28A of the Act;

“**the Act**” means the Business Names Act 1962.

### General requirements for documents lodged with Commissioner

4. Documents lodged for registration with the Commissioner 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.

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

5. 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 Consumer Affairs.

**Prescribed offences and penalties**

6. For the purposes of section 28A of the Act:
- (a) an offence specified in Schedule 1 is a prescribed offence; and
  - (b) the amount specified in Schedule 1 in respect of such an offence is the prescribed amount of penalty for the offence.

**Fees**

7. (1) The fees specified in Schedule 2 are payable to the Commissioner 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 Commissioner:
- (a) may waive such part of the relevant fee as exceeds \$15 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 \$15 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 6 of Schedule 2 are made by any one person on any one day, the Commissioner, may for the eleventh and any subsequent inspection, waive such part of the inspection fee that would otherwise be payable as exceeds \$1.50.
- (4) The Commissioner 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; and
  - (b) that it would be unfair, in the circumstances of the case, to require payment of the fee.

**Repeal**

8. (1) The Business Names Regulation 1989 is repealed.
- (2) Any act, matter or thing that, immediately before the repeal of the Business Names Regulation 1989, had effect under that Regulation continues to have effect under this Regulation
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## 1995—No. 217

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**SCHEDULE 1—PENALTY NOTICE OFFENCES**

	(Cl. 6)
Offence	Penalty \$
Offence under section 5 (1) of the Act of carrying on business under an unregistered business name.....	200
Offence under section 12 (9) of the Act of failing to comply with the provisions of section 12 relating to the lodging of statements.....	100
Offence under section 13 (3) (a) of the Act of failing to comply with a requirement under section 13.....	100
Offence under section 13 (3) (b) of the Act of giving information or producing a document that is false or misleading in a material particular in purported compliance with a requirement under section 13.....	100
Offence under section 13 (3) (c) of the Act of hindering or obstructing an authorised officer in the exercise of his or her powers under section 13.....	100
Offence under section 20 of the Act of failing to use registered business name on business documents, failing to display registered business name or failing to exhibit a certificate of registration of a business name.....	200

**SCHEDULE 2—FEES**

	(Cl. 7)
Matter	Fee \$
1. Application under section 7 (1) of the Act for registration of a business name.....	100.00
2. Application under section 7 (5) of the Act for a further certificate of registration.....	15.00
3. Application under section 9 (1) of the Act for the Minister's consent to the use of a business name.....	120.00
4. Lodgment of a statement under section 11 (1) of the Act in connection with the renewal of registration of a business name	75.00
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.....	35.00
6. Inspection under section 22 (1) of the Act of a statement relating to a business name.....	7.50 for each inspection
7. Application under section 22 (1) of the Act by an approved information broker to scan the computerised register of business names.....	3.00

**1995—No. 217**


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8. Application under section 22 (3) of the Act for an uncertified reproduction or transparency of or extract from a document or copy of or extract from a computerised record relating to a business name:	
(a) for up to 3 pages.....	nil
(b) for each additional page.....	0.75
9. Application under section 23 (1) (a) of the Act for a certified copy of or extract from a document or computerised record forming part of the register:	
(a) for one page.....	9.00
(b) for each additional page.....	1.50
10. Application under section 23 (1) (b) of the Act for a certificate of registration or non-registration of a business name.....	15.00
11. Written inquiry, for each business name specified in the inquiry	14.00

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**NOTES**
**TABLE OF PROVISIONS**

1. Citation
2. Commencement
3. Definitions
4. General requirements for documents lodged with Commissioner
5. Application for Minister's consent to register a business name
6. Prescribed offences and penalties
7. Fees
8. Repeal

SCHEDULE 1—PENALTY NOTICE OFFENCES

SCHEDULE 2—FEES

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**EXPLANATORY NOTE**

The object of this Regulation is to repeal and remake, with no major changes of substance, the provisions of the Business Names Regulation 1989. The new Regulation deals with the following matters:

- (a) general requirements for documents lodged with the Commissioner (clause 4);
- (b) applications for the Minister's consent to register a business name (clause 5);
- (c) penalty notice offences under the Act (clause 6 and Schedule 1);
- (d) the fees payable under the Act (clause 7 and Schedule 2);
- (e) other formal matters (clauses 1, 2, 3 and 8).

**1995—No. 217**

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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 under the Business Names Act 1962, including section 32 (the general regulation making power).

This Regulation is made in connection with the staged repeal of subordinate legislation under the Subordinate Legislation Act 1989.

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