

## BUSINESS NAMES.

### No. 44 of 1962.

AN ACT to make provision with respect to the registration and use of business names, and to provide for matters incidental thereto.

[20 November 1962.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

**1**—(1) This Act may be cited as the *Business Names Act 1962*. Short title and commencement.

(2) This Act shall commence on a date to be fixed by proclamation.

**2**—(1) The *Registration of Firms Act 1899* is repealed. Repeal and transitory provisions.

(2) A reference in any Act, order-in-council, order, regulation, by-law, rule, proclamation, instrument, or document to firms, individuals, or corporations registered under the repealed Act shall, unless the context otherwise requires, be construed as a reference to firms the members of which are, or to individuals who are, or to corporations that are, carrying on business under a business name that is registered, or deemed to be registered, under this Act.

(3) A firm-name that was, immediately before the commencement of this Act, registered under the repealed Act shall, upon the commencement of this Act, be deemed to be registered as a business name under this Act in relation to each member of the firm, or in relation to the individual, as the case may be, by which or by whom it was registered under that Act, and this Act applies to and in relation to such a firm-name accordingly.

**3**—(1) In this Act, unless the contrary intention appears— Interpretation.

“business” includes trade and profession; Cf. 63 Vict. No. 34 (Tas.), s. 3.

“business name” means a name, style, title, or designation under which a business is carried on; No. 50 of 1934 (N.S.W.), s. 2.

“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; No. 6212 (Vic.), s. 3. s. Geo. VI No. 24 (Q’ld), s. 3.

“Christian name” includes a forename; No. 1851 of 1928 (S.A.), s. 3.

“corporation” means a body corporate formed or incorporated, whether in the State or outside the State, and includes a foreign company within the meaning of the *Companies Act 1962*; No. 2 of 1943 (W.A.), s. 3. No. 18 of 1956 (A.C.T.), s. 4.

- “director”, used in relation to a corporation, includes a person who occupies 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 corporations) associated together for the purpose of carrying on business;
- “individual” means a natural person and does not include a corporation;
- “initial” includes a recognized abbreviation of a Christian name;
- “register” means the register of business names kept under this Act;
- “Registrar” means the Registrar of Business Names appointed under this Act;
- “repealed Act” means the *Registration of Firms Act 1899*;
- “secretary”, used in relation to a corporation, includes a person who performs the duties of secretary of the corporation, and, used in relation to a corporation registered under Division III of Part XI of the *Companies Act 1962*, includes the agent of the corporation appointed for the purposes of that Division.

(2) 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 he—

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

(3) 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 that person, either alone or together with other persons, is carrying on business under that name.

4—(1) The Governor may appoint a person as the Registrar of Business Names for the purposes of this Act.

Registrar of  
Business  
Names.

(2) An officer of the Public Service may be appointed as the Registrar pursuant to this section and may hold office as Registrar in conjunction with his office as an officer of the Public Service.

5—(1) No person shall, either alone or in association with other persons, carry on business in the State under a business name unless—

Certain  
business  
names to be  
registered.

Tas., s. 4.  
N.S.W., s. 4.  
Vic., s. 4.  
Q'ld., s. 4.  
S.A., s. 4.  
W.A., ss. 4, 6.  
A.C.T., s. 6.

- (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 eleven 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.

Penalty: One hundred pounds, together with a default penalty.

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

- (a) in the case of an individual, his full name, or his surname together with—
- (i) his Christian name or Christian names;
  - (ii) the initial or initials of his Christian name or Christian names;
  - (iii) a combination of one or more of his Christian names and the initial or initials of his remaining Christian name or Christian names; or
  - (iv) the Christian name or Christian names by which he is commonly known or the initial or initials by which he is commonly known, or any combination of one or more of those names and those initials; or

(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) of this section, 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 a court or under the powers contained in an 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 a provision of this Act does not operate to avoid any agreement, transaction, act, or matter.

Register of business names.

Tas., s. 16.  
N.S.W., s. 16.  
Vic., s. 16.  
Q'ld., s. 18.  
S.A., s. 18.  
W.A., s. 16.  
A.C.T., s. 18.

**6**—(1) The Registrar shall keep a register of business names registered under this Act in such form as he thinks fit.

(2) 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.

(3) The register kept for the purposes of the repealed Act shall be deemed to be incorporated with and to form part of the register kept under this Act.

Registration of business names.

Tas., ss. 5, 15.  
N.S.W., s. 6.  
Vic., s. 5.  
Q'ld., s. 6.  
S.A., ss. 6, 17 (1).  
W.A., s. 7.  
A.C.T., s. 7.

**7**—(1) An application for the registration of a business name shall be made by lodging with the Registrar a statement in the prescribed 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;
- (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;
- (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 places than one in the State, which of those places is or is to be the principal place of business;
- (d) the Christian names and surname, any former Christian names or surname, and the usual place of residence, of each applicant who is an individual and the corporate name and the place of the registered office in the State of each applicant that is a corporation;

(e) 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

(f) where the business name is a name adopted by the applicant or applicants in substitution for another name, that other name.

(2) If an applicant is an infant he shall be so described in the statement referred to in subsection (1) of this section, and the date of his birth shall be set out in the statement.

(3) Subject to this Act, the Registrar shall, upon the lodging of a statement under subsection (1) of this section in relation to a business name, register the business name.

(4) The Registrar shall, upon registering a business name, issue a certificate of registration in the prescribed 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) of this section is lodged with the Registrar on a date preceding by more than two 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 he is not satisfied that the particulars set out in the statement lodged under subsection (1) of this section are correct.

**8**—(1) Where a business name is required to be registered under this Act and the person or all the persons (in this subsection referred to as “the proprietor or proprietors”) carrying on or proposing to carry on business in the State under that name resides or reside outside the State, or has or have no fixed address within the State, the statement referred to in subsection (1) of section seven—

Resident  
agent.  
S.A., s. 5.

(a) shall include the name and address of some person resident in the State who, in relation to the carrying on of business under that name—

(i) has consented in writing to be the resident agent of the proprietor or proprietors for the purposes of this Act; and

(ii) is authorized by the proprietor or proprietors to accept service, on behalf of the proprietor or proprietors, of any notice for the purposes of this Act and of any process; and

(b) shall be signed by the person who has so consented to be the registered agent of the proprietor or proprietors.

(2) The address shown in a statement lodged with the Registrar under this Act as the address of the resident agent appointed for the purposes of this Act by the person or persons in relation to whom a business name is registered

shall, for the purpose of serving any notice on that person or those persons under this Act, be deemed to be the address of a place where business is carried on by that person or those persons under that name.

Restriction on registration of business names that are undesirable, &c.

Tas., s. 8.  
N.S.W., ss. 21-24.

Vic., ss. 21-25.  
Q'ld., ss. 10-12.  
S.A., s. 23.  
W.A., ss. 24-26.  
A.C.T., s. 24.

**9**—(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, in the opinion of the Registrar, is 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 him under subsection (1) of this section to be published in the *Gazette* and a copy of the direction to be forwarded to the Attorney-General of the Commonwealth and the Attorney-General of each State.

Power to cancel registration of business names that are undesirable, &c.

Tas., s. 20.  
N.S.W., s. 26.  
Vic., s. 26.  
W.A., s. 28.  
A.C.T., s. 25.

**10**—(1) If a business name that could not be registered under this Act without contravention of subsection (1) of section nine 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—

- (a) stating that he proposes to cancel the registration of that name upon the expiration of such period (being a period of not less than twenty-eight days) as is specified in the notice; and
- (b) setting out his reasons for the proposed cancellation,

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

(2) The Registrar shall not, except with the approval of the Minister, exercise his powers under subsection (1) of this section with respect to a firm-name that is deemed to be registered under this Act by virtue of subsection (3) of section two.

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

(4) The Registrar may remit a fee that is 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) of this section.

Renewal of registration.

Q'ld., s. 6.  
S.A., s. 7.  
W.A., s. 6.  
A.C.T., s. 10.

**11**—(1) The registration of a business name remains in force for a period of three years, but the registration may from time to time be renewed for the next succeeding period of three years by the person or one of the persons in relation to whom the name is registered lodging with the Registrar, during the period of one month before the expiry of the registration, a statement in the prescribed form signed by that person or one of those persons and accompanied by the prescribed fee.

(2) The Registrar shall, before or after the expiration of the registration of a business name but not earlier than one month before the expiration thereof, send by post to the person or persons in relation to whom the business name is or 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 is due to expire, or has expired, as the case may be.

(3) Where the registration of a business name expires 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 a 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 one month after the sending of the notice referred to in subsection (2) of this section.

(4) Notwithstanding the provisions of subsection (1) of this section, the following provisions apply in relation to a firm-name that is deemed to be registered as a business name under this Act by virtue of subsection (3) of section two, namely:—

- (a) The registration of the name remains in force, subject to this Act, until a date to be fixed by the Registrar;
- (b) Notice in writing of the date so fixed shall be sent by post to the firm or individual in relation to which or to whom the name is so deemed to be registered at the place (or one of the places, if more than one) shown in the register as the place of business of that firm or individual;
- (c) The date so fixed by the Registrar shall be a date not less than one month after the notice referred to in paragraph (b) of this subsection has been sent to the firm or individual to which or to whom it is addressed; and
- (d) No such notice shall be sent by the Registrar until the expiration of at least three years after the date upon which the name was registered under the repealed Act.

**12**—(1) Where a business name is registered under this Act and a change occurs—

- (a) that renders the description of the nature of the business lodged with the Registrar insufficient to disclose the true nature of the business;
- (b) in relation to the place or places in the State at which business is carried on under that name or in the address of any such place; or
- (c) in the registered particulars relating to the resident agent of the person or persons in relation to whom the name is registered,

Notification of changes in particulars relating to registered business names, or cessation of business, &c.  
 Tas., s. 10.  
 N.S.W., s. 10.  
 Vic., s. 9.  
 Q'ld., ss. 7, 8, 10.  
 S.A., s. 11.  
 W.A., s. 12.  
 A.C.T., s. 9.

there shall be lodged with the Registrar within fourteen days thereafter, or within such further time as the Registrar allows, a statement in the prescribed form, signed by the person or

one of the persons in relation to whom the name is registered at the time of the change, notifying the Registrar of particulars of, and of the date of, the change.

(2) Where a change occurs in the Christian names or surname or the place of residence 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 in the State 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 fourteen days thereafter or within such further time as the Registrar allows a statement in the prescribed form signed by that person notifying the Registrar of particulars of, and of the date of, the change.

(3) Where a business name is registered under this Act in relation to any 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 fourteen days thereafter, or within such further time as the Registrar allows, a statement in the prescribed 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 his personal representative.

(4) Where a business name is registered under this Act in relation to any person or persons and another person commences 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 fourteen days thereafter, or within such further time as the Registrar allows, a statement in the prescribed form signed by each person carrying on business under that name immediately after that person commenced carrying on business under that name, setting out the date on which that other person commenced to so carry on business and—

- (a) if that person is an individual, the Christian names and surname and any former Christian names or surname, and the usual place of residence, of that person; or
- (b) if that person is a corporation, the corporate name and the place of the registered office in the State of the corporation.

(5) Where a business name is registered under this Act and a person who is appointed as the resident agent of the person or persons in relation to whom the business name is registered ceases to be the resident agent of that person or those persons for the purposes of this Act—

- (a) there shall be lodged with the Registrar within fourteen days after the cessation, or within such further time as the Registrar allows, a statement in the prescribed form notifying the Registrar of the cessation and of the date there-

of, signed by the person or by one of the persons in relation to whom the name is registered, or by the person so ceasing to be the resident agent or his personal representative; and

- (b) the person or persons in relation to whom the business name is registered shall, within fourteen days after the cessation or within such further time as the Registrar allows, appoint another person as his or their resident agent for the purposes of this Act in place of, or in succession to, the person so ceasing.

(6) Where a business name is registered under this Act and another person is appointed in place of or in succession to a person who has ceased to be the resident agent of the person or persons in relation to whom the name is registered, there shall be lodged with the Registrar within fourteen days after the appointment, or within such further time as the Registrar allows, a statement in the prescribed form notifying the Registrar of the appointment and of the date thereof—

- (a) signed by the person or by one of the persons in relation to whom the name is registered and by the other person so appointed; and

- (b) showing that the other person so appointed—

- (i) is, in relation to the carrying on of business under that name, authorized by the person or persons in relation to whom the name is registered to accept on his or their behalf service of any notice for the purposes of this Act and of any process; and

- (ii) has consented in writing to act as the resident agent of that person or those persons, as the case requires.

(7) Where a business name is registered under this Act and the person or all the persons in relation to whom the name is registered ceases or cease to reside within the State or to have a fixed address in the State, there shall be lodged with the Registrar a statement in the prescribed form stating the name and address of some person resident in the State who, in relation to the carrying on of business under that name—

- (a) has consented in writing to be the resident agent of that person or those persons for the purposes of this Act; and

- (b) is authorized by that person or those persons to accept service on behalf of that person or those persons of any notice for the purposes of this Act and of any process,

and that statement shall be signed by the person or one of the persons in relation to whom the business name is registered and by the person so authorized.

(8) If a statement that is required by a provision of this section to be lodged with the Registrar is not lodged in accordance with that provision, or, if lodged, does not comply with that provision, each person who is required or authorized

by that provision to sign the statement, unless he proves that he took all reasonable steps to ensure compliance with that provision, is guilty of an offence against this Act.

Penalty: One hundred pounds, together with a default penalty.

(9) 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 subsection (4) of this section, neither that person nor any other person is guilty of an offence against section five by reason only that, before the lodging of the statement, he carried on business under that name.

(10) A statement that is required to be lodged with the Registrar under this section with respect to a matter may be combined with a statement required to be lodged under this section with respect to another matter.

(11) A statement that is lodged under this section shall be accompanied by the prescribed fee.

Duty to  
furnish  
information.

N.S.W., s. 15.  
Vic., s. 14.  
S.A., s. 13.  
W.A., s. 18.

**13**—(1) The Registrar may, by notice in writing, require a person to furnish, within a period specified in the notice (being a period of not less than twenty-eight days) or within such further period as the Registrar may allow, such information as appears to the Registrar to be necessary to enable him 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 that is required to be lodged under this Act.

(2) A person who is required under subsection (1) of this section to furnish information to the Registrar shall, within the period specified in the notice or within such further period as the Registrar allows, furnish such information as it is within his power to furnish, and shall not furnish any information that, to his knowledge, is false in a material particular.

Penalty: One hundred pounds.

(3) A person is not excused from furnishing any information where required to do so under subsection (1) of this section on the ground that the information might tend to incriminate him or to make him liable to a penalty, but the information furnished by him is not admissible in evidence against him in any proceedings, whether civil or criminal.

Disability of  
persons in  
default.

Tas., s. 13.  
N.S.W., s. 13.  
Vic., s. 12.  
Q'ld., s. 22.  
S.A., s. 16.  
W.A., s. 16.  
A.C.T., s. 14.

**14**—(1) Where a person who is carrying on business under a business name in contravention of section five or a person who is guilty of an offence against section twelve by reason of a failure to lodge a statement under that section in relation to a business name commences any action or suit 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 action or suit is commenced may order the person to cease to contravene section five or to cause the statement to be lodged, as the case may be, and may stay all proceedings in the action or suit until the order is complied with, or may allow the proceedings to be continued on an undertaking being given by that person that he 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—

- (a) in the case of the Supreme Court, by a judge in chambers;
- (b) in the case of a court of requests, by a commissioner of courts of requests in chambers; or
- (c) in any other case, by a police magistrate in chambers or by two or more justices sitting in petty sessions.

**15**—(1) A statement that is 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 his behalf by a person who is authorized in writing to so sign the statement; or
- (b) in the case of a corporation, it is signed by a director or manager, or by the secretary, of the corporation.

Signing of statements.  
Tas., s. 7.  
N.S.W., s. 7.  
Vic., s. 6.  
Q'ld., s. 16.  
S.A., s. 8.  
W.A., s. 8.  
A.C.T., s. 23.

(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 who is 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 thereby relieved of the requirement to sign a statement, and a statement not signed by a person is not evidence relating to that person's interest in a business by reason only of its registration under this Act.

**16** The Registrar may, in a particular case, if he thinks fit refuse to accept a statement that is required to be lodged with him under this Act unless the particulars set out in the statement are verified by a statutory declaration made by a person who signed the statement.

Verification of particulars.

**17** No person shall—

- (a) sign or lodge with the Registrar a statement made for the purposes of this Act that, to his knowledge, is false in a material particular; or
- (b) authorize or permit the lodging with the Registrar of such a statement that, to his knowledge, is false in a material particular.

Penalty for false statement.  
N.S.W., s. 14.  
Vic., s. 13.  
Q'ld., s. 17.  
S.A., s. 24.  
W.A., s. 17.  
A.C.T., s. 16.

Penalty: One hundred pounds or imprisonment for three months, or both.

Notice of  
proposed  
cancellation.

Tas., s. 14.  
N.S.W., s. 11.  
Vic., s. 10.  
Q'ld., s. 9.  
S.A., s. 22.  
W.A., s. 14.  
A.C.T., s. 12.

**18**—(1) Where the Registrar has reasonable cause to believe that any 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, he may send by post a notice addressed to that person or those persons at the place shown in the register as the place where business is carried on under that name inquiring whether that person is, or those persons are, carrying on business under that name and stating that, unless the Registrar is satisfied within one month after 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 twelve that 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, he may send by post a notice addressed to that person or those persons at the place shown in the register as the place where business is carried on under that name stating that, unless within one month after 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.

Cancellation  
of registra-  
tion.

N.S.W., s. 11.  
Vic., s. 10.  
Q'ld., s. 19A.  
S.A., s. 22a.  
W.A., s. 14.  
A.C.T., s. 13.

**19**—(1) The Registrar may cancel the registration of a business name—

- (a) if there is lodged with the Registrar a statement under subsection (3) of section twelve notifying him 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 no statement has been lodged with the Registrar under subsection (4) of that section within the time limited in that behalf by the last-mentioned subsection indicating that another person has, or other persons have, commenced to carry on business in the State under that name;
- (b) if the Registrar has sent a notice to any person or persons in respect of the business name under subsection (1) of section eighteen and that person does not, or those persons do not, satisfy the Registrar within one month after the date of the notice that business is being carried on in the State by that person or those persons under that name;
- (c) if the Registrar has sent a notice to any person or persons under subsection (2) of section eighteen and within one month after the date of the notice the provision of section twelve to which the notice relates has not been complied with, or the 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 kept under the *Companies Act 1962* or the corporation has been dissolved.

(2) The Registrar may, on any grounds that he thinks sufficient, revoke any cancellation by him 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 Registrar cancels a business name pursuant to this section, he shall, as soon as practicable after the date on which the cancellation is effected, publish notice thereof in the *Gazette*.

(4) Where the registration of a business name is cancelled under this section, a person in relation to whom the business name was registered immediately before the cancellation may apply to a police magistrate for an order directing the Registrar to restore the registration of the business name.

(5) An application under subsection (4) of this section shall be made within three months after the date of the publication in the *Gazette* of the notice of the cancellation in respect of which the application is made.

(6) On an application under subsection (4) of this section, the police magistrate may, if he 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 police magistrate thinks fit.

(7) Upon the making of an order by the police magistrate under subsection (6) of this section, 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 him of an office copy of the order, shall make such entries and alterations in the register as he considers necessary for the purposes of the order.

(8) A person who is aggrieved by a decision of a police magistrate on the hearing of an application under subsection (4) of this section may appeal therefrom to the Supreme Court, which has jurisdiction to hear and determine the appeal.

(9) An appeal under subsection (8) of this section shall be instituted, heard, and determined in accordance with the Rules of Court relating to appeals from inferior courts (other than licensing courts).

**20** Where a business name is registered under this Act—

(a) no person or persons in relation to whom the business name is registered shall issue or sign in connection with the carrying on of business by that person or those persons any business letter, statement of account, invoice, official notice, publication, order for goods, or receipt unless the business name appears in legible characters thereon;

Use and  
exhibition of  
business  
name.  
Tas., s. 9.  
N.S.W., ss. 9,  
16.  
Vic., ss. 8,  
15, 20.  
Q'd., s. 21.  
S.A., ss. 10,  
17 (2).  
W.A., s. 11.  
A.C.T., s. 8.

- (b) the business name shall at all times be displayed in a conspicuous position at each place at which business is carried on under that name in such a position as to be clearly and readily visible to persons resorting to that place for the purpose of transacting any business; and
- (c) the certificate of registration of the business name shall at all times be exhibited in a conspicuous position at the place where business is carried on under that name or, if there are more such places than one, at the principal place where business is so carried on,

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

Penalty: Fifty pounds, together with a default penalty.

Power of Registrar to correct errors in register, &c.

A.C.T., s. 20.  
N.S.W., s. 18.  
W.A., s. 21.

**21**—(1) The Registrar may, on such evidence as to him appears sufficient, correct any error in an entry in the register or in a certificate of registration of a business name.

(2) When correcting an error under subsection (1) of this section, the Registrar shall not erase or render illegible the original words, and shall affix the date upon which the correction was made, together with his initials.

(3) An entry or a certificate that is corrected under this section has 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 an error in, or to supply any particulars omitted from, a statement previously lodged and registered; and in that case the statement previously lodged and the statement lodged under this subsection shall be read as one and shall both be deemed to be incorporated with and to form part of the register.

Inspection of statements.

Tas., s. 17.  
N.S.W., s. 17.  
Vic., s. 17.  
Q'ld., s. 18.  
S.A., s. 19  
(1).  
W.A., s. 20.  
A.C.T., s. 19.

**22** A person may, on payment of the prescribed fee, inspect any statement lodged with the Registrar under this Act or filed under the repealed Act and may make a copy thereof or take extracts therefrom.

Certificates of registration or non-registration.

N.S.W., s. 17.  
Vic., s. 17.  
Q'ld., s. 18.  
S.A., s. 19  
(2).  
W.A., s. 20.  
A.C.T., s. 19.

**23**—(1) The Registrar shall, upon request by a person and payment of the prescribed fee, issue to that person—

- (a) a copy of or extract from the register or a copy of or extract from a document forming part of the register, certified under his hand to be a true copy or extract; or
- (b) a certificate under his hand that a business name was or was not, on a date or during a period specified in the certificate, registered under this Act in relation to a person or that a firm, indi-

vidual, or corporation was or was not, on a date or during a period specified in the certificate, registered under the repealed Act.

(2) The Registrar is not obliged to issue a certificate under paragraph (b) of subsection (1) of this section in respect of a date, or a period ending on a date, more than twelve years earlier than the date of the receipt of the request.

**24** A document purporting to be—

- (a) a certificate of registration issued under this Act;
- (b) a copy of or an extract from the register or a copy of or an extract from a document forming part of the register issued under paragraph (a) of subsection (1) of section twenty-three;
- (c) a certificate issued under paragraph (b) of subsection (1) of section twenty-three; or
- (d) a combination of two or more of those certificates, copies, or extracts,

Evidence of registration or non-registration.  
Tas., s. 18.  
N.S.W., s. 17.  
Vic., s. 17.  
Q'ld., s. 18.  
S.A., s. 20.  
W.A., s. 20.  
A.C.T., s. 20.

in all courts and before all persons having authority to hear, receive, and examine evidence, is evidence of any matter contained or set out therein.

**25** Subject to the *Public Records Act* 1943, the Registrar may, if in his opinion it is no longer necessary or desirable to retain them, destroy or give to the State Librarian any statement or notice lodged, filed, received, or registered under this Act or under the repealed Act where the registration of the business name, or of the firm-name, or of the firm, individual, or corporation, as the case may be, in respect of which the statement or notice was lodged, filed, received, or registered has not been in force at any time during the preceding twelve years.

Power to destroy old documents.

**26**—(1) No person shall use or make reference to a business name that is registered or required to be registered under this Act—

- (a) in any invitation to the public; or
- (b) in any advertisement inviting the public,

to deposit money with, or to lend money to, that person or any other person.

Penalty: Five hundred pounds.

(2) This section does not apply to an invitation to the public made by a public company in conformity with the requirements of the *Companies Act* 1962.

Invitations to the public to make deposits or loans.  
Vic., s. 8A.  
S.A., s. 4a.

**27**—(1) Where by any provision of this Act it is provided that a person is liable to a default penalty that provision means that a person who is convicted of an offence against this Act in relation to that provision is guilty of a further offence against this Act if the offence continues after he is so convicted and is liable to an additional penalty for each day during which the offence so continues of not more than ten pounds.

Default penalty.

(2) Where an offence is committed by a person by reason of his failure to comply with a provision of this Act by or under which he is required or directed to do anything within a particular period, that offence for the purposes of subsection (1) of this section shall be deemed to continue so long as the thing so required or directed to be done by him remains undone, notwithstanding that that period has elapsed.

Offences committed by corporations.

N.S.W., s. 19.  
Vic., s. 18.  
Q'ld., s. 24.  
W.A., s. 22.  
A.C.T., s. 17

**28** Where a person who is 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, manager, secretary, or other officer of the corporation who is knowingly a party to the commission of the offence is also guilty of that offence.

Evidentiary provisions.

S.A., s. 23a.

**29** If in any proceedings in respect of 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 a business carried on at, in, or on 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.

Place to which notices may be sent.

**30**—(1) Where by this Act the Registrar is required or permitted to send a notice to the person or persons in respect of whom a 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) to the place shown in the register as the place where business is so carried on;
- (b) where more places than one are 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 that appears first in the register as a place where business is so carried on; or
- (c) if it appears from the register that there is for the purposes of this Act a resident agent, at the place shown in the register as the address of the resident agent in this State.

Regulations.

Tas., s. 19.  
N.S.W., s. 27.  
Vic., s. 19.  
Q'ld., s. 25.  
S.A., s. 25.  
W.A., s. 23.  
A.C.T., s. 28.

**31**—(1) The Governor may make regulations for the purposes of this Act.

(2) Without affecting the generality of the provisions of subsection (1) of this section, the regulations may—

- (a) prescribe the duties of the Registrar for the purposes of this Act;

- (b) prescribe generally the conduct and regulation of registration under this Act;
- (c) prescribe—
- (i) the time and manner of the submission of documents to the Registrar for lodging or registration;
  - (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 prescribed 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 prescribed for the purposes of this Act;
- (d) prescribe the fees (not exceeding ten pounds) to be paid to the Registrar under this Act;
- (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;
- (f) prescribe and regulate the payment of additional fees on the late lodgment of documents;
- (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 twenty pounds, for offences against the regulations.

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## WORKERS' (OCCUPATIONAL DISEASES) RELIEF FUND.

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No. 45 of 1962.

AN ACT to amend the *Workers' (Occupational Diseases) Relief Fund Act 1954.*

[ 20 November 1962. ]

**B**E it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

**1**—(1) This Act may be cited as the *Workers' (Occupational Diseases) Relief Fund Act 1962.* Short title  
and citation