

NEW NATIONAL BUSINESS NAMES REGISTER QUESTIONS & ANSWERS

WHAT HAS CHANGED?

Previously, each State and Territory operated its own business name registration regime, meaning that eight separate registrations were necessary to register a business name nationally. The new National Business Names Register which commenced on 28 May 2012 is administered by ASIC and allows a business name to be registered nationally via a single online registration and fee. The new scheme removes the administrative burdens and costs associated with the previous system. Apart from this core change, businesses' obligations under the new national legislation largely reflect the obligations that existed under State and Territory laws.

WHEN DO I NEED A BUSINESS NAME?

You need to register a business name if you carry on business under a name that is different from your individual, partnership or company name. The purpose of registration is to ensure the public is able to identify the legal entity behind the business with whom they are dealing.

IF I ALREADY HAVE A BUSINESS NAME, DO I NEED TO REGISTER IT AGAIN UNDER THE NEW REGIME?

No, you do not need to do anything as your name has been automatically transferred to the new Register. If your name is identical to a registered business name from another State or Territory, ASIC may apply a geographical identifier to your name on the Register, but the identifier will not need to be displayed publicly.

HAS THE RENEWAL PERIOD CHANGED?

If you already have a registered business name, your renewal date will stay the same. New renewal fees apply but they are generally be lower than the fees that applied previously. The fees under the new system are \$30 for 1 year and \$70 for 3 years. For names registered under the new regime, you can choose to renew after 1 year or 3 years by lodging the appropriate renewal fee.

WHAT IF I ALREADY HAVE A COMPANY NAME?

If the company:

- 1 trades under a name that is identical to the registered company name, it does not need to register that name as a business name;
- 2 wishes to use an abbreviated version of the company name or a registered trade mark (eg a stylised logo) on letterheads, signage, etc – it does not need to register the abbreviated name or trade mark as a business name if the full company name is also prominently displayed in compliance with corporations law;
- 3 comprises distinct business divisions which trade under various names that are different from the company name, it must register those names as business names.

REGISTERING A BUSINESS NAME WILL PROTECT MY NAME, WON'T IT?

No, a registered business name does not give you rights to prevent another trader from carrying on business under that name or from registering an identical trade mark or domain name. In addition, while a person cannot register a business name (or company name) that is identical or nearly identical to an existing name on the register, the person can register a business or company name with minor differences.

WHAT DO I DO IF I WANT TO PROTECT MY NAME?

Companies should comply with corporations law in identifying themselves by their company name on public documents and places of business.

If you wish to protect your name from copying, consider trade mark registration. A registered trade mark is national and provides its owner with the exclusive right to use, and prevent others from using, a name or logo for specified goods and services. If you have been using your business name for some time it will likely qualify for trade mark registration.

You should also consider registering domain names you are likely to use as well as common misspellings and significant variants.

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