



BUSINESS NAMES ACT 1976

[Consolidated as at 20 March 2013
on the authority of the Administrator
and in accordance with
the *Enactments Reprinting Act 1980*]

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Business Names Act 1976

An Act relating to the use of business names.

Short title

1. This Act may be cited as the *Business Names Act 1976*.

Commencement

2. (1) Sections 1, 2, 3, 4 and 6, subsection 7(3) and sections 9 and 31 shall come into operation on the day on which notice of the making of this Act is published in the Gazette.

(2) The remaining provisions shall come into operation at the expiration of the period of 2 months after the day referred to in subsection 2(1).

Transitional provisions

3. (1) Where a firm, individual or corporation was carrying on business in Norfolk Island under a business name immediately before the day on which this section came into operation, the firm, individual or corporation, as the case may be, may, before the expiration of the period of 2 months after that day, apply to the Registrar for registration of that name.

(2) An application made under subsection 3(1) —

- (a) shall be in writing; and
- (b) shall contain those particulars which would be required if subsection 7(1) were in force.

(3) Subject to subsection 3(4) and section 9, where an application is made in accordance with subsections 3(1) and 3(2), the Registrar shall not refuse to register the name.

(4) The Registrar may refuse to register a name if he is not satisfied that the particulars contained in the application are correct or that all the required particulars have been supplied.

(5) The registration of a business name under this section shall remain in force for a period of 3 years from the date of registration.

Interpretation

4. (1) In this Act, unless the contrary intention appears —
- “business” includes trade and profession;
 - “business name” means a name, style, title or designation under which a business is carried on;
 - “carrying on business” includes establishing a place of business and soliciting or procuring any order from a person in Norfolk Island and “to carry on business” has a corresponding meaning;
 - “Christian or given name” includes any forename;
 - “corporation” means a body corporate wherever formed or incorporated;
 - “director”, in relation to a corporation, includes any person occupying 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) associated together for the purpose of carrying on business;
 - “foreign company” means a corporation registered under Part III of the *Companies (Amendment) Act 1906*, of the State of New South Wales in its application in Norfolk Island by virtue of the *Companies Act 1926*;
 - “individual” means a natural person and does not include a corporation;
 - “initial” includes a recognised abbreviation of a Christian or given name;
 - “process” includes any writ, summons, plaint, pleading, order or document in, or relation to, any legal proceedings;
 - “register” means the register of business names kept under this Act;
 - “Registrar” has the same meaning as in the *Companies Act 1926*;
 - “secretary”, in relation to a corporation, includes any person performing the duties of secretary of the corporation and includes the public officer of a foreign company;
 - “this Act” includes the regulations.

(2) For the purpose of this Act, a person shall not be regarded as carrying on business within Norfolk Island for the reason only that within Norfolk Island he —

- (a) is or becomes a party to any action or suit or any administrative or arbitration proceeding, or effects settlement of an action, suit or proceeding or of any claim or dispute;
- (b) maintains any bank account;
- (c) effects any sale through an independent contractor;
- (d) creates evidence of any 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 such debts;
- (f) conducts an isolated transaction that is completed within a period of 31 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.

Certain business names to be registered

5. (1) A person shall not, either alone or in association with other persons, carry on business in Norfolk Island under a business name, unless —

- (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;

Penalty: 2 penalty units. Default penalty.

(2) For the purposes of subsection (1), the name of a person shall be taken to be —

- (a) in the case of an individual-his full name, or his surname together with —
 - (i) his Christian or given name or names;
 - (ii) the initial or initials of his Christian or given name or names;
 - (iii) a combination of one or more of his Christian or given names and the initial or initials of his remaining Christian or given name or names; or
 - (iv) the Christian or given name or 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 such names and such initials; or
- (b) in the case of a corporation-the 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), be deemed not to be an addition to the business name.

(4) An agreement, transaction, act or matter is not invalid or inoperative, by reason only of a contravention of, or failure to comply with, a provision of this Act.

Register of business names

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

(2) A document lodged under this Act, with the Registrar, 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.

Registration of business names

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 Norfolk Island 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 Norfolk Island 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 than one place in Norfolk Island, which of those places is the principal place of business;
- (d) the Christian or given names and surname, any former Christian or given names or surname and the usual place of residence of each applicant who is an individual and the name, and the place of the registered office in Norfolk Island, of each applicant that is a corporation;
- (e) the date or proposed date of commencement of the carrying on of business in Norfolk Island, under the business name by the applicant or applicants;
- (f) where the business name is a name adopted by the applicant or applicants in substitution for another name - that other name; and
- (g) where an applicant is an infant, the date of his birth and a statement that he is an infant.

(2) Subject to this Act, the Registrar shall, upon the lodging of a statement under subsection 7(1) in relation to a business name, register the business name.

(3) The Registrar shall, upon registering a business name issue, upon payment of the prescribed fee, a certificate of registration in the prescribed form signed by the Registrar.

(4) The Registrar may, upon payment of the prescribed fee, issue a further certificate of registration.

(5) A business name shall not be registered under this Act if the statement referred to in subsection 7(1) is lodged with the Registrar on a date preceding by more than 2 months the date shown in the statement as the proposed date of commencement of carrying on business.

(6) 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 7(1) are correct, or that all the particulars required under that subsection have been supplied.

(7) Where the Registrar has refused to register a business name under subsection 7(6), the person or any of the persons who signed the statement under subsection 7(1) may apply to the Supreme Court for an order directing the Registrar to register the name.

(8) On an application under subsection 7(7), the Supreme Court may, if it is satisfied that the statement lodged with the Registrar by the applicant or applicants is correct and that all the particulars required under subsection 7(1) have been supplied, make the order applied for upon such terms as the Court thinks fit.

(9) Upon the making of an order by the Supreme Court under subsection 7(8), the Registrar shall, upon the lodging with him of an office copy of the order, register the business name.

Resident agent

8. Where a business name is required to be registered under this Act and the person or all the persons carrying on or proposing to carry on business in Norfolk Island under that name resides or reside outside Norfolk Island, or has or have no fixed address or fixed addresses within Norfolk Island, the statement referred to in subsection 7(1), or in subsection 11(1), as the case may be, shall —

- (a) include the name and address of some person resident in Norfolk Island who, in relation to the carrying on of business under that name —
 - (i) has consented to be the resident agent of the person or persons for the purposes of this Act; and
 - (ii) is authorised in writing by the person or persons to accept service on behalf of the person or persons of any notices for the purposes of this Act and of any process; and
- (b) have endorsed on it a memorandum in accordance with the prescribed form signed by the person referred to in paragraph 8(a).

Restriction on registration of business name containing certain words

8A. (1) A business name that contains the words “Duty Free”, “Tax Free” or words with a similar connotation shall not be registered under this Act.

(2) A person shall not, either alone or in association with other persons, carry on business in Norfolk Island under a business name containing words referred to in subsection 8A(1).

Penalty for an offence 10 penalty units.
against this subsection:

(3) Subsection 8A(1) does not apply to a business name in respect of a service declared under section 11A of the *Public Moneys Act 1979* to be an Administration service and approved by the Minister for the purposes of this section.

Restriction on registration of business names that are undesirable

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 is in the opinion of the Registrar 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 9(1) to be published in the Gazette and a copy of the direction to be forwarded to the Commonwealth Minister.

(3) An application for the consent of the Minister under this section shall be lodged with the Registrar and shall be accompanied by the prescribed fee.

(4) Where the Minister gives consent under this section to the registration of a business name, the Registrar shall, upon payment of the prescribed fee, file the consent and may, subject to this Act, register the business name.

Power to cancel registration of business names that are undesirable, etc

10. (1) If a business name which could not be registered under this Act without contravention of subsection 9(1) is registered through inadvertence or otherwise, the Registrar may serve on the person or persons in relation to whom the name is so registered a notice —

- (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 28 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, if the notice has not been annulled under subsection 10(2), cancel the registration of that name.

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

(3) The Registrar may remit any fee 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 10(1).

Renewal of registration

11. (1) Subject to this Act, the registration of a business name remains in force for a period of 3 years, but the registration may from time to time be renewed by lodging with the Registrar at any time within the period of one month before or after the expiration of the registration, a statement in the prescribed form signed by the person or one of the persons in relation to whom the name is registered and accompanied by the prescribed fee.

(2) Subject to this Act, the registration of a business name renewed under subsection 11(1) remains in force for a period of 3 years from the day on which the previous registration expires or expired, as the case may be.

(3) The Registrar shall, before or after the expiration of the registration of a business name, but not earlier than one month before the expiration, give to the person or persons in relation to whom the business name is or was registered notice of the date on which the registration expired or is due to expire, as the case may be.

(4) Where the registration of a business name has expired, 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, any business name that is identical with that business name or that, in the opinion of the Registrar, so nearly resembles it as to be likely to deceive, until the expiration of one month after the sending of the notice referred to in subsection (3).

Notification of changes in particulars relating to registered business names, etc

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 Norfolk Island 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,

there shall be given to the Registrar within 14 days after the change, or within such further time as the Registrar, before or after the expiration of that period, allows, notice 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, setting out particulars of the change and the date of the change.

(2) Where a change occurs in the Christian or given 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 name or the place of the registered office in Norfolk Island of a person (being a corporation) in relation to which a business name is registered under this Act, there shall be given to the Registrar, within 14 days after the change, or within such further time as the Registrar, before or after the expiration of that period, allows, notice in the prescribed form, signed by that person, setting out particulars of and the date of the change.

(3) Where a business name is registered under this Act in relation to a person or persons and that person ceases, or all or any of those persons cease, to carry on business in Norfolk Island under that name, there shall be given to the Registrar, within 14 days after the cessation, or within such further time as the Registrar, before or after the expiration of that period, allows, notice in the prescribed form of the cessation and of the date of the cessation, 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, immediately after a cessation referred to in subsection 12(3), no person who carried on business under the business name is resident within Norfolk Island or has a fixed address within Norfolk Island, the notice referred to in that subsection shall —

- (a) include the name and address of some person resident in Norfolk Island who —
 - (i) has consented in writing to be the resident agent of the person or persons who carried on business under that business name; and
 - (ii) is authorised in writing by the person or persons to accept service on behalf of the person or persons of any notices for the purposes of this Act and of any process; and
- (b) have endorsed on it a memorandum in accordance with the prescribed form signed by the person referred to in paragraph (4)(a).

(5) Where a business name is registered under this Act in relation to a person or persons and another person or other persons commences or commence to carry on business in Norfolk Island 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 given to the Registrar, within 14 days after the commencement, or within such further time as the Registrar, before or after the expiration of that period, allows, notice in the prescribed form of the commencement and of the date of the commencement, signed by each person carrying on business under that name immediately after the commencement and setting out, in relation to each person required to sign the notice —

- (a) being an individual - the Christian or given names and surname and any former Christian or given names or surname and the usual place of residence of the individual and, where the individual is an infant, the date of his birth and a statement that he is an infant; or

- (b) being a corporation - the name of the corporation and the place of the registered office in Norfolk Island of the corporation.

(6) Where, immediately after a commencement referred to in subsection 12(5), the person or all of the persons carrying on business under the business name is not or are not resident within Norfolk Island or does not or do not have a fixed address or fixed addresses within Norfolk Island, the notice referred to in that subsection shall —

- (a) include the name and address of some person resident in Norfolk Island who, in relation to the carrying on of business under that name —
 - (i) has consented in writing to be the agent of the person or persons for the purposes of this Act; and
 - (ii) is authorised in writing by the person or persons to accept service on behalf of the person or persons of any notices for the purposes of this Act and of any process; and
- (b) have endorsed on it a memorandum in accordance with the prescribed form signed by the person who has consented to be the resident agent.

(7) Where, while a person is the resident agent of a person or persons in relation to whom a business name is registered under this Act, the person or any one or more of the persons in relation to whom the name is registered commences or commence to reside within Norfolk Island or acquires or acquire a fixed address or fixed addresses within Norfolk Island, there shall be given to the Registrar, within 14 days after the person or persons so commenced to reside or acquired a fixed address or fixed addresses, or within such further time as the Registrar, before or after the expiration of that period, allows, notice in the prescribed form, signed by the person or one of the persons in relation to whom the business name is registered —

- (a) stating that the person appointed to be the resident agent of the person or persons in relation to whom the business name is registered has ceased to be the resident agent of such person or persons; and
- (b) setting out the name or names of the person or persons in relation to whom the business name is registered who has or have commenced to reside or has or have acquired a fixed address or fixed addresses within Norfolk Island, and the usual place or places of residence or the fixed address or fixed addresses within Norfolk Island of such person or persons.

(8) Where, while a person is the resident agent of a person or persons in relation to whom a business name is registered under this Act, another person or persons commences or commence to carry on business in Norfolk Island under that name in place of or in association with any person or persons in relation to whom the name is already registered and that other person or one or more of those other persons resides or reside within Norfolk Island or has or have a fixed address or fixed addresses within Norfolk Island, there shall be given to the Registrar within 14 days after the commencement, or within such further time as the Registrar, before or after the expiration of that period, allows, notice in the prescribed form, together with the notice required under subsection 12(5), signed by the person or one of the persons carrying on business under that name after the commencement, stating that the person who was the resident agent of the person or persons in relation to whom the business name was registered immediately before the commencement is not, or has ceased to be, the resident agent of the person or persons carrying on business under that name immediately after the commencement.

(9) Where a business name is registered under this Act and a person appointed to be the resident agent of the person or persons in relation to whom the name is registered ceases to reside within Norfolk Island or ceases to be the resident agent of that person or those persons, there shall be given to the Registrar within 14 days after the cessation, or within such further time as the Registrar, before or after the expiration of that period, allows, notice in the prescribed form of the name and address of some other person resident within Norfolk Island who is appointed to be the resident agent of the person or persons in relation to whom the name is registered in place of, or in succession to, the person who has ceased to be so resident or who has ceased to be the resident agent of that person or those persons, and of the date of the appointment —

- (a) signed by the person or one of the persons in relation to whom the name is registered; and
- (b) endorsed with a memorandum, in the prescribed form, signed by the person so appointed.

(10) 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 Norfolk Island or to have a fixed address or fixed addresses within Norfolk Island, there shall be given to the Registrar within 14 days after that person or those persons has or have ceased to so reside or to have a fixed address or fixed addresses, or within such further time as the Registrar, before or after the expiration of that period, allows, notice in the prescribed form of the name and address of some other person resident in Norfolk Island who is appointed to be the resident agent of the person or persons in relation to whom the name is registered, and of the date of the appointment —

- (a) signed by the person or one of the persons in relation to whom the name is registered; and
- (b) endorsed with a memorandum, in the prescribed form, signed by the person so appointed.

(11) If a notice required by a provision of this section to be given to the Registrar is not given in accordance with the provision or, if given does not comply with the provision, each person required or authorised by the provision to sign the notice shall, unless he proves that he took reasonable steps to ensure compliance with the provision, be guilty of an offence against this Act.

Penalty: 2 penalty units. Default penalty.

(12) Where, by reason of a person commencing to carry on business under a business name registered under this Act, a notice is given to the Registrar in accordance with subsection (5), neither that person nor any other person shall be guilty of an offence against section 5 by reason only that, before the lodging of the statement, he carried on business under that name.

(13) Any notice required to be given to the Registrar under this section with respect to any matter may be combined with a notice required to be given under this section with respect to another matter.

(14) A notice given to the Registrar under this section shall, if a fee for the lodging of the notice is prescribed, be accompanied by that fee.

Duty to furnish information

13. (1) The Registrar may, by notice in writing, require any person to furnish within a period specified in the notice (being a period of not less than 28 days), or within such further period as the Registrar, before or after the expiration of that period, allows, 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 document required to be lodged under this Act.

(2) A person required under subsection 13(1) to furnish information to the Registrar shall, within the period specified in the notice, or within such further period as the Registrar has allowed, furnish such information as it is within his power to furnish and shall not furnish any information which to his knowledge is false in any material particular.

Penalty: 2 penalty units.

(3) A person shall not be excused from furnishing information in accordance with a requirement under subsection 13(1) on the ground that the information might tend to incriminate him or render him liable to a penalty, but the information furnished by him shall not be admissible in evidence against him in any proceedings civil or criminal.

Disability of persons in default

14. Where a person carrying on business under a business name in contravention of section 5, or a person who, being required to lodge a notice with the Registrar under section 12 in relation to a business name, fails to lodge that notice, commences any suit or action 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 suit or action is commenced may order the person to cease to contravene section 5 or to cause the notice to be lodged, as the case may be, and may stay all proceedings in the suit or action until the order is complied with or may allow the proceedings to be continued on an undertaking being given by the person that he will comply with the order within such time as is limited by the Court.

Signing of statements

15. (1) Any document lodged with the Registrar under this Act shall be deemed to be signed by a person who is required to sign the document if —

- (a) in the case of an individual - it is signed on his behalf by a person authorised in writing to sign the statement; or
- (b) in the case of a corporation - it is signed by a director or manager or the secretary of the corporation.

(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 required by this Act to sign a document, the Registrar may accept the document for registration without its being signed by that person, but the acceptance of the document by the Registrar does not relieve a person of the requirement to sign a document, and a document not signed by any person is not evidence relating to that person's interest in a business by reason only of its registration under this Act.

Verification of particulars

16. The Registrar may in a particular case, if he thinks fit, refuse to accept a document required to be lodged with him under this Act unless the particulars set out in the document are verified by a statutory declaration under the *Statutory Declarations Act 1959* (of the Commonwealth of Australia) made by a person who signed the document.

Penalty for false statement

17. A person shall not sign or lodge with the Registrar a document made or purporting to be made for the purposes of this Act that to his knowledge is false in any material particular, and a person shall not authorise or permit the lodging with the Registrar of a document that to his knowledge is false in any material particular.

Penalty: 2 penalty units or imprisonment for 3 months or both.

Notice of proposed cancellation

18. (1) Where the Registrar has reasonable cause to believe that a person or persons in relation to whom a business name is registered under this Act is not or are not carrying on business in Norfolk Island under that name, he may serve on the person or persons a notice —

- (a) enquiring whether the person is or the persons are carrying on business under that name; and
- (b) stating that, unless the Registrar is satisfied within one month from the date of the notice that business is being carried on in Norfolk Island 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 12 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 serve on the person or persons a notice stating that, unless within one month from the date of the notice that provision is complied with or the Registrar is satisfied that there was no failure to comply with the provision, the registration of the business name may be cancelled.

Cancellation of registration

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

- (a) if there is given to the Registrar notice under section 12 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 Norfolk Island under that name and it does not appear from that notice or another notice accompanying that notice that another person has, or other persons have, commenced to carry on business in Norfolk Island under that name;
- (b) if the Registrar has served a notice on any person or persons in respect of the business name under subsection 18(1) and that person does not, or those persons do not, satisfy the Registrar within one month from the date of the notice that business is being carried on in Norfolk Island by that person or those persons under that name;

- (c) if the Registrar has served a notice on any person or persons under subsection 18(2) and within one month after the date of the notice the provision of section 12 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 of corporations kept under the *Companies Act 1926* or the corporation has been dissolved.

(2) The Registrar may, on any grounds which 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 registration of a business name has been cancelled under this section, a person in relation to whom the business name was registered immediately before the cancellation may apply to the Supreme Court for an order directing the Registrar to restore the registration of the business name.

(4) On an application under subsection 19(3), the Supreme Court may, if it is satisfied that the applicant is carrying on business under the business name and that it is just and equitable to do so, make the order applied for upon such terms as the Court thinks fit.

(5) Upon the making of an order by the Supreme Court under subsection 19(4), 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.

Use and exhibition of business name

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

- (a) a person or persons in relation to whom a business name is registered shall not issue or sign in connection with the carrying on of that business any business letter, statement of account, invoice, official notice, publication, order for goods or receipt unless the business name appears in legible characters thereon;
- (b) the business name shall at all times be displayed in a conspicuous position on the outside of every place at which business is carried on under that name; 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 is more than one such place, 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 shall, unless he proves that he took all reasonable steps to ensure compliance with this section, be guilty of an offence against this Act.

Penalty: 1 penalty unit. Default penalty.

Registrar may correct errors in register, etc

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

(2) When correcting an error under subsection 21(1) the Registrar shall not erase or render illegible the original word and shall affix the date upon which the correction was made together with his initials.

(3) Any entry or certificate corrected under this section shall have the same force and effect as if the error had not been made.

(4) The Registrar may accept and register a document lodged to correct any error in, or to supply any particular omitted from, a document previously lodged and registered and, in that event, the statement previously lodged and that lodged under this subsection shall be read as one and shall both be incorporated with and form part of the register.

Inspection of statements

22. A person may, on payment of the prescribed fee, inspect any document lodged with the Registrar under this Act, which has not been destroyed or disposed of in pursuance of section 25 and may make a copy of, or take extracts from, that document.

Certificates of registration or non-registration

23. (1) The Registrar shall, upon request in writing by any 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.

(2) The Registrar shall not be required to issue a copy, extract or certificate under subsection 23(1) in respect of a document which has been destroyed or disposed of in pursuance of section 25 or in respect of a date or a period ending on a date earlier by more than 12 years than the date of the receipt of the request.

Evidence of registration or non-registration

24. A document purporting to be —

- (a) a certificate of registration issued under this Act;
- (b) a copy of or extract from the register or a copy of or extract from a document forming part of the register issued under paragraph 23(1)(a);
- (c) a certificate issued under paragraph 23(1)(b); or
- (d) a combination of 2 or more of the certificates, copies or extracts referred to in paragraphs 24(a), 24(b) and 24(c),

shall, in all Courts and before all persons having authority to hear, receive and examine evidence, be prima facie evidence of any matter contained or set out therein.

Authority of Registrar to destroy documents

25. The Registrar may, if in his opinion it is no longer necessary or desirable to retain them, destroy or dispose of any document lodged, filed, received or registered under this Act, where the registration of the business name in respect of which the document was lodged, filed, received or registered has not been in force at any time during the preceding 12 years.

Invitations to the public to make deposits or loans

26. (1) Where a person is, or the members of a firm are, carrying on business in Norfolk Island under a business name registered or required to be registered under this Act, a person shall not use or make reference to that business name in any invitation to the public or to any person as a member of the public or in any advertisement inviting the public to deposit money with or lend money to that person or firm or use or make reference to a business name in connection with any deposit or loan.

Penalty: 10 penalty units.

(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 1926*.

Proceedings against persons under a business name

27. (1) Proceedings may be taken and prosecuted in any Court of competent jurisdiction against any person or persons in the business name under which the person is, or the persons are, carrying on business, if that business name is not registered under this Act, and the name shall, for the purpose of the proceedings, be a sufficient designation of the person or persons in all writs, summonses, complaints and other legal documents and instruments and any judgment obtained or order made in such proceedings may be enforced against that person or against those persons, or any of those persons, as the case may be.

(2) Nothing in this section shall be construed as exempting any person from compliance with any provision of this Act.

Default penalty

28. (1) Where, in or at the foot of any section or part of a section of this Act, there appears the expression "Default penalty", it indicates that a person who is convicted of an offence against this Act in relation to that section or part is guilty of a further offence against this Act if the offence continues after he is so convicted and that he is liable to an additional penalty for each day during which, the offence so continues of not more than .20 penalty unit.

(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 28(1), shall be deemed to continue so long as the thing so required or directed to be done by him remains undone, notwithstanding that the period has elapsed.

Evidentiary provisions

29. If, in any proceedings for 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 any business carried on at 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.

Service of notices

30. (1) Where, by this Act, the Registrar is required or permitted to send or give a notice to the person or persons in respect of whom the business name is registered at the place where business is carried on, the notice may be sent or given by post addressed to the business name —

- (a) at the place shown in the register as the place where business is so carried on;
- (b) where more than one place is shown in the register as a 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 shown which appears first in the register as a place where the business is 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 Norfolk Island.

(2) Service of any communication, notice or process on any person or persons carrying on business under a business name registered under this Act —

- (a) by leaving it at the place where business is carried on by the person or persons with some other person apparently employed by the person or persons and apparently of or above the age of 16 years;
- (b) where it appears from the register that there is a resident agent appointed for the purposes of this Act by the person or persons, by leaving it at the address shown in the register as the address of the resident agent in Norfolk Island with the resident agent or with some other person apparently residing at that address or employed by the resident agent and apparently of or above the age of 16 years; or
- (c) by sending it by registered post or as certified mail addressed to —
 - (i) the person or persons at the place where business is carried on by the person or persons; or
 - (ii) the resident agent, where it appears from the register that there is a resident agent appointed for the purpose of this Act by the person or persons, at the place shown in the register as the address of the resident agent in Norfolk Island,

shall be deemed to be personal service on the person or persons.

(3) In subsection 30(2), “the place where business is carried on” means —

- (a) the place shown in the register as the place where business is carried on; or
- (b) where more than one place is shown in the register as the place where business is carried on —
 - (i) 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 shown which appears first in the register as a place where business is carried on.

Regulations

31. The Administrator may make regulations, not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, making provision for or in relation to —

- (a) fees, to be paid to the Registrar;
- (b) the forms to be used under this Act;
- (c) the duties of the Registrar for the purposes of this Act;
- (d) generally the conduct and regulation of registration under this Act; and
- (e) the imposition of penalties not exceeding .40 penalty unit for breaches of the regulations.

NOTES

The *Business Names Act 1976* as shown in this consolidation comprises Act No. 12 of 1976 and amendments as indicated in the Tables below.

Enactment	Number and year	Date of commencement	Application saving or transitional provision
<i>Business Names Act 1976</i>	12, 1976	2.12.76	3
<i>Ordinances Revision Act 1979</i>	13, 1979	7.8.79	5
<i>Ordinances Revision (Ministers) Act 1980</i>	8, 1980	6.11.81	5
<i>Statute Law Revision (Penalties and Fees) Act 1984</i>	9, 1985	13.5.85	4
<i>Statute Law (Miscellaneous Provisions) (No. 1) Act 1986</i>	14, 1986	23.5.86	
<i>Business Names Amendment Act 1993</i>	25, 1993	28.10.93	3

[Previously consolidated as at 11 June 2002]

Interpretation (Amendment) Act 2012 14, 2012 28.12.12

*[to substitute throughout —
Commonwealth Minister for Minister;
and to substitute Minister for executive
member]*

Table of Amendments

ad =	added inserted	or	am = amended	rep = repealed	rs =	repealed and substituted
Provisions affected		How affected				
5		am	9, 1985			
8A		ad	25, 1993			
9, 10		am	8, 1980			
12		am	9, 1985; 14, 1986			
13		am	9, 1985			
17		am	9, 1985			
20		am	9, 1985			
26		am	9, 1985			
28		am	9, 1985			
31		am	13, 1979; 9, 1985			

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