

1994

**THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL
TERRITORY**

BUSINESS NAMES (AMENDMENT) BILL 1994

EXPLANATORY MEMORANDUM

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Outline

The Business Names Act 1963 ("the Principal Act") makes provision for the registration of business names in the ACT and for the payment of fees determined by the Minister under section 4A of the Act to the Registrar-General. The Registrar-General is appointed under the Registrar-General Act 1993.

The Business Names (Amendment) Bill 1994 ("the Bill") amends the Principal Act -

- to clarify the powers of the Minister to determine fees (clauses 4 to 9);
- to save determinations of fees previously made under the Act (clause 11); and
- to correct sexist terms (clause 10 and the Schedule).

Section 4A of the Principal Act enables the Minister to determine fees for the purposes of the Act but only section 22 expressly provides for the payment of a determined fee. The Bill clarifies the fee-determining power by extending the matters within the Principal Act for which a fee can be determined by the Minister.

Financial Implications

There are no financial implications arising from the Bill.

Details of the Bill follow.

Clause 1 provides for the Bill, when made, to be titled the Business Names (Amendment) Act 1994.

Clause 2 provides for the Act to commence when it is notified in the Gazette.

Clause 3 provides that a reference in the Bill to the Principal Act means the Business Names Act 1963.

Clause 4 inserts into section 4 of the Principal Act a definition of the term "determined fee".

Clause 5 inserts a new subsection 4A (1A) into the Principal Act which enables a fee to be set for matters not otherwise covered by the Principal Act including -

- the lodgment, or late lodgment, of a statement or document;
- an inspection of, or the production of, the register, a statement or document;
- the issue of a statement or document or a copy or extract thereof; and
- any approval or other act of the Registrar-General.

Clause 5 also inserts a new subsection 4A (4) which enables the Registrar-General to waive the fee for late lodgment of a statement or document where it was lodged late because of circumstances beyond the control of the person lodging it.

Clause 6 amends section 7 of the Principal Act, which provides for the registration of business names, by inserting a new subsection (1A) which requires an application for registration to be accompanied by the determined fee. **Clause 6** also amends subsection 7 (5) of the Principal Act to require the Registrar-General to issue a further certificate of registration on payment of the determined fee.

Clause 7 amends section 9 of the Principal Act, which deals with restrictions on registering undesirable business names, by amending subsection (3) to require an application to the Minister for consent to register the name to be accompanied by the determined fee. **Clause 7** also amends subsection 9 (4) consequentially to require the Registrar-General, on the Minister's consent, to register the name on payment of the determined fee.

Clause 8 inserts a new subsection (1A) into section 11 of the Principal Act, which deals with the renewal of registration, to require a statement under subsection 11 (1) to be accompanied by the determined fee.

Clause 9 inserts a new subsection (14) into section 12 of the Principal Act, which obliges a person to advise the Registrar-General of changes to particulars

relating to a registered business name, to require various statements lodged under section 14 to be accompanied by the determined fee.

Clause 10 further amends the Principal Act as set out in the Schedule. These amendments correct sexist terms and make other technical changes to reflect current drafting practice.

Clause 11 is a savings provision which ensures that a determination of fees made prior to the commencement of the Act is treated as if it was made under the Principal Act as amended by the Bill. This ensures the validity of such determinations.