

THE TERRITORY FOR THE SEAT OF GOVERNMENT.

No. 31 of 1933.

AN ORDINANCE

**Relating to the Registration of Firms and Persons
carrying on Business under Business Names, and
relating to the Names, Styles, Titles or Designations
under which Businesses are carried on.**

BE it ordained by the Governor-General in and over the Commonwealth of Australia, with the advice of the Federal Executive Council, in pursuance of the powers conferred by the *Seat of Government Acceptance Act* 1909 and the *Seat of Government (Administration) Act* 1910-1933, as follows:—

1. This Ordinance may be cited as the *Business Names* Short title.
Ordinance 1933.
2. This Ordinance shall commence on a date to be fixed by the Commencement.
Attorney-General by notice in the *Gazette*.
3. Upon the commencement of this Ordinance, the *Registration* State Act to
of *Firms Act*, 1902, of the State of New South Wales shall cease cease to apply.
to apply to the Territory.
4. In this Ordinance, unless the contrary intention appears— Definitions.
 - “business” includes trade and profession;
 - “firm” means any two or more persons lawfully associated for the purpose of carrying on any business, but shall not include a company registered or incorporated within the British Dominions under, by, or in pursuance of, any Act, Ordinance, Letters Patent, or Royal Charter;
 - “firm-name” means the name or style under which any business is carried on, whether in partnership or otherwise;
 - “the Registrar” means the Registrar of Firms appointed under this Ordinance, and includes any Deputy or Acting Registrar so appointed;
 - “usual name” includes a signature habitually used for business purposes.

Registrar
and Deputy
Registrars.

5.—(1.) For the purposes of this Ordinance, there shall be—

- (a) a Registrar of Firms; and
- (b) such Deputy Registrars of Firms and other officers as are necessary in carrying out this Ordinance.

(2.) The Attorney-General may appoint any person to be Registrar of Firms or a Deputy Registrar of Firms and, during any temporary vacancy in the office of Registrar, the Attorney-General may appoint any person to be an Acting Registrar of Firms.

(3.) Any Acting Registrar so appointed shall have all the powers and perform all the duties of the Registrar.

Firms and
persons to be
registered.

6. From and after the commencement of this Ordinance—

- (a) every firm carrying on business or having any place of business in the Territory under a firm-name which does not consist of the true surnames of all the partners (together with the Christian name or names or the initials thereof) without any addition; and
- (b) every person carrying on business or having any place of business in the Territory under any firm-name consisting of or containing any name or addition other than his true surname (together with his Christian name or names or the initials thereof),

shall be registered in accordance with the provisions of this Ordinance.

Manner and
particulars of
registration.

7. Registration under this Ordinance shall be effected by sending by post or delivering to the Registrar a statement in writing containing the following particulars—

- (a) the firm name;
- (b) the nature of the business;
- (c) the place or places where the business is carried on, or is intended to be carried on, in the Territory;
- (d) the full name, usual residence, and other occupation (if any) of the person or persons carrying on or intending to carry on the business; and
- (e) the date of the commencement of the business.

Particulars to
be furnished
by persons
registering.

8.—(1.) A firm or person required to be registered under this Ordinance shall sign or acknowledge a statement in accordance with Form 1 in the Schedule to this Ordinance or in such other form as is prescribed, setting out the particulars required for registration, if in the Territory, in the presence of the Registrar, a Commissioner for Declarations or a barrister or solicitor practising in the Territory, and, if elsewhere than in the Territory, in the presence of a British Consul, a notary public, a Justice of the Peace, a Commissioner for Declarations or a Commissioner for Affidavits for any State of the Commonwealth, by whom respectively the signatures or acknowledgments shall be attested.

(2.) The foregoing provisions of this section shall be deemed to be complied with by a firm if any partner in the Territory signs or acknowledges the statement in the presence of the Registrar, a Commissioner for Declarations or a barrister or solicitor practising in the Territory, by whom respectively the signature or acknowledgment is attested.

(3.) If there is not in the Territory any partner carrying on or intending to carry on a business carried on, or intended to be carried on, under a firm-name, the foregoing provisions of this section shall be deemed to be sufficiently complied with if the statement is signed or acknowledged by any person who has previously filed in the office of the Registrar a statutory declaration, or produced a power of attorney, showing that he is duly authorized by and on behalf of the firm to carry on the business the firm-name of which he desires to have registered, and the signature or acknowledgment is attested as provided in the last preceding sub-section.

9.—(1.) Firms and persons required to be registered under this Ordinance, who at the date of the commencement of this Ordinance are carrying on business in the Territory, shall comply with the provisions of this Ordinance within three months after that date: Time for registration.

Provided that no fee shall be payable in respect of the registration, within the prescribed time, of any firm or person carrying on business in the Territory who is, at the date of the commencement of this Ordinance, registered under the *Registration of Firms Act, 1902*, of the State of New South Wales, in its application to the Territory.

(2.) Other firms and persons required to be registered under this Ordinance shall register accordingly before they commence business.

10. Whenever a change is made or occurs in any of the particulars required for registration in respect of any firm or person, the firm or person shall, within fourteen days after the change, or such longer period as the Registrar on application being made in any particular case, whether before or after the expiration of the period of fourteen days, allows, send by post or deliver to the Registrar a statement in writing in accordance with Form 2 in the Schedule to this Ordinance, or such other form as is prescribed, specifying the nature and date of the change, signed and verified in like manner as the statement required on registration. Registration of changes in firm.

11. Any person who by this Ordinance is required to send or deliver any statement, and who makes default without reasonable excuse in sending or delivering the statement within the prescribed Penalty for default in registration.

time after a written demand in that behalf by the Registrar, or in the manner and within the time specified by this Ordinance, shall be guilty of an offence.

Penalty: Two pounds for the first offence, and for every subsequent offence, Five pounds.

Persons in default bringing action shall be ordered by Court to register.

12. Where any firm or person has made default in sending or delivering any statement to the Registrar, and during the default commences any suit or action in the firm-name or for a cause of action arising out of any dealing by the firm or person in the firm-name, the Court before which the suit or action is commenced shall order the firm or person in default to send or deliver to the Registrar the proper statement as required by this Ordinance, and may stay all proceedings in the suit or action until the order is complied with, or allow proceedings to be continued on an undertaking to comply with the order within a time to be limited by the Court.

Proceedings against non-registered firms.

13. If any firm or person required to be registered as provided in this Ordinance fails to register accordingly, all proceedings in any court of competent jurisdiction may be taken and prosecuted against the firm or person in the name under which the firm or person is carrying on business, and such name shall, for the purposes of the proceedings, be a sufficient designation of the firm or person in all writs, summonses, complaints and other legal documents and instruments:

Provided that nothing in this section shall be construed to exempt any firm or person from compliance with any of the provisions of this Ordinance.

Making false returns under this Ordinance, an offence.

14. Every person who wilfully makes, signs, acknowledges or sends or delivers to the Registrar any false statement purporting to be made under this Ordinance shall be guilty of an offence.

Penalty: Imprisonment for two years.

Registrar to file statement and issue certificate.

15. The Registrar, on receiving any statement made in pursuance of this Ordinance, shall cause the same to be filed, and shall send by post or deliver a certificate of the registration thereof to the firm or person registering.

Register and index to be kept.

16. The Registrar shall keep in proper books, to be provided for the purpose, a register and an index of all the firm-names of firms and persons registered under this Ordinance, together with the statements registered in reference thereto.

Inspection of statements registered.

17.—(1.) Any person may inspect, make a copy of, or extracts from, the statements filed by the Registrar, and there shall be paid for every such inspection, a fee of One shilling.

(2.) Any person may require a certificate of the registration of any firm or person, or a copy of, or extract from, any registered statement to be certified by the Registrar, and there shall be

paid for every such certificate of registration a fee of Five shillings, and for every such copy or extract a fee at the rate of Two shillings, for each folio of seventy-two words, or part of a folio, after the first six folios, in addition to a fee of Five shillings for the certificate of the Registrar, or such other fee as is prescribed.

(3.) A certificate of registration or a copy of or extract from any statement registered under this Ordinance, purporting to be signed and certified by the Registrar, shall in all Courts of justice within the Territory be admitted as *prima facie* evidence of the fact and date of registration as shown thereon and of the other particulars therein contained.

18. The Registrar shall, on receiving payment of such fees as are prescribed, send by post a reply to any inquiry made of him by letter in reference to any registration effected under the provisions of this Ordinance. Registrar to send reply to inquiries.

19. The Registrar shall take cognizance of, and report to the Attorney-General or the Solicitor-General, any contravention on the part of any firm or person of any of the provisions of this Ordinance or of any regulation made hereunder. Registrar to report offences against this Ordinance.

20.—(1.) A person or firm required to be registered under this Ordinance shall not be so registered under a firm-name which includes the word “Royal”, “King”, “Empire”, “Imperial”, “Commonwealth” or any word signifying Royal or Government support or patronage unless the Attorney-General consents to the use of that word in the firm-name. Prohibited words.

(2.) That consent shall not be granted in any case if the Attorney-General is of opinion that the use of the word by the person or firm using or purporting to use the same would imply or be likely to convey the impression that the person or firm is or will be wholly or partly authorized or supported by or connected with His Majesty’s Government in any part of His Majesty’s Dominions.

21. The Attorney-General may make regulations, not inconsistent with this Ordinance, prescribing all matters which by this Ordinance are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to this Ordinance, and in particular prescribing matters for and in relation to— Regulations.

(a) the fees to be paid to the Registrar under this Ordinance:

Provided that for the registration of any one statement the fee shall not exceed the sum of Five shillings;

(b) the forms to be used and the mode of payment of fees under this Ordinance;

- (c) the conduct and regulation of registration under this Ordinance; and
- (d) the imposition of penalties not exceeding Ten pounds which may be imposed for breaches of the Regulations.

THE SCHEDULE.

S.8.

Form 1.

THE TERRITORY FOR THE SEAT OF GOVERNMENT.

Business Names Ordinance 1933.

ORIGINAL REGISTRATION OF A FIRM (or PERSON).

The firm-name is

The business of the firm (or person) is

It is intended to carry on the business at

Name (or names) of person (or persons) carrying on (or intending to carry on) the business

Full name (to be written or acknowledged by each person himself).	Usual Residence.	Other occupation, description, and addition (if any).

Date of intended commencement of business or establishment of new place of business, if after the commencement of the Ordinance—

Signed and declared at _____ on the _____ day of _____ 19 ____

Before me—

}

S.10.

Form 2.

THE TERRITORY FOR THE SEAT OF GOVERNMENT.

Business Names Ordinance 1933.

NOTICE OF CHANGE IN CONSTITUTION OF REGISTERED FIRM.

Registered
firm name.

We (or I) the undersigned (*the members of the firm as reconstituted, or the new proprietor of the business, as the case may be*) hereby give notice that on the _____ day of _____ 19 __, the following change took place in the constitution of the firm (or person) registered by the name of _____, that is to say—

*A.B. retired from the firm.

*C.D. became a member of the firm.

*As the case
may be.

†DESCRIPTION OF A NEW MEMBER.

†As upon an original registration

Full name.	Usual Residence.	Other occupation, description, and additions (if any).

Signed and declared at _____ on the
 day of _____ 19 .
 Before me—

Dated this twenty-ninth day of November, 1933.

ISAAC A. ISAACS
 Governor-General.

By His Excellency's Command,

J. G. LATHAM
 for Minister of State for the Interior.

By Authority: L. F. JOHNSTON, Commonwealth Government Printer, Canberra.