

1990  
THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Attorney-General)

**Business Names (Amendment) Bill 1990**

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**A BILL**

FOR

**An Act to amend the *Business Names Act 1963* and for  
related purposes**

The Legislative Assembly for the Australian Capital Territory enacts  
as follows:

**Short title**

- 5     1. This Act may be cited as the *Business Names (Amendment) Act 1990*.

**Commencement**

2. (1) Sections 1, 2 and 3 commence on the day on which this Act  
is notified in the *Gazette*.

(2) The remaining provisions commence on 3 September 1990.

10     **Principal Act**

3. In this Act, "Principal Act" means the *Business Names Act 1963*.<sup>1</sup>

**Repeal, savings and transitional provisions**

4. Section 3 of the Principal Act is amended by omitting from subsection (4) "Commission" and substituting "Registrar as defined in subsection 4 (1)".

**Interpretation**

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5. Section 4 of the Principal Act is amended—

(a) by omitting from subsection (1) the definition of "Commission"; and

(b) by inserting in subsection (1) the following definitions:

“ ‘approved form’ means a form approved under section 32;

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‘Registrar’ means the Registrar of Business Names and includes a Deputy Registrar of Business Names;”.

**Insertion**

6. After section 4 of the Principal Act the following sections are inserted:

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**Registrar and other officers**

“4AA. (1) For the purposes of this Act, the Minister may by instrument appoint—

(a) a Registrar of Business Names;

(b) an Acting Registrar of Business Names to act in the office of Registrar of Business Names during a vacancy in that office or during the illness or absence of the Registrar; and

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(c) such Deputy Registrars of Business Names and other officers as the Minister considers necessary.

“(2) Subject to the directions of the Registrar, a Deputy Registrar may exercise and perform all the powers and functions of the Registrar.

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“(3) The appointment of a Deputy Registrar does not affect the exercise or performance of a power or function by the Registrar.

**Seal of office**

“4AB. (1) The Registrar shall have an official seal the design of which shall be published by the Minister in the *Gazette*.

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“(2) A document shall not be invalid on the ground of—

(a) an informality in connection with the affixing of the seal; or

(b) a failure to affix the seal.”.

**Fees**

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7. Section 4A of the Principal Act is amended by omitting subsection (1) and substituting the following subsections:

“(1) The Minister may by notice published in the *Gazette* determine fees for the purposes of this Act.

“(1A) Fees shall be paid to the Registrar.”.

**Insertion**

8. After section 31 of the Principal Act the following section is inserted:

5 **Approved forms**

“32. An application, notice, statement or certificate made, sent, lodged or issued under this Act or the regulations shall be in a form approved by the Registrar and shall be completed in accordance with the directions (if any) set out in the form.”.

10 **Regulations**

9. Section 33 of the Principal Act is amended by omitting paragraphs (a) and (b).

**Repeal**

10. The Schedule to the Principal Act is repealed.

15 **Further amendments of Principal Act**

11. The Principal Act is amended as set out in Schedule 1.

**Amendments of regulations**

12. The Business Names Regulations are amended as set out in Schedule 2.

20 **Transitional**

25 13. (1) All persons, things and circumstances appointed or created by or under the former Act, or existing or continuing under the former Act immediately before the commencement day, on and after that day shall have the same status, operation and effect as if they had been appointed or created by or under the amended Act and shall be deemed to exist or continue under the amended Act.

30 (2) Where immediately before the commencement day proceedings had been instituted by or against the Commission pursuant to the former Act, on and after that day those proceedings shall be deemed to have been instituted by or against the Registrar pursuant to the amended Act.

35 (3) Where immediately before the commencement day an application had been lodged with the Commission in accordance with subsection 7(1) of the former Act but the Commission had not registered or refused to register the business name, on and after that day the application shall be deemed to have been lodged with the Registrar in accordance with subsection 7(1) of the amended Act.

40 (4) Where immediately before the commencement day a statement had been lodged with the Commission in accordance with subsection 11(1) of the former Act, on and after that day the statement shall be

deemed to have been lodged with the Registrar in accordance with subsection 11 (1) of the amended Act.

(5) Where immediately before the commencement day a notice had been sent by the Commission under subsection 18 (1) or (2) of the former Act, on and after that day the notice shall be deemed to have been sent by the Registrar under subsection 18 (1) or (2) of the amended Act. 5

(6) Where immediately before the commencement day a document was required to be lodged with the Commission pursuant to the former Act, on and after that day the document shall be required to be lodged with the Registrar pursuant to the amended Act. 10

(7) Where immediately before the commencement day a document had been lodged with the Commission pursuant to the former Act, on and after that day the document shall be deemed to have been lodged with the Registrar pursuant to the amended Act. 15

(8) In this section—

“amended Act” means the former Act as amended by this Act;

“commencement day” means the day on which this Act commences;

“former Act” means the Principal Act as in force immediately before the commencement day. 20

**SCHEDULE 1**

Section 11

**FURTHER AMENDMENTS OF PRINCIPAL ACT**

**Subsection 6 (1)—**

Omit "it", substitute "the Registrar".

**Subsection 7 (7)—**

Omit "it", substitute "he or she".

**Subsection 9 (1)—**

Omit "Commission" (first occurring), substitute "Registrar".

**Paragraph 10 (1) (a)—**

Omit "it", substitute "the Registrar".

**Paragraph 10 (1) (b)—**

Omit "its", substitute "the Registrar's".

**Subsection 10 (2)—**

Omit "its", substitute "his or her".

**Subsection 12 (1)—**

Omit "Commission" (second, third and last occurring), substitute "Registrar".

**Subsections 12 (7) and (8)—**

Omit "Commission" (first and second occurring), substitute "Registrar".

**Subsection 13 (1)—**

(a) Omit "Commission" (first, second and third occurring), substitute "Registrar".

(b) Omit "it", substitute "him or her".

**Section 16—**

(a) Omit "it" (first occurring), substitute "he or she".

(b) Omit "it" (last occurring), substitute "the Registrar".

**Subsections 18 (1) and (2)—**

Omit "it", substitute "the Registrar".

**Subsection 19 (1)—**

Omit "Commission" (first occurring), substitute "Registrar".

**Paragraph 19 (1) (a)—**

Omit "it" (first occurring), substitute "the Registrar".

**Subsection 19 (2)—**

(a) Omit "it" (first occurring), substitute "he or she".

(b) Omit "it" (last occurring), substitute "the Registrar".

**Subsection 19 (5)—**

Omit "it" (wherever occurring), substitute "the Registrar".

**SCHEDULE 1—continued****Subsection 21 (1)—**

- (a) Omit "Commissioner", substitute "Registrar".
- (b) Insert "or her" after "him".

**Subsection 21 (2)—**

- (a) Omit "Commissioner", substitute "Registrar".
- (b) Insert "or her" after "his".

**Subsection 21 (5)—**

Omit the subsection.

**Section 22—**

Omit "prescribed", substitute "determined".

**Paragraphs 23 (1) (a) and (b)—**

Omit "its common seal", substitute "his or her official seal".

**Section 25—**

Omit "its", substitute "his or her".

**Further amendments—**

1. The following provisions are amended by omitting "Commission" (wherever occurring) and substituting "Registrar":

Subsections 4A (2) and (3), 6 (1), 7 (1), (3), (4), (5), (6) and (7), 8 (2), 9 (3) and (4), 10 (1), (2), (3) and (4) and 11 (1), (3) and (4), paragraphs 11 (5) (a), (b), (c), (d) and (e) and 12 (1) (a), subsections 12 (2), (3) and (5), paragraphs 12 (7) (a) and (8) (a), subsections 12 (9), (10), (11), (12) and (13), paragraph 13 (1) (b), subsections 13 (2) and 15 (1) and (2), sections 16 and 17, subsections 18 (1) and (2), paragraphs 19 (1) (a), (b) and (c), subsections 19 (2), (3) and (5) and 21 (4), section 22, subsections 23 (1) and (2), section 25, subsection 31 (1) and paragraph 33 (c).

2. The following provisions are amended by omitting "prescribed" and substituting "approved":

Subsections 7 (1) and (4), 11 (1) and 12 (1), (2), (3), (5), (7), (8), (9) and (10).

**SCHEDULE 2**

Section 12

**AMENDMENTS OF REGULATIONS**

**Subregulation 2 (2)—**

Omit the subregulation.

**Regulations 3 and 4—**

Repeal the regulations.

**Subregulation 5 (1)—**

Omit "Commission" (first and second occurring), substitute "Registrar".

**Paragraph 5 (1) (b)—**

Omit "Commission", substitute "Registrar".

**Subparagraph 5 (1) (f) (i)—**

Omit "Commission", substitute "Registrar".

**Subparagraph 5 (1) (f) (iii)—**

Omit "a form prescribed by these Regulations", substitute "an approved form".

**Subparagraph 5 (1) (f) (v)—**

Omit "Corporate Affairs Commission", substitute "Registrar of Business Names".

**Subregulation 5 (3)—**

(a) Omit "a form set out in the Second Schedule", substitute "an approved form".

(b) Omit "Commission", substitute "Registrar".

**First and Second Schedules—**

Repeal the Schedules.

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**NOTES**

1. Ordinance No. 12, 1963 as amended by No. 15, 1966; Nos. 51 and 60, 1976; No. 46, 1978; No. 38, 1982; Nos. 21 and 38, 1989.

**NOTE ABOUT REGULATION HEADING**

On the day on which the Business Names Regulations are amended by this Act, the heading to regulation 7 of those Regulations is amended by omitting "lodged with Commission".