

AUSTRALIAN CAPITAL TERRITORY.

No. 9 of 1953.

AN ORDINANCE

To amend the Business Names Ordinance 1933-1938.

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 1909-1938* and the *Seat of Government (Administration) Act 1910-1947*, as follows:—

1.—(1.) This Ordinance may be cited as the *Business Names Ordinance 1953*.*

Short title and citation.

(2.) The *Business Names Ordinance 1933-1938* is in this Ordinance referred to as the Principal Ordinance.

(3.) The Principal Ordinance, as amended by this Ordinance, may be cited as the *Business Names Ordinance 1933-1953*.

2. Section eight of the Principal Ordinance is amended—

Particulars to be furnished by persons registering.

(a) by omitting from sub-section (1.) the words “Form 1 in the Schedule to this Ordinance or in such other form as is prescribed” and inserting in their stead the words “the prescribed form”; and

(b) by inserting in that sub-section, after the word “Registrar,”, the words “a Justice of the Peace,”.

3. Section ten of the Principal Ordinance is amended by omitting the words “Form 2 in the Schedule to this Ordinance, or such other form as is prescribed” and inserting in their stead the words “the prescribed form”.

Registration of changes in firm.

4. After section ten of the Principal Ordinance the following sections are inserted:—

“10A.—(1.) Where a firm or person registered under this Ordinance ceases to carry on business under, or abandons the use of, the firm-name under which it or he is registered, the persons or person who carried on business under the firm-name shall, within one month, or within such longer period as the Registrar on application in a particular case allows, after the cessation or abandonment, send by post or deliver to the Registrar a statement in accordance with the prescribed form that the firm or person has ceased to carry on business or has abandoned the use of the firm-name, as the case requires.

Statement to Registrar of cessation of business or abandonment of firm-name.

* Notified in the *Commonwealth Gazette* on 4th June, 1953.

“(2.) The legal personal representative of a deceased person who carried on business under a firm-name registered under this Ordinance shall, if the business is no longer carried on under that firm-name, send or deliver to the Registrar the statement referred to in this section.

“(3.) A statement under this section shall be signed and verified in the same manner as the statement required on registration.

Notice to firm or person believed not to be carrying on business under firm-name.

“10B.—(1.) Where the Registrar has reasonable cause to believe that a firm or person registered under this Ordinance has ceased to carry on business under, or has abandoned the use of, the firm-name under which it or he is registered, the Registrar may, by notice in writing, require that firm or person to show cause why the registration of the firm-name should not be cancelled.

“(2.) A notice under the last preceding sub-section shall be sent by registered post to the firm or person at the place, or one of the places, registered as a place where the business of that firm or person is carried on.

Cancellation of registration.

“10C.—(1.) The Registrar may, by instrument under his hand, cancel the registration of a firm or person if—

- (a) he receives a statement made under section ten A of this Ordinance;
- (b) he receives an answer to a notice sent under the last preceding section from a firm or person registered under this Ordinance that the firm or person has ceased to carry on business under, or has abandoned the use of, the firm-name;
- (c) he does not, within one month after sending a notice under the last preceding section, receive an answer to that notice;
- (d) the firm to which, or the person to whom, a notice is sent under the last preceding section does not show, to the satisfaction of the Registrar, cause why the registration of its or his firm-name should not be cancelled;
- (e) the firm or a partner of the firm or the person is convicted of an offence against this Ordinance; or
- (f) the firm is dissolved.

“(2.) The Registrar shall cause—

- (a) the instrument of cancellation to be filed; and
- (b) a notification of the cancellation and of the date of cancellation to be entered in the register kept under section sixteen of this Ordinance.

“(3.) Where the registration of a firm or person is cancelled under this section—

- (a) the Registrar may, on any grounds which he deems sufficient, revoke the cancellation by instrument under his hand; or

(b) a partner of the firm or the person may apply to the Supreme Court for an order directing the Registrar to restore the registration of the firm or person.

“(4.) On an application under the last preceding sub-section, the Supreme Court may, if it is satisfied that the firm or person is carrying on business under the firm-name and that it is just and equitable so to do, make the order applied for upon such terms as it thinks fit.

“(5.) Upon the revocation of a cancellation by the Registrar or the making of an order by the Supreme Court under the last preceding sub-section, the firm or person shall be deemed to have continued to be registered as if the registration had not been cancelled, and the Registrar shall file the instrument of revocation or the order of the Supreme Court and make such entries and alterations in the register kept under section sixteen of this Ordinance as he considers necessary to give effect to the revocation or the order of the Supreme Court.”

5. Section seventeen of the Principal Ordinance is repealed and the following section inserted in its stead:—

“17.—(1.) A person may inspect, make a copy of, or extracts from, statements or instruments filed by the Registrar. Inspection and evidence of instruments.

“(2.) The Registrar shall, upon the request of a person in respect of a registration under this Ordinance, issue to that person—

(a) a certificate showing—

- (i) the firm-name of the firm or person registered under this Ordinance;
- (ii) the nature of the business of the firm or person registered;
- (iii) the full name and usual residence of the person or of each of the persons registered as carrying on the business of the firm or person;
- (iv) the date of registration;
- (v) the place or places at which the business of the firm or person registered is carried on; and
- (vi) where the firm or person had been registered under a firm-name but the registration has been cancelled and that cancellation has not been revoked under section ten c of this Ordinance—the fact and date of the cancellation;

(b) if the firm in respect of which, or the person in respect of whom, the request is made has not been registered under a firm-name under this Ordinance—a certificate showing that the firm or person has not been so registered; or

(c) a certified copy of, or certified extract from, a statement or instrument filed under this Ordinance.

“(3.) In any legal proceedings, a document which purports to be a certificate of registration sent or delivered under section fifteen of this Ordinance or a certificate, a certified copy or a certified extract issued under the last preceding sub-section shall, until the contrary is proved, be deemed to be such a certificate, certified copy or certified extract and is evidence of the facts stated in the document.”

Regulations.

6. Section twenty-one of the Principal Ordinance is amended by omitting the proviso to paragraph (a).

The Schedule.

7. The Schedule to the Principal Ordinance is repealed.

Dated this nineteenth day of May, 1953.

W. J. SLIM

Governor-General.

By His Excellency's Command,

J. A. SPICER

for and on behalf of the Minister of
State for the Interior.

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