

## BUSINESS NAMES IN AUSTRALIA

A Business Name identifies your business to clients. Your Business Name should be one that you are happy with and one that will distinguish your business from others.

**A Business Name is not a legal entity like an individual or corporation and cannot sue, or be sued or hold property.**

If you trade under your own name (ie John Black) you do not have to register it as a Business Name however can register your name if you want too?

If you add any other word to your own name, it becomes a Business Name and must be registered.

Business Names must be registered under the **Business Names Act** in the State/Territory of Australia where they have a business premises.

Business Names **cannot be reserved**.

### **Restrictions on Business Names:**

It may not be possible to register a Business Name if it infringes the rules under the Ministerial Direction on Business Names:

For example, if a proposed Business Name:

- Maybe confused with an existing registered Victorian Business Name
- Is identical with an Australian Company Name
- Contains 2 words that is identical or too similar to a currently registered Business Name in the same line of business
- Contains certain words eg Trust, University, Executor, Guarantee
- May be offensive, misleading or suggests a connection with a Government agency, Royalty or an Ex-Serviceman's organisation

If your organization is Proprietary or Limited Corporation (ie company) you do not need to register the name as a Business Name but can if you want too?

### **What is a Corporation?**

**A Corporation is a Proprietary Limited or Limited company is a legal entity and can sue or be sued and has directors and shareholders.** The Federal regulator for Companies is the Australian Securities & Investments Commission (ASIC). Please refer [www.asic.gov.au](http://www.asic.gov.au)

### **What is a Trade Mark?**

A Trade Mark can be a letter, word, phrase, sound, smell, shape, logo, picture, packaging or a combination of these things.

Trade Marks identify the product or service of a business and distinguish it from similar products or services of other businesses. IP Australia registers Trade Marks. Choosing a Business Name that infringes an existing Trade Mark can be a costly exercise. Before registering your Business Name it is a good idea to search the Register of Trade Marks. To find out more information on Trade Marks contact IP Australia on 1300 65 10 10 or at [www.ipaustralia.gov.au](http://www.ipaustralia.gov.au)

***Disputes Over Business Names:***

Disputes over Business Names are not covered under the *Business Names Act 1962*. They are private civil matters that should be settled between the parties concerned, or through legal action.

You should seek legal advice about any Business Name Disputes.

***How to apply to register a Business Name?***

You will need to check with relevant State Government Department as forms and fees vary from State to State in Australia.

The First Step is to search the availability of your proposed name.

Complete the relevant Business Name Application for the State/s in Australia that you wish to register in and lodge with the respective Registration Fee.

If you are registering a Business Name in a State where you do not have a Business Address you will need to appoint a “Resident Agent” in that State.

***What To Do After Registration?***

Once a Business Name has been registered you must start business activities within two months, using the Business Name. The Business Name should be used at all time as the name you trade under.

A registered Business Name must be displayed:

- In a conspicuous position outside the registered office and every single business address (ie on signage)
- The Registration Certificate should be displayed at the Principal Place of Business
- The Business Name should be on every letter, invoice, receipt or other document used and issued by the business

***Changes to details for Business Names:***

You must notify to the relevant State Department within one month of any changes in:

- Registered or business address
- Ownership of the business
- Owner’s residential address
- Owner’s personal name
- Nature of business

Each State has there own Forms for notifying these changes.

***Renewing Registration***

Business Names are generally registered for 3 years and then must be renewed. At this time a renewal notice will be sent to the Business Address and a Renewal Fee will be payable to renew for a further 3 years. Renewal Fees vary from State to State.

***Ceasing to Trade Under a Registered Business Name***

If you stop using a registered Business Name and/or business is not being carried on under the Business Name, you MUST cancel the registration. Cancellation can be done on *Ceasing Business Name Form* available from the relevant State Department.

**Searches on Current Business Names**

**NCS** can provide you with a search of any currently registered Business Name in Australia which will provide basic details including:

- Name and Registration Number
- Date Registered
- Registered & Business Address
- Name and address of Proprietor/s