



Business Names Registration Act 2011

No. 126, 2011

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About this compilation

This compilation

This is a compilation of the *Business Names Registration Act 2011* that shows the text of the law as amended and in force on 22 June 2022 (the **compilation date**).

The notes at the end of this compilation (the **endnotes**) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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An Act in relation to business names, and for related purposes

Part 1—Preliminary

Division 1—Introduction

1 Short title

This Act may be cited as the *Business Names Registration Act 2011*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 and 2 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	3 November 2011
2. Sections 3 to 17	A single day to be fixed by Proclamation.	20 April 2012 (see F2012L00891)
3. Part 2	A single day to be fixed by Proclamation.	28 May 2012 (see F2012L00891)
4. Section 22	At the same time as the provision(s) covered by table item 2.	20 April 2012

Part 1 Preliminary
Division 1 Introduction

Section 2

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
5. Sections 23 to 36	At the same time as the provision(s) covered by table item 3.	28 May 2012
6. Section 37	At the same time as the provision(s) covered by table item 2.	20 April 2012
7. Sections 38 to 62	At the same time as the provision(s) covered by table item 3.	28 May 2012
8. Sections 63 to 90	At the same time as the provision(s) covered by table item 2.	20 April 2012
9. Schedule 1	At the same time as the provision(s) covered by table item 2.	20 April 2012

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

Division 2—Definitions

3 Dictionary

In this Act:

ABN: see *Australian Business Number*.

affected Territory means:

- (a) the Australian Capital Territory; and
- (b) the Northern Territory; and
- (ba) Norfolk Island; and
- (c) the Jervis Bay Territory; and
- (d) the Territory of Christmas Island; and
- (e) the Territory of Cocos (Keeling) Islands.

ASIC means the Australian Securities and Investments Commission.

Australian business law means a law of the Commonwealth, or of a State or Territory, that is a law that regulates, or relates to the regulation of, business or persons engaged in business.

Australian Business Number or **ABN**, for an entity, has the meaning given by the *A New Tax System (Australian Business Number) Act 1999*.

available: a business name is **available** to an entity in the circumstances set out in:

- (a) section 25 and subsection 31(3) of this Act; and
- (b) item 21 of Schedule 1 to the Transitional Act.

business has the meaning given by section 4.

business day means a day that is not a Saturday, a Sunday, a public holiday or a bank holiday in a referring/adopting State or an affected Territory.

Section 3

business name means a name used, or to be used, in relation to one or more businesses.

carrying on a business includes doing anything in the course of the commencement or termination of the business.

Commonwealth body means:

- (a) an Agency (within the meaning of the *Public Service Act 1999*); or
- (b) a body, whether incorporated or not, established for a public purpose by or under a law of the Commonwealth; or
- (c) a person:
 - (i) holding or performing the duties of an office established by or under a law of the Commonwealth; or
 - (ii) holding an appointment made under a law of the Commonwealth.

Commonwealth Minister means the Minister.

company means a body registered as a company under the *Corporations Act 2001*.

consent application means an application for registration of a business name that includes a statement that the entity to whom the business name is currently registered has consented to the registration of the business name to the applicant.

court means any court.

data standards means standards made by the Registrar under section 62H.

designated secrecy provision has the meaning given by subsection 62N(3).

disclosure framework means the disclosure framework made by the Registrar under section 62L.

disqualified: an entity is **disqualified** in the circumstances specified in section 32.

entity has the meaning given by section 5.

entity on whose application a decision is reviewable means an entity on whose application the decision is reviewable under section 56.

Federal Court means the Federal Court of Australia.

government body has the meaning given by subsection 11(3).

government entity has the meaning given by section 41 of the *A New Tax System (Australian Business Number) Act 1999*.

identical: means identical under rules made by the Minister under section 26.

intelligence or security agency has the meaning given by section 85ZL of the *Crimes Act 1914*.

nearly identical: means nearly identical under rules made by the Minister under section 26.

non-entity joint venture means an arrangement that the Commissioner of Taxation is satisfied is a contractual arrangement:

- (a) under which 2 or more parties undertake an economic activity that is subject to the joint control of the parties; and
- (b) that is entered into to obtain individual benefits for the parties, in the form of a share of the output of the arrangement rather than joint or collective profits for all the parties.

notified State/Territory register has the meaning given by section 6.

notified successor, in relation to a business name, means an entity registered under subsection 40(4) as a notified successor in relation to the business name.

official employment means:

- (a) appointment or employment by the Commonwealth, or the performance of services for the Commonwealth; or

- (b) the exercise of powers or performance of functions under a delegation by the Registrar.

priority: an entity has **priority** over a business name in the circumstances set out in section 29.

protected information means information:

- (a) obtained by a person in the course of the person's official employment; and
- (b) disclosed to the person or another person, or obtained by the person or another person:
 - (i) under, or in relation to, this Act or the Transitional Act; or
 - (ii) under another law of the Commonwealth; in connection with particular functions or powers of the Registrar.

referring/adopting State has the meaning given by section 8.

registered owner, in relation to a registered trade mark, has the meaning given by section 6 of the *Trade Marks Act 1995*.

registered trade mark has the meaning given by section 6 of the *Trade Marks Act 1995*.

Registrar has the meaning given by section 6A.

registration fee, for the registration of a business name to an entity, means the fee imposed under the *Business Names Registration (Fees) Act 2011* in relation to the registration.

renewal fee, for the renewal of the registration of a business name to an entity, means the fee imposed under the *Business Names Registration (Fees) Act 2011* in relation to the renewal.

reviewable: a decision is **reviewable** if it is reviewable under section 56.

secrecy provision has the meaning given by subsection 62N(2).

State, when used in a geographical sense, includes the coastal sea of the State.

superannuation fund has the same meaning as in the *Income Tax Assessment Act 1997*.

taxation law has the same meaning as in the *Income Tax Assessment Act 1997*.

Territory, when used in a geographical sense, includes the coastal sea of the Territory.

this Act includes instruments made under this Act.

Transitional Act means the *Business Names Registration (Transitional and Consequential Provisions) Act 2011*, and includes instruments made under that Act.

4 Business

- (1) **Business** means an activity, or series of activities, done:
 - (a) in the form of a profession, a trade, employment, a vocation or a calling; or
 - (b) in the form of an adventure or concern in the nature of trade; or
 - (c) on a regular or continuous basis, in the form of a lease, licence or other grant of an interest in property.
- (2) **Business** does not include an activity, or a series of activities, done in circumstances in which an entity doing that activity or series of activities in, or in connection with, Australia would not be entitled to an ABN.

5 Entities

- (1) **Entity** means any of the following:
 - (a) an individual;
 - (b) a body corporate;
 - (c) a corporation sole;

Section 6

- (d) a body politic;
- (e) a partnership;
- (f) any other unincorporated association or body of persons;
- (g) a trust;
- (h) a superannuation fund.

Note: The term *entity* is used in a number of different but related senses. It covers all kinds of legal persons. It also covers groups of legal persons, and other things, that in practice are treated as having a separate identity in the same way as a legal person does.

- (2) Paragraph (1)(f) does not include a non-entity joint venture.
- (3) The trustee of a trust or of a superannuation fund is taken to be an *entity* consisting of the person who is the trustee, or the persons who are the trustees, at any given time.

Note: This is because a right or obligation cannot be conferred or imposed on an entity that is not a legal person.

- (4) A legal person can have a number of different capacities in which the person does things. In each of those capacities, the person is taken to be a different *entity*.

Example: In addition to his or her personal capacity, an individual may be:

- (a) sole trustee of one or more trusts; and
- (b) one of a number of trustees of a further trust.

In his or her personal capacity, he or she is one entity. As trustee of each trust, he or she is a different entity. The trustees of the further trust are a different entity again, of which the individual is a member.

- (5) If a provision refers to an *entity* of a particular kind, it refers to the entity in its capacity as that kind of entity, not to that entity in any other capacity.

Example: A provision that refers to a company does not cover a company in a capacity as trustee, unless it also refers to a trustee.

6 Notified State/Territory registers

- (1) A register is a *notified State/Territory register* if:

- (a) the register is maintained under the law of a referring/adopting State or an affected Territory; and
 - (b) notice of the names of entities entered on the register is received by the Registrar in electronic form from that State or Territory, and updated electronically from time to time to reflect changes in the register; and
 - (c) the register is specified, or of a kind specified, in Schedule 1 to this Act.
- (2) Schedule 1 to this Act has effect subject to any modifications made by the regulations to reflect changes in the registers, or kinds of registers, maintained by the States and Territories.
- (3) If a Minister of a referring/adopting State or of an affected Territory notifies the Commonwealth Minister in writing of a proposed modification to Schedule 1, the Commonwealth Minister must consult with all other referring/adopting States and affected Territories about the proposed modification.
- (4) In this section:
modifications include additions, omissions and substitutions.

6A Meaning of Registrar

A reference in this Act to the Registrar is a reference to:

- (a) if only one Commonwealth body is appointed as Registrar under section 62A—that body; or
- (b) if more than one Commonwealth body is appointed under that section with functions and powers in connection with this Act or the Transitional Act:
 - (i) if the reference relates to one or more particular functions or powers—any Commonwealth body so appointed with any of those particular functions or powers; or
 - (ii) otherwise—any of the Commonwealth bodies appointed under that section.

Division 3—Constitutional basis and application of this Act and the Transitional Act

7 Constitutional basis for this Act and the Transitional Act

Application in a referring/adopting State

- (1) The application of this Act and the Transitional Act in a referring/adopting State is based on:
 - (a) the legislative powers that the Commonwealth Parliament has under the Constitution (other than paragraph 51(xxxvii)); and
 - (b) the legislative powers that the Commonwealth Parliament has because of a reference or an adoption by the Parliament of the referring/adopting State under paragraph 51(xxxvii) of the Constitution.

Application in a Territory

- (2) The application of this Act and the Transitional Act in the affected Territories is based on:
 - (a) the legislative powers that the Commonwealth Parliament has under section 122 of the Constitution to make laws for the government of the Territory; and
 - (b) the other legislative powers that the Commonwealth Parliament has under the Constitution.

Despite the *Acts Interpretation Act 1901*, this Act and the Transitional Act as applying in the affected Territory are laws of the Commonwealth.

Application outside Australia

- (3) The operation of this Act and the Transitional Act outside Australia is based on:
 - (a) the legislative power the Commonwealth Parliament has under paragraph 51(xxix) of the Constitution; and

- (b) the legislative powers that the Commonwealth Parliament has under section 122 of the Constitution to make laws for the government of a Territory; and
- (c) the other legislative powers that the Commonwealth Parliament has under the Constitution.

8 Meaning of *referring/adopting State*

Meaning of referring/adopting State

- (1) A State is a ***referring/adopting State*** if, for the purposes of paragraph 51(xxxvii) of the Constitution, the Parliament of the State:
 - (a) has referred the matters covered by subsections (3) and (4) to the Parliament of the Commonwealth; or
 - (b) has:
 - (i) adopted the initial version of this Act and the initial version of the Transitional Act; and
 - (ii) referred the matters covered by subsection (4) to the Parliament of the Commonwealth.
- (2) A State is a ***referring/adopting State*** even if a law of the State provides that:
 - (a) the reference to the Parliament of the Commonwealth of a matter covered by subsection (3) or (4) is to terminate in particular circumstances; or
 - (b) the adoption of the initial version of this Act or the initial version of the Transitional Act is to terminate in particular circumstances; or
 - (c) the reference to the Parliament of the Commonwealth of a matter covered by subsection (3) or (4) has effect only:
 - (i) if and to the extent that the matter is not included in the legislative powers of the Parliament of the Commonwealth (otherwise than by a reference under section 51(xxxvii) of the Constitution); or
 - (ii) if and to the extent that the matter is included in the legislative powers of the Parliament of the State.

Reference covering the initial versions of this Act and the Transitional Act

- (3) This subsection covers the matters to which the referred provisions relate to the extent of making laws with respect to those matters by including the referred provisions in the initial version of this Act and the initial version of the Transitional Act.

Reference covering amendments of this Act or the Transitional Act

- (4) This subsection covers the referred business names matters to the extent of the making of laws with respect to those matters by making express amendments of this Act or the Transitional Act.

Effect of terminating reference or adoption of initial versions

- (5) A State ceases to be a **referring/adopting State** if:
- (a) in the case where the Parliament of the State has referred to the Parliament of the Commonwealth the matters covered by subsection (3)—that reference terminates; or
 - (b) in the case where the Parliament of the State has adopted the initial version of this Act and the initial version of the Transitional Act—the adoption of the initial version of this Act or the initial version of the Transitional Act terminates.

Effect of terminating amendment reference

- (6) A State ceases to be a **referring/adopting State** if:
- (a) the State's amendment reference terminates; and
 - (b) subsection (7) does not apply to the termination.
- (7) A State does not cease to be a **referring/adopting State** because of the termination of its amendment reference if:
- (a) the termination is effected by the Governor of that State fixing a day by Proclamation as the day on which the reference terminates; and
 - (b) the day fixed is no earlier than the first day after the end of the period of 6 months beginning on the day on which the Proclamation is published; and

- (c) that State's amendment reference, and the amendment reference of every other State, terminates on the same day.

Definitions

- (8) In this section:

amendment reference of a State means the reference by the Parliament of the State to the Parliament of the Commonwealth of the matters covered by subsection (4).

express amendment of this Act or the Transitional Act means the direct amendment of the text of this Act or the Transitional Act (whether by the insertion, omission, repeal, substitution or relocation of words or matter) by another Commonwealth Act, but does not include the enactment by a Commonwealth Act of a provision that has, or will have, substantive effect otherwise than as part of the text of this Act or the Transitional Act.

initial version of the Transitional Act means the Transitional Act as originally enacted.

initial version of this Act means this Act as originally enacted.

referred business names matter has the meaning given by section 9.

referred provisions means:

- (a) the initial version of this Act; and
 - (b) the initial version of the Transitional Act;
- to the extent to which they deal with matters that are included in the legislative powers of the Parliaments of the States.

9 Meaning of *referred business names matter*

- (1) Each of the following matters is a ***referred business names matter***:
- (a) the registration of business names;

- (b) the regulation of the use of business names to assist entities who engage with an entity carrying on a business under a business name to identify the entity;
 - (c) the regulation of the use of business names to assist entities who engage with an entity carrying on a business under a business name to contact the entity;
 - (d) the regulation of the use of business names to reduce the risks that arise from an entity carrying on a business under a name that is not the entity's own;
 - (e) the prohibition or restriction of the use of business names that are undesirable, offensive or confusing;
 - (f) the prohibition or restriction of the use of business names by an entity because:
 - (i) the entity has engaged in unlawful conduct; or
 - (ii) a person involved in the management of the entity has engaged in unlawful conduct.
- (2) However, none of the following matters is a *referred business names matter*:
- (a) the imposition of a restriction on a government body affecting the ability of the body to carry on business under a name;
 - (b) the imposition of a restriction on an entity affecting the ability of the entity to carry on business under a name that is registered to the entity on a notified State/Territory register;
 - (c) the imposition of a restriction on an entity affecting the ability of the entity to carry on business under a name that is specified as the name of the entity in an Act of a State, or an instrument made under such an Act;
 - (d) the imposition of an obligation on a government body to include a name in a communication or to display a name;
 - (e) the imposition of an obligation on an entity to include in a communication, or to display, a name that is registered to the entity on a notified State/Territory register;
 - (f) the imposition of an obligation on an entity to include in a communication, or to display, a name that is specified as the

name of the entity in an Act of a State, or an instrument made under such an Act;

- (g) the omission of an exemption provision without the insertion of an equivalent provision, or the imposition of a limitation on the operation of an exemption provision;
- (h) any matter relating to the imposition or payment of taxes under an Act of a State, or an instrument made under such an Act.

- (3) In this section:

exemption provision means a provision in the terms, or substantially in the terms, of subsection 19(5) or 20(3).

10 General application of this Act and the Transitional Act

Application in this jurisdiction

- (1) Each provision of this Act and the Transitional Act applies in this jurisdiction.

Geographical coverage of this jurisdiction

- (2) ***This jurisdiction*** means the geographical area that consists of:
- (a) each referring/adopting State (including its coastal sea); and
 - (b) each affected Territory (including its coastal sea).

11 Government bodies not liable to prosecution

- (1) A government body that carries on a business under a business name:
- (a) is not liable to be prosecuted for an offence against this Act or the Transitional Act; and
 - (b) is not subject to proceedings for an injunction or any other remedy in relation to conduct that would constitute an offence against this Act or the Transitional Act.
- (2) However, nothing in this Act or the Transitional Act prevents the registration of a business name to a government body if the

provisions of this Act or the Transitional Act are otherwise satisfied.

- (3) Each of the following is a **government body**:
- (a) the Commonwealth;
 - (b) a referring/adopting State;
 - (c) an affected Territory;
 - (d) an agency or authority of the Commonwealth;
 - (e) an agency or authority of a referring/adopting State or an affected Territory;
 - (f) an agency or authority of the Commonwealth and any of the referring/adopting States and the affected Territories, acting jointly;
 - (g) an agency or authority of any 2 or more of the referring/adopting States and affected Territories, acting jointly;
 - (h) a local government body.

Division 4—Interaction between business names legislation and State and Territory laws

12 Concurrent operation intended

- (1) This Act and the Transitional Act (the *business names legislation*) are not intended to exclude or limit the concurrent operation of any law of a referring/adopting State or an affected Territory.
- (2) Without limiting subsection (1), the business names legislation is not intended to exclude or limit the concurrent operation of a law that:
 - (a) requires or permits a word or expression to be used by an entity or class of entities; or
 - (b) prohibits or restricts the use of a word or expression by an entity or class of entities; or
 - (c) relates to the accreditation or licensing of an entity that carries on a business; or
 - (d) makes provision for the conversion of one body into another or the amalgamation of bodies; or
 - (e) imposes obligations on an entity or class of entities that are in addition to obligations imposed under this Act; or
 - (f) makes provision in relation to a notified State/Territory register; or
 - (g) specifies a name as the name of an entity.
- (3) This section does not apply to a law of a referring/adopting State or an affected Territory if there is a direct inconsistency between that law and the business names legislation.

Note: Section 14 avoids direct inconsistency arising in some cases by limiting the operation of the business names legislation.

13 When business names legislation does not apply

- (1) Subsection (2) applies if a provision of a law of a referring/adopting State or an affected Territory declares a matter

to be an excluded matter for the purposes of this section in relation to:

- (a) the whole of the business names legislation; or
 - (b) a specified provision of the business names legislation; or
 - (c) the business names legislation other than a specified provision; or
 - (d) the business names legislation otherwise than to a specified extent.
- (2) By force of this subsection:
- (a) none of the provisions of the business names legislation (other than this section) applies in or in relation to the State or Territory with respect to the matter if the declaration is one to which paragraph (1)(a) applies; and
 - (b) the specified provision of the business names legislation does not apply in or in relation to the State or Territory with respect to the matter if the declaration is one to which paragraph (1)(b) applies; and
 - (c) the provisions of the business names legislation (other than this section and the specified provisions) do not apply in or in relation to the State or Territory with respect to the matter if the declaration is one to which paragraph (1)(c) applies; and
 - (d) the provisions of the business names legislation (other than this section and otherwise than to the specified extent) do not apply in or in relation to the State or Territory with respect to the matter if the declaration is one to which paragraph (1)(d) applies.
- (3) Subsection (2) does not apply to the declaration to the extent to which the regulations provide that that subsection does not apply to that declaration.

14 Avoiding direct inconsistency between Commonwealth and State and Territory laws

This section overrides other business names legislation

- (1) This section has effect despite anything else in the business names legislation.

When this section does not apply to a referring/adopting State or Territory law

- (2) This section does not apply to a provision of a law of a referring/adopting State or an affected Territory that is capable of concurrent operation with the business names legislation.

Note: This kind of provision is dealt with by section 12.

When this section applies to a referring/adopting State or Territory law

- (3) This section applies to the interaction between a provision (the **displacement provision**) of a law of a referring/adopting State or an affected Territory and a provision (the **Commonwealth provision**) of the business names legislation only if the displacement provision is declared by a law of the State or Territory to be a business names legislation displacement provision for the purposes of this section (either generally or specifically in relation to the Commonwealth provision).

Effect of displacement provision

- (4) The Commonwealth provision does not:
- (a) prohibit the doing of an act; or
 - (b) impose a liability (whether civil or criminal) for doing an act;
- if the displacement provision specifically permits, authorises or requires the doing of that act.
- (5) The Commonwealth provision does not operate in or in relation to the State or Territory to the extent necessary to ensure that no inconsistency arises between:

- (a) the Commonwealth provision; and
- (b) the displacement provision to the extent to which the displacement provision would, apart from this subsection, be inconsistent with the Commonwealth provision.

Note 1: The displacement provision is not covered by this subsection if subsection (4) applies to the displacement provision: if that subsection applies there would be no potential inconsistency to be dealt with by this subsection.

Note 2: The operation of the displacement provision will be supported by section 12 to the extent to which it can operate concurrently with the Commonwealth provision.

- (6) Subsections (4) and (5) do not apply in relation to the displacement provision to the extent to which the regulations provide that those subsections do not apply in relation to the displacement provision.

15 Regulations to deal with interaction between laws

- (1) The regulations may modify the operation of the business names legislation so that:
 - (a) provisions of the business names legislation do not apply to a matter that is dealt with by a law of a referring/adopting State or an affected Territory specified in the regulations; or
 - (b) no inconsistency arises between the operation of a provision of the business names legislation and the operation of a provision of a law of a referring/adopting State or an affected Territory specified in the regulations.
- (2) Without limiting subsection (1), regulations made for the purposes of that subsection may provide that a provision of the business names legislation:
 - (a) does not apply to:
 - (i) a person specified in the regulations; or
 - (ii) a body specified in the regulations; or
 - (iii) circumstances specified in the regulations; or
 - (iv) a person or body specified in the regulations in the circumstances specified in the regulations; or

- (b) does not prohibit an act to the extent to which the prohibition would otherwise give rise to an inconsistency with a law of a referring/adopting State or an affected Territory; or
- (c) does not require a person to do an act to the extent to which the requirement would otherwise give rise to an inconsistency with a law of a referring/adopting State or an affected Territory; or
- (d) does not authorise a person to do an act to the extent to which the conferral of that authority on the person would otherwise give rise to an inconsistency with a law of a referring/adopting State or an affected Territory; or
- (e) does not impose an obligation on a person to the extent to which complying with that obligation would require the person not to comply with an obligation imposed on the person under a law of a referring/adopting State or an affected Territory; or
- (f) authorises a person to do something for the purposes of the business names legislation that the person:
 - (i) is authorised to do under a law of a referring/adopting State or an affected Territory; and
 - (ii) would not otherwise be authorised to do under the business names legislation; or
- (g) will be taken to be satisfied if a law of a referring/adopting State or an affected Territory is satisfied.

Division 5—Objects of this Act and consequences of registration

16 Objects of this Act

- (1) The objects of this Act are:
 - (a) to ensure that if an entity carries on a business under a business name, those who engage or propose to engage with that business can identify the entity and how the entity may be contacted; and
 - (b) to remove the inconvenience caused by the registration of business names under the law of more than one jurisdiction within Australia.
- (2) These objects are achieved by requiring an entity that intends to carry on a business under a business name to register the business name.
- (3) The objects of this Act are also:
 - (a) to avoid confusion by ensuring that business names that are identical or nearly identical are not registered; and
 - (b) to ensure that business names that are undesirable (for example, because they are offensive) are not registered; and
 - (c) to ensure that business names that should be restricted for any other reason (for example, because they might mislead consumers) are not registered.
- (4) The objects mentioned in subsection (3) are achieved by rules dealing with the availability of business names.

17 Consequences of registration of a business name

- (1) The registration of a business name does not affect the rights of any entity in relation to the business name, or a word or an expression that constitutes or is included in the business name, under the law of the Commonwealth or of a State or Territory, or under the general law.

- (2) An entity does not acquire property in a business name, or in a word or an expression that constitutes or is included in a business name, because the name is registered to the entity under this Act or the Transitional Act.

Part 2—Offences relating to business names

18 Offence—carrying on a business under an unregistered business name

- (1) An entity commits an offence if:
- (a) the entity carries on a business under a name; and
 - (b) the name is not registered to the entity as a business name in accordance with this Act.

Penalty: 30 penalty units.

- (2) Subsection (1) does not apply if:
- (a) the entity is an individual and the name is the individual's name; or
 - (b) the entity is a corporation and the name is the corporation's name; or
 - (c) the entity is a partnership and the name consists of all of the partners' names; or
 - (d) the name is registered to the entity on a notified State/Territory register; or
 - (e) an Act of the Commonwealth, a referring/adopting State or an affected Territory, or an instrument made under such an Act, specifies the name as the name of the entity; or
 - (f) the entity is a government body; or
 - (g) the entity is a notified successor in relation to the name; or
 - (h) other circumstances prescribed by the regulations for the purposes of this paragraph apply.

Note: A defendant bears an evidential burden in relation to the matters in subsection (2); see subsection 13.3(3) of the *Criminal Code*.

- (3) Subsection (1) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

19 Offence—must include business name in written communications

- (1) An entity commits an offence if:
- (a) the entity carries on a business under a business name; and
 - (b) the entity communicates in writing with another entity; and
 - (c) that communication is a business document connected with carrying on the business under the name; and
 - (d) the entity does not include clearly legible business names information in the document.

Penalty: 5 penalty units.

- (2) **Business names information** means the name and, if the entity has an ABN, the entity's ABN, where the business document is of one of the following kinds:
- (a) a document that is given to ASIC or the Registrar;
 - (b) a statement of account (including an invoice);
 - (c) a receipt;
 - (d) an order for goods or services;
 - (e) a cheque;
 - (f) a promissory note or bill of exchange;
 - (g) an offer to provide goods or services (rather than an invitation to treat).
- (3) In any other case, **business names information** means the name.
- (4) Subsection (1) does not apply if:
- (a) the entity is an individual and the name is the individual's name; or
 - (b) the entity is a corporation and the name is the corporation's name; or
 - (c) the entity is a partnership and the name consists of all of the partners' names; or
 - (d) the name is registered to the entity on a notified State/Territory register; or

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- (e) an Act of the Commonwealth, a referring/adopting State or an affected Territory, or an instrument made under such an Act, specifies the name as the name of the entity; or
 - (f) the entity is a government body; or
 - (g) the entity is a notified successor in relation to the name; or
 - (h) the Minister has exempted the entity from the requirement in relation to the business and the business name, under subsection (6); or
 - (i) other circumstances prescribed by the regulations for the purposes of this paragraph apply.
- (5) Subsection (1) does not require an entity to include a name or the entity's ABN in a written communication in circumstances where:
- (a) it would be contrary to the law of the Commonwealth or of a referring/adopting State or an affected Territory to include the name or the entity's ABN in the communication; or
 - (b) the inclusion of the name in the communication would directly or indirectly give rise to a representation that would be contrary to the law of the Commonwealth or of a referring/adopting State or an affected Territory; or
 - (c) the use of the name by the entity would be contrary to the law of the Commonwealth or of a referring/adopting State or an affected Territory.
- Note 1: A defendant bears an evidential burden in relation to the matters in subsections (4) and (5); see subsection 13.3(3) of the *Criminal Code*.
- Note 2: As an example, the use of a name would be contrary to the law of a referring/adopting State or an affected Territory if the law of that jurisdiction provided that the name could not be used without the consent of a relevant authority and that consent was not obtained.
- (6) The Minister may, by determination in writing, exempt an entity from the requirement to include a name or the entity's ABN in a written communication in connection with a specified business carried on under a specified business name, if the Minister is satisfied that the inclusion of that information in a written communication would create a serious risk to:
- (a) public safety; or

- (b) significant infrastructure such as:
 - (i) transport infrastructure; or
 - (ii) energy infrastructure; or
 - (iii) communications infrastructure; or
 - (iv) water infrastructure.

The determination is not a legislative instrument.

- (7) Subsection (1) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

20 Offence—must display business name at places open to public

- (1) An entity commits an offence if:
 - (a) the entity carries on a business under a business name; and
 - (b) the entity does not display the name prominently at every place at which the entity carries on the business that is open to the public.

Penalty: 5 penalty units.

- (2) Subsection (1) does not apply if:
 - (a) the entity is an individual and the name is the individual's name; or
 - (b) the entity is a corporation and the name is the corporation's name; or
 - (c) the entity is a partnership and the name consists of all of the partners' names; or
 - (d) the name is registered to the entity on a notified State/Territory register; or
 - (e) an Act of the Commonwealth, a referring/adopting State or an affected Territory, or an instrument made under such an Act, specifies the name as the name of the entity; or
 - (f) the entity is a government body; or
 - (g) the entity is a notified successor in relation to the name; or

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- (h) the Minister has exempted the entity from the requirement in relation to the business name and the place, under subsection (4); or
 - (i) other circumstances prescribed by the regulations for the purposes of this paragraph apply.
- (3) Subsection (1) does not require an entity to display a name at a place in circumstances where:
- (a) it would be contrary to the law of the Commonwealth or of a referring/adopting State or an affected Territory to display the name at that place; or
 - (b) displaying the name at the place would directly or indirectly give rise to a representation that would be contrary to the law of the Commonwealth or of a referring/adopting State or an affected Territory; or
 - (c) the use of the name by the entity would be contrary to the law of the Commonwealth or of a referring/adopting State or an affected Territory.

Note 1: A defendant bears an evidential burden in relation to the matters in subsections (2) and (3): see subsection 13.3(3) of the *Criminal Code*.

Note 2: As an example, the law of a referring/adopting State or an affected Territory may prohibit advertising in relation to gambling. A sign relating to gambling would not therefore be required to be displayed under this Act.

- (4) The Minister may, by determination in writing, exempt an entity from the requirement to display a specified name at a specified place, if the Minister is satisfied that the display of that name at that place would create a serious risk to:
- (a) public safety; or
 - (b) significant infrastructure such as:
 - (i) transport infrastructure; or
 - (ii) energy infrastructure; or
 - (iii) communications infrastructure; or
 - (iv) water infrastructure.

The determination is not a legislative instrument.

(5) Subsection (1) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

21 Offence—carrying on a business under a business name while disqualified

(1) An entity commits an offence if it carries on a business under a business name while disqualified.

Penalty: 30 penalty units.

(2) Subsection (1) does not apply if:

- (a) the entity is an individual and the name is the individual's name; or
- (b) the entity is a corporation and the name is the corporation's name; or
- (c) the entity is a partnership and the name consists of all of the partners' names; or
- (d) the name is registered to the entity on a notified State/Territory register; or
- (e) an Act of the Commonwealth, a referring/adopting State or an affected Territory, or an instrument made under such an Act, specifies the name as the name of the entity; or
- (f) the entity is a government body; or
- (g) the entity is a notified successor in relation to the name; or
- (h) other circumstances prescribed by the regulations for the purposes of this paragraph apply.

Note: A defendant bears an evidential burden in relation to the matters in subsection (2): see subsection 13.3(3) of the *Criminal Code*.

(3) Subsection (1) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

Part 3—Registering a business name

23 Application to register a business name

- (1) An entity that intends to carry on a business under a name may apply to the Registrar for the name to be registered to the entity as a business name.

Note: Under section 18, it is an offence to carry on a business under an unregistered business name.

- (2) The application must meet any requirements of the data standards.
- (4) The applicant must pay the registration fee.

24 Decision to register a business name to an entity

- (1) The Registrar must register the business name to the entity if the Registrar is satisfied that:
 - (a) the entity has an ABN; and
 - (b) the registration fee has been paid; and
 - (c) the name is available to the entity; and
 - (d) the entity is not disqualified.
- (2) The Registrar may request the entity to give the Registrar, within the period specified in the request, such information as is required by the data standards.
- (3) If the entity does not comply with the request within the time specified, the Registrar may refuse the application.
- (4) Subsection (3) does not limit the grounds on which the Registrar may refuse an application to register a business name to an entity.

25 Is a business name *available* to an entity?

A business name is *available* to an entity if:

- (a) the name is not identical or nearly identical to:

- (i) a business name registered to another entity; or
 - (ii) a name that is reserved or registered under the *Corporations Act 2001* for another body; or
 - (iii) a name that is registered to another entity on a notified State/Territory register; or
 - (iv) if the Registrar receives notice electronically from a referring/adopting State or an affected Territory of the name of a government body and the entity is not that body—that name; or
 - (v) if the Registrar receives notice electronically from a referring/adopting State or an affected Territory that an Act of the State or Territory, or an instrument made under such an Act, specifies a name as the name of another entity—that name; or
 - (vi) if the Registrar receives notice electronically from a Commonwealth government body of the name of that body and the entity is not that body—that name; or
 - (vii) if the Registrar receives notice electronically from a body that an Act of the Commonwealth, or an instrument made under such an Act, specifies a name as the name of that body and the entity is not that body—that name; and
- (b) a name that is identical or nearly identical is not held under section 54 or a provision of the Transitional Act; and
- (c) no other entity has priority over a name that is identical or nearly identical; and
- (d) either:
- (i) the name is not of a kind that is undesirable; or
 - (ii) the name is of a kind that is undesirable but the Minister has determined under subsection 27(2) that the name is available to the entity; and
- (e) any of the following applies:
- (i) the name is not constituted by, and does not include, a restricted word or expression;

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- (ii) the name is constituted by or includes a word or expression that is restricted unless a condition is satisfied, and the entity satisfies the condition;
- (iii) the name is constituted by or includes a word or expression that is restricted but the Minister has determined under subsection 28(2A) that the name is available to the entity.

26 Identical or nearly identical names

The Minister may, by legislative instrument, make rules for determining whether a name is *identical* or *nearly identical* to another name.

27 Undesirable names

- (1) The Minister may, by legislative instrument, determine the kinds of name that are undesirable for the purposes of this Act.
- (2) The Minister may determine in writing that a business name specified in the determination is to be available to an entity specified in the determination, even though the name is of a kind that is undesirable.
- (3) A determination under subsection (2) is not a legislative instrument.
- (4) The Minister must, at least 28 days before revoking a determination made under subsection (2), give notice in writing to the entity specified in the determination:
 - (a) informing the entity of the Minister's intention to revoke the determination; and
 - (b) setting out the Minister's reasons for revoking the determination.

28 Restricted words and expressions

- (1) The Minister may, by legislative instrument, determine that a word or expression specified in the determination:
-

- (a) is restricted; or
 - (b) is restricted in relation to a specified class of entity or business unless a condition or conditions specified in the determination are met.
- (2) The Minister may determine in writing that a word or expression specified in the determination is restricted in relation to a specified entity or a specified business unless a condition or conditions specified in the determination are met.
- (2A) The Minister may determine in writing that a business name specified in the determination is to be available to an entity specified in the determination, even though the name is constituted by or includes a word or expression that is restricted.
- (3) A determination under subsection (2) or (2A) is not a legislative instrument.

29 Priority

- (1) Where:
- (a) 2 or more applications are lodged with the Registrar for registration of business names that are identical or nearly identical; and
 - (b) none of the applications is a consent application;
- the applications take priority in the order in which they are lodged.
- (2) To avoid doubt, the priority of an entity over a business name is not affected by the fact that an ABN application by the entity is pending.
- (3) If an entity's application for registration of a business name to the entity is refused, the entity's priority over the business name is not affected during the review period in relation to that decision.
- (4) The ***review period***, in relation to a decision to refuse an application by an entity for the registration of a business name to the entity, is:
- (a) a period of 28 days beginning on the day on which the entity is notified of the decision; or

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- (b) if the Registrar determines a longer period under subsection (5)—that longer period.
- (5) The Registrar may determine in writing a longer review period. The determination is not a legislative instrument.
- (6) The Registrar must give a copy of the determination to the applicant.
- (7) The Registrar may refuse 2 or more applications for registration of business names that are identical or nearly identical if all of the applications take the same priority.

30 Refusal for failure to pay registration fee on time

- (1) This section applies if an entity lodges with the Registrar an application for the registration of a business name to the entity, but the entity does not pay the registration fee when the application is lodged.
- (2) The application is taken to have been refused if the registration fee is not paid before the end of the fee payment period.
- (3) The *fee payment period* begins at the time at which the application is lodged and ends immediately before that time on the day 10 business days after the day on which the application is lodged.

31 Consent applications

Consent of holder of the business name to registration by another entity

- (1) An entity to whom a business name is registered may, by notice, consent to the registration of the business name to another entity.

Note: So if, for example, the entity to whom the business name is registered uses the business name in relation to a business that is then sold, the entity might also consent to the business name being registered to the purchaser.

- (2) The consent notice must meet any requirements of the data standards.

Availability of business name

- (3) If:
- (a) an application under section 23 for registration of a business name to an entity (the **applicant**) is lodged with the Registrar; and
 - (b) the entity to whom the business name is registered has:
 - (i) consented to the registration of the business name to the applicant; and
 - (ii) requested the Registrar, under subsection 42(1), to cancel the registration of the business name to the entity;
- the business name is taken to be **available** to the applicant.

Potential applicant may carry on a business

- (4) If an entity to whom a business name is registered gives notice under subsection (1) consenting to the registration of the business name to another entity (the **potential applicant**), the potential applicant may notify the Registrar in accordance with subsection (5) that the consent has been given.
- (5) The notice must meet any requirements of the data standards.
- (6) If the potential applicant gives notice under subsection (4), the potential applicant does not commit an offence under subsection 18(1) if the potential applicant carries on a business under the business name during the period of 3 months beginning on the day on which that notice is given.

Note 1: A defendant bears an evidential burden in relation to the matters in subsection (6): see subsection 13.3(3) of the *Criminal Code*.

Note 2: Subsections (4) and (6) allow the potential applicant to trade while an application for registration of a business name is being processed.

32 Disqualified entities

- (1) An entity is *disqualified* if:
- (a) the entity is a person disqualified from managing corporations under subsection 206B(1) of the *Corporations Act 2001* because the person is convicted of an offence; or
 - (b) a person involved in the management of the entity is disqualified from managing corporations under subsection 206B(1) of the *Corporations Act 2001* because the person is convicted of an offence; or
 - (c) the entity is a person who is not disqualified under subsection 206B(1) of the *Corporations Act 2001*, but is convicted of an offence against a law of the Commonwealth, a State, a Territory or a foreign country that involves dishonesty and is punishable by imprisonment for at least 3 months; or
 - (d) the entity is a person who is not disqualified under subsection 206B(1) of the *Corporations Act 2001*, but is convicted of an offence against the law of a foreign country that is punishable by imprisonment for a period of more than 12 months; or
 - (e) a person involved in the management of the entity is not disqualified under subsection 206B(1) of the *Corporations Act 2001*, but is convicted of an offence referred to in paragraph (c) or (d) of this subsection.
- (2) The entity is *disqualified*:
- (a) in a case mentioned in paragraph (1)(a)—during the period for which the entity is disqualified under subsection 206B(2) of the *Corporations Act 2001*; and
 - (b) in a case mentioned in paragraph (1)(b)—during the period for which the person involved in the management of the entity is disqualified under subsection 206B(2); and
 - (c) in a case mentioned in paragraph (1)(c) or (d):
 - (i) if the entity does not serve a term of imprisonment—for a period of 5 years after the day on which the entity is convicted; or

- (ii) if the entity serves a term of imprisonment—for a period of 5 years after the day on which the entity is released from prison; and
- (d) in a case mentioned in paragraph (1)(e):
 - (i) if the person involved in the management of the entity does not serve a term of imprisonment—for a period of 5 years after the day on which the person is convicted; or
 - (ii) if the person involved in the management of the entity serves a term of imprisonment—for a period of 5 years after the day on which the person is released from prison.
- (3) The Minister may, on application by a person, determine that:
 - (a) where the person is the entity that would otherwise be disqualified—the entity is not disqualified despite the conviction; and
 - (b) where the person is involved in the management of an entity that would otherwise be disqualified—the entity is not disqualified despite the conviction.

33 Steps taken by the Registrar to register a business name to an entity

- (1) The Registrar registers a business name to an entity by making a record of such information as is required by the data standards.
- (2) The registration period for which the business name is registered to the entity must be a period of either 1 year or 3 years, unless an alternative registration period is determined by the Registrar under subsection (3) or (4).
- (3) The Registrar may determine an alternative registration period for the registration of a business name to an entity if:
 - (a) the entity requests the Registrar to do so; and
 - (ab) the request meets any requirements of the data standards; and
 - (b) the entity is a company; and

- (c) the alternative registration period would align the day on which the registration period for the registration of the business name to the company would expire with the company's review date, as defined for the purposes of the *Corporations Act 2001*.
- (4) The Registrar may determine an alternative registration period for the registration of a business name (the ***new business name***) to an entity if:
 - (a) the entity requests the Registrar to do so; and
 - (ab) the request meets any requirements of the data standards; and
 - (b) another business name (the ***other business name***) is registered to the entity; and
 - (c) the alternative registration period would align the day on which the registration period for the registration of the new business name to the entity would expire with the day on which the registration period for the registration of the other business name to the entity would expire.
- (5) However, an alternative registration period must be:
 - (a) if the registration period would otherwise have been 1 year—of no more than 18 months; and
 - (b) if the registration period would otherwise have been 3 years—of no more than 3 years and 6 months.
- (6) A determination under subsection (3) or (4) must be in writing, but is not a legislative instrument.
- (8) The Registrar must notify the entity of:
 - (a) the fact that the business name has been registered to the entity; and
 - (b) the day and time on which the registration took effect; and
 - (c) any other details, held by the Registrar in relation to the business name and the entity, that the Registrar considers should be given to the entity.

34 Refusal to register

- (1) If the Registrar refuses an application for registration of a business name to an entity, the Registrar must:
 - (a) notify the applicant of the refusal and the reasons for refusal; and
 - (b) if the applicant has paid the registration fee—refund the registration fee to the applicant.
- (2) If the Registrar has not decided an application for registration of a business name to an entity within 28 days after the application is lodged, the entity may, at any time, notify the Registrar that the entity wishes to treat the application as having been refused.
- (3) The notification must meet any requirements of the data standards.
- (4) If an entity notifies the Registrar under subsection (2):
 - (a) for the purposes of Part 7 (Review), the Registrar is taken to have refused the entity's application for registration on the day on which the notification is given; and
 - (b) if the entity has paid the registration fee—the Registrar must refund the registration fee to the applicant.
- (5) For the purposes of counting the 28 days mentioned in subsection (2), disregard each period (if any):
 - (a) starting on the day when the Registrar requests the entity under subsection 24(2) to give the Registrar information; and
 - (b) ending at the end of the day the entity gives the Registrar the information.

34A The Registrar must maintain records

The Registrar must maintain a record of information relating to registrations under this Part.

Part 4—Obligations to give information to the Registrar

35 Notifying changes—entity that gives information to the Registrar

- (1) If:
 - (a) an entity gives information to the Registrar; and
 - (b) the information is recorded in relation to a business name; and
 - (c) circumstances change so that the information is no longer correct;the entity must notify the Registrar of the change within 28 days after becoming aware of it.
- (2) The notification must meet any requirements of the data standards.

36 Obligation to notify the Registrar if entity becomes disqualified

- (1) If an entity becomes disqualified after registration of a business name to the entity, the entity must immediately notify the Registrar of the disqualification.
- (2) The notification must meet any requirements of the data standards.

37 Obligation to give the Registrar information if requested

- (1) The Registrar may request an entity (other than a government body) to give the Registrar information relevant to the maintenance of information relating to registrations under this Act.
- (2) The request must specify:
 - (a) the information the entity is to give; and
 - (b) a period of at least 28 days, beginning on the day on which the request is given, within which the entity is to give the information.

- (3) If the Registrar requests an entity to give information under this section, the entity must comply with the request.

Penalty: 5 penalty units.

- (4) Subsection (3) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

- (5) In complying with the request, the entity must meet any requirements of the data standards.

- (6) If:

- (a) an entity fails to comply with a request under this section;
and
 - (b) the Registrar reasonably believes that information held by the Registrar to which the request relates is not correct;
- the Registrar may delete, correct or annotate the information.

- (7) If:

- (a) an entity gives the Registrar information in purported compliance with a request under this section; and
- (b) the Registrar reasonably believes that the information is incorrect;

the Registrar may decide not to record the information, or to record the information in a corrected or annotated form.

- (8) If the Registrar deletes, corrects or annotates information under subsection (6), or decides not to record information or to record it in a corrected or annotated form under subsection (7), the Registrar must notify the entity to whom the business name is registered of the following:

- (a) the action the Registrar has taken;
- (b) in the case of a correction or annotation—the details of that correction or annotation;
- (c) the Registrar's reasons for its decision.

38 Notifying the Registrar of bankruptcy, insolvency etc.

- (1) If:
 - (a) a business name is registered to an entity; and
 - (b) a person is appointed or authorised to act as a debtor representative of the entity;the person must, within 28 days of the appointment or authorisation, notify the Registrar of that fact.
- (2) The notification must meet any requirements of the data standards.
- (3) In this section:

debtor representative means:

- (a) a trustee in bankruptcy; or
- (b) a liquidator within the meaning given by subsection 6(1) of the *Income Tax Assessment Act 1936*; or
- (c) a receiver; or
- (d) a controller (within the meaning of section 9 of the *Corporations Act 2001*); or
- (e) an administrator appointed to an entity under Division 2 of Part 5.3A of the *Corporations Act 2001*; or
- (f) a person appointed, or authorised, under a law of the Commonwealth, or of a State or Territory, to manage the affairs of an entity because it is unable to pay all its debts as and when they become due and payable; or
- (g) an administrator of a deed of company arrangement executed by the entity; or
- (h) a foreign representative in respect of a foreign proceeding that has been recognised for the purposes of the *Cross-Border Insolvency Act 2008*.

trustee in bankruptcy means:

- (a) in relation to a bankruptcy—the trustee of the estate of the bankrupt; or

- (b) in relation to a composition or scheme of arrangement under Division 6 of Part IV of the *Bankruptcy Act 1966*—the trustee of the composition or scheme of arrangement; or
- (c) in relation to a debtor whose property is subject to control under Division 2 of Part X of the *Bankruptcy Act 1966*—the controlling trustee in relation to the debtor under that Part of that Act; or
- (d) in relation to a personal insolvency agreement under Part X of the *Bankruptcy Act 1966*—the trustee of the agreement; or
- (e) in relation to the estate of a deceased person in respect of which an order has been made under Part XI of the *Bankruptcy Act 1966*—the trustee of the estate.

39 Notifying the Registrar of appointment of a legal personal representative

- (1) If:
 - (a) a business name is registered to an entity that is an individual; and
 - (b) the individual dies; and
 - (c) one of the following is granted to a person (the ***legal personal representative***):
 - (i) probate of the will of the deceased;
 - (ii) letters of administration of the estate of the deceased;
 - (iii) any other similar grant;

the legal personal representative must notify the Registrar of the grant within 28 days after the grant is made.
- (2) The notification must meet any requirements of the data standards.
- (3) If the Registrar is notified under this section:
 - (a) the Registrar must (if it has not already done so) register the business name to the estate of the deceased; and
 - (b) record the legal personal representative's details.

40 Notification by successor in relation to a deceased estate

- (1) If:
 - (a) a business name is registered to an entity that is an individual; and
 - (b) the individual dies; and
 - (c) none of the following has been granted to a person:
 - (i) probate of the will of the deceased;
 - (ii) letters of administration of the estate of the deceased;
 - (iii) any other similar grant; and
 - (d) there are reasonable grounds for concluding that an entity will inherit assets formerly used by the deceased in carrying on a business under the business name;the entity may notify the Registrar of that fact.
- (2) The notification must meet any requirements of the data standards.
- (4) If an entity notifies the Registrar under subsection (1), the Registrar:
 - (a) must register the business name to the estate of the deceased; and
 - (b) may record:
 - (i) the name of the entity as a notified successor; and
 - (ii) such other information as is required by the data standards.
- (5) The Registrar may refuse to record the name of an entity as a notified successor in relation to a business name if the Registrar is not satisfied that there are reasonable grounds for concluding that the entity will inherit assets formerly used by the deceased in carrying on a business under the business name.
- (6) The Registrar must delete the record of a notified successor in relation to a business name if the Registrar is notified in relation to the business name under section 39.
- (7) If one or more entities is recorded as a notified successor, the Registrar is taken to satisfy an obligation under this Act or the

Transitional Act to notify the entity to whom the business name is registered if the Registrar notifies each notified successor.

41 Federal Court may order information be given to the Registrar

- (1) If an entity has failed to comply with any provision of this Act or the Transitional Act that requires the entity to give the Registrar any information, the Registrar may notify the entity that the entity must comply with the requirement within 10 business days after the notification is given.
- (2) If the entity does not comply with the notice within that period, the Federal Court may, on an application by the Registrar, make an order directing any of the following persons to comply with the requirement or request:
 - (a) if the entity is a person—the entity;
 - (b) if the entity is a body corporate—a director, secretary or senior manager of the body corporate;
 - (c) if the entity is a partnership or the trustees of a trust—a partner or trustee;
 - (d) if the entity is an unincorporated association—a member of the committee of management of the association;
 - (e) in the case of a joint venture, an individual who is a joint venture entity or involved in the management of a joint venture entity.
- (3) In paragraph (2)(e), *joint venture* and *joint venture entity* have the same meaning as in Part 10.
- (4) The order may provide that all costs of and incidental to the application are to be borne by the person.

Part 5—Cancelling the registration of a business name

42 Cancellation—request by entity to whom business name is registered

- (1) The Registrar must cancel the registration of a business name to an entity if the entity requests the Registrar to do so. The request must meet any requirements of the data standards.
- (3) The Registrar must, at least 28 days before cancelling the registration, notify the entity that the Registrar intends to cancel the registration.

43 Cancellation—the Registrar becomes aware of matter that would have affected registration decision

- (1) The Registrar may cancel the registration of a business name to an entity if:
 - (a) the Registrar becomes aware of a matter after the business name is registered to the entity; and
 - (b) the Registrar is satisfied that, had it known of the matter at the time the business name was registered to the entity, the Registrar would not have registered the business name to the entity; and
 - (c) the Registrar is not satisfied that there are exceptional circumstances justifying the continued registration of the business name.
- (2) The Registrar must, at least 28 days before cancelling the registration, notify the entity:
 - (a) of the matter that has, since registration, become known to the Registrar; and
 - (b) that the Registrar will cancel the registration of the business name unless the entity satisfies the Registrar that there are

exceptional circumstances justifying the continued registration of the business name.

44 Cancellation—entity is disqualified

- (1) The Registrar must cancel the registration of a business name to an entity if the Registrar becomes aware that the entity is disqualified.
- (2) The Registrar must, at least 28 days before cancelling the registration, notify the entity that:
 - (a) the Registrar has formed the view that the entity is disqualified; and
 - (b) the Registrar proposes to cancel the registration of the business name on that basis.

45 Cancellation—Ministerial determination revoked

- (1) The Registrar must cancel the registration of a business name to an entity if a Ministerial determination in relation to the availability of the business name to the entity made under subsection 27(2) is revoked.
- (2) The Registrar must, at least 28 days before cancelling the registration, notify the entity that:
 - (a) the determination in relation to the availability of the business name to the entity made under subsection 27(2) has been revoked; and
 - (b) the Registrar proposes to cancel the registration of the business name on that basis.

46 Cancellation—failure to satisfy a condition of registration

- (1) The Registrar must cancel the registration of a business name to an entity if:
 - (a) the name contains a word or expression that, under an instrument made under paragraph 28(1)(b) or subsection 28(2), is restricted unless a condition is satisfied; and

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- (b) the entity ceases to satisfy the condition.
- (2) The Registrar must, at least 28 days before cancelling the registration, give notice in writing to the entity informing the entity that:
 - (a) the Registrar has formed the view that the entity ceases to satisfy the condition; and
 - (b) the Registrar proposes to cancel the registration of the business name on that basis.

47 Cancellation—entity not carrying on a business under the business name

- (1) The Registrar may cancel the registration of a business name to an entity if:
 - (a) the Registrar is satisfied that:
 - (i) the entity is not carrying on a business under the business name; and
 - (ii) the entity has not, in the immediately preceding period of 3 months, carried on a business under the business name; and
 - (b) the entity is not a government body; and
 - (c) the Registrar is not satisfied that there are exceptional circumstances justifying the failure to carry on a business under the business name during that 3 month period.
- (2) The Registrar must, at least 28 days before cancelling the registration, notify the entity:
 - (a) that the Registrar intends to cancel the registration; and
 - (b) that the entity is invited to give the Registrar evidence that:
 - (i) it is carrying on, or has within the immediately preceding period of 3 months carried on, a business under the business name; or
 - (ii) there are exceptional circumstances justifying the failure to carry on a business under the business name during that period.

48 Cancellation—failure to provide information

- (1) The Registrar may cancel the registration of a business name to an entity if:
 - (a) either:
 - (i) the entity is obliged under section 35 to notify the Registrar of a change to information and the entity fails to do so within the period required under that section; or
 - (ii) the Registrar requests the entity to give the Registrar information under section 37 and the entity fails to do so within the period specified in the request; and
 - (b) the Registrar is satisfied that the failure to provide the information affects the integrity of the information recorded by the Registrar under this Act; and
 - (c) the Registrar is not satisfied that there are exceptional circumstances justifying the failure to give the information.
- (2) The Registrar must, at least 28 days before cancelling the registration, notify the entity that the Registrar will cancel the registration unless:
 - (a) the information is given to the Registrar within that 28 day period; or
 - (b) the entity satisfies the Registrar that there are exceptional circumstances justifying the failure to give the information.

49 Cancellation—registration has expired

- (1) The Registrar must, at least 28 days before the registration period for the registration of a business name to an entity expires, remind the entity of the time and day on which the registration period will expire.
- (2) Failure to give a reminder in accordance with subsection (1) does not affect the Registrar's power to cancel the registration if not renewed.

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- (3) If the registration period for the registration of a business name to an entity expires, the Registrar may notify the entity that the Registrar will cancel the registration unless it is renewed.
- (4) The Registrar may cancel the registration of a business name to an entity under this section with effect on the later of:
 - (a) the end of a period of 3 months beginning when the registration expires; and
 - (b) the end of a period of 6 weeks beginning on the day on which notice is given in accordance with subsection (3).
- (5) To avoid doubt, a business name continues to be registered to an entity after the expiry of the registration period for the registration unless the registration is cancelled.

50 Cancellation—entity to whom business name registered ceases to exist

The Registrar must cancel the registration of a business name to an entity (other than an individual) if the Registrar is reasonably satisfied that the entity no longer exists.

51 Cancellation—business name used in infringement of trade mark

- (1) To avoid doubt, the relief that a court may grant in an action for an infringement of a registered trade mark includes an order that the registration of a business name to an entity must be cancelled.
- (2) The Registrar must cancel the registration of the business name to the entity if:
 - (a) a copy of the court's order is lodged with the Registrar; and
 - (b) the Registrar is satisfied, within a reasonable period after the order is lodged, that:
 - (i) no application for the stay of the order is pending; and
 - (ii) no appeal of the order is pending; and
 - (iii) the order is not stayed; and
 - (iv) the order has not been overturned on appeal.

- (3) Nothing in this section limits any orders that a court may make (in an action for an infringement of trade mark or otherwise) in relation to the registration of a business name, or the Registrar's obligations under such orders.

52 Notification of cancellation of business name

- (1) If the Registrar cancels the registration of a business name to an entity, the Registrar must notify the entity of the decision and the Registrar's reasons for the decision.
- (2) However, if the Registrar is unable to contact the entity, the Registrar must publish a notice of the cancellation in the manner that the Registrar thinks fit.

53 Notice requirements in relation to partnerships, unincorporated associations, trusts and joint ventures

- (1) If the Registrar is required, under a provision of this Part, to notify a partnership, the Registrar must also notify each partner within the partnership of whom the Registrar has details.
- (2) If the Registrar is required, under a provision of this Part, to notify an unincorporated association or body, the Registrar must also notify each member of the committee of management of the association or body of whom the Registrar has details.
- (3) If the Registrar is required, under a provision of this Part, to notify a trust that has 2 or more trustees, the Registrar must also notify each trustee of whom the Registrar has details.
- (4) If the Registrar is required, under a provision of this Part, to notify a joint venture, the Registrar must also notify each joint venture entity of whom the Registrar has details.
- (5) In subsection (4), *joint venture* and *joint venture entity* have the same meaning as in Part 10.

54 Business name held during review period for cancellation decision

- (1) If the Registrar cancels the registration of a business name to an entity:
 - (a) the business name is held during the review period in relation to that decision; and
 - (b) the entity does not commit an offence under subsection 18(1) if the entity carries on a business under the business name during the review period in relation to that decision.

Note: A defendant bears an evidential burden in relation to the matters in paragraph (1)(b): see subsection 13.3(3) of the *Criminal Code*.

- (2) The **review period**, in relation to a decision to cancel the registration of a business name to an entity, is:
 - (a) a period of 4 months beginning on the day on which the entity is notified of the decision under section 52; or
 - (b) if the Registrar determines a longer period under subsection (3)—that longer period.
- (3) The Registrar may determine in writing a longer review period. The determination is not a legislative instrument.
- (4) The Registrar must give a copy of the determination to the entity.

Part 6—Renewing the registration of a business name

55 Application to renew registration

- (1) An entity may renew the registration of a business name to the entity for a period of 1 year or 3 years by lodging the renewal fee appropriate to that period with the Registrar.
- (2) An entity may apply to the Registrar to have the registration of a business name to the entity renewed for an alternative registration period.
- (3) The application must:
 - (a) meet any requirements of the data standards; and
 - (b) be accompanied by the renewal fee appropriate to the period sought.
- (4) The Registrar may determine an alternative registration period for the renewal of the registration of a business name to an entity if:
 - (a) the entity is a company; and
 - (b) the alternative registration period would align the day on which the registration period for the registration of the business name to the company would expire with the company's review date, as defined for the purposes of the *Corporations Act 2001*.
- (5) The Registrar may determine an alternative registration period for the renewal of the registration of a business name (the ***renewed business name***) to an entity if:
 - (a) another business name (the ***other business name***) is registered to the entity; and
 - (b) the alternative registration period would align the day on which the registration period for the registration of the renewed business name to the entity would expire with the

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day on which the registration period for the registration of the other business name to the entity would expire.

- (6) A determination under subsection (4) or (5) must be in writing, but is not a legislative instrument.
- (7) However, an alternative registration period must be:
 - (a) if the registration period would otherwise have been 1 year—of no more than 18 months; and
 - (b) if the registration period would otherwise have been 3 years—of no more than 3 years and 6 months.
- (8) An entity may:
 - (a) renew the registration of a business name to the entity under subsection (1); or
 - (b) make an application under subsection (2);no earlier than 2 months before the expiry of the registration period for the business name.
- (9) The period of registration on renewal begins immediately after the end of the immediately preceding registration period.

Part 7—Review

56 Reviewable decisions

- (1) A decision specified in an item in column 1 of the table, made under a provision specified in that item in column 2 of the table, is **reviewable** on the application of an entity specified in that item in column 3 of the table.

Reviewable decisions			
Item	Column 1 Decision	Column 2 Provision	Column 3 Who may seek review
1	Registration of a business name to an entity	Section 24	an entity in relation to whom there is a real risk of substantial detriment because of the registration of the business name
2	Refusal to register a business name to an entity	Section 24	the entity
3	Refusal to determine that a business name of a kind that is undesirable is available to an entity	Subsection 27(2)	the entity
4	Revocation of determination that a business name of a kind that is undesirable is available to an entity	Subsection 27(2)	the entity
5	Determination that a word or expression specified in the determination is restricted in relation to a specified entity or specified business unless a condition or conditions specified in the determination	Subsection 28(2)	(a) where an entity is specified—that entity; and (b) where a business is specified—the entity carrying on that business

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Reviewable decisions			
Item	Column 1 Decision	Column 2 Provision	Column 3 Who may seek review
	are met		
5A	Refusal to determine that a business name constituted by or including a restricted word or expression is available to an entity	Subsection 28(2A)	(a) where an entity is specified—that entity; and (b) where a business is specified—the entity carrying on that business
6	Determination of a longer review period (priority of an entity's application for registration)	Subsection 29(5)	any entity that, but for the determination, would have priority over a name that is identical, or nearly identical to the name to which the determination relates
7	Refusal to determine a longer review period (priority of an entity's application for registration)	Subsection 29(5)	the entity
8	Refusal to determine that an entity that would otherwise be disqualified is not to be disqualified	Subsection 32(3)	the entity
9	Refusal to determine an alternative registration period in relation to the registration of a business name to an entity	Subsection 33(3) or (4)	the entity
10	Revocation of a determination of an alternative registration period in relation to the registration of a business name to an	Subsection 33(3) or (4)	the entity

Reviewable decisions			
Item	Column 1 Decision	Column 2 Provision	Column 3 Who may seek review
	entity		
11	Deletion, refusal to record, correction or annotation of information in relation to a business name	Subsection 37(6) or (7)	the entity to whom the business name is registered
12	Refusal to record an entity's name as a notified successor in relation to a business name	Subsection 40(5)	the entity
13	Cancellation of the registration of a business name to an entity	Section 43, 47 or 48	the entity
14	Refusal to determine a longer review period (holding business name after registration to an entity cancelled)	Subsection 54(3)	the entity
15	Revocation of a determination of an alternative registration period in relation to the renewal of the registration of a business name to an entity	Subsection 55(4) or (5)	the entity
17	Refusal to receive a document submitted by an entity	Subsection 69(1) or (5)	the entity

- (2) A decision by the Registrar under a provision of the data standards or the disclosure framework is **reviewable** on the application of an entity whose interests are affected by the decision.

57 Internal review of certain decisions

- (1) If a reviewable decision is made by the Registrar other than as a delegate of the Minister, an entity on whose application the

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decision is reviewable may apply to the Registrar (the *review body*) for review of the decision. The application must meet any requirements of the data standards.

- (2) If a reviewable decision is made by the Registrar as a delegate of the Minister, an entity on whose application the decision is reviewable may apply to the Minister (the *review body*) for review of the decision.
- (3) An application under subsection (2) for review of a decision:
 - (a) must set out the reasons for making the application; and
 - (b) must be in the prescribed form; and
 - (c) must be made in the prescribed manner.
- (4) An application under subsection (2) for review of a decision must be made within 28 days after the entity is notified of the decision.
- (5) Despite subsection (4), an application for review of a decision may be made within such longer period as the review body allows.
- (6) After an application for review of a decision is made, the review body must review the decision and:
 - (a) affirm the decision under review; or
 - (b) vary the decision under review; or
 - (c) set aside the decision under review and make a decision in substitution for it.
- (7) A decision of the review body under subsection (6) takes effect:
 - (a) on a day, provided in the decision, that is after the decision is made; or
 - (b) if a day is not so provided—on the day on which the decision is made.
- (8) If the Registrar, as the review body, has not decided an application by an entity for review of a decision within 28 days after the application is made, the entity may, at any time, notify the review body that the entity wishes to treat the decision as having been affirmed.

- (8A) The notification must meet any requirements of the data standards.
- (8B) If the Minister, as the review body, has not decided an application by an entity for review of a decision within 60 days after the application is made, the entity may, at any time, notify the review body, in writing, that the entity wishes to treat the decision as having been affirmed.
- (9) For the purposes of section 58, if an entity gives a notification under subsection (8) or (8B), the review body is taken to have refused the entity's application on the day on which the notification is given.

58 Administrative review of certain decisions

- (1) An application may be made to the Administrative Appeals Tribunal for review of a decision made or taken to have been made by the Registrar or the Minister under section 57.
- (2) The application may be made by any entity that could have made an application under subsection 57(1) in relation to the decision in relation to which the decision under section 57 was made or taken to have been made.
- (3) An application may be made to the Administrative Appeals Tribunal for review of one of the following decisions made personally by the Minister:
 - (a) a refusal to determine under subsection 27(2) that a business name of a kind that is undesirable is available to an entity;
 - (b) the revocation of a determination made under subsection 27(2) that a business name of a kind that is undesirable is available to an entity;
 - (c) a determination made under subsection 28(2) that a word or expression specified in the determination is restricted in relation to a specified entity or specified business unless a condition or conditions specified in the determination are met;

- (d) a refusal to determine under subsection 28(2A) that a business name constituted by or including a restricted word or expression is available to an entity.
- (4) The application may be made by:
- (a) in the case of a decision mentioned in paragraph (3)(a), (b) or (d)—the entity referred to in that paragraph; and
 - (b) in the case of a determination mentioned in paragraph (3)(c) in relation to a specified entity—that entity; and
 - (c) in the case of a determination mentioned in paragraph (3)(c) in relation to a specified business—the entity carrying on the business specified.

59 Payment of registration fee if business name to be registered as result of review

- (1) This section applies if, as a result of a review of a decision carried out under section 57 or 58 or by a court, a decision is made (the *review decision*) that a business name is to be registered to an entity.
- (2) The entity must pay the registration fee.
- (3) The registration fee is payable at the end of a period of 5 business days beginning on the day on which the entity is notified of the review decision.

Part 9—Administration

Division 1—Matters relating to handling records and information

Subdivision A—The Registrar

62A Appointment of the Registrar

- (1) The Minister may, by notifiable instrument, appoint a Commonwealth body to be the Registrar.
- (2) The Minister may, by notifiable instrument, appoint a Commonwealth body to be the Registrar in relation to one or more functions or powers of the Registrar.

62B Functions

The Registrar's functions are:

- (a) such functions as are conferred on the Registrar by or under this Act or the Transitional Act; and
- (b) such functions as are prescribed by rules made for the purposes of this paragraph under section 62U; and
- (c) such functions as are incidental to the functions mentioned in paragraph (a) or (b).

62C Powers

The Registrar's powers include:

- (a) such powers as are conferred:
 - (i) on the Registrar in relation to the functions mentioned in section 62B; and
 - (ii) by or under this Act or the Transitional Act; and
- (b) the power to do all things necessary or convenient to be done for or in connection with the performance of those functions.

62D Directions by Minister

- (1) The Minister may, by legislative instrument, give written directions to the Registrar about the performance of its functions and the exercise of its powers.

Note: Section 42 (disallowance) and Part 4 of Chapter 3 (sunsetting) of the *Legislation Act 2003* do not apply to the directions (see regulations made for the purposes of paragraphs 44(2)(b) and 54(2)(b) of that Act).

- (2) Without limiting subsection (1), a direction under that subsection may relate to any of the following:
- (a) matters to be dealt with in the data standards or disclosure framework;
 - (b) consultation processes to be followed prior to making data standards or the disclosure framework.
- (3) A direction under subsection (1) must be of a general nature only.
- (4) Subsection (3) does not prevent a direction under subsection (1) from relating to a particular matter to be dealt with in the data standards or disclosure framework. However, the direction must not direct the Registrar how to apply the data standards or disclosure framework in a particular case.
- (5) The Registrar must comply with a direction under subsection (1).

62E Delegation

- (1) The Registrar may, in writing, delegate all or any of the Registrar's functions or powers under this Act or the Transitional Act (other than the power to make data standards or the disclosure framework) to:
- (a) any person to whom it may delegate any of its other functions, as a Commonwealth body, under a law of the Commonwealth; or
 - (b) any person of a kind specified in rules made under section 62U.

Note: Sections 34AA to 34A of the *Acts Interpretation Act 1901* contain provisions relating to delegations.

- (2) In performing a delegated function or exercising a delegated power, the delegate must comply with any written directions of the Registrar.

62F Assisted decision making

- (1) The Registrar may arrange for the use, under the Registrar's control, of processes to assist decision making (such as computer applications and systems) for any purposes for which the Registrar may make decisions in the performance or exercise of the Registrar's functions or powers under this Act or the Transitional Act, other than decisions reviewing other decisions.
- (2) A decision the making of which is assisted by the operation of such a process under an arrangement made under subsection (1) is taken to be a decision made by the Registrar.
- (3) The Registrar may substitute a decision for a decision (the *initial decision*) the making of which is assisted by the operation of such a process under an arrangement under subsection (1) if the Registrar is satisfied that the initial decision is incorrect.

62G Liability for damages

None of the following:

- (a) the Registrar;
- (b) if the Registrar is a Commonwealth body that has members—a member of the Registrar;
- (c) a member of the staff of the Registrar;
- (d) a person who is, or is a member of or a member of the staff of, a delegate of the Registrar;
- (e) a person who is authorised to perform or exercise a function or power of, or on behalf of, the Registrar;
- (f) an APS employee, or an officer or employee of a Commonwealth body, whose services are made available to

the Registrar in connection with the performance or exercise of any of the Registrar's functions or powers;
is liable to an action or other proceeding for damages for or in relation to an act done, or omitted to be done, in good faith in performance or purported performance of any function, or in exercise or purported exercise of any power, conferred or expressed to be conferred by or under this Division.

Subdivision B—How the Registrar is to perform and exercise functions and powers

62H Data standards

- (1) The Registrar may, by legislative instrument, make data standards on matters relating to the performance of the Registrar's functions and the exercise of the Registrar's powers under this Act or the Transitional Act.
- (2) Without limiting subsection (1), the data standards may provide for any of the following:
 - (a) what information may be collected for the purposes of the performance of the Registrar's functions and the exercise of the Registrar's powers under this Act or the Transitional Act;
 - (b) how such information may be collected;
 - (c) the manner and form in which such information is given to the Registrar;
 - (d) when information is to be given to the Registrar;
 - (e) how information held by the Registrar is to be authenticated, verified or validated;
 - (f) how information held by the Registrar is to be stored;
 - (g) correction of information held by the Registrar;
 - (h) the manner and form of communication between the Registrar and persons who give information to the Registrar or seek to access information held by the Registrar;
 - (i) integrating or linking information held by the Registrar.

- (3) Without limiting subsection (1), the data standards may provide differently in relation to different functions or powers of the Registrar.
- (4) If:
- (a) a Commonwealth body (the *new Registrar*) is appointed as the Registrar with particular functions or powers under this Act or the Transitional Act; and
 - (b) immediately before that appointment, another Commonwealth body was the Registrar with those functions or powers; and
 - (c) the new Registrar does not have data standards that would apply to those functions or powers;
- any data standards applying to those functions or powers immediately before that appointment continue to apply until the new Registrar makes data standards that apply to those functions or powers, or amends its existing data standards to apply to those functions or powers.

62J Giving information to the Registrar

- (1) Without limiting section 62H, the data standards may provide that information is to be given to the Registrar in electronic form, or any other specified form.
- (2) A requirement under this Act or the Transitional Act that information is to be provided to the Registrar in a particular form or manner (however described), including a requirement:
- (a) that the information is to be “lodged” or “furnished”; and
 - (b) that the information is to be “written” or “in writing”; and
 - (c) that a “copy” of a document containing the information is to be provided;
- is not taken to restrict by implication what the data standards may provide under subsection (1) in relation to that information.

62K How the Registrar is to perform and exercise functions and powers

- (1) The Registrar must perform its functions and exercise its powers under this Act or the Transitional Act in accordance with:
 - (a) the data standards; or
 - (b) if there are no data standards that apply to particular functions or powers—any requirement relating to those functions or powers as in force immediately before those functions or powers became functions or powers of the Registrar.
- (2) This section does not affect the application to the Registrar of any other law of the Commonwealth.

Subdivision C—Disclosure of information

62L Disclosure framework

- (1) The Registrar may, by legislative instrument, make a disclosure framework relating to disclosing protected information.
- (2) Without limiting subsection (1), the disclosure framework may provide for any of the following:
 - (a) circumstances in which information must not be disclosed without the consent of the person to whom it relates;
 - (b) circumstances in which de-identified information may be disclosed;
 - (c) circumstances in which information may be disclosed to the general public;
 - (d) circumstances in which confidentiality agreements are required for the disclosure of information;
 - (e) imposing conditions on disclosure of information.
- (3) Without limiting subsection (1), the disclosure framework may provide differently in relation to different functions or powers of the Registrar under this Act or the Transitional Act.

- (4) A person commits an offence if:
- (a) the person is a party to a confidentiality agreement of a kind mentioned in paragraph (2)(d); and
 - (b) the person fails to comply with the confidentiality agreement.

Penalty: 100 penalty units or imprisonment for 2 years, or both.

- (5) The disclosure framework must not provide for disclosure of protected information unless the Registrar is satisfied that the benefits of the disclosure would outweigh the risks of the disclosure (taking into account any mitigation of those risks in accordance with the disclosure framework).
- (6) However, subsection (5) does not apply to the extent that the disclosure framework deals with a matter in accordance with a direction under section 62D.
- (7) If:
- (a) a Commonwealth body (the *new Registrar*) is appointed as the Registrar with particular functions or powers under this Act or the Transitional Act; and
 - (b) immediately before that appointment, another Commonwealth body was the Registrar with those functions or powers; and
 - (c) the new Registrar does not have a disclosure framework that would apply to those functions or powers;

the disclosure framework applying to those functions or powers immediately before that appointment continues to apply until the new Registrar makes a disclosure framework that applies to those functions or powers, or amends its existing disclosure framework to apply to those functions or powers.

62M Protection of confidentiality of protected information

- (1) A person (the *first person*) commits an offence if:
- (a) the first person is, or has been, in official employment; and
 - (b) the first person makes a record of information, or discloses information to another person; and

- (c) the information is protected information that was obtained by the first person in the course of the first person's official employment.
- (2) However, subsection (1) does not apply if the recording or disclosure is authorised by subsection (3).
- (3) The recording or disclosure is authorised by this subsection if:
 - (a) the recording or disclosure is for the purposes of this Division; or
 - (b) the recording or disclosure happens in the course of the performance of the duties of the first person's official employment; or
 - (c) in the case of a disclosure—the disclosure is to another person for use, in the course of the performance of the duties of the other person's official employment, in relation to the performance or exercise of the functions or powers of a government entity; or
 - (d) in the case of a disclosure to another person who is an employee of a State, a Territory or an authority of a State or Territory—the disclosure:
 - (i) is to the other person for use, in the course of the performance of the duties of that employment, in relation to the performance or exercise of the functions or powers of a government entity; and
 - (ii) is in accordance with an agreement, about registration of business names, between the Commonwealth, the States, the Australian Capital Territory and the Northern Territory; or
 - (e) in the case of a disclosure—each person to whom the information relates consents to the disclosure; or
 - (f) in the case of a disclosure—the disclosure is in accordance with the disclosure framework.

Note: A defendant bears an evidential burden in relation to the matters in subsection (3): see subsection 13.3(3) of the *Criminal Code*.

62N Authorisation of recording or disclosure

- (1) A person is not liable to any proceedings for contravening a secrecy provision in respect of a recording or disclosure authorised under subsection 62M(3), unless the secrecy provision is a designated secrecy provision.
- (2) A **secrecy provision** is a provision that:
 - (a) is a provision of a law of the Commonwealth (other than this Act); and
 - (b) prohibits or regulates the use or disclosure of information.
- (3) A **designated secrecy provision** is any of the following:
 - (a) sections 18 to 18B and 92 of the *Australian Security Intelligence Organisation Act 1979*;
 - (b) section 34 of the *Inspector-General of Intelligence and Security Act 1986*;
 - (c) sections 39 to 41 of the *Intelligence Services Act 2001*;
 - (d) section 8WB of the *Taxation Administration Act 1953*;
 - (e) a provision of a law of the Commonwealth prescribed by rules made for the purposes of this paragraph under section 62U;
 - (f) a provision of a law of the Commonwealth of a kind prescribed by rules made for the purposes of this paragraph under section 62U.

62P Preventing disclosure of particular protected information

- (1) If:
 - (a) a person applies to the Registrar for particular protected information relating to the person not to be disclosed; and
 - (b) the Registrar is satisfied that it is not appropriate to disclose that information;a disclosure of that information is taken, for the purposes of this Act, not to be in accordance with the disclosure framework.

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- (2) Without limiting section 62L, the disclosure framework may provide for:
- (a) how applications referred to in paragraph (1)(a) are to be made; and
 - (b) how those applications are to be decided.

62Q Authorisation for purposes of Privacy Act

A disclosure of personal information (within the meaning of the *Privacy Act 1988*) is taken to be authorised by law for the purposes of paragraph 6.2(b) of Schedule 1 to that Act if:

- (a) the information is protected information; and
- (b) the disclosure is authorised by subsection 62M(3) of this Act.

62R Disclosure to a court

A person is not to be required:

- (a) to produce to a court any document that:
 - (i) contains protected information; and
 - (ii) was made or given under, or for the purposes of, this Act or the Transitional Act; and
 - (iii) was obtained by the person in the course of the person's official employment; or
- (b) to disclose to a court any protected information that the person obtained in the course of the person's official employment;

unless the production or disclosure is necessary for the purpose of giving effect to a taxation law or an Australian business law.

Subdivision D—Miscellaneous

62S Extracts of information to be admissible in evidence

- (1) In any proceedings, a document, or a copy of a document, that purports (irrespective of the form of wording used) to be an extract of information held by the Registrar under, or for the purposes of, this Act or the Transitional Act:

- (a) is proof, in the absence of evidence to the contrary, of information that is stated in it and that purports to be held by the Registrar; and
 - (b) is admissible without any further proof of, or the production of, the original;
- if it does not appear to the Court to have been revised or tampered with in a way that affects, or is likely to affect, the information.
- (2) The Registrar may give a person a certified copy of, or extract from, the information held by the Registrar under, or for the purposes of, this Act or the Transitional Act on payment of the fee (if any) prescribed by rules made under section 62U.
 - (3) In any proceedings, the certified copy:
 - (a) is prima facie evidence of information that is stated in it and that purports to be held by the Registrar under, or for the purposes of, this Act or the Transitional Act; and
 - (b) is admissible without any further proof of, or the production of, the original.
 - (4) This section does not limit the manner in which evidence may be adduced, or the admissibility of evidence, under the *Evidence Act 1995*.

62T Annual report

Each annual report by the Registrar for a period must include information about the performance of the Registrar's functions and exercise of the Registrar's powers under, or for the purposes of, this Act or the Transitional Act during that period.

62U Rules

- (1) The Minister may, by legislative instrument, make rules prescribing matters:
 - (a) required or permitted by this Division to be prescribed by rules made under this section; or

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- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Division.
- (2) To avoid doubt, rules made under this section may not do the following:
 - (a) create an offence or civil penalty;
 - (b) provide powers of:
 - (i) arrest or detention; or
 - (ii) entry, search or seizure;
 - (c) impose a tax;
 - (d) set an amount to be appropriated from the Consolidated Revenue Fund under an appropriation in this Act;
 - (e) directly amend the text of this Act.

Division 2—Miscellaneous

65 Arrangements with States and Territories

- (1) The Registrar may, with the consent of the Minister, enter into an agreement or arrangement with a State or Territory for the performance of functions or the exercise of powers by the Registrar as an agent of the State or Territory.
- (2) The Registrar has such functions and powers as are referred to in such an agreement or arrangement. However, the Registrar is not under a duty to perform such functions or exercise such powers.
- (3) The Registrar is not subject to any directions of the Minister in relation to:
 - (a) entering into an agreement or arrangement under subsection (1); or
 - (b) performing functions or exercising powers referred to in subsection (2).

69 The Registrar may refuse to receive document etc.

The Registrar may refuse to receive document etc.

- (1) If the Registrar considers that a document submitted to the Registrar under this Act or the Transitional Act:
 - (a) contains matter that, in a material particular, is false or misleading in the form or context in which it is included; or
 - (b) is incomplete; or
 - (c) does not meet the requirements (if any) of the data standards; or
 - (d) otherwise contravenes this Act or the Transitional Act; or
 - (e) contains an error, alteration or erasure;the Registrar may refuse to receive the document and may make a request under subsection (2).

Section 69

Note: The effect of the Registrar refusing to receive the document is that the document is not given to the Registrar (see subsection (6)).

- (2) For the purposes of subsection (1), the Registrar may request:
- (a) that the document be appropriately amended or completed and resubmitted; or
 - (b) that a fresh document be submitted in its place; or
 - (c) if the document is incomplete—that a supplementary document be lodged.
- (2A) Lodgement of the supplementary document must meet any requirements of the data standards.

Request to provide further document or information

- (3) The Registrar may request an entity that submits a document (the **first document**) under this Act or the Transitional Act to:
- (a) give the Registrar any other document; or
 - (b) give the Registrar any information;
- that the Registrar considers necessary in order to form an opinion as to whether it may refuse to receive the first document.

Request must specify day by which entity must comply

- (4) The request must specify the day by which the entity must comply with the request (which must be a reasonable period after the request is given). The Registrar may specify a later day by notifying the entity.

Requirement to comply with request

- (5) If the entity does not comply with the request within the time specified in the request, the Registrar may refuse the first document.

Consequences of refusal to receive

- (6) If the Registrar refuses to receive a document, it is taken never to have been given to the Registrar.

70 Fees are payable to the Registrar on behalf of the Commonwealth

Fees are payable to the Registrar on behalf of the Commonwealth.

71 When is an application fee fully paid?

The Registrar may, by legislative instrument, determine the circumstances in which fees are taken to be fully paid.

72 Waiver and refund of fees

Nothing in this Act, the Transitional Act or the *Business Names Registration (Fees) Act 2011* prevents the Registrar, on behalf of the Commonwealth, from:

- (a) waiving or reducing, in a particular case or in particular classes of cases, fees that would otherwise be payable; or
- (b) refunding, in whole or in part, in a particular case or in particular classes of cases, fees.

73 Address for receipt of notices

If a business name is registered to an entity, a notice under this Act and the Transitional Act may be given to the entity by:

- (a) leaving it at, or sending it by pre-paid post to, the address recorded by the Registrar under this Act or the Transitional Act as the address for service; or
- (b) if there is an email address recorded by the Registrar under this Act or the Transitional Act for the entity, and the entity has given its consent to the use of that address in receipt of notices—sending it to that email address.

75 The Registrar may issue formal warning

If the Registrar has reasonable grounds to believe that an entity has contravened a provision of this Act, the Registrar may:

- (a) inform the entity of that fact; and
- (b) warn the entity of the action that may be taken by the Registrar under this Act in response to the contravention.

78 Liability for damages

The Minister is not liable to an action or other proceeding for damages for or in relation to an act done or omitted to be done in good faith in performance or purported performance of any function, or in exercise or purported exercise of any power, conferred or expressed to be conferred by or under this Act or the Transitional Act.

80 Minister may delegate prescribed functions and powers under this Act

- (1) The Minister may, by signed instrument, delegate to the Registrar such of the Minister's functions and powers under this Act or the Transitional Act as are prescribed.
- (2) In performing functions or exercising powers under a delegation, the delegate must comply with any directions of the Minister.

Part 10—General

81 Application of this Act to partnerships

- (1) An obligation that would otherwise be imposed on a partnership under this Act or the Transitional Act is imposed on each partner, but may be discharged by any of the partners.
- (2) If this Act or the Transitional Act would otherwise require or permit something to be done by a partnership, the thing may be done by one or more of the partners on behalf of the partnership.
- (3) An offence against this Act or the Transitional Act that would otherwise be committed by the partnership is taken to have been committed by each partner.
- (4) A partner does not commit an offence because of subsection (3) if the partner:
 - (a) does not know of the circumstances that constitute the contravention of the provision concerned; or
 - (b) knows of those circumstances but takes all reasonable steps to correct the contravention as soon as possible after the partner becomes aware of those circumstances.

Note: A defendant bears an evidential burden in relation to the matters in subsection (4): see subsection 13.3(3) of the *Criminal Code*.

82 Principal contact of a partnership

- (1) All the partners in a partnership may nominate a person as the principal contact for the partnership for the purposes of this Act and the Transitional Act.
- (2) If a person is nominated as the principal contact for a partnership for the purposes of this Act or the Transitional Act, that person is taken to be the agent of the partnership for the purposes of that Act, until the nomination is withdrawn.

Section 83

- (3) Subsection (2) is not affected by a change in the composition of the partnership.
- (4) All the partners in a partnership may withdraw the nomination of a person as principal contact for the partnership for the purposes of this Act or the Transitional Act.
- (5) A nomination or withdrawal of a nomination under this section must be given to the Registrar and must meet any requirements of the data standards.

83 Application of this Act to unincorporated associations and bodies

- (1) An obligation that would otherwise be imposed on an unincorporated association or body under this Act or the Transitional Act is imposed on each member of the committee of management of the association or body, but may be discharged by any of the members of the committee.
- (2) If this Act or the Transitional Act would otherwise require or permit something to be done by an unincorporated association or body, the thing may be done by one or more of the members of the committee of management of the association or body on behalf of the association or body.
- (3) An offence against this Act or the Transitional Act that would otherwise be committed by the association or body is taken to have been committed by each member of the committee of management of the association or body.
- (4) A member of the committee of management of the association or body does not commit an offence because of subsection (3) if the member:
 - (a) does not know of the circumstances that constitute the contravention of the provision concerned; or
 - (b) knows of those circumstances but takes all reasonable steps to correct the contravention as soon as possible after the member becomes aware of those circumstances.

Note: A defendant bears an evidential burden in relation to the matters in subsection (4): see subsection 13.3(3) of the *Criminal Code*.

84 Principal contact of an unincorporated association or body

- (1) All the members of the committee of management of an unincorporated association or body may nominate a person as the principal contact for the association or body for the purposes of this Act or the Transitional Act.
- (2) If a person is nominated as principal contact for an unincorporated association or body for the purposes of this Act or the Transitional Act, that person is taken to be the agent of the association or body for the purposes of that Act, until the nomination is withdrawn.
- (3) Subsection (2) is not affected by:
 - (a) a change in the membership of the association or body; or
 - (b) a change in the membership of the committee of management of the association or body.
- (4) All the members of the committee of management of an unincorporated association or body may withdraw the nomination of a person as the principal contact for the association or body for the purposes of this Act or the Transitional Act.
- (5) A nomination or withdrawal of a nomination under this section must be given to the Registrar and must meet any requirements of the data standards.

85 Application of this Act to a trust with 2 or more trustees

- (1) This section applies where a trust has 2 or more trustees.
- (2) An obligation that would otherwise be imposed on the trust by this Act or the Transitional Act is imposed on each trustee instead, but may be discharged by any of the trustees.
- (3) If this Act or the Transitional Act would otherwise require or permit something to be done by the trust, the thing may be done by one or more of the trustees on behalf of the trust.

- (4) An offence against this Act or the Transitional Act that would otherwise be committed by the trust is taken to have been committed by each trustee.
- (5) A trustee does not commit an offence because of subsection (4) if the trustee:
 - (a) does not know of the circumstances that constitute the contravention of the provision concerned; or
 - (b) knows of those circumstances but takes all reasonable steps to correct the contravention as soon as possible after the trustee becomes aware of those circumstances.

Note: A defendant bears an evidential burden in relation to the matters in subsection (5): see subsection 13.3(3) of the *Criminal Code*.

86 Principal contact of a trust

- (1) This section applies where a trust has 2 or more trustees.
- (2) All the trustees of a trust may nominate a person as the principal contact for the trustees for the purposes of this Act or the Transitional Act.
- (3) If a person is nominated as the principal contact for the trustees of a trust for the purposes of this Act or the Transitional Act, that person is taken to be the agent of the trustees in relation to the trust for the purposes of that Act, until the nomination is withdrawn.
- (4) Subsection (3) is not affected by a change in the trustees of the trust.
- (5) All the trustees of a trust may withdraw the nomination of a person as principal contact for the trustees in relation to the trust, for the purposes of this Act or the Transitional Act.
- (6) A nomination or withdrawal of a nomination under this section must be given to the Registrar and must meet any requirements of the data standards.

87 Joint ventures

Application

- (1) This section applies if:
- (a) 2 or more entities (the *joint venture entities*) have entered into a contractual arrangement under which they carry on, or intend to carry on, a business jointly under a business name; and
 - (b) the entities do not form another entity to do so.

Subject to this section, the joint venture entities are together treated as a single entity (the *joint venture*) for the purposes of this Act and the Transitional Act.

Treat joint venture in the same way as an entity

- (2) An obligation that would otherwise be imposed on the joint venture under this Act or the Transitional Act is imposed on each joint venture entity, but may be discharged by any of the joint venture entities.
- (3) If this Act or the Transitional Act would otherwise require or permit something to be done by the joint venture, the thing may be done by one or more of the joint venture entities on behalf of all of the joint venture entities.
- (4) An offence against this Act or the Transitional Act that would otherwise be committed by the joint venture is taken to have been committed by each joint venture entity.
- (5) A joint venture entity does not commit an offence because of subsection (4) if the joint venture entity:
- (a) does not know of the circumstances that constitute the contravention of the provision concerned; or
 - (b) knows of those circumstances but takes all reasonable steps to correct the contravention as soon as possible after the joint venture entity becomes aware of those circumstances.

Note: A defendant bears an evidential burden in relation to the matters in subsection (5): see subsection 13.3(3) of the *Criminal Code*.

Principal contact of joint venture

- (6) All the joint venture entities may nominate a person as the principal contact for the joint venture for the purposes of this Act or the Transitional Act.
- (7) If a person is nominated as the principal contact for the joint venture for the purposes of this Act or the Transitional Act, that person is taken to be the agent of the joint venture entities for the purposes of this Act and the Transitional Act, until the nomination is withdrawn.
- (8) All the joint venture entities may withdraw the nomination of a person as principal contact for the joint venture for the purposes of this Act or the Transitional Act.
- (9) A nomination or withdrawal of a nomination under this section must be given to the Registrar and must meet any requirements of the data standards.

ABN numbers

- (10) An application for registration of a business name to the joint venture must include the ABNs of each of the joint venture entities, or, if an application for an ABN for a joint venture entity is pending, a statement to that effect and the reference number for the ABN application.
- (11) The Registrar must not register the business name to the joint venture unless each of the joint venture entities has an ABN.
- (12) To avoid doubt, the priority of a joint venture over a business name is not affected by the fact that an ABN application by any joint venture entity is pending.
- (13) Otherwise, a reference in this Act to the ABN of an entity means, in the case of a joint venture, the ABN of each of the joint venture entities.

Death of a joint venture entity

- (14) If a joint venture entity who is an individual dies:
- (a) the business name continues to be registered to the joint venture; and
 - (b) sections 39 and 40 otherwise apply in relation to the joint venture entity in the same way as they apply in relation to an individual to whom a business name is registered.

89 Entities that have ceased to exist

If, under this Act, notice must or may be given to an entity that no longer exists, notice is taken to be given to the entity if it is given to a person, or a person of a class, prescribed by the regulations for the purposes of this section, to be the relevant person, or class of persons, for an entity of that kind.

90 Regulations

The Governor-General may make regulations prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Section 1

Schedule 1—Notified State/Territory registers

Note: See section 6.

1 New South Wales

Each of the following registers of New South Wales is specified:

- (a) the Register of Co-operatives established under the *Co-operatives (Adoption of National Law) Act 2012* of New South Wales;
- (b) the Register of Incorporated Associations established under the *Associations Incorporation Act 2009* of New South Wales;
- (c) the Register of Limited and Incorporated Limited Partnerships established under the *Partnership Act 1892* of New South Wales;
- (d) the register of co-operative housing societies and Starr-Bowkett societies established under the *Co-operative Housing and Starr-Bowkett Societies Act 1998* of New South Wales;
- (e) any register of the same kind as a register mentioned in paragraphs (a) to (d), established in substitution for a register mentioned in one of those paragraphs.

2 Victoria

Each of the following registers of Victoria is specified:

- (a) the Register of Co-operatives established under the *Co-operatives National Law Application Act 2013* of Victoria;
- (b) the register of incorporated associations established under the *Associations Incorporation Act 1981* of Victoria;
- (c) the Register of Incorporated Limited Partnerships established under the *Partnership Act 1958* of Victoria;
- (d) the Register of Limited Partnerships established under the *Partnership Act 1958* of Victoria;

- (e) any register of the same kind as a register mentioned in paragraphs (a) to (d), established in substitution for a register mentioned in one of those paragraphs.

3 Queensland

Each of the following registers of Queensland is specified:

- (a) the register of incorporated associations established under the *Associations Incorporation Act 1981* of Queensland;
- (b) the register of cooperatives, foreign cooperatives and cooperative charges established under the *Cooperatives Act 1997* of Queensland;
- (c) the register of incorporated limited partnerships established under the *Partnership Act 1891* of Queensland;
- (d) the register of the current addresses of incorporated church entities (other than the Corporation of the Bishops) that the Corporation of the Bishops is obliged to keep under the *Roman Catholic Church (Incorporation of Church Entities) Act 1994* of Queensland;
- (e) any register of the same kind as a register mentioned in paragraphs (a) to (d), established in substitution for a register mentioned in one of those paragraphs.

4 Western Australia

Each of the following registers of Western Australia is specified:

- (a) the register of co-operatives established under the *Co-operatives Act 2009* of Western Australia;
- (b) the register of foreign co-operatives established under the *Co-operatives Act 2009* of Western Australia;
- (c) the register of associations incorporated by the issue of a certificate of incorporation under the *Associations Incorporation Act 1987* of Western Australia;
- (d) any register of the same kind as a register mentioned in paragraphs (a) to (c), established in substitution for a register mentioned in one of those paragraphs.

Section 5

5 South Australia

Each of the following registers of South Australia is specified:

- (a) the register of co-operatives established under the *Co-operatives National Law (South Australia) Act 2013* of South Australia;
- (b) the register of incorporated associations established under the *Associations Incorporation Act 1985* of South Australia;
- (c) the Register of Limited Partnerships and Incorporated Limited Partnerships established under the *Partnership Act 1891* of South Australia;
- (d) any register of the same kind as a register mentioned in paragraphs (a) to (c), established in substitution for a register mentioned in one of those paragraphs.

6 Tasmania

Each of the following registers of Tasmania is specified:

- (a) the Register of Cooperatives established under the *Co-operatives National Law (Tasmania) Act 2015* of Tasmania;
- (b) the register of associations incorporated by the issue of a certificate of incorporation under the *Associations Incorporation Act 1964* of Tasmania;
- (c) the Register of Limited Partnerships and Incorporated Limited Partnerships established under *Partnership Act 1891* of Tasmania;
- (d) any register of the same kind as a register mentioned in paragraphs (a) to (c), established in substitution for a register mentioned in one of those paragraphs.

7 Australian Capital Territory

Each of the following registers of the Australian Capital Territory is specified:

- (a) the register of co-operatives established under the *Co-operatives National Law (ACT) Act 2017* of the Australian Capital Territory;
- (b) the register of associations incorporated by the issue of a certificate of incorporation under the *Associations Incorporation Act 1991* of the Australian Capital Territory;
- (c) the register of incorporated limited partnerships established under the *Partnership Act 1963* of the Australian Capital Territory;
- (d) any register of the same kind as a register mentioned in paragraphs (a) to (c), established in substitution for a register mentioned in one of those paragraphs.

8 Northern Territory

Each of the following registers of the Northern Territory is specified:

- (a) the Register of Co-operatives established under the *Co-operatives (National Uniform Legislation) Act 2015* of the Northern Territory;
- (b) the register of associations incorporated by the issue of a certificate of incorporation under the *Associations Act 2003* of the Northern Territory;
- (c) any register of the same kind as a register mentioned in paragraphs (a) and (b), established in substitution for a register mentioned in one of those paragraphs.

Endnotes

Endnote 1—About the endnotes

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe how an amendment is to be made. If, despite the misdescription, the amendment

Endnote 1—About the endnotes

can be given effect as intended, then the misdescribed amendment can be incorporated through an editorial change made under section 15V of the *Legislation Act 2003*.

If a misdescribed amendment cannot be given effect as intended, the amendment is not incorporated and “(md not incorp)” is added to the amendment history.

Endnotes

Endnote 2—Abbreviation key

Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous (prev...) = previously
def = definition(s)	Pt = Part(s)
Dict = Dictionary	r = regulation(s)/rule(s)
disallowed = disallowed by Parliament	reloc = relocated
Div = Division(s)	renum = renumbered
ed = editorial change	rep = repealed
exp = expires/expired or ceases/ceased to have effect	rs = repealed and substituted
F = Federal Register of Legislation	s = section(s)/subsection(s)
gaz = gazette	Sch = Schedule(s)
LA = <i>Legislation Act 2003</i>	Sdiv = Subdivision(s)
LIA = <i>Legislative Instruments Act 2003</i>	SLI = Select Legislative Instrument
(md) = misdescribed amendment can be given effect	SR = Statutory Rules
(md not incorp) = misdescribed amendment cannot be given effect	Sub-Ch = Sub-Chapter(s)
mod = modified/modification	SubPt = Subpart(s)
No. = Number(s)	<u>underlining</u> = whole or part not commenced or to be commenced

Endnote 3—Legislation history

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Business Names Registration Act 2011	126, 2011	3 Nov 2011	s 3–17, 22, 37, 63–90 and Sch 1: 20 Apr 2012 (s 2(1) items 2, 4, 6, 8, 9) s 18–21, 23–36 and 38–62: 28 May 2012 (s 2(1) items 3, 5, 7) Remainder: 3 Nov 2011 (s 2(1) item 1)	
Territories Legislation Amendment Act 2016	33, 2016	23 Mar 2016	Sch 5 (items 23, 24): 1 July 2016 (s 2(1) item 7)	—
Treasury Laws Amendment (Enhancing ASIC’s Capabilities) Act 2018	122, 2018	3 Oct 2018	Sch 2 (items 14, 15): 1 July 2019 (s 2(1) item 3)	—
Treasury Laws Amendment (2019 Measures No. 3) Act 2020	64, 2020	22 June 2020	Sch 3 (items 160–162, 325, 326): 1 Oct 2020 (s 2(1) item 6)	Sch 3 (items 325, 326)
Treasury Laws Amendment (Registries Modernisation and Other Measures) Act 2020	69, 2020	22 June 2020	Sch 1 (items 1–5): 4 Apr 2021 (s 2(1) item 2) Sch 1 (items 104–339): 22 June 2022 (s 2(1) item 2)	—
Treasury Laws Amendment (2020 Measures No. 6) Act 2020	141, 2020	17 Dec 2020	Sch 4 (items 5–11): 18 Dec 2020 (s 2(1) item 6)	—

Business Names Registration Act 2011

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Compilation No. 6

Compilation date: 22/06/2022

Registered: 07/07/2022

Endnotes

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
Part 1	
Division 2	
s 3	am No 33, 2016; No 69, 2020
s 6	am No 69, 2020
s 6A	ad No 69, 2020
Division 5	
s 16	am No 69, 2020
Part 2	
s 18	am No 69, 2020
s 19	am No 69, 2020
Part 3	
s 22	rep No 69, 2020
s 23	am No 69, 2020
s 24	am No 69, 2020
s 25	am No 69, 2020
s 28	am No 69, 2020
s 29	am No 69, 2020
s 30	am No 69, 2020
s 31	am No 69, 2020
s 32	am No 69, 2020
s 33	am No 69, 2020
s 34	am No 69, 2020
s 34A	ad No 69, 2020
Part 4	
Part 4 heading	am No 69, 2020
s 35	am No 69, 2020
s 36	am No 69, 2020

Endnote 4—Amendment history

Provision affected	How affected
s 37	am No 69, 2020
s 38	am No 69, 2020
s 39	am No 69, 2020
s 40	am No 69, 2020
s 41	am No 69, 2020
Part 5	
s 42	am No 69, 2020
s 43	am No 69, 2020
s 44	am No 69, 2020
s 45	am No 69, 2020
s 46	am No 69, 2020 (Sch 1 item 222 md not incorp)
s 47	am No 69, 2020
s 48	am No 69, 2020
s 49	am No 69, 2020
s 50	am No 69, 2020
s 51	am No 69, 2020
s 52	rs No 69, 2020
s 53	am No 69, 2020
s 54	am No 69, 2020
Part 6	
s 55	am No 69, 2020
Part 7	
s 56	am No 69, 2020
s 57	am No 69, 2020
s 58	am No 69, 2020
Part 8	
Part 8	rep No 69, 2020
s 60	rep No 69, 2020
s 61	rep No 69, 2020
s 62	rep No 69, 2020

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
Part 9	
Division 1	
Division 1	ad No 69, 2020
Subdivision A	
s 62A	ad No 69, 2020
s 62B.....	ad No 69, 2020
s 62C.....	ad No 69, 2020
s 62D	ad No 69, 2020
s 62E.....	ad No 69, 2020
s 62F.....	ad No 69, 2020
s 62G	ad No 69, 2020
Subdivision B	
s 62H	ad No 69, 2020
s 62J.....	ad No 69, 2020
s 62K	ad No 69, 2020
Subdivision C	
s 62L.....	ad No 69, 2020
s 62M.....	ad No 69, 2020
s 62N	ad No 69, 2020
s 62P	ad No 69, 2020
s 62Q	ad No 69, 2020
s 62R.....	ad No 69, 2020
Subdivision D	
s 62S	ad No 69, 2020
s 62T.....	ad No 69, 2020
s 62U	ad No 69, 2020
Division 2	
Division 2 heading.....	ad No 69, 2020
s 63	rep No 69, 2020
s 64	am No 64, 2020
	rep No 69, 2020

Endnote 4—Amendment history

Provision affected	How affected
s 65	am No 69, 2020
s 66	rep No 69, 2020
s 67	rep No 69, 2020
s 68	rep No 69, 2020
s 69	am No 69, 2020
s 70	am No 69, 2020
s 71	am No 69, 2020
s 72	am No 69, 2020
s 73	am No 69, 2020
s 74	rep No 69, 2020
s 75	am No 69, 2020
s 76	rep No 69, 2020
s 77	rep No 69, 2020
s 78	am No 69, 2020
s 79	am No 122, 2018 rep No 69, 2020
s 80	am No 122, 2018; No 69, 2020
Part 10	
s 82	am No 69, 2020
s 84	am No 69, 2020
s 86	am No 69, 2020
s 87	am No 69, 2020
s 88	rep No 141, 2020 am No 69, 2020 (amds never applied (Sch 1 items 338, 339))
Schedule 1	
s 1	am No 141, 2020
s 2	am No 141, 2020
s 5	am No 141, 2020
s 6	am No 141, 2020
s 7	am No 141, 2020
s 8	ed C2

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
	am No 141, 2020