



Business Names Registration Regulations 2011

Select Legislative Instrument No. 214, 2011

made under the

Business Names Registration Act 2011

Compilation No. 3

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About this compilation

This compilation

This is a compilation of the *Business Names Registration Regulations 2011* that shows the text of the law as amended and in force on 1 January 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If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

Contents

1	Name of Regulations.....	1
3	Definitions	1
4	Carrying on a business under unregistered business name— offence does not apply	1
5	Not including business name in written communications— offence does not apply	2
6	Not displaying business name at places open to the public— offence does not apply	2
7	Details that may be included in Register.....	3
8	Details of notified successor that may be included in Register	3
9	Accessing Register by request	3
10	Publicly available information	4
11	Certain information to be made available to government bodies.....	5
12	Destruction or disposal of documents	5
13	Delegation of functions and powers	5
14	Persons who may receive notice for entities that have ceased to exist.....	5
15	Modifications of the Act	6
16	Application and saving provision relating to the <i>Business Names Registration Amendment (Delegation and Notified Register) Regulations 2018</i>	6
	Schedule 1—Modifications of the Act	7
	Endnotes	8
	Endnote 1—About the endnotes	8
	Endnote 2—Abbreviation key	9
	Endnote 3—Legislation history	10
	Endnote 4—Amendment history	11
	Endnote 5—Editorial changes	12

1 Name of Regulations

These Regulations are the *Business Names Registration Regulations 2011*.

3 Definitions

In these Regulations:

Act means the *Business Names Registration Act 2011*.

alternative contact details means contact details that:

- (a) are provided by an entity to which a business name is, or is to be, registered; and
- (b) are not required by the Act or these Regulations; and
- (c) are provided for use by ASIC or a body mentioned in section 62 of the Act.

Register means the Business Names Register established and maintained under subsection 22(1) of the Act.

Note: Other words used in these Regulations have the meaning given by section 3 of the Act, for example:

- ABN
- ASIC
- business name
- entity
- notified successor.

4 Carrying on a business under unregistered business name—offence does not apply

- (1) For paragraph 18(2)(h) of the Act, a circumstance in which the offence in subsection 18(1) of the Act does not apply is that an entity is carrying on a business under the domain name form of a business name that:
 - (a) is registered to the entity; and
 - (b) the entity is not prevented from using as a domain name.

Example for paragraph (a)

Carrying on a business under ‘fredsfish.com.au’ if the business name registered to an entity is ‘Fred’s Fish’.

Example for paragraph (b)

If the business name registered to an entity is ‘Fred’s Fish’, it does not automatically follow that the entity has access to all forms of ‘Fred’s Fish’ as domain names. The entity may have the domain name ‘fredsfish.com.au’ while a different entity may have the domain name ‘fredsfish.org’, which is a domain name that the first entity would be prevented from using.

- (2) For paragraph 18(2)(h) of the Act, a circumstance in which the offence in subsection 18(1) of the Act does not apply is that an entity is carrying on a business under a business name resulting from excluding one or more host names or domain extensions of a business name that is:

Regulation 5

- (a) a domain name; and
- (b) registered to the entity.

Examples

- 1 Carrying on a business under the name 'Fred's Fish' or 'fredsfish.com' if the business name registered to the entity is 'fredsfish.com.au'.
- 2 'www' is a host name.
- 3 'net', 'org' and 'com' are domain extensions.

5 Not including business name in written communications—offence does not apply

- (1) For paragraph 19(4)(i) of the Act, a circumstance in which the offence in subsection 19(1) of the Act does not apply is the inclusion by an entity of a domain name form of a business name registered to the entity, in a business document connected with carrying on the business under the name.
- (2) For paragraph 19(4)(i) of the Act, a circumstance in which the offence in subsection 19(1) of the Act does not apply is the inclusion by an entity of a business name resulting from excluding one or more host names or domain extensions of a business name that is:
 - (a) a domain name; and
 - (b) registered to the entity;

in a business document connected with carrying on the business under the name.

Examples

- 1 'www' is a host name.
- 2 'net', 'org' and 'com' are domain extensions.

6 Not displaying business name at places open to the public—offence does not apply

For paragraph 20(2)(i) of the Act, a circumstance in which the offence in subsection 20(1) of the Act does not apply is the prominent display by an entity, at every place open to the public at which the entity carries on the business, of either of the following:

- (a) a domain name form of a business name registered to the entity;
- (b) a business name resulting from excluding one or more host names or domain extensions of a business name that is:
 - (i) a domain name; and
 - (ii) registered to the entity.

Examples

- 1 'www' is a host name.
- 2 'net', 'org' and 'com' are domain extensions.

7 Details that may be included in Register

- (1) For subsection 33(7) of the Act, the following details are prescribed:
 - (a) contact details of an entity;
 - (b) any alternative contact details provided by an entity;
 - (c) the home address of an entity that is an individual;
 - (d) if a home address is provided as the principal place of business in Australia of an entity that is an individual—that the address is a home address;
 - (e) the date and place of birth of an entity that is an individual;
 - (f) whether a business name is currently registered to an entity;
 - (g) whether the registration of a business name to an entity has been cancelled;
 - (h) whether an application has been lodged for review of a decision to cancel the registration of a business name to an entity;
 - (i) a record of the day when a detail mentioned in subsection 33(1) of the Act or in this subregulation was included in the Register.
- (2) A reference in subregulation (1) to an entity is a reference to an entity that has or has had a business name registered to the entity.

Note: Subsection 33(7) of the Act provides that the Register may include prescribed details. Other details to be included in the Register are set out in subsection 33(1) of the Act and in regulations 4 and 5 of the *Business Names Registration (Transitional and Consequential Provisions) Regulations 2011*.

8 Details of notified successor that may be included in Register

For subsection 40(4) of the Act, the following details are prescribed:

- (a) the contact details of the notified successor;
- (b) any alternative contact details provided by the notified successor;
- (c) the way in which the notified successor is expected to inherit assets used by a deceased person in carrying on a business under the business name;
- (d) the relationship of the notified successor to the deceased person;
- (e) the date and place of birth of the notified successor if the notified successor is an entity that is an individual;
- (f) the notified successor's ABN, if any.

Note: Subsection 40(4) of the Act provides that ASIC may enter the name of an entity as a notified successor in relation to a business name, and other prescribed details, if the entity lodges a notice with ASIC in accordance with subsections 40(1) and (2) of the Act.

9 Accessing Register by request

For subsection 60(5) of the Act, the following details are to be excised from a copy of an entry in the Register before it is given to any person:

- (a) the date and place of birth of:
 - (i) an entity that is an individual; or
 - (ii) any other person, if those details were provided in accordance with subsection 23(6) of the Act;

- (b) any alternative contact details provided by an entity;
- (c) the home address of an entity that is an individual;
- (d) if a home address is provided as the principal place of business in Australia of an entity that is an individual—all of the address other than the suburb and the State or Territory in which the entity lives;
- (e) the details for the notified successor mentioned in paragraphs 8(c), (d) and (e).

Note: Details that ASIC must not disclose under subsection 60(6) of the Act must also be excised from the copy of the entry—see paragraph 60(4)(b) of the Act. Also, personal information on the Register that was previously suppressed under State or Territory registration laws cannot be disclosed in a copy of an entry—see item 26 of Schedule 1 to the *Business Names Registration (Transitional and Consequential Provisions) Act 2011*.

10 Publicly available information

- (1) For section 61 of the Act, the following details about a particular business name or entity are prescribed as details that ASIC must make publicly available on the internet or otherwise free of charge:
 - (a) the business name;
 - (b) the entity's name or, if more than one entity jointly registers a name, the entities to which a business name is registered;
 - (c) the entity's ABN, if any;
 - (d) the address of the entity's principal place of business in Australia;
 - (e) an address in Australia for service of documents;
 - (f) whether the business name is currently registered and the date its registration is due for renewal;
 - (g) whether the business name is currently registered or has been cancelled;
 - (h) whether an application has been lodged for review of a decision to cancel the registration of the business name to the entity;
 - (i) State or Territory of registration, and State or Territory registration number;
 - (j) date of registration;
 - (k) names of debtor representative and notified successor;
 - (l) any word or expression nominated by ASIC in accordance with item 18 of Schedule 1 to the *Business Names Registration (Transitional and Consequential Provisions) Act 2011*.
- (2) If:
 - (a) the entity is an individual; and
 - (b) the address mentioned in paragraph (1)(d) is the entity's home address;ASIC must only make publicly available the suburb and the State or Territory in which the entity lives.
- (3) ASIC must not make information publicly available if it is prevented from disclosing the information under subsection 60(6) of the Act.

11 Certain information to be made available to government bodies

For section 62 of the Act, the details recorded in the Register which ASIC must make available to:

- (a) a government body; or
- (b) an intelligence or security agency;

in accordance with that section are all details recorded in the Register.

Examples

- 1 An entity's alternative contact details.
- 2 An individual's date of birth.
- 3 An individual's place of birth.
- 4 The home address of an entity that is an individual.

12 Destruction or disposal of documents

For subparagraph 74(b)(i) of the Act, the period during which a document must be in ASIC's possession is 7 years.

13 Delegation of functions and powers

For the purposes of subsection 80(1) of the Act, the Minister's functions and powers under the following provisions are prescribed:

- (a) subsections 27(2), 28(2) and 32(3) of the Act;
- (b) subsections 9(1) and (2) of the *Business Names Registration (Availability of Names) Determination 2015* to the extent that each exercise of power under either of those subsections is in relation to a particular entity or business.

14 Persons who may receive notice for entities that have ceased to exist

- (1) For section 89 of the Act, a person or class of persons mentioned in column 3 of an item in the table is prescribed in relation to the matter mentioned in column 2 of the item.

Item	Matter	Class of persons
1	For notices to be taken to have been given to an entity that was a body corporate that has been deregistered and was being wound up immediately before its deregistration	Liquidators appointed to wind up the body corporate
2	For notices to be taken to have been given to an entity that was a body corporate that has been deregistered and was not being wound up immediately before deregistration	Persons who were directors of the body corporate immediately before its deregistration
3	For notices to be taken to have been	A person nominated in accordance with section 82

Regulation 15

Item	Matter	Class of persons
	given to an entity that was a partnership	of the Act as the principal contact of the partnership If no person has been nominated in accordance with section 82 of the Act, a person with the address in Australia for service of documents to the entity that was entered on the Register as required by paragraph 33(1)(d) of the Act
4	For notices to be taken to have been given to an entity that was an unincorporated association or body	A person nominated in accordance with section 84 of the Act as the principal contact of the association If no person has been nominated in accordance with section 84 of the Act, a person with the address in Australia for service of documents to the entity that was entered on the Register as required by paragraph 33(1)(d) of the Act
5	For notices to be taken to have been given to an entity that was a trust	A person nominated in accordance with section 86 of the Act as the principal contact of the trust If no person has been nominated in accordance with section 86 of the Act, a person with the address in Australia for service of documents, to the entity, that was entered on the Register as required by paragraph 33(1)(d) of the Act

(2) In this regulation:

deregistered has the meaning given by section 9 of the *Corporations Act 2001*.

15 Modifications of the Act

For subsection 6(2) of the Act, Schedule 1 to the Act applies as if it were modified by Schedule 1.

16 Application and saving provision relating to the *Business Names Registration Amendment (Delegation and Notified Register) Regulations 2018*

- (1) The amendment made by item 1 of Schedule 1 to the *Business Names Registration Amendment (Delegation and Notified Register) Regulations 2018* applies in relation to applications made under subsection 32(3) of the *Business Names Registration Act 2011* on or after the commencement of that item.
- (2) The amendment made by item 1 of Schedule 1 to the *Business Names Registration Amendment (Delegation and Notified Register) Regulations 2018* does not affect the continuity of any instrument of delegation in force under subsection 80(1) of the *Business Names Registration Act 2011* immediately before the commencement of that item.

Schedule 1—Modifications of the Act

(regulation 15)

1 Schedule 1, after paragraph 3(c)

insert

- (ca) the register of limited partnerships established under the *Partnership Act 1891* of Queensland;

2 After paragraph 4(b) of Schedule 1

Insert:

- (ba) the register of limited partnerships and incorporated limited partnerships established under the *Limited Partnerships Act 2016* of Western Australia;

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 the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

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
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

Endnotes

Endnote 3—Legislation history

Endnote 3—Legislation history

Number and year	FRLI registration	Commencement	Application, saving and transitional provisions
214, 2011	23 Nov 2011 (F2011L02406)	28 May 2012 (r 2)	
88, 2012	25 May 2012 (F2012L01080)	28 May 2012 (s 2)	—

Name	Registration	Commencement	Application, saving and transitional provisions
Business Names Registration Amendment (Delegation and Notified Register) Regulations 2018	13 July 2018 (F2018L01032)	14 July 2018 (s 2(1) item 1)	—
Treasury Laws Amendment (Miscellaneous and Technical Amendments) Regulations 2021	25 June 2021 (F2021L00848)	Sch 1 (item 16): 1 Jan 2022 (s 2(1) item 4)	—

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
r 2	rep LA s 48D
r 9	am No 88, 2012
r 10	am No 88, 2012
	ed C3
r 13	am No 88, 2012; F2018L01032
	rs F2021L00848
	ed C3
r 15	ad No 88, 2012
r 16	ad F2018L01032
Schedule 1	
Schedule 1	ad No 88, 2012
	am F2018L01032

Endnotes

Endnote 5—Editorial changes

Endnote 5—Editorial changes

In preparing this compilation for registration, the following kinds of editorial change(s) were made under the *Legislation Act 2003*.

Subregulation 10(3)

Kind of editorial change

Change to spelling

Details of editorial change

Subregulation 10(3) reads as follows:

- (3) ASIC must not make information publically available if it is prevented from disclosing the information under subsection 60(6) of the Act.

This compilation was editorially changed to omit “publically” and substitute “publicly” in subregulation 10(3) to correct the spelling.

Regulation 13

Kind of editorial change

Give effect to the misdescribed amendment as intended

Details of editorial change

Schedule 1 item 16 of the *Treasury Laws Amendment (Miscellaneous and Technical Amendments) Regulations 2021* instructs to repeal and substitute section 13.

Section 13 does not appear. However, regulation 13 does appear.

This compilation was editorially changed to repeal and substitute regulation 13 to give effect to the misdescribed amendment as intended.