



Business Names Registration (Availability of Names) Determination 2015¹

Business Names Registration Act 2011

I, BRUCE BILLSON, Acting Assistant Treasurer, make the following determination under sections 26 and 27 and subsection 28 (1) of the *Business Names Registration Act 2011*.

Dated: 14 July 2015

BRUCE BILLSON
Acting Assistant Treasurer

Contents

Part 1	Preliminary	
	1 Name of determination	3
	2 Commencement	3
	3 Definitions	3
	4 Determining if business name is available to an entity	3
Part 2	Rules for determining whether business names are identical or nearly identical to other names	
Division 1	Rules for determining whether business names are identical or nearly identical to names other than company names	
	5A Determining whether a business name is identical or nearly identical	4
	5 Matters to be disregarded	4
	6 Matters to be considered	5
Division 2	Rules for determining whether business names are identical or nearly identical to company names	
	7 Matters to be disregarded when comparing business names with company names	5
Part 3	Kinds of name that are undesirable	
	8 Characteristics to be considered	6
Part 4	Restricted words and expressions	
	9 Restricted words and expressions—Part 1 of Schedule 2	7
	10 Restricted words and expressions—Parts 2 and 3 of Schedule 2	7
Schedule 1	Words and expressions taken to be the same	9
Schedule 2	Restricted words and expressions	16
Part 1	Restricted words and expressions	16
Part 2	Restricted words and expressions unless Ministerial consent given	17
Part 3	Restricted words and expressions unless other consent given	17

Part 1 Preliminary

1 Name of determination

This determination is the *Business Names Registration (Availability of Names) Determination 2015*.

2 Commencement

This determination commences the business day after it is registered.

3 Definitions

In this determination, unless the contrary intention appears:

Act means the *Business Names Registration Act 2011*.

APRA means the Australian Prudential Regulation Authority.

character means a letter, number or other written symbol.

company name means a name that is reserved or registered under the *Corporations Act 2001* for another body.

Note Other words used in this determination have the meaning given by section 3 of the Act. For example:

- ASIC
- available
- business name
- entity.

4 Determining if business name is available to an entity

- (1) For section 26 of the Act, the rules for determining whether a business name is identical or nearly identical to another name are set out in Part 2.
- (2) For subsection 27 (1) of the Act, the kinds of business name that are undesirable for the purposes of the Act are set out in Part 3.
- (3) For subsection 28 (1) of the Act, a word or expression set out in Part 4 is restricted.

Part 2 Rules for determining whether business names are identical or nearly identical to other names

Division 1 Rules for determining whether business names are identical or nearly identical to names other than company names

5A Determining if business names are identical or nearly identical

A business name is identical or nearly identical to another name (other than a company name) if, and only if:

- (a) after comparing the business name with the other name by:
 - (i) disregarding the matters set out in subsection 5(1); and
 - (ii) applying subsection 6(1);the names are the same; or
- (b) subsection 6(2) applies.

5 Matters to be disregarded

- (1) The following matters are to be disregarded:
 - (a) the use of the definite or indefinite article unless it is the whole name;
 - (b) the use of 'Association', 'Co-operative', 'Incorporated', 'Limited', 'Ltd', 'No Liability', 'NL', 'Proprietary' or 'Pty' in one or both names;
 - (c) whether a word is in the plural or singular number in one or both names;
 - (d) the size of characters, and the type and case of letters, any accents, spaces between characters and punctuation marks, used in one or both names;
 - (e) the order of words in the names;
 - (f) whether one or both names includes a host name such as 'www' or a domain extension such as 'net', 'org' or 'com'.
- (2) For paragraph (1) (e), each of the following is to be treated as a word:
 - (a) a character separated by spaces;
 - (b) a group of characters separated by spaces;
 - (c) an abbreviation;
 - (d) an acronym.

Examples for paragraph (b)

- 1 XYZ123 is a word.
- 2 XYZ 123 is 2 words.

Section Determining if business names are identical or nearly identical to company names □

6 Matters to be considered

- (1) A word or expression in an item in Schedule 1 is to be taken to be the same as each other word or expression in the item.
- (2) A business name is identical or nearly identical to another name if, despite the characters used in the name, it may be pronounced the same as the other name.

Examples

- 1 'Creative@Work' is the same as 'Kre8tive at Work'.
 - 2 '100% Cats' is the same as '100 percent Kats'.
 - 3 'Dollar Shop' is the same as '\$ Shop'.
- (3) For subsection (1), each of the following is to be treated as a word:
 - (a) a character separated by spaces;
 - (b) a group of characters separated by spaces;
 - (c) an abbreviation.

Division 2 Rules for determining whether business names are identical or nearly identical to company names

7 Determining if business names are identical or nearly identical to company names

A business name is identical or nearly identical to a company name if, and only if, the names are the same after comparing the business name with the company name by applying the rules in Part 1 of Schedule 6 to the *Corporations Regulations 2001* (Rules for ascertaining whether names are identical) as if they had been made for subparagraph 25 (a) (ii) of the Act.

Note Part 1 of Schedule 6 to the *Corporations Regulations 2001* sets out matters to be disregarded in comparing one name with another for the purposes of paragraph 147 (1) (a) or (b) or 601DC (1) (a) or (b) of the *Corporations Act 2001*.

Part 3 Kinds of name that are undesirable

8 Characteristics to be considered

- (1) A business name is undesirable if the name has one or more of the characteristics in the table.

Item	Characteristic
1	In the opinion of ASIC, it is likely to be offensive to: <ul style="list-style-type: none">(a) members of the public; or(b) members of any section of the public
2	In the context in which it is proposed to be used, it suggests a connection with any of the following that does not exist: <ul style="list-style-type: none">(a) the Crown;(b) the Commonwealth Government;(c) the Government of a State or Territory;(d) a municipal or other local authority;(e) a department, authority or instrumentality of the Commonwealth Government;(f) a department, authority or instrumentality of the Government of a State or Territory;(g) the government of a foreign country;(h) a member of the Royal Family;(i) the receipt of Royal patronage;(j) a charitable organisation;(k) an ex-service personnel organisation or ex-service personnel generally;(l) Sir Donald Bradman;(m) Mary MacKillop;(n) the United Nations
3	In the context in which it is proposed to be used, it suggests that the members of an organisation are totally or partially incapacitated and those members are not so affected

- (2) However, if:
- (a) a business name includes the word ‘Commonwealth’ or ‘Federal’; and
 - (b) ASIC is satisfied that the word is used in a geographical context;
- the business name is not undesirable because of the use of the word.

Example

Commonwealth Avenue Pizza Parlour would not be an undesirable business name as Commonwealth Avenue is a geographical location.

Part 4 Restricted words and expressions

9 Restricted words and expressions—Part 1 of Schedule 2

- (1) A word or expression mentioned in an item in Part 1 of Schedule 2 is a restricted word or expression in relation to entities and businesses unless the Minister has given written consent to the use of the word or expression.
- (2) A word or expression that has the same or a similar meaning to a word or expression mentioned in an item in Part 1 of Schedule 2 is a restricted word or expression in relation to entities and businesses unless the Minister has given written consent to the use of the word or expression.
- (3) An abbreviation of a restricted word or expression is a restricted word or expression.

Note Other Commonwealth, State or Territory legislation may limit trading in that jurisdiction under names containing specified words or expressions. However, such a word or expression is not restricted under this determination unless it appears in Schedule 2.

- (4) A word or expression in item 113, 117, 123, 135, 141, 142 or 143 of Schedule 2 is not a restricted word or expression if, because of the Act under which it is incorporated or registered, it must be included in a business name held by:
 - (a) a registrable Australian body;
 - (b) a registered Australian body;
 - (c) a company;
 - (d) a registered foreign company; or
 - (e) a foreign company.

10 Restricted words and expressions—Parts 2 and 3 of Schedule 2

- (1) A word or expression mentioned in an item in Part 2 of Schedule 2 is a restricted word or expression in relation to entities and businesses unless the Minister mentioned in the item has given written consent to the use of the word or expression.
- (2) A word or expression that has the same or a similar meaning to a word or expression mentioned in an item in Part 2 of Schedule 2 is a restricted word or expression in relation to entities and businesses unless the Minister mentioned in the item has given written consent to the use of the word or expression.
- (3) A word or expression mentioned in an item in Part 3 of Schedule 2 is a restricted word or expression in relation to entities and businesses unless the public authority or agency mentioned in the item has given written consent to the use of the word or expression.

Section 10

- (4) A word or expression (whether or not in English) that has the same or a similar meaning to a word or expression mentioned in an item in Part 3 of Schedule 2 is a restricted word or expression in relation to entities and businesses unless the public authority or agency mentioned in the item has given written consent to the use of the word or expression.
 - (5) Subsections (1) to (4) also apply to:
 - (a) a group of characters; and
 - (b) characters, words and expressions that are not in English; and
 - (c) characters, words and expressions used:
 - (i) as part of another word or expression; or
 - (ii) in combination with other words or characters.
 - (6) However:
 - (a) a word or expression mentioned in Part 3 of Schedule 2 is not a restricted word or expression if ASIC is satisfied that it is used in a geographical context; and
 - (b) the letters ADI are not a restricted word if they are used as part of another word.
- Example*
- The letters *adi* appear in the word *traditional*. This section does not apply to use of the word *traditional*.
- (7) A written consent does not need to refer specifically to the use of the word or expression in the name, or in business names generally.

Schedule 1 Words and expressions taken to be the same

(subsection 6 (1))

Item	Word or expression
101	accom, accommodation, holiday accommodation
102	holiday apartments, holiday units
103	b & b, bed and breakfast,
104	hotel, inn
105	motel, motor inn
106	airlines, air services, aviation, aviation services
107	aquatic centre, aquatics, swimming pool, pool
108	art, art gallery, artworks, fine art, gallery, art centre, art service, art solution
109	cakes, cake shop, cupcakes
110	pastries, patisserie
111	bakehouse, bakery, bakers
112	bread, hot bread, hot bread shop
113	beauty, beauty boutique, beauty clinic, beauty salon, beauty studio, beauty therapy, beauty services, beauty centre
114	nails, nailz
115	body care, skincare, skin therapy
116	spray tan, spray tanning, tanning
117	bicycles, bikes, cycles
118	build, builders, buildings, building services, construct, constructions, construction services, fabrications, developments
119	homes, quality homes, houses
120	carpenters, carpentry, carpentry services, carpentry solution
121	joiner, joinery
122	bricklayers, bricklaying, bricklaying services, blocklaying
123	additions, extensions
124	home improvements, home renovations, renovate, renovations, renovators
125	buses, bus service, coaches, coach service
126	dog grooming, dog wash, grooming, pet grooming
127	caterers, catering, catering services
128	ceramics, ceramic tiling, tiles, tiling, tiling services, tiling solution
129	charcoal chicken, chicken

Item	Word or expression
130	child care, child care centre, children's centre, childrens centre, day care, family day care, long day care centre, day care centre
131	kindergarten, kindy, pre-school, preschool
132	domestic cleaning, domestic cleaning services, home cleaning, home cleaning services
133	carpet cleaners, carpet cleaning
134	apparel, clothes, clothing, wear
135	alterations, clothing alterations, dressmaking
136	boutique, couture, creations, fashion, fashion boutique, fashions
137	barista, coffee, espresso
138	paints, paint supplies
139	perfumes, scents
140	artisans, crafts, handcrafts
141	blinds, curtains
142	academy of dance, dance academy, dance centre, dance studio, school of dance, dance, dance school
143	master painters, painters, painting, painting contractors, painting service, painting solutions
144	painters and decorators, painting and decorating, painting and decorating services
145	doors, door services
146	garage doors, roller doors
147	earthmoving, excavations, earthworks
148	bobcat and tipper hire, bobcat hire, bobcats, diggers, earthmovers, mini diggers, tipper hire
149	cafe, cafe bar, caffe, kafe
150	diner, dining
151	eatery, eats
152	restaurant, ristorante
153	fast food, food, food bar, food service
154	snack bar, snacks
155	takeaway, take away food
156	pizza, pizza bar, pizzeria
157	seafood, seafood restaurant
158	sandwich bar, sandwiches
159	coffee bar, coffee house, coffee lounge, coffee shop, espresso bar
160	elec, electrical, electrical service, electricians, electrics, electrix, electronic services, electronic, electrical solutions

Item	Word or expression
161	exhaust, exhaust centre, mufflers
162	credit, finance, lending, loan centre, loan office, loans, money, financial, finance solutions
163	firearms, guns
164	fitness centre, gym
165	exercise, fit, fitness, workout
166	mats, rugs, carpet
167	blooms, flora, florist, flowers, flower shop, floral
168	food market, food store
169	fresh produce, produce
170	funeral directors, funerals, funeral services
171	&, and
172	fine furniture, furniture
173	garden care, garden design, gardener, gardening, garden maintenance, garden services, garden solutions, garden, gardening service, garden centre
174	tree lopping, tree lopping service
175	yard maintenance, yard services
176	landscape design, landscapes, landscape services, landscaping, landscaping services
177	glass, glass and glazing, glass service, glazing
178	leadlight, stained glass
179	grocer, grocery, grocery store, supermarket
180	milk bar, mini mart, mixed business
181	cuts, cutz, hair, hair boutique, hair cut, hair design, hairdresser, hairdressing, hairdressing salon, hair fashions, hair salon, hair studio, hair stylist, salon
182	@, at
183	caps, hats
184	audio, hi fi
185	assurance, insurance, insure, insurance services, insurance solutions
186	fashion jewellery, fine jewellery, gems, jewellers, jewellery, jewelry, jewels
187	%, percent
188	coin laundry, laundrette, laundromat, laundry, laundry service
189	lawyers, legal, legal services, solicitors, law
190	limolimousines, limousine service
191	bottle shop, cellars, liquor, liquor store
192	cruisers, marine, yacht, marine service

Item	Word or expression
193	boat hire, boating, charters, fishing charters
194	butcher, butchery
195	fresh meats, meat market, meats, meat supply, quality meats
196	automotive, automotive service centre, automotive services, auto service, auto service centre
197	automotive repairs, auto repairs, car repairs, motor repairs
198	mechanic, mechanical, mechanical repairs, mechanical services, mechanics
199	clinic, health care, medical centre, medical practice, medical services, medicine, medicine centre, practice, surgery, health, medical, medical clinic, medicine clinic
200	nurses, nursing
201	automobiles, autos, auto sales, cars, car sales, motor group, motors, vehicle
202	moto, motorcycles
203	lawn care, lawnmowing, lawn mowing service, lawns, mow, mowing, mowing service
204	music, music centre, music school
205	natural therapies, natural therapy centre, remedial therapy, therapeutics, therapies, therapy centre, therapy, therapy clinic
206	massage centre, massage therapy, remedial massage, sports massage, therapeutic massage, massage
207	naturopath, naturopathic clinic, naturopathy
208	news, newsagency, newsagent
209	eyewear, optical, optical services, specs, eye, eye clinic
210	optometrists, optometry
211	auto body repairs, body repairs, body shop, body works, crash repairs, dent removal, motor body repairs, panel beating, panels, panel works, smash repairs, detailing
212	concrete pumping, concreting, crete, formwork, concrete, crete service, concrete services, concreting services, crete solution
213	brick paving, pave, paving
214	pest control, pest control services, pest management, pest management service, pest
215	fuel, petrol, petroleum, diesel
216	pets, pet shop
217	chemist, dispensary, drug store, pharmacy
218	photo, photographer, photographs, photography
219	pics, pix, shots, snaps
220	plumbers, plumbing, plumbing contractors, plumbing services, plumbing solutions
221	drainage, drainage services, drain cleaning, draining
222	gasfitter, gasfitting, gas services

Item	Word or expression
223	guttering, gutters
224	pub, tavern
225	bar, lounge, saloon
226	real estate, real estate group, real estate services, realty
227	property group, property investment, property
228	roofing, roofing services, roof repairs, roof restorations, roofing solution
229	movers, relocations, removalists, removals, moving
230	footwear, shoes
231	bedding, mattress, bed
232	deli, delicatessen
233	candy, confectionery, lollies, lolly shop, sweets
234	cabs, taxi, taxi service
235	fone, phones
236	mobile phone, mobiles
237	tobacco, tobacconist
238	holidays, travels, trips, travel service, travel centre
239	touring, tours
240	grass, turf
241	film productions, films, pictures
242	demolition, wreckers
243	Australian, Australia, Aussie, Aus, Aust
244	co, company, coy
245	corp, corporation
246	=, equals
247	no, number
248	conveyancer, conveyancing, settlements, conveyancing services
249	towing, towing services
250	driving, drive, driving school, driving academy
251	dental, denture, dental centre, denture clinic, dental surgery, dental clinic
252	decorating, decorators, decorating services
253	physio, physiotherapy, physiotherapy centre
254	accountants, accounting, accounting services
255	chiropractic centre, chiropractic clinic
256	cooling, refrigeration, air conditioning, refrigeration services, air conditioning services

Item	Word or expression
257	antiques, collectables
258	architects, architecture, drafting, drafting services
259	cleaners, cleaning, cleaning services, cleaning solutions
260	consultancy, consulting, consultants, consultancy services
261	contracting, contractor, contracting services
262	design, designer, design services
263	institute, academy, school, college
264	services, solutions
265	engineering, engineers, engineering services
266	wealth, investment, investment services, wealth solutions
267	tax, taxation, taxation services, tax services
268	distribution, distributors, distribution centre
269	wellbeing, wellness, wellness centre
270	computer, computing, computer services, computer solutions, computing services
271	technology, technology services
272	plaster, plastering, plastering services
273	podiatry, podiatry clinic
274	print, printing, printing services
275	recruitment, employment, employment services, recruitment services
276	farm, farming, farm services
277	security, protection, security services, security solutions, protection services
278	trade, trader, trading
279	education, educational, education centre, education services, educational services
280	veterinary clinic, veterinary centre
281	wholesale, wholesalers
282	Victorian, Victoria, VIC
283	Tasmanian, Tasmania, TAS
284	New South Wales, NSW
285	Queensland, QLD
286	South Australian, South Australia, SA
287	Western Australian, Western Australia, WA
288	Northern Territory, NT
289	Australian Capital Territory, ACT
290	1, one

Item **Word or expression**

291 2, two

292 3, three

293 4, four

294 5, five

295 6, six

296 7, seven

297 8, eight

298 9, nine

299 10, ten

Schedule 2 Restricted words and expressions

(sections 9 and 10)

Part 1 Restricted words and expressions

Item	Restricted word or expression
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101	Aboriginal Corporation
102	Aboriginal Council
103	Advance Australia
104	ambulance
105	Australian Made
106	Chamber of Commerce
107	Chamber of Industry
108	Chamber of Manufacturers
109	charitable
110	charity
111	chartered
112	consumer
113	co-operative
114	executor
115	fiduciary
116	fire brigade
117	friendly society (otherwise than in relation to the conduct of a financial business)
118	futures exchange
119	GST
120	G.S.T.
121	guarantee
122	ICPO (International Criminal Police Organisation)
123	incorporated
124	Interpol
125	Lest We Forget
126	Made in Australia
127	Order of the Eastern Star
128	police
129	policing

Item Restricted word or expression

130	proprietor
131	R.S.L.
132	RSL
133	securities exchange
134	securities market
135	Starr-Bowkett
136	stock exchange
137	Torres Strait Islander Corporation
138	trading as
139	trust
140	trustee
141	proprietary
142	limited
143	no liability

Part 2 Restricted words and expressions unless Ministerial consent given

Item	Word or expression	Minister
201	Anzac	Minister for Veterans' Affairs
202	Geneva Cross, Red Crescent, Red Cross, Red Crystal, Red Lion and Sun	Minister for Defence
203	United Nations	Minister for Foreign Affairs
204	University	Minister for Tertiary Education, Skills, Jobs and Workplace Relations

Part 3 Restricted words and expressions unless other consent given

Item	Word or expression	Public authority or agency
301	ADI	APRA
302	authorised deposit-taking institution	APRA
303	bank	APRA
304	banker	APRA
305	banking	APRA
306	building society	APRA

Item	Word or expression	Public authority or agency
307	credit society	APRA
308	credit union	APRA
309	friendly society (in relation to the conduct of a financial business)	APRA

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See www.comlaw.gov.au.