



Territories Legislation Amendment Act Transitional Rule (Business Names Registration) 2016

I, PAUL FLETCHER, Minister for Territories, Local Government and Major Projects,
make the following rule.

Dated 28 June 2016

Paul Fletcher
Minister for Territories, Local Government and Major Projects

Part 1—Preliminary

1 Name of rule

This rule is the *Territories Legislation Amendment Act Transitional Rule (Business Names Registration) 2016*.

2 Commencement

This rule commences, or is taken to have commenced, on 1 July 2016.

3 Authority

This rule is made under item 5 of Schedule 5 to the *Territories Legislation Amendment Act 2016*.

4 Definitions

In this rule:

Business Names Register means the register established and maintained by ASIC under section 22 of the *Business Names Registration Act 2011*.

ASIC means the Australian Securities and Investments Commission.

Part 2—Transitional rule

5 Purpose

- (1) This rule is made under item 5 of Schedule 5 to the *Territories Legislation Amendment Act 2016* (which provides for the Minister to make rules prescribing matters of a transitional nature (including prescribing any saving or application provisions) relating to the amendments or repeals made by Schedule 5 to that Act).
- (2) Schedule 5 to the *Territories Legislation Amendment Act 2016* extends all Commonwealth laws to Norfolk Island, unless a particular Act expressly provides otherwise. This rule prescribes transitional matters in relation to the transfer of the Norfolk Island register of business names to the Business Names Register and other consequential matters, on the application of the *Business Names Registration Act 2011* to Norfolk Island from 1 July 2016.

6 Application of *Business Names Registration Act 2011* to Norfolk Island

- (1) The *Business Names Registration Act 2011* has effect with the modifications set out in this rule.
- (2) The register of business names maintained under the *Business Names Act 1976* of Norfolk Island is a notified State/Territory register for the purposes of the *Business Names Registration Act 2011*.
- (3) Subsections 18(1), 19(1) 20(1) and 21(1) of the *Business Names Registration Act 2011* do not apply to an entity carrying on business under a name if:
 - (a) the name is registered to the entity on the register of business names maintained under the *Business Names Act 1976* of Norfolk Island; or
 - (b) the name is the domain name form of a business name that is so registered, and the entity is not prevented from using the domain name form as a domain name; or
 - (c) the name results from excluding one or more host names or domain extensions of a business name that is a domain name and is so registered; or
 - (d) the entity is a company incorporated or deemed to be incorporated under the *Companies Act 1985* of Norfolk Island or its predecessor enactments, and the name is the company's name.
- (4) For the purposes of section 38 of the *Business Names Registration Act 2011*, each of the following is a debtor representative of a company incorporated or deemed to be incorporated under the *Companies Act 1985* of Norfolk Island or its predecessor enactments:
 - (a) a receiver or a manager; or

- (b) an official manager or deputy official manager; or
 - (c) a liquidator or provisional liquidator; or
 - (d) a trustee or other person administering a compromise or arrangement made between a company and another entity; appointed under the *Companies Act 1985* of Norfolk Island.
- (5) For the purposes of section 38 of the *Business Names Registration Act 2011*, **trustee in bankruptcy** includes:
- (a) the official trustee appointed under Part 2 of the *Bankruptcy Act 2006* of Norfolk Island; and
 - (b) a trustee elected under Part 4 of the *Bankruptcy Act 2006* of Norfolk Island; and
 - (c) a trustee appointed under section 183 of the *Bankruptcy Act 2006* of Norfolk Island.

7 **Application of *Business Names Registration (Transitional and Consequential Provisions) Act 2011* to Norfolk Island**

The *Business Names Registration (Transitional and Consequential Provisions) Act 2011* has effect with the following modifications:

- (a) the change-over day is 5 September 2016 for business names registered under the *Business Names Act 1976* of Norfolk Island;
- (b) the person responsible for registration in a State or Territory is, in the case of Norfolk Island, the Registrar within the meaning of the *Business Names Act 1976* of Norfolk Island;
- (c) the registration law of Norfolk Island is the *Business Names Act 1976* of Norfolk Island.

8 **Administration of the Business Names Register**

- (1) The *Australian Securities and Investments Commission Act 2001* applies in Norfolk Island to the extent required to enable ASIC to perform its functions, and exercise its powers, under the *Business Names Registration Act 2011*. This application is in addition to any other application of the *Australian Securities and Investments Commission Act 2001*.

Note: As this transitional rule applying the *Australian Securities and Investment Commission Act 2001* is made under item 5 of schedule 5 of the *Territories Legislation Amendment Act 2016*, it does not create an offence or civil penalty, provide powers of arrest, detention, search or seizure, impose a tax, set an amount to be appropriated from the Consolidated Revenue Fund or directly amend the text of the *Territories Legislation Amendment Act 2016*.

- (2) The registration of new business names in Norfolk Island must only be done in accordance with the *Business Names Registration Act 2011* from 1 July 2016.

- (3) The renewal of business names and notification of a change in the particulars relating to business names registered under the *Business Names Act 1976* of Norfolk Island can be done only under that Act until 4 September 2016.
- (4) Despite any other law of the Commonwealth, before 5 September 2016 the Registrar within the meaning of the *Business Names Act 1976* of Norfolk Island must notify ASIC in relation to business names registered under the *Business Names Act 1976* of Norfolk Island up to and including 4 September 2016.
- (5) Despite any other law of the Commonwealth, from 1 July 2016 ASIC may publish business names registered under the *Business Names Act 1976* of Norfolk Island.

9 Expiry of transitional provisions

- (1) Subrule 6(1) and paragraphs 6(2)(a), (b) and (c) cease to have effect at the start of 5 September 2016.
- (2) Paragraph 6(3)(d) and subrule 6(4) cease to have effect once the *Corporations Act 2001* is extended to apply in Norfolk Island in full.
- (3) Subrule 6(5) ceases to have effect once the *Bankruptcy Act 1966* is extended to apply in Norfolk Island in full.
- (4) Subrule 8(1) ceases to have effect once the *Australian Securities and Investments Commission Act 2001* is extended to apply in Norfolk Island in full.