



ASIC

Australian Securities & Investments Commission

REGULATORY GUIDE 235

Registering your business name

August 2013

About this guide

This guide is for people who wish to run a business in Australia using a business name.

This guide explains when you must register your business name, how to register your business name and how to maintain your business name after it is registered.

It also gives some guidance about business names that were previously registered in a state or territory.

About ASIC regulatory documents

In administering legislation ASIC issues the following types of regulatory documents.

Consultation papers: seek feedback from stakeholders on matters ASIC is considering, such as proposed relief or proposed regulatory guidance.

Regulatory guides: give guidance to regulated entities by:

- explaining when and how ASIC will exercise specific powers under legislation (primarily the Corporations Act)
- explaining how ASIC interprets the law
- describing the principles underlying ASIC's approach
- giving practical guidance (e.g. describing the steps of a process such as applying for a licence or giving practical examples of how regulated entities may decide to meet their obligations).

Information sheets: provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.

Reports: describe ASIC compliance or relief activity or the results of a research project.

Document history

This version was issued in August 2013 and is based on legislation and regulations as at the date of issue.

Previous versions:

- Superseded Regulatory Guide 235, issued 1 March 2012.

Disclaimer

This guide does not constitute legal advice. We encourage you to seek your own professional advice to find out how the Business Names Registration Act and other applicable laws apply to you, as it is your responsibility to determine your obligations.

Examples in this guide are purely for illustration; they are not exhaustive and are not intended to impose or imply particular rules or requirements.

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A Overview

Key points

On 28 May 2012, ASIC took over the registration of business names from the states and territories.

If you want to carry on a business under a business name, you will generally need to register the business name. To register a business name, you must complete an online application and lodge it with ASIC.

If your business name was already registered in a state or territory on 28 May 2012, it was automatically transferred to ASIC's Business Names Register.

The Business Names Register

- RG 235.1 On 28 May 2012, the Australian Securities and Investments Commission (ASIC) became responsible for registering, renewing and administering business names for all Australian businesses under the *Business Names Registration Act 2011* (Business Names Registration Act).
- RG 235.2 We maintain a national register of business names (the Business Names Register), which replaced the previous system that required businesses to register their business names separately in each state or territory in which they wished to operate.
- RG 235.3 The Business Names Register removes the inconvenience and cost caused by the registration of business names in more than one state or territory. It also ensures that, if an entity carries on a business under a business name, the entity can be identified, and details will be available on how to contact the entity through publicly accessible information located on ASIC's website (the public register).
- RG 235.4 The Business Names Register is online, so you can:
- (a) quickly determine if a business name is available;
 - (b) register and renew a business name; and
 - (c) make changes to details relating to your business name.

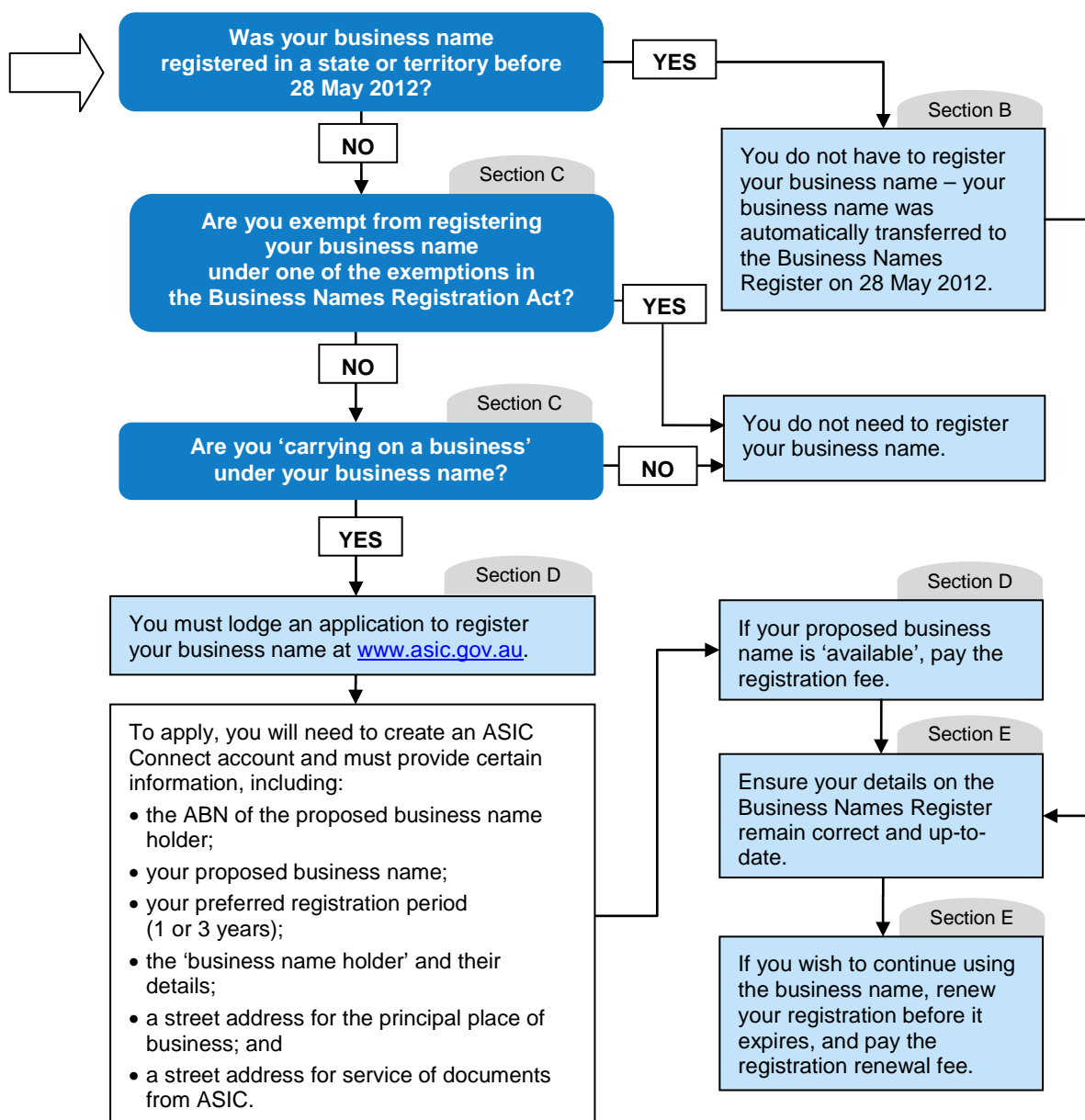
What this guide is about

- RG 235.5 If you wish to carry on a business under a business name, you will generally need to register your business name on the Business Names Register. This guide explains:
- (a) what you will need to do if your business name was registered in a state or territory on 28 May 2012 (see Section B);

- (b) when you must register your business name (see Section C);
- (c) how to lodge your application to register your business name (see Section D);
- (d) how to keep details of your business name registration up-to-date, renew your registration or cancel your registration (see Section E); and
- (e) how to apply for a review of a decision about your business name registration (see Section F).

RG 235.6 Figure 1 provides a summary of the business registration process.

Figure 1: Summary of the business registration process



B Business names registered in a state or territory on 28 May 2012

Key points

If, on 28 May 2012, your business name was registered in a state or territory, you will not have to register it again with us. Your business name was automatically transferred to the Business Names Register: see RG 235.7–RG 235.12.

You will need to verify your details in the Business Names Register: see RG 235.13–RG 235.19.

If you had an identical business name registered in more than one state or territory, you may choose to keep one business name record by cancelling the registration of your other business names (or letting their registration lapse) or renew and keep all your identical business names: see RG 235.10.

Transfer of your currently registered business name

- RG 235.7 If your business name was already registered in a state or territory on 28 May 2012, we have transferred the business name from the state or territory business name systems to the Business Names Register.
- RG 235.8 The period of registration was also transferred from the state or territory business name systems. If you wish to continue carrying on a business under the business name after this date, you will need to renew your business name registration before the date that the business name would have expired under the state or territory business name system: see RG 235.143–RG 235.146.
- RG 235.9 If your business name was registered in more than one state or territory, all your business names were transferred to the Business Names Register on 28 May 2012, and you may be recorded as the holder of multiple identical business names in the Business Names Register.
- RG 235.10 You may choose to:
- (a) keep one business name record (e.g. the business name with the latest registration expiry date) and cancel the registration of your other identical business names that you no longer need;
 - (b) allow the registration of the business names you no longer need to lapse (by ignoring our renewal and subsequent cancellation notices); or
 - (c) renew and keep all your identical business names.
- RG 235.11 There is no fee to cancel a business name. Keeping only one business name will reduce the administrative burden of maintaining several business name registrations (including receiving multiple notices for each record), and also minimise the potential for confusion from consumers in determining the business name holder's correct details.

- RG 235.12 In certain situations, we may contact you to clarify details recorded in the Business Names Register.

Accessing and verifying your details

- RG 235.13 You should verify the details about your business name in the Business Names Register to ensure that they are correct. If your details are incorrect, you may not be able to receive notices relating to your business name.

Note: If you (or a person involved in the management of your entity) were disqualified from managing a corporation on 28 May 2012, you must notify us within 28 days from the date the business name was transferred to the Business Names Register: s11 of the *Business Names Registration (Transitional and Consequential Provisions) Act 2011*. For more information on when you may be disqualified, see RG 235.139–RG 235.141.

- RG 235.14 You can view the public information relating to your business name (e.g. your address for service and principal place of business) on the public register at any time by searching the ASIC registers through our online services, called ‘ASIC Connect’, at www.asic.gov.au.

- RG 235.15 If you want to update these details, cancel a business name or view and/or change your personal information (such as your residential address), you will need an ASIC Connect account. For more information on setting up and accessing your ASIC Connect account, see RG 235.41–RG 235.45.

Note: For up-to-date information on how to maintain your business name, go to our website at www.asic.gov.au/business-names.

- RG 235.16 After your ASIC Connect account is set up, you will need to ‘link’ your existing business name to your ASIC Connect account. This will allow you to access and change your business name details through your ASIC Connect account.

Note: You can have more than one business name linked to your ASIC Connect account.

- RG 235.17 When your business name registration is about to expire, we will send you a unique code for your business name, called an ‘ASIC key’, with your first renewal notice to your address for service of documents (based on the information transferred from the state or territory business name systems). We will let you know how you can use your ASIC key to link the business name to your ASIC Connect account, which will then allow you to update your business name details through your ASIC Connect account.

Note: You will also need an ASIC key to conduct other transactions relating to your business name, such as cancelling or transferring the registration of your business name: see RG 235.147–RG 235.156.

- RG 235.18 If you need to change your business name details before this (e.g. your business name details are incorrect or your business relocates), you can request your ASIC key through your ASIC Connect account.

- RG 235.19 After you have linked your business name to your ASIC Connect account, you can update the details in the Business Names Register. Section E of this guide explains how to do this.

Use of identifier to distinguish between identical business names

- RG 235.20 After the transfer of business names from the state and territory business name systems, there may be two or more identical (or nearly identical) business names recorded in the Business Names Register (e.g. when an identical business name was registered in different states or territories to the same or different entities).
- RG 235.21 We will provide additional information on the public register to assist the public in differentiating between identical business names transferred from the states and territories (such as the state or territory the business name was first registered in or the state or territory business name registration number).
- RG 235.22 However, if we determine that it is necessary to add a further distinction between two identical business names on the Business Names Register, we may add a distinguishing word as another identifier. The identifier does not form part of the business name, but is used to allow people to distinguish between identical business names on the public register.
- RG 235.23 If we do this, we will notify you that we propose to use a geographic identifier (e.g. the name of the suburb or city of the business name holder's principal place of business as the identifier). You can nominate an alternative identifier if you prefer that we use a different one. If the proposed identifier (either by itself, or when combined with the business name) is available, we will use your nomination.
- RG 235.24 Some identifiers are not available. We may reject a proposed identifier if, for example, it:
- (a) does not actually result in the name being distinguished from the other identical business name (e.g. the distinguisher is a word already used in the other identical business name);
 - (b) is offensive;
 - (c) is made up of, or includes, a 'restricted word or expression' (e.g. the words 'Commonwealth' or 'Federal'); or
 - (d) suggests a connection with the Commonwealth, state or local government, or a department, instrumentality or authority of a government where no such connection exists.
- Note: We will apply similar checks to determining whether you can use a proposed identifier to those we will apply for determining whether a proposed business name is 'available': see RG 235.59.
- RG 235.25 If you do not notify us within the specified time (we will give you at least 28 days), we will take you as having accepted our proposed identifier.

C When must your business name be registered?

Key points

If you wish to carry on a business under a business name, you must register your business name with us, unless one of the exemptions in the Business Names Registration Act applies (e.g. if your business name is exactly the same as your registered company name).

The requirement to register your business name

- RG 235.26 You must register your business name if you:
- (a) do not fall under one of the exemptions in s18 of the Business Names Registration Act (see RG 235.28–RG 235.30); and
 - (b) are ‘carrying on a business’ in Australia under your business name (see RG 235.31–RG 235.38).
- RG 235.27 If none of the exemptions apply, it is an offence to carry on a business under an unregistered business name: s18.

Exemptions from registering a business name

- RG 235.28 You do not need to register a business name if the entity is:
- (a) an individual and the business name is the individual’s name;
 - (b) a registered company and the business name is the company’s name; or
 - (c) a partnership and the business name consists of all of the partners’ names (s18(2)).
- RG 235.29 The law does not allow any changes from the business holder’s name if you wish to rely on the exemptions. For example, if your name is John Smith, and the name of your business is ‘John Smith & Co’, you will need to register the business name.
- RG 235.30 You do not need to register a business name if the name falls into a category specified by regulations: see the Business Names Registration Regulations 2011.

What does ‘carrying on a business’ mean?

- RG 235.31 If your business name is not exempt from the requirement to be registered (see RG 235.28–RG 235.30), and you wish to conduct activities under a business name, you must determine whether your activities will amount to ‘carrying on a business’ in Australia to determine whether your business name must be registered with us.
- RG 235.32 You will be carrying on a business in Australia if you conduct an activity, or series of activities:
- (a) in the form of a profession, a trade, employment, a vocation or a calling;
 - (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 (s4(1)).
- Note: Under s3, ‘carrying on’ a business includes doing activities relating to the commencement or termination of the business.
- RG 235.33 You will not be carrying on a business for the purposes of the Business Names Registration Act if you conduct an activity, or series of activities, done in circumstances that would not entitle you to an Australian Business Number (ABN) (e.g. a private recreational pursuit or hobby, or as an employee): s4(2).
- RG 235.34 If you are not entitled to an ABN, you do not need to register your business name. You can check with the Australian Business Register whether you are entitled to an ABN.

Entitlement to an Australian Business Number

- RG 235.35 You may be entitled to an ABN based upon:
- (a) *Criteria 1*: what type of entity you are (e.g. a company incorporated under the *Corporations Act 2001* (Corporations Act) or a religious institution); or
 - (b) *Criteria 2*: the nature of the activities you conduct.
- RG 235.36 Generally, if you are entitled to an ABN based upon the nature of your activities (Criteria 2), you will be carrying on a business for the purposes of the Business Names Registration Act, and must register your business name (unless you are exempt: see RG 235.28–RG 235.30).
- RG 235.37 The Australian Business Register provides an ABN Entitlement Tool located on the Australian Taxation Office (ATO) website at www.ato.gov.au, which assists individuals assess whether they are entitled to an ABN based upon the nature of the activities they conduct.

RG 235.38 Other entities (such as trusts or partnerships) may also find the ABN Entitlement Tool useful as an indicative tool to assist them in determining whether they are entitled to an ABN based upon the nature of their activities.

Note 1: Actual entitlement to an ABN is determined by the Australian Business Register.

Note 2: For more information on 'carrying on a business' in general, visit the ATO website at www.ato.gov.au.

D How to lodge your application

Key points

To register your business name, you will need to complete an online application and lodge it with us.

You will be asked to provide certain information, including:

- the ABN of the proposed business name holder (see RG 235.53–RG 235.57);
- your proposed business name (see RG 235.58–RG 235.63);
- your preferred registration period—1 year or 3 years (see RG 235.64–RG 235.68);
- details about the ‘business name holder’ (see RG 235.69–RG 235.86); and
- the address in Australia for service of documents and principal place of business in Australia (see RG 235.87–RG 235.92).

The information you will need to provide will depend on the structure of the entity: see RG 235.69–RG 235.86.

Some of the information you provide will be publicly accessible on the public register: see RG 235.103–RG 235.110.

If your proposed business name is available, you will need to pay the registration fee within 10 business days of lodging your application: see RG 235.111–RG 235.113.

Accessing the business names registration system

RG 235.39 To register your business name, you will need to complete an online application form, lodge it with us and pay the registration fee.

Note: If you cannot access, or have difficulties with, the online application, you can phone ASIC on 1300 300 630 for assistance.

RG 235.40 You should be able to prepare your application without any professional assistance. It should take you approximately 15–20 minutes to complete the application if you have all your information on hand.

Accessing ASIC Connect

RG 235.41 Before you can access the online application on our website, you will need access to ASIC Connect.

RG 235.42 You can create an ASIC Connect account through the ASIC website at www.asic.gov.au.

- RG 235.43 You will be asked to provide your email address and a password to control access to your account. The email address will serve as your user name. You will also need to provide your full name and phone number, so we can identify the user of the account.
- RG 235.44 You will be asked to provide a security question and answer that only you should know. If you forget your password, you can generate a new one after your identity has been verified using your security question and answer.
- RG 235.45 After you have provided us with all the relevant information, you will be able to log into ASIC Connect using your user name and password.

Starting the online registration process

- RG 235.46 To find the online application, you will need to go to our website at www.asic.gov.au and log into ASIC Connect. After you have logged into ASIC Connect, we will provide you with step-by-step instructions on how to complete your application.

Note: You can register for more than one business name under your ASIC Connect account.

Saving and resuming your application

- RG 235.47 After you have started your application, you can save it at certain points in the process and resume it as many times as you like before you submit it. You can access your incomplete application by logging into ASIC Connect. We will store the information under an incomplete application for 90 days from when you last saved your application.
- RG 235.48 The online application is designed so that certain information must be provided before you can progress to the next screen. This is to ensure that you do not accidentally omit any important information or submit an incomplete application.
- RG 235.49 If you realise that you have made a mistake on a previous screen, you can go back to that screen to amend it at any time up until you submit your application.
- RG 235.50 Your application is automatically saved by us every time you hit 'Next'. If you are disconnected from the internet or you close out of the application, we will have saved all information up until the question you last answered before you selected 'Next'.

Information that you must provide

- RG 235.51 You must provide the following information in your application:
- (a) the ABN of the proposed business name holder (see RG 235.53–RG 235.57);
 - (b) your proposed business name (see RG 235.58–RG 235.63);
 - (c) your preferred registration period—1 year or 3 years (see RG 235.64–RG 235.68);
 - (d) details about the ‘business name holder’ (see RG 235.69–RG 235.86); and
 - (e) the address in Australia for service of documents and principal place of business in Australia (see RG 235.87–RG 235.92).
- RG 235.52 You must ensure that this information is correct. We may cancel the registration of a business name if we later become aware of matters that may have affected our original decision to register your business name: s43. The exact information you will need to provide about the business will depend on the structure of the business (e.g. an individual, partnership or corporation).

Your Australian Business Number (ABN)

- RG 235.53 To register your proposed business name, you will need to provide the ABN of the proposed business name holder. If you have applied for an ABN but are still waiting to receive it, you can apply for a business name using your ABN application reference number (provided by the Australian Business Register). However, your business name will not be registered to you until the Australian Business Register approves your ABN application and they provide your ABN details to ASIC. See RG 235.35–RG 235.38 for more information about your entitlement to an ABN.
- RG 235.54 You do not need an ABN to register a business name if you operate solely in the Christmas Islands or Cocos (Keeling) Islands and you are not entitled to an ABN under the *A New Tax System (Australian Business Number) Act 1999*. However, you must provide us with information about the type of entity that will hold the business name (i.e. individual, company, partnership, joint venture or other organisation).
- RG 235.55 If you are applying to register the business name for a joint venture, you must apply with each joint venture partner’s individual ABN.
- RG 235.56 If you do not have an ABN or have not applied for an ABN and are not exempt, you must apply for an ABN before you can apply to register a business name.
- RG 235.57 Based on the ABN you provide, we may obtain information from the Australian Business Register and ‘pre-fill’ some information in the

application. You need to check the pre-filled information to ensure it is up-to-date. If it is incorrect, you should update that information in the Australian Business Register at www.abr.gov.au before you complete your online application.

Your proposed business name

- RG 235.58 You will need to tell us the proposed business name that you wish to register. You will only be able to register the proposed business name if it is 'available' to you to be registered.
- RG 235.59 We will conduct a number of checks on your proposed business name to determine whether it is 'available' to be registered. This includes checking if the name is:
- (a) identical (or nearly identical) to a business name already registered to another entity under the Business Names Registration Act or the Corporations Act;
 - (b) undesirable (e.g. offensive);
 - (c) made up of words that are not in the *Macquarie Dictionary*;
 - (d) made up of, or includes, a 'restricted word or expression' (e.g. the words 'Commonwealth' or 'Federal'); or
 - (e) currently under review with another application.

Note 1: This is not an exhaustive list of what we will consider in determining whether a business name is available to be registered. For more information on business names availability, visit our website at www.asic.gov.au/business-names.

Note 2: In determining whether a proposed business name is identical or nearly identical, or is undesirable, and what are restricted words or expressions, we will apply the rules under the *Business Names Registration (Availability of Names) Determination 2012*.

- RG 235.60 Generally, we will be able to let you know immediately if the proposed business name can be registered to you via your online application. If your proposed business name is available, you will need to select a preferred registration period: see RG 235.64–RG 235.68.
- RG 235.61 If the proposed business name cannot be registered, we will let you know why we have rejected the proposed business name. You can seek a review of the rejection: see Section F. You will not be required to pay the registration fee unless we overturn the original rejection and allow you to register the proposed business name, and you proceed with registering that business name.
- RG 235.62 In certain situations, we will not be able to tell you immediately if you can register the proposed business name (e.g. if the proposed business name contains words that are not in the *Macquarie Dictionary*). We may need to

forward the application to an officer to review the proposed business name manually to determine whether the proposed business name is available for registration.

- RG 235.63 If you still wish to register this business name, you should complete the remainder of the application. The application will be forwarded to an officer for review upon submission. You will not be able to commence operating under the business name until we confirm that the name is available to be registered to you (and you have paid the registration fee). Alternatively, you may propose to register a different business name.

Your preferred registration period

- RG 235.64 If your business name is available for registration, you will also need to select a registration period for the business name. You may register the business name for a period of 1 year or 3 years. A discounted annual fee applies if you register for 3 years: see RG 235.111.
- RG 235.65 If you wish to continue carrying on a business under the business name after this registration period, you will need to renew your registration and pay the applicable fee before the expiration of the registration period: see RG 235.143–RG 235.146.
- RG 235.66 If you are an existing business name holder, you can apply to align the expiration of your business name registration periods during the application process. You can only align the expiration of your registration periods if the business name holder's ABN is the same (i.e. if you hold multiple business names under more than one partnership, you cannot align the business names across the different partnerships because they will have different ABNs).

Note: If you have business names that were transferred to ASIC from the state and territory business name systems, you will need to make sure you have linked your business name to your ASIC Connect account and have provided us with your ABN before you can align the expiration of your business name registration periods. See RG 235.16–RG 235.18 for more information on how to link your business names to your ASIC Connect account.

- RG 235.67 If you are registering a business name where a company will be the business name holder, you may choose a registration expiry date that aligns with a company annual review date. This is generally the anniversary of the company's registration: s345A of the Corporations Act. You can look up a company's annual review date on our website at www.asic.gov.au.
- RG 235.68 There are some limitations on the dates you can choose to align. If you choose to align your registration expiry date, your business name registration period cannot be extended by more than 6 months (i.e. to a maximum of 18 months if your registration period is 1 year and a maximum of 3 years and 6 months if your registration period is 3 years).

The 'business name holder'

- RG 235.69 You will need to provide us with certain details about the entity to which the business name will be registered. The information required will depend on the type of entity that the business name holder is. We will automatically select the type of entity of the business name holder based on the ABN that you provide (or what type of entity you select, if you do not need an ABN to register a business name): see RG 235.57.

Company or registered body

- RG 235.70 If the proposed business name holder is a company or registered body, we may obtain the information (such as the Australian Company Number (ACN) or Australian Registered Body Number (ARBN) and company name) from the Australian Business Register.

Individual/sole trader

- RG 235.71 If the proposed business name holder is an individual (sole trader), you must provide us with information about the individual.
- RG 235.72 You will need to tell us the birth details of the individual, being their date of birth and place of birth. The birth details provided to us are for the purposes of identifying the individual, and will not be displayed on the public register or in any searches.
- RG 235.73 You will also need to tell us the business name holder's residential address. The residential address will be used for administrative or law enforcement purposes only, and will not be displayed on the public register or in any searches.

Partnership

- RG 235.74 If the proposed business name holder is a partnership, you will need to provide us with details of all the partners of the partnership. The partners may be an individual, company or other registered body. The type of information you will be required to provide will depend on the type of entity that the partner is.
- RG 235.75 If a partner is an individual, you will need to provide us with information about the individual (e.g. their birth details and residential address: see RG 235.72–RG 235.73).
- RG 235.76 If a partner is a company or registered body, you will need to provide us with either the ACN or the ARBN of the company and we will obtain the information from the Australian Business Register.

Joint venture

- RG 235.77 If the proposed business name holder is a joint venture, you will need to provide us with details of all the joint venture partners.
- RG 235.78 The joint venture partners may be an individual, a company or a registered body. The type of information you will be required to provide will depend on the type of entity that the joint venture partner is.
- RG 235.79 If the joint venture partner is an individual, you will need to provide us with information about the individual (e.g. their birth details and residential address: see RG 235.72–RG 235.73).
- RG 235.80 If the joint venture partner is a company or registered body, you will need to provide us with the ABN of the company and we will obtain information (being the ACN or ARBN and company name) from the Australian Business Register.
- RG 235.81 If you are also applying under the joint venture partners' individual ABNs, you must provide each partner's ABN (unless the joint venture partner operates solely in the Christmas Islands or Cocos (Keeling) Islands): see RG 235.55.

Other unincorporated associations

- RG 235.82 If the proposed business name holder is any other type of unincorporated association (e.g. a trust), you will need to elect one or more organisational representatives of the unincorporated association to be recorded in the Business Names Register, and provide us with details of the representative(s).
- RG 235.83 The representative is someone who may be involved in the management of the business, but is not an employee or direct owner. Where the business name holder is a trust, the organisational representative will generally be the trustee(s). The name of the representative(s) will be included in the Business Names Register so that the public can identify who to contact.
- RG 235.84 The representative may be an individual, a company or a registered body. The type of information you will be required to provide will depend on the type of entity that the organisational representative is.
- RG 235.85 If the representative is an individual, you will need to provide us with information about the individual (e.g. their birth details and residential address: see RG 235.72–RG 235.73).
- RG 235.86 If the representative is a company or registered body, you will need to provide us with the ABN of the company or registered body, and we will obtain the information (being the ACN or ARBN and company name) from the Australian Business Register. You will also need to provide us with a contact email for the company or registered body.

Address for service of documents

- RG 235.87 You need to provide an address in Australia for service of documents. This address will be on the public register. If you have not provided an email address (see RG 235.93–RG 235.98), we will use this address to send the business name holder correspondence in relation to the business name. The address for service of documents must be based in Australia—we will not accept an overseas address. The details of the address for service of documents will be displayed on the public register and will be available to the public.
- RG 235.88 You must ensure that this address is up-to-date. You must notify ASIC of a change in your address for service of documents within 28 days: see RG 235.135–RG 235.137.

Note: If you do not want your residential address to display publicly, you should not use your residential address for the service of documents address because this address will be displayed on the public register and in a search of the business name.

Principal place of business address

- RG 235.89 You will also need to provide details of the principal place of business in Australia of the business name holder. This should be the primary location where you intend to carry on a business under the business name.
- RG 235.90 The principal place of business must be a physical or street address—we will not accept a post office box. The principal place of business address must also be based in Australia—we will not accept an overseas address.
- RG 235.91 The details of the principal place of business address will be displayed on the public register and will be available to the public. If you are a business name entity that is an individual and your principal place of business is the same as your residential address, we will not display the address information on the public register. However, we will display the suburb, postcode and state or territory of the principal place of business in a search of the business name.
- RG 235.92 You must notify ASIC of a change in your address for the principal place of business within 28 days: see RG 235.135–RG 235.137.

Additional contact information

- RG 235.93 You can provide us with an email address if you wish to receive correspondence electronically: see RG 235.96–RG 235.98.
- RG 235.94 You can also provide us with an Australian mobile phone number if you wish to receive certain reminders via SMS: see RG 235.99.
- RG 235.95 Additional contact information will not be shown on the public register, and is for administrative purposes only.

Email address

- RG 235.96 You may provide us with an email address to receive correspondence. If you provide us with an email address, we will use this to send you correspondence instead of your address for service of documents: see RG 235.87.
- RG 235.97 Copies of notices and messages sent will be available in your ASIC Connect account.
- RG 235.98 The email address will be used for the following correspondence:
- (a) all documents related to your application;
 - (b) legal notices;
 - (c) business name renewal notices;
 - (d) reminders (e.g. for payment); and
 - (e) other official correspondence.

Mobile phone number

- RG 235.99 You may also elect to provide us with an Australian mobile phone number. This number will be used solely for sending SMS messages. No phone calls will be made to this number. Messages sent to this number will include reminders (e.g. to pay business name renewals) and to let you know whenever changes are made to your details in the Business Names Register.

Declarations

- RG 235.100 Before you submit your application to register a business name, you must declare that certain statements are true. For example, you must declare that you are not disqualified from holding a business name: see RG 235.139–RG 235.142.
- RG 235.101 If you are not the business name holder, you must be authorised by the proposed business name holder to make each of the declarations on their behalf and to submit the application.
- RG 235.102 We can cancel the registration of your business name if we later become aware of a matter that would have affected our initial decision to register the name had we been aware of that matter at that time: s43. It is also a criminal offence to make false or misleading statements in, or omit a material matter from, your application.

What happens to the information you provide?

- RG 235.103 The information you enter in your online application is protected by industry-standard encryption and stored on a secure server at ASIC.
- RG 235.104 The application lodged by you is not available to the public, although the fact that the name has been applied for will be revealed if another person is refused an identical or nearly identical name to yours.

RG 235.105 If your business name registration is successful, some information about your business will be uploaded to our website, and will be available to the public via the public register and through a paid extract of the Business Names Register. This includes:

- (a) the business name;
- (b) the names of the business name holder(s);
- (c) the business name holder's ABN;
- (d) the period of registration; and
- (e) certain details about the business name holder (such as principal place of business and address for service of documents).

Note 1: If the business name holder comprises one or more individuals, we will not disclose details relating to birth (date of birth and place of birth) or residential addresses, unless the residential address is the same as the principal place of business, and in that circumstance we will only disclose the suburb, postcode and state or territory.

Note 2: The residential address will be displayed if it is the same as the service address. If you do not want your residential address to display publicly, you should not use your residential address for the service of documents address because this address will be displayed on the public register and in a search of the business name.

Note 3: See the privacy statement on our website at www.asic.gov.au for more information.

Suppressing information in the Business Names Register

RG 235.106 In limited circumstances, we will allow an entity to suppress details from the public register if we are satisfied that it is not appropriate to disclose those details to the public. Generally, this will be when we are satisfied that there is a risk of personal safety or endangerment of life to an individual, their family or individuals in their place of business.

RG 235.107 We may also suppress details from the public register in other exceptional circumstances on a case-by-case basis.

RG 235.108 We will request that you provide us with information to substantiate your claims under the application to suppress details from the public register.

What we will not suppress

RG 235.109 We will generally not allow an entity to suppress the following details from the public register:

- (a) the business name;
- (b) the address in Australia for service of documents; and
- (c) any details relating to the registration dates and status of the registration of the business name.

RG 235.110 This information is fundamental to ensure the public knows how to contact a business name holder, and to determine whether or not they can register a business name: s16.

Payment of the registration fee

- RG 235.111 The prescribed fee to register a business name depends on the period for which you wish to register the business name. You may select a registration period of 1 year or 3 years. A discounted annual fee applies when you register for 3 years. For more information on registration fees, go to our website at www.asic.gov.au/business-names.
- RG 235.112 You can choose to pay during the registration process or at a later date. If we do not receive payment within 10 business days, your application will lapse and you will need to reapply for the business name.
- RG 235.113 Your business name is not registered until the payment has been received and the application has been processed. Generally, you cannot start carrying on a business under the business name until you pay the registration fee.

Will you be reimbursed if you withdraw your application?

- RG 235.114 You will be reimbursed if you have paid for your application and we refuse to register your name.
- RG 235.115 However, if we decide that the business name is available and we register your business name after you have paid the fee, you will not be able to withdraw your application.
- RG 235.116 If you do not need the business name, you can request that ASIC cancel the registration of the business name: see RG 235.147–RG 235.148. However, you will not be reimbursed for any time remaining on your registration period.

E Maintaining your business name registration

Key points

After your business name is registered, you must ensure that your details in the Business Names Register are kept up-to-date.

You can use ASIC Connect to:

- update details of your registration, and notify us of certain events (see RG 235.117–RG 235.142);
- renew your registration before it expires (see RG 235.143–RG 235.146); and
- cancel the registration of your business name or transfer the business name to another entity (see RG 235.147–RG 235.156).

We may cancel the registration of your business name in some circumstances: see RG 235.157–RG 235.159.

Updating your details in the Business Names Register

RG 235.117 After you have registered your business name, you must ensure that the information in the Business Names Register is correct and up-to-date. For example, you may need to correct a mistake or update the information you have given us if something changes (e.g. your residential address or the address of the principal place of business).

RG 235.118 You will be able to access your details in the Business Names Register by logging into ASIC Connect. You will be able to change details about your business name in the Business Names Register, including:

- (a) adding or removing partners;
- (b) adding a representative to the business name (e.g. an organisational representative); and
- (c) changing details of the business name holder(s).

RG 235.119 When you change details about your business name, you will also be asked to provide us with the effective date of the change (up to a maximum of 3 months into the future). This will help you to plan for future events (e.g. if you are moving offices).

Adding or removing partners

Partnerships

- RG 235.120 If the business name holder is a partnership and the partnership changes, you can add and remove partners through ASIC Connect.
- RG 235.121 Generally, adding or removing partners from a partnership creates a new partnership. If you want to change the partnership structure in the Business Names Register, you must make a declaration that you are able to add or remove partners without dissolving the partnership under your partnership agreement. If this is not possible, and you wish to add or remove partners to the partnership and continue holding the business name, you must transfer the business name to the new partnership: see RG 235.149–RG 235.156.
- RG 235.122 If you are adding a new partner, you will be able to choose the type of entity of the new partner (e.g. an individual, company or registered body), and will be required to provide information about the new partner. This is the same type of information we require when registering the business name to the partnership: see RG 235.74–RG 235.76.

Joint ventures

- RG 235.123 If the business name holder is a joint venture, you cannot add or remove joint venture partners. You will need to cancel the registration of your joint venture, and register a new joint venture. If you wish to use the existing joint venture business name, you can transfer that name to another entity. You must first apply to cancel your business name registration: see RG 235.147–RG 235.148. During the cancellation request process, select the option ‘cancel and transfer’ to transfer the business name to another entity.

Adding another representative

- RG 235.124 You can record the appointment of certain representatives in relation to the business name through ASIC Connect. This includes:
- (a) an organisational representative;
 - (b) debtor representatives;
 - (c) a nominated manager of a debtor representative;
 - (d) notified successors;
 - (e) a legal personal representative; or
 - (f) a principal contact.

Organisational representative

RG 235.125 An organisational representative is someone who is involved in managing the business, but who is not an employee or direct owner (e.g. an office bearer of an unincorporated association or a trustee of a trust). The names of organisational representatives will be included in the Business Names Register to allow the public to identify who to contact.

Debtor representative

RG 235.126 A debtor representative is an entity appointed to manage the affairs of the business name holder or their business in the case of insolvency or bankruptcy of the business name holder. A debtor representative includes:

- (a) a trustee in bankruptcy;
- (b) a registered/official liquidator, receiver or controller;
- (c) an administrator; or
- (d) any other person duly appointed or authorised to manage the affairs of an entity because it is unable to pay all its debts as and when they become due and payable (s38(3)).

RG 235.127 If you are appointing yourself as a debtor representative, you must tell us in what capacity you are being appointed as debtor representative. If you are appointed under the law of a state or territory, you must also tell us the state or territory in which you were appointed.

A nominated manager of a debtor representative

RG 235.128 A nominated manager of a debtor representative is a person or entity who is nominated to carry on the business under the business name alongside the debtor representative.

Notified successors

RG 235.129 A 'notified successor' is an entity who has notified ASIC that they may inherit the assets of the business name holder when the business name holder has passed away, and probate of the will or letters of administration of the estate have not yet been granted.

RG 235.130 A notified successor may carry on a business under the business name without the business name being registered to them without committing an offence: s18(2)(g). However, after we receive notice that probate of the will or letters of administration have been granted over the estate, we will remove the notified successor from the Business Names Register: s40(6).

- RG 235.131 To apply to be a notified successor, you must declare that you believe that you will inherit the estate formerly used by the deceased in carrying on a business under the business name. You can make the declaration through ASIC Connect when you apply to be a notified successor.

Note: A false declaration is an offence and may be punishable by up to 12 months imprisonment under Pt 7.4 of the *Criminal Code Act 1995* (Cth).

Legal personal representative

- RG 235.132 A 'legal personal representative' generally means the executor of the will or administrator of the estate of a deceased person, the trustee of the estate of a person under a legal disability or a person who holds an enduring power of attorney granted by a person.
- RG 235.133 If you are appointing yourself as a legal personal representative, you must explain under what grounds you were appointed.

Principal contact

- RG 235.134 A 'principal contact' is an individual appointed to act as agent for the business name holder(s). A principal contact can be appointed by a partnership, unincorporated body or association, trust or joint venture.

Changing details of the business name holder(s)

- RG 235.135 If details of the business name holder(s) change, you can use ASIC Connect to update the details in the Business Names Register (e.g. if the business name holder is an individual and their residential address changes).
- RG 235.136 There are certain details that you cannot directly change through ASIC Connect (e.g. your place and date of birth). If these are incorrect, you will need to 'Request a correction' through ASIC Connect. We may ask for further information to process your request.
- RG 235.137 You can also use ASIC Connect to notify us of certain events (e.g. letting us know that the business name holder is deceased).

Notifying us of certain events

- RG 235.138 You may be required to notify ASIC of certain events that occur in relation to the business. You can use ASIC Connect to lodge notifications. Under the Business Names Registration Act, you must notify us if:
- (a) there are any changes to the information recorded in the Business Names Register—the business name holder must notify us within 28 days of becoming aware of the change (s35);

- (b) the business name holder (or a person involved in the management of the entity) becomes disqualified—the business name holder must notify us immediately after the disqualification (s36);
- (c) the business name holder becomes bankrupt or insolvent—the debtor representative must notify us within 28 days of their appointment (or within 28 days of registration if the name was transferred from a state or territory) (s38); and
- (d) the business name holder dies and a legal personal representative is appointed—the legal personal representative must lodge with ASIC a notice of the grant within 28 days of the grant being made (or within 28 days of registration if the name was transferred from a state or territory) (s39).

When are you disqualified from holding a business name?

RG 235.139 You are disqualified from holding a business name if you (or a person involved in the management of your entity) are:

- (a) disqualified from managing a corporation under s206B(1) of the Corporations Act. You are disqualified during the period that you (or the person involved in the management of your entity) are disqualified for under s206B(2) of the Corporations Act (s32(1)(a)–(b) of the Business Name Registration Act); or
- (b) convicted of an offence (including in a foreign country) that involves dishonesty and is punishable by imprisonment of at least 3 months. You are disqualified for a period of 5 years after the day you (or the person involved in the management of your entity) were released from prison (or, if the person does not serve a term of imprisonment, 5 years after the day on which the person is convicted) (s32(1)(c)–(e) of the Business Name Registration Act).

RG 235.140 Generally, a person ‘involved in the management of an entity’ includes a person involved in the making (or participation in making) of decisions that:

- (a) affect the whole or a substantial part of the entity; or
- (b) have the capacity to affect significantly the entity’s financial standing (s206A of the Corporations Act).

RG 235.141 Typically, this includes (but is not limited to):

- (a) if the applicant is a company or registered body—each director and secretary of the company or registered body;
- (b) if the applicant is a partnership—each partner of the partnership;
- (c) if the applicant is an unincorporated association or other body—each member of the committee of management of the unincorporated association or body;
- (d) if the applicant is a trust—each trustee of the trust; and

- (e) if the applicant is a joint venture—any of the above, depending on the type of entity of the joint venture partner, or any person involved in the management of the joint venture.

RG 235.142 It is an offence to carry on a business under a business name while disqualified: s21(1).

Renewing your business name registration

RG 235.143 We will provide you with at least 28 days notice when your business name registration is due to expire.

Note: It is the business name holder's obligation to note the expiration of their registration period and contact ASIC if a renewal notice is not received from ASIC. Failure by ASIC to notify you that your business name is about to expire does not prevent us from cancelling the registration of the business name: s49(2).

RG 235.144 If you wish to continue to carry on a business under the business name, you must renew your registration before it expires. You will be able to do this through ASIC Connect.

RG 235.145 You will need to elect whether to renew your business name registration for a further 1 year or 3 years. A discounted annual registration renewal fee applies when you register for 3 years. For more information on registration fees, go to our website at www.asic.gov.au/business-names.

RG 235.146 If you hold more than one business name, or the business name holder is a company or registered body, you can choose to align the expiration of your business name registration periods when renewing your registration: see RG 235.66–RG 235.68 for more information on aligning the expiration of your registration period.

Note: If your business name was transferred from a state or territory (see Section B), and you wish to align the expiration of your registration periods, you will need to provide us with your ABN during the renewal process. You can only align the expiration of your registration periods if the business name holder's ABN is the same: see RG 235.66.

Cancelling the registration of a business name

RG 235.147 If you are the business name holder and no longer need the business name, you may ask us to cancel the registration of the business name. You can do this through ASIC Connect and you will need your ASIC key: see RG 235.16–RG 235.18.

RG 235.148 Generally, cancelling a business name will take at least 28 days. After we have received a request to cancel the business name, we will provide the business name holder (and any other representatives recorded in the

Business Names Register) with at least 28 days notice that we intend to cancel the business name. This is to ensure that all relevant parties are informed of the request to cancel the business name and prevent unauthorised attempts to cancel a business name.

Note: If you cancel the registration of your business name before its renewal, you will not be reimbursed for your remaining registration period.

Transferring the business name to another entity

RG 235.149 If you are a business name holder, you can transfer the business name to another entity through ASIC Connect under s31 (e.g. if you sell your business to another entity, or if your joint venture wants different joint venture partners and the new entity wants to retain the joint venture business name) by doing a ‘cancel and transfer’ transaction.

RG 235.150 To transfer your business name to another entity, you must first apply to cancel your business name registration: see RG 235.147–RG 235.148. During the cancellation request process, select the option ‘cancel and transfer’ to transfer the business name to another entity.

RG 235.151 If you have asked to transfer the business name to another entity, you will receive a ‘consent-to-transfer reference number’ when you submit your application to cancel the registration of your business name. You should provide this number to the proposed transferee—this will allow them to register that business name.

Note: You cannot transfer the remaining registration period to another entity.

RG 235.152 We will hold the business name for the proposed transferee for a maximum of 4 months and 28 days from the date the business name holder applies to cancel the business name; during this period, an entity may not register the business name without the consent-to-transfer reference number.

RG 235.153 The proposed transferee must enter the consent-to-transfer reference number during the registration process and the business name will be available for registration to the transferee. If the proposed transferee does not provide the consent-to-transfer reference number during the registration process, they will not be able to register the business name until the holding period expires.

RG 235.154 If you have applied to transfer the business name, the proposed transferee may commence carrying on a business under the business name before the name is actually registered to them. However, the proposed transferee must register the business name within 3 months from the date you applied to cancel the business name: s31(6).

Note: This is to allow the business conducted under the business name to continue while the proposed transferee’s application for registration is being processed.

- RG 235.155 If the proposed transferee continues carrying on a business under the business name after this time without registering it with us, they will be committing an offence: s18.
- RG 235.156 You may not withdraw a request to cancel your business name or request to transfer ownership of your business name to another holder.

Cancellation of the registration of a business name by ASIC

- RG 235.157 In certain situations we may cancel the registration of a business name. We may cancel the registration of a business name if, for example:
- (a) we become aware of a matter after registration that would have affected our initial decision to register the business name (s43);
 - (b) we become aware that the entity is disqualified (s44);
 - (c) we are satisfied the entity is not carrying on a business under the business name (e.g. because your ABN has been cancelled), and have not been carrying on a business for the previous 3 months (s47);
 - (d) the entity is obliged to notify us of a change in information, and fails to do so within the required time or fails to respond to an ASIC request for information (s48);
 - (e) the entity to whom the business name is registered ceases to exist (s50);
or
 - (f) the business name holder does not renew the business name registration (s49).

Note: The above list does not cover every situation where we may cancel registration of a business name. For a complete list of reasons why ASIC may cancel the registration of a business name, see Pt 5 of the Business Names Registration Act. An ASIC-initiated cancellation for when a business names registration has expired will generally occur at least 3 months later.

- RG 235.158 If we intend to cancel the registration of a business name, we will give you 28 days notice that we propose to cancel the business name, and we will advise you when the cancellation has occurred.
- RG 235.159 You may seek a review of some of the decisions to cancel a business name. See Section F for more information on what decisions you can seek a review of, and how to seek a review.

F What if you disagree with a decision?

Key points

If you are not satisfied with certain decisions we make about a business name, you may seek a review of the decision. In these cases, we will either confirm or vary the original decision, or set aside the original decision and make a substitute decision.

If you are still not satisfied with ASIC's review decision, you may apply to the Administrative Appeals Tribunal for a review of the decision.

Types of decisions that can be reviewed

RG 235.160 Some decisions we make about business names can be reviewed. The types of decisions for which you can seek a review include when ASIC:

- (a) registers a business name;
- (b) refuses to register a business name;
- (c) refuses to enter an entity's name on the Business Names Register as a notified successor in relation to a business name;
- (d) cancels the registration of a business name (in some circumstances);
- (e) refuses to suppress an entity's details from disclosure; and
- (f) refuses to receive a document submitted by an entity.

Note 1: For a complete list of reviewable decisions, see s56 of the Business Names Registration Act and s27 of the *Business Names Registration (Transitional and Consequential Provisions) Act 2011*.

Note 2: The Minister may also make a determination under s27(2) and 32(3) of the Business Names Registration Act. If you seek a review of decisions made under these sections, you will need to lodge your request with the Minister.

How to apply for a review of a decision

RG 235.161 If you seek a review of a decision made by us, you must lodge your request within 28 days of being notified of the decision (or a longer period as determined by us). Your request can be made through ASIC Connect after you have logged into your account.

RG 235.162 If you are a third party seeking a review of our decision to register a business name, you must lodge your application for review within 15 months of the day on which the business name was registered to the entity.

- RG 235.163 We will review the original decision and notify you of the result. We will either:
- (a) confirm the original decision;
 - (b) vary the original decision; or
 - (c) set aside the original decision and make a substitute decision.
- RG 235.164 You will be able to apply to the Administrative Appeals Tribunal for a review if you are not satisfied with ASIC's review decision.

Key terms

Term	Meaning in this document
ABN	Australian Business Number
ACN	Australian Company Number
ARBN	Australian Registered Body Number
ASIC	Australian Securities and Investments Commission
ASIC Connect	ASIC's online portal for business names
ASIC key	A unique number available to a business name holder, used to link a business name to an individual's ASIC Connect account
ATO	Australian Taxation Office
business name holder	The entity that holds the business name and any of its partners
Business Names Register	The register of business names established and maintained under s22 of the Business Names Registration Act
Business Names Registration Act	<i>Business Names Registration Act 2011</i> , including regulations made for the purposes of that Act
Corporations Act	<i>Corporations Act 2001</i> , including regulations made for the purposes of that Act
public register	The public register of business names accessible on the ASIC website at www.asic.gov.au
s18 (for example)	A section of the Business Names Registration Act (in this example numbered 18), unless otherwise specified
state or territory business name system	A business names register established under a state or territory of Australia

Related information

Headnotes

ASIC Connect, business name holder, business name registration, Business Names Register, carrying on a business

Legislation

A New Tax System (Australian Business Number) Act 1999

Business Names Registration Act, s3, 4, 16, 18, 21, 27, 31, 32, 35, 36, 38, 39, 40, 43, 47, 48, 49, 50 and 56

Business Names Registration (Availability of Names) Determination 2012

Business Names Registration Regulations 2011

Business Names Registration (Transitional and Consequential Provisions) Act 2011, s11 and 27

Corporations Act, s206A, 206B and 345A

Criminal Code Act 1995, Pt 7.4