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A practical guide to the national business name scheme

From 28 May 2012, ASIC will take over the registration of business names from the states and territories. To register a new business name, you must complete an online application and lodge it with ASIC. If a business name is currently registered in a state or territory, it will be automatically transferred to ASIC's Business Names Register (**Register**) on 28 May 2012.

Purpose

The key objective of the national registration scheme is to ensure that the public can identify the entity behind a business name quickly and accurately. The Register will also allow the public to identify and contact business name holders.

The Register will provide publicly accessible information online, allowing users to determine if a business name is available, register and renew a business name and make changes to details relating to the business name through a portal (**ASIC Connect**).

If an entity gives information to ASIC that is then recorded on the Register and circumstances change so that the information is no

longer correct, the entity must lodge with ASIC notice of the change within 28 days of becoming aware of the change. Businesses can make necessary updates using an ASIC form that will be available from 28 May.

Registration system

To lodge an application to register your business name, visit www.asic.gov.au, create an ASIC Connect account and provide information including:

- an ABN of the party wishing to register a business name;
- your proposed business name;
- your preferred registration period (1 or 3 years);
- the 'business name holder' and their details;
- a street address for the principal place of business; and
- a street address for service of documents from ASIC.

If you have an existing business name that is transferred automatically to the Register, the same period of registration will apply.



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You can pay the registration fee online with a credit card (MasterCard or Visa) or use payment methods such as BPay or payment to Australia Post. The fee to register a national business name depends on the period for which you wish to register the business name. You may select a registration period of 1 year for \$30 or \$70 for 3 years. The same fees apply to renewals.

There will be a new name checking system for online users that utilises a stop-light mechanism to alert you to the availability status of a business name. A red name result means that the business name is unavailable; an amber result means that a manual decision by ASIC will need to be made because the name may be unavailable due to there being similar names already registered; and a green result will mean that the name is available.

A business name must be renewed before its expiration date. ASIC will provide at least 28 days' notice before the business name is

due to expire. You may choose to let duplicate names expire if you have registered the same business name in multiple states or territories.

Agents applying for and renewing business names

An agent is any person who is authorised to transact with ASIC as an agent for a business name holder. This could be, for example, an accountant, a lawyer, a services provider or a relative or friend. A business name holder may appoint more than one agent, in addition to transacting with ASIC themselves. Agents who wish to receive email notifications for business name holders should nominate their email address as the business email address. Firms and organisations cannot themselves be agents because agents must be individual persons. However, a business name holder may authorise a business/firm to act as their agent, and they in turn may authorise several employees to each act as an agent for a business name holder.

Key steps for agents

- a. Get authorised – agents must be authorised to transact on behalf of a business name holder. This is a private arrangement between the agent and the business name holder and ASIC is not involved.
- b. Sign up to create an account – each individual who will transact with ASIC as an agent must create a personal ASIC Connect account.
- c. Obtain ASIC keys for business names. The ASIC key is a unique number associated with each business name. Special

arrangements are available to assist large agents in obtaining many ASIC keys.

- d. Link business names to each agent's ASIC Connect account. Special arrangements are available to assist large agents in linking many business names to the accounts of many employees. Agents may request that a large number of ASIC keys be emailed to them. They can do this online by submitting a request through www.asic.gov.au/question and including all the necessary details.

Identical and multiple business names

If your business name is registered in more than one state or territory, all of your business names will transfer to our register, and you may have multiple identical business names registered to you. You may choose to keep only one business name registered (eg the business name with the latest registration expiry date) and cancel the registration of your other remaining business names by allowing them to lapse over time or by applying to cancel them. There is no fee to cancel a business name. Keeping only one business name registration will save you time and money.

When the new register commences, there may be two or more identical, or nearly identical, business names recorded on the ASIC business names register. This may be because identical business names were previously registered in different states or territories to different entities. ASIC has suggested that it will deal with two or more identical names transferred from state and territory registers by inserting a distinguishing word or expression on the public register to help the public differentiate between identical business names. The additional information does not



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form part of the business name, but is used to allow people to distinguish between identical business names on the register. ASIC will publish further information regarding when it will commence inserting a distinguishing word or expression on the business names register.

Priority

Where two or more applications are lodged with ASIC for registration of business names that are identical or nearly identical, the applications take priority **in the order in which they are lodged**. This priority is not affected by the fact that an ABN application by the entity is pending.

ASIC may refuse two or more applications for registration of business names that are identical if all of the applications take the same priority.

Where the entity's application for registration is refused, the entity's priority over the business name is not affected during the review period in relation to that decision, which begins 28 days from the day on which the entity is notified of the decision.

Review

You may seek an internal review regarding a business name application. If you are still not satisfied with ASIC's decision, you may also apply to the Administrative Appeals Tribunal for a review of the decision.

If you are a third party seeking a review of the registration of 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.

Visit the dedicated website at <http://www.asic.gov.au/business-names> for further information.

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