

EXPOSURE DRAFT

PROPOSED NATIONAL BUSINESS NAME REGISTRATION SYSTEM

Fact Sheet

It is proposed that a new national system for business name registration will start in 2011. The new national system is a Council of Australian Governments (COAG) initiative in which the States agreed to refer their business name registration powers to the Australian Government.

The main purpose of business name registration is to protect consumers, by allowing them to identify the person(s) or company behind a business (trading) name.

Key Features of the Proposed System

The new system will give the Australian Securities and Investments Commission (ASIC) national responsibility for registering, renewing and administering business names for all Australian businesses.

The key features of the initiative are:

The establishment of a national business name registration system

- persons and companies who carry on business or trade within Australia must register their business names under the national system, unless trading under their own personal or company names
- business names which are currently registered under the State and Territory business names systems will be automatically rolled into the new national system
- business names will be able to be registered online 24/7
- costs for registering a business name will be coming down in nearly all jurisdictions - business name applicants will be given the choice to renew their registrations for a one year period (proposed fee \$30) or for three years (proposed fee \$70)
- the public will be able to access certain contact details about a business name holder on a free, online business names register. Further information will be available for a proposed \$20 fee.

New business name registrations will require an Australian Business Number (ABN)

- all new business name applicants must have an ABN in order to register a business name
- applicants will be able to apply for an ABN at the same time as lodging an application for a business name.

Business names available for registration

Some business names will not be able to be registered such as:

- a name which is “identical or nearly identical” to a name on an ASIC register, such as a company or business name;
- a name which is likely to be offensive;
- a name which contains prohibited or restricted words without appropriate permission; and
- a name which is likely to mislead or deceive consumers and traders.

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Maintaining the business names register

- business name holders may cancel their business names at any time by giving notice to ASIC
- ASIC may cancel a business name on specific grounds (for example because the renewal fee was not paid), subject to appropriate notice being given to the business holder.

Review and appeal procedures

- a business name applicant whose application for a name is rejected will be able to request a review of the decision
- a third party review is available to entities where there is a real risk of substantial detriment because of the registration of the business name
- business name applicants and holders will be able to appeal a decision made by ASIC to the Administrative Appeals Tribunal.

Transition

The national business name registration scheme is expected to commence in 2011.

The States and Territories will finalise any in-process transactions (e.g. business name renewals) and any outstanding business name reviews and appeals. From the start date of the national system all new interactions (e.g. applications, renewals) will be dealt with by the Australian Securities and Investments Commission.

Keep updated on progress by checking:

<http://www.innovation.gov.au/Section/AboutDIISR/FactSheets/Pages/AustralianBusinessNumberABNBusinessNamesRegistrationProjectFactSheet.aspx>

Comments can be sent to: businessnamesconsultation@innovation.gov.au