

Form 1

*Please read this information before completing the form.
The form should be completed in black ink and BLOCK LETTERS.*

What is a Business Name

A business name is simply a name or title under which a person or other legal entity may conduct its business.

A business name is registered under the *Business Names Act 2002* administered by the Office of Fair Trading.

The purpose of the Register of Business Names is to provide a means of finding out the details of the proprietor(s) of a business where the business is not trading under the proprietor's name.

Consequently, if you choose a name for your business that is not your own name then you must register the name of your business with Fair Trading.

For example, if your name is Julie Smith and you are trading under 'Julie Smith's Salon' registration is compulsory.

What is a company

A company is a separate legal entity and must be registered under the *Corporations Act 2001* administered by the Australian Securities & Investments Commission (ASIC).

If a company wishes to trade using a name other than its own, it must register that trading name as a business name.

For enquiries regarding companies - contact ASIC on 1300 555 600 or visit the ASIC website at: www.asic.gov.au

What is a Trade Mark

Registration of a trade mark gives the owner the legal right to exclusively use or control the use of the mark. IP Australia is the Commonwealth agency that administers registration under the *Trade Marks Act 1995*.

Before registering your business name, it is a good idea to search the Register of Trade Marks. Searches can be done free of charge on the IP Australia Website at www.ipaustralia.gov.au or for a fee the IP Australia office will do the search for you.

Who owns a Business Name

Be aware that registering your business name does not give you ownership of that name. Registering a particular name does not stop another person from registering a similar name. For example, if you register your name as 'Michelle's Pies' there is nothing to stop someone else from registering 'Michelle's Pies and Cakes' or 'Michelle's Savoury Pies'.

Trading on the Internet

If your business trades only via the internet you do not have to register that business name in New South Wales.

Who can apply for a Business Name

The applicant for a business name can be:

- an individual, corporation or incorporated association.
- a government instrumentality, if its Act or constitution permits.
- a trustee - *The name of the Trustee as well as the Trust must be shown on the application form. For example, John Brown as Trustee for the Brown Family Trust.*
- the executor of an estate - *The name of the Executor as well as the Estate must be shown on the application form. For example, John Brown as the Executor of the Estate of Mary Brown.*

Eligibility to apply for a Business Name

- All applicants must be 16 years of age or older.
- Section 7 of the *Business Names Act 2002* requires that a business name is not to be registered in the name of a person who is not carrying on business or does not intend to carry on business in the immediate future in NSW.
- Section 8 of the *Business Names Act 2002* requires the leave of the District Court to be obtained where an applicant has been convicted of an offence in the last 5 years in connection with the promotion, formation or management of a corporation, or an offence involving fraud or dishonesty punishable with imprisonment of three months or more, or an offence involving Corporations Law, Companies Code, Securities Industry Code etc.

What does the nature of the business mean on the application

The nature of the business should describe in detail the types of products or services you will offer. For example, 'import and export of children's clothing', not just 'import export'.

What does the Preferred Address for Service of Notices mean on the application

The *Business Names Act 2002* requires each proprietor of the business to give their address for service of notices by Fair Trading.

However, where a business name is registered to more than one person Fair Trading is only required to send mail to one of those persons. Please nominate which person is to receive mail on behalf of the business.

If a person nominated to receive notices is not one of the applicants or a nomination is not made Fair Trading will select the service of notices address of the first applicant as the preferred service of notices address for the business name.

Choosing a Business Name

When choosing a business name it is important to appreciate that Fair Trading may refuse to register a name in certain circumstances, e. g. where:

- it is the same as an existing registered business, company or incorporated association name.
- it is considered 'undesirable' for registration.
- it will, in the opinion of Fair Trading be likely to cause confusion during an inspection of the Register of Business Names.
- the name or words in the name are restricted by Ministerial Prohibition or State or Federal Law.
- it suggests a connection to a government office or agency.

In addition, if the proposed name suggests that the applicant is a professional, evidence of the relevant qualifications/registration may be required e.g doctor, lawyer etc.

You must wait until the name is registered

Circumstances do occur where the business name you apply for is not available for registration. It is important to wait until you have received the Certificate of Registration before conducting business under the name or arranging for printing, advertising, signage and other business materials under the name.

How long does registration last

Registration of a name is valid for 3 years. Fair Trading will issue a renewal notice prior to the expiry date.

What if Fair Trading refuses my application

If you are dissatisfied with the decision made on your application, in the first instance, you may apply in writing to Fair Trading to have the decision reviewed.

If you are dissatisfied with the outcome of the review you may then lodge an appeal against the decision with the Administrative Decisions Tribunal.

Lodging an application and paying the fee

- Applications may be lodged at any Fair Trading Centre or by mail to Office of Fair Trading, PO Box 972, Parramatta NSW 2124.

For the address of your nearest Fair Trading Centre please telephone 13 32 20 or visit www.fairtrading.nsw.gov.au

- Fair Trading Centres will accept payment by cheque, cash, money order or credit card. Fees for mailed applications should be paid by cheque or money order.
- Cheques and money orders should be payable to the "Office of Fair Trading".
- The application fee is not subject to GST.
- Applications received without payment will be returned.
- Receipts will only be issued upon request.
- The application fee includes a processing component.
- If an application is rejected you may be able to submit further names for consideration or request Fair Trading to review its decision. A refund of the amount paid, less the processing component, will be made if no further names are submitted, if no review is requested or where you advise us in writing that you do not wish to proceed with the application.

Contacting the Office of Fair Trading

Telephone: For all enquiries regarding business names please telephone 13 32 20

In person: You can enquire about business names at any Fair Trading Centre.

By Mail: Mail should be addressed to Office of Fair Trading, PO Box 972, Parramatta NSW 2124.

Website: You can visit the Fair Trading website on www.fairtrading.nsw.gov.au

Language Assistance

Telephone: 13 14 50

Ask for an interpreter in your language.

TTY: (02) 9338 4943

Telephone service for the hearing impaired.

**Application for
Registration of a Business Name**
under the Business Names Act 2002.

Form 1

*Please read the information provided before completing this form.
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Application Fee \$146
Includes processing component of \$25

1. Contact details of the person lodging this application.

Name:

Address:

Postcode:

Daytime Phone Number:

2. What is your proposed business name?

This application is for the registration of one business name. If more than one name is nominated the names are assessed in order and the first name available will be registered.

Name 1:

Name 2:

Name 3:

NOTE: *If this application is lodged personally at a Fair Trading Centre it will not be accepted as lodged until the Fair Trading Centre has checked the availability of the nominated name(s). If none of the names are available, the application may be varied by nominating further names. If the application is varied, the availability of any further names will be assessed in order of nomination. If such a further nominated name is registered the application will be considered successful.*

3. What is your nature of business?

Describe in detail the types of products or services you will offer e.g. computer consultancy, hairdressing salon, retail baby wear.

4. Do you intend to trade under this business name?

YES

NO (Go to Question 7)*

***NOTE:** *When you start trading you are required to advise us of the full details of your business by lodging an Application to Change Particulars form.*

5. What is the ABN for this business?

If you do not have an ABN you can still register a business name. You must advise us of your ABN when and if you obtain one. You can advise us of your ABN by lodging an Application to Change Particulars form.

6. What is the street address of your principal place of business?

(Post office boxes are NOT acceptable)

Address:

Postcode:

Do you have other places of business?

(If there is more than 1 other place of business please attach a list)

Address:

Postcode:

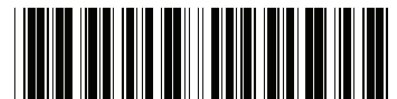
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Lodged at:

Processed by:

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Registration no.:



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7. What are the Applicant details?

You must provide details of all individuals or corporations who are/will be carrying on business under this business name. If there are more than two applicants please photocopy this page and complete.

Applicant 1—Details

Full name of Individual or Corporation (include ACN)

Name:

ACN:

Residential address of Individual or Registered Office of Corporation

Address:

Postcode:

(Post office boxes are **NOT** acceptable)

Place of Birth

(Town and State or Country if overseas)

Date of Birth

/ /

Address for Service of Notices

Address:

Postcode:

(Post office boxes are acceptable)

I certify that the information provided on this application is correct. I have read and understand the Statement under the *Privacy and Personal Information Protection Act 1998* below. I have not been convicted of an offence prescribed under Section 8 of the *Business Names Act 2002*.

Signature

Full Name of Person if signing on behalf of a Corporation

Date

Position Held if signing on behalf of a Corporation Please tick one box only

Director

Secretary

Authorised Officer

Applicant 2—Details

Full name of Individual or Corporation (include ACN)

Name:

ACN:

Residential address of Individual or Registered Office of Corporation

Address:

Postcode:

(Post office boxes are **NOT** acceptable)

Place of Birth

(Town and State or Country if overseas)

Date of Birth

/ /

Address for Service of Notices

Address:

Postcode:

(Post office boxes are acceptable)

I certify that the information provided on this application is correct. I have read and understand the Statement under the *Privacy and Personal Information Protection Act 1998* below. I have not been convicted of an offence prescribed under Section 8 of the *Business Names Act 2002*.

Signature

Full Name of Person if signing on behalf of a Corporation

Date

Position Held if signing on behalf of a Corporation Please tick one box only

Director

Secretary

Authorised Officer

8. Nominated applicant for Service of Notices for the business.

Name:

Where a business name is registered to more than one person, Fair Trading is only required to send mail to one of those persons. Please nominate which person is to receive mail on behalf of the business. If a person is not one of the applicants or a nomination is not made Fair Trading will select the first applicant's service of notices address.

Statement under the Privacy and Personal Information Protection Act 1998:

The applicant for this registration:

- authorises the Office of Fair Trading to make any enquiries and to receive and disclose any information which is relevant to the applicant's initial and ongoing eligibility to hold this registration;
- acknowledges that information will be placed on a register open to the public;
- has a right to seek access to and correction of information supplied.