

# Registering and using your business name

## 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.

Under the *Business Names Act 2002*, if you choose a name for your business that is not your own name then you must register the name of your business with the Office of Fair Trading. For example, if your name is Julie Smith and you are trading under 'Julie Smith's Salon', registration of that name is compulsory.

The main purpose of the Register of Business Names is to provide a means for finding out the details of the proprietors of a business in situations where the business is not trading under the proprietor's name. The Register contains details such as when a particular name was registered and when the registration is due to expire.

## 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 nor does it give you the exclusive right to use the name or part of the 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'.

## 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, for example 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 contains foreign language characters.

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

Names requested on an application are assessed in order and the first name available will be registered.

**QUICK TIP** – Make sure you check with IP Australia that there are no registered or pending trade marks identical or similar to your proposed business name. Call IP Australia on 1300 651 010 or visit [www.ipaustralia.gov.au](http://www.ipaustralia.gov.au)

## Who can apply for a business name?

An 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.

**IMPORTANT** – Applicants who are individuals 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 in New South Wales unless Fair Trading is satisfied that the person intends to carry on business in New South Wales in the immediate future.

Section 8 of the *Business Names Act 2002* provides that, except with leave of the District Court, a business name is not to be registered in the name of a person who, within the last five years, has been found guilty or convicted of a prescribed offence including:

- an offence in connection with the promotion, formation or management of a corporation
- an offence involving fraud or dishonesty, punishable with imprisonment of three months or more
- an offence under the *Corporations Act 2001*.

## Multiple registrations

Traders who carry on business, or intend to carry on business within the immediate future, in New South Wales may register multiple business names, although they may choose not to use all or some of the names to carry on business.

## How to register a business name

Complete an *Application for Registration of a Business Name* and lodge it with Fair Trading.

You can mail your application to the Office of Fair Trading, PO Box 972, Parramatta NSW 2124.

Alternatively, you can enquire about business names and make an application for registration at any Fair Trading Centre. For the address of your nearest Fair Trading Centre telephone 13 32 20.

Application forms are also available on the Fair Trading website at [www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au)

## Wait until the name is registered!

Circumstances do occur where the business name you apply for is not available or approved for registration.

**IMPORTANT** – Before committing any money to signage, printing or advertising, make sure your business name is registered and you have received your Certificate of Registration from Fair Trading.

## Renewing a business name

Registration lasts for three years. Fair Trading will send a renewal notice to the nominated proprietor at the address provided for service of notices prior to expiry of the registration.

### What if I don't renew on time?

If the registration is not renewed by the due date it will expire. An expired registration may be restored within three months of the expiry date. An application for restoration attracts an additional fee.

If a registration is neither renewed nor restored it will lapse and the business name may be registered by any party.

### Renewal payments

Renewals can be forwarded by mail to Office of Fair Trading, Business Name Registration, PO Box 972, Parramatta NSW 2124 or can be processed at a Fair Trading Centre. Phone 13 32 20 for the address of your nearest centre.

You can also renew a business name online at [www.licencedft.nsw.gov.au](http://www.licencedft.nsw.gov.au) by using a credit card. In order to renew online, you will require a reference number. The number is printed on the top right hand corner of the renewal notice that is automatically sent to you, or it can be obtained at any time by contacting Fair Trading on 13 32 20.

## What if my application is refused?

If you are dissatisfied with the decision made on your application, 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.

## Changes to the registered particulars of a business name

There is no fee for changing your details on the Register of Business Names.

A proprietor must notify Fair Trading within one month of changes occurring to the particulars of a business name eg. business or proprietor's address. Failure to do this may result in penalties being applied or the cancellation of the registration.

## Display of a business name

The business name must be displayed at all times, so as to be conspicuous to the public, at each place where the business is carried on under the business name.

The Certificate of Registration must also be exhibited, so as to be conspicuous to the public, at the principal place at which business is carried on under that business name.

## Trading on the internet

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

## 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 [www.asic.gov.au](http://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](http://www.ipaustralia.gov.au) or, for a fee, IP Australia will do the search for you.

It is important to remember that registering a business name will not prevent the name being used by somebody who has registered it as a trade mark.

If you have a dispute with someone over a business name, company name or trade mark, the matter may need to be resolved in court.

It is the proprietor's responsibility to check the Register of Trade Marks to ensure this situation does not arise.

## Why do I need an ABN (Australian Business Number)?

You need an ABN to claim back the GST (Goods and Services Tax) your business pays.

Ring the Australian Taxation Office on 13 24 78 and request a registration package.

There are a number of ways that you can register:

- electronically through the Business Entry Point (BEP) at [www.business.gov.au](http://www.business.gov.au)
- by mail
- through your tax agent.

ABN application forms are also available at most Australia Post Offices.

[www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au)

## Need more information?

Business Licence Information Service (BLIS)  
Tel: 13 32 20

Business licensing (motor dealers, travel agents,  
pawnbrokers and second-hand dealers)  
Tel: 9372 9290

Department of State and Regional Development  
Website: [www.smallbiz.nsw.gov.au](http://www.smallbiz.nsw.gov.au)

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Fair Trading enquiries 13 32 20  
TTY 1300 723 404  
Language assistance 13 14 50

This fact sheet must not be relied on as legal advice. For more  
information about this topic, refer to the appropriate legislation.  
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[www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au)

