

# 9.2 Complying with the law

PRODUCT
DISTRIBUTION
PROMOTION
PEOPLE
FINANCE
<b>RISK</b>
GROWTH

- > *Business names*
- > *Trade marks*
- > *Business licences*

## **Registering a business name**

Registering a business name identifies your business and puts on public record the fact that you are the owner of the business. Once you have registered a business name it is unique to you and no other business in this State may copy or use it.

Once you have made a decision on a name for your business it is simply a matter of checking the register of existing names at the Office of Consumer and Business Affairs (OCBA) to ensure that the name you have chosen is not being used by someone else. You then fill out a form and pay a set fee. This registers your right to use the chosen name for three years, after which time you must renew the name if you are still in that business. You should have some alternative names in mind in case the name you want to use is already registered to another business.

### **When do you have to register a name?**

You do not have to register a business name if you are the sole proprietor of a business and you want to trade under your own name. If this is what you want to do then just use your given names and/or initials in the way that you generally introduce yourself to clients, such as Mary Smith or M G Smith.

If you work in partnership with someone you may also choose not to register your business name if that business is carried out under the names of the partners or associates; for example, Mary Smith and George Jones – again, you may use initials or combinations of given names and initials on the condition you have your surnames in full. You may put on your business cards a description of the type of business you have – training consultant, air conditioning repairs, secretarial services, without the need to register the description.

Choosing a name for your business that is unique, describes what you do, or is your marketing tool, means that you will have to register it. Names such as Mary's Marketing Services, Mary Smith's Advertising Agency, Smith and Jones Real Estate or Really Movin' Trucking Company, will all need to be registered.

You must register that name before you can trade under it and you may do so up to two months before you start up in order to have time to organise things like advertising, telephone listings and business accounts.

### **Registration**

The Office of Consumer and Business Affairs takes your details and keeps a register which is freely available to anyone who wants to find out the nature of a business, its locations, when it was started and who the owner of the business is. You may check

this register yourself to make sure that the name you want to use for your business is not already in use. You can also read the register to check details when wanting to enter into business dealings or purchase an existing business, make decisions about extending credit to a business, or for legal dealings, such as the serving of notices or summons.

You can call in person to OCBA to register your chosen name or names and give your business details. In some cases the counter staff can check your application against the database immediately, and you can leave with a certificate straight away. They also provide a lamination service for the document at a small extra charge. If you lodge an application by post you will need to allow about 10 days for your certificate to arrive.

### **Using a business name**

You should not use that chosen business name or get stationery or business cards printed until you receive the certificate in case the name cannot be approved, or any further details are required.

You must place the business name certificate on public display in your business premises.

If you have more than one location, it must be shown at the principal one used. Your business name must also be clearly and legibly shown on any business documents, letters, official notices, invoices and accounts, order forms, receipts or cheques.



### **Changing registration details**

If you want to change your registration details, you must advise OCBA within 28 days of

- > changes in the nature of your business
- > any other proprietor or person trading under your business name
- > change of address
- > opening of new and additional premises
- > closure of any place of business
- > closure of the business itself
- > sale of the business

### **Trade marks, brand names and labels**

Registration of a business name is only applicable in South Australia, and the Office of Consumer and Business Affairs does not accept any responsibility or liability for your use of a name that is protected nationally or in another state.

Business name registration also does not guarantee protection of your label, trade mark or brand.

If you want to protect your rights to exclusive national use of any names or labels you should contact IP Australia, which will provide information about applying for Australia-wide protection under the *Trade Marks Act 1955*.

As part of the application process you will need to check your chosen name or names with IP Australia to ensure that you do not infringe the rights of others.

### **Business licences**

Surprisingly only a small number of businesses need licences, permits or approvals. However, the problem for business owners or their advisers is knowing which licences may apply.

The Department of Trade and Economic Development (DTED), Business Enterprise Centres and Regional Development Boards offer a centralised and constantly updated database of information on all Commonwealth, State and Local Government licensing requirements.

If you need information or want to update your knowledge of licensing requirements for a new or existing business, or are planning to diversify into a new venture, telephone your nearest Centre to obtain the information needed.

Business Licence Information maintains direct, ongoing contact with all Commonwealth, State and Local Government departments and agencies, therefore licence and associated information is current. They can provide printed information, including the actual licence forms, specifically for your business. The service is available over the telephone or in person, and the information will be posted free of charge.

The information can include:

- > licences, permits and approvals you may require for your business activity

- > name, address and telephone number of the issuing departments or agencies
- > fee and duration of the licence
- > forms to be completed

Licence applications and fees must be lodged directly with the department or agency nominated.

### **Websites**

Business Licence Information (BLIS) ([www.bli.net.au](http://www.bli.net.au))

Office of Consumer and Business Affairs  
([www.ocba.sa.gov.au](http://www.ocba.sa.gov.au))

IP Australia ([www.ipaustralia.gov.au](http://www.ipaustralia.gov.au))

### **Government assistance**

Department of Trade and Economic Development  
business licence information (08) 8303 2519 (country  
callers 1800 188 018)

Office of Consumer and Business Affairs (08) 8204 9779  
(country callers 1300 138 918)

IP Australia (08) 8231 8896