



Western Australia

# **Business Names (Commonwealth Powers) Act 2012**

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# **Business Names (Commonwealth Powers) Act 2012**

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## **Business Names (Commonwealth Powers) Act 2012**

**An Act —**

- **to adopt the *Business Names Registration Act 2011* (Commonwealth) and the *Business Names Registration (Transitional and Consequential Provisions) Act 2011* (Commonwealth), and to refer certain matters relating to the registration and use of business names to the Parliament of the Commonwealth, for the purposes of section 51(xxxvii) of the Constitution of the Commonwealth; and**
- **to amend the *Business Names Act 1962* to effect the transition of the regulation of business names from the State to the Commonwealth; and**
- **to make consequential amendments to various Acts, and for related purposes.**

The Parliament of Western Australia enacts as follows:

## **Part 1 — Preliminary**

**1. Short title**

This is the *Business Names (Commonwealth Powers) Act 2012*.

**2. Commencement**

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent;
- (b) Parts 2 and 3 — on the day after that day;
- (c) Part 4 — when the *Business Names Registration Act 2011* (Commonwealth) Part 2 comes into operation.



## **Part 2 — Adoption of national business names legislation and referral to Commonwealth**

### **3. Terms used**

In this Act, unless the contrary intention appears —

***adoption*** means the adoption under section 5(1);

***amendment reference*** means the reference under section 6(1);

***business name*** has the same meaning as in the *Business Names Registration Act 2011* (Commonwealth) as originally enacted;

***continuing business names matter*** has the meaning given by section 4;

***entity*** includes an individual, body corporate or unincorporate, partnership or anything that is an entity within the meaning of the *Business Names Registration Act 2011* (Commonwealth) as originally enacted;

***exemption provision*** means a provision in the terms, or substantially in the terms, of section 19(5) or section 20(3) of the *Business Names Registration Act 2011* (Commonwealth) as originally enacted;

***express amendment*** of the national business names legislation means the direct amendment of the text of the national business names legislation (whether by the insertion, omission, repeal, substitution or relocation of words or matter) by another Commonwealth Act, but does not include the enactment by a Commonwealth Act of a provision that has or will have substantive effect otherwise than as part of the text of the national business names legislation;

***government body*** means —

- (a) the State or an agency or authority of the State or of the State acting jointly with the Commonwealth, another State or a Territory; or
- (b) a local government or regional local government;

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**national business names instrument** means any instrument (whether or not of a legislative character) that is made or issued under the national business names legislation;

**national business names legislation** means —

- (a) the *Business Names Registration Act 2011* (Commonwealth); and
- (b) the *Business Names Registration (Transitional and Consequential Provisions) Act 2011* (Commonwealth);

**notified State register** means a register that is maintained under a State law and is a **notified State/Territory register** within the meaning given by section 6 of the *Business Names Registration Act 2011* (Commonwealth) as originally enacted;

**registration** means the inclusion of information in any system for the recording of information (whether in written or electronic form);

**State law** means an Act of the State, or an instrument made under an Act of the State, whenever enacted or made and as in force from time to time;

**taxes** means taxes, duties, charges or other imposts, however described.

**4. Continuing business names matters**

- (1) Each of the following matters is a continuing business names matter to the extent that it is included in the legislative powers of the Parliament of the State —
  - (a) the registration of business names;
  - (b) the regulation of the use of business names to assist entities who engage with an entity carrying on a business under a business name to identify the entity;
  - (c) the regulation of the use of business names to assist entities who engage with an entity carrying on a business under a business name to contact the entity;

- (d) the regulation of the use of business names to reduce the risks that arise from an entity carrying on a business under a name that is not the entity's own;
  - (e) the prohibition or restriction of the use of business names that are undesirable, offensive or confusing;
  - (f) the prohibition or restriction of the use of business names by an entity because —
    - (i) the entity has engaged in unlawful conduct; or
    - (ii) a person involved in the management of the entity has engaged in unlawful conduct.
- (2) However, none of the following matters is a continuing business names matter —
- (a) the imposition of a restriction on a government body affecting the ability of the body to carry on business under a name;
  - (b) the imposition of a restriction on an entity affecting the ability of the entity to carry on business under a name registered to the entity on a notified State register;
  - (c) the imposition of a restriction on an entity affecting the ability of the entity to carry on business under a name that is specified as the name of the entity in a State law;
  - (d) the imposition of an obligation on a government body to include a name in a communication or to display a name;
  - (e) the imposition of an obligation on an entity to include in a communication, or to display, a name that is registered to the entity on a notified State register;
  - (f) the imposition of an obligation on an entity to include in a communication, or to display, a name that is specified as the name of the entity in a State law;
  - (g) the omission of an exemption provision without the insertion of an equivalent provision, or the imposition of a limitation on the operation of an exemption provision;

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- (h) any matter relating to the imposition or payment of taxes under a State law.

**5. Adoption of national business names legislation**

- (1) The national business names legislation, as originally enacted, is adopted within the meaning of section 51(xxxvii) of the Constitution of the Commonwealth.
- (2) The adoption has effect for a period —
  - (a) beginning when subsection (1) comes into operation; and
  - (b) ending at the end of the day fixed under section 8(1)(a) or (c) as the day on which the adoption is to terminate,but not longer.

**6. Reference of continuing business names matters**

- (1) Each continuing business names matter is referred to the Parliament of the Commonwealth, but only to the extent of the making of laws with respect to the matter by making express amendments of the national business names legislation.
- (2) The reference of a matter under subsection (1) has effect only if and to the extent that the matter is not included in the legislative powers of the Parliament of the Commonwealth (otherwise than by a reference for the purposes of section 51(xxxvii) of the Constitution of the Commonwealth).
- (3) Despite any provision other than section 9(4), the amendment reference has effect for a period —
  - (a) beginning when subsection (1) comes into operation; and
  - (b) ending at the end of the day fixed under section 8(1)(a) or (b) as the day on which the amendment reference is to terminate,but not longer.

**7. Amendment of Commonwealth law**

It is the intention of the Parliament of the State that —

- (a) the national business names legislation may be expressly amended, or have its operation otherwise affected, at any time by provisions of Commonwealth Acts the operation of which is based on legislative powers that the Parliament of the Commonwealth has apart from a reference of any matters for the purposes of section 51(xxxvii) of the Constitution of the Commonwealth; and
- (b) the national business names legislation may have its operation affected, otherwise than by express amendment, at any time by provisions of national business names instruments.

**8. Termination of adoption and amendment reference**

- (1) The Governor may, at any time, by proclamation published in the *Gazette*, fix a day as the day on which —
  - (a) the adoption and the amendment reference are to terminate; or
  - (b) the amendment reference is to terminate; or
  - (c) the adoption is to terminate (if the amendment reference has been previously terminated).
- (2) A day fixed under subsection (1) must be no earlier than the first day after the end of the period of 6 months beginning with the day on which the proclamation is published.
- (3) The Governor may, by proclamation published in the *Gazette*, revoke a proclamation published under subsection (1).
- (4) A revoking proclamation has effect only if published before the day fixed under subsection (1).

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- (5) If a revoking proclamation has effect the revoked proclamation is taken, for the purposes of each or either of sections 5 and 6, never to have been published but the revocation does not prevent publication of a further proclamation under subsection (1).
- (6) A proclamation cannot be made under subsection (1) unless a draft of the proclamation has first been approved by a resolution passed by both Houses of the Parliament of the State.

**9. Effect of termination of amendment reference before termination of adoption**

- (1) In this section —  
*existing legislation* means the national business names legislation as —
  - (a) amended by laws made under the amendment reference that have come into operation before the termination; or
  - (b) amended or affected by provisions referred to in section 7(a) or (b) that have come into operation before the termination,and as in operation immediately before the termination;  
*termination* means the termination of the amendment reference.
- (2) A reference in this section to provisions referred to in section 7(b) includes a reference to national business names instruments made to carry out or give effect to the national business names legislation as amended by laws made under the amendment reference.
- (3) It is the intention of the Parliament of the State that, if the amendment reference terminates before the adoption terminates, the termination of the amendment reference does not affect —
  - (a) laws made under the amendment reference before the termination; or

- (b) the continued operation in the State of the existing legislation or of the existing legislation as —
  - (i) amended after the termination by laws referred to in paragraph (a) that come into operation after the termination; or
  - (ii) amended or affected after the termination by provisions referred to in section 7(a) or (b).
- (4) Accordingly, the amendment reference continues to have effect for the purposes of subsection (3) unless the adoption is terminated.
- (5) Subsection (3) or (4) does not apply to or in relation to an amendment of the national business names legislation that is excluded from the operation of this section by the proclamation that terminates the amendment reference.

**10. Regulations**

The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed for giving effect to the purposes of this Act.

**11. Regulations for purposes of *Business Names Registration Act 2011* (Commonwealth) s. 13 and 14**

- (1) The regulations may declare a matter to be an excluded matter for the purposes of the *Business Names Registration Act 2011* (Commonwealth) section 13 in relation to —
  - (a) the whole of the national business names legislation; or
  - (b) a specified provision of the national business names legislation; or
  - (c) the national business names legislation other than a specified provision; or
  - (d) the national business names legislation otherwise than to a specified extent.

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- (2) The regulations may declare a provision of a law of the State to be a business names legislation displacement provision for the purposes of the *Business Names Registration Act 2011* (Commonwealth) section 14 (either generally or specifically in relation to a provision of the national business names legislation).
- (3) Regulations cannot be made in accordance with subsection (1) or (2) unless a draft of the regulations has first been approved by a resolution passed by both Houses of the Parliament of the State.

**12. Transitional regulations**

- (1) In this section —  
*commencement day* means the day on which section 3 comes into operation;  
*Gazettal day*, in relation to transitional regulations, means the day on which the regulations are published in the *Gazette*;  
*specified* means specified or described in transitional regulations;  
*transitional regulations* means regulations made for the purposes of subsection (2).
- (2) The regulations may deal with all matters of a savings or transitional nature arising as a result of the enactment of —
  - (a) this Act; or
  - (b) the national business names legislation or any Act of the Commonwealth that amends the national business names legislation.
- (3) If transitional regulations provide that a specified state of affairs is taken to have existed, or not to have existed, on and from a day that is earlier than the Gazettal day but not earlier than the commencement day, the regulations have effect according to their terms.



- (4) If transitional regulations contain a provision referred to in subsection (3), the provision does not operate so as —
  - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the Gazettal day; or
  - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the Gazettal day.
- (5) Transitional regulations cannot be made after the end of the period of 12 months beginning on the commencement day.

**13. Review of Act**

- (1) The Minister must carry out a review of the operation and effectiveness of this Act as soon as is practicable after the end of the period of 5 years beginning on the commencement day (as defined in section 12(1)).
- (2) The Minister must prepare a report based on the review and, as soon as is practicable after the report is prepared, cause it to be laid before both Houses of the Parliament of the State.

**Part 3 — *Business Names Act 1962* amended**

**14. Act amended**

This Part amends the *Business Names Act 1962*.

**15. Section 3A inserted**

After section 3 insert:

**3A. Expiry of Act**

- (1) This Act expires on a day fixed by proclamation.
- (2) A proclamation cannot be made under subsection (1) unless the Commissioner has given the Minister a certificate signed by the Commissioner stating that the operation of this Act is no longer necessary.

**16. Section 4 amended**

In section 4(1) insert in alphabetical order:

*ASIC* means the Australian Securities and Investments Commission of the Commonwealth;

*change-over day* has the meaning given in the Commonwealth Transitional Act section 4(1);

*Commonwealth Transitional Act* means the *Business Names Registration (Transitional and Consequential Provisions) Act 2011* (Commonwealth);

*national business names legislation* means —

- (a) the *Business Names Registration Act 2011* (Commonwealth); and
- (b) the Commonwealth Transitional Act;

**17. Section 4A amended**

- (1) In section 4A(1) delete “the Australian Securities and Investments Commission” and insert:

ASIC

- (2) In section 4A(2):

- (a) in paragraph (a) delete “the Australian Securities and Investments Commission; or” and insert:

ASIC; or

- (b) in paragraph (b) delete “the Australian Securities and Investments Commission.” and insert:

ASIC.

- (3) In section 4A(3) delete “the Australian Securities and Investments Commission” and insert:

ASIC

- (4) In section 4A(4) delete “The Australian Securities and Investments Commission” and insert:

ASIC

**18. Sections 4B and 4C inserted**

After section 4A insert:

**4B. Commissioner may act for purposes of national business names legislation**

- (1) In this section —  
*business names information* means information obtained by the Commissioner in connection with the administration or enforcement of this Act.
- (2) The Commissioner may, on behalf of the State —
  - (a) give ASIC notifications under the Commonwealth Transitional Act Schedule 1; and
  - (b) do any other thing that is required to be done by the State to facilitate the transition to the national business names legislation.
- (3) Without limiting subsection (2), the Commissioner may, under the Commonwealth Transitional Act Schedule 1 Part 2 —
  - (a) give ASIC notification that a business name is to be held for the purposes of resolving outstanding matters in relation to the business name; and
  - (b) if the Commissioner is satisfied that all outstanding matters in relation to the business name have been finally resolved, give the appropriate notification to ASIC.
- (4) Without limiting subsection (2) or (3), the Commissioner may —
  - (a) disclose to ASIC business names information; and

- (b) give to ASIC copies of records, containing business names information, that are in the Commissioner's possession or under the Commissioner's control.
- (5) The Commissioner may —
- (a) give notifications under subsection (2) or (3); or
  - (b) disclose business names information, or give a copy of a record, under subsection (4),

in whatever form the Commissioner considers appropriate (which may include by means of electronic data or in a form appropriate for the purposes of the national business names legislation).

- (6) If anything that this section authorises the Commissioner to do would be contrary to any enactment relating to secrecy or confidentiality, this section prevails.
- (7) Without limiting section 31C, the doing of anything in good faith under this section —
- (a) does not result in any person incurring civil or criminal liability; and
  - (b) is not to be regarded as a breach of any duty of confidentiality or secrecy imposed by law; and
  - (c) is not to be regarded as a breach of professional ethics or standards or as unprofessional conduct.
- (8) In this section, a reference to the doing of anything includes a reference to an omission to do anything.

**4C. Outstanding matters**

The outstanding matters for the purposes of which the Commissioner may give ASIC notification under

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section 4B(3) to hold a business name include, but are not limited to, the following —

- (a) an application for the registration of a business name that is made under section 7(1), but not finally dealt with by the Commissioner, before the change-over day;
- (b) an application for the consent of the Minister to the registration of a business name that is made under section 9(1), but not finally dealt with by the Minister, before the change-over day;
- (c) a statement in respect of the renewal of the registration of a business name that is lodged under section 11(1), but not finally dealt with by the Commissioner, before the change-over day;
- (d) a statement that is lodged under section 12, but not finally dealt with by the Commissioner, before the change-over day;
- (e) a notice sent by the Commissioner under section 10(1) before the change-over day that specifies a period that expires on or after the change-over day;
- (f) a notice sent by the Commissioner under section 18(1) or (2) before the change-over day in respect of which the one month period referred to in section 19(1)(b) or (c) expires on or after the change-over day;
- (g) an application for leave of the District Court that is made under section 5A(3), but not finally dealt with by the Court, before the change-over day;
- (h) an application to the State Administrative Tribunal that is made under section 19(3), but not finally dealt with by the Tribunal, before the change-over day;

- (i) the right of a person to make an application under section 9(1), for the consent of the Minister to the registration of a business name, on or after the change-over day;
- (j) the right of a person to lodge a statement under section 11(1), in respect of the renewal of the registration of a business name, on or after the change-over day;
- (k) the right of a person to make an application to the State Administrative Tribunal under section 19(3) on or after the change-over day.

**19. Section 5 amended**

Before section 5(1) insert:

- (1A) Subsection (1) does not apply to an act or omission that occurs on or after the change-over day.
- (1B) Despite subsection (1A) and *The Criminal Code* section 11, a person may be punished on or after the change-over day for an offence committed under subsection (1) before the change-over day.

**20. Section 5A amended**

(1) After section 5A(1) insert:

- (2A) Subsection (2) does not apply to the carrying on of business on or after the change-over day.
- (2B) Despite subsection (2A) and *The Criminal Code* section 11, a person may be punished on or after the change-over day for an offence committed under subsection (2) before the change-over day.

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(2) After section 5A(3) insert:

- (4A) An application cannot be made under subsection (3) on or after the change-over day.
- (4B) If an application made under subsection (3) is not finally dealt with by the District Court before the change-over day, on or after the change-over day the Court may decide whether, had the application been finally dealt with by the Court before the change-over day, the Court would have granted leave under this section.

**21. Section 6 amended**

Before section 6(1) insert:

- (1A) This section does not apply on or after the change-over day.

**22. Section 7 amended**

(1) Before section 7(1) insert:

- (1A) An application cannot be made under subsection (1) on or after the change-over day.

(2) In section 7(3) delete “name,” and insert:

name, if the statement is finally dealt with by the Commissioner before the change-over day,



(3) After section 7(3) insert:

(4A) If an application made under subsection (1) for the registration of a business name is not finally dealt with by the Commissioner before the change-over day, the Commissioner may, on or after the change-over day, decide whether, had the application been finally dealt with before the change-over day, the Commissioner would have registered the business name.

(4) In section 7(4) delete “business name,” and insert:

business name before the change-over day,

(5) In section 7(5):

(a) in paragraph (a) delete “may” and insert:

may, before the change-over day,

(b) in paragraph (b) delete “place, the Commissioner shall” and insert:

place and the statement lodged under section 12(1) is finally dealt with by the Commissioner before the change-over day, the Commissioner shall, before the change-over day,

**23. Section 9 amended**

(1) Before section 9(1) insert:

- (1A) An application for the consent of the Minister under subsection (1) to the registration of a business name cannot be made —
- (a) in the case of a decision of the Commissioner, made before the change-over day, that the business name may be registered only with the consent of the Minister — after the end of 2 months after the change-over day; or
  - (b) in the case of a decision of the Commissioner, made on or after the change-over day as provided for by section 7(4A), that before the change-over day the Commissioner would have registered the business name only with the consent of the Minister — more than 28 days after the Commissioner's decision.

(2) After section 9(1) insert:

- (2A) Subsection (2B) applies if —
- (a) an application is made under subsection (1), but not finally dealt with by the Minister, before the change-over day; or
  - (b) an application is made under subsection (1) on or after the change-over day in accordance with subsection (1A).
- (2B) On or after the change-over day, the Minister may decide whether, had the application for consent under subsection (1) been made and finally dealt with by the Minister before the change-over day, the Minister

would have consented to the registration of the business name to which the application relates.

**24. Section 10 amended**

(1) In section 10(1):

(a) delete “may send” and insert:

may, before the change-over day, send

(b) delete “and upon” and insert:

and, if the period specified in the notice expires before the change-over day, upon

(2) After section 10(1) insert:

(2A) Subsection (2B) applies if, before the change-over day, the Commissioner sends a notice under subsection (1), in respect of a business name, that specifies a period that expires on or after the change-over day.

(2B) Upon the expiration of the period specified in the notice, the Commissioner may decide whether, had the period specified in the notice expired before the change-over day, the Commissioner would have cancelled the registration of the business name under subsection (1).

(3) In section 10(2) after “subsection (1)” insert:

or (2B)

- (4) In section 10(4) delete “subsection (1).” and insert:

subsection (1) or would have been cancelled under subsection (2B).

**25. Section 11 amended**

- (1) Before section 11(1) insert:

- (1A) A statement cannot be lodged under subsection (1) in respect of the registration of a business name that expires on or after the change-over day.
- (1B) If the registration of a business name expires before the change-over day, the fact that the period of one month after the expiry of the registration ends on or after the change-over day does not prevent a statement being lodged under subsection (1) at any time within that period.

- (2) After section 11(1a) insert:

- (2A) Subsection (2B) applies if —
- (a) a statement is lodged under subsection (1), but not finally dealt with by the Commissioner, before the change-over day; or
  - (b) a statement is lodged under subsection (1) on or after the change-over day.
- (2B) The Commissioner may, on or after the change-over day, decide whether, had the statement been lodged and finally dealt with before the change-over day, the Commissioner would have renewed the registration of the business name under subsection (1).

- (3) In section 11(2) delete “The” and insert:

If a statement lodged under subsection (1) is finally dealt with by the Commissioner before the change-over day, the

- (4) After section 11(2) insert:

- (3A) If a statement lodged under subsection (1) is dealt with in accordance with subsection (2B), the previous registration of the business name to which the statement relates is to be taken to have remained in force in respect of the period between when the previous registration expired and the change-over day.

- (5) In section 11(3) delete “The Commissioner shall before or after the expiration of the registration of a business name, but not earlier than one month before the expiration,” and insert:

In respect of the registration of a business name that expires before the change-over day, the Commissioner shall before or after the expiration of the registration of the business name, but not earlier than one month before the expiration (and in any case, before the change-over day),

**26. Section 12 amended**

- (1) Before section 12(1) insert:

- (1A) Except as provided in subsection (1B), a statement cannot be lodged under this section on or after the change-over day.

- (1B) Subsection (1A) does not prevent a person from lodging a statement under this section on or after the change-over day if the statement is being lodged in compliance with a notice issued by the Commissioner under section 18(2) before the change-over day.
- (2) After section 12(4) insert:
- (5) Subsection (6) applies if—
- (a) a statement in respect of a business name is lodged under subsection (1), (2), (3) or (4), but not finally dealt with by the Commissioner, before the change-over day; or
  - (b) a statement in respect of a business name is lodged under subsection (1), (2), (3) or (4) on or after the change-over day as provided for by subsection (1B).
- (6) The Commissioner may, on or after the change-over day, decide what particulars in respect of the business name would have been incorporated with and formed part of the register under section 6 had the statement been finally dealt with by the Commissioner before the change-over day.
- (3) After section 12(8) insert:
- (9A) If, but for subsection (1A), a statement could have been lodged on or after the change-over day in accordance with and within the time prescribed by subsection (1), (2), (3) or (4), a person does not commit an offence under subsection (8) by reason only that the person does not lodge the statement.

**27. Section 13 amended**

After section 13(1) insert:

- (2A) On or after the change-over day, the Commissioner cannot issue a notice under subsection (1) except for the purposes of ascertaining whether or not a person did, or failed to do, anything before the change-over day.

**28. Section 18 amended**

In section 18(1) and (2) delete “may send” and insert:

may, before the change-over day, send

**29. Section 19 amended**

- (1) In section 19(1) delete “may cancel” and insert:

may, before the change-over day, cancel

- (2) After section 19(1) insert:

- (2A) Subsection (2B) applies if, before the change-over day, the Commissioner sends a notice referred to in subsection (1)(b) or (c) in respect of which the one month period referred to in that provision expires on or after the change-over day.

- (2B) Upon the expiration of the one month period, the Commissioner may decide whether, had the one month period expired before the change-over day, the

Commissioner would have cancelled the registration of the business name under subsection (1).

- (3) In section 19(2) after “him” insert:

under subsection (1)

- (4) In section 19(3):

- (a) delete “this section,” and insert:

subsection (1) or the Commissioner decides under subsection (2B) that the Commissioner would have cancelled the registration of a business name,

- (b) after “cancellation” insert:

or, in the case of a decision of the Commissioner under subsection (2B), a person in relation to whom the business name was registered immediately before the change-over day,

- (c) delete “name.” and insert:

name or for a review of the Commissioner’s decision under subsection (2B) (as the case requires).



- (5) Delete section 19(4) and insert:
- (4) An application to the State Administrative Tribunal under subsection (3) cannot be made —
- (a) in the case of a decision of the Commissioner under subsection (1) made before the change-over day — after the end of 2 months after the change-over day; or
  - (b) in the case of a decision of the Commissioner under subsection (2B) made on or after the change-over day — more than 28 days after the Commissioner’s decision.
- (6) In section 19(5):
- (a) delete “If” and insert:  
  
If, before the change-over day,
  - (b) delete “name,” and insert:  
  
name under subsection (1),
  - (c) delete “him of an office copy of the order, shall” and insert:  
  
him, before the change-over day, of an office copy of the order shall, before the change-over day,

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**30. Section 21 amended**

In section 21(1) and (4) delete “may” and insert:

may, before the change-over day,

**31. Section 22 amended**

(1) At the beginning of section 22 insert:

(1) This section does not apply on or after the day after the end of the period of 7 years beginning on the change-over day.

(2) In section 22 delete “A person” and insert:

(2) A person

**32. Section 23 amended**

Before section 23(1) insert:

(1A) A request cannot be made under subsection (1) on or after the change-over day.

**33. Section 24 amended**

(1) In section 24 delete “A document” and insert:

(1) A document

(2) At the end of section 24 insert:

(2) A copy of an entry in the Commonwealth register, provided by ASIC under the *Business Names Registration Act 2011* (Commonwealth) section 60, in relation to a business name that was registered under this Act is admissible in proceedings relating to a matter arising before the change-over day and is evidence of the matters stated in the entry.

(3) In subsection (2) —

***Commonwealth register*** means the Business Names Register established and maintained under the *Business Names Registration Act 2011* (Commonwealth) section 22.

**34. Section 25 deleted**

Delete section 25.

**35. Section 28 amended**

In section 28(3) delete “time.” and insert:

time but in any case not more than 3 years after the change-over day.

## **Part 4 — Other Acts amended**

### **Division 1 — *Auction Sales Act 1973* amended**

**36. Act amended**

This Division amends the *Auction Sales Act 1973*.

**37. Section 4 amended**

In section 4 in the definition of *firm* delete “*Business Names Act 1962*,” and insert:

*Business Names Registration Act 2011* (Commonwealth);

### **Division 2 — *Employment Agents Act 1976* amended**

**38. Act amended**

This Division amends the *Employment Agents Act 1976*.

**39. Section 4 amended**

In section 4(1) in the definition of *firm* delete “*Business Names Act 1962*,” and insert:

*Business Names Registration Act 2011* (Commonwealth),

### **Division 3 — *Legal Profession Act 2008* amended**

**40. Act amended**

This Division amends the *Legal Profession Act 2008*.

**41. Section 157 amended**

In section 157(4) delete “the law of” and insert:

the law applicable in

**Division 4 — *Settlement Agents Act 1981* amended**

**42. Act amended**

This Division amends the *Settlement Agents Act 1981*.

**43. Schedule 2 clause 2 amended**

In Schedule 2 clause 2(h) delete “an application for transfer of a business name under the *Business Names Act 1962*,” and insert:

any applications necessary under the *Business Names Registration Act 2011* (Commonwealth) to effect the transfer of a business name under that Act;

**Division 5 — *Travel Agents Act 1985* amended**

**44. Act amended**

This Division amends the *Travel Agents Act 1985*.

**45. Section 14 amended**

In section 14(1) delete “*Business Names Act 1962*,” and insert:

*Business Names Registration Act 2011* (Commonwealth),

## Notes

<sup>1</sup> This is a compilation of the *Business Names (Commonwealth Powers) Act 2012*. The following table contains information about that Act <sup>1a</sup>.

### Compilation table

Short title	Number and year	Assent	Commencement
<i>Business Names (Commonwealth Powers) Act 2012</i>	6 of 2012	10 Apr 2012	Pt. 1: 10 Apr 2012 (see s. 2(a)); Pt. 2 and 3: 11 Apr 2012 (see s. 2(b)); Pt. 4: 28 May 2012 (see s. 2(c) and <i>Cwlth Gazette</i> 19 Apr 2012 ref. F2012L00891)

<sup>1a</sup> On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.

### Provisions that have not come into operation

Short title	Number and year	Assent	Commencement
<i>Local Government Legislation Amendment Act 2016</i> Pt. 3 Div. 4 <sup>2</sup>	26 of 2016	21 Sep 2016	To be proclaimed (see s. 2(b))

<sup>2</sup> On the date as at which this compilation was prepared, the *Local Government Legislation Amendment Act 2016* Pt. 3 Div. 4 had not come into operation. It reads as follows:

## Part 3 — Amendments to other Acts in relation to regional subsidiaries

### Division 4 — *Business Names (Commonwealth Powers) Act 2012* amended

#### 32. Act amended

This Division amends the *Business Names (Commonwealth Powers) Act 2012*.

**33. Section 3 amended**

In section 3 in the definition of *government body* delete paragraph (b) and insert:

- (b) a local government, regional local government or regional subsidiary;

## Defined terms

*[This is a list of terms defined and the provisions where they are defined.*

*The list is not part of the law.]*

<b>Defined term</b>	<b>Provision(s)</b>
adoption .....	3
amendment reference .....	3
business name .....	3
commencement day .....	12(1)
continuing business names matter.....	3
entity .....	3
exemption provision .....	3
existing legislation .....	9(1)
express amendment.....	3
Gazettal day .....	12(1)
government body .....	3
national business names instrument.....	3
national business names legislation .....	3
notified State register .....	3
notified State/Territory register.....	3
registration .....	3
specified.....	12(1)
State law.....	3
taxes .....	3
termination.....	9(1)
transitional regulations.....	12(1)