

NORTHERN TERRITORY OF AUSTRALIA
BUSINESS NAMES AMENDMENT BILL 1990

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NORTHERN TERRITORY OF AUSTRALIA

A BILL for AN ACT

to amend the *Business Names Act* consequential
on the enacting of the *Corporations (Northern
Territory) Act 1990*

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

1. SHORT TITLE

This Act may be cited as the *Business Names Amendment Act 1990*.

2. COMMENCEMENT

This Act shall come into operation on the commencement of the *Corporations (Northern Territory) Act 1990*.

3. PRINCIPAL ACT

The *Business Names Act* is in this Act referred to as the Principal Act.

4. INTERPRETATION

Section 4(1) of the Principal Act is amended -

- (a) by omitting the definition of "corporation" and substituting the following:

"'corporation' means a body corporate registered as a corporation under the *Corporations Law*;

"'Deputy Registrar' means a person appointed under section 4A as a Deputy Registrar of Business Names and, until the first such appointment is made, includes each person appointed as a Deputy Commissioner for Corporate Affairs or an Assistant Commissioner for Corporate Affairs under the *Companies (Administration) Act*";

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- (b) by omitting the definition of "the Registrar" and substituting the following:

"'the Registrar' means the person appointed under section 4A as the Registrar of Business Names and, until such an appointment is made, includes the Commissioner for Corporate Affairs appointed under the *Companies (Administration) Act*"; and

- (c) by omitting from the definition of "secretary" all words after "in relation to" and substituting "a recognised company or foreign company, as defined in section 9 of the Corporations Law, includes an attorney of the corporation;".

5. NEW SECTIONS

The Principal Act is amended by inserting after section 4 the following:

"4A. REGISTRAR AND DEPUTY REGISTRARS

"(1) The Minister may, by instrument in writing, appoint an employee, within the meaning of the *Public Service Act*, to be the Registrar of Business Names and such other such employees to be Deputy Registrars of Business Names as he thinks fit.

"(2) The Registrar, in the performance of his functions and the exercise of his powers is subject to the written directions of the Minister.

"(3) A Deputy Registrar may, subject to the directions of the Registrar, perform a function and exercise a power of the Registrar.

"4B. ACTING APPOINTMENTS

"(1) The Minister may, by instrument in writing, appoint a person to act as the Registrar or as a Deputy Registrar -

- (a) during a vacancy in the office of the Registrar or in the office of a Deputy Registrar, as the case may be, whether or not an appointment has previously been made to the office; or

- (b) during a period, or during all periods, when the Registrar or a Deputy Registrar is absent from duty or from the Territory or is, for any reason, unable to perform the functions of his office,

but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.

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"(2) An appointment of a person under subsection (1) may be expressed to have effect only in such circumstances as are specified in the instrument of appointment.

"(3) Where a person is acting as the Registrar or as a Deputy Registrar in accordance with this section and the office of the Registrar or of a Deputy Registrar becomes vacant while that person is so acting then, subject to subsection (2), that person may continue to act until the Minister otherwise directs, the vacancy is filled or a period of 12 months from the date on which the vacancy occurred expires, whichever first happens.

"(4) The Minister may, at any time, terminate the appointment of a person appointed to act in accordance with this section.

"(5) The appointment of a person under this section ceases to have effect if he resigns his appointment by writing signed by him and delivered to the Minister.

"(6) While a person is acting as the Registrar or as a Deputy Registrar in accordance with this section, he shall perform all the functions and may exercise all the powers of the Registrar or of a Deputy Registrar, as the case requires.

"(7) The validity of anything done by a person purporting to act in accordance with this section shall not be called in question on the ground that the occasion for his appointment had not arisen, that there is a defect or irregularity in or in connection with his appointment, that the appointment had ceased to have effect or that the occasion for him to act had not arisen or had ceased.

"4C. JUDICIAL NOTICE

"(1) A court shall take judicial notice of -

- (a) the official signature of a person who holds or has held, or is acting or has acted in, the office of the Registrar or a Deputy Registrar; and
- (b) the fact that that person holds or has held, or is acting or has acted in, that office,

if the signature purporting to be the signature of that person appears on an official document.

"(2) In this section, a reference to a court shall be construed as including a reference to -

- (a) a judge; and

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- (b) a person authorized by law or by consent of parties to receive evidence,

and, in relation to a person referred to in paragraph (b), the reference to taking judicial notice shall be construed as a reference to taking the like notice as would be taken by a court.

"4D. SECRECY

"(1) Subject to this section, a person who is, or has at any time been -

- (a) appointed for the purposes of this Act;
- (b) engaged as a member of the staff of the Registrar; or
- (c) authorized to perform a function or exercise a power of the Registrar on behalf of the Registrar,

shall not, except to the extent necessary to perform his official duties, or to perform a function or exercise a power, either directly or indirectly, make a record of, or divulge or communicate to a person, information that is or was acquired by him by reason of his being or having been so appointed, engaged or authorized, or make use of such information, for purposes other than the performance of his official duties or the performance of a function or exercise of a power.

Penalty: \$10,000 or imprisonment for 2 years.

"(2) Nothing in subsection (1) precludes a person from -

- (a) producing a document to a court in the course of criminal proceedings or in the course of proceedings under this or any other Act;
- (b) divulging or communicating to a court in the course of proceedings referred to in paragraph (a) a matter or thing coming under his notice in the performance of his official duties or in the performance of a function or the exercise of a power referred to in that subsection;
- (c) producing a document or divulging or communicating information to a person to whom, in the opinion of the Registrar, it is in the public interest that the document be produced or the information be divulged or communicated; or
- (d) producing a document or divulging or communicating information that is required or permitted by an Act to be produced, divulged or communicated, as the case may be.

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"4E. ARRANGEMENTS TO PERFORM FUNCTIONS

"The Minister or a person authorised by the Minister may make arrangements with the Australian Securities Commission for the performance by the Commission of functions under this Act."

6. REGISTER OF BUSINESS NAMES

Section 6 of the Principal Act is amended -

- (a) by omitting from subsection (1) "such form as he thinks fit" and substituting "such form (including a computerized form) as he thinks fit"; and
- (b) by inserting after subsection (2) the following:

"(2A) Where a corporation in relation to which a business name is registered under this Act changes its name or its principal place of business under the Corporations Law, the change of name or place of business shall, on notification being given by the Australian Securities Commission to the Registrar, be deemed, for the purposes of this Act, to be incorporated with and form part of the register."

7. RENEWAL OF REGISTRATION

Section 11(3) of the Principal Act is amended by omitting "in the register as" and substituting "in the register as the postal address or".

8. CANCELLATION OF REGISTRATION

Section 19(1)(d) of the Principal Act is amended by omitting "*Companies (Northern Territory) Code*" and substituting "Corporations Law".

9. EVIDENCE OF REGISTRATION OR NON-REGISTRATION

Section 24 of the Principal Act is amended by adding at the end the following:

"(2) A reference in subsection (1)(b) or (d) to an extract or document includes a reference to an extract or document in print-out or other form from a computerized register."

10. INVITATIONS TO PUBLIC TO MAKE DEPOSITS OR LOANS

Section 26(2) of the Principal Act is amended by omitting "*Companies (Northern Territory) Code*" and substituting "Corporations Law".

