

SOUTH AUSTRALIA

**BUSINESS NAMES REGULATIONS, 1964**

## REGULATIONS UNDER THE BUSINESS NAMES ACT, 1963

### *Business Names Regulations, 1964*

being

*Gaz.* 21 May 1964, p. 1068

as varied by

*Gaz.* 20 April 1967, p. 1349

*Gaz.* 7 December 1967, p. 2518

*Gaz.* 27 October 1977, p. 1318<sup>1</sup>

No. 13 of 1981: *Gaz.* 22 January 1981, p. 179

No. 24 of 1982: *Gaz.* 25 February 1982, p. 513<sup>2</sup>

No. 172 of 1984: *Gaz.* 6 September 1984, p. 816<sup>3</sup>

No. 102 of 1986: *Gaz.* 19 June 1986, p. 1578<sup>4</sup>

No. 119 of 1987: *Gaz.* 18 June 1987, p. 1586<sup>5</sup>

No. 127 of 1988: *Gaz.* 30 June 1988, p. 2117<sup>6</sup>

*Gaz.* 6 October 1988, p. 1273

No. 119 of 1989: *Gaz.* 29 June 1989, p. 1790<sup>7</sup>

No. 120 of 1990: *Gaz.* 28 June 1990, p. 1763<sup>8</sup>

No. 149 of 1991: *Gaz.* 27 June 1991, p. 2265<sup>9</sup>

No. 47 of 1993: *Gaz.* 8 April 1993, p. 1275<sup>10</sup>

No. 168 of 1993: *Gaz.* 8 July 1993, p. 477<sup>11</sup>

No. 73 of 1994: *Gaz.* 2 June 1994, p. 1630<sup>12</sup>

No. 60 of 1995: *Gaz.* 10 May 1995, p. 2013<sup>13</sup>

No. 105 of 1996: *Gaz.* 30 May 1996, p. 2699<sup>14</sup>

<sup>1</sup> Came into operation 14 November 1977: reg. 2.

<sup>2</sup> Came into operation 1 March 1982: reg. 3.

<sup>3</sup> Came into operation 1 October 1984: reg. 3.

<sup>4</sup> Came into operation 1 July 1986: reg. 2.

<sup>5</sup> Came into operation 1 July 1987: reg. 2.

<sup>6</sup> Came into operation 1 July 1988: reg. 2.

<sup>7</sup> Came into operation 1 July 1989: reg. 2.

<sup>8</sup> Came into operation 1 July 1990: reg. 2.

<sup>9</sup> Came into operation 1 July 1991: reg. 2.

<sup>10</sup> Came into operation 8 April 1993: reg. 2.

<sup>11</sup> Came into operation 1 August 1993: reg. 2.

<sup>12</sup> Came into operation 1 July 1994: reg. 2.

<sup>13</sup> Came into operation 1 July 1995: reg. 2.

<sup>14</sup> Came into operation 1 July 1996: reg. 2.

2.

*Citation.*

1. These regulations may be cited as the *Business Names Regulations, 1964*.

*Revocation.*

2. (1) All regulations made under the repealed Act are revoked.

*Savings.*

- (2) Such revocation by subregulation (1) of this regulation shall not—

- (a) affect the operation before the coming into effect of these regulations of any of the regulations so revoked;
- (b) alter the past or future effect of the doing, suffering or omission of anything before the coming into effect of these regulations;
- (c) affect any registration, statement, particulars, certificate, cancellation, correction or decision made, filed, granted or issued under or by virtue of any of the regulations so revoked;
- (d) affect any estate, right, title, interest, privilege, power, duty, obligation, liability, charge or penalty, created, acquired, accrued, exercisable, incurred or imposed by or under, or liable to be imposed under, any of the regulations so revoked;
- (e) affect any notice, order or direction, or any proceeding, matter or thing presented, made, held, given, published, declared or done under any of the regulations so revoked; or
- (f) affect any legal or other proceedings commenced before or after the coming into effect of these regulations in respect of any of the matters or things mentioned in paragraphs (a) to (e) of this regulation.

(3) All matters and things mentioned in subregulation (2) of this regulation, to the extent that they were respectively in force immediately before the coming into effect of these regulations, are preserved and continued, and declared to be of the same force and effect as if these regulations had been in force when they were respectively done, suffered, omitted, made, filed, granted, issued, created, acquired, incurred, imposed, presented, held, given, published, declared or accrued or become exercisable, or liable to be imposed, and they respectively had been done, suffered, omitted, made, filed, granted, issued, created, acquired, incurred, imposed, presented, held, given, published, declared, or had accrued, or become exercisable, or liable to be imposed, under these regulations.

*Definition.*

4. In these regulations, "the Act" means the *Business Names Act, 1963*.

3.

*Forms.*

5. (1) Subject to these regulations, where—

- (a) a reference to a provision of the Act appears in the first column of the first schedule to these regulations; and
- (b) the description and number of a form contained in the second schedule of these regulations appear in the second and third columns respectively of the first schedule opposite to that reference,

that form is hereby prescribed as the form to be used for the purposes of the appropriate matter or thing referred to in that provision.

(2) In these regulations a reference to a form by number shall be read as a reference to the form bearing that number in the second schedule to these regulations.

*Particulars Prescribed by Forms.*

6. Where a form prescribed by these regulations requires completion by the insertion of particulars or other matters referred to in the form, those particulars or other matters are prescribed as the particulars or other matters required under the provision of the Act for the purposes for which the form is prescribed.

*Directions in Forms.*

7. A form prescribed by these regulations shall be completed in accordance with such directions as are specified in the form as so prescribed.

*General Requirements for Documents Lodged with Registrar.*

8. (1) A document to be lodged with the Registrar in pursuance of the Act or these regulations shall comply with the following requirements:—

- (a) the document shall be on paper of medium weight and good quality and of foolscap folio size;
- (b) the document shall be printed, typewritten, or handwritten and shall be clearly legible;
- (c) the document shall not be a carbon copy;
- (d) when the document comprises two or more sheets, the sheets shall be bound together securely; and
- (e) the document shall be folded lengthwise, and, as so folded, shall have endorsed on the outside—
  - (i) the business name to which the document relates;
  - (ii) the title of the document being the same as the title to the form;

4.

(iii) the name, address and telephone number of the solicitor or other person by, or on whose behalf, the document is lodged; and

(iv) the following words:—

"Lodged in the office of the Registrar of Companies, on

Registrar of Companies."

(2) The prescribed fee payable to the Registrar in respect of the lodgment of a document shall be paid at the time the document is lodged with the Registrar.

*Application for Consent of Minister.*

**9.** An application for the consent of the Minister under subsection (1) of section 9 of the Act to the registration of a particular business name shall be lodged with the Registrar.

*Fees.*

**10.** (1) The fees set out in the third schedule are payable to the Commission in respect of the matters referred to in that schedule.

(2) Where the Commission is satisfied that just cause exists for the late lodgment of a document, it may waive the fee referred to in clause 3 of the third schedule.

**THE SCHEDULES.****FIRST SCHEDULE.**

## LIST OF FORMS.

First Column. Provision of Business Names Act for which Form Prescribed.	Second Column. Description of Form.	Third Column. Number of Form in Second Schedule.
Section— 7(1), (2), (6); 8 . . . . . 7(4), (5); 11(3) . . . . . 11(1) . . . . .  12(1)(a), (b); (2) . . . . . 12(3) . . . . .  12(3), (4) . . . . .  12(1)(c); (5); (6); (7) . .	Application for registration of a business name Certificate of registration of business name Application for renewal of registration of business name Statement of change in certain particulars Notice of cessation of business under business name Statement of change in persons in relation to whom business name is registered Statement of particulars relating to resident agent	1 2 3  4 5  6  7

**SECOND SCHEDULE.**

FORM 1.

South Australia.

*Business Names Act, 1963*

(Sections 7, 8.)

APPLICATION FOR REGISTRATION OF BUSINESS NAME.

- 1. The business name is .....
- 2. The principal or only place of business in South Australia is situated at .....
- 3. Other places of business in South Australia are situated at .....
- 4. A concise description of the true nature of the business is .....
- 5. The date (or proposed date) of commencement of business is .....
- 6. The name and other particulars of each applicant are:

Christian Names and Surname of each *Individual, and Corporate Name of each Corporation.	Former Christian Names or Surname (if any) of each Individual	Usual Place of Residence of each Individual and Place of Registered Office in South Australia of each Corporation.
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\*If any individual is under the age of twenty-one years he must be described as an infant, and the date of his birth must be shown.

- 7. The above business name has been adopted in substitution for the name .....
- (Strike out this item if it is not applicable.)

- 8. Mr ..... of ..... has consented in writing to be my/our resident agent in South Australia for the purposes of the Act, and has been authorized in writing to accept on my/our behalf, service of any notices for the purposes of the Act, and of any process.

(This item must be completed if the applicant (or ALL the applicants, if more than one) resides outside South Australia or has no fixed address within the State.)

Dated the ..... day of .....19 ..

7.

†Signatures of applicants:—

.....  
.....  
.....

Signature of resident agent named in Item 8 (if applicable):—

.....

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† This application must be signed by each applicant, or by some person authorized in writing to sign the statement on his behalf. In the case of a corporation, it must be signed by a director, manager or secretary of the corporation, or, in the case of a foreign company it may be signed by the registered agent in South Australia of the company.

NOTE.—A business name cannot be registered more than two months before the proposed date of commencement of business.

8.

FORM 2  
South Australia

No.

CERTIFICATE OF REGISTRATION OF A BUSINESS NAME  
BUSINESS NAMES ACT, 1963 (Sections 7, 11)

It is HEREBY CERTIFIED that the business name  
is registered pursuant to and subject to the *Business Names Act, 1963*, for the period ending

GIVEN under the Seal of the Commission at Adelaide, in the State of South Australia.

COMMISSIONER FOR CORPORATE AFFAIRS

FORM 3.  
South Australia.  
*Business Names Act, 1963*  
(Section 11.)

APPLICATION FOR RENEWAL OF REGISTRATION OF BUSINESS NAME.

- 1. The business name is .....
- 2. The principal or only place of business in South Australia is situated at .....
- 3. Other places of business in South Australia are situated at .....
- 4. A concise description of the true nature of the business is .....
- 5. The date on which the registration expires/expired is .....
- 6. The name and other particulars of each person carrying on the business are:—

Christian Names and Surname of each *Individual, and Corporate Name of each Corporation.	Former Christian Names or Surname (if any) of each Individual.	Usual Place of Residence of each Individual and Place of Registered Office in South Australia of each Corporation.
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\*If any individual is under the age of twenty-one years he must be described as an infant, and the date of his birth must be shown.

- 7. Mr ..... of ..... has consented in writing to be the resident agent in South Australia for the purposes of the Act of the person(s) carrying on the business, and has been authorized in writing to accept on behalf of the person(s), service of any notices for the purposes of the Act, and of any process.

(This item must be completed if the person (or ALL the persons, if more than one) carrying on the business resides outside South Australia or has no fixed address within the State.)

Dated the ..... day of .....19 ..

†Signature.

Signature of resident agent named in Item 7 (if applicable):

10.

- † This statement must be signed by ONE of the persons carrying on the business, or by some person authorized in writing to sign the statement on his behalf. In the case of a corporation, it must be signed by a director, manager or secretary of the corporation, or, in the case of a foreign company, it may be signed by the registered agent in South Australia of the company.

FORM 4.  
South Australia.  
*Business Names Act, 1963*  
(Section 12(1), (2).)

STATEMENT OF CHANGE IN CERTAIN PARTICULARS.

- 1. The business name is .....
- 2. The principal or only place of business in South Australia is situated at .....
- 3. The date of the change is .....
- 4. \*Full particulars of the change are:—

Dated the ..... day of ..... 19 .....

†Signature.

\*The types of changes in respect of which notice is required to be given on this form are:—

- (1) Change in the nature of the business.
- (2) Change of address of any place of business in South Australia.
- (3) Change in description of any address (*e.g.*, change of street name or number).
- (4) Establishment of additional place(s) of business in South Australia.
- (5) Cessation of business at one or more places of business in South Australia.
- (6) Change in residential address of an individual, or in the address of the registered office in South Australia of a corporation carrying on the business.
- (7) Change of name of an individual or corporation carrying on the business.

†This statement must be signed—

- (a) in the case of a change referred to in Items (1) to (5) above, by one of the persons carrying on the business, or by some person authorized in writing to sign the statement on his behalf;
- (b) in the case of a change referred to in Items (6) and (7) above, by the person in respect of whom the change has occurred, or by some person authorized in writing to sign the statement on his behalf;
- (c) in the case of a corporation, by a director, manager or secretary of the corporation, or, in the case of a foreign company it may be signed by the registered agent in South Australia of the company.

12.

FORM 5.  
South Australia.  
*Business Names Act, 1963*  
(Section 12(3).)

NOTICE OF CESSATION OF BUSINESS UNDER BUSINESS NAME.

The business name is .....

Notice is hereby given that on the ..... day of

..... 19 ..... business ceased to be carried on in South

Australia under the abovementioned business name by the person or all the persons in relation to whom the business name is registered.

Dated the ..... day of .....19 ..

\*Signatures:

.....  
.....  
.....

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NOTE.—Where business is to be continued under the above business name by some other person or persons, Form No. 6 must be completed in lieu of this form.

\*This statement must be signed by each person who was carrying on business under the business name immediately before the cessation of business under that name, or by some person authorized in writing to sign the statement on his behalf. In the case of a deceased person, it must be signed by his personal representative. In the case of a corporation it must be signed by a director, manager or secretary of the corporation, or, in the case of a foreign company it may be signed by the registered agent in South Australia of the company.

FORM 6.  
 South Australia.  
*Business Names Act, 1963*  
 (Section 12(3) (4).)

STATEMENT OF CHANGE OF PERSONS IN RELATION TO WHOM A BUSINESS NAME IS REGISTERED.

1. The business name is .....
2. The principal or only place of business in South Australia is situated at .....
3. Particulars of the change are as follows:—
  - (1) On the ..... day of. ....19  
 the following persons ceased to carry on business under the above business name:—
  - (2) On the ..... day of. ....19  
 the following persons commenced to carry on business under the above business name:—
4. The name and other particulars of each person carrying on the business AFTER the occurrence of the change to which this statement relates, are:—

Christian Names and Surname of each *Individual, and Corporate Name of each Corporation.	Former Christian Names or Surname (if any) of each Individual.	Usual Place of Residence of each Individual and Place of Registered Office in South Australia of each Corporation.
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\*If any individual is under the age of twenty-one years he must be described as an infant, and the date of his birth must be shown.

5. Mr. .... of. .... has consented in writing to be the resident agent in South Australia for the purposes of the Act of the person(s) carrying on the business and has been authorized in writing to accept on behalf of the person(s) service of any notices for the purposes of the Act, and of any process.

(This item must be completed if the person (or ALL the persons, if more than one) carrying on the business resides outside South Australia or has no fixed address within the State.)

Dated the ..... day of. ....19 .

†Signatures:

.....  
 Signature of resident agent named in Item 5 (if applicable):  
 .....

†This statement must be signed by each person carrying on the business immediately before and after the change or by some person authorized in writing to sign the statement on his behalf. In the case of a corporation it must be signed by a director, manager or secretary, or, in the case of a foreign company, it may be signed by the registered agent in South Australia of the company.

NOTE.—Where the business is not to be continued under the business name by any person, Form 5 should be completed in lieu of this form.

FORM 7.  
South Australia.  
*Business Names Act, 1963*  
(Section 12.)

STATEMENT OF PARTICULARS RELATING TO RESIDENT AGENT.

1. The business name is .....

2. The principal or only place of business in South Australia is situated at .....  
.....

3. Full particulars of the change are as follows:—

\* (1) On the ..... day of ..... 19

Mr ..... of .....  
ceased to be the resident agent in South Australia for the purposes of the Act of the person(s) in  
relation to whom the above business name is registered.

\* (2) On the ..... day of ..... 19

Mr ..... of .....  
having consented in writing to act as the resident agent in South Australia for the purposes of the  
Act of the person(s) in relation to whom the above business name is registered, was appointed the  
resident agent in South Australia of the person(s) and is authorized in writing to accept on his/their  
behalf, service of any notices for the purposes of the Act, and of any process.

\* (3) On the ..... day of ..... 19  
the \*name/address of the resident agent in South Australia for the purposes of the Act of the  
person(s) in relation to whom the above business name is registered, was changed to .....

.....  
.....

\*Strike out whichever are inapplicable.

Dated the ..... day of ..... 19 ..

Signatures:

.....  
.....

This statement must be signed—

- (a) In the case of a change referred to in Item (1) by one of the persons in relation to whom the  
business name is registered, OR, by the person named in that Item, or his personal representative.
- (b) In the case of a change referred to in Items (2) and (3), by one of the persons in relation to whom  
the business name is registered, AND by the resident agent.

**THIRD SCHEDULE***[Regulation 10]*

## TABLE OF FEES

Item	Matter	Amount \$
1.	On lodging an application to register a business name . . . . .	91
2.	On lodging an application to renew the registration of a business name . . . . .	74
3.	On lodging any document under the Act (other than a Notice of Cessation of Business under a Business Name) in addition to any other fee that may be prescribed, if lodged later than the period prescribed by the Act or, in the case of an application to register a business name, if lodged later than the date of commencement of business under that name . . . . .	21
4.	For a search for and inspection of a document or documents relating to a business name and forming part of the register kept by the Commission under the Act . . . . .	11
5.	For a search as to the availability of any name proposed to be used as a business name, in respect of every name searched . . . . .	12
6.	For every copy of or extract from any document forming part of the register kept by the Commission under the Act, made by photographic process or other means—	
	For the first sheet copied . . . . .	12
	For each additional sheet copied . . . . .	1
7.	For every application for consent of the Minister to the use of a name proposed to be used as a business name . . . . .	165
8.	For a certificate pursuant to section 23(1)(b) of the Act . . . . .	12

## APPENDIX

### LEGISLATIVE HISTORY

Regulation 10:

Schedule 2

Form 2:

Schedule 3:

substituted by 127, 1988, reg. 3

substituted by 13, 1981, reg. 2

varied by *Gaz.* 20.4.67, p. 1349; *Gaz.* 7.12.67, p. 2518; *Gaz.* 27.10.77, p. 1318; substituted by 24, 1982, reg. 2; 172, 1984, reg. 2; 102, 1986, reg. 3; 119, 1987, reg. 3; 127, 1988, reg. 4; *Gaz.* 6.10.88, p. 1273, attachment 2; 199, 1989, reg. 3; 120, 1990, reg. 3; 149, 1991, reg. 3; 47, 1993, reg. 3; varied by 168, 1993, reg. 3; 73, 1994, reg. 3; 60, 1995, reg. 3; 105, 1996, reg. 3