



ANNO DECIMO

GEORGI VI REGIS.

A.D. 1946.

No. 23 of 1946.

An Act to amend the Registration of Business Names Act, 1928-1932.

[Assented to 28th November, 1946.]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

Short titles.

1. (1) This Act may be cited as the "Registration of Business Names Act Amendment Act, 1946".

(2) The Registration of Business Names Act, 1928-1932, as amended by this Act, may be cited as the "Registration of Business Names Act, 1928-1946".

(3) The Registration of Business Names Act, 1928-1932, is hereinafter referred to as "the principal Act".

Amendment of
principal Act,
s. 3—
Interpretation.

2. Section 3 of the principal Act is amended by adding at the end of the definition of "registrar" the words "and includes any Deputy or Acting Registrar of Companies".

Repeal and
re-enactment
of s. 5 of
principal Act—

3. Section 5 of the principal Act is repealed and the following section is enacted and inserted in the principal Act in lieu thereof:—

Address for
service of
process, etc.

5. (1) Where a firm or individual is required to be registered under this Act and all the members of the firm or the individual resides outside South Australia, there shall, in addition to the other particulars required to be furnished under this Act, be furnished the name and address of some person (not being a corporation) resident in South Australia who is authorized by the firm or

individual to accept service on behalf of the firm or individual of any notices required under this Act to be served on the firm or individual or of any process.

(2) In addition to any other person who is by this Act required to sign any such statement as is hereinafter mentioned, every such person authorized as aforesaid shall sign the statement required for any registration of the firm or individual or the renewal thereof and shall sign any statement required to be furnished under section 11.

(3) Service of any notice under this Act or of any process upon any person so authorized shall be deemed to be service upon the firm or individual aforesaid.

4. Section 8 of the principal Act is amended by adding at the end of subsection (3) thereof the words " or is signed or acknowledged by a person authorized as provided by section 5 "

Amendment of principal Act, s. 8—
Particulars for registration.

5. Section 13 of the principal Act is amended—

Amendment of principal Act, s. 13—
Duty to furnish particulars.

(a) by striking out the words " require any person " in the first line thereof and by inserting in lieu thereof the words " give notice in writing to any person requiring him " :

(b) by striking out the word " require " in the sixth line thereof and by inserting in lieu thereof the words " give notice in writing to " :

(c) by inserting after the word " secretary " in the eighth line thereof the words " requiring him " ;

(d) by inserting after the word " fails " in the ninth line thereof the words " , before the expiration of the time specified by the registrar in the notice given to that person, " ;

(e) by inserting after the word " may " in the fourth line of subsection (2) thereof the words " by notice in writing given to the firm or person " ;

(f) by adding at the end thereof the following subsection :—

(3) Any notice to be given by the registrar pursuant to this section may be given by a prepaid registered letter which—

(a) in the case of a firm, person or corporation which is or has been registered under this Act may be addressed to any place of business shown as a place of business thereof in any statement furnished pursuant to this Act ;

(b) in the case of any other firm, person, or corporation, may be addressed to any place of business of such firm or corporation or any place of business or residence of such person.

Amendment of
principal Act
s. 21—
Removal of
names from
register.

6. Section 21 of the principal Act is amended—

- (a) by striking out the words “ it shall be the duty of ” in the third line thereof ;
- (b) by striking out the word “ of ” in the fifth line thereof ;
- (c) by striking out the words “ within three months after the business has ceased to be carried on, or the business name has been abandoned, to ” in the sixth, seventh and eighth lines thereof and by inserting in lieu thereof the word “ may ” ;
- (d) by striking out the words “ , and if any person whose duty it is to give such notice fails to do so within such time as aforesaid, he shall be liable to a penalty not exceeding twenty pounds ” in the eleventh, twelfth, thirteenth and fourteenth lines thereof ;
- (e) by striking out the words “ remove the firm or individual from the register ” in the last line thereof and by inserting in lieu thereof the words “ strike the business name off the register ”.

Amendment of
principal Act,
s. 22—
Powers of
registrar.

7. Section 22 of the principal Act is amended—

- (a) by striking out subsections (1), (2), (3), and (4) thereof and by inserting in lieu thereof the following subsections :—

(1) Where the registrar has reasonable cause to believe that any firm, individual or corporation registered under this Act is not carrying on business under the business name under which the firm, individual or corporation was registered, the registrar may send by registered post to the members of the firm or to the individual or corporation a letter inquiring whether the firm, individual or corporation is still carrying on business under the business name and stating that unless an answer is received to the notice within one month from the date thereof the business name may be struck off the register.

(2) If the registrar either receives an answer from the firm, individual or corporation to the effect that the firm, individual or corporation is

not so carrying on business or does not within one month after sending the letter receive an answer, he may strike the business name off the register.

- (b) by striking out the words " or notice " in the first line of subsection (6) thereof ;
- (c) by inserting after the word " by " in the second line of subsection (6) thereof the word " registered " ;
- (d) by inserting after the word " individual " in the third and fourth lines of subsection (6) thereof the words " or corporation " ;
- (e) by adding at the end thereof the following subsection :—

(7) If the registration of any business name is not renewed as required by section 7, the registrar may strike the business name off the register.

8. Section 22a of the principal Act is amended by striking out the words " the Companies Act, 1892 " in the last line thereof and by inserting in lieu thereof the words " The Companies Act, 1934 " .

Amendment of principal Act, s. 22a—
Removal from register.

9. Section 23 of the principal Act is amended—

Amendment of principal Act, s. 23—
Power to refuse to register business name.

- (a) by inserting after paragraph (c) of subsection (1) thereof the following paragraph:—

(c1) which contains the word " co-operative " or any contraction thereof : Provided that the provisions of this paragraph shall not apply to the renewal of the registration of a business name which was registered before the passing of the Registration of Business Names Act Amendment Act, 1946, and which contains any such word or contraction :

- (b) by inserting therein after subsection (1) thereof the following subsection :—

(1a) Except with the consent of the Governor signified by a notice published in the *Government Gazette*, the registrar shall not register any business name which includes any of the following words, namely :— " Royal, " " King, " " Queen, " " Crown " " Empire, " " Imperial, " " Commonwealth " , " State, " or any other word which in the opinion of the registrar suggests or is calculated to suggest the patronage of His Majesty or any member of the Royal Family or the support or

1946. **Registration of Business Names Act No. 23.
Amendment Act, 1946.**

patronage of the Government of the Commonwealth or a State: Provided that the provisions of this subsection shall not apply to the renewal of the registration of a business name which was registered before the passing of the Registration of Business Names Act Amendment Act, 1946, and which contains any such word.

Enactment of
s. 23b of
principal Act—

Presumption
arising from
advertisement
of
accommodation
address.

10. The following section is enacted and inserted in the principal Act after section 23a thereof:—

23b. If any advertisement is caused to be published by any firm, individual or corporation in which an address in South Australia is given as an address to which communications in connection with the business of the firm, individual or corporation may be addressed, that address shall, for the purposes of this Act, be deemed to be a place of business in South Australia at which the firm, individual or corporation carries on business, and the firm, individual or corporation shall, for the purposes of this Act, be deemed to be carrying on business under any business name stated in the advertisement.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

C. W. M. NORRIE, Governor.