

# My Business Success Kit™

Hundreds of essential tools, tips, tactics and  
resources to help your business succeed!



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Found**

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# Introduction

Congratulations on taking steps to secure the future success of your business.

My Business Success Kit has its genesis in the hundreds of discussions over many years that we have had with small business owners, entrepreneurs, and those who are intending to start a business.

It can be scary. Starting a business is often a very foreign thing for people to do. There are dozens of regulations (or more!) you may need to comply with. There are countless new skills to be learned. And then there is the financial risk, and personal challenges, that are always present.

Most people start a business for the freedom it will provide them. However, all too often, through a combination of high enthusiasm, poor planning, lack of knowledge, and lack of experience, the business ends up becoming a burden... not the free and easy lifestyle it was meant to be.

But it doesn't have to be that way. By learning about all the important areas of your business (not just the ones you are comfortable with), you will be able to take control of your situation. You will be empowered to make proactive decisions and create strong foundations for future success.

My Business Success Kit has been designed to give you a fast-track to achieve more confidence and better results from your business. In this kit you will find specific information about what, why, when, and how you should take action... and you'll also get extra resources that give you direct access to what you need to know, and what you need to do.

No fluff or vague academic theories. Just the information you need, and guidance on what you should consider for each part of your business.

Make sure you use all parts of My Business Success Kit:

- **This manual** gives you 'how to information; answers to frequently asked questions; check lists; comparison charts; and direct links to hundreds of web-based resources.
- **Our interviews with featured experts** give you inside tips direct from respected professionals in their field. Make sure you download the MP3 files from the website. Listen to them at your leisure on your iPod, MP3 player or computer.
- **Video tutorials** that show you exactly how to use important websites that many people find confusing and difficult to navigate. By following the tutorials you will ensure you achieve your objective in less time, with much less stress.

Now, get moving. Use this manual. Write in it. Dog-ear the pages. Use your highlighter pen. Put the information to work and create your business success!

Clare Gambaro, Stuart Ayling  
Solutions Found Pty Ltd

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# 1. Registering a Business Name

## *Introduction*

### **What is a Business Name?**

In Australia business names are registered on a state-by-state basis, When you register a business name you can only register for the state in which it was lodged. If you are planning to set up your business in more than one state, you need to register your business name separately in each state.

A business name is simply a name under which a person or other legal entity may conduct its business. Under the Australian Business Names Act 1962, if you choose a name for your business that is not your own name then you must register the name of your business with the appropriate State authority.

For example: if your name is Jennifer Jones and you are trading under 'Jennifer Jones' Salon', registration of that name is compulsory.

An example of joint names: Bob and Mary Smith can conduct business under their name 'Bob and Mary Smith' or 'B and M Smith' without registration. However, if they use 'B and M Smith Motors' or any other like name, it is a business name and must be registered.

Why is a business name necessary?

- To create an identity or brand
- To show you are treating the business as a business, not a hobby
- To have something, a name, to promote
- To be able to register domain names (to match business name)
- To explain what the business does – instantly recognisable

A Proprietary Limited company can conduct business under the company name without registering a business name but it must use the full name on each occasion and not abbreviate it. Eg; XYZ Pty Ltd, but not simply XYZ, without registering that variant as a business name. To conduct business under any other name, that name must first be registered as a business name.

### **What is a 'Trading Name' (also called a business name)**

A 'trading name' is the name under which an entity trades, for example, ABC Pty Ltd trading as 'Blocks on Blocks'. An entity may have more than one trading name.

### **Main Trading Name**

The main trading name is the main name the entity trades under or the name by which suppliers or customers know the entity. It may be different from the legal name. This means you can have a business structure (e.g. a partnership or a company) yet operate your business under a different name, being the main trading name.

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The purpose of the Register of Business Names is to provide a means of finding out the details of the proprietor(s) of a business where the business is not trading under the proprietor's name. The intention is to protect the consumer, not the registrant.

Be aware that:

- Registering your business name does not give you ownership of that name.
- Registering a particular name does not stop another person from registering a similar name. It only prevents another person carrying on business under that same name.
- Registration of your business name does not give you the exclusive right to use any word or phrase in a name. There may be many instances of names that contain the same or similar words in a name but have additional identifiable wording that makes it different enough to get registered.

For example, if you register your name as 'Michelle's Pies' there is nothing to stop someone else from registering 'Michelle's Pies and Cakes' or 'Michelle's Savoury Pies'.

### **Trading on the Internet**

If your business trades only via the Internet and you are based in New South Wales you do not have to register the business name.

### **What are my obligations after registering a business name?**

- Commence trading under the business name within 2 months of registering the business name.
- Display a business name sign in a conspicuous position outside the business's Registered Address and Business Addresses.
- Display the business name on documents you issue (i.e. receipts, invoices, marketing material).
- Renew the business name every 3 years. A Renewal Notice is sent out one month before the renewal date and a fee is charged to renew.
- Notify changes to the licensing authority in your state within one month of the date of change to any of the following:
  - Registered Address
  - Business Address
  - Postal address
  - Person(s) carrying on business
  - Owners personal name (e.g. by marriage or deed poll) and/or residential address
  - Owners corporation name and/or Registered Office
  - Nature of business
- Your registered business name must not be abbreviated or changed in any way other than the size and type of characters.

### **Must I have a business name sign?**

The Business Names Act 1962 requires that you must display the business name at all times in a conspicuous position on the outside of the registered & business addresses.

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### **Can I advertise my business name in a newspaper / magazine / internet site which would be available throughout Australia or overseas?**

It is not a breach of the Business Names Act 1962 to place advertisements in publications or on the Internet, but the business address stated on your registration application should be shown. If you are unsure about your legal position in relation to this issue please seek legal advice.

### **Who can apply for a Business Name?**

The applicant for a business name can be:

- An individual, corporation or incorporated association.
- A government instrumentality, if its Act or constitution permits.
- A trustee - The name of the Trustee as well as the Trust must be shown on the application form. For example, John Brown as Trustee for the Brown
- Family Trust.
- The executor of an estate -The name of the Executor as well as the Estate must be shown on the application form. For example, John Brown as the Executor of the Estate of Mary Brown.

### **Why might a name be refused registration?**

When choosing a business name it is important to appreciate that your state authority may refuse to register a name in certain circumstances, e. g. where:

- It is the same as an existing registered business, company or incorporated association name.
- It is considered 'undesirable' for registration.
- It will, in the opinion of the authority be likely to cause confusion during an inspection of the Register of Business Names.
- The name or words in the name are restricted by Ministerial Prohibition or State or Federal Law.
- It suggests a connection to a government office or agency.
- It contains the following words or phrases, or any abbreviations of these, or any words or phrases or abbreviations of similar meaning:
  - Building Society
  - Chamber of Commerce
  - Chamber of Manufactures
  - Chartered
  - College of Advanced Education
  - Consumer
  - Co-operative
  - Credit Union
  - Executor
  - Friendly Society
  - Guarantee
  - Made in Australia
  - Savings
  - Stock Exchange
  - Trust
  - Trustee
  - University
- In addition, if the proposed name suggests that the applicant is a professional, evidence of the relevant qualifications/registrations may be required e.g. doctor, lawyer etc.

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**Circumstances do occur where the business name you apply for is not available for registration.** It is important to wait until you have received the Certificate of Registration before conducting business under the name or arranging for printing, advertising, signage and other business materials.

### **What is the difference between a Business Name, a Company Name, and a Trade Mark?**

#### **In summary:**

- A Business Name merely states that you are trading under that name. It does not mean you have exclusive rights to that name. The name must be registered separately in each state within Australia if you want to have national coverage. Otherwise, other people may register the exact same Business Name in another state.
- A Company name indicates that a company structure (with shareholders and director/s) is operating the business. The company may be private (e.g. for a family business) or publicly owned (with shares available for sale). Each Company Name is unique within Australia and cannot be used by anyone else.
- A Trade Mark is an official registration process for the Business Name, or Company Name, or Product Name, or Logo (image and /or words). If you own the Trade Mark other people cannot legally use the same 'mark' (name or logo) to promote their business, products or services without your specific approval.

#### **What is a company?**

A company is a separate legal entity and must be registered under the Corporations Act 2001 administered by the Australian Securities & Investments Commission (ASIC).

If a company wishes to trade using a name other than its own, it must register that trading name as a business name. For enquiries regarding companies - contact ASIC on 1300 555 600 or visit the ASIC website at [www.asic.gov.au](http://www.asic.gov.au)

***See the Registering a Company name section in this kit.***

#### **What is a Trade Mark?**

Registration of a trade mark gives the owner the legal right to exclusively use or control the use of the mark. IP Australia is the Commonwealth agency that administers registration under the Trade Marks Act 1995.

Before registering your business name, it is a good idea to search the Register of Trade Marks. Searches can be done free of charge on the IP Australia Website at [www.ipaustralia.gov.au](http://www.ipaustralia.gov.au) or for a fee the IP Australia office will do the search for you.

You may wish to conduct a search of the National Names Index to check if the name you like is already registered. You should not assume that a name is available for registration simply because it is not already registered. There are many factors affecting the availability of a name. The department will conduct an assessment to determine the availability of a name prior to registration.

***See the Registering a Trade Mark section in this kit.***

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## How to Register a Business Name

To register a business name you need to complete and lodge the appropriate form (Application for Registration of a Business Name) with your state licensing authority, and provide payment at time of lodging the application.

Part of your application fee is a processing fee component. If the business name you apply for is not accepted for registration you will not get all of your application fee refunded. That is why it is advised you submit more than one name preference on your application form.

For a list of the licensing authority in each Australian state see the table 'Business Name License Application Authorities' in this section.

### Important notes about the application process in Queensland.

#### ***Identity***

You must provide one of the following forms of **certified proof of identification** for each proprietor who is an individual applying for registration of a business name. A 'certified copy' means it must be signed/certified by a recognised person, being either a Commissioner for Declarations, a Justice of the Peace, or a lawyer or solicitor.

- Current passport
- Australian citizen certificate
- Current Australian or New Zealand driver's licence
- Current Australian tertiary-issued student identity card with the person's name, photo and signature
- Current Commonwealth or State public service identity card
- Current Australian pensioner concession card
- A card 18+
- Birth certificate or extract from a birth entry

#### ***Are you a .com?***

If your proposed business name contains elements of a domain name, for example, a '.com' or a '.com.au', your application must be accompanied by written evidence that you hold the license for the corresponding domain name issued by a domain name registrar.

### Tutorial Available on This Topic

Video tutorials are available online as part of My Business Success Kit, including a tutorial on how to access and complete the business name registration form.

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## Before You Lodge Your Business Name Application

### ***(1) Check to see if your desired business names are available.***

The Australian Securities and Investments Commission maintains a national database of all business names and company names.

Before registering your business name search the National Names Index at ASIC to see if the name/s you want are available.

Keep in mind it is recommended you submit more than one option for your business name when you complete your application form. That way the licensing authority can check your second preference name if your first preference is not available.

Search the ASIC website at [www.asic.gov.au](http://www.asic.gov.au) (look for 'Search ASIC Registers')

### ***(2) Check to see if your desired business name will infringe on an existing Trade Mark.***

Registration of a Trade Mark gives the owner the legal right to exclusively use or control the use of the mark. IP Australia is the Commonwealth agency that administers registration under the Trade Marks Act 1995.

Before registering your business name, it is a good idea to search the Register of Trade Marks. Searches can be done free of charge on the IP Australia Website at [www.ipaustralia.gov.au](http://www.ipaustralia.gov.au) (look for Trademarks/Search links) or for a fee the IP Australia office will do the search for you.

The direct link to the Trade Marks database search is:  
[www.ipaustralia.gov.au/trademarks/search\\_index.shtml](http://www.ipaustralia.gov.au/trademarks/search_index.shtml)

Select to use the ATMOSS (Australian Trade Marks Online Search System) search facility. ATMOSS allows you to conduct searches using a range of criteria. It is designed to help trade mark applicants to search for similar trade marks, providing all the most important details of trade marks in our database, including words and images, owner details and goods and services claimed.

### **Tutorial Available on This Topic**

Video tutorials are available online as part of My Business Success Kit, including tutorials on how to search the business names database at the Australian Securities and Investments Commission website, and searching the trade mark database at IP Australia.

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## ***Business Name Registration Tips***

- Some organisations (e.g. banks) may also require proof of the registration of a Business Name before they will deal with a business, say in the case of opening an account.
- Registration helps you establish a business identity and gives you credibility.
- Many organisations, including credit providers, are wary of fly-by-night operators and require proof of registration.
- Banks will need to sight a registration certificate before opening an account in the name of the business.
- New customers and suppliers are more likely to deal with someone whose business is registered with the Office of Fair Trading.
- Business name registration also helps you know whom you are dealing with in terms of your business customers and the suppliers you use.
- Open a separate bank account to divide your business income from your personal income. If you don't it may result in you paying either too much or too little tax.
- Check with your local council about any town planning, zoning and usage rules that may affect your business. If you don't it could lead to fines or the possible closure of your business, if you break local regulations.
- Contact the relevant trade or industry association to see what help they can give you.
- See a solicitor first if you intend to buy an existing business, lease premises or sign any contracts.
- With your solicitors and accountant, decide whether you want to operate as a sole trader, a partnership, a trust or a proprietary limited company. Your choice will directly and immediately effect your taxation, insurance and workers compensation, as well as changing the risk to your personal assets.
- Ask your accountant to help you prepare budgets and cash flow forecasts, and other records needed to keep control of the business.
- Talk to an insurance broker about taking out business insurance. If you are not insured, you risk losing everything, both personal and business assets.
- If necessary register your workplace with the relevant authority.
  - QLD - [www.sd.qld.gov.au](http://www.sd.qld.gov.au) to enquire what licenses you require.

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## ***Frequently Asked Questions***

### **How can I check if a business name is available?**

You cannot do an availability search for a business name by telephone. However you can conduct a free search of registered Company and Business names via the Australian Securities and Investment Commission (ASIC) website. Keep in mind that this is a general search and does not guarantee the name is available.

### **Now I've applied for my business name, can I get my stationery?**

Don't automatically assume that a name you choose will be accepted. Wait for your registration certificate to be issued before going to the expense of ordering advertising, stationery and/or signage. You should also wait until you have spoken to IP Australia about any conflicting trade marks.

### **Is there a fee to register a business name?**

Yes. Fees vary from state to state. Some states offer a choice of registration term (duration), with the standard being a 3-year registration. Once you choose a registration term, you cannot change it during the period and there are no refunds. No GST is payable on any business name fees.

### **Is there a renewal fee every year for a business name?**

Yes. Fees vary from state to state. In some cases late payment penalties may apply. Check with the authority in your state for details and payment options.

### **How long does the registration process take?**

Check with the office for the state you are in. In some states if you lodge the application in person and can wait at a client services counter, it takes approximately one hour to process, depending on how many other applicants are also waiting. If you send your application by mail it takes approximately 5-10 working days to process.

### **Do I need to register my business name if I use my own name?**

No. If you are operating a business using any name other than your own, you must register the name. For individuals, your own name consists of your surname/family name together with one of the following:

- Your given name or names;
- The initial or initials of your given name or names; or
- A combination of one or more of your given names and the initial or initials of your remaining given names; or
- The given name or initials by which you are commonly known.
  - Example 1:
    - Name applied for: A W Green
    - Applicant: Alan Walter Green
  - Example 2:
    - Name applied for: AJ & J Smart
    - Applicant: Alfred John Smart and June Smart

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- Note: In these examples because the business name consists of the name of each proprietor without any addition they are not required to register.
- Example 3:
  - Name applied for: Cathy Hayes
  - Applicant: Catherine Hayes
  - Note: This name does not have to be registered as the applicant is commonly known or goes by the name Cathy.
- Example 4:
  - XYZ Investments Pty Ltd does not have to register under the Business Names Act if it is carrying on business under its registered company name. However, if XYZ Investments Pty Ltd wished to carry on business under the name XYZ Investments, then the name XYZ Investments must be registered under the Business Names Act.

**Can I register a Business Name if it has been registered in another state?**

Yes, provided the name is available to register in the state you want it for.

**Do I need to purchase a duplicate certificate every year to show that my registration is current?**

No, as long as the business is renewed when due.

**What if I decide to close my business?**

Contact the authority in your state to cancel your registration. Usually there is no fee to do this. No refunds are given for unused portions of the registration fee.

***My Notes***

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## ***Check List for Starting a Business***

- You are required to register your business name in the state or territory in which you will operate, unless you plan to conduct your business under your, or your partner's, first name and surname, or initials and surname.
- Before you choose a business name, you should consider existing trade marks and the availability of a domain name, as it can be very expensive to change once your business is established.
- Have you checked if your proposed business name exists? If your proposed name already exists or is similar to a name currently registered in your state, then your application may be rejected. The same rules apply if your proposed name exists as a company name anywhere in Australia.
- Before you apply:
  - Search the Australian Securities and Investments Commission National names Index to see if your proposed business name exists as a company name. Phone 1300 300 630 Website [www.search.asic.gov.au](http://www.search.asic.gov.au)
  - You can also search the ABN Lookup website at [www.abn.business.gov.au](http://www.abn.business.gov.au) to see if your proposed business name is listed with a registered ABN.
  - Contact your state or territory Consumer Affairs Office to check the availability of your name. For contact details, see our Consumer Affairs agency index.
- Have you checked if your proposed business name could conflict with someone else's registered trade mark? You should check whether anyone else is using a trade mark, brand or logo that is identical or similar to your proposed business name. There can be issues if the goods or services are similar to those for which you intend to use the business name.
  - IP Australia, Phone 1300 651 010 Website [www.ipaustralia.gov.au/trademarks/search\\_index.shtml](http://www.ipaustralia.gov.au/trademarks/search_index.shtml)
  - Seek advice from an Intellectual Property (IP) professional for further assistance.
- Have you filled in a business name registration form?
  - Business name registration is handled at the state government level. You will need to register your business name separately in each state or territory that you plan to set up your business. To access online forms, visit [www.govforms.business.gov.au](http://www.govforms.business.gov.au).
- Consider registering your business name as a trade mark. A registered trade mark gives you the right to use your trade mark as a means to distinguish your goods and services from those of another trader. A registered trade mark can help you legally stop imitators from using your brand in the future.
- Have you considered registering a domain name?
  - Your domain name is your address on the internet and gives you an online identity or brand. If you wish to buy a .com.au or .net.au domain name, you must be a commercial entity and possess either an ACN or ABN. For more information visit: The Australian Domain Name Administrator (auDA) Phone 1300 732 929 Website [www.auda.org.au/domains/au-domains](http://www.auda.org.au/domains/au-domains)

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## Business Name License Application Authorities

<b>State</b>	<b>Term of Registration</b>	<b>Registration Fees</b>	<b>Authority</b>
QLD	1 year  3 years	Registration fee 1 year: \$122.50 Renewal fee 1 year: \$70.00  Registration fee 3 Years: \$234.00 Renewal fee 3 years: \$190.00	Department of Justice and Attorney-General Office of Fair Trading Ground Floor, Brisbane Magistrates Court 363 George Street Brisbane QLD 4000 Tel: 13 13 04 <a href="http://www.justice.qld.gov.au/3704.htm">www.justice.qld.gov.au/3704.htm</a>
NSW	3 years	Registration fee (Year 1): \$146.00 Renewals: \$110.00	Office of Fair Trading 1 Fitzwilliam Street Parramatta NSW2150 Tel: 13 32 20 <a href="http://www.fairtrading.nsw.gov.au">www.fairtrading.nsw.gov.au</a>
VIC	3 years	Registration fee \$79.50 Renewal fee \$56.80	Consumer Affairs Victoria Victorian Consumer & Business Centre 113 Exhibition Street Melbourne 3000 Tel: 1300 361 673 <a href="http://www.consumer.vic.gov.au">www.consumer.vic.gov.au</a>
SA	3 years	Registration fee \$144.00 Renewal fee \$115.00	Office of Consumer and Business Affairs Level 3, Chesser House 91-97 Grenfell St Adelaide SA 5000 Tel: 1300 138 918 <a href="http://www.ocba.sa.gov.au">www.ocba.sa.gov.au</a>

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WA	3 years	Registration fee \$90.00 Renewal \$75.00	Department of Consumer & Employment Protection The Forrest Centre 211 St George's Terrace Perth WA 6000 Tel: 1300 304 014 <a href="http://www.docep.wa.gov.au/businessnames">www.docep.wa.gov.au/businessnames</a>
NT	3 years	Registration \$60.00 Renewal \$50.00	Department of Justice Development House 76 The Esplanade Darwin NT 0800 Tel: 1800 193 111 <a href="http://www.nt.gov.au/justice/departement.shtml">www.nt.gov.au/justice/departement.shtml</a>
ACT	3 years  5 years	Registration fee 3 years \$138.00 Renewal fee 3 years \$115.00  Registration fee 5 years \$200.00 Renewal fee 5 years \$180.00	Registrar-General's Office 255 Canberra Avenue Fyshwick ACT 2609 Tel: (02) 6207 0474 <a href="http://www.ors.act.gov.au/licensing/BusNames/businessnames.html">www.ors.act.gov.au/licensing/BusNames/businessnames.html</a>
TAS	3 years	Registration \$128.00	Department of Justice Consumer Affairs and Fair Trading Level 3, 15 Murray Street Hobart TAS 7000 Tel: 1300 654 499 <a href="http://www.consumer.tas.gov.au">www.consumer.tas.gov.au</a>

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