

*This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

I. P. K. VIDLER,  
*Clerk of the Legislative Assembly.*

*Legislative Assembly Chamber,  
Sydney, 4 March, 1969.*

## New South Wales



ANNO OCTAVO DECIMO

**ELIZABETHÆ II REGINÆ**

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**Act No.           , 1969.**

An Act to empower the Registrar of Companies to destroy certain documents within the registers kept by him; to extend the period within which proceedings may be instituted in respect of certain offences; to restrict the class of business name under which certain persons may carry on business in certain circumstances; for these and other purposes to amend the Companies Act, 1961, the Business Names Act, 1962, and certain other Acts; and for purposes connected therewith.

BE

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*Companies and Business Names (Amendment).*

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**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Companies and Business Names (Amendment) Act, 1969".

Short title,  
division into  
Parts and  
citation.

10 (2) This Act is divided into Parts, as follows :—

PART I.—PRELIMINARY—ss. 1–2.

PART II.—AMENDMENT OF COMPANIES ACT, 1961,  
AS SUBSEQUENTLY AMENDED—ss. 3–4.

15 PART III.—AMENDMENT OF BUSINESS NAMES ACT,  
1962, AS SUBSEQUENTLY AMENDED—ss. 5–8.

(3) The Companies Act, 1961, as subsequently amended and as amended by this Act, may be cited as the Companies Act, 1961–1969.

20 (4) The Business Names Act, 1962, as subsequently amended and as amended by this Act, may be cited as the Business Names Act, 1962–1969.

2. (1) This Part of this Act shall commence on the day upon which this Act receives the Royal assent.

Commence-  
ment.

25 (2) Subject to subsection one of this section, the several provisions of this Act shall commence upon such day or days as may be appointed and notified under subsection three of this section.

30 (3) The Governor may, from time to time, appoint and notify by proclamation published in the Gazette the day upon which any Part or provision of this Act specified in the proclamation shall commence and may appoint different days for different Parts or provisions and the Part or provision so specified shall commence accordingly.

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PART

*Companies and Business Names (Amendment).*

PART II.

AMENDMENT OF COMPANIES ACT, 1961, AS SUBSEQUENTLY  
AMENDED.

3. The Companies Act, 1961, as subsequently amended, Amendment  
of Act No.  
71, 1961.  
5 is amended—

(a) (i) by inserting in subsection one of section five Sec. 5.  
next after the definition of "Lodged" the (Interpreta-  
tion.)  
following new definition :—

10 "Machine copy" has the meaning ascribed  
to that expression in the Evidence  
(Reproductions) Act, 1967.

(ii) by inserting in the same subsection next after  
the definition of "Repealed Act" the following  
new definition :—

15 "Reproduction" has the meaning ascribed  
to that expression in the Evidence  
(Reproductions) Act, 1967.

(iii) by inserting in the same subsection next after  
the definition of "This Act" the following new  
definition :—

20 "Transparency" has the meaning ascribed  
to that expression in the Evidence  
(Reproductions) Act, 1967.

25 (b) (i) by inserting in paragraph (a) of subsection Sec. 12.  
two of section twelve after the word "Regis- (Registers.)  
trar" the words ", unless the Registrar directs  
that a transparency or reproduction of the  
document be made available for inspection";

30 (ii) by inserting next after the same paragraph the  
following new paragraph :—

(a1) a transparency or reproduction of a  
document, where the Registrar has  
directed that the transparency or repro-  
duction be made available for inspec-  
tion; or;

(iii)

*Companies and Business Names (Amendment).*

5 (iii) by inserting in subsection five of the same section after the word "place" the words "or, where the document has not been duly completed, he may require that a supplementary document in the prescribed form be lodged";

(iv) by omitting from paragraph (b) of subsection seven of the same section the word "registered" and by inserting in lieu thereof the following words and new paragraph :—

10 registered; or

(c) any document a transparency of which has been incorporated with a register kept by the Registrar.

15 (c) (i) by omitting from subsection one of section thirteen the words "or destroyed" and by inserting in lieu thereof the words ", or has been destroyed otherwise than pursuant to paragraph (c) of subsection (7) of section twelve of this Act";

Sec. 13.  
(Re-lodging of lost registered documents.)

20 (ii) by inserting at the end of the same section the following new subsection :—

25 (7) Where a transparency of a document referred to in subsection (1) of this section has been incorporated with a register kept by the Registrar and is lost or destroyed as referred to in that subsection, the foregoing provisions of this section shall have effect as if the document of which it is a transparency had been so lost or destroyed.

30 (d) by omitting from paragraph (a) of subsection one of section three hundred and thirteen the words "in the register of companies";

Sec. 313.  
(Accounts and audit.)

*Companies and Business Names (Amendment).*

4. The Companies Act, 1961, as subsequently amended, is further amended by inserting in subsection one of section five next after the definition of "Principal register" the following new definition :—

Further amendment of Act No. 71, 1961. Sec. 5. (Interpretation.)

- 5 "Printed" includes typewritten or lithographed or reproduced by any mechanical means.

## PART III.

AMENDMENT OF BUSINESS NAMES ACT, 1962, AS  
SUBSEQUENTLY AMENDED.

10 5. The Business Names Act, 1962, as subsequently amended, is amended—

Amendment of Act No. 11, 1962.

- (a) (i) by inserting in subsection one of section four next after the definition of "Initial" the following new definition :—

Sec. 4. (Interpretation.)

15 "Machine copy" has the meaning ascribed to that expression in the Evidence (Reproductions) Act, 1967.

- (ii) by inserting in the same subsection next after the definition of "Repealed Act" the following new definition :—

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"Reproduction" has the meaning ascribed to that expression in the Evidence (Reproductions) Act, 1967.

- (iii) by inserting in the same subsection next after the definition of "State" the following new definition :—

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"Transparency" has the meaning ascribed to that expression in the Evidence (Reproductions) Act, 1967.

(iv)

*Companies and Business Names (Amendment).*

(iv) by inserting at the end of the same section the following new subsection :—

(4) In this Act, a reference to an Act includes all amendments of that Act and any Act passed in substitution for the Act referred to or incorporating any of its provisions.

(b) by omitting from subsection one of section twenty-two the words “and may make a copy thereof or take extracts therefrom” and by inserting in lieu thereof the words “unless the Registrar directs that a transparency or reproduction of the statement be made available for inspection, or, where the Registrar has directed that a transparency or reproduction of such a statement be made available for inspection, a person may, on payment of the prescribed fee, inspect the transparency or reproduction, and any such person may make a copy of or take extracts from a statement, transparency or reproduction inspected”;

Sec. 22.  
(Inspection of statements.)

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(c) (i) by inserting in paragraph (a) of subsection one of section twenty-three after the word “document” the words “or transparency”;

Sec. 23.  
(Certificates of registration or non-registration.)

(ii) by inserting in paragraph (a) of subsection two of the same section after the word “document” wherever occurring the words “or transparency”;

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(iii) by inserting in the same paragraph after the word “to” the words “subsection one of”;

(d) by inserting in paragraph (b) of section twenty-four after the word “document” the words “or transparency”;

Sec. 24.  
(Evidence of registration or non-registration.)

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(e)

*Companies and Business Names (Amendment).*

(e) by inserting at the end of section twenty-five the following new subsection :—

Sec. 25.  
(Authority of Registrar to destroy documents.)

5 (2) Subject to the Archives Act, 1960, the Registrar may destroy or dispose of any statement or notice lodged, furnished or registered under this Act or under any corresponding previous enactment, where a transparency of the statement or notice has been incorporated with the register.

10 6. The Business Names Act, 1962, as subsequently amended, is further amended—

Further amendment of Act No. 11, 1962.

(a) by inserting in subsection two of section five after the word "section" the words ", and of subsection two of section 5A,";

Sec. 5.  
(Certain business names to be registered.)

15 (b) by inserting in subsection three of the same section after the word "section" the words ", and of subsection two of section 5A";

(c) by inserting next after the same section the following new section :—

New sec. 5A.

5A. (1) This section applies—

20 (a) to a person convicted after the commencement of section six of the Companies and Business Names (Amendment) Act, 1969, whether within or without the State—

Leave of District Court required in certain cases before using business name.

25 (i) on indictment of an offence in connection with the promotion, formation or management of a corporation;

30 (ii) of an offence involving fraud or dishonesty punishable on conviction with imprisonment for three months or more; or

(iii)

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*Companies and Business Names (Amendment).*

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- 5 (iii) of an offence against section forty-seven, one hundred and twenty-four or three hundred and three of the Companies Act, 1961, or any corresponding law of another State, or of a Territory, of the Commonwealth of Australia; and
- (b) to a person so convicted before that commencement, where—
- 10 (i) he was not, immediately before that commencement, carrying on business in the State under a business name; or
- 15 (ii) being a person who was, immediately before that commencement, carrying on business in the State under a business name, he ceases so to carry on business under that business name.
- 20 (2) A person to whom this section applies shall not, within the period of five years next succeeding any occasion on which he is convicted as referred to in subsection one of this section or, where he has served a term of imprisonment imposed pursuant to any such conviction, within the
- 25 period of five years next succeeding his release from that imprisonment, carry on business in the State under a business name unless—
- 30 (a) the business name under which he so carries on business—
- (i) consists of his name; or
- (ii) where he carries on business in association with another person or other persons, consists of his name

and



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*Companies and Business Names (Amendment).*

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and the name or names of the person or persons in association with whom he carries on business,

without any addition ; or

- 5 (b) he has obtained the leave of a District Court, upon application made as provided by subsection three of this section, so to carry on business.

10 Penalty : Four hundred dollars or imprisonment for six months or both. Default penalty.

(3) An application for the leave of a District Court, as referred to in paragraph (b) of subsection two of this section—

- 15 (a) shall not be made unless the Minister has been given not less than twenty-eight days' notice of the proposed application ; and

- 20 (b) shall be made, in accordance with rules of court, to the District Court for the district where the applicant proposes to carry on business or, where he proposes to carry on business in more than one district, to the District Court for the district in which he resides.

25 (4) On the hearing of an application made under subsection three of this section, the Minister may be represented at the hearing of, and may oppose, the application.

30 (5) Nothing in this section shall be construed as affecting the operation of section five of this Act.

- (d) by inserting in subsection one of section fourteen after the word "five" wherever occurring the words "or 5A".

Sec. 14.  
(Disability of persons in default.)

*Companies and Business Names (Amendment).*

7. The Business Names Act, 1962, as subsequently amended, is further amended—

Further amendment of Act No. 11, 1962.

- 5 (a) (i) by omitting from section twelve the words “fourteen days” wherever occurring and by inserting in lieu thereof the words “one month”;
- 10 (ii) by omitting from the same section the words “or within such further time as the Registrar may, before the expiration of that period, allow” wherever occurring;
- 15 (iii) by omitting from subsection five of the same section the words “, or within such further time as the Registrar may, before the expiration of that period allow”;
- 20 (iv) by omitting from subsection eight of the same section the word and symbol “addresses,” and by inserting in lieu thereof the word “addresses”;
- (b) by inserting next after the same section the following new section :—

Sec. 12. (Notification of changes in particulars relating to registered business names, cessation of business, etc.)

New sec. 12A.

25 12A. (1) Where, pursuant to this Act, a statement, notice or other document, being a statement, notice or other document relating to a business name, is required to be lodged within a specified period, the Registrar may, whether or not that period has expired, authorise an extended period for the lodging thereof, and the statement, notice or other document shall be deemed to have been duly lodged if it is lodged within the extended period authorised by the Registrar.

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(2) If default has been made in lodging a statement, notice or other document under this Act within a time specified by this Act for the lodging thereof, as extended by any authority of the Registrar

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*Companies and Business Names (Amendment).*

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Registrar given under subsection one of this section, the statement, notice or other document may, subject to subsection three of this section, be lodged notwithstanding that default.

5 (3) Subsection two of this section shall not affect any liability of any person in respect of a default referred to in that subsection.

(c) by inserting next after subsection three of section twenty-eight the following new subsection :—

Sec. 28.  
(Recovery of penalties.)

10 (4) Notwithstanding anything contained in any Act, proceedings for any offence against this Act may be brought within the period of three years after the commission of the alleged offence.

8. The Business Names Act, 1962, as subsequently amended, is further amended—

Further amendment of Act No. 11, 1962.

(a) by omitting subsection one of section twenty-six and by inserting in lieu thereof the following subsection :—

Sec. 26.  
(Invitations to the public to make deposits or loans.)

20 (1) A person shall not, in connection with an invitation to lend or deposit money, being an invitation made, by advertisement or otherwise, to the public, or to any person as a member of the public, use or refer to a business name that—

25 (a) is, or is deemed to be, registered under this Act;

(b) is required to be registered under this Act; or

30 (c) would, if business were carried on in the State thereunder, be required to be registered under this Act.

Penalty : One thousand dollars.

(b)

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*Companies and Business Names (Amendment).*

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- (b) by inserting in subsection two of the same section after the figures "1961" the words ", or to an invitation made to a person whose ordinary business it is to lend money".

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BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1969

[10c]

No. , 1969.

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## A BILL

To empower the Registrar of Companies to destroy certain documents within the registers kept by him; to extend the period within which proceedings may be instituted in respect of certain offences; to restrict the class of business name under which certain persons may carry on business in certain circumstances; for these and other purposes to amend the Companies Act, 1961, the Business Names Act, 1962, and certain other Acts; and for purposes connected therewith.

[MR McCaw—19 *February*, 1969.]

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*Companies and Business Names (Amendment).*

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**B**E it enacted by the Queen's Most Excellent Majesty, by  
and with the advice and consent of the Legislative  
Council and Legislative Assembly of New South Wales in  
Parliament assembled, and by the authority of the same, as  
5 follows :—

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Companies and Business Names (Amendment) Act, 1969".

Short title,  
division into  
Parts and  
citation.

10 (2) This Act is divided into Parts, as follows :—

PART I.—PRELIMINARY—ss. 1–2.

PART II.—AMENDMENT OF COMPANIES ACT, 1961,  
AS SUBSEQUENTLY AMENDED—ss. 3–4.

15 PART III.—AMENDMENT OF BUSINESS NAMES ACT,  
1962, AS SUBSEQUENTLY AMENDED—ss. 5–8.

(3) The Companies Act, 1961, as subsequently  
amended and as amended by this Act, may be cited as the  
Companies Act, 1961–1969.

20 (4) The Business Names Act, 1962, as subsequently  
amended and as amended by this Act, may be cited as the  
Business Names Act, 1962–1969.

2. (1) This Part of this Act shall commence on the day  
upon which this Act receives the Royal assent.

Commence-  
ment.

25 (2) Subject to subsection one of this section, the  
several provisions of this Act shall commence upon such day  
or days as may be appointed and notified under subsection  
three of this section.

30 (3) The Governor may, from time to time, appoint  
and notify by proclamation published in the Gazette the day  
upon which any Part or provision of this Act specified in the  
proclamation shall commence and may appoint different days  
for different Parts or provisions and the Part or provision so  
specified shall commence accordingly.

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PART

*Companies and Business Names (Amendment).*

PART II.

AMENDMENT OF COMPANIES ACT, 1961, AS SUBSEQUENTLY AMENDED.

3. The Companies Act, 1961, as subsequently amended, Amendment of Act No. 71, 1961.  
5 is amended—

(a) (i) by inserting in subsection one of section five Sec. 5.  
next after the definition of "Lodged" the (Interpretation.)  
following new definition :—

10 "Machine copy" has the meaning ascribed to that expression in the Evidence (Reproductions) Act, 1967.

(ii) by inserting in the same subsection next after the definition of "Repealed Act" the following new definition :—

15 "Reproduction" has the meaning ascribed to that expression in the Evidence (Reproductions) Act, 1967.

(iii) by inserting in the same subsection next after the definition of "This Act" the following new definition :—

20 "Transparency" has the meaning ascribed to that expression in the Evidence (Reproductions) Act, 1967.

25 (b) (i) by inserting in paragraph (a) of subsection two of section twelve after the word "Registrar" the words "Sec. 12. (Registers.) , unless the Registrar directs that a transparency or reproduction of the document be made available for inspection";

30 (ii) by inserting next after the same paragraph the following new paragraph :—

35 (a1) a transparency or reproduction of a document, where the Registrar has directed that the transparency or reproduction be made available for inspection; or;

(iii)

*Companies and Business Names (Amendment).*

- 5 (iii) by inserting in subsection five of the same section after the word "place" the words "or, where the document has not been duly completed, he may require that a supplementary document in the prescribed form be lodged";
- (iv) by omitting from paragraph (b) of subsection seven of the same section the word "registered" and by inserting in lieu thereof the following words and new paragraph :—
- 10 registered ; or
- (c) any document a transparency of which has been incorporated with a register kept by the Registrar.
- 15 (c) (i) by omitting from subsection one of section Sec. 13. thirteen the words "or destroyed" and by (Re-lodging of lost registered documents.) inserting in lieu thereof the words ", or has been destroyed otherwise than pursuant to paragraph (c) of subsection (7) of section twelve of this Act";
- 20 (ii) by inserting at the end of the same section the following new subsection :—
- 25 (7) Where a transparency of a document referred to in subsection (1) of this section has been incorporated with a register kept by the Registrar and is lost or destroyed as referred to in that subsection, the foregoing provisions of this section shall have effect as if the document of which it is a transparency had been so lost or destroyed.
- 30 (d) by omitting from paragraph (a) of subsection one of section three hundred and thirteen the words "in the register of companies" Sec. 313. (Accounts and audit.)



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*Companies and Business Names (Amendment).*

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4. The Companies Act, 1961, as subsequently amended, is further amended by inserting in subsection one of section five next after the definition of "Principal register" the following new definition :—

Further amendment of Act No. 71, 1961. Sec. 5. (Interpretation.)

- 5 "Printed" includes typewritten or lithographed or reproduced by any mechanical means.

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PART III.

AMENDMENT OF BUSINESS NAMES ACT, 1962, AS  
SUBSEQUENTLY AMENDED.

10 5. The Business Names Act, 1962, as subsequently amended, is amended—

Amendment of Act No. 11, 1962.

- (a) (i) by inserting in subsection one of section four next after the definition of "Initial" the following new definition :—

Sec. 4. (Interpretation.)

15 "Machine copy" has the meaning ascribed to that expression in the Evidence (Reproductions) Act, 1967.

(ii) by inserting in the same subsection next after the definition of "Repealed Act" the following new definition :—

20 "Reproduction" has the meaning ascribed to that expression in the Evidence (Reproductions) Act, 1967.

(iii) by inserting in the same subsection next after the definition of "State" the following new definition :—

25 "Transparency" has the meaning ascribed to that expression in the Evidence (Reproductions) Act, 1967.

(iv)

*Companies and Business Names (Amendment).*

(iv) by inserting at the end of the same section the following new subsection :—

5 (4) In this Act, a reference to an Act includes all amendments of that Act and any Act passed in substitution for the Act referred to or incorporating any of its provisions.

10 (b) by omitting from subsection one of section twenty-two the words “and may make a copy thereof or take extracts therefrom” and by inserting in lieu thereof the words “unless the Registrar directs that a transparency or reproduction of the statement be made available for inspection, or, where the Registrar has directed that a transparency or reproduction of such a statement be made available for inspection, a person may, on payment of the prescribed fee, inspect the transparency or reproduction, and any such person may make a copy of or take extracts from a statement, transparency or reproduction inspected”;

Sec. 22.  
(Inspection of statements.)

20 (c) (i) by inserting in paragraph (a) of subsection one of section twenty-three after the word “document” the words “or transparency”;

Sec. 23.  
(Certificates of registration or non-registration.)

25 (ii) by inserting in paragraph (a) of subsection two of the same section after the word “document” wherever occurring the words “or transparency”;

(iii) by inserting in the same paragraph after the word “to” the words “subsection one of”;

30 (d) by inserting in paragraph (b) of section twenty-four after the word “document” the words “or transparency”;

Sec. 24.  
(Evidence of registration or non-registration.)

(e)

*Companies and Business Names (Amendment).*

- (e) by inserting at the end of section twenty-five the following new subsection :—
- Sec. 25.  
(Authority of Registrar to destroy documents.)
- (2) Subject to the Archives Act, 1960, the Registrar may destroy or dispose of any statement or notice lodged, furnished or registered under this Act or under any corresponding previous enactment, where a transparency of the statement or notice has been incorporated with the register.
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6. The Business Names Act, 1962, as subsequently amended, is further amended—
- Further amendment of Act No. 11, 1962.
- (a) by inserting in subsection two of section five after the word “section” the words “, and of subsection two of section 5A,”;
- Sec. 5.  
(Certain business names to be registered.)
- (b) by inserting in subsection three of the same section after the word “section” the words “, and of subsection two of section 5A”;
- 15
- (c) by inserting next after the same section the following new section :—
- New sec. 5A.
- 5A. (1) This section applies—
- Leave of District Court required in certain cases before using business name.
- 20 (a) to a person convicted after the commencement of section six of the Companies and Business Names (Amendment) Act, 1969, whether within or without the State—
- (i) on indictment of an offence in connection with the promotion, formation or management of a corporation;
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- (ii) of an offence involving fraud or dishonesty punishable on conviction with imprisonment for three months or more; or
- 30
- (iii)

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*Companies and Business Names (Amendment).*

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- 5 (iii) of an offence against section forty-seven, one hundred and twenty-four or three hundred and three of the Companies Act, 1961, or any corresponding law of another State, or of a Territory, of the Commonwealth of Australia; and
- (b) to a person so convicted before that commencement, where—
- 10 (i) he was not, immediately before that commencement, carrying on business in the State under a business name; or
- 15 (ii) being a person who was, immediately before that commencement, carrying on business in the State under a business name, he ceases so to carry on business under that business name.
- 20 (2) A person to whom this section applies shall not, within the period of five years next succeeding any occasion on which he is convicted as referred to in subsection one of this section or, where he has served a term of imprisonment imposed pursuant to any such conviction, within the
- 25 period of five years next succeeding his release from that imprisonment, carry on business in the State under a business name unless—
- (a) the business name under which he so carries
- 30 on business—
- (i) consists of his name; or
- (ii) where he carries on business in association with another person or other persons, consists of his name
- and

*Companies and Business Names (Amendment).*

and the name or names of the person or persons in association with whom he carries on business,

without any addition; or

- 5 (b) he has obtained the leave of a District Court, upon application made as provided by subsection three of this section, so to carry on business.

10 Penalty : Four hundred dollars or imprisonment for six months or both. Default penalty.

(3) An application for the leave of a District Court, as referred to in paragraph (b) of subsection two of this section—

- 15 (a) shall not be made unless the Minister has been given not less than twenty-eight days' notice of the proposed application; and

- 20 (b) shall be made, in accordance with rules of court, to the District Court for the district where the applicant proposes to carry on business or, where he proposes to carry on business in more than one district, to the District Court for the district in which he resides.

25 (4) On the hearing of an application made under subsection three of this section, the Minister may be represented at the hearing of, and may oppose, the application.

30 (5) Nothing in this section shall be construed as affecting the operation of section five of this Act.

- (c) by inserting in subsection one of section fourteen after the word "five" wherever occurring the words "or 5A".

Sec. 14.  
(Disability of persons in default.)

*Companies and Business Names (Amendment).*

7. The Business Names Act, 1962, as subsequently amended, is further amended—

Further amendment of Act No. 11, 1962.

- 5 (a) (i) by omitting from section twelve the words “fourteen days” wherever occurring and by inserting in lieu thereof the words “one month”;
- 10 (ii) by omitting from the same section the words “or within such further time as the Registrar may, before the expiration of that period, allow” wherever occurring;
- 15 (iii) by omitting from subsection five of the same section the words “, or within such further time as the Registrar may, before the expiration of that period allow”;
- 20 (iv) by omitting from subsection eight of the same section the word and symbol “addresses,” and by inserting in lieu thereof the word “addresses”;
- (b) by inserting next after the same section the following new section :—

Sec. 12.  
(Notification of changes in particulars relating to registered business names, cessation of business, etc.)

New sec. 12A.

- 25 12A. (1) Where, pursuant to this Act, a statement, notice or other document, being a statement, notice or other document relating to a business name, is required to be lodged within a specified period, the Registrar may, whether or not that period has expired, authorise an extended period for the lodging thereof, and the statement, notice or other document shall be deemed to have been duly lodged if it is lodged within the extended period
- 30 authorised by the Registrar.

Registrar may allow further time.

(2) If default has been made in lodging a statement, notice or other document under this Act within a time specified by this Act for the lodging thereof, as extended by any authority of the Registrar

*Companies and Business Names (Amendment).*

Registrar given under subsection one of this section, the statement, notice or other document may, subject to subsection three of this section, be lodged notwithstanding that default.

5 (3) Subsection two of this section shall not affect any liability of any person in respect of a default referred to in that subsection.

(c) by inserting next after subsection three of section twenty-eight the following new subsection :— Sec. 28. (Recovery of penalties.)

10 (4) Notwithstanding anything contained in any Act, proceedings for any offence against this Act may be brought within the period of three years after the commission of the alleged offence.

8. The Business Names Act, 1962, as subsequently Further amendment of Act No. 11, 1962. amended, is further amended—

(a) by omitting subsection one of section twenty-six and by inserting in lieu thereof the following subsection :— Sec. 26. (Invitations to the public to make deposits or loans.)

20 (1) A person shall not, in connection with an invitation to lend or deposit money, being an invitation made, by advertisement or otherwise, to the public, or to any person as a member of the public, use or refer to a business name that—

25 (a) is, or is deemed to be, registered under this Act;

(b) is required to be registered under this Act; or

30 (c) would, if business were carried on in the State thereunder, be required to be registered under this Act.

Penalty : One thousand dollars.

(b)

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*Companies and Business Names (Amendment).*

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- (b) by inserting in subsection two of the same section after the figures "1961" the words ", or to an invitation made to a person whose ordinary business it is to lend money".

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BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1969

[10c]



No. , 1969.

---

## A BILL

To empower the Registrar of Companies to destroy certain documents within the registers kept by him; to extend the period within which proceedings may be instituted in respect of certain offences; to restrict the class of business name under which certain persons may carry on business in certain circumstances; for these and other purposes to amend the Companies Act, 1961, the Business Names Act, 1962, and certain other Acts; and for purposes connected therewith.

[MR McCaw—19 February, 1969.]

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BE

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*Companies and Business Names (Amendment).*

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**B**E it enacted by the Queen's Most Excellent Majesty, by  
and with the advice and consent of the Legislative  
Council and Legislative Assembly of New South Wales in  
Parliament assembled, and by the authority of the same, as  
5 follows :—

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Companies and Business Names (Amendment) Act, 1969".

Short title,  
division into  
Parts and  
citation.

10 (2) This Act is divided into Parts, as follows :—

PART I.—PRELIMINARY—*ss.* 1–2.

PART II.—AMENDMENT OF COMPANIES ACT, 1961,  
AS SUBSEQUENTLY AMENDED—*ss.* 3–4.

15 PART III.—AMENDMENT OF BUSINESS NAMES ACT,  
1962, AS SUBSEQUENTLY AMENDED—*ss.* 5–8.

(3) The Companies Act, 1961, as subsequently  
amended and as amended by this Act, may be cited as the  
Companies Act, 1961–1969.

20 (4) The Business Names Act, 1962, as subsequently  
amended and as amended by this Act, may be cited as the  
Business Names Act, 1962–1969.

2. (1) This Part of this Act shall commence on the day  
upon which this Act receives the Royal assent.

Commence-  
ment.

25 (2) Subject to subsection one of this section, the  
several provisions of this Act shall commence upon such day  
or days as may be appointed and notified under subsection  
three of this section.

30 (3) The Governor may, from time to time, appoint  
and notify by proclamation published in the Gazette the day  
upon which any Part or provision of this Act specified in the  
proclamation shall commence and may appoint different days  
for different Parts or provisions and the Part or provision so  
specified shall commence accordingly.

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PART

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*Companies and Business Names (Amendment).*

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PART II.

AMENDMENT OF COMPANIES ACT, 1961, AS SUBSEQUENTLY  
AMENDED.

3. The Companies Act, 1961, as subsequently amended, Amendment  
of Act No.  
71, 1961.  
5 is amended—

- (a) (i) by inserting in subsection one of section five Sec. 5.  
next after the definition of "Lodged" the (Interpreta-  
tion.)  
following new definition :—

10                   "Machine copy" has the meaning ascribed  
to that expression in the Evidence  
(Reproductions) Act, 1967.

- (ii) by inserting in the same subsection next after  
the definition of "Repealed Act" the following  
new definition :—

15                   "Reproduction" has the meaning ascribed  
to that expression in the Evidence  
(Reproductions) Act, 1967.

- (iii) by inserting in the same subsection next after  
the definition of "This Act" the following new  
definition :—

20                   "Transparency" has the meaning ascribed  
to that expression in the Evidence  
(Reproductions) Act, 1967.

- 25 (b) (i) by inserting in paragraph (a) of subsection Sec. 12.  
two of section twelve after the word "Regis- (Registers.)  
trar" the words ", unless the Registrar directs  
that a transparency or reproduction of the  
document be made available for inspection";

- 30 (ii) by inserting next after the same paragraph the  
following new paragraph :—

35                   (a1) a transparency or reproduction of a  
document, where the Registrar has  
directed that the transparency or repro-  
duction be made available for inspec-  
tion; or;

(iii)

*Companies and Business Names (Amendment).*

- 5 (iii) by inserting in subsection five of the same section after the word "place" the words "or, where the document has not been duly completed, he may require that a supplementary document in the prescribed form be lodged";
- (iv) by omitting from paragraph (b) of subsection seven of the same section the word "registered" and by inserting in lieu thereof the following words and new paragraph :—
- 10 registered ; or
- (c) any document a transparency of which has been incorporated with a register kept by the Registrar.
- 15 (c) (i) by omitting from subsection one of section Sec. 13. thirteen the words "or destroyed" and by (Re-lodging of lost registered documents.) inserting in lieu thereof the words ", or has been destroyed otherwise than pursuant to paragraph (c) of subsection (7) of section twelve of this Act";
- 20 (ii) by inserting at the end of the same section the following new subsection :—
- 25 (7) Where a transparency of a document referred to in subsection (1) of this section has been incorporated with a register kept by the Registrar and is lost or destroyed as referred to in that subsection, the foregoing provisions of this section shall have effect as if the document of which it is a transparency had been so lost or destroyed.
- 30 (d) by omitting from paragraph (a) of subsection one of section three hundred and thirteen the words "in Sec. 313. (Accounts and audit.) the register of companies".

*Companies and Business Names (Amendment).*

4. The Companies Act, 1961, as subsequently amended, is further amended by inserting in subsection one of section five next after the definition of "Principal register" the following new definition :—

Further amendment of Act No. 71, 1961. Sec. 5. (Interpretation.)

5 "Printed" includes typewritten or lithographed or reproduced by any mechanical means.

PART III.

AMENDMENT OF BUSINESS NAMES ACT, 1962, AS SUBSEQUENTLY AMENDED.

10 5. The Business Names Act, 1962, as subsequently amended, is amended—

Amendment of Act No. 11, 1962.

(a) (i) by inserting in subsection one of section four next after the definition of "Initial" the following new definition :—

Sec. 4. (Interpretation.)

15 "Machine copy" has the meaning ascribed to that expression in the Evidence (Reproductions) Act, 1967.

20 (ii) by inserting in the same subsection next after the definition of "Repealed Act" the following new definition :—

"Reproduction" has the meaning ascribed to that expression in the Evidence (Reproductions) Act, 1967.

25 (iii) by inserting in the same subsection next after the definition of "State" the following new definition :—

"Transparency" has the meaning ascribed to that expression in the Evidence (Reproductions) Act, 1967.

(iv)

*Companies and Business Names (Amendment).*

(iv) by inserting at the end of the same section the following new subsection :—

(4) In this Act, a reference to an Act includes all amendments of that Act and any Act passed in substitution for the Act referred to or incorporating any of its provisions.

- 5
- (b) by omitting from subsection one of section twenty-two the words “and may make a copy thereof or take extracts therefrom” and by inserting in lieu thereof the words “unless the Registrar directs that a transparency or reproduction of the statement be made available for inspection, or, where the Registrar has directed that a transparency or reproduction of such a statement be made available for inspection, a person may, on payment of the prescribed fee, inspect the transparency or reproduction, and any such person may make a copy of or take extracts from a statement, transparency or reproduction inspected”;
- 10
- 15
- 20
- (c) (i) by inserting in paragraph (a) of subsection one of section twenty-three after the word “document” the words “or transparency”;
- 25
- (ii) by inserting in paragraph (a) of subsection two of the same section after the word “document” wherever occurring the words “or transparency”;
- (iii) by inserting in the same paragraph after the word “to” the words “subsection one of”;
- 30
- (d) by inserting in paragraph (b) of section twenty-four after the word “document” the words “or transparency”;
- (e)
- Sec. 22.  
(Inspection of statements.)
- Sec. 23.  
(Certificates of registration or non-registration.)
- Sec. 24.  
(Evidence of registration or non-registration.)

*Companies and Business Names (Amendment).*

- (e) by inserting at the end of section twenty-five the following new subsection :—
- Sec. 25.  
(Authority of Registrar to destroy documents.)
- (2) Subject to the Archives Act, 1960, the Registrar may destroy or dispose of any statement or notice lodged, furnished or registered under this Act or under any corresponding previous enactment, where a transparency of the statement or notice has been incorporated with the register.
- 5
6. The Business Names Act, 1962, as subsequently amended, is further amended—
- Further amendment of Act No. 11, 1962.
- (a) by inserting in subsection two of section five after the word “section” the words “, and of subsection two of section 5A,”;
- Sec. 5.  
(Certain business names to be registered.)
- (b) by inserting in subsection three of the same section after the word “section” the words “, and of subsection two of section 5A”;
- 15
- (c) by inserting next after the same section the following new section :—
- New sec. 5A.
- 5A. (1) This section applies—
- Leave of District Court required in certain cases before using business name.
- 20
- (a) to a person convicted after the commencement of section six of the Companies and Business Names (Amendment) Act, 1969, whether within or without the State—
- (i) on indictment of an offence in connection with the promotion, formation or management of a corporation;
- 25
- (ii) of an offence involving fraud or dishonesty punishable on conviction with imprisonment for three months or more; or
- 30
- (iii)

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*Companies and Business Names (Amendment).*

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- 5 (iii) of an offence against section forty-seven, one hundred and twenty-four or three hundred and three of the Companies Act, 1961, or any corresponding law of another State, or of a Territory, of the Commonwealth of Australia; and
- (b) to a person so convicted before that commencement, where—
- 10 (i) he was not, immediately before that commencement, carrying on business in the State under a business name; or
- 15 (ii) being a person who was, immediately before that commencement, carrying on business in the State under a business name, he ceases so to carry on business under that business name.
- 20 (2) A person to whom this section applies shall not, within the period of five years next succeeding any occasion on which he is convicted as referred to in subsection one of this section or, where he has served a term of imprisonment imposed pursuant to any such conviction, within the
- 25 period of five years next succeeding his release from that imprisonment, carry on business in the State under a business name unless—
- 30 (a) the business name under which he so carries on business—
- (i) consists of his name; or
- (ii) where he carries on business in association with another person or other persons, consists of his name
- and



*Companies and Business Names (Amendment).*

and the name or names of the person or persons in association with whom he carries on business,

without any addition; or

- 5 (b) he has obtained the leave of a District Court, upon application made as provided by subsection three of this section, so to carry on business.

10 Penalty : Four hundred dollars or imprisonment for six months or both. Default penalty.

(3) An application for the leave of a District Court, as referred to in paragraph (b) of subsection two of this section—

- 15 (a) shall not be made unless the Minister has been given not less than twenty-eight days' notice of the proposed application; and

- 20 (b) shall be made, in accordance with rules of court, to the District Court for the district where the applicant proposes to carry on business or, where he proposes to carry on business in more than one district, to the District Court for the district in which he resides.

25 (4) On the hearing of an application made under subsection three of this section, the Minister may be represented at the hearing of, and may oppose, the application.

30 (5) Nothing in this section shall be construed as affecting the operation of section five of this Act.

- (c) by inserting in subsection one of section fourteen after the word "five" wherever occurring the words "or 5A".

Sec. 14.  
(Disability of persons in default.)

*Companies and Business Names (Amendment).*

7. The Business Names Act, 1962, as subsequently amended, is further amended—

Further amendment of Act No. 11, 1962.

- 5 (a) (i) by omitting from section twelve the words “fourteen days” wherever occurring and by inserting in lieu thereof the words “one month”;
- 10 (ii) by omitting from the same section the words “or within such further time as the Registrar may, before the expiration of that period, allow” wherever occurring;
- 15 (iii) by omitting from subsection five of the same section the words “, or within such further time as the Registrar may, before the expiration of that period allow”;
- (iv) by omitting from subsection eight of the same section the word and symbol “addresses,” and by inserting in lieu thereof the word “addresses”;

Sec. 12. (Notification of changes in particulars relating to registered business names, cessation of business, etc.)

- 20 (b) by inserting next after the same section the following new section :—

New sec. 12A.

12A. (1) Where, pursuant to this Act, a statement, notice or other document, being a statement, notice or other document relating to a business name, is required to be lodged within a specified period, the Registrar may, whether or not that period has expired, authorise an extended period for the lodging thereof, and the statement, notice or other document shall be deemed to have been duly lodged if it is lodged within the extended period authorised by the Registrar.

Registrar may allow further time.

(2) If default has been made in lodging a statement, notice or other document under this Act within a time specified by this Act for the lodging thereof, as extended by any authority of the Registrar

*Companies and Business Names (Amendment).*

Registrar given under subsection one of this section, the statement, notice or other document may, subject to subsection three of this section, be lodged notwithstanding that default.

5 (3) Subsection two of this section shall not affect any liability of any person in respect of a default referred to in that subsection.

(c) by inserting next after subsection three of section twenty-eight the following new subsection :— Sec. 28. (Recovery of penalties.)

10 (4) Notwithstanding anything contained in any Act, proceedings for any offence against this Act may be brought within the period of three years after the commission of the alleged offence.

8. The Business Names Act, 1962, as subsequently Further amendment of Act No. 11, 1962. amended, is further amended—

(a) by omitting subsection one of section twenty-six and by inserting in lieu thereof the following subsection :— Sec. 26. (Invitations to the public to make deposits or loans.)

20 (1) A person shall not, in connection with an invitation to lend or deposit money, being an invitation made, by advertisement or otherwise, to the public, or to any person as a member of the public, use or refer to a business name that—

25 (a) is, or is deemed to be, registered under this Act;

(b) is required to be registered under this Act; or

30 (c) would, if business were carried on in the State thereunder, be required to be registered under this Act.

Penalty : One thousand dollars.

(b)

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*Companies and Business Names (Amendment).*

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- (b) by inserting in subsection two of the same section after the figures "1961" the words ", or to an invitation made to a person whose ordinary business it is to lend money".

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BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1969  
[10c]

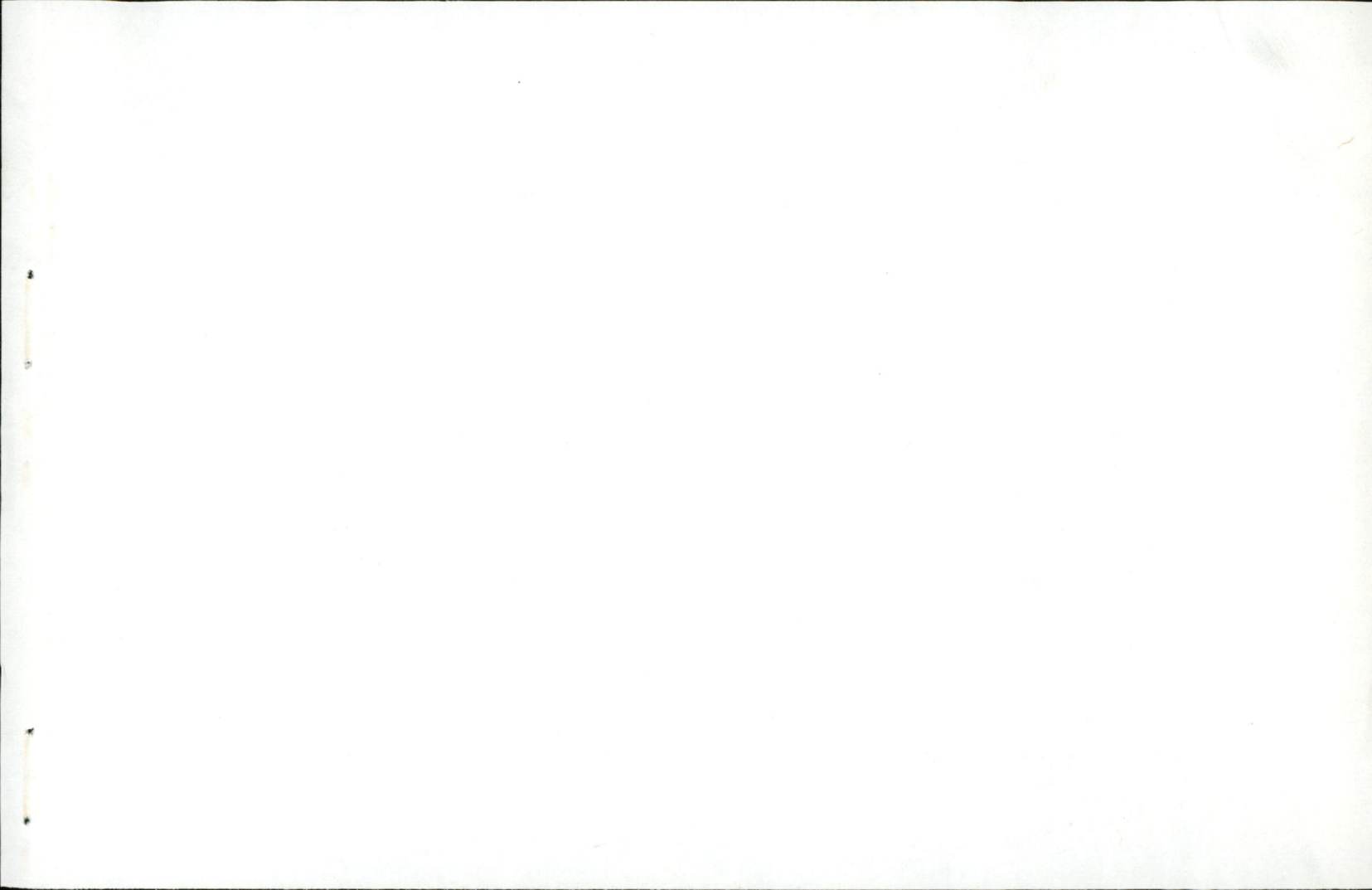
# COMPANIES AND BUSINESS NAMES (AMENDMENT) BILL, 1969.

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## EXPLANATORY NOTE.

THE objects of this Bill are—

- (a) to enable the Registrar of Companies to microfilm, and then destroy, documents within the registers kept by him under the Acts to be amended;
- (b) to enable documents to be lodged with the Registrar of Companies in the form of a reproduction by any mechanical means in addition to printing, e.g. typewriting or lithographing;
- (c) to prohibit a person convicted of certain offences from using, for a specified period, a business name other than his own name, without the leave of a District Court;
- (d) to enable the Registrar to extend the prescribed time for the lodging with him of certain documents;
- (e) for the purposes of uniformity with the Companies Act, 1961, to enable proceedings for an offence under the Business Names Act, 1962, to be brought within three years after commission of the alleged offence;
- (f) to penalise the use of a business name in connection with an invitation to lend or deposit money in certain circumstances;
- (g) to make provisions consequential upon or ancillary to the foregoing.



*PROOF*

No. , 1969.

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## A BILL

To empower the Registrar of Companies to destroy certain documents within the registers kept by him; to extend the period within which proceedings may be instituted in respect of certain offences; to restrict the class of business name under which certain persons may carry on business in certain circumstances; for these and other purposes to amend the Companies Act, 1961, the Business Names Act, 1962, and certain other Acts; and for purposes connected therewith.

[MR McCaw—19 February, 1969.]

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BE

*Companies and Business Names (Amendment).*

**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

## PART I.

## PRELIMINARY.

1. (1) This Act may be cited as the "Companies and Business Names (Amendment) Act, 1969".

Short title,  
division into  
Parts and  
citation.

10 (2) This Act is divided into Parts, as follows :—

PART I.—PRELIMINARY—ss. 1–2.

PART II.—AMENDMENT OF COMPANIES ACT, 1961,  
AS SUBSEQUENTLY AMENDED—ss. 3–4.

15 PART III.—AMENDMENT OF BUSINESS NAMES ACT,  
1962, AS SUBSEQUENTLY AMENDED—ss. 5–8.

(3) The Companies Act, 1961, as subsequently amended and as amended by this Act, may be cited as the Companies Act, 1961–1969.

20 (4) The Business Names Act, 1962, as subsequently amended and as amended by this Act, may be cited as the Business Names Act, 1962–1969.

2. (1) This Part of this Act shall commence on the day upon which this Act receives the Royal assent.

Commence-  
ment.

25 (2) Subject to subsection one of this section, the several provisions of this Act shall commence upon such day or days as may be appointed and notified under subsection three of this section.

30 (3) The Governor may, from time to time, appoint and notify by proclamation published in the Gazette the day upon which any Part or provision of this Act specified in the proclamation shall commence and may appoint different days for different Parts or provisions and the Part or provision so specified shall commence accordingly.

PART



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*Companies and Business Names (Amendment).*

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PART II.

AMENDMENT OF COMPANIES ACT, 1961, AS SUBSEQUENTLY  
AMENDED.

3. The Companies Act, 1961, as subsequently amended, Amendment  
of Act No.  
71, 1961.  
5 is amended—

(a) (i) by inserting in subsection one of section five Sec. 5.  
next after the definition of “Lodged” the (Interpreta-  
tion.)  
following new definition :—

10                   “Machine copy” has the meaning ascribed  
to that expression in the Evidence  
(Reproductions) Act, 1967.

(ii) by inserting in the same subsection next after  
the definition of “Repealed Act” the following  
new definition :—

15                   “Reproduction” has the meaning ascribed  
to that expression in the Evidence  
(Reproductions) Act, 1967.

(iii) by inserting in the same subsection next after  
the definition of “This Act” the following new  
definition :—

20                   “Transparency” has the meaning ascribed  
to that expression in the Evidence  
(Reproductions) Act, 1967.

25 (b) (i) by inserting in paragraph (a) of subsection Sec. 12.  
two of section twelve after the word “Regis- (Registers.)  
trar” the words “, unless the Registrar directs  
that a transparency or reproduction of the  
document be made available for inspection”;

30 (ii) by inserting next after the same paragraph the  
following new paragraph :—

(a1) a transparency or reproduction of a  
document, where the Registrar has  
directed that the transparency or repro-  
duction be made available for inspec-  
tion; or;

35

(iii)

*Companies and Business Names (Amendment).*

- 5 (iii) by inserting in subsection five of the same section after the word "place" the words "or, where the document has not been duly completed, he may require that a supplementary document in the prescribed form be lodged";
- (iv) by omitting from paragraph (b) of subsection seven of the same section the word "registered" and by inserting in lieu thereof the following words and new paragraph :—
- 10 registered ; or
- (c) any document a transparency of which has been incorporated with a register kept by the Registrar.
- 15 (c) (i) by omitting from subsection one of section thirteen the words "or destroyed" and by inserting in lieu thereof the words ", or has been destroyed otherwise than pursuant to paragraph (c) of subsection (7) of section twelve of this Act";
- (Re-lodging of lost registered documents.)
- 20 (ii) by inserting at the end of the same section the following new subsection :—
- (7) Where a transparency of a document referred to in subsection (1) of this section has been incorporated with a register kept by the Registrar and is lost or destroyed as referred to in that subsection, the foregoing provisions of this section shall have effect as if the document of which it is a transparency had been so lost or destroyed.
- 25
- 30 (d) by omitting from paragraph (a) of subsection one of section three hundred and thirteen the words "in the register of companies";
- Sec. 13.  
Sec. 313.  
(Accounts and audit.)

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*Companies and Business Names (Amendment).*

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4. The Companies Act, 1961, as subsequently amended, is further amended by inserting in subsection one of section five next after the definition of "Principal register" the following new definition :—

Further amendment of Act No. 71, 1961. Sec. 5. (Interpretation.)

5 "Printed" includes typewritten or lithographed or reproduced by any mechanical means.

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PART III.

AMENDMENT OF BUSINESS NAMES ACT, 1962, AS SUBSEQUENTLY AMENDED.

10 5. The Business Names Act, 1962, as subsequently amended, is amended—

Amendment of Act No. 11, 1962.

(a) (i) by inserting in subsection one of section four next after the definition of "Initial" the following new definition :—

Sec. 4. (Interpretation.)

15 "Machine copy" has the meaning ascribed to that expression in the Evidence (Reproductions) Act, 1967.

20 (ii) by inserting in the same subsection next after the definition of "Repealed Act" the following new definition :—

"Reproduction" has the meaning ascribed to that expression in the Evidence (Reproductions) Act, 1967.

25 (iii) by inserting in the same subsection next after the definition of "State" the following new definition :—

"Transparency" has the meaning ascribed to that expression in the Evidence (Reproductions) Act, 1967.

(iv)

*Companies and Business Names (Amendment).*

(iv) by inserting at the end of the same section the following new subsection :—

5 (4) In this Act, a reference to an Act includes all amendments of that Act and any Act passed in substitution for the Act referred to or incorporating any of its provisions.

10 (b) by omitting from subsection one of section twenty-two the words “and may make a copy thereof or take extracts therefrom” and by inserting in lieu thereof the words “unless the Registrar directs that a transparency or reproduction of the statement be made available for inspection, or, where the Registrar has directed that a transparency or reproduction of such a statement be made available for inspection, a person may, on payment of the prescribed fee, inspect the transparency or reproduction, and any such person may make a copy of or take extracts from a statement, transparency or reproduction inspected”;

Sec. 22.  
(Inspection  
of  
statements.)

20 (c) (i) by inserting in paragraph (a) of subsection one of section twenty-three after the word “document” the words “or transparency”;

Sec. 23.  
(Certificates  
of registra-  
tion or non-  
registration.)

25 (ii) by inserting in paragraph (a) of subsection two of the same section after the word “document” wherever occurring the words “or transparency”;

(iii) by inserting in the same paragraph after the word “to” the words “subsection one of”;

30 (d) by inserting in paragraph (b) of section twenty-four after the word “document” the words “or transparency”;

Sec. 24.  
(Evidence of  
registration  
or non-  
registration.)

(e)

*Companies and Business Names (Amendment).*

(e) by inserting at the end of section twenty-five the following new subsection :—

(2) Subject to the Archives Act, 1960, the Registrar may destroy or dispose of any statement or notice lodged, furnished or registered under this Act or under any corresponding previous enactment, where a transparency of the statement or notice has been incorporated with the register.

Sec. 25.  
(Authority of Registrar to destroy documents.)

6. The Business Names Act, 1962, as subsequently amended, is further amended—

Further amendment of Act No. 11, 1962.

- (a) by inserting in subsection two of section five after the word "section" the words ", and of subsection two of section 5A,";
- (b) by inserting in subsection three of the same section after the word "section" the words ", and of subsection two of section 5A";
- (c) by inserting next after the same section the following new section :—

Sec. 5.  
(Certain business names to be registered.)

New sec. 5A.

5A. (1) This section applies—

- (a) to a person convicted after the commencement of section six of the Companies and Business Names (Amendment) Act, 1969, whether within or without the State—
  - (i) on indictment of an offence in connection with the promotion, formation or management of a corporation;
  - (ii) of an offence involving fraud or dishonesty punishable on conviction with imprisonment for three months or more; or

Leave of District Court required in certain cases before using business name.

(iii)

---

*Companies and Business Names (Amendment).*

---

5 (iii) of an offence against section forty-seven, one hundred and twenty-four or three hundred and three of the Companies Act, 1961, or any corresponding law of another State, or of a Territory, of the Commonwealth of Australia; and

(b) to a person so convicted before that commencement, where—

10 (i) he was not, immediately before that commencement, carrying on business in the State under a business name; or

15 (ii) being a person who was, immediately before that commencement, carrying on business in the State under a business name, he ceases so to carry on business under that business name.

20 (2) A person to whom this section applies shall not, within the period of five years next succeeding any occasion on which he is convicted as referred to in subsection one of this section or, where he has served a term of imprisonment imposed pursuant to any such conviction, within the  
25 period of five years next succeeding his release from that imprisonment, carry on business in the State under a business name unless—

30 (a) the business name under which he so carries on business—

(i) consists of his name; or

(ii) where he carries on business in association with another person or other persons, consists of his name

and

*Companies and Business Names (Amendment).*

and the name or names of the person or persons in association with whom he carries on business,

without any addition ; or

- 5 (b) he has obtained the leave of a District Court, upon application made as provided by subsection three of this section, so to carry on business.

10 Penalty : Four hundred dollars or imprisonment for six months or both. Default penalty.

(3) An application for the leave of a District Court, as referred to in paragraph (b) of subsection two of this section—

- 15 (a) shall not be made unless the Minister has been given not less than twenty-eight days' notice of the proposed application ; and

- 20 (b) shall be made, in accordance with rules of court, to the District Court for the district where the applicant proposes to carry on business or, where he proposes to carry on business in more than one district, to the District Court for the district in which he resides.

25 (4) On the hearing of an application made under subsection three of this section, the Minister may be represented at the hearing of, and may oppose, the application.

30 (5) Nothing in this section shall be construed as affecting the operation of section five of this Act.

- (c) by inserting in subsection one of section fourteen after the word "five" wherever occurring the words "or 5A".

Sec. 14.  
(Disability of persons in default.)

*Companies and Business Names (Amendment).*

7. The Business Names Act, 1962, as subsequently amended, is further amended—

Further amendment of Act No. 11, 1962.

- 5 (a) (i) by omitting from section twelve the words "fourteen days" wherever occurring and by inserting in lieu thereof the words "one month";
- 10 (ii) by omitting from the same section the words "or within such further time as the Registrar may, before the expiration of that period, allow" wherever occurring;
- 15 (iii) by omitting from subsection five of the same section the words ", or within such further time as the Registrar may, before the expiration of that period allow";
- (iv) by omitting from subsection eight of the same section the word and symbol "addresses," and by inserting in lieu thereof the word "addresses";

Sec. 12. (Notification of changes in particulars relating to registered business names, cessation of business, etc.)

20 (b) by inserting next after the same section the following new section :—

New sec. 12A.

25 12A. (1) Where, pursuant to this Act, a statement, notice or other document, being a statement, notice or other document relating to a business name, is required to be lodged within a specified period, the Registrar may, whether or not that period has expired, authorise an extended period for the lodging thereof, and the statement, notice or other document shall be deemed to have been duly lodged if it is lodged within the extended period authorised by the Registrar.

Registrar may allow further time.

(2) If default has been made in lodging a statement, notice or other document under this Act within a time specified by this Act for the lodging thereof, as extended by any authority of the Registrar



*Companies and Business Names (Amendment).*

Registrar given under subsection one of this section, the statement, notice or other document may, subject to subsection three of this section, be lodged notwithstanding that default.

5 (3) Subsection two of this section shall not affect any liability of any person in respect of a default referred to in that subsection.

(c) by inserting next after subsection three of section twenty-eight the following new subsection :—  
Sec. 28.  
(Recovery of penalties.)

10 (4) Notwithstanding anything contained in any Act, proceedings for any offence against this Act may be brought within the period of three years after the commission of the alleged offence.

8. The Business Names Act, 1962, as subsequently  
15 amended, is further amended—  
Further amendment of Act No. 11, 1962.

(a) by omitting subsection one of section twenty-six and by inserting in lieu thereof the following subsection :—  
Sec. 26.  
(Invitations to the public to make deposits or loans.)

20 (1) A person shall not, in connection with an invitation to lend or deposit money, being an invitation made, by advertisement or otherwise, to the public, or to any person as a member of the public, use or refer to a business name that—

- 25 (a) is, or is deemed to be, registered under this Act;
- (b) is required to be registered under this Act; or
- 30 (c) would, if business were carried on in the State thereunder, be required to be registered under this Act.

Penalty : One thousand dollars.

(b)

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*Companies and Business Names (Amendment).*

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- (b) by inserting in subsection two of the same section after the figures "1961" the words ", or to an invitation made to a person whose ordinary business it is to lend money".

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BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1969

# New South Wales



ANNO OCTAVO DECIMO

## ELIZABETHÆ II REGINÆ

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### Act No. 12, 1969.

An Act to empower the Registrar of Companies to destroy certain documents within the registers kept by him; to extend the period within which proceedings may be instituted in respect of certain offences; to restrict the class of business name under which certain persons may carry on business in certain circumstances; for these and other purposes to amend the Companies Act, 1961, the Business Names Act, 1962, and certain other Acts; and for purposes connected therewith. [Assented to, 26th March, 1969.]

BE

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*Companies and Business Names (Amendment).*

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**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

PART I.

PRELIMINARY.

Short title,  
division into  
Parts and  
citation.

1. (1) This Act may be cited as the "Companies and Business Names (Amendment) Act, 1969".

(2) This Act is divided into Parts, as follows :—

PART I.—PRELIMINARY—ss. 1–2.

PART II.—AMENDMENT OF COMPANIES ACT, 1961,  
AS SUBSEQUENTLY AMENDED—ss. 3–4.

PART III.—AMENDMENT OF BUSINESS NAMES ACT,  
1962, AS SUBSEQUENTLY AMENDED—ss. 5–8.

(3) The Companies Act, 1961, as subsequently amended and as amended by this Act, may be cited as the Companies Act, 1961–1969.

(4) The Business Names Act, 1962, as subsequently amended and as amended by this Act, may be cited as the Business Names Act, 1962–1969.

Commence-  
ment.

2. (1) This Part of this Act shall commence on the day upon which this Act receives the Royal assent.

(2) Subject to subsection one of this section, the several provisions of this Act shall commence upon such day or days as may be appointed and notified under subsection three of this section.

(3) The Governor may, from time to time, appoint and notify by proclamation published in the Gazette the day upon which any Part or provision of this Act specified in the proclamation shall commence and may appoint different days for different Parts or provisions and the Part or provision so specified shall commence accordingly.

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PART

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*Companies and Business Names (Amendment).*

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PART II.

AMENDMENT OF COMPANIES ACT, 1961, AS SUBSEQUENTLY  
AMENDED.

3. The Companies Act, 1961, as subsequently amended, Amendment  
of Act No.  
71, 1961.  
is amended—

- (a) (i) by inserting in subsection one of section five Sec. 5.  
(Interpreta-  
tion.)  
next after the definition of “Lodged” the  
following new definition :—

“Machine copy” has the meaning ascribed  
to that expression in the Evidence  
(Reproductions) Act, 1967.

- (ii) by inserting in the same subsection next after  
the definition of “Repealed Act” the following  
new definition :—

“Reproduction” has the meaning ascribed  
to that expression in the Evidence  
(Reproductions) Act, 1967.

- (iii) by inserting in the same subsection next after  
the definition of “This Act” the following new  
definition :—

“Transparency” has the meaning ascribed  
to that expression in the Evidence  
(Reproductions) Act, 1967.

- (b) (i) by inserting in paragraph (a) of subsection Sec. 12.  
(Registers.)  
two of section twelve after the word “Regis-  
trar” the words “, unless the Registrar directs  
that a transparency or reproduction of the  
document be made available for inspection”;

- (ii) by inserting next after the same paragraph the  
following new paragraph :—

(a1) a transparency or reproduction of a  
document, where the Registrar has  
directed that the transparency or repro-  
duction be made available for inspec-  
tion; or;

(iii)

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*Companies and Business Names (Amendment).*

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(iii) by inserting in subsection five of the same section after the word "place" the words "or, where the document has not been duly completed, he may require that a supplementary document in the prescribed form be lodged";

(iv) by omitting from paragraph (b) of subsection seven of the same section the word "registered" and by inserting in lieu thereof the following words and new paragraph :—

registered; or

(c) any document a transparency of which has been incorporated with a register kept by the Registrar.

Sec. 13.  
(Re-lodging  
of lost  
registered  
documents.)

(c) (i) by omitting from subsection one of section thirteen the words "or destroyed" and by inserting in lieu thereof the words ", or has been destroyed otherwise than pursuant to paragraph (c) of subsection (7) of section twelve of this Act";

(ii) by inserting at the end of the same section the following new subsection :—

(7) Where a transparency of a document referred to in subsection (1) of this section has been incorporated with a register kept by the Registrar and is lost or destroyed as referred to in that subsection, the foregoing provisions of this section shall have effect as if the document of which it is a transparency had been so lost or destroyed.

Sec. 313.  
(Accounts  
and audit.)

(d) by omitting from paragraph (a) of subsection one of section three hundred and thirteen the words "in the register of companies".

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*Companies and Business Names (Amendment).*

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4. The Companies Act, 1961, as subsequently amended, is further amended by inserting in subsection one of section five next after the definition of "Principal register" the following new definition :—
- Further amendment of Act No. 71, 1961. Sec. 5. (Interpretation.)
- "Printed" includes typewritten or lithographed or reproduced by any mechanical means.

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PART III.

AMENDMENT OF BUSINESS NAMES ACT, 1962, AS  
SUBSEQUENTLY AMENDED.

5. The Business Names Act, 1962, as subsequently amended, is amended—
- Amendment of Act No. 11, 1962.
- (a) (i) by inserting in subsection one of section four next after the definition of "Initial" the following new definition :—
- "Machine copy" has the meaning ascribed to that expression in the Evidence (Reproductions) Act, 1967.
- Sec. 4. (Interpretation.)
- (ii) by inserting in the same subsection next after the definition of "Repealed Act" the following new definition :—
- "Reproduction" has the meaning ascribed to that expression in the Evidence (Reproductions) Act, 1967.
- (iii) by inserting in the same subsection next after the definition of "State" the following new definition :—
- "Transparency" has the meaning ascribed to that expression in the Evidence (Reproductions) Act, 1967.
- (iv)

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*Companies and Business Names (Amendment).*

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(iv) by inserting at the end of the same section the following new subsection :—

(4) In this Act, a reference to an Act includes all amendments of that Act and any Act passed in substitution for the Act referred to or incorporating any of its provisions.

Sec. 22.  
(Inspection  
of  
statements.)

(b) by omitting from subsection one of section twenty-two the words “and may make a copy thereof or take extracts therefrom” and by inserting in lieu thereof the words “unless the Registrar directs that a transparency or reproduction of the statement be made available for inspection, or, where the Registrar has directed that a transparency or reproduction of such a statement be made available for inspection, a person may, on payment of the prescribed fee, inspect the transparency or reproduction, and any such person may make a copy of or take extracts from a statement, transparency or reproduction inspected”;

Sec. 23.  
(Certificates  
of registra-  
tion or non-  
registration.)

(c) (i) by inserting in paragraph (a) of subsection one of section twenty-three after the word “document” the words “or transparency”;

(ii) by inserting in paragraph (a) of subsection two of the same section after the word “document” wherever occurring the words “or transparency”;

(iii) by inserting in the same paragraph after the word “to” the words “subsection one of”;

Sec. 24.  
(Evidence of  
registration  
or non-  
registration.)

(d) by inserting in paragraph (b) of section twenty-four after the word “document” the words “or transparency”;

(e)



*Companies and Business Names (Amendment).*

- (e) by inserting at the end of section twenty-five the following new subsection :—
- Sec. 25.  
(Authority of Registrar to destroy documents.)
- (2) Subject to the Archives Act, 1960, the Registrar may destroy or dispose of any statement or notice lodged, furnished or registered under this Act or under any corresponding previous enactment, where a transparency of the statement or notice has been incorporated with the register.
6. The Business Names Act, 1962, as subsequently amended, is further amended—
- Further amendment of Act No. 11, 1962.
- (a) by inserting in subsection two of section five after the word “section” the words “, and of subsection two of section 5A.”;
- Sec. 5.  
(Certain business names to be registered.)
- (b) by inserting in subsection three of the same section after the word “section” the words “, and of subsection two of section 5A”;
- (c) by inserting next after the same section the following new section :—
- New sec. 5A.
- 5A. (1) This section applies—
- Leave of District Court required in certain cases before using business name.
- (a) to a person convicted after the commencement of section six of the Companies and Business Names (Amendment) Act, 1969, whether within or without the State—
- (i) on indictment of an offence in connection with the promotion, formation or management of a corporation;
- (ii) of an offence involving fraud or dishonesty punishable on conviction with imprisonment for three months or more; or

(iii)

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*Companies and Business Names (Amendment).*

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- (iii) of an offence against section forty-seven, one hundred and twenty-four or three hundred and three of the Companies Act, 1961, or any corresponding law of another State, or of a Territory, of the Commonwealth of Australia; and
- (b) to a person so convicted before that commencement, where—
  - (i) he was not, immediately before that commencement, carrying on business in the State under a business name; or
  - (ii) being a person who was, immediately before that commencement, carrying on business in the State under a business name, he ceases so to carry on business under that business name.

(2) A person to whom this section applies shall not, within the period of five years next succeeding any occasion on which he is convicted as referred to in subsection one of this section or, where he has served a term of imprisonment imposed pursuant to any such conviction, within the period of five years next succeeding his release from that imprisonment, carry on business in the State under a business name unless—

- (a) the business name under which he so carries on business—
  - (i) consists of his name; or
  - (ii) where he carries on business in association with another person or other persons, consists of his name

and

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*Companies and Business Names (Amendment).*

---

and the name or names of the person or persons in association with whom he carries on business,

without any addition ; or

- (b) he has obtained the leave of a District Court, upon application made as provided by subsection three of this section, so to carry on business.

Penalty : Four hundred dollars or imprisonment for six months or both. Default penalty.

(3) An application for the leave of a District Court, as referred to in paragraph (b) of subsection two of this section—

- (a) shall not be made unless the Minister has been given not less than twenty-eight days' notice of the proposed application ; and
- (b) shall be made, in accordance with rules of court, to the District Court for the district where the applicant proposes to carry on business or, where he proposes to carry on business in more than one district, to the District Court for the district in which he resides.

(4) On the hearing of an application made under subsection three of this section, the Minister may be represented at the hearing of, and may oppose, the application.

(5) Nothing in this section shall be construed as affecting the operation of section five of this Act.

- (d) by inserting in subsection one of section fourteen after the word "five" wherever occurring the words "or 5A".

Sec. 14.  
(Disability  
of persons  
in default.)

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*Companies and Business Names (Amendment).*

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Further amendment of Act No. 11, 1962.      **7.** The Business Names Act, 1962, as subsequently amended, is further amended—

Sec. 12.  
(Notification of changes in particulars relating to registered business names, cessation of business, etc.)

- (a) (i) by omitting from section twelve the words “fourteen days” wherever occurring and by inserting in lieu thereof the words “one month”;
- (ii) by omitting from the same section the words “or within such further time as the Registrar may, before the expiration of that period, allow” wherever occurring;
- (iii) by omitting from subsection five of the same section the words “, or within such further time as the Registrar may, before the expiration of that period allow”;
- (iv) by omitting from subsection eight of the same section the word and symbol “addresses,” and by inserting in lieu thereof the word “addresses”;

New sec. 12A.

- (b) by inserting next after the same section the following new section :—

Registrar may allow further time.

12A. (1) Where, pursuant to this Act, a statement, notice or other document, being a statement, notice or other document relating to a business name, is required to be lodged within a specified period, the Registrar may, whether or not that period has expired, authorise an extended period for the lodging thereof, and the statement, notice or other document shall be deemed to have been duly lodged if it is lodged within the extended period authorised by the Registrar.

(2) If default has been made in lodging a statement, notice or other document under this Act within a time specified by this Act for the lodging thereof, as extended by any authority of the

Registrar

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*Companies and Business Names (Amendment).*

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Registrar given under subsection one of this section, the statement, notice or other document may, subject to subsection three of this section, be lodged notwithstanding that default.

(3) Subsection two of this section shall not affect any liability of any person in respect of a default referred to in that subsection.

- (c) by inserting next after subsection three of section twenty-eight the following new subsection :—
- Sec. 28.  
(Recovery of penalties.)

(4) Notwithstanding anything contained in any Act, proceedings for any offence against this Act may be brought within the period of three years after the commission of the alleged offence.

**8.** The Business Names Act, 1962, as subsequently amended, is further amended—

Further amendment of Act No. 11, 1962.

- (a) by omitting subsection one of section twenty-six and by inserting in lieu thereof the following subsection :—
- Sec. 26.  
(Invitations to the public to make deposits or loans.)

(1) A person shall not, in connection with an invitation to lend or deposit money, being an invitation made, by advertisement or otherwise, to the public, or to any person as a member of the public, use or refer to a business name that—

- (a) is, or is deemed to be, registered under this Act;
- (b) is required to be registered under this Act; or
- (c) would, if business were carried on in the State thereunder, be required to be registered under this Act.

Penalty : One thousand dollars.

(b)

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*Companies and Business Names (Amendment).*

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- (b) by inserting in subsection two of the same section after the figures "1961" the words ", or to an invitation made to a person whose ordinary business it is to lend money".

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BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1969

*I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.*

I. P. K. VIDLER,  
*Clerk of the Legislative Assembly.*

*Legislative Assembly Chamber,  
Sydney, 18 March, 1969.*

## New South Wales



ANNO OCTAVO DECIMO

**ELIZABETHÆ II REGINÆ**

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**Act No. 12, 1969.**

An Act to empower the Registrar of Companies to destroy certain documents within the registers kept by him; to extend the period within which proceedings may be instituted in respect of certain offences; to restrict the class of business name under which certain persons may carry on business in certain circumstances; for these and other purposes to amend the Companies Act, 1961, the Business Names Act, 1962, and certain other Acts; and for purposes connected therewith. [Assented to, 26th March, 1969.]

**BE**

*I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.*

L. A. PUNCH,  
*Chairman of Committees of the Legislative Assembly.*

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*Companies and Business Names (Amendment).*

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**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

Short title,  
division into  
Parts and  
citation.

1. (1) This Act may be cited as the "Companies and Business Names (Amendment) Act, 1969".

(2) This Act is divided into Parts, as follows:—

PART I.—PRELIMINARY—*ss.* 1–2.

PART II.—AMENDMENT OF COMPANIES ACT, 1961,  
AS SUBSEQUENTLY AMENDED—*ss.* 3–4.

PART III.—AMENDMENT OF BUSINESS NAMES ACT,  
1962, AS SUBSEQUENTLY AMENDED—*ss.* 5–8.

(3) The Companies Act, 1961, as subsequently amended and as amended by this Act, may be cited as the Companies Act, 1961–1969.

(4) The Business Names Act, 1962, as subsequently amended and as amended by this Act, may be cited as the Business Names Act, 1962–1969.

Commence-  
ment.

2. (1) This Part of this Act shall commence on the day upon which this Act receives the Royal assent.

(2) Subject to subsection one of this section, the several provisions of this Act shall commence upon such day or days as may be appointed and notified under subsection three of this section.

(3) The Governor may, from time to time, appoint and notify by proclamation published in the Gazette the day upon which any Part or provision of this Act specified in the proclamation shall commence and may appoint different days for different Parts or provisions and the Part or provision so specified shall commence accordingly.

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PART



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*Companies and Business Names (Amendment).*

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PART II.

AMENDMENT OF COMPANIES ACT, 1961, AS SUBSEQUENTLY  
AMENDED.

3. The Companies Act, 1961, as subsequently amended, is amended—

Amendment  
of Act No.  
71, 1961.

- (a) (i) by inserting in subsection one of section five next after the definition of "Lodged" the following new definition :—

"Machine copy" has the meaning ascribed to that expression in the Evidence (Reproductions) Act, 1967.

- (ii) by inserting in the same subsection next after the definition of "Repealed Act" the following new definition :—

"Reproduction" has the meaning ascribed to that expression in the Evidence (Reproductions) Act, 1967.

- (iii) by inserting in the same subsection next after the definition of "This Act" the following new definition :—

"Transparency" has the meaning ascribed to that expression in the Evidence (Reproductions) Act, 1967.

- (b) (i) by inserting in paragraph (a) of subsection two of section twelve after the word "Registrar" the words " , unless the Registrar directs that a transparency or reproduction of the document be made available for inspection";

Sec. 12.  
(Registers.)

- (ii) by inserting next after the same paragraph the following new paragraph :—

(a1) a transparency or reproduction of a document, where the Registrar has directed that the transparency or reproduction be made available for inspection; or;

(iii)

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*Companies and Business Names (Amendment).*

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(iii) by inserting in subsection five of the same section after the word "place" the words "or, where the document has not been duly completed, he may require that a supplementary document in the prescribed form be lodged";

(iv) by omitting from paragraph (b) of subsection seven of the same section the word "registered" and by inserting in lieu thereof the following words and new paragraph :—

registered ; or

(c) any document a transparency of which has been incorporated with a register kept by the Registrar.

Sec. 13.  
(Re-lodging  
of lost  
registered  
documents.)

(c) (i) by omitting from subsection one of section thirteen the words "or destroyed" and by inserting in lieu thereof the words ", or has been destroyed otherwise than pursuant to paragraph (c) of subsection (7) of section twelve of this Act";

(ii) by inserting at the end of the same section the following new subsection :—

(7) Where a transparency of a document referred to in subsection (1) of this section has been incorporated with a register kept by the Registrar and is lost or destroyed as referred to in that subsection, the foregoing provisions of this section shall have effect as if the document of which it is a transparency had been so lost or destroyed.

Sec. 313.  
(Accounts  
and audit.)

(d) by omitting from paragraph (a) of subsection one of section three hundred and thirteen the words "in the register of companies".

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*Companies and Business Names (Amendment).*

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4. The Companies Act, 1961, as subsequently amended, is further amended by inserting in subsection one of section five next after the definition of "Principal register" the following new definition :—

Further amendment of Act No. 71, 1961. Sec. 5. (Interpretation.)

"Printed" includes typewritten or lithographed or reproduced by any mechanical means.

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PART III.

AMENDMENT OF BUSINESS NAMES ACT, 1962, AS  
SUBSEQUENTLY AMENDED.

5. The Business Names Act, 1962, as subsequently amended, is amended—

Amendment of Act No. 11, 1962.

(a) (i) by inserting in subsection one of section four next after the definition of "Initial" the following new definition :—

Sec. 4. (Interpretation.)

"Machine copy" has the meaning ascribed to that expression in the Evidence (Reproductions) Act, 1967.

(ii) by inserting in the same subsection next after the definition of "Repealed Act" the following new definition :—

"Reproduction" has the meaning ascribed to that expression in the Evidence (Reproductions) Act, 1967.

(iii) by inserting in the same subsection next after the definition of "State" the following new definition :—

"Transparency" has the meaning ascribed to that expression in the Evidence (Reproductions) Act, 1967.

(iv)

---

*Companies and Business Names (Amendment).*

---

- (iv) by inserting at the end of the same section the following new subsection :—

(4) In this Act, a reference to an Act includes all amendments of that Act and any Act passed in substitution for the Act referred to or incorporating any of its provisions.

Sec. 22.  
(Inspection  
of  
statements.)

- (b) by omitting from subsection one of section twenty-two the words “and may make a copy thereof or take extracts therefrom” and by inserting in lieu thereof the words “unless the Registrar directs that a transparency or reproduction of the statement be made available for inspection, or, where the Registrar has directed that a transparency or reproduction of such a statement be made available for inspection, a person may, on payment of the prescribed fee, inspect the transparency or reproduction, and any such person may make a copy of or take extracts from a statement, transparency or reproduction inspected”;

Sec. 23.  
(Certificates  
of registra-  
tion or non-  
registration.)

- (c) (i) by inserting in paragraph (a) of subsection one of section twenty-three after the word “document” the words “or transparency”;
- (ii) by inserting in paragraph (a) of subsection two of the same section after the word “document” wherever occurring the words “or transparency”;
- (iii) by inserting in the same paragraph after the word “to” the words “subsection one of”;

Sec. 24.  
(Evidence of  
registration  
or non-  
registration.)

- (d) by inserting in paragraph (b) of section twenty-four after the word “document” the words “or transparency”;

(e)

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*Companies and Business Names (Amendment).*

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- (e) by inserting at the end of section twenty-five the following new subsection :—
- Sec. 25.  
(Authority of Registrar to destroy documents.)
- (2) Subject to the Archives Act, 1960, the Registrar may destroy or dispose of any statement or notice lodged, furnished or registered under this Act or under any corresponding previous enactment, where a transparency of the statement or notice has been incorporated with the register.
6. The Business Names Act, 1962, as subsequently amended, is further amended—
- Further amendment of Act No. 11, 1962.
- (a) by inserting in subsection two of section five after the word "section" the words ", and of subsection two of section 5A,";
- Sec. 5.  
(Certain business names to be registered.)
- (b) by inserting in subsection three of the same section after the word "section" the words ", and of subsection two of section 5A";
- (c) by inserting next after the same section the following new section :—
- New sec. 5A.
- 5A. (1) This section applies—
- Leave of District Court required in certain cases before using business name.
- (a) to a person convicted after the commencement of section six of the Companies and Business Names (Amendment) Act, 1969, whether within or without the State—
- (i) on indictment of an offence in connection with the promotion, formation or management of a corporation;
- (ii) of an offence involving fraud or dishonesty punishable on conviction with imprisonment for three months or more; or
- (iii)

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*Companies and Business Names (Amendment).*

---

- (iii) of an offence against section forty-seven, one hundred and twenty-four or three hundred and three of the Companies Act, 1961, or any corresponding law of another State, or of a Territory, of the Commonwealth of Australia; and
- (b) to a person so convicted before that commencement, where—
  - (i) he was not, immediately before that commencement, carrying on business in the State under a business name; or
  - (ii) being a person who was, immediately before that commencement, carrying on business in the State under a business name, he ceases so to carry on business under that business name.

(2) A person to whom this section applies shall not, within the period of five years next succeeding any occasion on which he is convicted as referred to in subsection one of this section or, where he has served a term of imprisonment imposed pursuant to any such conviction, within the period of five years next succeeding his release from that imprisonment, carry on business in the State under a business name unless—

- (a) the business name under which he so carries on business—
  - (i) consists of his name; or
  - (ii) where he carries on business in association with another person or other persons, consists of his name

and

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*Companies and Business Names (Amendment).*

---

and the name or names of the person or persons in association with whom he carries on business,

without any addition; or

- (b) he has obtained the leave of a District Court, upon application made as provided by subsection three of this section, so to carry on business.

Penalty : Four hundred dollars or imprisonment for six months or both. Default penalty.

(3) An application for the leave of a District Court, as referred to in paragraph (b) of subsection two of this section—

- (a) shall not be made unless the Minister has been given not less than twenty-eight days' notice of the proposed application; and
- (b) shall be made, in accordance with rules of court, to the District Court for the district where the applicant proposes to carry on business or, where he proposes to carry on business in more than one district, to the District Court for the district in which he resides.

(4) On the hearing of an application made under subsection three of this section, the Minister may be represented at the hearing of, and may oppose, the application.

(5) Nothing in this section shall be construed as affecting the operation of section five of this Act.

- (d) by inserting in subsection one of section fourteen after the word "five" wherever occurring the words "or 5A".

Sec. 14.  
(Disability  
of persons  
in default.)

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*Companies and Business Names (Amendment).*

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Further amendment of Act No. 11, 1962.

**7.** The Business Names Act, 1962, as subsequently amended, is further amended—

Sec. 12.  
(Notification of changes in particulars relating to registered business names, cessation of business, etc.)

- (a) (i) by omitting from section twelve the words “fourteen days” wherever occurring and by inserting in lieu thereof the words “one month”;
- (ii) by omitting from the same section the words “or within such further time as the Registrar may, before the expiration of that period, allow” wherever occurring;
- (iii) by omitting from subsection five of the same section the words “, or within such further time as the Registrar may, before the expiration of that period allow”;
- (iv) by omitting from subsection eight of the same section the word and symbol “addresses,” and by inserting in lieu thereof the word “addresses”;

New sec. 12A.

- (b) by inserting next after the same section the following new section :—

Registrar may allow further time.

12A. (1) Where, pursuant to this Act, a statement, notice or other document, being a statement, notice or other document relating to a business name, is required to be lodged within a specified period, the Registrar may, whether or not that period has expired, authorise an extended period for the lodging thereof, and the statement, notice or other document shall be deemed to have been duly lodged if it is lodged within the extended period authorised by the Registrar.

(2) If default has been made in lodging a statement, notice or other document under this Act within a time specified by this Act for the lodging thereof, as extended by any authority of the Registrar



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*Companies and Business Names (Amendment).*

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Registrar given under subsection one of this section, the statement, notice or other document may, subject to subsection three of this section, be lodged notwithstanding that default.

(3) Subsection two of this section shall not affect any liability of any person in respect of a default referred to in that subsection.

- (c) by inserting next after subsection three of section twenty-eight the following new subsection :—
- Sec. 28.  
(Recovery of penalties.)

(4) Notwithstanding anything contained in any Act, proceedings for any offence against this Act may be brought within the period of three years after the commission of the alleged offence.

8. The Business Names Act, 1962, as subsequently amended, is further amended—
- Further amendment of Act No. 11, 1962.

- (a) by omitting subsection one of section twenty-six and by inserting in lieu thereof the following subsection :—
- Sec. 26.  
(Invitations to the public to make deposits or loans.)

(1) A person shall not, in connection with an invitation to lend or deposit money, being an invitation made, by advertisement or otherwise, to the public, or to any person as a member of the public, use or refer to a business name that—

- (a) is, or is deemed to be, registered under this Act;
- (b) is required to be registered under this Act; or
- (c) would, if business were carried on in the State thereunder, be required to be registered under this Act.

Penalty : One thousand dollars.

(b)

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*Companies and Business Names (Amendment).*

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- (b) by inserting in subsection two of the same section after the figures "1961" the words ", or to an invitation made to a person whose ordinary business it is to lend money".

*In the name and on behalf of Her Majesty I assent to this Act.*

A. R. CUTLER,  
Governor.

*Government House,  
Sydney, 26th March, 1969.*