



THE UNIVERSITY  
of ADELAIDE

# Legal Compliance Education and Awareness



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# Business Names Registration Act 2011

(Commonwealth)

[adelaide.edu.au](http://adelaide.edu.au)

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# What is a business name?

- A business name is a name or title under which a person or legal entity trades
  - An entity can trade under its own name - for example:
    - *The University of Adelaide*
    - *SANTOS*
  - A company may trade under a simplified version of its own name - for example:
    - *Coles Express for Coles Supermarkets Australia Pty Ltd*
  - An entity can trade under an entirely different name - for example:
    - *Architect, John Smith trading as 'Whiz-Bang Designs'*
    - *Ron & Betty McIntyre, trading as 'Port Road Fish and Chip Shop'*

# What doesn't the Business Names Registration Act do?

- It does not give you ownership or exclusive rights over the use of that name
- Only registering a trade mark (typically a name, word, phrase, logo, symbol, design, image, or a combination of these elements) can give you that kind of protection
- For more information contact Legal and Risk Branch on 8313 4539 or email [helpdesklegal@adelaide.edu.au](mailto:helpdesklegal@adelaide.edu.au)
- Business Name Registration is different to ABN (Australian Business Number) registration. To register a Business Name, however, you must have an ABN.

# How does the Act apply to the University?

- The University operates under various names for the sake of branding & commercialisation
- *For example:*
  - *The Joanna Briggs Institute*
  - *Australian School of Petroleum*
  - *Road Accident Research Unit*
- These operating units are required to be registered so it is clear to consumers that the University is the legal entity behind the trading name

# Business Name Registration: The University's Brand Policy

- Individual business names for University units are discouraged
- 'The University' is the primary business & should act as a sufficient identifier of the school, institute or unit
- Generally, a school or unit would not “trade” under its name alone without including on the brand identity of the University of Adelaide
- The purpose of the University's [Brand Policy](#) is to ensure the University benefits from the consistent & coherent promotion of the University's brand & to minimise risk from the misuse of the brand

# Business Name Registration: The University's Brand Policy (cont)

- While individual business names for University units are discouraged, in limited circumstances these 'other brands' may be permitted if there is a significant commercial or other advantage which can be demonstrated
- This may necessitate the registration of a business name, domain name and/or trademark
- Business & domain names for 'other' University brands can only be registered and used with approval from the Vice Chancellor and President
- For more information contact:
  - [Dr Nicole Beaumont](#), Council Secretary, University of Adelaide Council Secretariat

# The move from State to Federal business name registration

- The [Business Names Act 1996 \(SA\)](#) was repealed in May 2012 to make way for the federal registration system
- Business names registered under the state regime were automatically included on the national register & will expire on the original date as listed
- Business name renewals that occur after May 2012 will be issued by ASIC
- The new national system will allow the public to access certain contact details of business name holders for free & additional information for a prescribed fee
- The system will allow individuals to apply for a business name & business number simultaneously, online & at any time with immediate confirmation (or rejection)

# Choice of business name

- A business cannot be registered with:
  - a name that is identical or nearly identical to another company or business
  - a name that has already been registered
  - a name that is likely to be offensive to members of the public
  - Some business names require Ministerial consent, such as:
    - those containing certain words, eg: ‘trust’, ‘bank’, ‘savings’ or ‘University’;
    - those which may be misleading, as they suggest a connection with a Government agency, Royalty, the United Nations or the armed forces of Australia
- Individuals can search for current business names using the [Business Names Index](#)



# Obligations under the Act

- A business name cannot be reserved; once a name has been registered, business activities must commence within two months under that name
- A business name must be displayed in a conspicuous position outside the registered office & each business address (i.e. on signage)
- The registration certificate should be displayed at the principal place of business
- The business name should be on every letter, invoice, receipt or other document used & issued by the business
- Any change to a registered business name must be lodged within 28 days of the date of the change, including changes to:
  - the business address
  - the ownership of the business
  - the owner's name or residential address
  - the nature of business
  - Australian Business Number

# Things to remember

- The primary role of a business name is as a form of protection for consumers
- Registration is compulsory in Australia & must be completed before the business starts trading
- A business name gives absolutely no proprietary rights or controls over use of the name
  - It is not a Trade Mark!

## *When considering 'other' University brands*

- A business name is only required if you carry on business under that name alone, **without** using the identity of an existing legal entity such as the University
- Registering or renewing a business name is not validation for independent branding outside of the standard University of Adelaide logo

# Additional Resources

- [Carolyn Anderson](#), Director, Legal Services
- [Nicole Beaumont](#), Council Secretary
- [Business Names Registration Act 2011 \(Cth\)](#)
- [Business Names Registration Regulations 2011 \(Cth\)](#)
- [Business Names Registration \(Fees\) Act 2011 \(Cth\)](#)
- [ASIC Business Names Index](#)



# Disclaimer

The content of this material is intended only to provide a summary and general overview of the *Business Names Act* as it applies to the University of Adelaide.

It is not intended to be comprehensive nor does it constitute legal advice.

Please contact the Legal and Risk Branch if you are unsure of your compliance obligations under the Act.