



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



**HOUSE OF REPRESENTATIVES**

**PROOF**

**BILLS**

**Business Names Registration Bill 2011**

**Second Reading**

**SPEECH**

**Wednesday, 17 August 2011**

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

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## SPEECH

<p><b>Date</b> Wednesday, 17 August 2011  <b>Page</b> 4  <b>Questioner</b>  <b>Speaker</b> Mr BRADBURY</p>	<p><b>Source</b> House  <b>Proof</b> Yes  <b>Responder</b>  <b>Question No.</b></p>
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(Lindsay) (NaN.NaN pm)

Mr BRADBURY (Lindsay—Parliamentary Secretary to the Treasurer) (09:38): I move:

That this bill be now read a second time.

The Business Names Registration Bill 2011 is part of a package of bills. The package comprises:

The Business Names Registration Bill 2011;

The Business Names Registration (Transitional and Consequential Provisions) Bill 2011; and

The Business Names Registration (Fees) Bill 2011.

These bills, along with subordinate legislation, will create a national business names registration system.

Currently businesses need to register their names in each state and territory in which they trade. Each jurisdiction has its own processes and fees. The proposed national registration system, to be administered by the Australian Securities and Investment Commission, ASIC, will mean businesses pay one fee to register nationally, using an online application process.

The idea of having uniform national business names registration laws across Australia has been around for a long time. As the result of an agreement among all Attorneys-General, uniform business names registration laws were put in place in all jurisdictions in 1962-63. Unfortunately there was no mechanism put in place to maintain uniformity, nor to prevent multiple registrations of the same name across Australia.

In 2008 the Council of Australian Governments, COAG, agreed that the Commonwealth would assume responsibility for the registration of business names. This reform proposal was one of 27 regulatory reforms forming part of the National Partnership Agreement to Deliver a Seamless National Economy. An Intergovernmental Agreement for Business Names was signed on 2 July 2009 by the Commonwealth, the states and the territories.

The national business names registration system, combined with a number of other related initiatives such as the National Australian Business Licence

and Information Service and the Australian Business Account, are estimated to provide benefits of \$1.5 billion over eight years to business, government and consumers.

The Commonwealth has no power to regulate all business names registrations in Australia; therefore the establishment of a national business names registration system and the legislation which underpins it relies on a referral of constitutional powers from the states to the Commonwealth. The states therefore must enact referral legislation to give effect to the national registration system, and the Commonwealth legislation is drafted in such a way that the national system cannot commence if any state does not refer or adopt the legislation.

The business names registration legislation package will set up a new national business names register, to be operated by ASIC. Any entity carrying on a business in Australia using a name other than its own will be required to register with ASIC. This will enable the identification of the entity behind a business name.

The national registration system will assist new businesses by providing a joint online application for an Australian Business Number, ABN, and national business name, two of the most common registrations undertaken by those starting a new business. Combining these two common start-up registrations in a single online process will make it simpler to start a new business.

Under the new system, businesses will only need to complete a single online application, and pay a single fee, to register a business name nationally. This will mean, for most businesses, reduced registration costs and a simpler process, especially for businesses that trade in more than one state or territory.

At present, a business operating in every state and territory faces a cost of more than \$1,000 to register a business name for three years. Under the national registration system, businesses will only pay one fee, which will be in the order of \$70 to register for three years. An optional \$30 fee will apply for a one-year registration.

To assist with identification of the entity behind a business name, the national registration system

mandates an ABN for any new business name registration. Currently all state and territory business name registers allocate a business name number. The allocation of such a number will no longer take place under a national system.

The register will enable any party—be they a consumer or another business—to ascertain who the entity is behind a business name.

The register will prevent identical business names in the states and territories being registered in the future. It will also prevent the registration of otherwise undesirable names such as names that are misleading to consumers, or offensive. The national register will also provide national rules to apply in relation to the use of business names when a person is disqualified from carrying on business.

Consistent with trademark law, registering a business name under this legislation will not give rise to any proprietary rights over that name. Existing businesses will not need to do anything when the national registration system commences. Their existing state and territory business name registrations will automatically be transferred into the new national business name register.

People who are thinking of starting new businesses will be able to apply to register their national business names online, at any time, and in most cases will receive confirmation of registration immediately. Applicants will be able to follow a link to Australian trademark and domain name searches, which may be important to them in choosing their business names.

The new national registration system will commence after all states refer business names powers to the Commonwealth, or adopt the Commonwealth legislation. It is envisaged that states will have completed this process by March 2012, and the national registration system will commence by the end of May 2012. Extensive consultation was undertaken to reach agreement among the Commonwealth, states and territories on the structure of the proposed national registration system and the legislation which will establish it. Extensive public consultation was also undertaken, including two rounds of public consultation on the draft legislation.

Full details are contained in the explanatory memorandum.

Debate adjourned.