

## DO YOU HAVE A BUSINESS NAME?

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If you carry on a business, you probably need a registered business name. Although a person (including a company) may trade under their own name (i.e. John Smith), they must register a business name if there is any addition to that name (i.e. John Smith Window Cleaning) or if they use a different name (i.e. Supa Window Cleaning). Operating without a registered business name when you are required to have one is an offence.

Business name registration currently occurs on a state-by-state basis. The Commonwealth Government plans to introduce a national business names regime by 2011, but until then, all business names in Western Australia are regulated by the Department of Consumer and Employment Protection ('DOCEP') under state legislation.

In general, a business name must not be misleading or too similar to an existing name. You can check existing business names by searching on the ASIC website (<http://www.search.asic.gov.au/>) (but DOCEP makes the final determination as to approval of a business name). DOCEP's approval or non-approval of any business name registration application can be challenged through the State Administrative Tribunal. Once your business name is approved, it must be clearly displayed at your business premises.

Despite the goodwill value of a business name, it has no legal status (as opposed to a company name or a trademark). If the name of your business is particularly valuable, you should consider registering the name (and any business logo) as a trademark. Trademarks are registered through IP Australia (<http://www.ipaustralia.gov.au>).

As always, you should seek independent legal advice if you have any queries regarding the status of your business name or intellectual property.

This is general information only, and does not constitute specific legal advice. If you would like further information in relation to this matter or other legal matters please contact our office at [reception@hhg.com.au](mailto:reception@hhg.com.au).

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