

FACT SHEET

Business Names (Commonwealth Powers) Bill 2011

The *Business Names (Commonwealth Powers) Bill 2011* transfers the responsibility for the registration of business names to the Commonwealth Government.

The Office of Consumer Affairs and Fair Trading is responsible for administration of the *Business Names Act 1962* and currently registers business names in Tasmania. The Act establishes a public register from which to identify the persons who conduct business under specific business names.

On 3 July 2008, the Council of Australian Governments (COAG) agreed to transfer responsibility for the registration of business names to the Commonwealth. The transfer of responsibility is to be given effect by the referral of constitutional power from the states and territories to the Commonwealth. The referral will allow the Commonwealth to adopt national business names legislation.

The proposed national business names regime will reduce the cost of applying for business names and will allow businesses to apply for business names at the same time as applying for a range of other business related approvals and licenses. The new service will also provide for a single national name and will remove the need for multiple registrations for businesses operating nationally. The new business names process will be an on-line service provided by the Australian Securities and Investments Commission (ASIC).

The Business Names (Commonwealth Powers) Bill – the ‘Referral Bill’

The Business Names (Commonwealth Powers) Bill refers the power to register business names to the Australian Government. The new national business names system will commence after the states refer business names powers to the Commonwealth, and the Commonwealth enacts legislation to create a national business names system. The proposed implementation date for the new business names system is 28 May 2012.

The two Commonwealth Bills that will give legislative authority for ASIC to regulate business names on behalf of the Commonwealth have been subject to extensive consultation nationally. The text of the Commonwealth Bills has now been agreed by all jurisdictions and is contained in the:

- *Business Names Registration Bill 2011*; and
- *Business Names Registration (Transitional & Consequential Provisions) Bill 2011*.

This referral Bill is ‘text based’ which means that the only Constitutional power that is referred is the text of Commonwealth Bills that are tabled along with this Bill. This approach presents the least risk to Tasmania’s constitutional sovereignty and is supported by all other states and territories. Tasmania has agreed to be the lead jurisdiction for this referral.

The transfer of responsibility for the registration of business names is one of the priority areas, agreed by COAG, to support a seamless national economy.