

T A S M A N I A



1899.

ANNO SEXAGESIMO-TERTIO

VICTORIÆ REGINÆ,

No. 34.

AN ACT to provide for the Registration of Firms. A.D. 1899.
[22 December, 1899.]

BE it enacted by His Excellency the Governor of *Tasmania*, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1 This Act may be cited as “The Registration of Firms Act, 1899.” Short title.

2 This Act shall come into operation on the First day of *July*, Commencement
One thousand nine hundred, which date is hereinafter referred to as of Act.
the commencement of this Act.

3 In this Act, unless some other meaning is clearly intended— Interpretation.

“Business” includes trade and profession:

“Firm” shall mean any Two or more persons lawfully associated for the purpose of carrying on any business, but shall not include a company incorporated by or in pursuance of any Act of Parliament, Letters Patent, or Royal Charter:

“Firm-name” shall mean the name or style under which any business is carried on, whether in partnership or otherwise:

“Prescribed” shall mean prescribed by Regulations made in pursuance of this Act:

“Registrar” shall mean the Registrar of the Supreme Court:

“Usual name” shall include a signature habitually used for business purposes.

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Firms and persons
to be registered.**4** From and after the commencement of this Act—

- i. Every firm carrying on business or having any place of business in *Tasmania* under a firm-name which does not consist of the full or the usual names of all the partners or all the acting partners without any addition :
- ii. Every person carrying on business or having any place of business in *Tasmania* under any firm-name consisting of or containing any name or addition other than the full or the usual name of that person :
- iii. Every person carrying on business or having any place of business in *Tasmania* under any surname only and for the purposes of this Act, such surname so used shall be deemed a firm-name :

shall register, in the manner directed by this Act, the name under which their or his business is or is intended to be carried on.

Manner and
particulars of
registration.**5** Registration under this Act shall be effected by sending by post or delivering to the Registrar a statement in writing containing the following particulars :—

- i. The firm-name :
- ii. The nature of business :
- iii. The place or places of the business :
- iv. The full name, usual residence, and other occupation (if any) of the person or persons carrying on or intending to carry on the business :
- v. If the business is commenced or any new place of business is established after the commencement of this Act, the date of the commencement of the business or establishment of the place of business.

Exemptions.

6 Persons who do not publicly notify or advertise themselves as carrying on any specified business at any specified place of business in *Tasmania*, and who merely contract to perform specified work for or supply specified materials to any particular person within any period not exceeding Twelve months from the time of so contracting, shall be exempt from registration under this Act.

Particulars for
registration.

7—(1.) The persons carrying on or intending to carry on any business under a firm-name required to be registered as aforesaid shall sign or shall acknowledge a statement of the particulars required for registration, if in *Tasmania*, in the presence of a Justice of the Peace, or Commissioner for taking affidavits, or a solicitor, bank manager, postmaster, or postmistress, and, if elsewhere than in *Tasmania*, in the presence of a British consul or notary public, by whom respectively such signatures or acknowledgments shall be attested.

(2.) The foregoing provisions of this Section shall be deemed to be complied with if any partner in *Tasmania* signs or acknowledges the said statement.

(3.) If there is in *Tasmania* no partner carrying on or intending to carry on a business carried on under a firm-name, the foregoing provisions of this Section shall be deemed to be sufficiently complied with if the said statement is signed or acknowledged by any person who has previously filed in the office of the Registrar a statutory declaration that he is duly authorised by and on behalf of such persons as are

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described in such declaration to carry on the business the firm-name of which he desires to have registered. A.D. 1899.

8 The firms and persons required to be registered as aforesaid shall register before they commence business: Provided that if such firms or persons have carried on business in *Tasmania* before the commencement of this Act, it shall be sufficient if they register within Three months after that date: Provided that no firm or person shall be registered under this Act by a firm-name identical to the firm-name of any other firm or person registered under this Act if such registration is likely to cause such persons or firms to be mistaken the one for the other, and the Registrar shall decide any question arising under this Section. Time for registration.

9 The firm-name of any firm or person registered under this Act shall be used in all matters connected with or relating to the business carried on by such firm or person. Registered name always to be used.

10 Where a change occurs in the constitution of a registered firm, the members of the firm as re-constituted shall, within One month after such change, send by post or deliver a statement thereof to the Registrar. Registration of changes in firm.

11 A registered firm changing its firm-name shall be registered as if it were a new firm, and the statement sent or delivered to the Registrar shall mention the former name of the firm as being abandoned by it, as well as the particulars required for a new registration. Re-registrations on change of firm-name.

12 If any person by this Act required to send or deliver any statement shall make default without reasonable excuse in sending or delivering the same in manner and within the time specified by this Act, he shall, for every day during which the default continues, be liable on conviction to a penalty of not exceeding One Pound. Penalty for default in registration.

13 Where any firm or person by this Act required to send or deliver any statement to the Registrar has therein made default, and during the default commences any action in the firm-name, or for a cause of action arising out of any dealing by such firm or person in the firm-name, the Court shall order the firm or person in default to send or deliver to the Registrar the proper statement, and may stay all proceedings in the action until the order be complied with, or allow proceedings to be continued on an undertaking to comply with the order within a time to be limited by the Court. The power by this Section given to the Court may be exercised in any Supreme Court action by a Judge, or in any action under "The Local Courts Act, 1896," by a Judge, or by a Commissioner appointed under that Act, or by the Chairman of any Court of General Sessions of the Peace appointed a Court for the purposes of that Act; and the costs of and incidental to any such order shall be paid by the firm or person in default as aforesaid. Persons in default bringing action.

14 Every one commits a misdemeanor, and shall be liable to imprisonment with hard labour for a term not exceeding Two years, who makes, signs, acknowledges, sends, or delivers, for the purpose of registration under this Act, any false statement purporting to be made under this Act and known by him to be false. False returns.

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Certificate of registration.

15 On receiving any statement made in pursuance of this Act, the Registrar shall cause the same to be filed, and he shall send by post or deliver a certificate of the registration thereof to the firm or person registering.

Register and index.

16 The Registrar shall keep, in proper books to be provided for the purpose, a register and an index of all the firms and the firm-name of persons registered, and of all the statements registered in reference thereto.

Inspection and copies.

17—(1.) Any person may inspect, make extracts from, or copies of the statements filed by the Registrar.

(2) Any person may require a certificate of the registration of any firm or person, or a copy of or extract from any registered statement, to be certified by the Registrar.

Certificate evidence.

18 A certificate of registration, or a copy of or extract from any statement registered under this Act, purporting to be signed and certified by the Registrar, shall be *prima facie* evidence thereof, and of the fact and date of registration as shown thereon.

Regulations.

19 The Governor in Council may make Regulations for all or any of the following matters, namely:—

- i. Prescribing the fees to be paid to the Registrar under this Act, and the mode of payment thereof: Provided that for the registration of any one statement the fee shall not exceed the sum of Five Shillings :
- ii Prescribing the forms to be used :
- iii. Prescribing the conduct and regulation of registration under this Act, and as to any matters incidental thereto.

Publication in Gazette.

20—(1.) All Regulations when made shall be published in the *Hobart Gazette*, and shall be valid in law as if the same were enacted in this Act.

(2.) All Regulations shall be laid before Parliament within One month after the making thereof, if Parliament be then in Session, or, if not, then within Fourteen days after the commencement of the next Session of Parliament.

Forms.

21 For the purpose of making the statements required by this Act, the forms in the Schedule hereto, or any prescribed forms to the like effect, may be used.

Recovery of penalties.

19 Vict. No. 8.

Appeal.

19 Vict. No. 10.

22 All penalties imposed by this Act may be recovered in a summary manner before any Two Justices of the Peace, in the mode prescribed by *The Magistrates Summary Procedure Act*. Any person who deems himself aggrieved by any penalty imposed under the authority of this Act may appeal against the same in the manner provided by *The Appeals Regulation Act*.

*Registration of Firms.***SCHEDULE.**

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FORMS OF STATEMENT.

Sect. 1.

"The Registration of Firms Act, 1899."

(1.) *Original Registration of a Firm.*

The firm-name is

The business of the firm is

It is intended to carry on the business at

NAMES OF PERSONS CARRYING ON (OR INTENDING TO CARRY ON) THE BUSINESS.

Full Name [<i>to be written or acknowledged by each person himself.</i>]	Usual Residence.	Other Occupation, Description, and Addition (if any).

Date of intended commencement of business, or establishment of new place of business, if after the commencement of the Act.

Signed and declared at
the day of 19 on the }
said A.B., before me by the } *Signatures of persons carrying on
the business.*[*Here set out Justice of the Peace, &c.,
as the case may be.*]

"The Registration of Firms Act, 1899."

(2.) *Notice of Change in Constitution of Registered Firm.*

Registered firm-name.

We, the undersigned [*the members of the firm as reconstituted*] hereby give notice that on the day of the following change took place in the constitution of the firm registered by the name of that is to say

* A.B. retired from the firm.

* C.D. became a member of the firm.

* As the case may be.

† **DESCRIPTION OF A NEW MEMBER.**

Full Name.	Usual Residence.	Other Occupation, Description, and Addition (if any).

† As upon an original registration.

Signed and declared at
the day of 19 on }
by the said A.B., before me } *Signatures of Members of Firm.*[*Here set out Justice of the Peace, &c.,
as the case may be.*]

"The Registration of Firms Act, 1899."

(3.) *Notice of Change of Registered Firm-name.*

Registered firm-name (in addition to Form (1.)).

The persons now registering are the persons who heretofore carried on business under the registered firm-name of which is abandoned as from the date of this notice.

