



**Business and
Occupational Services**

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BUSINESS NAMES ACT 1996

Offences

This sheet is to assist in the completion of the following:

- Application for Registration of a Business Name;
- Notice of Change in Particulars of a Business Name; or
- Notice of Change in Proprietors of a Business Name.

Each of these forms require applicants to declare that they have not, within the last five years, either:

- (a) been convicted of certain offences; or
- (b) been released from prison after completing a sentence for committing certain offences.

Those offences are prescribed under section 17 of the *Business Names Act 1996*. They are:

- (1) An offence "in connection with the promotion, formation or management of a body corporate", if the conviction was on indictment.

This means:

- An offence punishable by imprisonment for which a maximum penalty of or including imprisonment for two years or more is prescribed and the offence was committed in connection with the promotion, formation or management of a body corporate; or
- One of the following offences, if more than \$2,500 was involved and the offence was committed in connection with the promotion, formation or management of a body corporate:
 - Simple larceny
 - Larceny by bailee
 - Stealing or fraudulently destroying, cancelling or obliterating valuable security
 - Forgery of deeds, wills, bills of exchange
 - Forgery in relation to transfer of stock
 - Forgery of power of attorney in relation to transfer of stock
 - Demanding property under forged instruments
 - Forgery of other instrument or matter
 - Larceny and embezzlement by clerks and servants
 - Falsification of accounts
 - Larceny by partners
 - Fraudulent sales under powers of attorney

- Fraud by factors or agents
 - Fraudulent company accounts
 - Fraudulent destruction or alteration of company books etc
 - Stealing or fraudulently destroying, cancelling, obliterating or concealing title to land or a will
 - Stealing electricity
 - Stealing goods in process of manufacture
 - Larceny by tenants and lodgers
 - Fraudulent misappropriation
 - Fraudulent appropriation of company property
 - Director, public officer or manager publishing fraudulent statements
 - False pretences
 - Receiving
 - Receiving goods stolen outside the State
 - Corruptly taking reward for recovery of stolen property
 - Impersonation in order to obtain property; or
- An offence for which a maximum fine exceeding \$120,000 is prescribed and the offence was committed in connection with the promotion, formation or management of a body corporate.

A body corporate includes a company, a trust, and an association.

Punishable means the maximum sentence the court could have imposed by law, not the sentence that you actually received.

- (2) A conviction within or outside of South Australia "of an offence involving fraud or dishonesty punishable by imprisonment for a period, or maximum period, of at least three months".
- (3) A conviction within or outside of South Australia of a prescribed offence against the Corporations Law. (There are currently no offences that have been prescribed in respect of the Corporations Law.)

PLEASE NOTE: This sheet is not intended to act as a substitute for legal advice. The offences listed are a summary only. If you are unsure of whether you should sign the declaration, please seek independent legal advice. It is an offence to contravene section 17 of the *Business Names Act 1996* and a penalty of up to \$5000 may be imposed for a breach.

If you have any queries call 1300 138 918.