

Trading Name v Company Name?

Trading Name

In New Zealand, sole traders and partnerships are free to use any business or trade name they choose, since there is no central register for business names (unless you are forming a company). However, if you are starting a sole trader or partnership business it makes sense to avoid possible conflict with another business who may claim your name is 'confusingly similar' to their trading name.

When you operate as either as a sole trader or a partnership it is possible for someone else to use the same business name. There may be little you could do to prevent this (although the Fair Trading Act does offer some protection). For example, in many sectors small sole traders in different towns successfully trade using very similar or identical names. However, once you have successfully registered your trading name or trade mark through the Intellectual Property Office you gain greater legal protection from anyone else using your trading name or mark.

Company name

A business gains a limited amount of protection for their name when they incorporate a company using that name. When you form a company you can be certain that another company cannot be formed with a name exactly the same as yours. You have no immediate control over existing or new businesses operating as sole traders or partnerships that choose to use your name. You can take them to court to force them to stop using your name but that will take time and money.