

REGISTRATION OF BUSINESS NAMES ACT

CHAPTER 78:46

Act
22 of 1958
Amended by
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**Note
on
Subsidiary Legislation**

This Chapter contains no Subsidiary Legislation.

CHAPTER 78:46**REGISTRATION OF BUSINESS NAMES ACT****ARRANGEMENT OF SECTIONS****SECTION**

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CHAPTER 78:46

REGISTRATION OF BUSINESS NAMES ACT

1961 Ed.
Cap. 327.
22 of 1958.

AN ACT to provide for the registration of firms and persons carrying on business under business names and for purposes connected therewith.

Commencement.

[21st May 1959]

Short title.

1. This Act may be cited as the –

REGISTRATION OF BUSINESS NAMES ACT.

Interpretation.

2. (1) In this Act –

“business” includes profession;

“business name” means the name or style under which any business is carried on, whether in partnership or otherwise;

“Court” means the High Court or a Judge thereof;

“firm” means an unincorporated body of two or more individuals, or one or more individuals and one or more corporations, or two or more corporations, who have entered into partnership with one another with a view to carrying on business for profit;

“foreign firm” means any firm, individual, or corporation whose principal place of business is situated outside the Commonwealth;

“initial” includes any recognised abbreviation of a forename;

“prescribed” means prescribed by rules made in pursuance of this Act;

“Registrar” means the Registrar of the High Court;

“showcards” means cards containing or exhibiting articles dealt with, or samples or representations thereof.

(2) References in this Act to a former forename or surname shall not, in the case of any person, include a former forename or surname where that name or surname has been changed or disused before the person bearing the name had attained the age of eighteen years, or has been changed or disused for a period of not less than twenty years; and, in the case of a married woman, shall not include the name or surname by which she was known previous to her marriage.

(3) An individual or firm shall not require to be registered under this Act by reason only of a change of his name, or of the name of a member of the firm, if the change has taken place before the person who

has changed his name has attained the age of eighteen years or if not less than twenty years have elapsed since it took place.

3. Subject to the provisions of this Act –

Firms and
persons to be
registered.

- (a) every firm having a place of business in the State and carrying on business under a business name which does not consist of the true surnames of all partners who are individuals and the corporate names of all partners who are corporations without any addition other than the true forenames of individual partners or initials of such forenames;
- (b) every individual having a place of business in the State and carrying on business under a business name which does not consist of his true surname without any addition other than his true forenames or the initials thereof;
- (c) every individual or firm having a place of business in the State, who, or a member of which has either before or after the commencement of this Act changed his name, except in the case of a woman in consequence of marriage,

shall be registered in the manner directed by this Act: Provided that –

- (i) where the addition merely indicates that the business is carried on in succession to a former owner of the business, that addition shall not of itself render registration necessary;
- (ii) where two or more individual partners have the same surname, the addition of an “s” at the end of that surname shall not of itself render registration necessary;
- (iii) where the business is carried on by a trustee in bankruptcy or the official receiver or a receiver or manager appointed by the Court, registration shall not be necessary; and
- (iv) a purchase or acquisition of property by two or more persons as joint tenants or tenants in common is not of itself to be deemed carrying on a business whether or not the owners share any profits arising from the sale thereof.

Registration by
nominee, etc.

4. Where a firm, individual or corporation having a place of business within the State carries on the business wholly or mainly as nominee or trustee of or for another person, or other persons, or another corporation, or acts as general agent for any foreign firm, the first-mentioned firm, individual, or corporation shall be registered in the manner provided by this Act and, in addition to the other particulars required to be furnished and registered, there shall be furnished and registered the particulars mentioned in the Schedule. Where, however, the business is carried on by a trustee in bankruptcy or the official receiver or a receiver or manager appointed by the Court, registration under this section shall not be necessary.

Schedule.

Manner and
particulars of
registration.
[1 of 1973].

5. (1) Every firm or person required under this Act to be registered shall pay a registration fee of ten dollars, and furnish to the Registrar a statement in writing in the prescribed form containing the following particulars:

- (a) the business name;
- (b) the general nature of the business;
- (c) the principal place of the business;
- (d) where the registration to be effected is that of a firm, the present forename and surname, any former forename or surname, the nationality, the usual residence, and the other business occupation, if any, of each of the individuals who are partners, and the corporate name and registered or principal office of every corporation which is a partner;
- (e) where the registration to be effected is that of an individual, the present forename and surname, any former forename or surname, the nationality, the usual residence, and the other business occupation, if any, of the individual;
- (f) where the registration to be effected is that of a corporation, its corporate name and registered or principal office;
- (g) if the business is commenced after the commencement of this Act, the date of the commencement of the business.

(2) Where a business is carried on under two or more business names, each of those business names shall be stated.

6. The statement required for the purpose of registration must in the case of an individual be signed by him, and in the case of a corporation by a director or secretary thereof, and in the case of a firm either by all the individuals who are partners, and by a director or the secretary of all corporations which are partners or by some individual who is a partner, or a director or the secretary of some corporation which is a partner, and in either of the last two cases must be verified by a statutory declaration made by the signatory; but no such statutory declaration stating that any person other than the declarant is a partner, or omitting to state that any person other than as aforesaid is a partner, shall be evidence for or against any such other person in respect of his liability or non-liability as a partner, and the Court may, on application of any person alleged or claiming to be a partner, direct the rectification of the register and decide any question arising under this section.

Statement to be signed by persons registering.

7. (1) The particulars required to be furnished under this Act shall be furnished within fourteen days after the firm or person commences business, or the business in respect of which registration is required, as the case may be; but if the firm or person has carried on the business before the coming into force of this Act or commences the business within two months thereafter, the statement of particulars shall be furnished after the expiration of two months and before the expiration of three months from the coming into force of this Act and if at the expiration of the two months the conditions affecting the firm or person have ceased to be such as to require registration under this Act, the firm or person need not be registered so long as the conditions continue.

Time for registration.

(2) This section shall apply, in the case where registration is required in consequence of a change of name, as if for references to the date of the commencement of the business there were substituted references to the date of the change.

8. Whenever a change is made or occurs in any of the particulars registered in respect of any firm or person, the firm or person shall, within fourteen days after the change, or such longer period as the Registrar may, on application being made in any particular case, whether before or after the expiration of the fourteen days, allow, furnish to the Registrar a statement in writing in the prescribed form specifying the nature and date of the change signed and where necessary verified, in like manner as the statement required on registration.

Registration of changes in firm.

Penalty for
default in
registration.

9. If any firm or person required by this Act to furnish a statement of particulars or of any change in particulars without reasonable excuse makes default in so doing in the manner and within the time specified by this Act, every partner in the firm or the person so in default is liable on summary conviction to a fine of two hundred and fifty dollars for every day during which the default continues, and the Magistrate shall order a statement of the required particulars or change in the particulars to be furnished to the Registrar within such time as may be specified in the order.

Disability of
persons in
default.

10. (1) Where any firm or person required by this Act to furnish a statement of particulars or of any change in particulars has made default in so doing then, subject to the provisions of subsection (2), the rights of that defaulter under or arising out of any contract made or entered into by or on behalf of the defaulter in relation to the business in respect to the carrying on of which particulars were required to be furnished at any time while he is in default shall not be enforceable by action or other legal proceeding either in the business name or otherwise.

(2) (a) The defaulter may apply to the Court for relief against the disability imposed by this section, and the Court, on being satisfied that the default was accidental, or due to inadvertence or some other sufficient cause, or that on other grounds it is just and equitable to grant relief, may grant the relief either generally or as respects any particular contracts, on condition of the costs of the application being paid by the defaulter, unless the Court otherwise orders, and on such other conditions, if any, as the Court may impose, but the relief shall not be granted except on such service and such publication of notice of the application as the Court may order, nor shall relief be given in respect of any contract if any party to the contract proves to the satisfaction of the Court that, if this Act had been complied with, he would not have entered into the contract.

(b) Nothing herein contained shall prejudice the rights of any other parties as against the defaulter in respect of the contract as aforesaid.

(c) If any action or proceeding is commenced by any other party against the defaulter to enforce his rights of such party in respect of the contract, nothing herein contained shall preclude the defaulter from enforcing in that action or proceeding, by way of counterclaim, set off, or otherwise, such rights as he may have against that party in respect of the contract.

(3) Without prejudice to the power of the Court to grant such relief as aforesaid, if any proceeding to enforce any contract is commenced by a defaulter in a district Court the last named Court may, as respects that contract, grant the relief as aforesaid.

11. If any statement required to be furnished under this Act contains any matter which is false in any material particular to the knowledge of any person signing it, that person on summary conviction is liable to a fine of one thousand dollars and to imprisonment for three months.

Penalty for false statements.

12. (1) The Registrar may require any person to furnish to him such particulars as he thinks necessary for the purpose of ascertaining whether or not such person or the firm of which he is partner should be registered under this Act, or an alteration made in the registered particulars, and may also, in the case of a corporation, require the secretary, or any other officer of a corporation performing the duties of secretary, to furnish such particulars, and any person who, when so required, fails to supply such particulars as it is in his power to give, or furnishes particulars which are false in any material particular, is liable on summary conviction to a fine of one thousand dollars and to imprisonment for three months.

Duty to furnish particulars to Registrar.

(2) If, from any information so furnished, it appears to the Registrar that any firm or person ought to be registered under this Act, or an alteration ought to be made in the registered particulars, the Registrar may require the firm or person to furnish to him the required particulars, within such time as may be allowed by the Registrar, but where any default under this Act has been discovered from the information acquired under this section, no proceedings under this Act shall be taken against any person in respect of the default prior to the expiration of the time within which the firm or person is required by the Registrar under this section to furnish particulars to him.

13. On receiving any statement or statutory declaration 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 registered, and the certificate or a certified copy thereof shall be kept exhibited in a conspicuous position at the principal place of business of the firm or individual, and if not kept so exhibited, every partner in the firm or the person, as the case may be, is liable on summary conviction to a fine of one thousand dollars.

Registrar to file statement and issue certificate of registration.

Index to be kept. **14.** The Registrar shall keep an index of all the firms and persons registered under this Act.

Removal of names from register.

15. (1) If any firm or individual registered under this Act ceases to carry on business, it shall be the duty of the persons who were partners in the firm at the time when it ceased to carry on business, or of the individual, or, if he is dead, his personal representatives, within three months after the business has ceased to be carried on, to deliver to the Registrar notice in the prescribed form that the firm or individual has ceased to carry on business, and any person whose duty it is to give the notice who fails to do so with the time as aforesaid is liable on summary conviction to a fine of one thousand dollars.

(2) On receipt of such a notice as aforesaid the Registrar may remove the firm or individual from the register.

(3) Where the Registrar has reasonable cause to believe that any firm or individual registered under this Act is not carrying on business, he may send to the firm or individual by registered post a notice that, unless an answer is received to the notice within one month from the date thereof, the firm or individual may be removed from the register.

(4) If the Registrar either receives an answer from the firm or individual to the effect that the firm or individual is not carrying on business, or does not, within one month after sending the notice, receive an answer, he may remove the firm or individual from the register.

Misleading business names.

16. (1) Where any business name under which the business of a firm or individual is carried on contains the word "British" or any other word which, in the opinion of the Registrar, is calculated to lead to the belief that the business is under British ownership or control, and the Registrar is satisfied that the nationality of the persons by whom the business is wholly or mainly owned or controlled is at any time such that the name is misleading, the Registrar shall refuse to register the business name, or as the case may be, remove the business name from the register, but any person aggrieved by a decision of the Registrar under this provision may appeal to a Judge of the High Court in Chambers whose decision shall be final.

(2) The registration of a business name under this Act shall not be construed as authorising the use of that name if, apart from the registration, the use thereof could be prohibited.

17. (1) Any person may inspect the documents filed by the Registrar on payment of such fees as may be prescribed not exceeding five dollars for each inspection; and 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, and there shall be paid for the certificate of registration, certified copy, or extract such fees as may be prescribed, not exceeding ten dollars for the certificate of registration, and not exceeding one dollar for each folio of seventy-two words, of the entry, copy, or extract.

Inspection of
statements
registered.
[1 of 1973
20 of 1977].

(2) A certificate of registration, or a copy of or extract from any statement registered under this Act, if duly certified to be a true copy or extract under the hand of the Registrar, whom it shall not be necessary to prove to be the Registrar, shall, in all legal proceedings, civil or criminal, be received in evidence.

18. (1) The Minister may make Rules concerning any of the following matters :

Minister may
make Rules.

- (a) the fees to be paid to the Registrar under this Act, but so that they do not exceed the sum of fifteen dollars for the registration of any one statement;
- (b) the forms to be used under this Act;
- (c) the duties to be performed by the Registrar under this Act; and
- (d) generally, the conduct and regulation of registration under this Act, and any matter incidental thereto.

(2) All fees payable in pursuance of any such Rules shall be paid into the Treasury and form part of the general revenue of the State.

19. (1) Every individual and firm required by this Act to be registered shall, in all trade catalogues, trade circulars, showcards, and business letters, on or in which the business name appears and which are issued or sent by the individual or firm to any person or firm outside the State, have mentioned in legible characters –

Publication of
true names, etc.
[12 of 1990].

- (a) in the case of an individual, his present forename or the initials thereof, and present surname, any former forename or surname, and his nationality if not Dominican; and

(b) in the case of a firm, the present forenames or the initials thereof and present surnames, any former forenames and surnames, and the nationality if not Dominican, of all the partners in the firm or, in the case of a corporation being a partner, the corporate name.

(2) If default is made in compliance with this section the individual or, as the case may be, every member of the firm is liable, on summary conviction, for each offence to a fine of two hundred and fifty dollars.

(3) Subject to section 72(6) of the Constitution, no proceedings shall be instituted under this section except by or with the consent of the Director of Public Prosecutions.

Offences by corporations.

20. Where a corporation is guilty of an offence under this Act, every director, secretary, and officer of the corporation who is knowingly a party to the default shall be guilty of a like offence and liable to a like penalty.

Transfer of business or stock-in-trade.

21. (1) Whenever any person desires to transfer his business, or to transfer or sell, with a view to the transfer or abandonment of any business, any stock-in-trade or other assets held or used for the purpose of the business, notice of the proposed transfer or sale, and the date thereof, shall be advertised by that person before the date upon which the transfer or sale is to take effect, in three consecutive issues of the *Gazette* and once a week for three consecutive weeks in any local newspaper circulating in the State.

Agreement to transfer or sell business.

(2) Every agreement to transfer or sell any business, or to transfer or sell, with a view to the transfer or abandonment of any business, any stock in trade or other assets held or used for the purpose of the business, or to reconstitute any business, shall be void as against creditors of the business, unless the provisions of subsection (1) have been complied with.

(3) Any person carrying on any business who fails to give the notice prescribed in subsection (1) is liable on summary conviction to a fine of three thousand dollars or in default of payment to six months imprisonment.

(4) For the purposes of this section, unless inconsistent with the context –

“business” means any business carried on in the State by one or more persons, whether in partnership or not, but does not include –

- (a) a company registered under the Companies Ordinance or any Act replacing that Ordinance; Cap. 318.
[1961 Ed.]
- (b) a society registered under the Friendly Societies Act; Ch. 31:02.
- (c) the business of a hawker or pedlar; or
- (d) the business of a legal practitioner.

SCHEDULE

Section 4.

Description of firm, etc.

The additional particulars

Where the firm, individual or corporation required to be registered carries on business as nominee or trustee.

The present forename and surname, any former name, nationality, and usual residence, or, as the case may be, the corporate name, of every person or corporation on whose behalf the business is carried on; but if the business is carried on under any trust and any of the beneficiaries are a class of children or other persons, a description of the class shall be sufficient.

Where the firm, individual, or corporation required to be registered carries on business as general agent for any foreign firm.

The business name and address of the firm or person as agent for whom the business is carried on; but if the business is carried on as agent for three or more foreign firms it shall be sufficient to state the fact that the business is so carried on, specifying the countries in which the foreign firms carry on business.

