

CHAPTER 389
THE REGISTRATION OF BUSINESS NAMES ACT

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CHAPTER 389
REGISTRATION OF BUSINESS NAMES

29 of 1931
13 of 1932
2 of 1938
19 of 1950
19 of 1954

24 of 1955
3 of 1987
13 of 1994
Government
Notices
279 of 1964
497 of 1964
Statutory
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5 of 1965

An Act to provide for the registration of business names; and to provide for matters incidental thereto.

1. This Act may be cited as the Registration of Business Names Act. Short title

2. (1) In this Act, unless the context otherwise requires- Interpretation

"business" includes profession;

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

"Christian name" includes any forename;

"firm" means an unincorporate 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 situate outside Zambia;

"individual" means a natural person and shall not include a corporation;

"initials" includes any recognised abbreviation of a Christian name;

"Registrar" means the person appointed as Registrar of Business Names and includes an Assistant Registrar, Deputy Registrar or Acting Registrar;

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

(2) In the case of a peer or person usually known by a British title different from his surname, the title by which he is known shall be substituted for his surname.

(3) References in this Act to a former Christian name or surname shall not include a former Christian name 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, and, in the case of a married woman, shall not include the name or surname by which she was known previous to the marriage.

(4) References in this Act to a change of name shall not include a change of name which has taken place before the person whose name has been changed has attained the age of eighteen years; or, in the case of a peer or a person usually known by a British title different from his surname, the adoption of or succession to the title.

(As amended by No. 13 of 19 of 1950 and S.I. No. 5 of 1965)

3. Subject to the provisions of this Act-

Firms and persons
to be registered

(a) every firm having a place of business in Zambia 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 Christian names of individual partners or initials of such Christian names;

(b) every individual having a place of business in Zambia and carrying on business under a business name which does not consist of his true surname without any addition other than his true Christian names or the initials thereof;

(c) every individual or firm having a place of business in Zambia, 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 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; and

(ii) where the business is carried on by a trustee in bankruptcy or a receiver or manager appointed by any court, registration shall not be necessary; and

(iii) 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.

(As amended by No. 13 of 1932)

4. Where a firm, individual, or corporation having a place of business within Zambia 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 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:

Registration by nominee, etc.

Provided that where the business is carried on by a trustee in bankruptcy or a receiver or manager appointed by any court, registration under this section shall not be necessary.

5. Every firm or person required under this Act to be registered shall furnish, by sending by post or delivering to the Registrar, a statement in writing in the prescribed form containing the following particulars:

Manner and particulars of registration

- (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 Christian name and surname, any former Christian name or surname, the nationality, and if that nationality is not the nationality of origin, the nationality of origin, 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 Christian name and surname, any former Christian name or surname, the nationality, and if that nationality is not the nationality of origin, the nationality of origin, the usual residence, and the other business occupation (if any) of such 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 commencement of the business;

(h) where the registration to be effected is that of a firm, the age of each partner thereof;

(i) where the registration to be effected is that of an individual, the age of such individual:

Provided that where any such partner or individual is of or over the age of twenty-one years it shall be sufficient for him to state his age as "full age".

(As amended by No. 13 of 1932 and No. 19 of 1950)

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:

Statement to be signed by persons registering

Provided that-

(i) 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

(ii) the High Court or a Judge thereof 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.

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:

Time for registration

Provided that-

(i) if such firm or person has carried on such business before the commencement of this Act or commences such 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 commencement of this Act; and

(ii) if at the expiration of the said 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 such conditions continue.

(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 such change.

8. Whenever a change is made or occurs in any of the particulars registered in respect of any firm or person, such firm or person shall, within fourteen days after such change or such longer period as the Minister may, on application being made in any particular case, whether before or after the expiration of such fourteen days, allow, furnish by sending by post or deliver 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

(As amended by G.N. No. 279 of 1964)

9. If any firm or person by this Act required to furnish a statement of particulars or of any change in particulars shall, without reasonable excuse, make 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 shall be liable on conviction to a fine not exceeding two hundred and twenty five penalty units for every day during which the default continues, and the court 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.

Penalty for default
in registration

(As amended by Act No. 13 of 1994)

10. (1) Where any firm or person by this Act required to furnish a statement of particulars or of any change in particulars shall have made default in so doing, then the rights of that defaulter under or arising out of any contract made or entered into by or on behalf of such 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 whether in the

Disability of
persons in default

business name or otherwise:

Provided that-

(i) 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 such relief either generally, or as respects any particular contract, 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 such 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;

(ii) nothing herein contained shall prejudice the rights of any other parties as against the defaulter in respect of such contract as aforesaid;

(iii) if any action or proceeding shall be commenced by any other party against the defaulter to enforce the rights of such party in respect of such contract, nothing herein contained shall preclude the defaulter from enforcing in that action or proceeding, by way of counter-claim, set-off or otherwise, such rights as he may have against that party in respect of such contract.

(2) In this section, "court" means the High Court or a Judge thereof:

Provided that, without prejudice to the power of the High Court or a Judge thereof to grant such relief as aforesaid, if any proceeding to enforce any contract is commenced by a defaulter in a subordinate court, the subordinate court may, as respects that contract, grant such 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 shall, on conviction, be liable to imprisonment with or without hard labour for a term not exceeding three months, or to a fine not exceeding one thousand five hundred penalty

Penalty for false statements

units, or to both.

(As amended by Act No. 13 of 1994)

12. (1) The Minister may require any person to furnish to him such particulars as appear necessary to the Minister for the purpose of ascertaining whether or not he 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 if any person 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, he shall, on conviction, be liable to imprisonment with or without hard labour for a term not exceeding three months or to a fine not exceeding one thousand five hundred penalty units, or to

Duty to furnish particulars to Minister

(2) If from any information so furnished it appears to the Minister that any firm or person ought to be registered under this Act, or an alteration ought to be made in the registered particulars, the Minister may require the firm or person to furnish to the Registrar the required particulars within such time as may be allowed by the Minister, 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 such default prior to the expiration of the time within which the firm or person is required by the Minister under this section to furnish particulars to the Registrar.

(As amended by G.N. No. 279 of 1964 and Act No. 13 of 1994)

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 registering, 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, shall be liable, on conviction, to a fine not exceeding one thousand five hundred penalty units.

Registrar to file statement and issue certificate of registration

(As amended by No. 13 of 1932 and Act No. 13 of 1994)

14. The Registrar shall keep an index of all the firms and persons registered under this Act.

Index to be kept

(No. 19 of 1950)

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 of his personal representative, within three months after the business has ceased to be carried on, to send by post or deliver to the Registrar notice in the prescribed form that the firm or individual has ceased to carry on business, and if any person whose duty it is to give such notice fails to do so within such time as aforesaid, he shall be liable, on conviction, to a fine not exceeding one thousand five hundred penalty units:

Removal of names
from register

Provided that the Minister may, on reasonable cause therefor being shown, extend such time as aforesaid to such time as he may think fit.

(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 such 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.

*(As amended by G.N. No. 279 of 1964
and Act No. 13 of 1994)*

16. (1) No firm or individual shall be registered by a business name which, in the opinion of the Registrar, is undesirable, and if any firm or individual, through inadvertence or otherwise, is registered by a business name which, in the opinion of the Registrar, is undesirable, the Registrar shall remove such business name from the register, but any person aggrieved by a decision of the Registrar under this provision may appeal to the Minister whose decision thereon shall be final.

Misleading
business names

(2) Where any business name under which the business of a firm or individual is carried on contains the word "Zambia" or any other word which, in the opinion of the Registrar, is calculated to lead to the belief that the business is under *Zambian* 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 such business name or, as the case may be, remove such business name from the register, but any person aggrieved by a decision of the Registrar under this provision may appeal to the Minister whose decision shall be final.

(3) The Registrar shall not, without the consent of the Minister, register any business name which includes any word which, in the opinion of the Registrar, suggests or is calculated to suggest the patronage of the President, and if any business name is, through inadvertence or otherwise, registered in conflict with the provisions of this subsection, the Minister may require the firm or individual carrying on business under that name to change the name and, upon such change being made, the Registrar shall enter the new name on the register in place of the former name and shall issue a new certificate of registration and the provisions of section *thirteen* shall apply in relation to such new certificate.

(4) If the Registrar shall, in accordance with the provisions of this section, remove any business name from the register, he shall send to the firm or individual carrying on business under such name, by registered post, a notice that such name has been removed from the register.

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

(As amended by No. 2 of 1938, No. 19 of 1954, No. 24 of 1955, G.N. No. 279 of 1964 and S.I. No. 5 of 1965)

17. (1) At any time after the expiration of six months from the commencement of this Act, any person may inspect the documents filed by the Registrar on payment of such fees as may be prescribed not exceeding two penalty units 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,

Inspection of
statements
registered

and there shall be paid for such certificate of registration, certified copy, or extract such fees as may be prescribed not exceeding six penalty units for the certificate of registration, and not exceeding one penalty unit for each folio of seventy-two words, of the entry, copy, or extract.

(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.

(As amended by Act No. 13 of 1994)

18. The Minister may, by statutory instrument, make regulations concerning any of the following matters:

Regulations

- (a) the fees to be paid to the Registrar under this Act;
- (b) the forms to be used under this Act;
- (c) the duties to be performed by any Registrar under this Act;
- (d) the place or places at which shall be situate the offices of Registrars;
- (e) generally the conduct and regulation of registration under this Act, and any matters incidental thereto.

(As amended by No. 19 of 1950, G.N. No. 279 of 1964 and No. 3 of 1987)

19. (1) After the expiration of six months from the commencement of this Act, 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, have mentioned in legible characters-

Publication of true names, etc.

(a) in the case of an individual, his present Christian names or the initials thereof and present surname, any former Christian name or surname and his nationality; and

(b) in the case of a firm, the present Christian names or the initials thereof and present surnames, any former Christian names and surnames, and the nationality, 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 shall be liable on conviction for each offence to a fine not exceeding two hundred and twenty five penalty units.

(As amended by S.I. No. 5 of 1965 and Act No. 13 of 1994)

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.

Offences by
corporations

SCHEDULE

(Section 4)

ADDITIONAL PARTICULARS REQUIRED FOR REGISTRATION BY NOMINEE, TRUSTEE OR GENERAL AGENT

Description of firm, etc.

The additional particulars

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

The present Christian name and surname, any former name, nationality, and, if that nationality is not the nationality of origin, the nationality of origin, and annual residence, or, as the case may be, the corporate name, of every person or corporation on whose behalf the business is carried out.

Provided that if the business is carried on under any trust and 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 firms.

Their business name and address of the firm or person as agent for whom the business is carried on:

Provided that 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 such foreign firms carry on business.