

## BUSINESS NAMES.

### No. 12 of 1963.

An Ordinance to consolidate and amend the Law relating to Business Names, and for other purposes.

1. This Ordinance may be cited as the *Business Names Ordinance* 1963.\* Short title.

2. This Ordinance shall come into operation on a date to be fixed by the Minister by notice in the *Gazette*.† Commencement.

3.—(1.) The *Business Names Ordinance* 1956 and the *Business Names Ordinance* 1961 are repealed. Repeal, and savings and transitional provisions.

(2.) Notwithstanding the repeal effected by the last preceding sub-section, a certificate furnished, or copy of or extract from a statement certified, in pursuance of the repealed Ordinance shall be as valid and effectual as it would have been if the repealed Ordinance had not been repealed.

(3.) A reference in any Act of the State of New South Wales continuing in force in the Territory as a law of the Territory, Ordinance, order, regulation, instrument or document to firms, individuals or corporations registered under the repealed Ordinance or any corresponding previous law of the Territory shall, unless the context otherwise requires, be construed as referring also to firms, the members of which, to individuals who or to corporations which, as the case may be, are carrying on business under a business name registered under this Ordinance.

(4.) A reference to the Registrar of Business-Names, the Registrar of Firms or the Registrar-General in any Act of the State of New South Wales continuing in force in the Territory as a law of the Territory, Ordinance, order, regulation, instrument or document relating to any matter under or in connexion

\* Made on 11th May, 1963; notified in the *Commonwealth Gazette* on 23rd May, 1963.

† No notice was published before 1st January, 1965.

with the repealed Ordinance or any corresponding previous enactment shall, unless the context otherwise requires, be construed as referring to the Registrar under this Ordinance.

(5.) A business name in respect of which a firm, individual or corporation was, immediately before the commencement of this Ordinance, registered or deemed to be registered under the repealed Ordinance shall, subject to this Ordinance, on that commencement, be deemed to be registered under this Ordinance in relation to each member of the firm, in relation to the individual or in relation to the corporation, as the case may be, and this Ordinance shall apply to and in relation to the business name accordingly.

**Interpretation.**

**4.—(1.)** In this Ordinance, unless the contrary intention appears—

“business” includes trade and profession;

“business name” means a name, style, title or designation under which a business is carried on;

“carrying on business” includes establishing a place of business and soliciting or procuring any order from a person in the Territory and “to carry on business” has a corresponding meaning;

“christian name” includes any forename;

“corporation” means any body corporate formed or incorporated whether in the Territory or outside the Territory and includes any foreign company within the meaning of the *Companies Ordinance* 1962;

“director”, in relation to a corporation, includes any person occupying the position of director of the corporation by whatever name called;

“firm” means an unincorporated body of persons (whether consisting of individuals or of corporations or partly of individuals and partly of corporations) associated together for the purpose of carrying on business;

“individual” means a natural person and does not include a corporation;

“initial” includes a recognized abbreviation of a christian name;

“process” includes any writ, summons, plaint, pleading, order or document in or relating to any legal proceedings;

“the register” means the register of business names kept under this Ordinance;

“the Registrar” means the Registrar of Companies under the *Companies Ordinance* 1962 and includes any Deputy or Acting Registrar of Companies;

“the repealed Ordinance” means the *Business Names Ordinance* 1956-1962;

“secretary”, in relation to a corporation, includes any person performing the duties of secretary of the corporation and, in relation to a corporation registered under Division 3 of Part XI. of the *Companies Ordinance* 1962, includes the agent of the corporation appointed for the purpose of that Division;

“this Ordinance” includes the Regulations.

(2.) For the purposes of this Ordinance, a person shall not be regarded as carrying on business within the Territory for the reason only that within the Territory he—

(a) is or becomes a party to any action or suit or any administrative or arbitration proceeding, or effects settlement of an action, suit or proceeding or of any claim or dispute;

(b) maintains any bank account;

(c) effects any sale through an independent contractor;

(d) creates evidence of any debt or creates a charge on real or personal property;

(e) secures or collects any of his debts or enforces his rights in regard to any securities relating to such debts;

(f) conducts an isolated transaction that is completed within a period of thirty-one days, but not being one of a number of similar transactions repeated from time to time; or

(g) invests any of his funds or holds any property.

(3.) For the purposes of this Ordinance, a business name shall be deemed to be registered under this Ordinance in relation to a person if it appears from the register that that person either alone or together with other persons is carrying on business under that name.

Certain business names to be registered.

5.—(1.) A person shall not, either alone or in association with other persons, carry on business in the Territory under a business name, unless—

- (a) the business name consists of the name of that person and the name of each other person, if any, in association with whom that person is so carrying on business, without any addition; or
- (b) the business name is registered under this Ordinance in relation to that person and each other person, if any, in association with whom that person is so carrying on business,

and, where the business name is so registered, the provisions of section twelve of this Ordinance which are required to be complied with by or on behalf of the person or persons in relation to whom the name is registered have been complied with.

Penalty: One hundred pounds. Default penalty.

(2.) For the purposes of the last preceding sub-section, the name of a person consists of—

- (a) in the case of an individual—his full name, or his surname together with—
  - (i) his christian name or names;
  - (ii) the initial or initials of his christian name or names;
  - (iii) a combination of one or more of his christian names and the initial or initials of his remaining christian name or names; or
  - (iv) the christian name or names by which he is commonly known or the initial or initials by which he is commonly known or any combination of one or more of such names and such initials; or
- (b) in the case of a corporation—the corporate name of the corporation.

(3.) The addition to a business name of words indicating that the business is carried on in succession to a former owner of the business shall, for the purposes of sub-section (1.) of this section, be deemed not to be an addition to the business name.

(4.) Where a business is carried on by an official receiver, a trustee in bankruptcy or a trustee under a deed or scheme of arrangement entered into under a law of the Commonwealth relating to bankruptcy or by a receiver, manager or other person appointed by any court or under the powers contained in any instrument to carry on the business, the business shall, for the

purposes of this Ordinance, be deemed to be carried on by the person who carried on the business immediately before the appointment of the receiver, trustee, manager or other person.

(5.) Notwithstanding anything in this Ordinance, a contravention of or failure to comply with any provision thereof shall not operate to avoid any agreement, transaction, act or matter.

6.—(1.) The Registrar shall keep a register of business names registered under this Ordinance in such form as he thinks fit.

Register of  
business names.

(2.) A statement lodged under this Ordinance in relation to a business name registered under this Ordinance, whether lodged before or after the registration, shall, for the purposes of this Ordinance, be deemed to be incorporated with and to form part of the register.

(3.) The register and index of the business names of firms, individuals and corporations registered or deemed to have been registered under the repealed Ordinance and any statement or notice furnished or sent to the Registrar of Business-Names, the Registrar of Firms or the Registrar-General under the repealed Ordinance or any corresponding previous law of the Territory shall be deemed to be incorporated with and to form part of the register kept under this Ordinance.

7.—(1.) An application for the registration of a business name shall be made by lodging with the Registrar a statement in the prescribed form which shall be signed by the person or persons carrying on or proposing to carry on business in the Territory under that name, shall be accompanied by the prescribed fee and shall set out—

Registration of  
business names.

- (a) the business name;
- (b) a concise description of the true nature of the business carried on or proposed to be carried on under that name by the applicant or applicants;
- (c) the address of each place in the Territory where the business is or is proposed to be carried on showing, if the business is or is proposed to be carried on at more than one place in the Territory, which of those places is the principal place of business;
- (d) the christian names and surname, any former christian names or surname and the usual place of residence of each applicant who is an individual and the corporate name and the place of the registered office in the Territory of each applicant which is a corporation;

(e) the date or proposed date of commencement of the carrying on of business in the Territory under the business name by the applicant or applicants; and

(f) where the business name is a name adopted by the applicant or applicants in substitution for another name—that other name.

(2.) If any applicant is an infant, he shall be so described in the statement and the date of his birth shall be set out in the statement.

(3.) Subject to this Ordinance, the Registrar shall, upon the lodging of a statement under sub-section (1.) of this section in relation to a business name, register the business name.

(4.) The Registrar shall, upon registering a business name, issue a certificate of registration in the prescribed form signed by the Registrar.

(5.) The Registrar may, upon payment of the prescribed fee, issue a further certificate of registration.

(6.) A business name shall not be registered under this Ordinance if the statement referred to in sub-section (1.) of this section is lodged with the Registrar on a date preceding by more than two months the date shown in the statement as the proposed date of commencement of carrying on business.

(7.) The Registrar may refuse to register a business name if he is not satisfied that the particulars set out in the statement lodged under sub-section (1.) of this section are correct.

**Resident agent.**

8.—(1.) Where a business name is required to be registered under this Ordinance and the person or all the persons carrying on or proposing to carry on business in the Territory under that name resides or reside outside the Territory, or has or have no fixed address or fixed addresses within the Territory, the statement referred to in sub-section (1.) of the last preceding section, or in sub-section (1.) of section eleven of this Ordinance, as the case may be, shall—

(a) include the name and address of some person resident in the Territory who, in relation to the carrying on of business under that name—

(i) has consented in writing to be the resident agent of the person or persons for the purposes of this Ordinance; and

(ii) is authorized in writing by the person or persons to accept service on behalf of the person or persons of any notices for the purposes of this Ordinance and of any process; and

(b) in addition, be signed by the person who has consented to be the resident agent.

(2.) The address shown in any statement lodged with the Registrar under this Ordinance as the address of the resident agent appointed for the purposes of this Ordinance by the person or persons in relation to whom a business name is registered shall, for the purpose of serving any notice or process on the person or persons under this Ordinance, be deemed to be the address of a place where business is carried on by the person or persons under that name.

9.—(1.) Except with the consent of the Attorney-General, a business name shall not be registered under this Ordinance if the business name is a name that is in the opinion of the Registrar undesirable or is a name or a name of a kind that the Attorney-General has, for the purposes of this Ordinance, directed the Registrar not to accept for registration.

Restriction on registration of business names that are undesirable, &c.

(2.) The Attorney-General shall cause a direction given by him under the last preceding sub-section to be published in the *Gazette* and a copy of the direction to be forwarded to the Attorney-General of each State.

10.—(1.) If a business name which could not be registered under this Ordinance without contravention of sub-section (1.) of the last preceding section is registered through inadvertence or otherwise, the Registrar may send by post a notice addressed to the person or persons in relation to whom the name is so registered at the place shown in the register as the place where business is carried on under that name—

Power to cancel registration of business names that are undesirable, &c.

(a) stating that he proposes to cancel the registration of that name upon the expiration of such period (being a period of not less than twenty-eight days) as is specified in the notice; and

(b) setting out his reasons for the proposed cancellation, and, upon the expiration of that period, the Registrar may, if the notice has not been annulled under sub-section (3.) of this section, cancel the registration of that name.

(2.) The Registrar shall not, except with the approval of the Attorney-General, exercise his powers under sub-section (1.) of this section with respect to a business name that is deemed to be registered under this Ordinance by virtue of sub-section (5.) of section three of this Ordinance.

(3.) The Attorney-General may, at any time before the expiration of the period specified in a notice given by the Registrar under sub-section (1.) of this section, annul the notice.

(4.) The Registrar may remit any fee payable in respect of an application for the registration of a new business name in place of a business name the registration of which is cancelled under sub-section (1.) of this section.

**Renewal of  
registration.**

**11.—**(1.) Subject to this Ordinance, the registration of a business name remains in force for a period of three years, but the registration may from time to time be renewed by lodging with the Registrar at any time within the period of one month before or after the expiry of the registration, a statement in the prescribed form signed by the person or one of the persons in relation to whom the name is registered and accompanied by the prescribed fee.

(2.) Subject to this Ordinance, the registration of a business name renewed under the last preceding sub-section remains in force for a period of three years from the day on which the previous registration expires or has expired, as the case may be.

(3.) Subject to sub-section (5.) of this section, the Registrar shall, before or after the expiration of the registration of a business name, but not earlier than one month before the expiration, send by post to the person or persons in relation to whom the business name is or was registered, at the place shown in the register as the place where business is carried on under that name, a notice of the date on which the registration is due to expire or has expired, as the case may be.

(4.) Where the registration of a business name has expired, the Registrar shall not accept for registration from any person or persons, other than the person or persons in relation to whom the business name was registered, any business name that is identical with that business name or that, in the opinion of the Registrar, so nearly resembles it as to be calculated to deceive, until the expiration of one month after the sending of the notice referred to in the last preceding sub-section or the notice referred to in paragraph (b) of the next succeeding sub-section, as the case may be.

(5.) The following provisions shall apply in relation to a business name which is deemed to be registered under this Ordinance by virtue of being registered or having been deemed to have been registered under the repealed Ordinance:—

(a) the registration of the business name shall, subject to this Ordinance, remain in force until a date fixed by the Registrar, notwithstanding anything to the contrary contained in sub-section (1.) of this section;

(b) notice in writing of the date so fixed shall be posted by the Registrar to the person or persons in relation to whom the business name is registered at the place shown in the register as the place where business is carried on under that name;



- (c) the date fixed by the Registrar shall be a date not less than one month after the notice in writing has been sent by post to such person or persons;
- (d) no such notice in writing shall be sent by the Registrar until the expiration of a period of at least three years from the date upon which the name was registered or deemed to be registered under the repealed Ordinance;
- (e) the Registrar shall not be required to send to the person or persons in relation to whom the business name is or was registered the notice referred to in sub-section (3.) of this section;
- (f) subject to this sub-section, the registration of the business name may be renewed in the manner prescribed by this section; and
- (g) after the renewal of the registration of the business name, the provisions of this sub-section shall cease to apply in relation to the business name.

**12.—(1.)** Where a business name is registered under this Ordinance and a change occurs—

- (a) which renders the description of the nature of the business lodged with the Registrar insufficient to disclose the true nature of the business;
- (b) in relation to the place or places in the Territory at which business is carried on under that name or in the address of any such place; or
- (c) in the registered particulars relating to the resident agent of the person or persons in relation to whom the name is registered,

Notification of changes in particulars relating to registered business names, cessation of business, &c.

there shall be lodged with the Registrar within fourteen days after the change, or within such further time as the Registrar may, before the expiration of that period, allow, a statement in the prescribed form, signed by the person or one of the persons in relation to whom the name is registered at the time of the change, notifying the Registrar of particulars of and of the date of the change.

(2.) Where a change occurs in the christian names or surname or the place of residence of any person, being an individual, in relation to whom a business name is registered under this Ordinance, or in the corporate name or the place of the registered office in the Territory of a person, being a corporation, in relation to which a business name is registered under this Ordinance, there shall be lodged with the Registrar within fourteen days after the change, or within such further time as the Registrar may, before the expiration of that period, allow, a statement in the prescribed form, signed by that person, notifying the Registrar of particulars of and of the date of the change.

(3.) Where a business name is registered under this Ordinance in relation to a person or persons and that person ceases, or all or any of those persons cease, to carry on business in the Territory under that name, there shall be lodged with the Registrar within fourteen days after the cessation, or within such further time as the Registrar may, before the expiration of that period, allow, a statement in the prescribed form, notifying the Registrar of the cessation and of the date of the cessation, signed by each person who was carrying on business under that name immediately before the cessation or, in the case of a deceased person, by his personal representative.

(4.) Where, immediately after a cessation referred to in the last preceding sub-section, the person or all of the persons carrying on business under the business name is not or are not resident within the Territory or does not or do not have a fixed address or fixed addresses within the Territory, the statement referred to in that sub-section shall—

(a) include the name and address of some person resident in the Territory who, in relation to the carrying on of business under that name—

(i) has consented in writing to be the resident agent of the person or persons for the purposes of this Ordinance; and

(ii) is authorized in writing by the person or persons to accept service on behalf of the person or persons of any notices for the purposes of this Ordinance and of any process; and

(b) in addition, be signed by the person who has consented to be the resident agent.

(5.) Where a business name is registered under this Ordinance in relation to a person or persons and another person or other persons commences or commence to carry on business in the Territory under that name in place of or in association with any person or persons in relation to whom the name is already registered, there shall be lodged with the Registrar within fourteen days after the commencement, or within such further time as the Registrar may, before the expiration of that period, allow, a statement in the prescribed form, notifying the Registrar of the commencement and of the date of the commencement, signed by each person carrying on business under that name immediately after the commencement and setting out, in relation to each person required to sign the statement—

(a) being an individual—the christian names and surname and any former christian names or surname and the usual place of residence of the individual and, where the individual is an infant, in addition

to the particulars referred to in this paragraph, he shall be so described in the statement and the date of his birth shall be set out therein; or

- (b) being a corporation—the corporate name and the place of the registered office in the Territory of the corporation.

(6.) Where, immediately after a commencement referred to in the last preceding sub-section, the person or all of the persons carrying on business under the business name is not or are not resident within the Territory or does not or do not have a fixed address or fixed addresses within the Territory, the statement referred to in that sub-section shall—

- (a) include the name and address of some person resident in the Territory who, in relation to the carrying on of business under that name—

(i) has consented in writing to be the resident agent of the person or persons for the purposes of this Ordinance; and

(ii) is authorized in writing by the person or persons to accept service on behalf of the person or persons of any notices for the purposes of this Ordinance and of any process; and

- (b) in addition, be signed by the person who has consented to be the resident agent.

(7.) Where, while a person is the resident agent of a person or persons in relation to whom a business name is registered under this Ordinance, the person or any one or more of the persons in relation to whom the name is registered commences or commence to reside within the Territory or acquire or acquires a fixed address or fixed addresses within the Territory, there shall be lodged with the Registrar within fourteen days after the person or persons so commenced to reside or acquired a fixed address or fixed addresses, or within such further time as the Registrar may, before the expiration of that period, allow, a statement in the prescribed form, signed by the person or one of the persons in relation to whom the business name is registered—

- (a) notifying the Registrar that the person appointed to be the resident agent of the person or persons in relation to whom the business name is registered has ceased to be the resident agent of such person or persons; and

- (b) setting out the name or names of the person or persons in relation to whom the business name is registered who has or have commenced to reside or has or have acquired a fixed address

or fixed addresses within the Territory, and the usual place or places of residence or the fixed address or fixed addresses within the Territory of such person or persons.

(8.) Where, while a person is the resident agent of a person or persons in relation to whom a business name is registered under this Ordinance, another person or other persons commences or commence to carry on business in the Territory under that name in place of or in association with any person or persons in relation to whom the name is already registered and that other person or one or more of those other persons resides or reside within the Territory or has or have a fixed address or fixed addresses within the Territory, there shall be lodged with the Registrar within fourteen days after the commencement, or within such further time as the Registrar may, before the expiration of that period, allow, a statement in the prescribed form, signed by the person or one of the persons carrying on business under that name after the commencement—

(a) notifying the Registrar that the person who was the resident agent of the person or persons in relation to whom the business name was registered immediately before the commencement is not or has ceased to be the resident agent of the person or persons carrying on business under that name immediately after the commencement; and

(b) setting out the name or names of that other person or those other persons who resides or reside within the Territory or has or have a fixed address or fixed addresses within the Territory, and the usual place or places of residence or the fixed address or fixed addresses within the Territory of that other person or those other persons.

(9.) Where a business name is registered under this Ordinance and a person appointed to be the resident agent of the person or persons in relation to whom the name is registered ceases to reside within the Territory or ceases to be the resident agent of that person or those persons, there shall be lodged with the Registrar within fourteen days after the cessation, or within such further time as the Registrar may, before the expiration of that period, allow, a statement in the prescribed form, notifying the Registrar of the name and address of some other person resident within the Territory who is appointed to be the resident agent of the person or persons in relation to whom the name is registered in place of or in succession to the person who has ceased to be so resident or who has ceased to be the resident agent of that person or those persons, and of the date of the appointment—

- (a) signed by the person or one of the persons in relation to whom the name is registered and by the person so appointed; and
- (b) showing that the person so appointed, in relation to the carrying on of business under that name—
  - (i) has consented in writing to be the resident agent of the person or persons for the purposes of this Ordinance; and
  - (ii) is authorized in writing by the person or persons to accept service on behalf of the person or persons of any notices for the purposes of this Ordinance and of any process.

(10.) Where a business name is registered under this Ordinance and the person or all the persons in relation to whom the name is registered ceases or cease to reside within the Territory or to have a fixed address or fixed addresses within the Territory, there shall be lodged with the Registrar within fourteen days after that person or those persons has or have ceased to so reside or to have a fixed address or fixed addresses, or within such further time as the Registrar may, before the expiration of that period, allow, a statement in the prescribed form, notifying the Registrar of the name and address of some other person resident in the Territory who is appointed to be the resident agent of the person or persons in relation to whom the name is registered, and of the date of the appointment—

- (a) signed by the person or one of the persons in relation to whom the name is registered and by the person so appointed; and
- (b) showing that the person so appointed, in relation to the carrying on of business under that name—
  - (i) has consented in writing to be the resident agent of the person or persons for the purposes of this Ordinance; and
  - (ii) is authorized in writing by the person or persons to accept service on behalf of the person or persons of any notices for the purposes of this Ordinance and of any process.

(11.) If a statement required by a provision of this section to be lodged with the Registrar is not lodged in accordance with the provision or, if lodged, does not comply with the provision, each person required or authorized by the provision to sign the statement shall, unless he proves that he took all reasonable

steps to ensure compliance with the provision, be guilty of an offence against this Ordinance.

Penalty: One hundred pounds. Default penalty.

(12.) Where, by reason of a person commencing to carry on business under a business name registered under this Ordinance, a statement is lodged with the Registrar in accordance with sub-section (5.) of this section, neither that person nor any other person shall be guilty of an offence against section five of this Ordinance by reason only that, before the lodging of the statement, he carried on business under that name.

(13.) Any statement required to be lodged with the Registrar under this section with respect to any matter may be combined with a statement required to be lodged under this section with respect to another matter.

(14.) A statement lodged under this section shall be accompanied by the prescribed fee.

**Duty to furnish  
information.**

**13.—**(1.) The Registrar may, by notice in writing, require any person to furnish within a period specified in the notice (being a period of not less than twenty-eight days), or within such further period as the Registrar may, before the expiration of that period, allow, such information as appears to the Registrar to be necessary to enable him to ascertain whether or not a person—

- (a) is carrying on business either alone or in association with other persons under a business name that is required to be registered under this Ordinance; or
- (b) has failed to lodge with the Registrar a statement required to be lodged under this Ordinance.

(2.) A person required under the last preceding sub-section to furnish information to the Registrar shall, within the period specified in the notice, or within such further period as the Registrar has allowed, furnish such information as it is within his power to furnish and shall not furnish any information which to his knowledge is false in any material particular.

Penalty: One hundred pounds.

(3.) A person shall not be excused from furnishing any information where required to do so under sub-section (1.) of this section on the ground that the information might tend to incriminate him or make him liable to a penalty but the information furnished by him shall not be admissible in evidence against him in any proceedings civil or criminal.

**Disability of  
persons in  
default.**

**14.** Where a person carrying on business under a business name in contravention of section five of this Ordinance, or a person who, being required to lodge a statement under section

twelve of this Ordinance in relation to a business name, fails to lodge that statement, commences any suit or action in that business name or in respect of a cause of action arising out of any dealing in or under that business name, the court before which the suit or action is commenced may order the person to cease to contravene section five of this Ordinance or to cause the statement to be lodged, as the case may be, and may stay all proceedings in the suit or action until the order is complied with or may allow the proceedings to be continued on an undertaking being given by the person that he will comply with the order within such time as is limited by the court.

**15.—**(1.) Any statement lodged with the Registrar under this Ordinance shall be deemed to be signed by a person who is required to sign the statement if—

Signing of statements.

- (a) in the case of an individual—it is signed on his behalf by a person authorized in writing to so sign the statement; or
- (b) in the case of a corporation—it is signed by a director or manager or the secretary of the corporation.

(2.) Notwithstanding any other provision of this Ordinance, where the Registrar is satisfied that it is not practicable to obtain the signature of a person required by this Ordinance to sign a statement, the Registrar may accept the statement for registration without its being signed by that person, but a person is not relieved of the requirement to sign a statement and a statement not signed by any person is not evidence relating to that person's interest in a business by reason only of its registration under this Ordinance.

**16.** The Registrar may in a particular case, if he thinks fit, refuse to accept a statement required to be lodged with him under this Ordinance unless the particulars set out in the statement are verified by a statutory declaration under the *Statutory Declarations Act 1959* made by a person who signed the statement.

Verification of particulars.

**17.** A person shall not sign or lodge with the Registrar a statement made or purporting to be made for the purposes of this Ordinance which to his knowledge is false in any material particular and a person shall not authorize or permit the lodging with the Registrar of such a statement which to his knowledge is false in any material particular.

Penalty for false statement.

Penalty: One hundred pounds or imprisonment for three months or both.

**18.—**(1.) Where the Registrar has reasonable cause to believe that a person or persons in relation to whom a business name is registered under this Ordinance is not or are not carrying on business in the Territory under that name, he may send by

Notice of proposed cancellation.

post a notice addressed to the person or persons at the place shown in the register as the place where business is carried on under that name, enquiring whether the person is or the persons are carrying on business under the name and stating that, unless the Registrar is satisfied within one month from the date of the notice that business is being carried on in the Territory by that person or those persons under that name, the registration of the business name may be cancelled.

(2.) Where the Registrar has reasonable cause to believe that any provision of section twelve of this Ordinance which is required to be complied with by or on behalf of the person or persons in relation to whom a business name is registered under this Ordinance has not been complied with, he may send by post a notice addressed to the person or persons at the place shown in the register as the place where business is carried on under that name stating that, unless within one month from the date of the notice that provision is complied with or the Registrar is satisfied that there was in fact no failure to comply with the provision, the registration of the business name may be cancelled.

Cancellation of  
registration.

**19.—(1.)** The Registrar may cancel the registration of a business name—

- (a) if there is lodged with the Registrar a statement under section twelve of this Ordinance notifying him that the person or all the persons in relation to whom the business name is registered has or have ceased to carry on business in the Territory under that name and it does not appear from that statement or another statement accompanying that statement that another person has or other persons have commenced to carry on business in the Territory under that name;
- (b) if the Registrar has sent a notice to any person or persons in respect of the business name under sub-section (1.) of the last preceding section and that person does not, or those persons do not, satisfy the Registrar within one month from the date of the notice that business is being carried on in the Territory by that person or those persons under that name;
- (c) if the Registrar has sent a notice to any person or persons under sub-section (2.) of the last preceding section and within one month after the date of the notice the provision of section twelve of this Ordinance to which the notice relates has not been complied with or the person does



not or those persons do not satisfy the Registrar that there was no failure to comply with the provision; or

- (d) if the business name is registered in relation to a corporation only and the name of the corporation has been struck off any register of corporations kept under the *Companies Ordinance* 1962 or the corporation has been dissolved.

(2.) The Registrar may, on any grounds which he thinks sufficient, revoke any cancellation by him of the registration of a business name and, in that event, the business name shall be deemed to have continued to be registered as if the registration had not been cancelled.

(3.) Where the registration of a business name has been cancelled under this section, a person in relation to whom the business name was registered immediately before the cancellation may apply to the Supreme Court for an order directing the Registrar to restore the registration of the business name.

(4.) On an application under the last preceding sub-section, the Supreme Court may, if it is satisfied that the applicant is carrying on business under the business name and that it is just and equitable so to do, make the order applied for upon such terms as the Court thinks fit.

(5.) Upon the making of an order by the Supreme Court under the last preceding sub-section, the business name shall be deemed to have continued to be registered as if the registration had not been cancelled and the Registrar, upon the lodging with him of an office copy of the order, shall make such entries and alterations in the register as he considers necessary for the purposes of the order.

**20.** Where a business name is registered under this Ordinance—

Use and  
exhibition of  
business name.

- (a) a person or persons in relation to whom a business name is registered shall not issue or sign in connexion with the carrying on of that business any business letter, statement of account, invoice, official notice, publication, order for goods or receipt unless the business name appears in legible characters thereon;

- (b) the business name shall at all times be displayed in a conspicuous position on the outside of every place at which business is carried on under that name; and

- (c) the certificate of registration of the business name shall at all times be exhibited in a conspicuous position at the place where business is carried on under that name or, if there is more than one such place, at the principal place where business is so carried on,

and, in the event of a contravention of this section, each person carrying on business under that name shall, unless he proves that he took all reasonable steps to ensure compliance with this section, be guilty of an offence against this Ordinance.

Penalty: Fifty pounds. Default penalty.

Registrar may  
correct errors  
in register, &c.

**21.**—(1.) The Registrar may, on such evidence as to him appears sufficient, correct any error in any entry in the register or in any certificate of registration of a business name.

(2.) When correcting an error under the last preceding sub-section, the Registrar shall not erase or render illegible the original words and shall affix the date upon which the correction was made together with his initials.

(3.) Any entry or certificate corrected under this section shall have the same validity and effect as if the error had not been made.

(4.) The Registrar may accept and register a statement lodged to correct any error in, or to supply any particular omitted from, a statement previously lodged and registered and, in that event, the statement previously lodged and that lodged under this sub-section shall be read as one and shall both be incorporated with and form part of the register.

Inspection of  
statements.

**22.** A person may, on payment of the prescribed fee, inspect any statement lodged with the Registrar under this Ordinance or filed under the repealed Ordinance or any corresponding previous law of the Territory, which has not been destroyed in pursuance of section twenty-five of this Ordinance and may make a copy thereof or take extracts therefrom.

Certificates of  
registration or  
non-  
registration.

**23.**—(1.) The Registrar shall, upon request in writing by any person and payment of the prescribed fee, issue to that person—

(a) a copy of or extract from the register or a copy of or extract from a document forming part of the register certified under his hand to be a true copy or extract; or

(b) a certificate under his hand that a business name was or was not on a date or during a period specified in the certificate registered under this

Ordinance in relation to a person or that a firm, individual or corporation was or was not on a date or during a period specified in the certificate registered under the repealed Ordinance or any corresponding previous law of the Territory.

(2.) The Registrar shall not be required to issue a copy, extract or certificate under the last preceding sub-section in respect of a statement or notice which has been destroyed in pursuance of section twenty-five of this Ordinance or in respect of a date or a period ending on a date earlier by more than twelve years than the date of the receipt of the request.

**24.** A document purporting to be—

- (a) a certificate of registration issued under this Ordinance;
- (b) a copy of or extract from the register or a copy of or extract from a document forming part of the register issued under paragraph (a) of sub-section (1.) of the last preceding sub-section;
- (c) a certificate issued under paragraph (b) of that sub-section; or
- (d) a combination of two or more of the certificates, copies or extracts referred to in the last three preceding paragraphs,

Evidence of  
registration or  
non-  
registration.

shall, in all courts and before all persons having authority to hear, receive and examine evidence, be prima facie evidence of any matter contained or set out therein.

**25.** The Registrar may, if in his opinion it is no longer necessary or desirable to retain them, destroy or dispose of any statement or notice lodged, filed, received or registered under this Ordinance or under the repealed Ordinance or any corresponding previous law of the Territory, where the registration of the business name or of the firm, individual or corporation, as the case may be, in respect of which the statement or notice was lodged, filed, received or registered has not been in force at any time during the preceding twelve years.

Authority of  
Registrar to  
destroy  
documents.

**26.—(1.)** Where a person is or the members of a firm are carrying on business in the Territory under a business name registered or required to be registered under this Ordinance, no person shall use or make reference to that business name in any invitation to the public or in any advertisement inviting the public to deposit money with or lend money to that person or firm or use or make reference to a business name in connexion with any deposit or loan.

Invitations to  
the public to  
make deposits  
or loans.

Penalty: Five hundred pounds.

(2.) This section does not apply to an invitation to the public made by a public company in conformity with the requirements of the *Companies Ordinance* 1962.

Proceedings  
against persons  
under a  
business name.

**27.—**(1.) Proceedings may be taken and prosecuted in any court of competent jurisdiction against any person or persons in the business name under which the person is or the persons are carrying on business if that business name is not registered under this Ordinance and the name shall, for the purpose of the proceedings, be a sufficient designation of the person or persons in all writs, summonses, complaints and other legal documents and instruments and any judgment obtained or order made in such proceedings may be enforced against that person or against those persons or any of those persons, as the case may be.

(2.) Nothing in this section shall be construed as exempting any person from compliance with any provision of this Ordinance.

Default penalty.

**28.—**(1.) Where, in or at the foot of any section or part of a section of this Ordinance, there appears the expression "Default penalty", it indicates that a person who is convicted of an offence against this Ordinance in relation to that section or part is guilty of a further offence against this Ordinance if the offence continues after he is so convicted and is liable to an additional penalty for each day during which the offence so continues of not more than Ten pounds.

(2.) Where an offence is committed by a person by reason of his failure to comply with a provision of this Ordinance by or under which he is required or directed to do anything within a particular period, that offence, for the purposes of the last preceding sub-section, shall be deemed to continue so long as the thing so required or directed to be done by him remains undone, notwithstanding that such period has elapsed.

Offences  
committed by  
corporations.

**29.** Where a person guilty of an offence against this Ordinance—

(a) is a corporation; or

(b) is a person who purported to act for or on behalf of a corporation,

any director, manager, secretary or other officer of the corporation who was knowingly a party to the offence shall also be guilty of that offence.

Evidentiary  
provisions.

**30.** If, in any proceedings for an offence against this Ordinance, proof is given that a business name has been displayed on any premises, and evidence is given from which

the court may infer that the business name has reference to any business carried on at the premises, the person or persons carrying on the business shall, in the absence of proof to the contrary, be deemed to be carrying on the business under that business name.

**31.—(1.)** Where, by this Ordinance, the Registrar is required or permitted to send a notice to the person or persons in respect of whom the business name is registered at the place where business is carried on under a business name, the notice may be sent by post addressed to the business name—

Service of  
notices.

- (a) at the place shown in the register as the place where business is so carried on;
- (b) where more than one place is shown in the register as the place where business is carried on—
  - (i) at the place shown in the register as the principal place where business is so carried on; or
  - (ii) if no place is so shown as the principal place, at the place shown which appears first in the register as a place where the business is carried on; or
- (c) if it appears from the register that there is, for the purposes of this Ordinance, a resident agent, at the place shown in the register as the address of the resident agent in the Territory.

**(2.)** Service of any communication, notice or process on any person or persons carrying on business under a business name registered under this Ordinance—

- (a) by leaving it at the place where business is carried on by the person or persons with some other person apparently in the service of the person or persons and apparently of or above the age of sixteen years;
- (b) where it appears from the register that there is a resident agent appointed for the purposes of this Ordinance by the person or persons, by leaving it with the resident agent or with some other person apparently in the service of the resident agent and apparently of or above the age of sixteen years; or
- (c) by sending it by registered post or as certified mail addressed to—
  - (i) the person or persons at the place where business is carried on by the person or persons; or

- (ii) the resident agent, where it appears from the register that there is a resident agent appointed for the purpose of this Ordinance by the person or persons, at the place shown in the register as the address of the resident agent in the Territory,

shall be deemed to be personal service on the person or persons.

(3.) In the last preceding sub-section, “the place where business is carried on” means—

- (a) the place shown in the register as the place where business is carried on; or
- (b) where more than one place is shown in the register as the place where business is carried on—
  - (i) the place shown in the register as the principal place where business is so carried on; or
  - (ii) if no place is so shown as the principal place, at the place shown which appears first in the register as a place where the business is carried on.

**Admin-  
istration.**

**32.** This Ordinance shall be administered by the Attorney-General.

**Regulations.**

**33.** The Attorney-General may make regulations, not inconsistent with this Ordinance, prescribing all matters which by this Ordinance are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to this Ordinance, and in particular for prescribing matters for or in relation to—

- (a) the fees to be paid to the Registrar under this Ordinance;
  - (b) the forms to be used under this Ordinance;
  - (c) the duties of the Registrar for the purposes of this Ordinance;
  - (d) generally the conduct and regulation of registration under this Ordinance; and
  - (e) the imposition of penalties not exceeding Twenty pounds for breaches of the regulations.
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