

**THE REGISTRATION OF BUSINESS
NAMES ACT**

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REGISTRATION OF BUSINESS NAMES

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SCHEDULES

THE REGISTRATION OF BUSINESS
NAMES ACT

[1st October, 1934.]

Cap. 338.
Acts
42 of 1969
3rd Sch.,
10 of 1975,
34 of 1979,
31 of 1995
S. 4.,
13 of 2006.

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

2.—(1) In this Act—

Interpreta-
tion.

“business” includes profession;

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

“business by way of trade” means any business of selling by wholesale or retail goods or merchandise of any class or description whatsoever at any place, whether such business is carried on at any place exclusive of any other business or in conjunction with, or in addition to, any other business or any profession or vocation:

Provided that it shall not include—

- (a) the business of buying and selling livestock;
- (b) any of the businesses or occupations mentioned in paragraphs (b) and (e) of subsection (1) of section 3 of the Licences on Trades and Business Act; and
- (c) any retail business the gross value of the premises in which the business is carried on does not amount to twenty dollars,

if in any such case the business is not carried on in conjunction with any other business by way of trade;

“trader” means every individual or firm carrying on “business by way of trade” in Jamaica;

“Christian name” includes any forename;

13/2006
S. 2(a).

“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 or a body corporate that carries on business under the name other than its corporate name, but shall not include any unincorporated company which was in existence on the seventeenth day of June eighteen hundred and sixty-four;

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

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

“initials” includes any recognized abbreviation of a Christian name;

13/2006
S. 2. (b).

“Registrar” means the Registrar of Companies;

“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 in this Act for his surname.

(3) References in this Act to a former Christian name or surname shall not, in the case of Commonwealth citizens, 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 change of name shall not include, in the case of Commonwealth citizens, 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.

3.—(1) Subject to the provisions of this Act—

- (a) every firm having a place of business in Jamaica 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 name;
- (b) every individual having a place of business in Jamaica 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 Jamaica, 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;
- (d) every trader having a place of business in Jamaica, shall be registered in the manner directed by this Act.

Firms and individuals carrying on business under business name to be registered.

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 in itself render registration necessary; and

REGISTRATION OF BUSINESS NAMES

- (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; and
- (iii) 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
- (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.

13/2006
S. 3.

(2) A person who contravenes subsection (1) commits an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding fifteen thousand dollars and in default of payment of the fine to imprisonment for a term not exceeding three months.

Nominee or
trustee
firms, etc.

4. Where a firm, individual, or corporation having place of business in Jamaica 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:

Schedule.

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.

Duties of the
firms or
persons who
are required
by this Act to
be registered.
13/2006
S. 4(a).

5.—(1) An application by a firm, trader or individual to be registered under this Act—

(a) shall be made to the Registrar in writing in the

prescribed form;

(b) may be sent by post, electronic means or delivery to the Registrar;

(c) shall contain the following particulars—

- (i) the business name;
- (ii) a description of the general nature of the business;
- (iii) the principal place of business;
- (iv) 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 any other business (if any) of—
 - (A) the individual required under this Act to be registered; or
 - (B) each of the individuals who are partners in a firm;
- (v) the corporate name and registered and principal office of a body corporate;
- (vi) if the business is commenced after October 1, 1934, the date of commencement of the business;
- (vii) in the case of an individual who is to be registered under another enactment as a prerequisite to practising his profession or conducting his trade, the proof of such registration.

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

13/2006
S. 4(b).

(3) Every trader shall, in addition to the particulars specified in subsections (1) and (2), furnish to the Registrar—

(a) his taxpayer registration number; and

(b) the place or places where each branch of the business conducts trade.

The signatories of the "Statement".

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 trader being a firm by all the individuals who are partners, and by a director or the secretary of all corporations which are partners and in the case of a firm not being a trader either by all the individuals who are partners and by a director or the secretary of some corporation which is a partner, 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 statutory declaration made by the signatory:

Provided that 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 that the Supreme 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.

Provided further that in any proceedings between the registered owner or owners of any business by way of trade and any person who having failed to effect registration of his interest in such business as required by this Act claims to be interested in the said business as a partner, owner or co-owner, the particulars registered in accordance with the provisions of this Act shall be conclusive evidence as between such parties of the ownership of the business unless such unregistered person

shall establish to the satisfaction of the Court that the omission to register was not due to any default on his part or was occasioned by any inadvertence or mistake and in each case that there was no intention on his part to conceal his interest in the said business.

7.—(1) Every registration and every renewal of registration, shall be effected, and shall remain valid, for a period of three years from the date of the certificate of registration, and shall thereafter in accordance with the provisions of this Act, be renewed from time to time for successive periods, each of three years' duration, for so long as the firm or individual is required to be registered under the provisions of this Act. Registration.

(2) Every application for registration or for a renewal of registration shall be made to the Registrar in the prescribed form (which shall include the statement and particulars required by the provisions of section 5) and shall in each case be accompanied by the prescribed fee.

(3) Every application for registration shall be made not later than fourteen days after the firm or individual commences any business in respect of which registration is required under this Act.

(4) Every application for renewal or registration shall be made at least fourteen days before the expiration of the current period of registration.

(5) Any firm or individual who, within the time provided for in subsection (4) has made application to the Registrar for a renewal of registration and whose current registration ceases to be valid while his application is being considered by the Registrar, shall nevertheless be deemed to continue to be registered for all the purposes of this Act pending the decision

of the Registrar as to the renewal of the registration.

13/2006
S. 5.

(5A) Where an application for registration is made by electronic means, the taxpayer registration number of the applicant shall be included therein.

(6) Save where the contrary is by this section provided, all the provisions of this Act relating to registration shall apply to any application for, and to any grant of, a renewal of registration.

Duties of
firms or
persons where
any change
occurs in
particulars.

8. Whenever a change is made or occurs in any of the particulars registered in respect of any firm or person, and in case of a trader a change shall include the opening of any additional or substituted place of business or branch or the closing, disposal or discontinuance of any registered place of business or branch, such firm or person shall, within fourteen days, after such change, or such longer periods as the Registrar 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 electronic means or delivery 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.

13/2006
S. 6.

Punishment
of firm or
person
making
default as to
particulars.

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 summary conviction before a Resident Magistrate to a fine not exceeding five thousand dollars for a first offence and seven thousand dollars for a second or subsequent offence and in default

13 2006
S. 7.

of payment of such fine to imprisonment with or without hard labour for a term not exceeding three months; 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.

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 either in the business name or otherwise:

Disability of defaulter to sue on his contracts.

Provided always as follows—

- (a) the default in furnishing the statement of particulars or any change in particulars is expressly raised by the other party to the action or other legal proceeding;
- (b) 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 respect 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 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;

- (c) nothing herein contained shall prejudice the rights of any other parties as against the defaulter in respect of such contract as aforesaid;
- (d) 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 counterclaim, set-off or otherwise, such rights as he may have against that party in respect of such contract.

(2) In this section the expression "Court" means the "Supreme Court" or a Judge thereof :

Provided that, without prejudice to the power of the Supreme 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 Resident Magistrate's Court, the Resident Magistrate's Court may, as respect that contract, grant such relief as aforesaid.

Punishment
for false
statements.

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 summary conviction, before a Resident Magistrate, be liable to imprisonment with or without hard labour for a term not exceeding three months, or to a fine not exceed-

ing five thousand dollars, and in default of payment of such fine to imprisonment with or without hard labour for a term not exceeding three months or to both such imprisonment and fine with imprisonment in default.

13/2006
S. 8.

12.—(1) The Registrar may require any person to furnish to him such particulars as appear necessary to the Registrar 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 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 summary conviction before a Resident Magistrate be liable to imprisonment with or without hard labour for a term not exceeding three months or to a fine not exceeding five thousand dollars and in default of payment of such fine to imprisonment with or without hard labour for a term not exceeding three months or to both such imprisonment and fine with imprisonment in default.

Power of
Registrar.

13/2006
S. 9(a)

(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 such 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 the Registrar.

(3) Where a business is not registered, or its business name is not renewed within one year after being served with at least three notices by the Registrar to do so, the Registrar may

13/2006
S. 9(b).

apply to a Judge in Chambers for an order for the closure of that business.

Duties of
Registrar.

13.—(1) On receiving any application, statement or statutory declaration made in pursuance of this Act by any individual, firm, or corporation not being a trader, the Registrar shall cause the same to be filed, and he shall send by post or deliver a certificate of registration to every 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 summary conviction before a Resident Magistrate to a fine not exceeding two thousand dollars and in default of payment of such fine to imprisonment with or without hard labour for a term not exceeding three months.

13/2006
S. 10(a).

(2) On receiving any application, statement or statutory declaration made in pursuance of this Act by any trader, the Registrar shall cause the same to be filed and shall send by post or deliver to the firm or person registering as many certificates of registration as there are separate places of business or branches mentioned in the application, statement, or statutory declaration.

34/1979
S. 3(a)(b).

(3) One of the certificates or a certified copy thereof shall be kept exhibited in a conspicuous position at every place of business or branch of the individual or the firm, and if not kept so exhibited, every partner in the firm, or the individual, as the case may be, shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding eight thousand dollars and in default of payment of such fine to imprisonment with or without hard labour for a term not exceeding six months.

13/2006
S. 10(c)(ii).

14. At the register office hereinafter referred to the Registrar shall keep an index of all the firms and persons registered under this Act.

Index of firms and persons.

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 representative, within six months after the business has ceased to be carried on, to send by post or electronic means 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 summary conviction before a Resident Magistrate to a fine not exceeding five thousand dollars and in default of payment of such fine to imprisonment with or without hard labour for a term not exceeding three months.

Duty of firm or person which ceases to carry on business.

13/2006
S. 11(a).

13/2006
S. 11(b).

(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.

15A.—(1) Subject to subsection (2), where a firm or an individual is removed from the register under section 15, the file of that firm or individual shall be closed and kept by the office of the Registrar of Companies for a period of ten years from the date of removal and may thereafter be destroyed.

Disposal of files and storage of records.

13/2006
S. 12.

(2) The Registrar shall keep or cause to be kept in relation to each file to be destroyed, a record of the particulars specified in section 5 and any other information he may consider relevant.

(3) The Registrar shall cause the record of the particulars and other information to be stored by photographic, electronic or any other permanent means.

Disclosure of
information.
13/2006
S. 12.

15B. Information obtained from time to time by the Registrar pursuant to this Act may be disclosed, upon request and under the authority of the Registrar, to the Commissioner of Inland Revenue or to an officer of the Inland Revenue Department authorized by the Commissioner in that behalf.

Registrar
may refuse
to register,
etc., in
certain cases.
13/2006
S. 13.

16.—(1) The Registrar shall not register a business name of a firm or of an individual which contains any undesirable, profane, indecent or obscene word or symbol.

(2) Subject to subsection (3), the Registrar shall not register a business name of a firm or individual if that business name is the same or similar to—

- (a) a name which is already registered; or
- (b) the name of a company registered under the Companies Act.

(3) The Registrar may register a business name, in whole or in part, which is similar to a business name or the name of a company that is already registered under this Act, if the consent in writing of the first user of the name has been obtained.

Restriction
on advertise-
ment by
unregistered
firms, etc.
13/2006
S. 14.

16A.—(1) A firm which or an individual or trader who is not registered in accordance with the provisions of this Act shall not issue any advertisement in relation to the business of that firm, individual or trader.

(2) A firm which or an individual or trader who contravenes subsection (1) commits an offence and every partner in the firm, or the trader or individual, as the case may be, is liable on summary conviction before a Resident Magistrate to a fine not exceeding twenty thousand dollars and

in default of payment of such fine to imprisonment for a term not exceeding three months.

(3) In subsection (1) "advertisement" means any form of communication put out by a firm, an individual or trader to notify the public of the business of that person or the products of the business.

17. The office of the Registrar of Companies shall be the office for the registration of firms and persons under this Act, and the Registrar of Companies shall be the Registrar for the purposes of this Act.

The Registrar and Office of Registration.
10/1975
S. 2.

18. At any time after the 1st October, 1934, any person may inspect the documents filed by the Registrar on payment of such fee as may be prescribed 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 such certificate of registration, certified copy, or extract, such fees as may be prescribed.

Inspection of documents filed by Registrar.
34/1979
S. 4(a)(b).

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 seal of the Registrar of Companies (whom it shall not be necessary to prove to be the Registrar) shall, in all legal proceedings, civil or criminal, be received in evidence.

10/1975
S. 3.

19.—(1) The Minister may make rules concerning any of the following matters—

Minister may make rules concerning certain matters.
34/1979
S. 5.

- (a) the fees to be paid to the Registrar for the purposes of this Act;
- (b) the forms to be used under this Act;
- (c) the duties to be performed by the Registrar under this Act;
- (d) the sales threshold for registration under this Act;
- (e) generally the conduct and regulation of registration under this Act, and any matters incidental thereto.

13/2006
S. 15.

(2) All fees received in pursuance of any such rules shall be paid into the Consolidated Fund.

Trade catalogues and circulars, show cards and business letters.
13/2006
S. 16(a).

20.—(1) After the 1st October, 1934 and subject to subsection (2), every individual and firm required by this Act to be registered shall, in all trade catalogues, trade circulars, show cards, 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 in any part of the Commonwealth, have mentioned in legible characters—

- (a) in case of an individual, his present Christian name or the initials thereof and present surname, any former Christian name or surname, his nationality if he is not a Commonwealth citizen, and if his nationality is not his nationality of origin, his nationality of origin; 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 if they are not Commonwealth citizens, and if the nationality is not the nationality of origin, the nationality of origin of all the partners in the firm or, in the case of a corporation being a partner, the corporate name;
- (c) in the case of any trader in addition to the foregoing every place or branch where the business by way of trade is carried on.

42/1969
3rd Sch.

42/1969
3rd Sch.

13/2006
S. 16(b).

(2) If, in the opinion of the Minister, special circumstances exist which render it expedient that an exemption should be granted, the Minister may by order, subject to such conditions as may be specified in the order, grant an exemption from any of the obligations imposed by or under subsection (1);

13/2006
S. 16(c).

(3) 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 summary conviction before a Resident Magistrate for each offence to a fine not exceeding two thousand dollars, and in default of payment of such fine to

imprisonment with or without hard labour for a term not exceeding six months:

Provided that no proceedings shall be instituted under this section except by or with the consent of the Director of Public Prosecutions.

21. 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. Offending corporation.

22. All certificates and certified copies given by the Registrar under this Act shall be exempt from stamp duty. Certificates, etc., exempt from stamp duty.

23. There shall be paid in respect of the duties performed under this Act such remuneration as the Minister with the approval of the House of Representatives shall appoint. Remuneration for duties performed.

24. The Minister may by order subject to affirmative resolution amend the monetary penalties under this Act. Minister may amend monetary penalties.
13/2006
S. 17.

REGISTRATION OF BUSINESS NAMES

(Section 4)

SCHEDULE

Description of Firm, &c.	The additional particulars.
<p>Where the firm, individual or corporation, required to be registered carries on business as nominee or trustee.</p>	<p>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 usual residence or, as the case may be, the corporate name, of every person, or corporation on whose behalf the business is carried on: Provided that 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.</p>
<p>Where the firm, individual or corporation required to be registered carries on business as general agent for any foreign firm.</p>	<p>The 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.</p>