

CHAPTER 180

BUSINESS NAMES

Ordinances AN ORDINANCE TO PROVIDE FOR THE REGISTRATION OF FIRMS AND PERSONS
Nos. 6 of 1918, CARRYING ON BUSINESS UNDER BUSINESS NAMES AND FOR PURPOSES
27 of 1919, CONNECTED THEREWITH.
8 of 1938.

[7th November. 1918.]

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

Firms and persons to be registered. **2.** Subject to the provisions of this Ordinance-

(ii) where the business is so carried on by the assignee of an insolvent's estate, or a receiver or manager or curator appointed by any court, registration shall not be necessary ; and

(a) every firm having a place of business in Sri Lanka and carrying on business under a business name which does not consist of the true full names of all partners who are individuals and the corporate names of all partners who are corporations without any addition;

(iii) a purchase or other acquisition of property by two or more persons is not of itself to be deemed carrying on a business, whether or not the owners share any profits arising from the sale thereof.

(b) every individual having a place of business in Sri Lanka and carrying on business under a business name which does not consist of his true full names without any addition; and

3. Where a firm, individual, or corporation having a place of business within Sri Lanka 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 agent for any foreign firm for the general purposes of the business of such foreign firm in Sri Lanka, the first-mentioned firm, individual, or corporation shall be registered in manner provided by this Ordinance, 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, or such other particulars as the Minister, by notification in the Gazette, may require: Registration by nominee, &c

(c) every individual or firm having a place of business in Sri Lanka who, or a member of which, has either before or after the passing of this Ordinance changed his name, except in the case of a woman in consequence of marriage,

shall be registered in the manner directed by this Ordinance:

Provided that—

Provided that where the business is so carried on by the assignee of an insolvent estate, or a receiver or manager or curator appointed by any court, registration under this section shall not be necessary.

(i) where the addition merely indicates that the business is carried on in succession to a former owner of the business, that addition shall not of itself render registration necessary ; and

4. (I) Every firm or person required under this Ordinance to be registered shall furnish, by sending by post or delivering to the Registrar at the register office in that

Manner and particulars of registration.

part of Sri Lanka in which the principal place of business of the" firm or person is situated, a statement" "in writing in the prescribed form containing the following particulars;—

- (a) the business name;
- (b) the general nature of the business;
- (c) the principal place of business;
- (d) where the registration to be effected is that of a firm, the present name (in full), any former name (in full), the nationality, and where 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 name (in full), any former name (in full), 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 and the names and nationalities of its directors;
- (g) if the business is commenced after the passing of this Ordinance, the date of the commencement of the business.

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

5. 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 the individuals who are partners, and by a director or[^]tf 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 an affidavit made by the signatory:

Provided that no such affidavit 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 appropriate District Court may on application of any person alleged or claiming to be a partner direct the rectification of the register and decide any question arising under this section,

6. (1) The particulars required to be furnished under this Ordinance 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, or within such further period as the Registrar may on application allow;

Time for registration.

Provided that if such firm or person has carried on such business before the passing of this Ordinance or commences such business within two months thereafter, the statement of particulars shall be furnLhed before the expiration of six months from the commencement of this Ordinance, or within such further period as the Registrar may in any special case allow.

(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.

7. 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 further period as the Registrar may on application allow, furnish. by sending by post or delivery to the Registrar in that part of Sri Lanka in which

Registration of changes in firm.

Statement to be signed by persons registering.

the aforesaid particulars are registered, 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.

Penalty for default in registration.

8. If any firm or person by this Ordinance 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 Ordinance, every partner in the firm or the person so in default shall be liable, on summary conviction, to a fine not exceeding one hundred rupees for every day during which the default continues, and the court before which such partner or person shall be tried 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:

Provided that—

- (a) the Registrar to whom a statement is required to be furnished as aforesaid may, if he thinks fit, instead of instituting proceedings as aforesaid, accept from any such partner or person such sum of money as such Registrar may consider proper in composition of the offence committed by him;
- (b) when such Registrar has accepted any such sum of money as aforesaid, proceedings under this section shall not be taken, or if already taken shall not be continued in respect of such offence, against the partner or person so compounding as aforesaid.

Disability of persons in default

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

Provided that—

- (a) the defaulter may apply to the court for relief against the disability imposed by this section, and the court, on being satisfied that the default was accidental, or due to inadvertence or some other sufficient cause, or that on other grounds it is Just and equitable to grant relief, may grant such relief either generally, or as respects any particular contracts, on condition of the costs of the application being paid by the defaulter, unless the court otherwise orders, and on such other conditions, if any, as the court may impose; but 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 the provisions of this Ordinance had been complied with, he would not have entered into the contract;
- (b) nothing herein contained shall prejudice the rights of any other parties as against the defaulter in respect of such contract as aforesaid;
- (c) 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 court in which any action or other legal proceeding to enforce a contract is commenced by a defaulter.

10. If any statement required to be furnished under this Ordinance contains any matter which is false in any material

Penalty for false statements

particular to the knowledge of any person signing it, that person shall, on summary conviction, be liable to imprisonment of either description for a term not exceeding three months, or to a fine not exceeding three hundred rupees, or to both such imprisonment and fine.

Duty to furnish particulars to registrar.

11. (1) The Registrar may require any person to furnish to him such particulars as appear necessary to him for the purpose of ascertaining whether or not such person or the firm of which he is partner should be registered under this Ordinance, 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 be guilty of an offence, and shall, on summary conviction, be liable to imprisonment of either description for a term not exceeding three months, or to a fine not exceeding three hundred rupees, or to both such imprisonment and fine.

(2) If from any information so furnished it appears to the Registrar that any firm or person ought to be registered under this Ordinance, or an alteration ought to be made in the registered particulars, he may require the firm or person to furnish to him the required particulars within such time as may be allowed by him; but where any default under this Ordinance has been discovered from the information acquired under this section, no proceedings under this Ordinance 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 him.

Registrar to file statement and issue certificate of registration,

12. On receiving any statement or affidavit made in pursuance of this Ordinance, 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 guilty of an offence, and liable, on summary conviction, to a fine not exceeding three hundred rupees.

13. At each of the register offices hereinafter referred to the Registrar shall keep an index of all the firms and persons registered at that office under this Ordinance, and at the principal register office a general index of all firms and persons so registered at every office throughout Sri Lanka. index to be kept.

14. (1) If any firm or individual registered under this Ordinance 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 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 summary conviction to a fine not exceeding three hundred rupees. Removal of name from register

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

(3) Where the Registrar has reasonable cause to believe that any firm or individual registered under this Ordinance 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 name of 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 name of the firm or individual from the register.

15. (1) Where the Registrar is satisfied the nationality of the person or persons by whom any business carried on under a business name which is required under this Ordinance to be registered is wholly or mainly owned or controlled is at any time such that the business name under which the business is carried on 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.

(2) Where the business name of any business which is owned or controlled wholly or mainly by persons who are not citizens of Sri Lanka is of a descriptive character, that is to say, where it is composed of or contains words intended to indicate the nature of the business, such business name shall be deemed to be misleading, unless it contains some indication which, in the opinion of the Registrar, is sufficient to intimate that the persons by whom the business is wholly or mainly owned or controlled are not citizens of Sri Lanka.

(3) Any person continuing to use a misleading business name after the registration of such name has been refused under this section, or after such name has been removed from the register, shall be guilty of an offence, and liable on summary conviction to a penalty of one hundred rupees in respect of every day on which such person shall use the said name.

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

16. (1) Any person may inspect the documents filed by the Registrar on payment of such fees as may be prescribed, not exceeding one rupee 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 or his assistant; and there shall be

paid for such certificate of registration, certified copy, or extract such fees as may be prescribed, not exceeding two rupees for the certificate of registration, and not exceeding fifty cents 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 Ordinance, if duly certified to be a true copy or extract under the hand of the Registrar or his assistant (whom it shall not be necessary to prove to be the Registrar or Assistant Registrar), shall in all legal proceedings, civil or criminal, be received in evidence.

17. (1) The Minister may make rules or orders concerning any of the following matters;— Power to make rules

- (a) the appointment of a Registrar and Assistant Registrars and for the establishment of register offices for the purposes of this Ordinance ;
- (b) the fees to be paid to the Registrar and Assistant Registrars under this Ordinance, so that they do not exceed the sum of five rupees for the registration of any one statement;
- (c) the forms to be used under this Ordinance;
- (d) the duties to be performed by the Registrar and Assistant Registrars under this Ordinance;
- (e) the performance by Assistant Registrars and other officers of acts by this Ordinance required to be done by the Registrar;
- (f) the periodical publication in the Gazette or otherwise of the registers kept under this Ordinance, or of particulars on returns of particulars therein contained;
- (g) generally the conduct and regulation of registration under this Ordinance and any matters incidental thereto.

Misleading business names

inspection of statements registered.

(2) All fees payable in pursuance of any such rules or orders shall be applied as the Minister may direct.

otherwise requires—

Offences by corporations,

18. Where a corporation is guilty of an offence under this Ordinance, 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.

" business " includes profession ;

" business name " means the name or style under which any business is carried on, whether in partnership or otherwise, and includes a *vilasam*;

" director " and " secretary " include any person occupying the position of director or secretary, by whatever name called ;

Businesses carried on by local managers.

19. In any case in which any individual, or all the partners of any firm, or all the directors and the secretary of any corporation required under this Ordinance to be registered reside outside Sri Lanka, and the business of the individual, firm, or corporation is carried on in Sri Lanka the name of the individual, firm, or corporation by a local manager, such local manager shall be personally responsible for the discharge of all obligations attaching to the individual, firm, or corporation under this Ordinance ; and in the case of any default in respect of any such obligation, such local manager shall be subject to the same responsibilities, liabilities, and penalties as the individual in whose name he carries on the business, or of a partner in the firm, or of a director or secretary of the corporation, as the case may be, and all the penal and other provisions of this Ordinance shall be construed accordingly.

" 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 Sri Lanka ;

" full name " includes any case in which a surname or other final name appears in full, and in which the preceding names either appear in full or are represented by initials ;

" individual " means a natural person, and does not include a corporation ;

" person " includes a corporation ;

" prescribed " means prescribed by rules or orders made in pursuance of this Ordinance.

Interpretation.

20. In this Ordinance, unless the context

[Section 3.]

SCHEDULE

Description of Firm. &c.

The Additional Particulars

Where the firm, individual, or corporation required 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 usual residence, or, as the case may be, the corporate name, of every person or corporation on whose behalf the business is carried on and the general nature of such business :

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.

Where the firm, individual, or corporation required to be registered carries on business as agent for the general purposes of the business of any foreign firm in Sri Lanka

The business name and address of the firm or person as agent for whom the business is carried on and the general nature of such business :

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 firms and the countries in which such firms carry on business.