
STATUTORY INSTRUMENTS

1986 No. 1033 (N.I. 7)

NORTHERN IRELAND

The Business Names (Northern Ireland) Order 1986

Laid before Parliament in draft

Made

23rd June 1986

Coming into Operation

24th September 1986

ARRANGEMENT OF ORDER

Article

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At the Court at Buckingham Palace, the 23rd day of June 1986

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974, and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1974 c. 28

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Title and commencement

1.—(1) This Order may be cited as the Business Names (Northern Ireland) Order 1986.

(2) This Order comes into operation on the expiration of three months from the day on which it is made.

Interpretation

1954 c. 33 (N.I.)

2.—(1) The Interpretation Act (Northern Ireland) 1954 applies to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) For the purposes of Articles 4 and 6(6) and (7), section 20(2) of that Act of 1954 applies with the omission of the words “the liability of whose members is limited” and, where the affairs of a body corporate are managed by its members, applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(3) In this Order—

“business” includes a profession;

“initial” includes any recognised abbreviation of a name;

“lawful business name”, in relation to a business, means a name under which the business was carried on without contravening Article 4(1) or section 2 of the Registration of Business Names Act 1916;

1916 c. 58

“partnership” includes a foreign partnership;

“surname”, in relation to a peer or person usually known by a British title different from his surname, means the title by which he is known.

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(4) Any expression used in this Order and also in the Companies (Northern Ireland) Order 1986 has the same meaning in this Order as in that.

Persons subject to this Order

3.—(1) This Order applies to any person who has a place of business in Northern Ireland and who carries on business in Northern Ireland under a name which—

(a) in the case of a partnership, does not consist of the surnames of all partners who are individuals and the corporate names of all partners who are bodies corporate without any addition other than an addition permitted by this Order;

(b) in the case of an individual, does not consist of his surname without any addition other than one so permitted;

(c) in the case of a company, being a company which is capable of being wound up under the Companies (Northern Ireland) Order 1986, does not consist of its corporate name without any addition other than one so permitted.

(2) The following are permitted additions for the purposes of paragraph (1)—

- (a) in the case of a partnership, the forenames of individual partners or the initials of those forenames or, where two or more individual partners have the same surname, the addition of “s” at the end of that surname; or
- (b) in the case of an individual, his forename or its initial; and
- (c) in any case, any addition merely indicating that the business is carried on in succession to a former owner of the business.

Prohibition of use of certain business names

4.—(1) Subject to paragraphs (2) to (4), a person to whom this Order applies shall not, without the written approval of the Department, carry on business in Northern Ireland under a name which—

- (a) would be likely to give the impression that the business is connected with Her Majesty’s Government or with any district council; or
- (b) includes any word or expression for the time being prescribed in regulations made under this Order.

(2) Paragraph (1) does not apply to the carrying on of a business by a person—

- (a) to whom the business has been transferred on or after 2nd April 1984; and
- (b) who carries on the business under the name which was its lawful business name immediately before that transfer,

during the period of 12 months beginning with the date of that transfer.

(3) Paragraph (1) does not apply to the carrying on of a business by a person who—

- (a) carried on that business immediately before 2nd April 1984; and
- (b) continues to carry it on under the name which immediately before that date was its lawful business name.

(4) A person who contravenes paragraph (1) is guilty of an offence.

Words and expressions requiring Department’s approval

5.—(1) The Department may by regulations—

- (a) prescribe words or expressions for the use of which as or as part of a business name the Department’s approval is required by Article 4(1)(b); and
- (b) in relation to any such word or expression, prescribe a government department or other body as the relevant body for the purposes of paragraph (2).

(2) Where a person to whom this Order applies proposes to carry on a business under a name which is or includes any such word or expression

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in relation to which a relevant body has been prescribed under paragraph (1)(b), that person shall—

- (a) request (in writing) the relevant body to indicate whether (and if so why) it has any objections to the proposal; and
- (b) submit to the Department a statement that such a request has been made and a copy of any response received from the relevant body.

Disclosure required of persons using business names

6.—(1) Any person to whom this Order applies shall—

- (a) subject to paragraph (3), state in legible characters on all business letters, written orders for goods or services to be supplied to the business, invoices and receipts issued in the course of the business and written demands for payment of debts arising in the course of the business—
 - (i) in the case of a partnership, the name of each partner,
 - (ii) in the case of an individual, his name,
 - (iii) in the case of a company, its corporate name, and
 - (iv) in relation to each person so named, an address in Northern Ireland at which service of any document relating in any way to the business will be effective; and
- (b) in any premises where the business is carried on and to which the customers of the business or suppliers of any goods or services to the business have access, display in a prominent position so that it may easily be read by such customers or suppliers a notice containing such names and addresses.

(2) Any person to whom this Order applies shall secure that the names and addresses required by paragraph (1)(a) to be stated on his business letters, or which would have been so required but for paragraph (3), are immediately given, by written notice to any person with whom anything is done or discussed in the course of the business and who asks for such names and addresses.

(3) Paragraph (1)(a) does not apply in relation to any document issued by a partnership of more than 20 persons which maintains at its principal place of business a list of the names of all the partners if—

- (a) none of the names of the partners appears in the document otherwise than in the text or as a signatory; and
- (b) the document states in legible characters the address of the partnership's principal place of business and that the list of the partners' names is open to inspection at that place.

(4) Where a partnership maintains a list of the partners' names for the purposes of paragraph (3), any person may inspect the list during office hours.

(5) The Department may by regulations require notices under paragraph (1)(b) or (2) to be displayed or given in a specified form.

(6) A person who without reasonable excuse contravenes paragraph (1) or (2), or any regulations made under paragraph (5), is guilty of an offence.

(7) Where an inspection required by a person in accordance with paragraph (4) is refused, any partner of the partnership concerned who without reasonable excuse refused that inspection, or permitted it to be refused, is guilty of an offence.

Civil remedies for breach of Article 6

7.—(1) Any legal proceedings brought by a person to whom this Order applies to enforce a right arising out of a contract made in the course of a business in respect of which he was, at the time the contract was made, in breach of paragraph (1) or (2) of Article 6 shall be dismissed if the defendant to the proceedings shows—

- (a) that he has a claim against the plaintiff arising out of that contract which he has been unable to pursue by reason of the plaintiff's breach of Article 6(1) or (2), or
- (b) that he has suffered some financial loss in connection with the contract by reason of the plaintiff's breach of Article 6(1) or (2),

unless the court before which the proceedings are brought is satisfied that it is just and equitable to permit the proceedings to continue.

(2) This Article is without prejudice to the right of any person to enforce such rights as he may have against another person in any proceedings brought by that person.

Regulations

8. Regulations under this Order—

- (a) may contain such transitional provisions and savings as the Department thinks appropriate; and
- (b) shall—
 - (i) in the case of regulations made under Article 5(1) be laid before the Assembly after being made and shall cease to have effect at the end of the statutory period next after the regulations have been so laid (but without prejudice to anything previously done by virtue of the regulations or to the making of new regulations) unless during that period they are approved by a resolution of the Assembly; or
 - (ii) in the case of regulations made under Article 6(5) be subject to negative resolution.

Offences

9.—(1) Offences under this Order are punishable on summary conviction.

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(2) A person guilty of an offence under this Order is liable to a fine not exceeding one-fifth of the statutory maximum.

(3) If after a person has been convicted summarily of an offence under Article 4 or 6(6) the original contravention is continued, he is liable on a second or subsequent summary conviction of the offence to a fine not exceeding one-fiftieth of the statutory maximum for each day on which the contravention is continued (instead of to the penalty which may be imposed on the first conviction of the offence).

1986 NI 6 (4) For the purposes of the following provisions of the Companies (Northern Ireland) Order 1986—

(a) Article 679 (summary proceedings under the Companies Orders), and

(b) Article 680(3) (legal professional privilege),
this Order is to be treated as included in those Orders.

G. I. de Deney,
Clerk of the Privy Council.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order consolidates certain statutory provisions relating to the names under which persons may carry on business in Northern Ireland.

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This Table has no official status

TABLE OF DERIVATIONS

The following abbreviations are used in this Table:—

“1981” = Companies (Northern Ireland) Order 1981 (NI 19),

“1982” = Companies (Northern Ireland) Order 1982 (NI 17),

Derivations are quoted even though parts only of the Articles are the source.

Article of Order	Derivation
1.	Title and commencement.
2.	1982 Arts. 2(6), 30(6), 35.
3.	1982 Art. 30(1), (3).
4.	1982 Art. 30(2), (4), (5), (7).
5.	1982 Art. 33(1), (3).
6.	1982 Art. 31.
7.	1982 Art. 32.
8.	1982 Art. 34.
9.	1981 Art. 81(2), (3); 1982 Arts. 30(7), 31(6), (7).

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