



Companies Act 2006

2006 CHAPTER 46

PART 5

A COMPANY'S NAME

CHAPTER 3

SIMILARITY TO OTHER NAMES

Similarity to other name in which person has goodwill

69 Objection to company's registered name

- (1) A person ("the applicant") may object to a company's registered name on the ground—
 - (a) that it is the same as a name associated with the applicant in which he has goodwill, or
 - (b) that it is sufficiently similar to such a name that its use in the United Kingdom would be likely to mislead by suggesting a connection between the company and the applicant.
- (2) The objection must be made by application to a company names adjudicator (see section 70).
- (3) The company concerned shall be the primary respondent to the application.
Any of its members or directors may be joined as respondents.
- (4) If the ground specified in subsection (1)(a) or (b) is established, it is for the respondents to show—
 - (a) that the name was registered before the commencement of the activities on which the applicant relies to show goodwill; or
 - (b) that the company—
 - (i) is operating under the name, or

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- (ii) is proposing to do so and has incurred substantial start-up costs in preparation, or
- (iii) was formerly operating under the name and is now dormant; or
- (c) that the name was registered in the ordinary course of a company formation business and the company is available for sale to the applicant on the standard terms of that business; or
- (d) that the name was adopted in good faith; or
- (e) that the interests of the applicant are not adversely affected to any significant extent.

If none of those is shown, the objection shall be upheld.

- (5) If the facts mentioned in subsection (4)(a), (b) or (c) are established, the objection shall nevertheless be upheld if the applicant shows that the main purpose of the respondents (or any of them) in registering the name was to obtain money (or other consideration) from the applicant or prevent him from registering the name.
- (6) If the objection is not upheld under subsection (4) or (5), it shall be dismissed.
- (7) In this section “goodwill” includes reputation of any description.

70 Company names adjudicators

- (1) The Secretary of State shall appoint persons to be company names adjudicators.
- (2) The persons appointed must have such legal or other experience as, in the Secretary of State's opinion, makes them suitable for appointment.
- (3) An adjudicator—
 - (a) holds office in accordance with the terms of his appointment,
 - (b) is eligible for re-appointment when his term of office ends,
 - (c) may resign at any time by notice in writing given to the Secretary of State, and
 - (d) may be dismissed by the Secretary of State on the ground of incapacity or misconduct.
- (4) One of the adjudicators shall be appointed Chief Adjudicator.
 He shall perform such functions as the Secretary of State may assign to him.
- (5) The other adjudicators shall undertake such duties as the Chief Adjudicator may determine.
- (6) The Secretary of State may—
 - (a) appoint staff for the adjudicators;
 - (b) pay remuneration and expenses to the adjudicators and their staff;
 - (c) defray other costs arising in relation to the performance by the adjudicators of their functions;
 - (d) compensate persons for ceasing to be adjudicators.

71 Procedural rules

- (1) The Secretary of State may make rules about proceedings before a company names adjudicator.

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- (2) The rules may, in particular, make provision—
- (a) as to how an application is to be made and the form and content of an application or other documents;
 - (b) for fees to be charged;
 - (c) about the service of documents and the consequences of failure to serve them;
 - (d) as to the form and manner in which evidence is to be given;
 - (e) for circumstances in which hearings are required and those in which they are not;
 - (f) for cases to be heard by more than one adjudicator;
 - (g) setting time limits for anything required to be done in connection with the proceedings (and allowing for such limits to be extended, even if they have expired);
 - (h) enabling the adjudicator to strike out an application, or any defence, in whole or in part—
 - (i) on the ground that it is vexatious, has no reasonable prospect of success or is otherwise misconceived, or
 - (ii) for failure to comply with the requirements of the rules;
 - (i) conferring power to order security for costs (in Scotland, caution for expenses);
 - (j) as to how far proceedings are to be held in public;
 - (k) requiring one party to bear the costs (in Scotland, expenses) of another and as to the taxing (or settling) the amount of such costs (or expenses).
- (3) The rules may confer on the Chief Adjudicator power to determine any matter that could be the subject of provision in the rules.
- (4) Rules under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

72 Decision of adjudicator to be made available to public

- (1) A company names adjudicator must, within 90 days of determining an application under section 69, make his decision and his reasons for it available to the public.
- (2) He may do so by means of a website or by such other means as appear to him to be appropriate.

73 Order requiring name to be changed

- (1) If an application under section 69 is upheld, the adjudicator shall make an order—
- (a) requiring the respondent company to change its name to one that is not an offending name, and
 - (b) requiring all the respondents—
 - (i) to take all such steps as are within their power to make, or facilitate the making, of that change, and
 - (ii) not to cause or permit any steps to be taken calculated to result in another company being registered with a name that is an offending name.

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- (2) An “offending name” means a name that, by reason of its similarity to the name associated with the applicant in which he claims goodwill, would be likely—
 - (a) to be the subject of a direction under section 67 (power of Secretary of State to direct change of name), or
 - (b) to give rise to a further application under section 69.
- (3) The order must specify a date by which the respondent company’s name is to be changed and may be enforced—
 - (a) in England and Wales or Northern Ireland, in the same way as an order of the High Court;
 - (b) in Scotland, in the same way as a decree of the Court of Session.
- (4) If the respondent company’s name is not changed in accordance with the order by the specified date, the adjudicator may determine a new name for the company.
- (5) If the adjudicator determines a new name for the respondent company he must give notice of his determination—
 - (a) to the applicant,
 - (b) to the respondents, and
 - (c) to the registrar.
- (6) For the purposes of this section a company’s name is changed when the change takes effect in accordance with section 81(1) (on the issue of the new certification of incorporation).

74 Appeal from adjudicator’s decision

- (1) An appeal lies to the court from any decision of a company names adjudicator to uphold or dismiss an application under section 69.
- (2) Notice of appeal against a decision upholding an application must be given before the date specified in the adjudicator’s order by which the respondent company’s name is to be changed.
- (3) If notice of appeal is given against a decision upholding an application, the effect of the adjudicator’s order is suspended.
- (4) If on appeal the court—
 - (a) affirms the decision of the adjudicator to uphold the application, or
 - (b) reverses the decision of the adjudicator to dismiss the application,the court may (as the case may require) specify the date by which the adjudicator’s order is to be complied with, remit the matter to the adjudicator or make any order or determination that the adjudicator might have made.
- (5) If the court determines a new name for the company it must give notice of the determination—
 - (a) to the parties to the appeal, and
 - (b) to the registrar.