



# Business Names Act 1985

## 1985 CHAPTER 7

An Act to consolidate certain enactments relating to the names under which persons may carry on business in Great Britain. [11th March 1985]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### **1 Persons subject to this Act**

- (1) This Act applies to any person who has a place of business in Great Britain and who carries on business in Great Britain 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 Act;
  - (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 Act 1985, 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 subsection (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;
  - (c) in any case, any addition merely indicating that the business is carried on in succession to a former owner of the business.

## **2 Prohibition of use of certain business names**

- (1) Subject to the following subsections, a person to whom this Act applies shall not, without the written approval of the Secretary of State, carry on business in Great Britain 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 local authority; or
  - (b) includes any word or expression for the time being specified in regulations made under this Act.
- (2) Subsection (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 26th February 1982 ; 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) Subsection (1) does not apply to the carrying on of a business by a person who—
  - (a) carried on that business immediately before 26th February 1982; 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 subsection (1) is guilty of an offence.

## **3 Words and expressions requiring Secretary of State's approval**

- (1) The Secretary of State may by regulations—
  - (a) specify words or expressions for the use of which as or as part of a business name his approval is required by section 2(1)(b); and
  - (b) in relation to any such word or expression, specify a Government department or other body as the relevant body for purposes of the following subsection.
- (2) Where a person to whom this Act applies proposes to carry on a business under a name which is or includes any such word or expression, and a Government department or other body is specified under subsection (1)(b) in relation to that word or expression, 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 Secretary of State a statement that such a request has been made and a copy of any response received from the relevant body.

## **4 Disclosure required of persons using business names**

- (1) A person to whom this Act applies shall—
  - (a) subject to subsection (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 Great Britain 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) A person to whom this Act applies shall secure that the names and addresses required by subsection (1)(a) to be stated on his business letters, or which would have been so required but for the subsection next following, 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) Subsection (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 purposes of subsection (3), any person may inspect the list during office hours.
- (5) The Secretary of State may by regulations require notices under subsection (1)(b) or (2) to be displayed or given in a specified form.
- (6) A person who without reasonable excuse contravenes subsection (1) or (2), or any regulations made under subsection (5), is guilty of an offence.
- (7) Where an inspection required by a person in accordance with subsection (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.

## **5 Civil remedies for breach of s. 4**

- (1) Any legal proceedings brought by a person to whom this Act 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 subsection (1) or (2) of section 4 shall be dismissed if the defendant (or, in Scotland, the defender) to the proceedings shows—
  - (a) that he has a claim against the plaintiff (pursuer) arising out of that contract which he has been unable to pursue by reason of the latter's breach of section 4(1) or (2), or
  - (b) that he has suffered some financial loss in connection with the contract by reason of the plaintiff's (pursuer's) breach of section 4(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 section 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.

## 6 Regulations

- (1) Regulations under this Act shall be made by statutory instrument and may contain such transitional provisions and savings as the Secretary of State thinks appropriate, and may make different provision for different cases or classes of case.
- (2) In the case of regulations made under section 3, the statutory instrument containing them shall be laid before Parliament after the regulations are made and shall cease to have effect at the end of the period of 28 days beginning with the day on which they were made (but without prejudice to anything previously done by virtue of them or to the making of new regulations) unless during that period they are approved by a resolution of each House of Parliament.

In reckoning this period of 28 days, no account is to be taken of any time during which Parliament is dissolved or prorogued, or during which both Houses are adjourned for more than 4 days.

- (3) In the case of regulations made under section 4, the statutory instrument containing them is subject to annulment in pursuance of a resolution of either House of Parliament.

## 7 Offences

- (1) Offences under this Act are punishable on summary conviction.
- (2) A person guilty of an offence under this Act 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 section 2 or 4(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).
- (4) Where an offence under section 2 or 4(6) or (7) committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.
- (5) Where the affairs of a body corporate are managed by its members, subsection (4) 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.
- (6) For purposes of the following provisions of the Companies Act 1985—
  - (a) section 731 (summary proceedings under the Companies Acts), and
  - (b) section 732(3) (legal professional privilege),this Act is to be treated as included in those Acts.

## 8 Interpretation

- (1) The following definitions apply for purposes of this Act—
  - " 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 section 2(1) of this Act or section 2 of the Registration of Business Names Act 1916;

" local authority" means any local authority within the meaning of the Local Government Act 1972 or the Local Government (Scotland) Act 1973, the Common Council of the City of London or the Council of the Isles of Stilly;

" partnership " includes a foreign partnership ;

" statutory maximum " means—

(a) in England and Wales the prescribed sum under section 32 of the Magistrates' Courts Act 1980, and

(b) in Scotland, the prescribed sum under section 289B of the Criminal Procedure (Scotland) Act 1975 ;

and " 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.

(2) Any expression used in this Act and also in the Companies Act 1985 has the same meaning in this Act as in that.

## **9 Northern Ireland**

This Act does not extend to Northern Ireland.

## **10 Commencement**

This Act comes into force on 1st July 1985.

## **11 Citation**

This Act may be cited as the Business Names Act 1985.

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*Status: This is the original version (as it was originally enacted).*

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## TABLE OF DERIVATIONS

The following abbreviations are used in this Table:—

|            |   |
|------------|---|
| " 1980 "   | = Companies Act 1980 (c. 22).   |
| " 1981 "   | = Companies Act 1981 (c. 62).   |
| " OinC-1 " | = Companies Acts (Pre-Consolidation Amendments) Order 1984 (S.I. 1984 No. 134). |

| Provision | Derivation                                  |
|-----------|---|
| 1         | 1981 s. 28(1), (3).                         |
| 2         | 1981 s. 28(2), (4), (5), (7).               |
| 3         | 1981 s. 31(1), (3); OinC-1 No. 56.          |
| 4         | 1981 s. 29(1H7).                            |
| 5         | 1981 s. 30.                                 |
| 6         | 1981 s. 32.                                 |
| 7         | 1980 s. 80(2); 1981 ss. 28(7H9), 29(6)-(8). |
| 8         | 1981 ss. 28(6), 34; Sch. 3 para. 19.        |
| 9         | (Northern Ireland).                         |
| 10        | (Commencement).                             |
| 11        | (Citation).                                 |