

Business Names

AN ACT TO AMEND AND CONSOLIDATE THE LAW RELATING TO BUSINESS NAMES.

BE it enacted by the Parliament of the Democratic: Socialist Republic of Sri Lanka as follows :

**[9th February
, 1987]**

Short title and date of operation. **1.** This Act may be cited as the Business Names Act, No. 7 of 1987, and shall come into operation on such date as the Minister may appoint by Order published in the Gazette (hereinafter referred to as the “ appointed date “).

PART I

REQUIREMENTS FOR REGISTRATION OF BUSINESS NAMES

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

(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 the partners who are individuals and the corporate-names of all the partners who are corporations without any addition;

(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 name without any addition;

(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 commencement of this Act changed his name except in the case of a woman in consequence of marriage ; and

(d) every corporation having a place of business in Sri Lanka and carrying on business under a business name which does not consist of its true corporate name without any addition,

shall be registered in the manner directed by this Act:

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 of itself render registration necessary; and

(ii) 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 shall not be necessary; and

(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.

Firm or person in 3.

Sri Lanka acting
on behalf of
foreign principal
or foreign group.

(1) Any firm or person in Sri Lanka acting on behalf of a foreign principal whether under a business name or otherwise for the general purpose of the business of such foreign principal and having obtained a direction of exemption under the provisions of section 3 of the Companies (Special Provisions) Law, No.19 of 1974, shall be registered In the manner provided by this Act, and shall in addition to the particulars of such firm or person required under section 5, furnish the following particulars in respect of each such foreign principal:-

(a) the business name and address and the nature of the business of the foreign principal :-

(b) the date when the firm or person in Sri Lanka commenced to act, for such foreign principal.

(2) Where the business of a firm or person referred to in subsection (1) consists wholly or mainly acting on behalf of a foreign principal or on behalf of a foreign group, such firm or person shall, in addition to furnishing the particulars required by subsection (1), furnish the following particulars regarding that foreign principal or the member of that foreign group for which the said firm or person generally transacts business: –

(a) the situation of the principal office of the business wherever situated;

(b) the date of the commencement of the

business;

(c) the place of business, if any, in Sri Lanka;

(d) in the case of any individual who is a proprietor or partner-

(i) the present name in full;

(ii) the nationality; and

(iii) the usual residence;

(e) in the case of any corporation which is a proprietor or partner-

(i) the corporate name ;

(ii) the law under which such corporation was incorporated ;
and

(iii) the registered principal office of such corporation.

(3) The Registrar may notify any firm or person referred to in this section carrying on business in Sri Lanka to furnish within the time set out in such notification such additional particulars concerning a foreign principal or a member of a foreign group as may be specified in such notification.

(4) In this section-

” foreign principal” means a firm or person carrying on business outside Sri Lanka; and

” foreign group” means a group of foreign principals consisting of a foreign corporation and any one or more of its subsidiaries, or consisting of any two or more subsidiaries of a foreign corporation.

Particulars to be
furnished by an
individual &c.,
who is a non-
citizen. **4.**

(1) Any individual who is not a citizen of Sri Lanka or any firm where one of the partners is a non citizen or any body corporate incorporated outside Sri Lanka, who or which seeks to carry

on business in Sri Lanka, under a business name shall having obtained a direction of exemption under section 3 of the Companies (Special Provisions) Law, No. 19 of 1974, furnish particulars required to be furnished under section 5,

(2) The business of the individual, firm or body corporate referred to in subsection (1) shall be carried on in Sri Lanka in the name of such individual, firm or body corporate, by a person who is a citizen of and resident in Sri Lanka, who shall be deemed to be the local manager and such local manager shall be personally responsible for the discharge of all obligations attaching to the individual, firm or body corporate under this Act.

Particulars of 5.
registration.

(1) Every firm or person required under this Act to be registered shall furnish by sending by post or delivering to the Registrar at his office in that 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 and. any transliteration thereof under which the business is carried on ;

(b) the nature of the business ;

(c) the principal place of business in Sri Lanka;

(d) the address of any branch office, stores, warehouse or godown maintained for the purpose of the business ;

(e) the date of commencement of the business;

(f) where the business is carried on by an individual or by the partners of a firm (where none of the partners is a corporation) the following particulars of such individual

or of every such partner-

- (i) the present name in full,
- (ii) any former name in full,
- (iii) the date of birth,
- (iv) the present nationality; and In the case of a non-national who has not declared his nationality; the country of his birth,
- (v) the usual residence,
- (vi) the name of every other business, of which he is a proprietor, or partner and the business name and registration number of any such business,
- (vii) the name of every corporation of which he is a director,
- (viii) the name of every corporation in which he holds more than twenty-five per centum of the paid up share capital, whether in his own name or that of his nominee or spouse or minor children,
- (ix) the nature of any other business occupation;

(g) where the business is carried on by a corporation or by a firm where all the partners are corporations the following particulars of each such corporation :-

- (i) the corporate name
- (ii) the law under which incorporated,
- (iii) the registration number of incorporation If any,
- (iv) the address of the registered or principal office,
- (v) the name and nationality of each

of its directors.

(vi) such other particulars as the Minister may by notification published in the Gazette require ;

(h)

(i) where the business is carried on by a firm where one or more of the partners are individuals, particulars referred to in paragraph (f) ; and

(ii) where the business is carried on by a firm where one or more of the partners are corporations, the particulars referred to in paragraph (g) ;

(i) in the case of a firm whether a partnership agreement has been reduced to writing;

(j) any other business name under which the business is carried on;

(k) such other particulars relating to membership of a trade chamber association or trade commission, of the firm or person to be registered ;

(2) Where a business is carried on under two or more business names not being a transliteration of the business name furnished under paragraph (a) of subsection (1) a separate statement in the manner provided in subsection (1) shall be furnished in respect of each such business name.

Statement furnished
after commencement of
Act notwithstanding
earlier registration.

6 .

(1) Every firm or person carrying on business under a business name on or before the appointed date whether or not such firm or person has been registered prior to the appointed date shall furnish the statement of particulars required under section 4 in duplicate.

(2) The statement of particulars under

subsection (1) shall be furnished within six months of the appointed date or within such further period as the Registrar may on application allow and shall be signed-

(a) In the case of an individual by him;

(b) in the case of a corporation by the director or the

(c) in the case of a firm by all the partners,.

(3) Where any firm or person registered prior to the appointed date fails to furnish the statement of particulars under subsection (1) within the period of time or such further period of time as is specified under sub- section (2) the registration of such firm or person shall be deemed to be in default and the certificate of registration of such firm or person shall be deemed to be cancelled from the date of such default and the Registrar shall record such fact in his register.

(4) Where any firm or person continues to carry on business after cancellation of registration, such firm or person shall be guilty of an offence and shall be liable on conviction for a fine not exceeding five thousand rupees and where the offence is continued after conviction such firm or person shall be liable to a fine not exceeding one hundred rupees for every day during which the offence continues after conviction.

Commencement of new business or change in business name. 7.

(1) Every firm or person commencing to carry on business under a business name on or after the appointed date or for any other reason becoming liable for registration after such date shall furnish the statement of particulars required under section 5 in duplicate.

(2) The statement of particulars required to be furnished under subsection (1) shall be in such form as may be prescribed and shall be furnished within thirty days of such commencement or the date on which such liability arose, or within such further period as the Registrar may on application allow.

(3) The statement of particulars under subsection (1) shall be signed-

(a) in the case of an Individual by him ;

(b) in the case of a corporation by a director or secretary thereof ; and

(c) In the case of a firm by all the partners.

Prohibited **8.**
business
name.

(1) No firm, individual or corporation shall carry on business in Sri Lanka under a business name which-

(a) contains the words-

(i) " President ", " Presidential ", " National " " State " or " Sri Lanka " or which in the opinion of the Registrar suggests, or is likely to suggest the patronage of the President or any connection with the Government or any department thereof ;

(ii) " Municipal " or " incorporated " or " company " or its abbreviation, or which in the opinion of the Registrar suggests or is likely to suggest connection with any municipality or other local authority or with any society or body incorporated by Act of Parliament or otherwise ; or

(iii) " corporation " or " society " ;

(b) if by reason of its nature of the use to which It would be put is contrary to morality

or public order and is likely to offend the religious or racial susceptibility of any community or is likely to mislead trade or business circles or the public as to the nature of the trade or business identified by that name;

(c) is a translation of such business name.

(2) The provisions of paragraphs (a) and (b) of subsection (1) shall not apply to a firm, individual or corporation registered prior to the appointed date,

9.

(1) Whenever a change is made or occurs in any of in the particulars registered in respect of any firm or person such firm or person shall furnish in duplicate a fresh statement of the particulars required under section 5 specifying every particular in which a change has been made together with the nature and date of such change, along with the last issued certificate of registration or a certified copy thereof.

(2) A statement of particulars under subsection (1) shall be in such form as may be prescribed and shall be furnished within thirty days of such change and shall be signed-

(a) in the case of an individual by him ;

(b) in the case of a corporation by the director or the secretary thereof ; and

(c) in the case of a firm by all the partners or by any one partner in which event such statement shall be verified by an affidavit sworn to by that partner,

(3) Where any change in the particulars arises from the entry into a firm of a new partner the statement under subsection (1) shall be signed by each partner including such new partner,

(4) Where any change arises in the particulars furnished under paragraph (f) or paragraph, (g) of subsection (1) of section 5 in respect of any partner of a firm such statement shall be signed by that partner.

(5) Where any change in the particulars arises by a person ceasing to be a partner of a firm a statement under subsection (1) shall be signed either-

(a) by each of the continuing partners and the person who ceases to be a partner; or

(b) by each continuing partner, provided the statement be verified by each of the signatories by affidavit as prescribed; or

(c) by the person who ceases to be a partner, provided the statement is verified by him by affidavit as prescribed.

(6) Any affidavit which verifies any statement furnished under this section and which states that any person other than the declarant is a partner or has ceased to be a partner or which omits to state that any person is a partner or has ceased to be a partner shall not be evidence for or against such other person in respect of his liability or non liability as a partner.

(7) The change in particulars contemplated in this section shall also include the simultaneous cessation of all the partners and the admission of new partners so as to continue the business without interruption.

(8) Where the Registrar is of opinion that any particular in any statement furnished under this section requiring verification by affidavit needs further investigation before registration, he may accept the statement subject to investigation and for such purpose may call for additional proof of any material particulars from any other person and hold such inquiry as he may deem necessary.

(9) The Registrar may after due inquiry and having made the necessary rectification of such statement where necessary to the particulars in the said statement register such statement as rectified.

(10) Where the Registrar refuses to register any statement subsequent to an inquiry held under subsection (9) the person aggrieved by such refusal may appeal therefrom to the appropriate District Court within thirty days from the date of the communication of such refusal, and such court shall after due inquiry make such order as it deems fit.

Penalty for
default in
registration.

10. 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 conviction after summary trial before a Magistrate to a fine not exceeding one thousand rupees and to a continuing fine of one hundred rupees for every day during which the default continues after conviction and the court before which such partner or person shall be tried may, where necessary, order a statement of the required particulars to be furnished to the Registrar within such time as may be specified in the order.

Disability of **11.**
persons in
default.

(1) Where any firm or person required by this Act 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 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 Act 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.

Penalty for false statements.

12. 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 conviction after summary trial before a Magistrate be liable to imprisonment of either description for a term not exceeding six months, or to a fine not exceeding two thousand rupees or to both such imprisonment and fine.

PART II

APPOINTMENTS, IMPLEMENTATION AND ADMINISTRATION

Appointment of Registrar and his duties.

13.

(1) There may be appointed a person to be or to act as Registrar of Business Names of Sri Lanka.

(2) In default of such appointment the Registrar of Companies or any person for the time being acting as such shall be the Registrar of Business Names who shall discharge the duties of the Registrar under this Act.

(3) The Registrar of Business Names shall, subject to the direction of the Minister, be vested with the general control and superintendence of the registration of business names under the provisions of this Act throughout Sri Lanka.

Additional Registrars and Assistant registrars.

14.

(1) There may from time to time be appointed for

each administrative district-

(a) a fit and proper person to be or to act as Additional Registrar of Business Names (hereinafter referred to as Additional Registrar), and

(b) fit and proper persons to be or to act as Assistant Registrars of Business Names (hereinafter referred to as Assistant Registrars), as the Minister may deem necessary.

(2) In default of the appointment of the Additional Registrars in respect of each administrative district save and except the administrative district of Colombo, the Government Agent of each such administrative district shall be the Additional Registrar of Business Names for his district and shall be designated accordingly.

(3) In default of the appointment of Assistant Registrars for the administrative district of Colombo the Assistant Registrars of Companies or Acting Assistant Registrars of Companies shall be the Assistant Registrars for the administrative district of Colombo.

(4) In default of the appointment of Assistant Registrars in respect of each administrative district save and except the administrative district of Colombo the office assistants or the extra office assistants to each of the several administrative districts aforesaid shall be the Assistant Registrars for each of the administrative districts of Sri Lanka and shall be designated accordingly.

(5) Any Additional Registrar or Assistant Registrar may exercise, perform or discharge any power, duty or function under the authority or control of the Registrar imposed and or conferred upon the Registrar by or under this Act.

Establishment **15.**
of Registry.

(1) The Minister may, by notification published in the Gazette, establish-

(a) an office called the Registry of Business Names, in this Act referred to as the " Registry " which shall be the principal register office ; and

(b) district register offices in respect of each of the other administrative districts.

(2) In default of the establishment of the Registry under subsection (1) the department of the Registrar of Companies shall be the register office for the administrative district of Colombo and shall also be the principal register office.

(3) In default of the establishment of district register offices the offices of the Government Agents to the several administrative districts of Sri Lanka (save and except the office of the Government Agent of the administrative district of Colombo) shall be the respective register offices for such administrative districts.

Duty to
furnish
particulars to
Registrar.

16.

(1) The Registrar may require any person to furnish, to him within such time as he may specify such particulars as appear necessary to him for the purpose of ascertaining whether or not such person or the firm of which he is a 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.

(2) Any person who fails to supply the particulars required under subsection (1) within the period specified by the Registrar or within such further period as he may allow or who furnishes particulars which are false shall be guilty of an offence and shall, on conviction after summary trial, before a Magistrate be liable to imprisonment of either description for a term not exceeding six months or to a fine not exceeding two thousand rupees or to both such imprisonment and fine.

(3) In any proceedings under subsection (2) the court may, where it thinks fit, order that person to

furnish or have furnished to the Registrar such particulars or such corrected particulars within such time as may be specified in that order.

(4) 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, he may require the firm or person to furnish him the required particulars within such time as allowed to him, but where any default under this Act has been discovered from the information acquired under this Act has been discovered from the information acquired under this section, no proceeding under this Act shall be taken against any person in respect of such default prior to the expiration of time within which the firm or person is required by the Registrar under this section to furnish particulars to him.

Power **17.**
of
search.

(1) Where for the purpose of ascertaining any information required by him in order to fulfil the duties under this Act, the Registrar may, if he is of opinion that such information is not likely to be furnished to him or apprehends suppression of such information, authorize in writing an officer appointed for the purpose to make search and obtain such information as he may require, and such authorization shall be recorded in the register, kept and maintained for such purpose.

(2) Any officer so specially authorized by the Registrar under subsection (1) for the purpose of ascertaining any information under this Act may, if necessary, be accompanied by a peace officer and may do all or any of the following acts :

(a) enter and search any building or place where he has reason to believe any books, registers or other documents belonging to any person or firm may be found, and to examine or cause to be examined any such books, registers or documents ;

(b) make a note or an inventory or take an

extract from any book, register or other document that may be found in the course of any search of any building or place ;

(c) question any person whom he finds in that building or place with regard to any matter relevant to or under this Act and the provisions of the Code of Criminal Procedure Act. No. 15 of 1979, relating to searches shall apply so far as may be to searches under this section ; and

(d) remove any such books, registers or other documents that may be found in that course of any search of any building or place and issue a receipt therefor to the person from whose custody the same was removed and without delay enter the particulars of such books, registers, or other documents in the register referred to in subsection (1).

(3) Any firm or person, corporation, agent, director, officer or employee of such firm or person who fails to furnish any information or to produce any book, record or other document when required so to do by the Registrar or any officer specially authorized in writing by the Registrar, or obstructs or fails to permit to make any examination under the preceding provisions shall be guilty of an offence, unless he proves that the offence was committed without his knowledge, or that he exercised all due diligence to avoid the commission of such offence. Where the person convicted of such offence under this Act is a body corporate, every person who at the time of the commission of the offence was a director or an officer of the body corporate shall be deemed to be guilty of that offence and shall, on conviction after summary trial before a Magistrate, be liable to imprisonment of either description for a term not exceeding twelve months or to a fine not exceeding two thousand rupees or to both such imprisonment and fine.

Registrar to file statement and issue certificate of registration name board and number to be exhibited.

18.

(1) On receiving any statement made in pursuance of this Act from any firm or person the registrar shall, subject to the provisions of this Act, cause the same to be registered and filed of record, and he shall send by post or

deliver to that firm or person a certificate of registration :

Provided, however, that a valid certificate of registration of a firm or person issued prior to the date of commencement of this Act, shall for all purposes, be valid subject to section 6 until an is an issue of a valid certificate under this section.

(2) The firm or person to whom the certificate of registration is issued under subsection (1) shall, within fourteen days from the date of receipt thereof, keep exhibited in a conspicuous position at the principal place of business and at every other place of business of that firm or person such certificate or a certified copy thereof.

(3) Every firm or person registered under this Act shall-

- (i) cause Its registered business name and registration certificate number to be painted or affixed on the outside of every place in which the business is carried on, in a conspicuous position in letters easily legible;

- (ii) disclose in its letter-heads-

- (a) in the case of a business carried on by an individual or by the partners of a firm (where none of the partners is a corporation) the business name and the name of the individual or the names of all partners carrying on the business, the registration certificate number of the business and the principal place of such business;

- (b) in the case of a business carried on by the partners of a firm (where one or more of the partners is a corporation) the registered business name the

name or names of partners who are individuals, the corporate name and particulars of incorporation of all partners which are corporations, the registration certificate number of the business and the principal place of such business ;

(c) in the case of a business carried on by a corporation, the corporate name and the particulars of incorporation of such corporation, the registration certificate number of the business and the principal place of such business ;

(iii) disclose in its receipts and invoices-

(a) the name of the business, and

(b) the registration certificate number of the business.

(4) Every firm or person registered under provisions of section 6 of this Act shall, comply with the provisions of subsections (2) and (3) of this section.

(5) If a default is made in complying with the provisions of subsection (2) or subsection (3), every person, and if such person is a partner of a firm every partner of that firm, and in the case of a corporation every director and secretary thereof shall be guilty of an offence and shall be liable on conviction after summary trial before a Magistrate to a fine not exceeding two thousand rupees.

(6) The registration of any statement or the certificate of such registration shall not be construed as evidence prima facie or otherwise of the truth of the particulars in such statement except against the person

furnishing such particulars or statement.

Index to be kept. **19.** At each of the register offices the Registrar shall keep an index of all the business names of firms and persons registered at that office under this Act together with the serial number of the registration, and at the principal office a general index of all the business names of firms and persons so registered at every office throughout Sri Lanka.

Notice of cessation and removal of name from register. **20.**

(1) If any firm or person registered under this Act has ceased to carry on business under a business name, it shall be the duty of the persons who were partners in the firm at the time it ceased to carry on business or of the individual or if he is dead his personal representative or in the case of a corporation every director or the secretary thereof, within three months of such cessation, to send by post or deliver to the Registrar a statement in the prescribed form that the firm or person has ceased to carry on business under that business name.

(2) If any person whose duty it is to give the statement required by subsection (1) fails to do so within such time as aforesaid he shall be guilty of an offence and shall be liable on conviction after summary trial before a Magistrate to a fine not exceeding one thousand rupees.

(3) On receipt of the statement referred to in subsection (1), the Registrar shall file such statement and shall make an endorsement in the register removing the registration of such firm or person.

(4) Where the Registrar has reasonable cause to believe that any firm or person registered under this Act is not carrying on business, he shall cause-

(a) a notice to be published in the Gazette stating that unless objection is received by him within one month of such publication, the name of that firm or person will be removed from the register ; and

(b) a copy of the aforesaid notice to be forthwith sent by registered post to the

firm or person specified in the notice and to each of the partners at their residential address.

(5) If within the period of one month of the said notice the Registrar receives no objection to the aforesaid notice he may remove the name of such firm or person from the register.

Power to
refuse
registration. **21.**

(1) The Registrar may refuse to register any firm or person carrying on business under a business name if he is satisfied that the use of the business name is contrary to any law for the time being in force or is a business name the use of which is prohibited under section 8.

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

Power to
terminate
registration. **22.**

(1) Subject to the provision of subsection (3), the Registrar may terminate the registration of any firm or person carrying on business under a business name on any ground in which the refusal to register is authorized by subsection (1) of section 21.

(2) No termination of registration under subsection (1) shall be made unless the Registrar has by registered post sent notice to the firm or person carrying on business under that business name, informing such firm or person that measures acceptable to the Registrar to change the business name be taken within the period specified in such notice.

(3) Where the firm or person has failed to take such measures acceptable to the Registrar to change the business name within the period specified in the notice under subsection (2) the Registrar shall upon the expiry of that period terminate the registration of such firm or person and remove the name of such firm or person from the Register.

Penalty for use of business name which has been refused or terminated.

23. Any firm or person continuing to use a business name the registration of which has been refused or terminated under this Act shall be guilty of an offence and shall be liable on conviction after summary trial before a Magistrate to a fine not exceeding two thousand rupees and to a continuing fine of hundred rupees for every day in respect of which the offence is continued after conviction.

Notice of refusal or termination of registration.

24. Where the Registrar refuses to register a business name or removes or terminates the registration of any firm or person under sections 20, 21, or 22 a notice of such refusal, removal or termination shall be sent by registered post to such firm or person.

Appeals.

25. Any person aggrieved by any decision or order made by the Registrar under any provision of this Act may appeal therefrom to the appropriate District Court within thirty days from the date of the communication in writing of such decision or order.

Exemption from stamp duty.

26. In all proceedings before any court-

(a) the Registrar shall not be required to furnish any stamp or be charged with any stamp duty ;

(b) the costs of the Registrar shall be in the discretion of the Court but the Registrar shall not be ordered to pay the costs of any other party.

Inspection of registered statements and issue of certified copies.

27.

(1) Any person may inspect the documents filed by the Registrar on payment of such fees as may be prescribed.

(2) Any person may require a certificate of the registration of any firm or person, or a copy of or a photostat copy of or extract from any statement made in any prescribed form to be certified by the Registrar, and there shall be paid for such certificate, certified copy or extract, such fees as may be prescribed.

(3) A certificate of the registration, or a copy of or photostat copy or extract from any statement furnished or registered under this Act, if duly certified to be a true copy under the hand of the Registrar (whom it shall not be necessary to

prove to be the Registrar), shall in all legal proceedings, civil or criminal, be received in evidence,

Power to make copies of **28.**
damaged volumes of any
register, file or document
and to prepare and insert
reconstituted folios.

(1) Where the Registrar is satisfied that any volume of any register kept under this Act or any file or document has been so damaged as to render that volume, file or document incapable of being mended, he may cause a copy thereof to be made and authenticated in such manner as he may direct.

(2) Any copy made and authenticated under subsection (1) shall replace the volume or folio or documents of which it is a copy and shall for all purposes be deemed to have the same legal force and effect as the volume or file or document which such copy replaces.

(3) The Registrar shall cause every damaged volume, file or document of which a copy has been made under subsection (1) to be preserved as long as it is reasonably practicable for any reference which may be necessary.

(4) Where the Registrar after due investigations is satisfied that any folio of any volume of any register or file has been lost and cannot be recovered or that such folio has been permanently mutilated or so obliterated or damaged as to render the entries or any material part of the entries therein illegible he may cause a reconstructed folio to be prepared.

(5) No folio shall be reconstructed as provided under subsection (4) except in accordance with regulations providing-

(a) for evidence to be admitted and used by the Registrar in ascertaining the particulars originally contained in the lost or

mutilated or damaged folio ;

(b) for the giving of notice by the Registrar of the preparation of the reconstructed folio ;

(c) for the lodging of objections by any person affected by any of the particulars contained in the reconstructed folio ; and

(d) for the inquiry into any such objections by the Registrar.

(6) Where any folio has been reconstructed by the Registrar in accordance with the preceding provisions of this section, the Registrar shall authenticate the reconstructed folio in the prescribed manner and shall thereafter cause the reconstructed folio to be inserted in the appropriate volume of the register in the place formerly occupied by the lost folio or in place of the mutilated or damaged folio, or in. a copy of a volume, prepared under the provisions of this section as the case may be and the reconstructed, folio when so authenticated and inserted, shall for all purposes be deemed to have the same legal force and effect as the folio which the reconstructed folio replaces.

(7) The Registrar may, after such inquiry as he may deem necessary, correct any clerical error or omission which may be discovered in any entry in any register or in any certificate, file or document kept or issued under the provisions of this Act and for that purpose may recall any such certificate and amend the same or issue a fresh certificate in its place.

Service of notice. **29.** Any notice, written communication, certificate or other document required to be given or served under the provisions of this Act, shall be deemed to have been duly given or served if posted by the Registrar to the registered principal place of business of the person to whom, it is addressed.

Destruction
&c. of old
records .

30. The Registrar may, if in his opinion it is no longer necessary or desirable to retain them, destroy or give to the Department of National Archives, after giving one month's notice in the Gazette of his intention to do so, any document which has been lodged, filed or registered for not less than seven years.

Certified
copies, to be
evidence.

31. Printed, photostat, mechanically, electronically or otherwise produced, typed or written copies or extracts, duly certified by the Registrar (whom it shall not be necessary to prove to be the Registrar) or from any documents, registers or other books filed or kept under this Act in the office of the Registrar of Business Names shall be admitted in evidence in all Courts in Sri Lanka and in all proceedings without further proof or production of the originals,

Power of
Registrar to
consider
application as
having lapsed.

32.

(1) Where a firm or person has furnished a statement of particulars under sections 5, 6 or 9 of this Act, and fails to furnish the Registrar of such particulars as are required of him in writing or fails to make any amendments to the original application as required in writing by the Registrar for the issue of a certificate of registration the Registrar may issue a notice in writing in the prescribed form requiring such firm or person to furnish such particulars as are required or to make any amendments to the application as may be required by the Registrar and if such firm or person fails to comply with such notice within one month thereof or within such extended time as given by the Registrar, the Registrar may consider such an application as having lapsed and may take no further action regarding the issue of a certificate thereon :

Provided, however, that the Registrar may take further action on such an application which has lapsed if such firm or person pays a further fee as may be prescribed and furnishes such particulars as were required by him on the original application or makes the amendments that were required by the Registrar to the original application.

(2) Where any firm or person continues to use a business name the registration of which has lapsed under this section, and has not taken steps to comply with the proviso to subsection (1), such firm or person shall be guilty of an offence and shall be liable on conviction after summary trial before a Magistrate to a fine not exceeding two thousand rupees and to a continuing fine of one hundred rupees for every day in respect of which the offence has continued after conviction.

Power to make **33.**
regulations.

(1) the Minister may make regulations concerning any of the following matters:-

(a) the fees to be paid to the Registrar under 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 performance of acts by this Act required to be done by the Registrar ;

(e) the reconstruction of folios ; and

(f) all matters that may be prescribed and generally the conduct and regulation of registration under this Act and any matters incidental thereto.

(2) Every regulation made by the Minister shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified in the regulation.

(3) Every regulation made by the Minister shall, as soon as convenient after its publication in the Gazette, be brought before Parliament for approval.

(4) Any regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval but without prejudice to anything previously done thereunder.

(5) The date on which any regulation shall be

deemed to be rescinded shall be published in the Gazette.

Penalty for false
statements or falsely
representing
business names as
registered. **34.**

(1) Any person who-

(a) knowingly represents a business name as registered when it is not so registered or uses an incorrect or false number with the business name;

(b) produces or tenders or causes to be produced or tendered any statement or affidavit under this Act, knowing it to be false,

shall be guilty of an offence under this Act and be liable on conviction after summary trial before a Magistrate to a fine not exceeding two thousand rupees or to an imprisonment for a term not exceeding six months.

(2) A person shall be deemed for the purpose of this section to represent that a business name is registered, if he uses in connection with the business name the word "registered" or any abbreviation or letter or word or words implying that registration has been obtained, or uses in connection with the business name an incorrect or false registration number to mislead the public into the belief that such business name has been duly registered under this Act.

Offences by
Corporations. **35.** Where an offence under this Act has been committed by a body corporate, every person who at the time of commission of the offence was a director, general manager, secretary or other similar officer of that body or was obliged to act in any such capacity shall be deemed to be guilty of such offence, unless he proves that the offence was committed without his consent or connivance and that he exercised all due diligence to prevent the commission of the offence having regard to the nature of his functions in that capacity and of all the circumstances.

Compounding of
certain offences. **36.**

(1) Where any firm or person has made default in complying with any provision of this Act requiring such firm or person to file with or deliver or send to the Registrar any statement of particulars or of any change in particulars or such particulars as are required, by the Registrar under this Act, and has by reason of such default committed an offence against this Act, the Registrar may if he thinks fit, instead of instituting proceedings in Court or where such proceedings have already been instituted, instead of continuing such proceedings against such firm or person in respect of such offence, accept from, such firm or person such sum of money as the Registrar may think proper in composition of the offence ; and any sum so accepted shall be credited to the Consolidated Fund and the record of every such sum of money accepted in composition of that offence shall be entered in a register kept and maintained by the Registrar,

(2) Where the Registrar has accepted any sum of money under the provisions of subsection (1) in composition of any offence, proceedings shall not be taken against such firm or person in respect of that offence, or if already taken, shall not be continued.

(3) Where any sum of money payable in composition of an offence under the provisions of subsection (1) remains unpaid for a period of one month from the date fixed for its payment by the Registrar or such extended time as the Registrar may allow, the Registrar may report the said default in such payment to a Magistrate and the amount thereof shall be recovered from such firm or person in respect of such default in the same manner as if it were a fine imposed by Court, and such Court shall direct that the amount in default be credited to the Consolidated Fund.

Business 37.
carried on by
local
manager.

(1) 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 Act

to be registered, reside outside Sri Lanka, the business of the individual, firm or corporation shall be carried on in Sri Lanka in the name of the individual, firm or corporation, by a local manager and such local manager, shall be personally responsible for the discharge of all obligations attaching to the individual, firm or corporation under this Act.

(2) Where it has been brought to the notice of the Registrar that no local manager has been appointed in terms of subsection (1) for any business, the Registrar may give notice to such individual or the partners of such firm or all the directors and secretaries of such corporation, to comply with the requirements of that subsection.

In default of compliance with such notice within a period of three months from such notice the Registrar shall by notice published in the Gazette, strike off the registration of such individual, firm or corporation.

(3) In case of default in respect of any obligation by the local manager under subsection (1), he shall be subject to the same responsibilities, liabilities and penalties as the individual in whose name he carried on the business, or if 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 Act shall be construed accordingly,

(4) For the purpose of this section " local manager " Includes any person appointed in writing or acting under a power of attorney or conducting the business and signing cheques or acting as a de facto manager, for or on behalf of any firm or person resident abroad and having a place of business in Sri. Lanka.

Exercise of
discretionary
power by
Registrar.

38. Where any discretionary power is given to the Registrar by the Act or regulations made thereunder he shall not exercise that power adversely to the party affected thereby without giving such party an opportunity of being heard.

Correction of
clerical errors.

39. The Registrar may after such inquiry as he may deem necessary, correct any clerical error which may from time to time be discovered in any registration certificate, registration

entry in the register kept or maintained by him under this Act.

No suit to lie against Registrar. **40.** No suit or other legal proceedings shall lie against the Registrar for any act done or purported to be done in good faith for the purpose of this Act.

Registrar may take directions of law officers. **41.** The Registrar may, in any case of doubt or difficulty arising in the administration of any of the provisions of this Act, apply to the Attorney-General or Solicitor General for directions in the matter.

Registrars to be public servants. **42.** The Registrar, Additional Registrars, Assistant Registrars or any person acting in any such post for the time being shall as long as he holds office be deemed to be a public servant within the meaning of the Penal Code.

Maintenance of registers &c. **43.** All registers required to be kept and maintained under the provisions of this Act shall be kept and maintained under the supervision of the Registrar at the respective register offices in each administrative district.

PART III

CONSTITUTION AND POWERS OF ADVISORY COMMISSION

Appointment **44.**
&c. of Advisory
Commission.

(1) For the purposes of advising the Minister on any matter referred to him in relation to the law relating to Business Names, the Minister may-

(a) constitute a Commission (hereinafter referred to as the "Advisory Commission") consisting of not less than five and not more than ten persons with suitable qualifications ; and

(b) appoint one of such persons to be the Chairman of the said Advisory Commission.

(2) It shall be the duty of the Advisory Commission-

(a) to inquire into and report to the Minister on any matter or question relating to Business Names and the law applicable to business names as may be referred to it by the Minister from time to time ;

(b) to review the law relating to and applicable to business names from time to time and to make proposals to the Minister for the alteration, modification or addition to such law ;

(c) in making the recommendations referred to in paragraph (a) or (b) to consult and take into consideration where the Advisory Commission deems necessary the views of trade chambers, professional organisations, monetary institutions, Governmental authorities and the general public.

(3) The Registrar shall be an ex officio member of the Advisory Commission and shall also function as its Convener and Secretary.

(4) The Minister may give special or general

directions in writing as to the performance of the duties and the exercise of the powers of the Advisory Commission, and the Advisory Commission shall give effect to such directions.

(5)

(a) Subject to the provisions of subsection (6), the term of office of the members of the Advisory Commission shall be three years :

Provided that a member appointed in place of a member who resigns or is removed or otherwise vacates office, shall hold office for the unexpired part of term of office of the member whom he succeeds.

(b) Any member of, the Advisory Commission who vacates office by effluxion of time shall be eligible for reappointment.

(6)

(a) A member of the Advisory Commission may resign from office by letter addressed to the Minister.

(b) All members of the Advisory Commission shall hold office during good behaviour and may be removed from office by the Minister.

(c) Where a member is temporarily unable to discharge the duties of his office on account of ill health, absence from Sri Lanka or any other cause, the Minister may appoint some other person to act as a member in his place.

(7) The Advisory Commission may, with the approval of the Minister, appoint such officers and servants to assist the Advisory Commission in carrying out its duties under this Part.

(8) The members of the Advisory Commission, its Secretary, other officers and servants may be paid

such remuneration as may be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance, out of the moneys appropriated to such purpose by Parliament.

Interpretation.**45.** In this Act unless the context otherwise requires-

” appropriate District Court” means the District Court within whose jurisdiction the principal place of business is situate ;

” business ” includes any trade or profession ;

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

” corporation ” means any body corporate established by or under any written law and includes a company as defined in the law relating to Companies ;

” Director ” and ” Secretary ” include any person occupying the position of director or secretary by whatever name called ;

““ 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 profits ;

” 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 regulations in pursuance of this Act;

” .Registrar ” means the Registrar of Business Names and includes an Additional Registrar and an Assistant Registrar or any person acting in any such capacity.

Repeal **46.**
and
savings.

(1) The Business Names Ordinance (Chapter 149) is hereby repealed.

(2) Notwithstanding the repeal of the aforesaid Ordinance.

(a) the defaulters within the meaning of section

9 thereof shall continue to be subject to the disability imposed and the right to relief provided for by that section :

(b) all certificates of registration issued under the repealed Ordinance shall continue to be valid and effectual until fresh certificates of registration are issued under the provisions of this Act;

(c) every rule or order made there under as in force from the appointed date insofar as such rule or order is not inconsistent with the provisions of this Act shall be deemed to be a regulation made under this Act; and may be amended or rescinded by regulations made under this Act;

(d) every statement in writing containing particulars required to be furnished under the repealed Ordinance or any change of particulars made to the Registrar under the repealed Ordinance prior to the appointed date shall be valid and effectual and the provisions of this Act relating to furnishing of particulars, change of particulars, payment of prescribed fees, registration and issue of certificates shall accordingly apply to every such statement;

(e) any register, index or document kept under the repealed Ordinance shall be deemed to be and to be part of the register, index or documents kept under this Act;

(f) all proceedings pending in any court under the repealed Ordinance on a date; prior to the appointed date shall be heard and construed under the provisions of the repealed Ordinance.

Business Registration (Exemption From Surcharge)

AN ACT TO MAKE PROVISION FOR THE RETROSPECTIVE EXEMPTION OF CERTAIN BUSINESSES FROM THE LEVY AND PAYMENT OF THE SURCHARGE IMPOSED BY THE BUSINESS REGISTRATION (SURCHARGE) ACT, NO. 16 OF 1961, AND FOR THE REFUND OF ANY AMOUNTS PAID BY WAY OF SUCH SURCHARGE BY SUCH BUSINESSES.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Ceylon in this present Parliament assembled, and by the authority of the same, as follows: –

Short title.1. This Act may be cited as the Business Registration (Exemption from Surcharge) Act,

No. 8 of 1968.

Exemption of certain businesses from the surcharge imposed by Act No. 16 of 1961, and the refund of the amounts paid by way of surcharge by such businesses.

2. A person who carried on any business which was not a covered employment within the meaning of the Employees Provident Fund Act, No. 15 of 1958, shall be deemed at all times not to have been or to be liable to pay the surcharge imposed by the Business Registration (Surcharge) Act, No. 16 of 1961, and accordingly, any amount paid by way of such surcharge by such person to the Registrar of Companies or the Registrar of Business Names shall be refunded to such person by such Registrar upon demand made by such person in that behalf.

Business Registration (Surcharge)

AN ACT TO MAKE PROVISION FOR THE LEVY AND PAYMENT OF A SURCHARGE BY EVERY PERSON OTHER THAN A CORPORATION OR COMPANY, WHO WAS REGISTERED UNDER THE BUSINESS NAMES ORDINANCE ON THE FIFTEENTH DAY OF SEPTEMBER, 1960.

Short title, (Surcharge) Act, No. 16 of 1961.

Persons liable to 2.

pay a surcharge (1) Every person, other than a corporation or in respect of company, who was registered in respect of certain any business under the Business Names

businesses. Cap. Ordinance on the fifteenth day of 149.

September, 1960, shall, notwithstanding that he may have ceased to be so registered or to carry on that business on the date of the commencement of this Act, be liable to pay a surcharge (in this section referred to as "the surcharge") on the fee paid for such registration under that Ordinance. The amount of such surcharge shall be determined by reference to subsection (2).

(2) The amount of the surcharge which a person is liable to pay under this section shall,-

(a) if that person is an individual or firm, which is Ceylonese, be two hundred and fifty rupees; or

(b) if that person is an individual or firm, which is not Ceylonese, be one thousand rupees.

(3) The amount of the surcharge which a person is liable to pay under this section shall be paid to the Registrar of Companies or the Registrar of Business Names by that person within thirty days after the date of the commencement of this Act, and if it is not so paid, that amount shall be deemed to be in default.

Recovery of 3.

the (1) Where the amount of the surcharge is in surcharge in default then,-

default (a) if the person in default is an individual, such individual; or

(b) if the person in default is a firm, every partner in that firm,

shall, for the purposes of this section, be deemed to be a defaulter in respect of the amount in default.

Cap. (2) The Registrar of Companies, or the

20. Deputy Registrar of Companies, or any Assistant Registrar of Companies, or the Registrar of Business Names, may issue a certificate containing particulars of the amount of the surcharge in default and the name and the last known place of business or residence of the defaulter to a Magistrate having jurisdiction in the division in which such place is situate. The Magistrate shall thereupon summon such defaulter before him to show cause why further proceedings for the recovery of that amount should not be taken against him, and in default of sufficient cause being shown, that amount shall be deemed to be a fine imposed by a sentence of the Magistrate on such defaulter for an offence punishable with a fine only or not punishable with imprisonment, and the provisions of subsection (1) of section 312 (except paragraphs (a), (c) and (h) thereof) of the Criminal Procedure Code relating to default of payment of a fine imposed for such offence shall thereupon apply, and the Magistrate may make any directions which by the provisions of that sub section he could have made at the time of imposing such sentence.

(3) The payment at any time of the amount of the surcharge in default by or on behalf of a defaulter under this section, shall operate as a discharge of that defaulter and of all other defaulters in respect of that amount.

Registration 4. For the purposes of this Act, it shall not be conclusive proof necessary to furnish proof that a fee was of payment of paid for the registration of any person in fee. respect of any business under the Business Names Ordinance, but the fact that the person was so registered shall be conclusive proof that such fee was paid.

Interpretation. Cap. 145.5. In this Act-
"Ceylonese "-

(a) with reference to an individual, means a citizen of Ceylon;

(b) with reference to a corporation, means a corporation constituted by or under any written law of Ceylon;

(c) with reference to a firm, means a firm in which every partner is Ceylonese; and

(d) with reference to a company, means a company incorporated and registered in Ceylon;

Cap. " company" has the same meaning as in the 145. Companies Ordinance;

" corporation " means any body corporate, other than a company, established by or under any written law;

" firm" means an unincorporated body of two or more individuals, or one or more individuals and one or more corporations or companies, or two or more corporations or companies, who have entered into partnership with one another with a view to carrying on business for profit