

BUSINESS NAMES ACT

NO. 27 OF 1960

[ASSENTED TO 25 MARCH, 1960]

[DATE OF COMMENCEMENT: 1 APRIL, 1960] (Unless otherwise indicated)

(Afrikaans text signed by the Governor-General) as amended by

Business Names Amendment Act, No. 84 of 1972

Business Names Amendment Act, No. 31 of 1979

Transfer of Powers and Duties of the State President Act, No. 97 of 1986 [with effect from 3
October, 1986]

ACT

To provide for the control of business names and for matters incidental thereto.

ARRANGEMENT OF SECTIONS

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1. Definitions.

In this Act, unless the context otherwise indicates—

“business” means any business of trade established for the acquisition of gain and carried on by any person, company, association, syndicate or partnership, or by the individual members of any company, association, syndicate or partnership;

[Definition of “business” substituted by s. 1 of Act No. 84 of 1972.]

“Registrar” means the officer appointed in terms of subsection (2) of section three of the Companies Act, 1926 (Act No. 46 of 1926);

“special partner” means—

- (a) in the case of a partnership constituted and in existence under the provisions of The Special Partnerships’ Limited Liability Act, 1861 (Act No. 24 of 1861) of the Cape of Good Hope or of The Special Partnerships Limited Liability Act, 1864 (Law No. 1 of 1865) of Natal, a special partner within the meaning of the said Act or the said Law;
- (b) an anonymous partner in an anonymous partnership; or
- (c) a partner en commandite in a partnership en commandite.

2. Scope of Act.

This Act shall not apply to a corporate body, established or registered under the provisions of any law, in respect of any business carried on by it under the name by which it is so established or registered.

3. Particulars to be disclosed regarding persons carrying on business.

- (1) A person carrying on any business shall not issue or send to any person in the Union any trade catalogue, trade circular, business letter, order for goods or statement of account unless the following particulars appear therein or thereon, namely—
 - (a) the name, title or description under which the business is carried on;
 - (b) a statement of the place where the business is carried on;
 - (c) if the business is carried on by a corporate body under a name other than the name by which it is established or registered, the name under which it is established or registered;
 - (d) if the business is carried on in partnership, the name of every partner (whether or not a natural person) other than a special partner; and
 - (e) in respect of every natural person, except a special partner, carrying on the business—
 - (i) his present christian names or the initials thereof and his present surname;
 - (ii) subject to the provisions of subsection (2), every former christian name and surname which he may have borne previously; and
 - (iii) his nationality, if he is not a South African citizen.
- (2) For the purposes of subsection (1), “former christian name and surname” does not include—
 - (a) in the case of a person who has been adopted, his christian name and surname before his adoption; or
 - (b) any christian name or surname, previously borne by any person, which was changed or disused before he attained the age of eighteen years or which has been changed or disused for a period of not less than ten years; or

[Para. (b) amended by s. 1 of Act No. 31 of 1979.]

 - (c) the christian name or surname borne by a married or a divorced woman or a widow before her marriage.

- (3) Any person who contravenes the provisions of this section, or who issues or sends to any person in the Union any trade catalogue, trade circular, business letter, order for goods or statement of account in which or on which any particular required in terms of paragraph (a), (b), (c) (d) or (e) of subsection (1) is incorrect in any respect, shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred pounds.
- (4) This section shall come into operation on the first day of January, 1961.

4. Restrictions in respect of business names.

- (1) Save with the consent of the Minister of Trade and Industry no person shall carry on any business under any name, title or description which includes the words “government”, “state”, “United Nations” or any other word, abbreviation or initial which imports or suggests that he enjoys the patronage of the head of or of the government or administration of, any foreign country or of any department of any such government or administration or of the United Nations: Provided that the provisions of this subsection shall not apply in respect of any name, title or description under which any business was being lawfully carried on immediately prior to the commencement of this Act.

[Sub-s. (1) amended by s. 46 of Act No. 97 of 1986.]

- (2) Any person who contravenes the provisions of this section shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred pounds.

5. Registrar may prohibit use of certain business names.

- (1) Upon the application in writing of any aggrieved person the Registrar may in writing

order any person who carries on any business under any name, title or description which is in the opinion of the Registrar calculated to deceive or to mislead the public or to cause annoyance or offence to any person or class of persons or is suggestive of blasphemy or indecency, to cease to carry on the business under than name, title or description.

- (2) Before considering any application made in terms of subsection (1), the Registrar shall furnish in writing to the person against whom an order under that subsection is sought, a statement setting out the name of the applicant and the grounds on which the application is made and afford such person a reasonable opportunity of replying thereto.
- (3) Any provincial or local division of the Supreme Court within whose area of jurisdiction the business in question is being carried on may, on the application of any person aggrieved by any decision or order of the Registrar under subsection (1), set aside such decision or order, or may, on such application, make such order regarding such decision as it deems fit, provided such application is made within sixty days after the date of such decision or, in the case of an order of the Registrar under subsection (1), within such period after the receipt thereof as is mentioned in subsection (4).
- (4) Any person who fails within such period after the receipt of an order under subsection (1) as the Registrar may allow, or in the case of any person who has applied to a competent court under subsection (3), within a like period after a final decision upholding the Registrar's order, to comply with such order, shall be guilty of an offence and liable on conviction to a fine not exceeding five pounds for every day during which the default continues.

5A. Assigning of powers and duties by Registrar.

The Registrar may in writing assign any power conferred upon or duty entrusted to him by this Act to an officer in the public service who in his opinion is competent therefor.

[S. 5A inserted by s. 2 of Act No. 31 of 1979.]

6. Short title.

This Act shall be called the Business Names Act, 1960.