

CHAPTER 213
THE BUSINESS NAMES (REGISTRATION) ACT
[PRINCIPAL LEGISLATION]
ARRANGEMENT OF SECTIONS

Section

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SCHEDULE
CHAPTER 213
THE BUSINESS NAMES (REGISTRATION) ACT
An Act to provide for the registration of business names.

[21st February, 1930]

Ords. Nos.

1 of 1930

37 of 1955

Acts Nos.

4 of 1975

13 of 1991

1. Short title

This Act may be cited as the Business Names (Registration) Act.

2. Interpretation In this Act unless the context otherwise requires—

"business" includes profession;

"business name" means the name or style under which any business is carried on, whether in partnership or otherwise;

"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 carry on business for profit;

"foreign firm" means any firm, individual or corporation whose principal place of

business is not situated within Tanzania;

"individual" means a natural person and shall not include a corporation;

"initials" includes any recognised abbreviation of a name.

In the case of a peer or person usually known by a British title different from his surname, the title by which he is known shall be substituted in this Act for his surname;

References in this Act to a former name or surname shall not, in the case of natural-born British subjects, include a former name or surname where that name or surname has been changed or disused before the person bearing the name has attained the age of eighteen years, and, in the case of a married woman, shall not include the name or surname by which she was known previous to the marriage;

References in this Act to a change of name shall not include, in the case of natural-born British subjects, a change of name which has taken place before the person whose name has been changed has attained the age of eighteen years; or, in the case of a peer or a person usually known by a British title different from his surname, the adoption of or succession to the title;

"Minister" means the Minister responsible for commerce;

"showcards" means cards containing or exhibiting articles dealt with, or samples or representations thereof.

3. Registrar and deputies (1) The Minister may appoint a Registrar, and such Deputy Registrars as may from time to time be required for the purposes of this Act.

(2) Every Deputy Registrar may, subject to the directions of the Registrar, perform any act or discharge any duty which the Registrar may lawfully do or is required by this Act to do, and for such purpose shall have all the powers, privileges and authority of the Registrar.

4. Firms and persons to be registered Subject to the provisions of this Act—

- (a) every firm having a place of business in Tanzania and carrying on business under a business name which does not consist of the true surnames of all partners who are individuals and the corporate names of all partners who are corporations without any addition other than the true names of individual partners or initials of such names;
- (b) every individual having a place of business in Tanzania and carrying on business under a business name which does not consist of his true names or the initials thereof;
- (c) every corporation having a place of business in Tanzania and carrying on business under a business name which does not consist of the corporate name of the corporation without any addition;
- (d) every individual or firm having a place of business in Tanzania who, or a member of which has either before or after the passing of this Act changed his name, except in the case of a woman in consequence of marriage,

shall be registered in the manner directed by this Act:

Provided that—

- (i) where two or more individual partners have the same surname, the addition of an "s" at the end of that surname shall not of itself render registration necessary;
- (ii) where the business is carried on by a receiver, manager or trustee appointed by any court, registration shall not be necessary; and
- (iii) a purchase or acquisition of property by two or more persons as joint tenants or tenants in common is not of itself to be deemed carrying on a business whether or not the owners share any profits arising from the sale thereof.

5. Registration by a nominee, etc.

Where a firm, individual or by corporation having a place of business within Tanzania carries on the business wholly or mainly as nominee or trustee of or for another person, or other persons, or another corporation, or acts as general agent for any foreign firm, the first mentioned firm, individual or corporation shall be registered in the manner provided by this Act, and, in addition to the other particulars required to be furnished and registered, there shall be furnished and registered the particulars Schedule mentioned in the Schedule to this Act:

Provided that where the business is carried on by a receiver, manager or trustee appointed by any court, registration under this section shall not be necessary.

6. Manner and particulars of registration

(1) Every firm or person required under this Act to be registered shall send by post or deliver to the Registrar at the register office a statement in writing in the prescribed form containing the following particulars—

- (a) the business name;
- (b) the general nature of the business;
- (c) the principal place of the business;
- (d) where the registration to be effected is that of a firm, the present name and surname, any former name or surname, the nationality, and if that nationality is not the nationality of origin, the nationality of origin, the age, the sex, the usual residence, and the other business occupation (if any) of each of the individuals who are partners, and the corporate name and registered or principal office of every corporation which is a partner;
- (e) where the registration to be effected is that of an individual, the present name and surname, any former name or surname, the nationality, and if that nationality is not the nationality of origin, the nationality of origin, the age, the sex, the usual residence, and the other business occupation (if any) of such individual;
- (f) where the registration to be effected is that of a corporation, its corporate name and registered or principal office;
- (g) if the business is commenced after the passing of this Act, the date of the commencement of the business; and
- (h) where the registration to be effected is that of a firm, the name of every person empowered to operate the firm's bank account or to sign, draw or endorse on behalf of the firm any bill of exchange, promissory note or other negotiable instrument or holding the firm's general power of attorney:

Provided that where any such partner or individual is of or over the age of twenty-one years, it shall be sufficient for him to state his age as "full age".

(2) Where a business is carried on under two or more business names, each of those business names shall be stated.

7. Statement to be signed by persons registering

The statement required for the purpose of registration must in the case of an individual be signed by him, and in the case of a corporation by a Director or Secretary thereof, and in the case of a firm either by all the individuals who are partners, and by a Director or the Secretary of all corporations which are partners or by some individual who is a partner, or a director or the secretary of some corporation which is a partner, and in either of the last two cases must be verified by a statutory declaration made by the signatory:

Provided that no such statutory declaration stating that any person other than the declarant is a partner, or omitting to state that any person other than as aforesaid is a partner, shall be evidence for or against any such other person in respect of his liability

or non-liability as a partner, and that the High Court or a judge thereof may on application of any person alleged or claiming to be a partner direct the rectification of the register and decide any question arising under this section.

8. Time for registration

(1) The particulars required to be furnished under this Act shall be furnished within twenty-eight days after the firm or person commences business, or the business in respect of which registration is required, as the case may be:

Provided that if such firm or person has carried on such business before the passing of this Act or commences such business within two months thereafter, the statement of particulars shall be furnished after the expiration of two months and before the expiration of three months from the passing of this Act, and that if at the expiration of the said two months the conditions affecting the firm or person have ceased to be such as to require registration under this Act the firm or person need not be registered so long as such conditions continue.

(2) This section shall apply, in the case where registration is required in consequence of a change of name, as if for references to the date of the commencement of the business there were substituted references to the date of such change.

9. Restriction on registration of certain business names (1) The Registrar shall refuse to register any firm, individual or corporation carrying on business under a business name—

- (a) which contains any word, which in the opinion of the Registrar, is likely to mislead the public as to nationality, race or religion of the persons by whom the business is wholly or mainly owned or controlled;
- (b) which includes any of the words "Imperial", "Royal", "Empire", "Commonwealth", "Government", "Municipal", or any other word, in such a context as, in the opinion of the Registrar, imports or suggests that the business enjoys the patronage of Her Majesty or of any member of the Royal Family or as to import any connection with or recognition by the Government of any part of Her Majesty's dominions or a local authority;
- (c) which includes the words "building society" or "co-operative" or their equivalent in any other language or any abbreviation thereof;
- (d) which is identical with or is similar to that under which any firm, individual or corporation is registered under this Act, or under the Companies Act ⁱ*, or under the Co-operative Societies Act ⁱⁱ* if in the opinion of the Registrar such registration would be likely to mislead the public.

(2) The Registrar, upon the request of any person and upon the payment of the prescribed fee, shall state whether or not any proposed business name may be registered.

(3) Where the Registrar has stated that any business name may be registered, the firm, individual or corporation which made the request shall be entitled to registration in that business name at any time within twenty-eight days of the date of the decision of the Registrar, and during that time no other firm, person or corporation shall be entitled to registration in that business name.

(4) Any firm, individual or corporation aggrieved by a decision of the Registrar under this section may appeal to the High Court whose decision shall be final.

10. Registration not to authorise use The registration of a firm, individual or corporation under this Act shall not be construed as authorising the use of a business name if apart from such registration the use thereof could be prohibited.

11. Registration of changes in firm

Whenever a change is made or occurs in any of the particulars registered in respect of any firm or person such firm or person shall, within twenty-eight days after such change or such longer period as the Registrar may, on application being made in any particular case, whether before or after the expiration of such twenty-eight days, allow, sending by post or deliver to the Registrar a statement in writing in the prescribed form specifying the nature and date of the change signed, and where necessary verified in like manner as the statement required on registration.

12. Rectification of the register in certain cases (1) If, after the thirteenth day of May, 1955—

- (a) any firm, individual or corporation is, through inadvertence or otherwise, registered under a business name under which registration under this Act ought to have been refused; or
 - (b) any change of ownership of a business occurs as a result of which a firm, individual or corporation is carrying on business under a business name which, on an application for registration under this Act ought to have been refused,
- the Registrar shall, by notice in writing, require such firm, individual or corporation to change such business name within such time as may be specified in such notice and upon compliance with such notice the Registrar shall, subject to the provisions of section 9, record such change without requiring the payment of any fee and if the default is made in complying with his requirements the Registrar may cancel the entry in the Register relating to such firm, individual or corporation:

Provided that where the Registrar is satisfied that, having regard to the nature of any business and the nationality of the persons employed therein, the retention of the business name would not be contrary to the public interest, he may in his absolute discretion permit the retention of such name subject to such conditions as he may think fit.

(2) Any firm, individual or corporation aggrieved by any requirement of the Registrar under this section or by the cancellation of any entry in the register may appeal to the High Court whose decision shall be final.

13. Penalty for default in registration 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 upon conviction be liable to a fine not exceeding two hundred shillings for every day during which the default continues, and the court shall order a statement of the required particulars or change in the particulars to be furnished to the Registrar within such time as may be specified in the order.

14. Penalty for carrying on business under unauthorised name If the firm, individual or corporation carries on business under a business name in respect of which such firm, individual or corporation has been refused registration under section 9 or which the Registrar has required to be changed under section 12, every partner in the firm or the individual or the corporation, as the case may be, commits an offence under this Act of and upon conviction be liable to a fine not exceeding one thousand shillings for every day during which the offence continues:

Provided that no partner commits an offence under this section if he shall satisfy the court that the business was so carried on without his knowledge or consent and that its being so carried on was not facilitated by any neglect on his part.

15. Disability of persons in default

(1) Where any firm or person by this Act required to furnish a statement of particulars or of any change in particulars shall have made default in so doing, then the

rights of that defaulter under or arising out of any contract made or entered into by or on behalf of such defaulter in relation to the business in respect of the carrying on of which particulars were required to be furnished at any time while he is in default shall not be enforceable by action or other legal proceeding whether in the business name or otherwise:

Provided—

- (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 on 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 this Act had been complied with, he would not have entered into the contract;
- (b) nothing 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 shall preclude the defaulter from enforcing in that action or proceeding, by way of counterclaim, set off or otherwise, such rights as he may have against that party in respect of such contract.

(2) In this section the expression "court" means the High Court or a judge thereof:

Provided that, without prejudice to the power of the High Court or a judge thereof to grant such relief as aforesaid, if any proceeding to enforce any contract is commenced by a defaulter in a subordinate court, the subordinate court may, as respects that contract, grant such relief as aforesaid.

16. Penalty for false statements 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, upon conviction, be liable to imprisonment of either description for a term not exceeding twelve months, or to a fine not exceeding fifty thousand shillings, or to both such fine and imprisonment.

17. Duty to furnish particulars to the Registrar (1) The Registrar may require any person to furnish to him such particulars as appear to him necessary for the purpose of ascertaining whether or not such person or the firm of which he is 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, and if any person when so required fails to supply such particulars as it is in his power to give, or furnishes particulars which are false in any material particular, he shall upon conviction be liable to imprisonment for a term not exceeding one year or to a fine not exceeding fifty thousand shillings or to both such fine and imprisonment.

(2) 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, the Registrar may require the firm or person to furnish him with the required particulars within such time as he may allow, but where any default under this Act has been discovered from the information acquired under this section, no

proceedings under this Act shall be taken against any person in respect of such default prior to the expiration of the time within which the firm or person is required by the Registrar under this section to furnish such particulars.

18. Registrar to file statement and issue certificate of registration On receiving any statement or statutory declaration made in pursuance of this Act, the Registrar shall, subject to the provisions of section 9 cause the same to be filed, and he shall send by post or deliver a certificate of the registration thereof to the firm or person registering and the certificate or certified copy thereof shall be kept in a conspicuous position at the principal place of business of the firm or individual, and if not kept Schedule so exhibited every partner in the firm, or the person as the case may be, shall be liable upon conviction to a fine not exceeding five thousand shillings.

19. Index to be kept

At the register office, the Registrar shall keep an index of all the firms and persons registered at that office under this Act.

20. Removal of names from register (1) If any firm or individual registered under this Act ceases to carry on business, it shall be the duty of the persons who were partners in the firm at the time when it ceased to carry on business or of the individual or if he is dead of his personal representative, within three months after the business has ceased to be carried on, to send by post or deliver to the Registrar notice in the prescribed form that the firm or individual has ceased to carry on business, and if any person whose duty is to give such notice fails to do so within such time as aforesaid, he shall upon conviction be liable to a fine not exceeding fifty thousand shillings:

Provided that the Registrar may in his absolute discretion on reasonable cause therefor being shown, extend such time as aforesaid to such time as he may think fit.

(2) On receipt of such a notice as aforesaid the Registrar may remove the firm or individual from the register.

(3) Where the Registrar has reasonable cause to believe that any firm or individual registered under this Act is not carrying on business he may send to the firm or individual by registered post a notice, that, unless an answer is received to such notice within six weeks from the date thereof, the firm or individual may be removed from the register.

(4) If the Registrar either receives an answer from the firm or individual to the effect that the firm or individual is not carrying on business or does not within six weeks after sending the notice receive an answer, he may remove the firm or individual from the register.

21. Inspection of statements registered

(1) At any time after the expiration of six months from the passing of this Act or of such longer period, not being more than nine months from the passing of this Act, as the President may by order direct, any person may inspect the documents filed by the Registrar on payment of such fees as may be prescribed not exceeding two shillings for each inspection; and any person may require a certificate of the registration of any firm or person, or a copy of or extract from any registered statement to be certified by the Registrar, and there shall be paid for such certificate of registration, certified copy or extract such fees as may be prescribed not exceeding four shillings for the certificate of registration, and not exceeding one shilling for each folio of seventy-two words, of the entry, copy or extract.

(2) A certificate of registration, or a copy of or extract from any statement registered under this Act, if duly certified to be a true copy or extract under the hand of the Registrar shall, in all legal proceedings, civil or criminal, without proof that it is under the hand of the Registrar, be received in evidence.

22. Power of Minister to make rules The Minister may make rules 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; and
- (d) generally the conduct and regulation of registration under this Act, and any matters incidental thereto.

23. Publication of true names, etc.

(1) After the expiration of three months from the passing of this Act every individual and firm required by this Act to be registered shall, in all trade catalogues, trade circulars, showcards and business letters, on or in which the business name appears, be mentioned in legible characters—

- (a) in the case of an individual, his present name or the initials thereof and present surname, any former name or surname, his nationality and if his nationality is not his nationality of origin his nationality of origin; and
- (b) in the case of a firm, the present names or the initials thereof and present surnames, any former names and surnames, and the nationality and if the nationality is not the origin the nationality of origin of all the partners in the firm or, in the case of a corporation being a partner the corporate name.

(2) If default is made in compliance with this section the individual or, as the case may be, every member of the firm shall be liable upon conviction for each offence to a fine not exceeding one hundred and fifty shillings.

24. Offences by corporations

Where a corporation commits an offence under this Act every Director, Secretary, and officer of the corporation who is knowingly a party to the default commits a like offence and is liable to a like penalty.

SCHEDULE

(Section 5)

<i>Description of Firm, etc.</i>	<i>Additional Particulars</i>
Where the firm, individual or corporation required to be registered carries on business as nominee or trustee.	The present name and surname, any former name, nationality, and, if that nationality is not the nationality of origin, the nationality of origin, and usual residence, or, as the case may be, the corporate name of every person or corporation on whose behalf the business is carried on: Provided that if the business is carried on under any trust and any of the beneficiaries are a class of children or other persons, a description of the class shall be sufficient.
Where the firm, individual or corporation required to be registered carries on business as general agent for any foreign firm.	The business name and address of the firm or person as agent for whom the business is carried on: Provided that if the business is carried on as agent for three or more foreign firms it shall be sufficient to state the fact that the business so carried on, specifying the countries in which such foreign firms carry on business.

ⁱCap. 212

ⁱⁱCap. 211