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The Gazette of the Democratic Socialist Republic of Sri Lanka

EXTRAORDINARY

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PART IV (A) — PROVINCIAL COUNCILS

PROVINCIAL COUNCILS NOTIFICATIONS

NORTHERN PROVINCE PROVINCIAL COUNCIL

Northern Province Business Names Statute No.01 of 2018

NOTICE is hereby given that the Northern Province Provincial Council has adopted the Northern Province Business Names Statute No. 01 of 2018 on 26th June 2018 and that the Hon. Governor Northern Province has given his Assent to it on 14th February 2019.

R. VARATHEESWARAN,
Secretary,
Council Secretariat,
Northern Provincial Council.

Council Secretariat,
A 9 Road,
Kaithady,
15th February 2019.



A STATUTE TO PROVIDE FOR THE ESTABLISHMENT OF A DEPARTMENT OF REGISTRATION OF BUSINESS NAMES FOR THE NORTHERN PROVINCE; FOR THE APPOINTMENT OF PROVINCIAL REGISTRAR OF BUSINESS NAMES; FOR THE REGISTRATION OF PERSONS CARRYING ON BUSINESS IN NORTHERN PROVINCE AND THEIR BUSINESS NAME AND FOR THE MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO. THIS STATUTE IS INCONSISTENT WITH THE PROVISIONS OF BUSINESS NAMES ACT, No. 7 OF 1987.

Be it enacted by the Northern Provincial Council, of the Democratic Socialist Republic of Sri Lanka as follows: -

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| Short title and date of operation | 1. This Statute may be cited as the Northern Province Business Names Statute, No. 01 of 2018 and shall come into operation on such date as the Governor of the Northern Province may give his assent thereto. |
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PART I

Establishment of a Department of Registration of Business Names And Appointment Provincial Registrar of Business Names

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| Establishment of a Department of Registration of Business Names | 2. There shall be established a Department known as Department of Registration of Business Names of the Northern Province (hereinafter referred to as the "Department") for the purpose of carrying out the objects of the Department. |
| Appointment of Provincial Registrar & etc. | <p>3. (1) There shall be appointed a person to be as the Provincial Registrar (hereinafter referred to as the "Provincial Registrar") who shall be the Head of the Department.</p> <p>(2) There may be appointed such other officers and servants as are necessary for the purpose of carrying out the provisions of this Statute.</p> <p>(3) Every person appointed as the Provincial Registrar shall hold a degree of a recognized university or a professional qualification of a recognized professional body.</p> <p>(4) The provisions of Part IV of the Provincial Councils Act, No. 42 of 1987 shall apply to the appointment, transfer, dismissal, disciplinary control of the staff of the Department.</p> <p>(5) The Provincial Registrar shall be responsible for keeping a register of registered firms or persons and their registered business names, generally for the carrying out of the provisions of this Statute, and for the collection of the fees payable under this Statute and payment of all amounts so collected into the Northern Provincial Fund.</p> |

PART II

Firms And Persons To Be Registered

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| Registration | <p>4. (1) Subject to the provisions of this Statute, where a firm or a person is desirous to carry on business within the Northern Province, the firm or person and the firm's or person's business name shall be registered.</p> <p>(2) Where a firm or person intends to carry on business within the Northern Province under more than one business name, there shall be separate registrations in respect of the firm or person and each of those business names, and any reference, to registration in this Statute shall be construed accordingly.</p> |
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5. Subject to the provisions of this Statute-
- Firms and persons
to be registered
- (a) every firm having a place of business in Northern Province and carrying on business under a business name;
 - (b) every individual having a place of business in Northern Province and carrying on business under a business name;
 - (c) every individual or firm having a place of business in Northern Province who, or a member of which, has either before or after the commencement of this Statute changed his name except in the case of a woman in consequence of marriage; and
 - (d) every corporation having a place of business in Northern Province and carrying on business under a business name,
- shall be registered in the manner provided by this Statute.
6. (1) The following firms and persons shall not be required to be registered when carrying on business within the Northern Province-
- Firms and
persons
not required to
be registered
under this Statute
- (a) any individual proprietor carrying on business under only the individual proprietor's full name;
 - (b) any addition to the business name merely indicates that the business is carried on in succession to a former owner of the business;
 - (c) any firm of two or more individuals carrying on business under only the full names of all the individuals;
 - (d) any statutory authority or other body established by or under any law for a public purpose;
 - (e) any business carried on by the assignee of an insolvent estate, or a receiver or manager or curator appointed by any court;
 - (f) 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;
 - (g) any society registered under the Voluntary Social Services Organizations (Registration and Supervision) Act, No.31 of 1980;
 - (h) any society registered under the Co-operative Societies Law, No. 5 of 1972;
 - (i) any trade union registered under the Trade Unions Ordinance (Chapter 138);
 - (j) any foreign company carrying on business within the Northern Province which is registered under the Companies Act, No. 7 of 2007 and carries on the business under its registered name; and
 - (k) any company carrying on business under its corporate name.
- (2) A person who is not required to be registered but chooses to be registered shall be subject to and shall comply with the provisions of this Statute for the period of time that the person is so registered.

(3) For the purposes of this section —

- (a) a reference to an individual or a person includes a class of individuals or a class of persons, respectively; and
- (b) a reference to an individual's full name is-
 - (i) in the case of an individual issued with a national identity card under the Registration of Persons Act, No. 32 of 1968, a reference to the individual's full name as stated in the individual's national identity card; and
 - (ii) in the case of an individual not issued with an identity card under that Act, a reference to the individual's full name as stated in the individual's passport or such other similar evidence of identity as is acceptable to the Provincial Registrar.

PART III

Registration of Business Names

Commencement
of new business
of change in
business name

7.

- (1) Every firm or person carrying on or commencing to carry on business under a business name on or after the date of commencement of this Statute or for any other reason becoming liable for registration after such date shall furnish 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 or warehouse 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 in-charge of the subject 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; and

(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) The statement required to be furnished under subsection (1) shall be furnished within a period of thirty days of such commencement or within such further period as the Provincial Registrar may on application allow.

(3) The statement 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.

8. (1) On receiving any statement made in pursuance of this Statute from any firm or person, the Provincial Registrar shall, subject to the provisions of this Statute, 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.

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

- (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 Statute shall-
 - (a) 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;
 - (b) disclose in its letter-heads-
 - (i) 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;
 - (ii) 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;
 - (iii) 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.
- (4) Every firm or person registered under provisions of section 4 of this Statute 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 twenty-five 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

9. At each of the register offices, the Provincial Registrar shall keep an index of all the business names of firms and persons registered at that office under this Statute 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 Northern Province.

Firm or person
in Northern
Province acting
on behalf of
foreign principal
or foreign group

10. (1) Any firm or person within the Northern Province 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 shall be registered in the manner provided by this Statute, and shall, in addition to the particulars of such firm or person required under section 7, 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; and
 - (b) the date when the firm or person within the Northern Province 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, within the Northern Province;
 - (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 Provincial Registrar may notify any firm or person referred to in this section carrying on business within the Northern Province 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.

11. (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 within the Northern Province, under a business name shall furnish the statement required to be furnished under section 7 of this Statute.
- (2) The business of the individual, firm or body corporate referred to in subsection (1) shall be carried on within the Northern Province in the name of such individual, firm or body corporate, by a person who is a citizen of Sri Lanka 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 Statute.

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

Prohibited business name	12.	<p>No firm, individual or corporation shall carry on business within the Northern Province under a business name which-</p> <p>(a) contains the words-</p> <p>(i) "President", "Presidential", "National" "State" or "Sri Lanka" or which in the opinion of the Provincial Registrar suggests, or is likely to suggest the patronage of the President or any connection with the Government, any ministry or department, or provincial council or provincial ministry or department thereof;</p> <p>(ii) "Municipal" or "incorporated" or "company" or its abbreviation, or which in the opinion of the Provincial 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, Statute of Provincial Council or otherwise; or</p> <p>(iii) "corporation" or "society";</p> <p>(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;</p> <p>(c) is a translation of such business name;</p> <p>(d) is undesirable;</p> <p>(e) is identical to that of any other registered business name, or the name of any corporation or limited partnership; or</p> <p>(f) is a name of a kind that the Minister has directed the Provincial Registrar, by notification in the <i>Gazette</i>, not to accept for registration.</p>
Reservation of business names	13.	<p>(1) A firm or person may apply to reserve a name as the firm's or person's proposed registered business name by lodging an application and required fees with the Provincial Registrar.</p> <p>(2) The Provincial Registrar may, subject to provisions of section 12 approve an application made under subsection (1) only if the Provincial Registrar is satisfied that the application is made in good faith.</p> <p>(3) The Provincial Registrar shall refuse to approve an application to reserve a name under subsection (1) if the Provincial Registrar is satisfied that</p> <p>(a) the name is for a business that is likely to be used for an unlawful purpose or for purposes prejudicial to public peace, welfare or good order within the Northern Province;</p> <p>(b) it would be contrary to the national security or interest for the business name to be registered.</p> <p>(4) Where an application for a reservation of a name is made under subsection (1), the Provincial Registrar shall reserve the proposed registered business name for a period of two months.</p>

14. (1) 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 furnish in duplicate a fresh statement required under section 7 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. Change in the statement of particulars
- (2) A statement under subsection (1) shall be furnished within a period of 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; or
 - (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 7 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 an affidavit as prescribed; or
 - (c) by the person who ceases to be a partner, provided the statement is verified by him by an affidavit as prescribed.
- (6) Any affidavit which certify 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 Provincial Registrar is of opinion that any particular in any statement furnished under this section requiring certification by an 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 Provincial 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 Provincial 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 Secretary to the Ministry of the Minister in-charge of the subject assigned for the Northern Province within a period of thirty days from the date of the communication of such refusal, and the Secretary shall after due inquiry make his decision as he deems fit.

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| Power to refuse registration | 15. | <p>(1) The Provincial 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 12 of this Statute.</p> <p>(2) The registration of a business name under this Statute shall not be construed as authorizing the use of that name if apart from such registration the use thereof could be prohibited.</p> |
| Power to terminate registration | 16. | <p>(1) Subject to the provision of subsection (3), the Provincial 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 15 of this Statute.</p> <p>(2) No termination of registration under subsection (1) shall be made unless the Provincial 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 Provincial Registrar to change the business name should be taken within the period specified in such notice.</p> <p>(3) Where the firm or person has failed to take such measures acceptable to the Provincial Registrar to change the business name within the period specified in the notice under subsection (2), the Provincial 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.</p> |
| Notice of cessation and removal of name from register | 17. | <p>(1) If any firm or person registered under this Statute 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 Provincial Registrar a statement in the prescribed form that the firm or person has ceased to carry on business under that business name.</p> <p>(2) If any person whose duty 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 twenty-five thousand rupees.</p> <p>(3) On receipt of the statement referred to in subsection (1), the Provincial Registrar shall file such statement and shall make an endorsement in the register removing the registration of such firm or person.</p> <p>(4) Where the Provincial Registrar has reasonable cause to believe that any firm or person registered under this Statute is not carrying on business, he shall cause-</p> <p style="padding-left: 40px;">(a) a notice to be published in the <i>Gazette</i> 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</p> |

(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 Provincial Registrar receives no objection to the aforesaid notice, he may remove the name of such firm or person from the register.

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| 18. | Where the Provincial Registrar refuses to register a business name or removes or terminates the registration of any firm or person under sections 15, 16 or 18 of this Statute a notice of such refusal, removal or termination shall be sent by registered post to such firm or person. | Notice of refusal or termination of registration |
| 19. | Any person aggrieved by any decision or order made by the Provincial Registrar under any provision of this Statute may appeal therefrom to the Secretary to the Northern Provincial Ministry of Minister in-charge of the subject assigned within a period of thirty days from the date of the communication in writing of such decision. | Appeals |
| 20. | (1) Where any firm or person required by this Statute to furnish a statement or of any change in particulars in respect of any business makes 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: | Disability of persons in default |

Provided that-

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| (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. | |
| 21. | (1) The Provincial 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 Statute or an alteration made in the registered particulars, and may | Duty to furnish particulars to Provincial Register |

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 Provincial 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 twenty-five 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 Provincial 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 Provincial Registrar that any firm or person ought to be registered under this Statute, 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 may be allowed to him, but where any default under this Statute has been discovered from the information acquired under this section, no proceeding under this Statute 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 Provincial Registrar under this section to furnish particulars to him.

Statement
furnished after
commencement
of Statute
notwithstanding
earlier
registration

22. (1) Every firm or person carrying on business under a business name after the commencement of this Statute whether or not such firm or person has been registered prior to the commencement of this Statute, shall furnish the statement required under section 7 of this Statute in duplicate.
- (2) The statement under subsection (1) shall be furnished within a period of six months of the date of commencement of this Statute or within such further period, as the Provincial 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 secretary thereof;
 - (c) in the case of a firm by all the partners.
- (3) Where any firm or person registered prior to the date of commencement of this Statute 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 subsection (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 Provincial 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 twenty-five thousand rupees and where the offence is continued after conviction, such firm or person shall be liable to a fine not exceeding one thousand rupees for every day during which the offence continues after conviction.

Power of
Provincial
Registrar to
consider
application as
having lapsed

23. (1) Where a firm or person has furnished a statement under sections 7, 10 or 14 of this Statute, and fails to furnish the Provincial 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 Provincial Registrar for the issue of a certificate of registration the Provincial 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 and if such firm or person fails to comply with such notice within a period of one month thereof or within such extended time as given by the Provincial Registrar, the Provincial Registrar may consider such an application as having lapsed and may take no further action regarding the issue of a certificate of registration 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 twenty-five thousand rupees and to a continuing fine of one thousand rupees for every day in respect of which the offence has continued after conviction.

24. (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 Statute to be registered, reside outside Northern Province, the business of the individual, firm or corporation shall be carried on in Northern Province 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 Statute.

Business carried
on by local
manager

(2) Where it has been brought to the notice of the Provincial Registrar that no local manager has been appointed in terms of subsection (1) for any business, the Provincial 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.

(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 Statute 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.

PART IV

Offences

25. Any firm or person continuing to use a business name the registration of which has been refused or terminated under this Statute shall be guilty of an offence and shall be liable on conviction after summary proceeding before a Magistrate to a fine not exceeding twenty-five thousand rupees and to a continuing fine of one thousand rupees for every day in respect of which the offence is continued after conviction.

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

26. If any statement required to be furnished, under this Statute 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 proceeding before a Magistrate be liable to a fine not exceeding twenty-five thousand rupees or to imprisonment of either description for a term not exceeding six months, or to both a fine and such imprisonment.

Penalty for false
statements

Penalty for
default in
registration

27. If any firm or person by this Statute required to furnish a statement or of any change in particulars makes default in so doing in the manner and within the time specified by this Statute, every partner in the firm or the person so in default shall be liable on conviction after summary proceeding before a Magistrate to a fine not exceeding twenty-five thousand rupees and to a continuing fine of one thousand 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 Provincial Registrar within such time as may be specified in the Order.

Penalty for false
statements or
falsely
representing
business names as
registered

28. (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;
- (b) produces or tenders or causes to be produced or tendered any statement or affidavit under this Statute, knowing it to be false,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty-five thousand rupees or to imprisonment for a term not exceeding six months or to both.

(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 Statute.

Offences by
Corporations

29. Where an offence under this Statute 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 Statute 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 convenience 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

30. (1) Where any firm or person-

- (a) has made default in complying with any provision of this Statute requiring such firm or person to file with or deliver or send to the Provincial Registrar any statement of particulars or of any change in particulars or such particulars as are required, by the Provincial Registrar under this Statute; and
- (b) has by reason of such default committed an offence against this Statute,

the Provincial 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 Provincial Registrar may think proper in composition of the offence.

(2) Any sum so accepted under subsection (1) shall be credited to the Northern Provincial 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 Provincial Registrar.

(3) Where the Provincial 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.

(4) 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 Provincial Registrar or such extended time as the Provincial Registrar may allow, the Provincial 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 Northern Provincial Fund.

PART V

General Provisions

31. (1) Where for the purpose of ascertaining any information required by him in order to fulfill the duties under this Statute, the Provincial 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. Power of search

(2) Any officer so specially authorized by the Provincial Registrar under subsection (1) for the purpose of ascertaining any information under this Statute 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 Statute 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;
- (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 Provincial Registrar or any officer specially authorized in writing by the Provincial 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.

(4) Where the person convicted of such offence under this Statute 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 proceeding before a Magistrate, be liable to imprisonment of either description for a term not exceeding twelve months or to a fine not exceeding twenty-five thousand rupees or to both such imprisonment and fine.

Inspection of
registered
statements and
issue of certified
copies.

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

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

(3) A certificate of registration, or a copy of or extract from any statement furnished or registered under this Statute, if duly certified to be a true copy under the hand of the Provincial Registrar (whom it shall not be necessary to prove to be the Provincial Registrar), shall in all legal proceedings, civil or criminal, be received in evidence.

Power to make
copies of damaged
volumes of any
register, file or
documents and to
prepare and insert
reconstituted folios

33. (1) Where the Provincial Registrar is satisfied that any volume of any register kept under this Statute 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 Provincial 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 Provincial 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 Provincial Registrar in ascertaining the particulars originally contained in the lost or mutilated or damaged folio;
- (b) for the giving of notice by the Provincial 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 Provincial Registrar.

(6) Where any folio has been reconstructed by the Provincial Registrar in accordance with the preceding provisions of this section, the Provincial 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 Provincial 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 Statute and for that purpose may recall any such certificate and amend the same or issue a fresh certificate in its place.

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

Service of
notice

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

Certified copies,
to be evidence

36. (1) The Provincial Registrar may, subject to such conditions as he may think delegate to an officer, such of his powers, functions and duties and such officer may exercise, discharge and perform such powers, functions and duties as are assigned to him.

Delegation of
powers,
functions and
duties

(2) The Provincial Registrar may, whenever he deems appropriate to do so exercise, discharge and perform all or any of the powers, functions and duties delegated to an officer.

37. The Minister may give such directions to the Provincial Director, not inconsistent with the provisions of this Statute, as to the performance of his functions, the discharge of his duties and the exercise of his powers under this Statute or any other written law as the Minister may consider necessary, and the Provincial Director shall give effect to all such directions.

Directions

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

Regulations

- (a) the fees to be paid to the Provincial Registrar under this Statute;
- (b) the forms to be used under this Statute;
- (c) the powers and duties of the Provincial Registrar under this Statute;
- (d) the performance of Statutes by this Statute required to be done by the Provincial Registrar;
- (e) all matters connected with or arising from the restrictions as to the business name which may be used;
- (f) the reconstruction of folios; and
- (g) all matters that may be prescribed and generally the conduct and regulation of registration under this Statute and any matters incidental thereto.

(2) All regulations made by the Minister shall be published in the *Gazette* and shall be placed before the Northern Provincial Council within three months of such *Gazetting* and be approved by such Northern Provincial Council.

(3) Every regulation which is not approved by the Northern Provincial Council shall be deemed to be rescinded from the date of such disapproval, but without prejudice to anything previously done thereunder.

- (4) Notification of the date on which any regulation shall be deemed to be rescinded, shall be published in the *Gazette*.

Exercise of
discretionary
power by
Provincial
Registrar

39. Where any discretionary power is given to the Provincial Registrar by the Statute 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

40. The Provincial 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 Statute.

Provincial
Registrars to be
public servants

41. The Provincial Registrar 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

42. All registers required to be kept and maintained under the provisions of this Statute shall be kept and maintained under the supervision of the Provincial Registrar at the respective register offices in each administrative district.

43. In this Statute unless the context otherwise requires-

"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;

"corporation" means anybody 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 un-incorporate 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;

"Minister" means the Provincial Minister in charge of the subject of Trade and Commerce.

"prescribed" means prescribed by regulations in pursuance of this Statute;

Savings

44. (1) all certificates of registration issued under the provisions on Business Names Act, No. 7 of 1987 shall continue to be valid and effectual until fresh certificates of registration are issued under the provisions of this Statute.

(2) Every statement in writing containing particulars required to be furnished under the provisions on Business Names Act, No. 7 of 1987 or any change of particulars made to the Registrar under the provisions on Business Names Act, No. 7 of 1987 prior to the date of commencement of this Statute shall be valid and effectual and the provisions of this Statute relating to furnishing of particulars, change of particulars, payment of prescribed fees, registration and issue of certificates shall accordingly apply to every such statement.

(3) Any register, index or document kept under the provisions of the Business Names Act, No. 7 of 1987 shall be deemed to be and to be part of the register, index or documents kept under this Statute.

(4) 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 Business Names Act, No. 7 of 1987.

45. Notwithstanding the provisions of this Statute, until the establishment of Department and appointment of Provincial Registrar under sections 2 and 3 of this Statute. Department of Provincial Revenue and Provincial Revenue Commissioner shall exercise and discharge the powers and functions of the Department and Provincial Registrar respectively. Transitional provisions

46. In the event of any inconsistency between the Tamil and Sinhala texts of this Statute, the Tamil text shall prevail. Tamil text to prevail in the case of inconsistency

03 - 339