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GRENADA

ACT NO. 5 OF 2012

I assent,



13th January, 2012.

CARLYLE ARNOLD GLEAN
Governor-General.

AN ACT to reform the law on the registration of business names and for related matters.

[20th January, 2012].

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives and by the authority of the same as follows—

PART I

PRELIMINARY

1. This Act may be cited as the

Short title.

REGISTRATION OF BUSINESS NAMES ACT, 2012.

2. The objects of this Act are to—

Objects of Act.

-
- (a) require the disclosure of the true name of any person who is conducting business in Grenada under a name other than that person's true name; and
 - (b) provide for a Register of Business Names.

Interpretation.

3. In this Act—

“applicant” means an individual applying for registration of a business name, whether on that individual's own behalf or on behalf of a body corporate;

“business” includes a profession;

“business name” means a word or name, other than a person's true name, used by that person to identify that person's business;

“Companies Act” means the Companies Act No. 35 of 1994;

“contact details” include name, address, telephone numbers and email addresses;

“electronic” means created, recorded, transmitted or stored in digital or other intangible form, by electronic, magnetic, optical or by any other means that has capabilities for creation, recording, transmission or storage similar to those means;

“former Act” means the Registration of Business Names Act Cap. 281;

“initial” includes any recognized abbreviation of a name;

“International Companies Act” means the International Companies Act Cap. 152;

“person” includes any individual, partnership, company, or other body corporate;

“prescribed” means prescribed in regulations made under this Act;

“Registrar” has the meaning given by Section 2 of the Corporate Affairs and Intellectual Property Act, No. 19 of 2009;

“responsible individual” means—

- (a) in the case of a business owned by an individual, that individual;
- (b) in the case of a partnership, each of the partners;
- (c) in the case of a company, each of the directors; and
- (d) in any other case, the individual notified to the Registrar as authorized to act for the business;

“true name” has the meaning assigned in section 4.

Persons subject
to this Act.

4.—(1) This Act shall apply to any person who has a place of a business in Grenada, and who carries on business in Grenada under a name which is not the true name of that person.

(2) For the purposes of sub-section (1), a true name shall apply to—

- (a) an individual, the surname of that individual coupled with one or more of the individual's other names, one or more of the individual's initials, or any combination;
- (b) a partnership, a name consisting of the surnames of all the partners who are individuals, and the corporate names of all partners who are bodies corporate;
- (c) a company, its corporate name as registered under the Companies Act; or
- (d) a body corporate other than a registered company, the name of that body corporate as set out in the legislation or constitutional documents establishing the body corporate.

(3) A true name may also include—

- (a) in the case of a partnership, the forenames of individual partners or the initials of those forenames or where two or more individual partners have the same surname, the addition of "s" at the end of that surname; and
- (b) in any case, any addition indicating that the business is carried on in succession to a former owner of the business.

PART II**REGISTRATION OF BUSINESS NAMES**

5.—(1) Every person who carries on business in Grenada under a name which is not the true name of that person, shall apply to the Registrar for the business name to be registered.

Application
for Registr-
ation.

(2) An application for registration shall state—

- (a) the contact details of the applicant;
- (b) the proposed business name;
- (c) the nature of the business;
- (d) the address of the business;
- (e) if the business is not owned by the sole applicant, the ownership of the business; and
- (f) the date of commencement of the business,

except where the application is made on the behalf of a company, the applicant shall not be required to repeat information already provided to the Registrar.

(3) Notwithstanding cases where an application is made on behalf of a company, the applicant may be required to state whether the business is registered as—

(a) a taxpayer for the purposes of the Income Tax Act; and

(b) an employer for the purposes of the National Insurance Act Cap. 205.

(4) An application shall be accompanied by the prescribed fee.

(5) The Registrar may prescribe the form(s) and procedure(s) of submission in which an application is to be made, which may include electronic submission.

Confirmation of
Registration.

6. On receiving an application made in accordance with this section, the Registrar shall forthwith register the business name and shall issue a certificate confirming registration.

Register of
Business
Names.

7.—(1) The Registrar shall maintain a Register of Business Names.

(2) The Register of Business Names shall be kept in electronic form and shall be accessible to the public.

(3) The Registrar shall send information about additions to, or changes in, the Register of Business Names, to such persons as prescribed.

(4) Sub-section (3) shall not preclude the sending of information from the Register of Business Names to such other person as the Registrar may determine.

PART III**RULES REGARDING NAMES**

8.—(1) A business name shall not be—

Prohibition
of duplicate
names.

- (a) the same as a registered name, and
- (b) similar to a registered name, if such similarity would be liable to confuse or mislead.

(2) For the purposes of sub-section (1), a registered name is—

- (a) a business name already registered in accordance with the provisions of this Act;
- (b) the name of the company incorporated under the Companies Act; or
- (c) the name of an international business company incorporated under the provisions of the International Companies Act.

9. A business name shall not be registered if it—

Prohibition
of certain
words and
phrases.

- (a) includes a word or phrase prohibited by regulations;
- (b) includes a word or phrase, the use of which is restricted by regulations, and any conditions applying to the restriction have not been complied with;

- (c) suggests or implies a connection with the State or of any Ministry, department, branch, bureau, service, agency or activity of the Government, unless consent in writing to the proposed name is duly obtained from the Minister;
- (d) suggests or implies a connection with a political party or a leader of a political party;
- (e) suggests or implies a connection with a university or a professional association recognized by the laws of Grenada, unless the university or professional association concerned consents in writing, to the use of the proposed name;
- (f) is defectively inaccurate in describing—
 - (i) the business, goods or services in association with which it is proposed to be used;
 - (ii) the conditions under which the goods or services will be produced or supplied;
 - (iii) the persons to be employed in the production or supply of those goods or services; or
 - (iv) the place of origin of those goods and services;
- (g) is found to be objectionable by the Registrar.

10. Where, through inadvertence or otherwise, a name is registered which contravenes section 8 or section 9, the Registrar may cancel the registration and direct the owner of the business concerned to cease using that name.

Cancellation of registration of inappropriate name.

PART IV

REPORTING REQUIREMENTS

11.—(1) When any change occurs in the information provided to the Registrar in accordance with section 5, the responsible individual or individuals shall notify the fact to the Registrar.

Notification of changes.

(2) Notification of a change as required by subsection (1), shall take place within 14 days of the occurrence of the change in question.

(3) The Registrar may determine the form in which notification is to be provided, which may include electronic submission.

(4) The Registrar shall record such change referred to in subsection (1) in the Register of Business Names, and issue a certificate as confirmation of such change.

(5) If the business has ceased to legally exist, or the business name is no longer required, the Registrar shall cancel the registration of the business name.

12.—(1) Every business with a registered business name shall, once in every year, send to the Registrar an annual return together with the prescribed fee.

Annual return and annual fee.

(2) The return shall—

- (a) include information current at such date; and
- (b) be submitted within such time as may be prescribed.

(3) The return shall confirm or amend the information provided—

- (a) in accordance with section 5 at initial registration; and
- (b) if that information has been subsequently amended in accordance with section 10, the information as most recently amended.

(4) The Registrar may determine the form in which an annual return is to be provided, which may include electronic submission.

Cancellation of registration.

13.—(1) If the Registrar has reason to believe that—

- (a) a business owned by an individual or a partnership has ceased operation; and
- (b) that a business name for that business is included in the Register of Business Names,

the Registrar may send a letter by registered post to the responsible individuals, enquiring whether the registration of the business name is still required, and stating that, in the absence of a reply, the registration will be cancelled after a period of 60 days.

(2) If the Registrar—

- (a) receives a reply to the letter sent under subsection (1), stating that the business name is not required; or
- (b) does not receive a reply within 60 days,

the Registrar may cancel the registration.

(3) The Registrar shall cancel the registration of a business name where—

- (a) the name of a company is struck off the Register of Companies, in accordance with section 483 of the Companies Act; or
- (b) the name of a company or other body corporate is struck off the Register of Companies, in accordance with section 511 of the Companies Act; and
- (c) a business name is registered in respect of that company or body corporate.

14.—(1) A responsible individual commits an offence if that individual, without reasonable excuse—

- (a) operates a business under a business name which has not been registered, and without applying for registration as required by section 5; or
- (b) fails to notify the Registrar of changes in the address or ownership of the business in respect of which a business name has been registered as required by section 11; and

- (c) fails to deliver an annual return as required by Section 12,

that individual shall be liable on summary conviction to a fine.

(2) Where there is more than one responsible individual, each responsible individual who knowingly permits an offence under subsection (1), commits an offence, and shall be liable on summary conviction to a fine.

PART V

ADMINISTRATIVE ARRANGEMENTS

Forms.

15.—(1) Where this Act permits the Registrar to determine the form in which an application, notification or return is to be provided, the Registrar shall prescribe the details of the form or the manner of submission of the relevant information.

(2) The information required by sub-section (1), may be published on a website accessible to the general public.

Regulations.

16. The Minister may make regulations—

- (a) prohibiting or imposing conditions upon the use of specified words or phrases in a business name;
- (b) concerning fees to be paid to the Registrar in respect of any function required or permitted by this Act;
- (c) concerning the persons to whom information is to be sent in accordance with section 6;
- (d) concerning the timing of annual returns required by section 12; and

- (e) generally, for the more effective achievement of the objects of this act.

Transitional provisions.

17. Any business name which, at the date of commencement of this Act, is included in the index of firms and persons maintained in accordance with section 14 of the Registration of Business Names Act Cap. 281, shall be deemed to be registered under this Act.

Repeal.

18. The Registration of Business Names Act Cap. 281 is hereby repealed.

Passed by the House of Representatives this 18th day of November, 2011.

RAPHAEL DONALD
Acting Clerk to the House of Representatives.

Passed by the Senate this 1st day of December, 2011.

RAPHAEL DONALD
Acting Clerk to the Senate.

GRENADA
