

ACT

THE REGISTRATION OF BUSINESS ACT, 2007

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SIGNED this 26th of July, 2007

ALHAJI AHMAD TEJAN KABBAH,
President.



No. 18



Sierra Leone

2007

The Registration of Business Act, 2007.

Short title.

Being an Act to consolidate the law on the registration of businesses and business names and to provide for other related matters.

[/] Date of commencement.

ENACTED by the President and Members of Parliament in this present Parliament assembled.

PART I—PRELIMINARY

Interpreta-
tion.

1. In this Act unless the context otherwise requires—

“agent” includes a general commission agent, a commercial traveller, a manufacturer’s representative whether or not engaged in or carrying on a trade, profession or vocation in Sierra Leone in the normal way so long as in addition thereto that person owns an exclusive right or otherwise is a sole distributor of specified products manufactured outside Sierra Leone under an agreement with a manufacturer or another person whether or not for gain or profit by way of commission or otherwise;

Act No. 11
of 2002.

“Authority” means the National Revenue Authority established by section 3 of the National Revenue Authority Act, 2002

“business” means any trade, profession, including private professional practice or vocation carried on or exercised in Sierra Leone for any period of time, whether or not carried on or exercised through a permanent establishment or an agent or otherwise;

“manufacturer’s representative” includes a roving agent, general commission agent, commercial traveler or such other agent whether or not having or operating from a registered, established or known office or place of business in Sierra Leone;

“Minister” means the Minister responsible for trade;

“ordinary name” means the name by which a person is ordinarily known in private life:

Provided that—

(a) where any person has been registered for the purposes or in accordance with the provisions of any other law in force in Sierra Leone providing for the registration of persons by name, the name under which he was so registered shall be deemed to be his ordinary name;

(b) where any person has been baptized in a church or chapel of any Christian denomination, the name recorded in any baptismal register as the name under which he was baptized shall be deemed to be his ordinary name;

(c) where any person has been registered under paragraph (a) under more than one name or has been registered under one or more names and baptized under another name, all such names shall be deemed to be his ordinary name, and for the purposes of this Act his ordinary name shall be expressed in the form “.....otherwise known as.....”

(d) where the Registrar is satisfied that any person can be sufficiently identified by a name together with initials, or by a surname, that name together with those initials, or that surname, as the case may be, shall be deemed to be the ordinary name of that person;

“proprietor” means an individual carrying on a business of which he is the sole owner and includes a person in private professional practice; and

“Registrar” means the Administrator and Registrar-General and includes any deputy Administrator and Registrar-General and also any other public officer duly authorized in writing in that behalf by the Administrator and Registrar-General.

PART II – REGISTRATION OF BUSINESS NAMES

Proprietors and firms to be registered.

2. The following proprietors and firms shall be registered in the manner directed by this Part–

- (a) every proprietor having a place of business in Sierra Leone and carrying on business under a business name which does not consist of his ordinary name without any addition to it;
- (b) every firm having a place of business in Sierra Leone and carrying on business under a business name which does not consist of the ordinary names of all the partners in the firm without any addition to it;
- (c) every proprietor or firm having a place of business in Sierra Leone who or a partner in which has either before or after the coming into operation of this Act changed his name, including any proprietor or partner who, being a woman, has changed her name in consequence of marriage:

Provided that–

- (i) where any addition to the ordinary name of a proprietor or the ordinary names of the partners in a firm carrying on any business merely indicates that the business is carried on in succession to a proprietor or firm formerly carrying on the same business that addition shall not of itself render registration necessary;

(ii) where two or more partners have the same surname, the addition of the letter “s” at the end of that surname shall not of itself render registration necessary; and

(iii) where the business is carried on by a receiver or manager appointed by any court, registration shall not be necessary.

3. Every proprietor or firm required by section 2 to be registered shall furnish to the Registrar a statement in writing in the prescribed form signed by the proprietor or by all the partners in the firm and containing the following particulars:–

- (a) the business name of the business in respect of which the proprietor or firm is required to be registered;
- (b) the general nature of the business;
- (c) the principal place of business;
- (d) all other places at which the business is carried on;
- (e) the usual residence and any other business occupation of the proprietor, or of every partner in the firm, and where the proprietor or any of the partners in the firm has either before or after the coming into operation of this Act changed his name, or being a woman, has changed her name in consequence of marriage, any name by which the proprietor or partner was formerly known;

Manner and particulars of registration.

(f) if the business is commenced after the coming into operation of this Act, the date of commencement of the business.

Time for registration. 4. The particulars required to be furnished under this Part shall, in the case of a business commenced after the date upon which this Act comes into operation, be furnished within fourteen days after the commencement of the business.

Restriction on identical names. 5. No business shall be registered under this Act by a name which is identical with that by which a business in existence is already registered, or which so nearly resembles that name as to be calculated to deceive.

Registration of changes in particulars. 6. Whenever a change is made or occurs in any of the particulars registered in respect of any proprietor or firm, the proprietor or firm shall within fourteen days from the date of such change, notify the change to the Registrar in writing as provided in section 3.

Penalty for default in registration. 7. If any proprietor or firm fails to comply with any of the provisions of section 3, 4, or 5, the proprietor, or every partner in the firm, as the case may be, commits an offence and is liable on conviction to a fine of Le200,000 for every day during which the default continues, and the court by which the offender is tried shall order a statement of the required particulars to be furnished to the Registrar within such time as may be specified in the order.

Registrar to file statement and issue certificate of registration. 8. Every statement of particulars furnished under this Part shall be filed by the Registrar who shall deliver a certificate of the registration thereof to the proprietor or firm concerned, and the certificate or a certified copy thereof shall be kept exhibited in a conspicuous position at the principal place of business of the proprietor or firm and if not so kept exhibited, the proprietor, or every partner in the firm, as the case may be, commits an offence and is liable on conviction to a fine not exceeding Le1,000,000.00 or to a term of imprisonment not exceeding one year or to both the fine and imprisonment.

9. (1) If any proprietor or firm registered under this Part ceases to carry on the business in respect of which he or it is registered, it shall be the duty of the proprietor, or if he is dead, of his personal representative, or of the persons who were the partners in the firm when it ceased to carry on business, within three months after the business has ceased to be carried on, to send by post or deliver to the Registrar a notice stating that the proprietor or firm has ceased to carry on business, and if any person whose duty it is to give notice under this subsection fails to do so within the time, he commits an offence and is liable on conviction to a fine not exceeding Le1,000,000.00 or to a term of imprisonment not exceeding one year or to both the fine and imprisonment.

Removal of names from register.

(2) On receipt of the notice referred to in subsection (1), the Registrar shall expunge from the register the particulars relating to the proprietor or firm, as the case may be.

(3) Where the Registrar has reasonable cause to believe that any proprietor or firm registered under this Part is not carrying on business, he may send by registered post to the proprietor, or to any person who was a partner in the firm when it last carried on business, a notice informing the proprietor or partner, as the case may be, that, unless a reply to the notice is received within one month from the date of the notice the particulars relating to the proprietor or firm will be removed from the register.

(4) If the Registrar either—

- (a) receives a reply to the notice to the effect that the proprietor or firm is not carrying on business; or
- (b) does not within one month after sending the notice receive a reply to it,

he shall expunge from the register the particulars relating to the proprietor or firm, as the case may be, and shall forthwith give notice thereof in writing to the proprietor or to any person who was a partner in the firm when it last carried on business.

Misleading
business
names.

10. (1) When the business name under which any business is carried on contains the words—

- (a) “National,” “Government” or any other word which in the opinion of the Registrar suggests, or is calculated to suggest, that the business enjoys the patronage of the Government of Sierra Leone, or of any department thereof; or
- (b) “Municipal” “Chartered” or any other word which, in the opinion of the Registrar, suggest or is calculated to suggest, connection with any municipality or other local council; or
- (c) “Chamber of Commerce,” “Building Society” or “Co-operative”;

then unless the consent of the President has been first obtained, the Registrar shall refuse to register the business name.

(2) Where the business name under which any business is carried on is, in the opinion of the Registrar deceptive or objectionable in that it contains a reference direct or otherwise to any person, body, organization, authority, practice or institution, or is otherwise unsuitable as a business name, the Registrar shall refuse to register such business name.

(3) Any person aggrieved by a decision of the Registrar under this section may appeal to the High Court.

(4) Any proprietor who, and every partner in any firm which, carries on any business under a business name which the Registrar has refused to register on any of the grounds mentioned in subsection (1) or subsection (2), and in the case of an application to the President where the decision of the Registrar has been upheld, commits an offence and is liable on conviction to a fine not exceeding Le2,000,000 and to a further fine of Le200,000 in respect of every day during which such offence continues.

(5) The registration of a business name under this Part shall not be construed as authorizing the use of that name if the use thereof would be unlawful under the provisions of any other enactment or would constitute an infringement of any contractual or other right.

11. (1) Every proprietor or firm required by this Part to be registered shall, in all trade catalogues, trade circulars and business letters issued or sent from Sierra Leone to any person in or outside Sierra Leone, cause to be mentioned in legible characters the ordinary name of the proprietor or of every partner in the firm and where the proprietor or any partner has either before or after the coming into operation of this Act changed his name, or, being a woman, has changed her name in consequence of marriage, any name by which the proprietor or partner was formerly known:

Publication of
true names in
trade circu-
lars, etc.

Provided that—

- (a) the proprietor or firm in default may apply to the High Court for relief against the disability imposed by this section, and the Court, on being satisfied that the default was due to accident or inadvertence or that on other grounds it is just and equitable to grant relief, may grant the relief applied for either generally or as respect any particular contract and on such conditions as the Court may impose;

- (b) if any action or proceeding is commenced by any other party against the proprietor or firm in default to enforce the rights of that other party in respect of the contract, nothing in this Part shall preclude the proprietor or firm from enforcing in that action or proceeding by way of counter-claim, set-off or otherwise, such rights as he or it may have against the other party in respect of the contract.

PART III—REGISTRATION OF BUSINESSES

Obligation to register business.

12. (1) Subject to this Part, no person shall carry on any business unless the business has been validly registered.

(2) Any person who contravenes subsection (1) commits an offence and shall on conviction be liable to a fine of Le1,000,000 or to a term of imprisonment of one year or to both the fine and imprisonment.

Application for registration.

13. (1) The proprietor of every business required to be registered under this Part shall make an application for that purpose in the prescribed form to the Registrar.

(2) Without prejudice to the general effect of subsection (1), the prescribed form shall contain the following particulars:—

- (a) the name, address and nationality of the proprietor;
- (b) the name, address and nationality (if any) of the business where different from those of the proprietor;

- (c) particulars of branches of the business in Sierra Leone;
- (d) the nature of the business;
- (e) the date of commencement of the business if the business is already in existence;
- (f) if the business is already registered, the date of registration of the business;
- (g) the capital employed in the business;
- (h) the turnover of the business;
- (i) if the business is in the nature of a partnership or a company, the name, address and nationality of each partner or shareholder to the capital of the business; and
- (j) such other particulars as may be prescribed.

(3) A copy of every application made under this section shall be forwarded to the Authority by the proprietor.

14. (1) Subject to this section, where the Registrar is satisfied— Registration of business.

- (a) that the particulars contained in the application are correct and sufficient;
- (b) that this Part has been fully complied with; and
- (c) that the business is registrable under this Part,

he shall, upon payment to him of the prescribed fee, register the business and make entries thereof in a register kept by him for that purpose.

(2) For the purpose of satisfying himself in accordance with subsection (1), the Registrar may call upon any proprietor, partner, shareholder or former partner or shareholder to supply him with such further information as he may think fit and may require the books and accounts of the business to be produced for inspection.

(3) Where the Registrar refuses to register a business for any reason whatsoever, any proprietor affected by the refusal shall have a right of appeal to the High Court against the decision of the Registrar:

Provided that written notice of the appeal shall be given by the appellant to the Registrar at least twenty-eight days before the hearing of the appeal.

(4) Upon an appeal, the High Court may make such order as it thinks fit confirming, rescinding or varying the decision of the Registrar and upon such terms and conditions as it thinks fit.

Certificate of registration.

15. (1) Upon the registration of any business under section 14, the Registrar shall forthwith deliver to the proprietor of the business, a certificate of registration of that business.

(2) The certificate of registration shall be prepared in triplicate the original copy of which shall be forwarded to the proprietor, the duplicate copy to the Authority and the triplicate copy shall be retained by the Registrar.

(3) The certificate of registration or a certified copy thereof shall be kept exhibited in a conspicuous position at a principal place in which the business is carried on and, if not so exhibited, the proprietor of the business, and, if there is more than one proprietor, each of them commits an offence and shall on conviction, be liable to

a fine not exceeding Le1,000,000.00 or to a term of imprisonment not exceeding one year or to both the fine and imprisonment.

16. Where any change has been made or has occurred in any of the particulars contained in any application made under this Part, the proprietor shall, within fourteen days after the day on which the change was made or occurred, deliver to the Registrar and the Authority a written statement of the particulars of the change.

Change of particulars in application.

17. The Authority shall collect and receive the prescribed fees in respect of any registration under this Part.

Authority to collect fees.

18. Where the Registrar refuses for just cause to register any business under section 14, he may retain any fees paid in respect of any application for the registration as a set-off against any income tax that may be owed by the applicant under the Income Tax Act, 2000.

Power of Registrar to set off fees against income.

Act No. 8 of 2000.

19. (1) The Registrar may, for good cause, cancel any registration under this Part and strike the name of any business off the register.

Power of Registrar to cancel registration.

(2) Where the Registrar cancels the registration of a business after the date of registration, the monies paid as fees under section 14 shall, in no circumstances be refundable to the proprietor.

(3) Any person aggrieved by any action taken by the Registrar under subsection (1), may within fourteen days of such action, appeal to the High Court against such action.

Exemptions.

20. Notwithstanding anything in this Part, the following businesses shall not be required to be registered under this Act:—

- (a) any business which is registrable or licensable under any other enactment where that enactment provides for the registration or licensing of the business or both;
- (b) any business carried on by a person who is exempted from income tax in respect of that business or whose income accrues or is derived from a business exempted from tax under the Income Tax Act, 2000;
- (c) any business, class or description of business exempted by the Minister by statutory instrument .

Act No. 8 of 2000.

Power of Registrar and Authority to enter and inspect business premises.

21. Every proprietor of a business required to be registered under this Part shall permit the Registrar or the Authority or any person deputed in writing for that purpose by either of them, to enter and inspect any premises on which the business is carried on or controlled or where the certificate of registration is exhibited and to carry out such investigations as may be necessary for carrying into effect any of the provisions of this Part.

Offences by bodies of persons.

22. (1) Where an offence is committed under sections 12 and 15 by a body of persons, then—

- (a) in the case of a body corporate, any person who, at the time of the act constituting the offence was a director or officer of that body, shall be deemed also to be guilty of the offence; and

- (b) in the case of a firm, every person who at the time of the commission of the offence constituting the offence was a partner or officer of that body, shall be deemed also to be guilty of that offence.

(2) No person shall be deemed to be guilty of an offence by virtue of this section if he proves that the act in respect of which he is charged was committed by some other person without his knowledge or connivance and that he exercised all due diligence to prevent the commission of the offence having regard to all the circumstances.

PART IV—MISCELLANEOUS

23. The Minister may, by statutory instrument, make regulations—

Regulations.

- (a) conferring upon the Registrar such powers as may be necessary or expedient for carrying out the purposes of this Act;
- (b) providing that fees may be charged by the Registrar in respect of any acts done by or before him in pursuance of any of the provisions of this Act and prescribing the amount of such fees;
- (c) prescribing forms for the purposes of this Act;
- (d) generally for the conduct and regulation of registration under this Act and of any matters incidental thereto.

Repeal and
savings.
Cap 257

Act No. 13
of 1983.

24. (1) The Business Names Registration Act and the Business Registration Act 1983 are hereby repealed.

(2) Notwithstanding subsection (1), any order, proclamation or regulations made under the repealed Acts and in existence at the commencement of this Act shall continue in existence unless otherwise revoked.

Passed in Parliament this *8th* day of *June*, in the year of our Lord two thousand and seven.

A. A. KEMOKAI,
Clerk of Parliament.

THIS PRINTED IMPRESSION has been carefully compared by me with the Bill which has passed Parliament and found by me to be a true and correct printed copy of the said Bill.

A. A. KEMOKAI,
Clerk of Parliament.