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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

WESTERN PROVINCE PROVINCIAL COUNCIL

Western Province Business Names Statute, No. 05 of 2011

A statute to make provisions for the registration of business establishments and persons conducting business activities under business names within the Western Province, and in order to provide provisions for all matters related to such registration or matters consequential thereto. Western Province Business Names Statute, No. 04 of 1994 is repealed hereby. This statute non-complies with the Registration of Business Ordinance (Authority 149) amended by Ordinances, No. 6 of 1918, No. 27 of 1919 and No. 8 of 1938.

Trade, corporations and non-incorporated trade institutions, the objectives of which are confined to the Province, shall only be registered under this Statute as a business name.

The Western Province Provincial Council of the Democratic Socialist Republic of Sri Lanka enacts as follows :-

This statute is cited as the Business Names Statute of Trade, Corporations and Non-incorporated Trade Institutions of the Western Province No. 05 of 2011, and subsequent to receiving the assent of the Hon. Governor it shall come into operation from such a date (hereinafter be referred to as Due Date), ordered by the Minister by a *Gazette Notification*.

Short title and date of enactment.

PART I

REGISTRATION OF BUSINESS NAMES

2. (a) Every business enterprise having a place of business within the Western Province Provincial Council (hereinafter be called as the "Provincial Council") and conducting business under a business name that does not comprise the true full names of all the individual partners should ;

Business Enterprises and Persons should be Registered.

(b) Every individual having a place of business within the Provincial Council and carrying on business under a business name which does not consist of his true full name without any addition ;

(c) Every individual who has changed his name or a business firm which has a partner that changed his name, prior or subsequent to adoption of this statute - except in an instance regarding a woman, in a situation where her name has been changed as a result of marriage and having a place of business within the Provincial Council ; and

(d) Every corporation having a place of business within the Provincial Council and conducting businesses in a business name that does not comprise its true corporation name without any addition.

Shall be registered subjected to provisions of this statute and in the manner ordered by this statute.

Instances where Registration not required.

3 (i) Where the addition merely indicates that the business is carried on in succession to a former owner, as a result of such addition ; or

(ii) Where the business is so carried on by assignee of an insolvent estate or a receiver or manager or curator appointed by any court ; or

(iii) Where the case of a purchase or other acquisition of property by two or more persons, whether or not any profits arising from the sale thereof are shared among the owners, a business is carried on in the identical manner ;

registration shall not be necessary.

Business carried on by the local manager.

4. (1) Where any individual or all the partners of any business firm or all the directors and the secretary of any corporation who are required to be registered under this Statute, are residing outside Sri Lanka, the business of such individual or firm or corporation should be carried on in Sri Lanka by a local manager in the name of such individual, firm or corporation. Further such Local Manager shall be personally responsible for the discharge of all obligations attached to such individual, firm or corporation.

(2) Where the Registrar has been notified that no Local Manager has been appointed for any business, in terms of Sub-section (1), the Registrar may notify such individual or partners of such firm or all Directors or Secretaries of such co-operation to comply with the requirements of the said Sub-section.

(3) In the event of taking action to comply with such notification within a period of three months from issuing of such notification being defaulted, the registration of such individual, firm or corporation shall be removed by the Registrar.

(4) Where the Local Manager has made any default pertaining to any obligation under Sub-section (1), he shall be liable to such responsibilities and penalties to which such individual in whose name he is carrying on the business or a partner of the firm or a director or secretary of the corporation, as the case may be, shall be liable. Further, all penalties and other provisions under this Statute shall be apprehended accordingly.

(5) For the purpose of this Section “Foreign Manager” means any person who was appointed by a document or who is acting under the power of attorney for or on behalf on any firm or person with residence in a foreign country and having a place of business within the province or any person who is carrying on business and signing cheques or acting as an actual manager. The aforesaid Local Manager shall be Citizen and person residing in Sri Lanka. Such local manager shall be personally responsible for the discharge of all obligations attached to such individual, firm or corporation.

Particulars of Registration.

5 (1) Every firm or person required under this Statute to be registered under Western Provincial Council shall furnish by sending by post or delivering to the Provincial Registrar’s office, whatever be the area within the Provincial Council where the principal place of business of the firm or the person is situated, a statement in writing in the prescribed form containing the following particulars ;

- (a) In whatever the name the business is carried on, the name of that business ;
- (b) The nature of the business ;
- (c) Address of principal place of business ;

- (d) Address of any branch office, stores, ware house or go down 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) Full name used at present ;
 - (ii) Previous name in full if there was any ;
 - (iii) Citizenship ;
 - (iv) National Identity card number ;
 - (v) The usual place of residence ;
 - (vi) Name of each and every business of which he is the owner or he is the partner and the business name and registration number of any such business ;
 - (vii) Name of each and every corporation of which he is a director ;
 - (viii) 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 corporation, 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) Such other particulars as the Minister may, by a notification published in the Gazette, require ;
- (h) If the business is carried on under any other business name, such other business name ;
- (i) Every person or firm commencing a business shall complete the application in the proper format and present it within 14 days from the commencement of the said business or within a time period allowed by the registrar.

Such application shall be signed ;

- (i) In the case of an individual, by such individual,
- (ii) In the case of a corporation, by two directors or a director and the secretary thereof ;
- (iii) In the case of a firm, by all partners thereof.

(2) Where the business is carried on under one business name or more than one business names, which is not a transliteration of the business name provided under Paragraph (a) of Sub-section 2 (1), a separate statement with regard to each such business name shall be provided as per provisions allocated by Sub-section (1).

6 (1) Every firm or person carried out business under certain business name before the enactment of this statute shall be considered as registered under this statute. However, any change or annulment made subsequent to the date of enactment of this statute shall be conducted complying with provisions of this statute.

Statement to be provided subsequent to enactment of Statute in the case of prior registration.

Commencement
of a new business
or change of
business name.

7 (1) Every firm or person commencing to carry on business under a business name on or after the appointed date or for any other reason becoming liable for registration after such date, shall furnish a statement of particulars required under Section 5 of this Statute, in two copies.

(2) The statement of particulars required to be furnished under Sub-section (1) shall be on the prescribed form and shall be furnished within fourteen days of such commencement or the date on which such liability arose or within such further period as the Registrar may allow, on application.

(3) The statement of particulars under Sub-section (1) shall be signed -

- (a) In the case of an individual, by such individual ;
- (b) In the case of a corporation by two directors or one director and the secretary thereof ;
and
- (c) In the case of a firm, by all the partners thereof.

Prohibited
Business Names.

8 (1) No firm, individual or corporation shall conduct within the Provincial Council any business name which -

- (a) Contain the words -
 - (i) "President" "Presidential" "National" "State" or "Sri Lanka" to which in the opinion of the Registrar, suggest or is likely to suggest the patronage of the President or any connection with the government or any Government Department ; or
 - (ii) "Municipal" or "Incorporated" or "Companies" or their abbreviation or which in the opinion of the Registrar, suggest or is likely to suggest connection with any Municipal Council or other local government institution or with any society or board incorporated by an Act of Parliament or otherwise ; or
 - (iii) "Cooperative", "Corporation" or "Society";
- (b) If-by reason of its nature or of the manner it is put to use it 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 the trade or business circles or the public as to the nature of the trade or business identified by that name ;
- (c) Includes a business name which is a translation of such business name.

Changes to
Statement of
Particulars.

9 (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 a statement of change indicating the nature and date of such change along-with the last issued certificate of registration or certified copy thereof.

(2) The statement of particulars under Sub-section (1) shall be on the prescribed form and shall be furnished within fourteen days of such change or any extended period of time allowed by the Registrar.

It shall be signed —

- (a) In the case of an individual, by such individual ;
- (b) In the case of a corporation, by two directors or one director and secretary thereof ; and
- (c) In the case of a firm, by all the partners or by any one partner. In an instance where one partner signs, the affidavit thereof shall be signed by that partner and certified by a Justice of Peace or a Commissioner of Oaths.

(3) Where any change in the particulars arises from the entry into a firm of a new partner, the statement under Sub-section (1) shall be signed by each partner including such new partner.

(4) Where any change in the particulars arises by a person ceasing to be a partner of a firm, the statement under Sub-section (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 of the continuing partners, subject to the statement being authenticated by each of the signatories by an affidavit as prescribed.

(5) Any affidavit which authenticates any statement furnished under this Statute and which states that any person other than the declarant is a partner or such person has ceased to be a partner, or an affidavit which does not state that certain person is a partner or has ceased to be a partner, shall not be evidence for or against such other person in respect of liability or non-liability of such other person, as a partner.

(6) The change in the particulars contemplated in this section shall not include the simultaneous cessation of all the partners and the admission of new partners so as to continue the business without interruption.

(7) Where the Registrar is of the opinion that any particulars in any statement which was furnished under this Statute and which requires authentication by an affidavit, needs further investigation before registration, he may call for additional proof of any material particulars from any other person and may also hold an investigation as he may deem necessary.

(8) The Registrar may, after due inquiry and having made necessary rectification in particulars appearing in such statement where necessary, register such statement as has been rectified.

(9) Where the Registrar has refused to register any statement subsequent to an inquiry held under Sub-section (8), the person aggrieved by such refusal may appeal therefrom to the Ministry purviewing the subject within thirty days from the date of communication of such refusal and that decision shall be decisive and final.

(10) If any firm or person required under this Statute, to furnish a statement of particulars or of any change in particulars, makes default, without reasonable excuse, in so furnishing in the manner and within the period specified in this Statute, every partner in the firm which is in default or the person who is in default shall be liable on being convicted after a summary trial before a Magistrate, to a fine of Two Thousand Five Hundred for every day during which default continues after conviction. Further, the court before which the case involving such partner or person is heard may where necessary order for furnishing of a statement of required particulars to the Registrar within such period of time as may be specified in the order.

Penalty for Defaulting Registration.

11 (1) Where any firm or person required by this Statute to furnish a statement of particulars or of any change in respect of any business has defaulted doing so, then the rights of that defaulter under or arising out of any agreement 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 who have defaulted.

However,

- (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 it is just and equitable to grant relief on other grounds, may grant such relief either generally or with respect to any particular agreements, on condition of the costs of the application being paid by the defaulter, unless the court otherwise orders and on such conditions if any, as the court may impose. But such relief shall not be granted unless the service and publication of notice of the application has been made in the manner as court may make order.

- (b) Relief shall not be provided in respect of a particular agreement which was proved by a certain party entered into the agreement to the satisfaction of the Court that if the provisions of this Statute had been complied with, he would not have entered into the agreement ;
- (c) nothing herein contained shall prejudice the rights of any other party to take action against the defaulter in respect of the agreement as aforesaid ;
- (d) in the event of any legal action or proceeding being commenced by any other party against the defaulter to enforce the rights of such party in respect of such agreement, nothing herein contained of shall preclude the defaulter from enforcing in that legal 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 agreement.

(2) In this Statute, "Court" means the court in which any action or other legal proceeding to enforce an agreement is commenced by a defaulter.

Penalty for false Statements.

12. 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 trial, be liable to imprisonment of either description for a term not exceeding six months, or to a fine not exceeding Rupees Two Thousand or both such imprisonment and fine.

PART II

APPOINTMENT, IMPLEMENTATION AND ADMINISTRATION

Appointment of Registrar and his Functions.

13 (1) A person shall be appointed to function as the Provincial Registrar for Registration of Business Names.

(2) As per provisions enacted under this Statute, the Registrar possesses the authority for the general administration and supervision with respect to registration of business names within the province.

Assignment of Powers.

14. Certain powers functions or duties assigned to the Registrar by this Statute or under this Statute may be assigned under authority or administration of the Registrar, to an authorized officer to be implemented or carried out.

Establishment of the Department of Registrar.

15 (1) In order to accomplish the functions of this Statute, Provincial Department of Registration of Business Names shall be established.

(2) Provincial Business Names Registrar shall be the head of that department.

Duty of furnishing particulars to the Registrar.

16 (1) The Registrar may require any person to furnish to him within such period of 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 which he is a partner should be registered under this Statute or an alteration made in the registered particulars, and may also in the case of a corporation, require the Secretary or any other officer performing the duties of Secretary of such corporation to furnish such particulars.

(2) Any person who fails to furnish the particulars required under Sub-section (1) within the period specified by the Registrar or within such further period as he may allow or who furnishes particulars which are false, does commit an offence and shall, on being convicted after a summary trial, be liable to a fine not exceeding Rupees Two Thousand and Five Hundred per such defaulted day or to imprisonment of either description for a term not exceeding six months or to both such imprisonment and fine.

(3) In any proceedings under Sub-section (2) the court may, where it thinks fit, order that person to furnish or to have furnished to the Registrar, such particulars or such corrected particulars within such period of time as may be specified in that order.

(4) If from any information so furnished, it appears to Registrar that any firm or person ought to be registered under this Statute or on alternation ought to be made in the registered particulars, he may require the firm or person to furnish to him the required particulars within such time as may be allowed to such firm or person. But where any default under this Statute has been detected from the information acquired by the Registrar by other means and where such firm or person has been required by the Registrar to furnish particulars to him under this section within any period of time, no proceedings under this Statute shall be initiated against such person prior to the expiration of such period of time.

17 (1) Where for the purpose of ascertaining any information required by him in order to fulfill the duties under this Statute, the Registrar may, if he is of the opinion that such information is not likely to be furnished to him or suspects 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 Registrar under Sub-section (1) for the purpose of ascertaining any information under this Statute may, if necessary, be accompanied by a peace officer and may do 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 subject as far as possible, to the provisions of this Statute and of Code of Criminal Procedure Act, No. 15 of 1979 relating to searches, shall apply so far as may be to searches under this Section ; and
- (d) Remove any of such books, registers or other documents that may be found in the course of any search of any building or place and issue a receipt therefore to the person from whose custody the same was removed and enter without delay the particulars of such books, registers or other documents in the register referred to in Sub-section (1).

(3) Any firm or person, corporation, agent, director, officer or an employee of such firm or person who fails to furnish any information or to produce any book, record or other document when required to do so by the Registrar or any officer specially authorized in writing by the 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 under this Statute of an offence stated in Sub-section (3) is a corporation, every person who at the time of the commission of the offence was a director or an officer of such corporation shall be deemed to be guilty of that offence and shall on being convicted after a summary trial, be liable to imprisonment of either description for a term not exceeding twelve months or to a fine not exceeding Rupees Two Thousand or to both such imprisonment and fine.

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

18 (1) On receiving any statement made in pursuance of this Statute from any firm or person, the Registrar shall subject to the provisions of this Statute, cause the same to be registered and he shall send by post or deliver to that firm or person a certificate of registration.

However, a valid certificate or registration of a firm or person issued prior to the date of introduction of this Statute shall be valid for all purposes subject to Section 6 until such time as a valid certificate is issued under this Section.

(2) The firm or person to whom a certificate of registration has been issued under Sub-section (1) shall, within fourteen days from the date of receipt thereof, keep exhibited in a conspicuous position at the principal place of business of that firm or person and at every place the business is conducted, such certificate or a certified copy thereof.

(3) Every firm or person registered under this Statute shall -

(i) Cause the business name and registration certificate number to be painted or affixed on the outside of every place at which the business is carried on in a conspicuous position in letters easily legible.

(ii) Cause to be printed in the letter heads -

(a) in the case of a business carried on by a person or carried on by the partners of a firm (where none of the partners is a corporation), the business name and the name of the individual who is carrying on the business or the names of all the partners and the registration certificate number of the business and the principal place of business of such business ;

(b) in the case of a business carried on by the partners of a firm (where one or more of its partners is a corporation), the registered business name, name or names of the partner who is an individual or partners who are individuals and the corporation name and the particulars relating to all the partners of a corporation being incorporated and the registration certificate number of the business and the principal place of business of such business ;

(c) in the case of a business carried on by a corporation, the corporation name and the particulars relating to such corporation being incorporated and the registration number of the business and the principal place of business of such business.

(iii) Disclose in its receipts and invoices -

(a) the name of the business ; and

(b) the registration certificate number of the business.

(4) Every firm or person registered under the provisions of Section 5 of this Statute shall comply with the provisions of Sub-section (2) and (3) of this Section.

(5) In the event of complying with the provisions of Sub-section (2) or Sub-section (3) being defaulted, every person who makes such default and if such person is a partner of a firm every partner of such firm and in the case of a corporation every director and secretary thereof does commit an offence and shall on being convicted after a summary trial, be liable to a fine not exceeding Rupees Two Thousand.

(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 person furnishing such statement.

19. An index of all the firms and persons registered under this Statute together with the serial number of registration shall be kept by the Registrar of each office of registration and a general index of all the business names of firms and persons so registered at each and every office throughout the Western Province shall be maintained at the Main Office.

Index to be kept.

20. (1) If any business 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, to send by post or deliver to the Registrar within three months of such cessation, a statement in the prescribed form that the firm or person has ceased to carry on business under that business name.

Notice of cessation and removal of names from register.

(2) If any person whose duty was to give the statement required by Sub-section (1) has defaulted doing so within such time as referred to above, he does commit an offence and shall on being convicted after a summary trial, be liable to a fine not exceeding Rupees One Thousand.

(3) On respect of the statement referred to in Sub-section (1), the Registrar shall file such statement and shall make an endorsement in the register removing the registration of such firm or person.

(4) Where the Registrar has reasonable cause to believe that any firm or person registered under this Statute in not carrying on business under the registered name, he shall cause -

- (a) a notice to be published in the *Gazette* stating that unless objections are received within one month of the publication of such notice in the *Gazette*, the name of such firm or person will be removed from the register ; and
- (b) a copy of the aforesaid notice to be sent without delay by registered post to the firm or person specified in such notice and to each of the partners to his residential address.

(5) If the Registrar receives no objection to the aforesaid notice within the period of one month of the service of the said notice, he may remove the name of such firm or person from the register.

21 (1) The 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 said business name is contrary to any law for the time being in force or is a business name in the use of which is prohibited under Section 8.

Power to refuse registration.

(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 shall be prohibited.

22 (1) Subjected to the provisions of Sub-section (3) of this Section, the Registrar may terminate the registration of any firm or person on any ground in which the refusal to register is authorized by Sub-section (1) of Section 21.

Power to terminate registration.

(2) No termination of registration under Sub-section (1) shall be made unless the 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 Registrar be taken to change the business name within the period specified in such notice.

(3) Where the firm or person has defaulted taking such measures acceptable to the Registrar to change the business name within the period specified in the notice under Sub-section (2), the 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.

Penalty for using a refused or terminated business name.

23 Where the registration of a business name under this Statute has been refused or terminated, any firm or person continuing to use such business name does commit an offence and shall, on being convicted after a summary trial before a Magistrate, be liable to a fine not exceeding Rupees Two Thousand and to a continuing fine of Rupees One Hundred for every day on which the offence is continued to be committed after being convicted.

Notice or refusal of registration.

24 Where the Registrar refuses to register a business name or removes or terminates registration of certain business firm or person under Sections 20, 21 or 22, the notice of such refusal, removal or termination shall be sent by registered post to such firm or person.

Appeals.

25 Any person aggrieved by any decision taken or order made by the Registrar under the provisions of this Statute, may appeal thereof to the Minister in charge of the subject, subsequent to the date of communication in writing of such decision or order to him.

Exemption from Stamp Duty.

26 In all proceedings before any court -

(a) The Registrar shall not be required to furnish any stamp or be charged with any stamp duty,

(b) The costs of action of the Registrar shall be in the discretion of the Court, but the Registrar shall not be ordered to pay the costs or any other party.

Inspection of registered statements and issue of certified copies.

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

(2) Any person may request for a certificate of the registration of any firm or person, or a copy or Photostat copy of an extract from any statement made on any prescribed form to be certified by the Registrar. Such fees as may be prescribed for such certificate, certified copy or extract shall be paid.

(3) A Certificate of registration or a copy or Photostat 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 Registrar (It shall not be necessary to prove that it was signed by the Registrar), shall be accepted in evidence in all legal proceedings, civil or criminal.

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

28 (1) Where the Registrar is satisfied that any volume of any register of record kept under this Statute or any file or document has been so damaged and that volume, file or document is in a condition incapable of being mended, he shall cause a copy of such volume, file or document to be made and authenticated in such manner as directed by him.

(2) Any copy made and authenticated under the provisions of Sub-section (1) shall replace the volume or folio or document 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 Registrar shall cause every damaged volume, file or document of which a copy has been made under the provisions of Sub-section (1), to be preserved as long as it is reasonably practicable for any reference as may be necessary.

(4) Where the Registrar after due investigation is satisfied that any folio of any volume, of any register or file has got misplaced and cannot be traced 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 copy to be prepared.

(5) No folio can be reconstructed as provided for under Sub-section (4) except in accordance with regulations providing -

- (a) for evidence to be admitted and used by the Registrar for ascertaining the particulars originally contained in the misplaced or mutilated or damaged folio ;
- (b) for giving of notice by the Registrar of the preparation of the reconstructed folio ;
- (c) for lodging of objections by any person affected by any of the particulars contained in the reconstructed folio ; and
- (d) for inquiry into any such objections by the registrar.

(6) Where any folio has been reconstructed by the Registrar in accordance with the preceding provisions of this Section, the 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, mutilated or damaged folio or in a copy of a volume prepared under the provisions of this Section as the case may be. 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 Registrar may, after such inquiry as he may deem necessary, correct any clerical error or omission which may be deleted in any entry in any register or in 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.

29. 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 sent by the Registrar under the registered cover to the registered principal place of business of the person to whom it is addressed.

Service of notices.

30. (1) Where a firm or person has furnished an application under Sections 5, 6 or 9 of this Statute, but where furnishing of such particulars as required in writing or inclusion of any amendments in the original application as required in writing by the Registrar for the issue of a certificate of registration has been defaulted, the Registrar may issue a notice in the relevant format requiring such firm or person to include the said particulars or amendments in the application. If such firm or person has defaulted complying with such notice within one month thereof or within such extended period as given by the Registrar, the Registrar may consider such application as having lapsed and may not proceed to take further action regarding the issue of a certificate thereon.

Instances where an application may lapse.

However, notwithstanding anything stated above, 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 furnished such particulars as were required by the Registrar or makes the amendments on the original application as were required by him

(2) Where by firm or person continues to use a business name the registration or which has lapsed under this Section and has not taken steps to comply with the provisions of Sub-section (1), such firm or person does commit an offence and shall, on being convicted after a summary trial before a Magistrate, be liable to a fine not exceeding Rupees Two Thousand and to a continuing fine of Rupees One Hundred for every day in which the offence is continued to be committed after being convicted.

Fees may be ordered through rules.

31. Under this Statute, in order to issue a certificate of Business Name Registration or any other statement, fees may be ordered by the Minister in charge of the subject through rules issued from time to time. Such rules may be composed by the Minister in charge of Trade of the Western Province in compliance with the Section 32 below.

Power to make regulations.

32. (1) The Provincial Minister in charge of the Subject of Trade may make rules and regulations concerning any of the following matters ;

- (a) The fees to be charged under this Statute ;
- (b) The forms to be used under this Statute ;
- (c) Publishing intermittently by *Gazette* paper or by other means particulars of reports pertaining to registers kept under this Statute, particulars contained therein ;
- (d) Documents to be furnished in instances of registration, changing or annulment of certain business name ;
- (e) General procedures regarding registration under this Statute, administration and matters consequential thereto.

(2) Every regulation made by the Minister shall be published in the *Gazette* and shall come into operation on the date of such publication or on such later date as may be specified in the regulations.

(3) Every regulation made by the Minister shall, as soon as convenient after its publication in the *Gazette*, be presented to the Provincial Council for approval.

(4) Any rule which is not so approved shall be deemed to be rescinded as from the date of disapproval but without prejudice to anything previously done hereunder.

(5) The date of which any rule shall be deemed to be rescinded, shall be published in the *Gazette*.

Penalties for false statements or falsely representing business names as registered.

33 (1) Any person who —

- (a) knowingly presents facts as having been registered when a business name is not so registered or uses an incorrect or false number with the business name ; or
- (b) produces, tenders or causes to be produced or tendered any statement or affidavit under this Statute knowing it to be false,

does commit an offence and shall, on being convicted after a summary trial before a Magistrate, be liable to a fine not exceeding Rupees Two Thousand or to an imprisonment for a term not exceeding six months.

Offences by corporations.

34. Where a corporation has committed an offence under this Statute, every person who at the time of the commission of the offence was a Director, General Manager, Secretary or other similar officer of that corporation or was in obligation to act in such capacity, shall be deemed to have committed such offence, unless he proves that the offence was committed without his consent or knowledge 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.

35. (1) Where any firm or person that has been required under any provision of this Statute to furnish, deliver or send to the Registrar any statement of particulars or of any change in particulars under this Statute, has defaulted complying with such provision and has by reason of such default committed an offence against this Statute, the Registrar may if he thinks fit, instead of instituting proceedings in a 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 Registrar may think proper in compensation for the offence, and any sum so accepted shall be credited to the Consolidated Fund. Further, the record of every such sum of money so accepted in compensation for the offence shall be entered in a register kept and maintained by the Registrar.

(2) Where the Registrar has accepted any sum of money under the provisions of Sub-section (1) in compensation for any offence, institution of proceedings shall not be made against such firm or person in respect of that offence or if proceedings already instituted, shall not be continued.

(3) (1) Where any sum of money payable in compensation for an offence under the provisions of Sub-section (1) remains unpaid for a period of one month from the date fixed for its payment by the Registrar or such extended time as the Registrar may allow, the Registrar shall report the said default in such payment to a Magistrate and the amount the payment of which was so defaulted shall be recovered from such firm or person in the same manner as it were a fine imposed by a court ; further, such court shall direct that the amount, the payment of which was so defaulted, be credited to the Consolidated Fund.

36. Where any discretionary powers are assigned to the Registrar by this Statute or regulations made there under, the Registrar shall exercise such powers and discretion *bona fide*, even if opportunity was not given to make representations.

Exercise of discretionary powers by the Registrar.

37. The 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 or registration entry in the register kept and maintained by him under this Statute.

Correction of clerical errors.

38. No suit or other legal proceedings shall be instituted against the Registrar for any act done or purported to be done in good faith for the purpose of this Statute.

Not suit to be instituted against Registrar.

39. Where certain doubt or difficulty arises in the administration of certain provision from among the provisions of this Statute, the Registrar may apply to Attorney General in order to obtain instructions for the said matter.

Registrar to follow orders of Legal Officers.

40. The Registrar, or certain person accomplishing the duties of the Registrar under this Statute, shall as long as he holds office be deemed to be a public servant within the meaning of the Penal Code.

Registrar and other officers to be public servants.

41. All the registers to be kept and maintained under the provisions of this Statute shall be kept at the Registered office under the supervision of the Registrar.

Maintenance of records and registers.

42. Although the Western Province Business Registration Statute, No. 04 of 1990 is repealed herein. —

Interim provisions.

(1) They shall further be subjected to the disabilities imposed on persons defaulted meaning wise the provisions of Section 09 of the Business Names Ordinance (which is the 149th Authority) of which was integrated by the aforesaid Statute and shall be subjected to the right of relief provided by the said Section ;

(2) All registration certificates issued under the said Statute shall continually be valid and in operation as per provisions of this Statute ;

(3) Having compiled the said Statute, every regulation or order made and in power from the due date shall be considered as a rule compiled under this Statute as far as such regulation or orders made comply to the provisions of this Statute, whereas, they may be amended or repealed by the regulations compiled under this Statute ;

- (4) Every statement in writing containing particulars to be furnished under the said Statute or every statement concerning changes in particulars forwarded to the Registrar prior to the due date under repealed Statute, shall be valid and powerful whereas, provisions of this Statute in relation to furnishing of particulars, changes in particulars, payment of due fees, registration and issuance of certificates shall accordingly be included in every such statement ;
- (5) Certain record register, index or document kept under the said Statute shall be considered as record register, index or document kept under this Statute and part of such ;
- (6) All Judicial proceedings subjected to judgement under the said Statute and instituting at certain court, on a date prior to due date shall be examined under provisions of the said Statute and shall be interpreted under same Statute.

Interpretation.

43. In this Statute unless the context otherwise requires -

“Appropriate District Court” means the District Court within the jurisdiction of which the principal place of business is situated ;

“Business” includes any trade or profession or service ;

By “Business Name”, where certain business is conducted as partnership or any other manner under certain name or designation, such name or designation is meant and it also includes a style ;

“Corporation” means any body corporate established by or under any written law and includes any company as defined in the law relating to companies ;

“Director” and “Secretary” include any person occupying the position of director or secretary whatever by the name referred to ;

“Firm” means unincorporated body of two or more individuals or one or more individuals and one or more corporations or two or more corporations that have entered into partnership with one another with the intention of 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 in full or are represented by initials ;

“Individual” means a natural person ;

“Prescribed” means prescribed by rules and regulations formulated in terms of this Statute ;

“Registrar” means the Registrar of Business Names of the Western Province ;

“Minister” means the Minister in charge of the subject of Trade in the Western Province ;

“Authorized Officer” means the Divisional Secretary or any authorized officer ;

“Due Date” means the date of enactment of this Statute.

Sinhala text to prevail in case of incongruity.

44. In case certain incongruity occurs among the Sinhala, Tamil and English texts of this Statute, the Sinhala text shall prevail.