

# Business Names (Amendment) Bill

## NOTES ON CLAUSES

*Clause 1* is a clause in the usual form, containing provisions relating to the short title and commencement of the Act.

*Clause 2* inserts interpretations of “Machine-copy”, “Registered address”, “Reproduction”, and “Transparency” into sub-section (1) of section 4 of the *Business Names Act 1962* (herein called the Principal Act).

*Clause 3* amends section 7 of the Principal Act to make provisions for a registered address of a business.

*Paragraph (a)* substitutes a new paragraph (c) in sub-section (1) providing that the registered address of a business together with the addresses of the places where the business will be carried on should be set out in an application for registration of a business name.

*Paragraph (b)* adds a new sub-section (1A) specifying that a registered address of a business has to be a place in the State where the business is carried on, where at least one of the applicants resides, the office of a solicitor or accountant or the office of a class as may be prescribed.

*Paragraph (c)* repeals sub-section (7).

*Clause 4* inserts a new section 7A into the Principal Act which deems the principal place where a business is carried on or the first place which appears in the register as a place where business is carried on in respect of business names registered prior to the commencement of this Act to be the registered address of the business until a registered address is nominated.

*Clause 5* repeals sub-section (2) of section 8 of the Principal Act.

*Clause 6* amends section 10 of the Principal Act and inserts a new section 10A.

*Paragraph (a)* substitutes in sub-section (1) of section 10 the words “registered address of the business” for the words “place shown in the register as the place where the business is”.

*Paragraph (b)* inserts a new section 10A which ensures that the Commissioner, where through inadvertence two identical or similar business names have been registered, may cancel the registration of the business name the application for which was lodged later in time. Sub-section (3) of the new section provides for the refund of any fee paid in respect of the registration of the name which is cancelled.

*Clause 7* amends section 11 of the Principal Act.

*Paragraph (a)* inserts a new sub-section (1A) which requires a statement lodged pursuant to sub-section (1) to contain the registered address of the business.

*Paragraph (b)* amends sub-section (4) to remove a conflict in the times provided within section 11 as it previously stood.

*Clause 8* amends section 12 of the Principal Act by inserting after sub-section (1) new sub-sections (1A), (1B) and (1C).

Proposed sub-section (1A) provides for the nomination of a registered address of a business in respect of business names applied for or registered prior to the commencement of this Act.

Proposed sub-section (1B) provides for a change of the registered address of a business where the registered address is not a place capable of being a registered address within the meaning of this Act.

Proposed sub-section (1C) provides for a change of the registered address of a business where that change is sought by each of the persons carrying on the business.

*Clause 9* inserts new sections 15A and 15B into the Principal Act.

Proposed section 15A:

*Paragraph* (1) provides that if a fee is payable on the lodging of a document and the document is submitted without the fee, then it will be deemed not to have been lodged until such time as the fee is paid.

*Paragraph* (2) permits the Commissioner to cancel the registration of a business name when a cheque tendered in payment of the prescribed fee is not paid when presented.

*Paragraph* (3) prescribes the action to be taken by the Commissioner in the event a business name is cancelled pursuant to the provisions of *Paragraph* (2).

Proposed section 15B:

*Paragraph* (1) empowers the Commissioner to require documents lodged with him which are, in his view, defective in some way to be appropriately amended or replaced by a new document.

*Paragraph* (2) empowers the Commissioner to require a person submitting a document to him to produce such further document or to provide such further information as the Commissioner deems necessary to enable him to determine whether or not he should refuse to register or receive the document.

*Clause 10* amends section 18 of the Act by substituting the word "Commissioner" for the word "Registrar" (wherever occurring) and the words "registered address of the business" for the words "place shown in the register as the place where business is" (where twice occurring).

*Clause 11* amends section 19 of the Act to enable the Commissioner to cancel a business name which, in his opinion, is undesirable or has become misleading as to the nature, objects, purposes, location or ownership of the business carried on under that name.

*Clause 12* amends section 20 of the Act to delete the requirement that the Certificate of Registration of a business name should be exhibited in a conspicuous position at all times at the principal place where business is carried on.

*Clause 13* substitutes a new section 22 for the previous section 22 of the Principal Act. The new section 22 in addition to providing for the inspection of documents and the obtaining of copies of documents lodged or filed with the Commissioner as the previous section 22 did, also authorizes the Commissioner to certify copies of or extracts from documents filed or lodged with him.

*Clause 14* repeals paragraph (a) of sub-section (1) of section 23 of the Principal Act.

*Clause 15* inserts a new section 31 into the Principal Act.

The new section 31 provides that—

- (i) a notice required to be sent by the Commissioner to a person in respect of whom a business name is registered may be sent by post to the registered address of the business or the address of the resident agent in the State.
- (ii) service at the registered address of a business shall be deemed to comply with any requirement for service at a person's place of business.

*Clause 16* amends sub-section (1) of section 32 of the Principal Act in that it—

- (i) substitutes a new paragraph (a) which provides that fees no greater than \$60 may be charged in respect of documents lodged with or issued by the Commissioner or for anything done by the Commissioner required by the Principal Act or for the inspection of any document.
- (ii) inserts a new paragraph (da) after paragraph (d) which enables the offices of a class nominated pursuant to section 7 (1a) (c) to be prescribed.
- (iii) substitutes the word "Commissioner" for the word "Registrar" in paragraph (e).