

Business Registration (Amendment) Bill

Bill No. 17/2002.

Read the first time on 23rd May 2002.

A BILL

intituled

An Act to amend the Business Registration Act (Chapter 32 of the 2001 Revised Edition).

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1. This Act may be cited as the Business Registration (Amendment) Act 2002 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

5 Amendment of section 2

2. Section 2(1) of the Business Registration Act (referred to in this Act as the principal Act) is amended —

(a) by inserting, immediately after the definition of “corporation”, the following definition:

10 “document” means any application, form, report, certification, notice, confirmation, declaration or other document to be filed or lodged with or submitted to the Registrar or, as the case may be, any certificate, notice or other document to be issued by the Registrar;” and

15 (b) by inserting, immediately after the definition of “person responsible for the management of a business”, the following definition:

“prescribed person” means a person, or a person within a class of persons, prescribed by the Minister;”.

20 Amendment of section 5

3. Section 5 of the principal Act is amended —

(a) by deleting the words “carrying on business in Singapore shall” in subsection (1) and substituting the words “shall, before carrying on business in Singapore;” and

25 (b) by deleting subsection (2).

Amendment of section 6

4. Section 6 of the principal Act is amended —

30 (a) by deleting the words “Every person who makes an application under section 5 for registration under this Act” in the 1st and 2nd lines of subsection (1) and substituting the words “In connection with an application under section 5 for registration under this Act, the appropriate person”; and

(b) by deleting subsections (2), (3) and (4) and substituting the following subsections:

“(2) The Registrar may, in any particular case, require the statement referred to in subsection (1) to be verified in such manner as the Registrar may consider fit.

(3) The High Court may, on the application of any person alleged or claiming to be a partner, direct the rectification of the register and decide any question arising under this section.

(4) In this section, “appropriate person”, in relation to an application for registration, means —

(a) where the registration to be effected is that of an individual, the individual;

(b) where the registration to be effected is that of a corporation, a director or the secretary of the corporation or an agent of the corporation within the meaning of section 366(1) of the Companies Act (Cap. 50);

(c) where the registration to be effected is that of a foreign firm, the manager of the foreign firm or the person having direct control of the management of the business of the foreign firm; or

(d) where the registration to be effected is that of a firm (other than a foreign firm), every individual who is a partner of the firm, and a director or the secretary of every corporation which is a partner of the firm,

and includes a prescribed person authorised by a person referred to in paragraph (a), (b), (c) or (d), as the case may be.”.

Repeal of section 8

5. Section 8 of the principal Act is repealed.

Amendment of section 9

6. Section 9 of the principal Act is amended —

(a) by deleting the words “certificate of registration” in subsection (2) and substituting the words “notice of registration”;

(b) by deleting subsection (3) and substituting the following subsections:

“*(3)* The Registrar may, upon receipt of the application in the prescribed form of a person registered under subsection (1) and payment of the prescribed fee, issue to that person a certificate of confirmation of registration in such form as the Registrar may determine.

(3A) Every registration under this Act shall be valid for such period as the Registrar may specify and shall, subject to the provisions of this Act and upon payment of the prescribed fee, be renewable for such period as the Registrar may approve.”;

(c) by deleting the words “a certificate of” in the 1st line of subsection (4);

(d) by deleting the words “certificate of” in the penultimate line of subsection (4);

(e) by deleting the words “certificate of” in subsection (5);

(f) by deleting the words “The issue or renewal of a certificate of registration to” in the 1st line of subsection (6) and substituting the words “The registration or renewal of registration of”; and

(g) by deleting subsection (7).

Amendment of section 10

7. Section 10 of the principal Act is amended by inserting, immediately after the words “section 6” in subsections (1) and (2), the words “or 12(1)”.

Repeal and re-enactment of section 11

8. Section 11 of the principal Act is repealed and the following section substituted therefor:

“Restrictions on registration of business names

11.—(1) Except with the consent of the Minister, the Registrar shall refuse to register a person under this Act to carry on business under a name which, or to allow a person to change the name under which he carries on business to one which, in the opinion of the Registrar —

- (a) is undesirable;
- (b) is identical to that of any corporation or to any other business name;
- (c) is identical to a name that is being reserved under this section or under section 27 of the Companies Act (Cap. 50);
or
- (d) is a name of a kind that the Minister has directed the Registrar, by notification in the *Gazette*, not to accept for registration.

(2) A person may apply in the prescribed manner to the Registrar for the reservation of a name set out in the application as —

- (a) the name of an intended business; or
- (b) the new name of the registered business of the person.

(3) Upon receipt of an application under subsection (2) and payment of the prescribed fee, the Registrar may, if he is satisfied that the name to be reserved is not one which may be rejected on any ground referred to in subsection (1)(a), (b), (c) or (d), reserve the name for a period of 2 months from the date of lodgment of the application or such longer period as the Registrar may allow.

(4) Notwithstanding anything in this section, where the Registrar is satisfied that a person has been registered (whether through inadvertence or otherwise and whether originally or by a change of name) to carry on business under a name which —

- (a) is a name referred to in subsection (1)(a), (b) or (d); or
- (b) so nearly resembles the name of any corporation or any other business name as to be likely to be mistaken for it,

the Registrar may direct the person to change the name under which he carries on business, and the person shall comply with the direction within 6 weeks after the date of the direction or such longer period as the Registrar may allow, unless the direction is annulled by the Minister.

(5) Any person may apply, in writing, to the Registrar to give a direction to any other person, on a ground referred to in subsection

(4)(a) or (b), to change the name under which the second-mentioned person carries on business.

(6) The Registrar shall not consider any application under subsection (5) to give a direction to a person on the ground referred to in subsection (4)(b) unless the Registrar receives the application within 12 months from the date of registration of the person or, where the person is registered under this Act immediately before the date of commencement of section 8 of the Business Registration (Amendment) Act 2002, within 12 months from the date of commencement of that section.

(7) The Registrar may cancel the registration of any person who fails to comply with a direction given under subsection (4).

(8) The Registrar may, if he is satisfied that a person who is directed under subsection (4) to change the name under which he carries on business had applied for registration under that name in bad faith, require that person to pay the Registrar such fees as may be prescribed, and such fees shall be recoverable as a debt due to the Government.

(9) Any person who is aggrieved by a direction of the Registrar under subsection (4) or a requirement of the Registrar under subsection (8) may, within 30 days of the date of the direction or requirement, appeal to the Minister whose decision shall be final.

(10) The Registrar may, by publication in the *Gazette*, make such rules as he considers appropriate for the purposes of determining the matters referred to in subsections (1) to (4).”.

Amendment of section 12

9. Section 12 of the principal Act is amended —

(a) by inserting, immediately after the word “statement” in the 5th line of subsection (1), the words “in such medium and”;

(b) by deleting the words “signed and verified in like manner as the statement required for the purposes of registration” in the 6th, penultimate and last lines of subsection (1) and substituting the words “and containing such other information as may be prescribed”; and

(c) by deleting the words “and (4)” in subsection (5).

Amendment of section 13

10. Section 13 of the principal Act is amended —

- 5 (a) by inserting, immediately after the word “notice” in the last line of subsection (2), the words “or upon the expiry of his registration”;
- (b) by inserting, immediately after the word “specified” in subsection (4), the words “or indicated”; and
- 10 (c) by deleting the words “the certificate of registration issued to that person” in subsection (8) and substituting the words “any certificate or notice pertaining to the registration of that person under this Act”.

Amendment of section 15

15 **11.** Section 15 of the principal Act is amended by inserting, immediately after subsection (2), the following subsection:

“(3) Notwithstanding subsections (1) and (2), the Registrar may, in such circumstances as may be prescribed and upon receipt of a notice made by any person in the prescribed manner, rectify any particulars furnished under this Act or the register accordingly.”.

Amendment of section 16

12. Section 16 of the principal Act is amended —

- 20 (a) by inserting, immediately after the word “registration” in subsection (1), the words “or certificate of confirmation of registration”; and
- 25 (b) by inserting, immediately after the words “subsection (1)” in the 2nd line of subsection (2), the words “(not being a copy or extract referred to in section 16B(4))”.

Repeal and re-enactment of section 16B

30 **13.** Section 16B of the principal Act is repealed and the following section substituted therefor:

“Electronic filing service

5 **16B.**—(1) The Registrar may require any document to be lodged under this Act to be filed electronically with the Registrar using the service provided by the Registry of Businesses whereby documents under this Act may be filed with or submitted to the Registrar electronically.

10 (2) Where any document is required to be filed with or submitted to the Registrar electronically by any person using the service referred to in subsection (1), the Registrar may allow the document to be filed or submitted by a prescribed person on behalf of the first-mentioned person.

15 (3) Where the Registry of Businesses provides a service whereby documents required under this Act may be filed electronically with the Registry, neither the Government nor any of its employees shall be liable for any loss or damage, suffered by any person by reason of any error or omission, of whatever nature or however caused, appearing in any document obtained by any person under the service if the error or omission is made in good faith and in the ordinary course of the discharge of the duties of any of these employees or has occurred or arisen as a result of any defect or breakdown in the service or in any of the equipment used for the service.

20 (4) A copy of or extract from any document electronically filed with or submitted to the Registrar using the service referred to in subsection (1) which is supplied or issued by the Registrar and certified under his hand and seal to be a true copy thereof or extract therefrom shall, in any proceedings, be admissible in evidence as of equal validity with the original document.

25 (5) Any information supplied by the Registrar that is certified by the Registrar under his hand and seal to be a true extract from any document filed or lodged with or submitted to the Registrar using the service referred to in subsection (1) shall, in any proceedings, be admissible in evidence and be presumed, unless evidence to the contrary is adduced, to be a true extract from such document.

30 (6) Subsections (4) and (5) shall have effect notwithstanding the provisions of any other written law.”.

Amendment of section 17

14. Section 17(1) of the principal Act is amended —

- 5 (a) by deleting the words “a valid certificate of registration” in paragraph (a) and substituting the words “being registered under this Act to do so”; and
- (b) by deleting the words “no valid certificate of registration is in force” in the 8th line and substituting the words “there is no valid registration”.

Amendment of section 18

10 15. Section 18 of the principal Act is amended by deleting the words “issue or renew a certificate of registration” and substituting the words “register him or renew his registration”.

Amendment of section 23

16. Section 23 of the principal Act is amended —

- 15 (a) by deleting paragraph (a) and substituting the following paragraph:
- “(a) being a person required to be registered under this Act, carries on business without being so registered or continues to carry on business after the expiry or
- 20 cancellation of his registration;”;
- (b) by inserting, at the end of paragraph (d), the word “or”; and
- (c) by deleting paragraph (e).

Amendment of section 32

17. Section 32(2) of the principal Act is amended —

- 25 (a) by inserting, immediately before the words “the form” in paragraph (b), the words “the forms for the purposes of this Act, including”;
- (b) by inserting, immediately before the word “restrictions” in paragraph (c), the words “all matters connected with or arising
- 30 from the”;

- (c) by inserting, immediately after the word “Act” in paragraph (d), the words “, and the method of payment of such fees”;
- (d) by deleting the word “and” at the end of paragraph (e); and
- (e) by deleting the full-stop at the end of paragraph (f) and substituting the word “; and”, and by inserting immediately thereafter the following paragraph:

“(g) all matters and things which are required or permitted to be prescribed under or for the purposes of this Act.”.

EXPLANATORY STATEMENT

This Bill seeks to amend the Business Registration Act (Cap. 32) principally —

- (a) to streamline and simplify the registration of businesses and other requirements; and
- (b) to make the filing of documents with the Registrar of Businesses (the Registrar) and the issue of documents by him medium neutral.

These amendments are intended to facilitate the filing and issue of documents using the electronic filing system known as Bizfile.

Clause 1 relates to the short title and commencement.

Clause 2 amends section 2(1) by introducing definitions for the terms “document” and “prescribed person”, which appear in the provisions introduced by the Bill. For example, a prescribed person will be able to file applications for registration under the Act using Bizfile on behalf of the applicants.

Clause 3 amends section 5 to make clear that applications for registration must be made before any person commences the carrying on of business.

Clause 4 amends section 6 —

- (a) to incorporate, with amendments, subsections (1) and (4) of section 8 (to be repealed by clause 5);
- (b) to remove the need for statements to be signed or affirmed by statutory declaration; and
- (c) to delete subsection (3) as there has been no registration of businesses by joint Hindu families or co-parcenary.

Clause 5 repeals section 8 which is no longer necessary as the statements required for registration of businesses no longer need to be signed, and in the light of the transfer (with amendments) of subsections (1) and (4) to section 6 (clause 4).

Clause 6 amends section 9 —

- (a) to replace the issue of a certificate of registration with the issue of a notice of registration, and to provide a registered person a right to request for a certificate of confirmation of registration;
- (b) to allow registration to be for periods other than for a period of 3 years; and
- (c) to remove the requirement to exhibit certificates of registration under subsection (7).

Clause 7 amends subsections (1) and (2) of section 10 to make clear that it is not an offence for a person to carry on business under a new name which has been filed with the Registrar under section 12(1).

Clause 8 repeals and re-enacts section 11 to align this provision with the corresponding provision for companies under the Companies Act (Cap. 50) to be amended by the Companies (Amendment) Bill. Under new section 11, the Registrar will no longer need to check whether the name under which a person intends to carry on business resembles the name of any corporation or other business before proceeding to register that person. The new section also provides for the reservation of a business name for a period of 2 months or such longer period as the Registrar may allow. Where any person is directed by the Registrar to change the name under which he carries on business, the Registrar may also require the person to pay a prescribed fee if the person had applied for registration under that name in bad faith.

Clause 9 amends section 12(1) to remove the requirement that a statement of any change in particulars of a registered person or of the business carried on by him be signed and verified, and to provide that such statement may be in such medium as determined by the Registrar and must contain such other information as may be prescribed. The clause also amends subsection (5), which is consequential upon the amendment to section 6 (clause 4).

Clause 10 amends section 13 —

- (a) to provide for the notification in advance, by registered persons, of their intention to cease business upon the expiry of their registration; and
- (b) to amend subsection (8) to provide for the deemed cancellation of any certificate or notice pertaining to registration upon the cancellation of such registration.

Clause 11 amends section 15 by inserting new subsection (3) to empower the Registrar, in prescribed circumstances and upon receipt of a notice made in the prescribed manner, to amend any particulars furnished or registered under the Act.

Clause 12 amends section 16 to provide —

- (a) for the certification, by the Registrar, of copies of certificates of confirmation of registration upon request; and
- (b) that subsection (2) does not apply to copies of or extracts from documents electronically filed with or submitted to the Registrar since the admissibility

of such copies or extracts will be provided for in section 16B(4) (to be inserted by clause 13).

Clause 13 repeals and re-enacts section 16B —

- (a) to remove all references to authorised agents in the section as the Registry of Businesses will not be engaging any agent for the purposes of the Registry's electronic filing service;
- (b) to empower the Registrar to require any document to be lodged by any person under the Act to be filed electronically and to allow such electronic filing to be undertaken, on behalf of such person, by a prescribed person; and
- (c) to provide for the admission in evidence, in any proceedings, of a copy of or extract from any document filed electronically with the Registrar and of any extract of information from that document, where such copy or extract is certified by the Registrar to be a true copy of or extract from that document; and for this to have effect notwithstanding any other written law (for example, section 35 of the Evidence Act (Cap. 97)).

Clauses 14 and 15 make amendments to sections 17(1) and 18, respectively, which are consequential upon the amendment to section 9 (clause 6) to do away with the issue of certificates of registration.

Clause 16 makes amendments to paragraph (a) of section 23 which are consequential upon the amendment to section 9 (clause 6), and deletes paragraph (e) as the requirement to exhibit certificates of registration is to be repealed (clause 6).

Clause 17 amends section 32(2) to expand on the matters in respect of which regulations may be made, including the method of payment of fees to be charged under the Act.

EXPENDITURE OF PUBLIC MONEY

This Bill will not involve the Government in any extra financial expenditure.
