

NOTES FOR GUIDANCE - 11

THE BUSINESS NAMES ACT 1985

Companies & Individuals Trading Under a Name Other Than Their Own

NAMES NEEDING APPROVAL

The Business Names Act mainly exists for the control of “Sensitive Names” which need approval. These are either “sensitive names” or names which are regulated by law and include names such as Architect, Dentist, Optician, Chemist, Pharmacist, Insurance, Patent, Co-operative, Stock Exchange, Bank, Chamber of Commerce, Royal, King, Queen, Prince, Princess, British, International, Group, Holding, Trust, Benevolent, Registered, Friendly Society, Building Society, Trade Union, Foundation, Fund, Charter, Chartered etc. These, and many others, are names which need prior approval from Companies House (who are responsible for the Business Names Act even if the business name refers to an individual or partnership) or for some statutory body such as the Architects Registration Council, the General Optical Council, The Dept. Of Health etc. A full list of names which need approval can be had on request.

DISCLOSURE REQUIREMENTS

Who Do The Disclosure Requirements Apply To?

Any person, partnership or company trading under a name other than their own name must conform to the Disclosure Requirements of the Business Names Act.

So, if a business trades as, for example, “W. Jones Bakery”, “Jones and Partners” then the disclosure requirements of the Business Names Act apply. It is generally regarded as permissible for a business to add a description to its signs or letterheads so you can trade as “John Smith, Butcher” (if your name *is* John Smith) or as “J. Smith, Butcher” so long as you use the comma or otherwise make it clear that the word “Butcher” is a description not part of the business name. You cannot call yourself “John Smith’s Butchers”, “Smith The Butcher”, or “Smiths Quality Butchers” without complying with the Business Names Act. A Company has a business name if it trades under a name which is in any way different from its registered name and so the disclosure requirements apply to companies which trade under a different name, for example, “ABC Foods Limited” as “ABC Foods”.

What Details Have To Be Disclosed About A Business?

You need to disclose (as appropriate):

- the full name of a limited company as shown on its Certificate of Registration, or
- the name of each partner, or
- the individual person’s name; and
- in relation to each partner or person named, an address at which documents can be served (this can be the business address).

Where Does This Information Have To Be Shown

You need to show the information clearly in all:

- the places where you carry on your business and where you deal with customers or suppliers;
- business letters;
- written orders for the supply of goods or services;
- invoices and receipts;

- written demands for the payment of business debts.

[There are some examples of ways in which you can show the information on your stationery in Appendix A. As long as the details are clearly legible they can be either handwritten or printed.]

Does It Have To Be Displayed In A Particular Way?

No. As long as it can be easily seen and read it does not matter how you show the information. [An example of a notice is given in Appendix B.] It is important to remember that in large premises, you may need to think carefully about the size of the notice and where you display it to make sure that all your customers and suppliers will see it. You can put up more than one notice if you wish.

Does The Information Need To Be Given To Anyone Else?

Yes. The names and addresses that need to be disclosed must also be given immediately, in writing, to anyone with whom you are doing business, if they request them.

What If There Are A Lot Of Partners? Do All The Names Have To Be Disclosed?

No. If the business has more than 20 partners you do not have to put all the partners' names on your business documents. However, you must give the address of the principal place of business and say that a full list of the partners' names and addresses can be inspected there.

What Happens If I Do Not Comply With All The Disclosure Requirements?

If you use a business name which requires prior approval and you do not obtain that approval you commit a criminal offence. Similarly, if you do not disclose your business details as you are required to by the Act, you are committing a criminal offence. In practice it is unusual for anyone to be prosecuted for not complying with the Disclosure Requirements so long as they have not been doing so with the intent to defraud customers or suppliers. Normally if someone complains (usually Trading Standards) all that will happen is that a letter will be sent pointing out the offences and instructing the business to comply forthwith. However, should Bailiffs ever call at a business premises in respect to enforcing a Debt Judgement they can make life rather difficult. It is also important to remember that if you do not make your business details available, or you do not display them, you may not be able to enforce a contract that you have entered into.

Appendix “A” - What You Need To Show On Your Business Stationery

Although there are no rules about how you should show the necessary information on your business stationery (letterheads, invoices receipts) here are a few examples to help you:

1 A business owned by an individual person:

W. JONES BAKERY
(prop: W. JONES)
12 High Street
Barchester
Barset
BA1 2YZ

2 A business owned by a partnership:

JONES AND BROWN (CAR REPAIRS)
(partners: P.Jones and A.Brown)
34 Lower Street
Barchester
Barset
BA2 3WX

3 A business owned by a company:

ABC FOODS
Unit 2
New Trading Estate
Barchester
Barset
BA3 45T

Plus ,at the bottom of the letterhead (these details are required under both the Business Names Act 1985 and the Companies Acts:

ABC FOODS (GREAT BRITAIN) LTD registered in England and Wales Registration number:
1234567 Registered Office: 5 Middle Street Barchester Barset BA4 5QR

Appendix “B” - What You have To Display In Your Business Premises

Again, there are no rules governing the way you display your business name with the owner’s name and address. The following example may help you.

PARTICULARS OF OWNERSHIP OF W. JONES BAKERY
(as required by section 4 of the Business Names Act 1985)
William Jones 12 High Street Barchester Basset BA1 2YZ

PARTICULARS OF OWNERSHIP OF JONES AND BROWN (CAR REPAIRS)
(as required by section 4 of the Business Names Act 1985)
Partners: P.Jones and A.Brown
34 Lower Street
Barchester
Basset
BA2 3WX

PARTICULARS OF OWNERSHIP OF ABC FOODS
(as required by section 4 of the Business Names Act 1985)
ABC FOODS (GREAT BRITAIN) LTD
Registration number: 1234567
Registered Office: 5 Middle Street
Barchester
Basset
BA4 5QR

REMEMBER - notices must be displayed in a prominent position so that they can be read easily in all the places where you carry on your business and where you deal with customers or suppliers.

<p>These notes are based on our understanding of the law at this date and are general rather than specific. We cannot accept any responsibility for errors or omissions, and we must emphasise that the final responsibility for compliance with the requirements of the Business Names Act and the Companies Act rests with the Directors and Secretary who should seek appropriate legal advice if in doubt about over any particular aspect of company or business administration.</p>
