



LAWS OF SARAWAK

ONLINE VERSION

Chapter 64
(1958 Edition)

BUSINESS NAMES ORDINANCE

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SARAWAK

LAWS OF SARAWAK**Chapter 64**
(1958 Edition)**BUSINESS NAMES ORDINANCE**

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LAWS OF SARAWAK**Chapter 64**
(1958 Edition)**BUSINESS NAMES ORDINANCE**

An Ordinance to provide for the registration of certain firms carrying on business in Sarawak.

[1st January, 1932]

Short title

1. This Ordinance may be cited as the Business Names Ordinance.

* This Ordinance has been declared Federal Law by F.L.N. 200/65.

Interpretation

2. In this Ordinance—

“business” includes any trade, occupation, undertaking or profession carried on with a view to profit;

“firm” means a person carrying on a business as sole proprietor thereof, or an association of two or more persons carrying on a business in partnership;

“partnership” means the relationship which subsists between person who have agreed to combine their property, labour or skill in some business, and to share the profits thereof between them, and who have not been incorporated as a limited company under the Companies Act 1965 [*Act 125*];

“Registrar” means the appropriate officer appointed under section 3. Registrars

†3.—(1) The person appointed in that behalf by the Minister by notification in the Sarawak Government *Gazette*‡ such person being known by such title as the Minister may by notification direct shall be the Registrar under this Ordinance for firms affected by section 4 carrying on business within the Kuching district.

(2) The District Officers in districts other than Kuching district where this Ordinance applies shall be the Registrars under this Ordinance for such firms carrying on business within their respective districts.

[Subsection (2) amended by Commissioners of Law Revision]

Certain firms to be registered

4.—(1) Every firm carrying on any of the types of business specified in the first column of the Schedule shall, if situate in any of the places appearing opposite that type of business in the second column of the Schedule, be registered in accordance with this Ordinance.

*[Amended by Ordinance 2 of 1957 and recast by
Commissioners of Law Revisions]*

(2) All such firms shall within one month of commencing to carry on business furnish to the Registrar the information required in section 5.

† Am. Act 5/65, Act 26/67 and Reprint Commissioner.

‡ The Probate Officer, Public Trustee's Office, Kuching — G.N. No. 1653/67.

(3) Every such firm which has an office, shop, store or factory in more than one of the districts specified in the second column of the Schedule shall be registered with the Registrar of each such district, and the Registrar of each such district shall be furnished with the particulars required by section 5 and a separate fee under section 6 shall be paid to each Registrar. The information required to be given under sections 9 and 13 shall be given to each such Registrar.

(4) The Minister may, by notification in the *Gazette*, amend the Schedule.

[Mod. F.L.N. 285/65.]

[Amended by Commissioners of Law Revision]

Manner of registration and details to be stated

5.—(1) Every firm required under section 4 to be registered shall furnish the Registrar with a statement in writing in the prescribed form containing the following particulars—

(a) the name of the firm, that is to say, the name under which its business is carried on, and if the business is carried on under more than one name, every such name;

(b) the number of partners;

(c) the full names, address and nationality (or race) of the proprietor or of each partner as the case may be. If any person is or has at any time been known by any other name or names, these must be stated;

(d) the principal place of business and every branch office and subsidiary place of business of the firm;

(e) the general nature of the business;

(f) the date of the commencement of the business;

(g) if the firm is a partnership, the duration of the partnership (if fixed);

(h) specimens of all chops and official seals to be used in connection with the business;

(i) the proportionate share of each partner in the business;

(j) particulars sufficient to identify all other businesses or firms in which the proprietor or any of the partners, as the case may be, is or are interested, including such businesses or firms as may not be required to be registered under this Ordinance.

(2) Such statement shall be signed by the proprietor or, in the case of a partnership firm, by each partner resident in Sarawak or by his or her duly authorized representative, who shall be responsible for the accuracy of all particulars contained therein.

Registration fee

6. A fee of fifty ringgit shall be paid to the Registrar by each firm at the time of furnishing the statement required under section 5.

[Amended by Ordinance 2 of 1957 and Ordinance 12 of 1958]

Certificate of registration

7.—(1) The Registrar shall issue a certificate of registration to each firm complying with sections 5 and 6:

Provided that—

(a) no such certificate shall be issued to any firm consisting of more than twenty partners; and

(b) the Registrar may refuse to issue a certificate of registration if he suspects or has reason to believe that the statement required under section 5 contains any material omission or misstatement, or that the trade or business is not carried on for some *bona fide* object or objects; but a person or firm aggrieved by any such decision may appeal to the High Court.

(2) Such certificate shall be exhibited in some conspicuous position on the premises of the principal place of business of the firm, and shall be produced for inspection whenever called upon by the Registrar or by anyone authorized by him.

(3) The Registrar shall cancel the certificate of any firm which

—
(a) fails to exhibit the same or to produce the same in manner required by subsection (2);

(b) carries on business after the number of its partners has increased beyond twenty;

(c) fails to notify him of any change in the firm or of any other particulars required to be notified under this Ordinance; or

(d) fails to keep proper books of accounts as required under section 10 or fails to observe any other requirements of this Ordinance:

Provided that such cancellation may be withdrawn upon the firm rectifying the ground for cancellation and paying any fine that may have been imposed under section 14.

(4) On the cancellation of any certificate granted under this Ordinance, the Registrar shall cause a notice of such cancellation to be published as soon as possible in the *Gazette*.

Register of firms

8.—(1) Each Registrar shall keep a register of firms complying with section 5 within his district.

(2) Such register shall be properly indexed and shall be open to inspection by the public at all reasonable times on payment of the prescribed fee.

[Amended by Ordinance 12 of 1958 and amended by Commissioners of Law Revision]

Registrar to be notified of any change in the firm

9. When any partner in a firm dies or retires or when any change occurs in any of the particulars specified in section 5, the same shall be notified to the Registrar within twenty-one days of such change, and the Registrar shall make the necessary alterations in the register free of charge.

Books of accounts

10. All firms registered under this Ordinance shall keep books of accounts in accordance with the recognized custom of the business or trade carried on, which books shall, when required in the interest of justice, be open to the inspection of any person duly authorized by the Registrar in that behalf.

[Amended by Ordinance 18 of 1958]

Business to be done in firm's name

11. All business carried on by a firm registered under this Ordinance shall be done in the name of the firm.

Publication of name

12. Every firm registered under this Ordinance shall paint or fix and keep painted or fixed the name of the firm in English as well as in the vernacular in a conspicuous position on the outside of every place in which the business is carried on.

Removal of name from the register

13.—(1) If any firm registered under this Ordinance ceases to carry on business, it shall be the duty of the proprietor or partners or the legal representative of a deceased proprietor or partner, within one month after the business has ceased to be carried on, to notify the Registrar in writing to that effect, and if any person whose duty it is to give such notice fails to do so within such time as aforesaid he shall be guilty of an offence: Penalty, a fine of one hundred ringgit.

[Amended by Ordinance 18 of 1958]

(2) On receipt of such notice, the Registrar may remove the name of the firm from the register and shall in any case publish a notice of cessation of business as soon as possible in the *Gazette*.

(3) If the Registrar has reasonable cause to believe that any firm registered under this Ordinance is not carrying on business, he may serve upon the firm by registered post or other effective means a notice that unless an answer is received to such notice within one month from the date thereof the name of the firm may be removed from the register.

(4) If the Registrar either receives an answer from the firm to the effect that the firm is not carrying on business or does not within one month after serving the notice receive an answer, he may remove the name of the firm from the register.

Penalties

14.—(1) The proprietor or each partner as the case may be of any firm required to register under this Ordinance which carries on business without obtaining a certificate of registration, or after cancellation of the certificate under section 7(3), shall be guilty of an offence: Penalty, a fine of one hundred ringgit for every day the business is carried on without such certificate or after the same has been cancelled.

[Amended by Ordinance 16 of 1957 and recast by Commissioners of Law Revision]

(2) If any person without reasonable excuse, makes default in rendering to the Registrar any information required of him by this Ordinance or fails to give effect to any of the requirements thereof, the penalties for which are not specially provided for in this Ordinance, such person shall be guilty of an offence: Penalty, a fine of fifty ringgit for every day during which the default or omission continues.

[Amended by Ordinance 16 of 1957 and recast by Commissioners of Law Revision]

(3) If any person shall, without reasonable excuse, render any information to the Registrar which is materially incorrect or false, such person shall be guilty of an offence: Penalty, imprisonment for six months and a fine of one thousand ringgit.

[Amended by Ordinance 16 of 1957]

Rules

***15.** The Minister may make rules for the better carrying into effect of the provisions of this Ordinance and for prescribing anything which is required to be prescribed.

[Mod. F.L.N. 285/65.]

[Amended by Commissioners of Law Revision]

* See Business Names (Fees) Rules, 1959 (G.N.S. 57 of 1959).

SCHEDULE

(Section 4)

BUSINESSES TO WHICH THE ORDINANCE APPLIES

<i>First Column</i>		<i>Second Column</i>
TYPE OF BUSINESS		PLACE
(a) Mining business		All districts.
(b) (i) import or export trade with any port outside Sarawak, or if the Resident so directs, with any place in Sarawak; or	}	Districts of—
		Baram
		Bau
	}	Binatang
(ii) wholesale or retail trading business on land held under title other than land held under title for the purpose of erecting a market thereon.		Bintulu
		Kalaka
		Kanowit
		Kapit
	}	Kuching
		Lawas
		Limbang
		Lubok Antu
		Lundu
		Miri
		Mukah
		Sadong
		Saribas
		Sarikei
		Serian
		Sibu
		Simanggang

[*Inserted by Commissioners of Law Revision of section 4 (1) of Cap. 89 of 1948 Edition and G.N. 1108 of 1951 and G.N. S.73 of 1958*]