

2006

## CHAPTER 14

An Act to amend *The Business Names Registration Act*

(Assented to May 19, 2006)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows:

**Short title**

**1** This Act may be cited as *The Business Names Registration Amendment Act, 2006*.

**R.S.S. 1978, c.B-11 amended**

**2** *The Business Names Registration Act* is amended in the manner set forth in this Act.

**New Part heading**

**3** The heading before section 1 is struck out and the following substituted:

“PART I

Short Title, Interpretation and Administration”.

**Section 2 amended**

**4(1) Clause 2(c) is amended:**

**(a) by adding the following subclause after subclause (ii):**

“(ii.1) in the case of a sole proprietor that is an Indian band, a name or style, other than the name of the Indian band, under which the Indian band carries on or intends to carry on business”; **and**

**(b) by repealing subclause (iii) and substituting the following:**

“(iii) in the case of two or more persons associated in a partnership, joint venture or syndicate, the name or style under which the partnership, joint venture or syndicate carries on or intends to carry on business”.

**(2) Subclause 2(d)(iii) is amended by striking out “his” and substituting “the sole proprietor’s”.**

**(3) The following clauses are added after clause 2(d):**

“(d.1) **‘Indian band’** means an Indian band within the meaning of the *Indian Act* (Canada) and includes the council of a band;

“(d.2) **‘person’** includes an individual, a limited partnership, a body corporate or an Indian band”.

**New Part heading**

**5 The Part heading before section 4 is struck out and the following substituted:**

**“PART II  
Registration”.**

**Section 4 amended**

**6(1) Subsection 4(1) is amended by striking out “subsections (3) and (4)” and substituting “subsection (3)”.**

**(2) Subsections 4(3) and (4) are repealed and the following substituted:**

“(3) Subsection (1) does not apply to:

(a) a person practising a profession if the right to practise the profession is regulated by the governing body of that profession pursuant to an Act; or

(b) a person or class of persons exempted from the provisions of this Act in the regulations.

“(4) Notwithstanding clause (3)(a), subsection (1) applies to a business that is a profession regulated by the governing body of that profession if the firm name of that business does not include:

(a) the person’s own family name or surname or the family name or surname of a person who is associated or was formerly associated with that person in that business; or

(b) a name or style comprising the person’s own family name or surname, or the family name or surname of a person who is associated or was formerly associated with that person in that business, with the addition of some other word or phrase indicating a plurality of persons”.

**Section 5 repealed**

**7 Section 5 is repealed.**

**Section 6 amended**

**8 Subsection 6(1) is repealed and the following substituted:**

“(1) Every application for registration of a business name must be made to the registrar by:

(a) in the case of a sole proprietorship, the sole proprietor; or

(b) in the case of two or more persons associated in a partnership, joint venture or syndicate, those persons”.

**New section 9**

**9 Section 9 is repealed and the following substituted:**

**“Duration of registration**

**9(1) This section applies to registrations, whether the business name was registered before, on or after the coming into force of this section.**

(2) Subject to subsections (3) and (4), a registration remains in effect until the earlier of:

- (a) the last day of the month in which the third anniversary of the date that the registration was made or last renewed falls; and
- (b) the date that it is cancelled by the registrar pursuant to section 11.

(3) A registration may be renewed at any time within three months before the expiry date of the registration as set out in clause (2)(a).

(4) In the case of a limited partnership, a registration expires on the last day of the term mentioned in clause 16(d).

(5) In the case of an extraprovincial limited partnership, as defined in section 21.1, the registration of the extraprovincial limited partnership expires on the last day of the term for which the extraprovincial limited partnership is to subsist as stated in its documents registered or filed with the registrar pursuant to this Act”.

**New section 9.3**

**10 The following section is added after section 9.2:**

**“Powers of attorney - non-Saskatchewan applicants**

**9.3(1)** In this section:

- (a) **‘applicant’** means a person who or that:
  - (i) applies pursuant to section 6 to register a business name; and
  - (ii) either:
    - (A) in the case of a sole proprietorship, is not a resident of Saskatchewan; or
    - (B) in the case of a partnership, joint venture or syndicate, has no partner or member who is a resident of Saskatchewan;
- (b) **‘resident of Saskatchewan’** means:
  - (i) in the case of a corporation, a corporation that is incorporated or continued pursuant to an Act or is registered pursuant to an Act to carry on business in Saskatchewan;
  - (ii) in the case of an Indian band, an Indian band that has reserve land in Saskatchewan;
  - (iii) in the case of an individual, an individual who is a resident of Saskatchewan as determined in accordance with the regulations.

(2) Every applicant must, before registration, file with the registrar a duly executed power of attorney in the form prescribed in the regulations appointing the person named in the power of attorney to be the attorney and representative in Saskatchewan of the applicant for the purpose of receiving all lawful notices”.

New sections 11 and 11.1

**11 Section 11 is repealed and the following substituted:**

**“When registration may be cancelled**

11(1) If a firm ceases to carry on business and gives notice of that fact in writing to the registrar, the registrar may, on receipt of the written notice, cancel the registration.

(2) The registrar may cancel the registration of a corporation in the following circumstances:

(a) in the case of a corporation incorporated or continued pursuant to *The Business Corporations Act*, if a certificate of dissolution has been issued to the corporation in accordance with that Act or the name of the corporation has been struck off the register kept pursuant to that Act;

(b) in the case of a corporation other than one described in clause (a), if the registrar has received notice that the corporation is dissolved or the name of the corporation has been struck off the register kept pursuant to *The Business Corporations Act*.

(3) The registrar may send to a firm at its last known business address a letter enquiring whether or not the firm is carrying on business under its registered name if the registrar has reasonable cause to believe that the firm:

(a) has ceased to carry on business; or

(b) is not carrying on business under that name.

(4) The registrar may cancel a registration of a firm mentioned in subsection (3) if, within one month after the date the letter mentioned in that subsection is received, the registrar:

(a) does not receive a reply; or

(b) receives a reply stating that the firm:

(i) is not carrying on business; or

(ii) is not carrying on business under that name.

(5) Every firm shall notify the registrar of any change in its business address.

**“Sending and receipt of letters**

11.1(1) In this section, **‘letter’** means a letter sent pursuant to section 11.

(2) The registrar may send a letter by ordinary mail, registered mail, certified mail, prepaid courier or similar method, as long as the registrar retains a record that the letter has been sent.

(3) Subject to subsection (6), if the registrar sends a letter by ordinary mail, registered mail, certified mail, prepaid courier or similar method to the intended recipient, it is deemed to have been received by the firm on the earlier of:

(a) the day the firm actually receives it; and

(b) the time and day or date set out in the regulations.

(4) The registrar may send a letter by telephone transmission, facsimile or other method of electronic transmission as long as the registrar retains a record that the letter has been sent.

(5) Subject to subsection (6), if the registrar sends a letter by telephone transmission, facsimile or other method of electronic transmission to the firm, it is deemed to have been received by the firm on the earlier of:

- (a) the day the firm actually receives it; and
- (b) the time and day or date set out in the regulations.

(6) Subsections (3) and (5) do not apply if the firm provides the registrar with evidence satisfactory to the registrar to establish that the firm did not receive the letter or received the letter at a later date”.

**New Part heading**

**12 The Part heading before section 15 is struck out and the following substituted:**

“PART III  
Limited Partnerships”.

**New Part heading**

**13 The Part heading before section 22 is struck out and the following substituted:**

“PART IV  
General”.

**Section 23 amended**

**14 Subsection 23(3) is repealed.**

**New section 24**

**15 Section 24 is repealed and the following substituted:**

**“Regulations**

**24** The Lieutenant Governor in Council may make regulations:

- (a) defining, enlarging or restricting the meaning of any word or expression used in this Act but not defined in this Act;
- (b) prescribing or limiting the discretion of the registrar with respect to business names that may or may not be registered pursuant to this Act;
- (c) prescribing forms for the purposes of this Act;
- (d) prescribing and requiring the payment of fees and taxes for any service provided or thing done by the registrar pursuant to this Act;
- (e) respecting the determination of Saskatchewan residency for the purposes of section 9.3;

- (f) respecting the time and day or date for the purposes of section 11.1;
- (g) exempting any person or class of persons from all or any provision of this Act;
- (h) prescribing any matter or thing required or authorized by this Act to be prescribed in the regulations;
- (i) respecting any other matter that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act”.

**Coming into force**

**16** This Act comes into force on proclamation.