

Question 1 Do you use the Business Names Register or use services that provide information from that Register? If so, what is the information primarily used for?

Yes. Registration of my own company names and searches of companies and individuals with whom I interact.

Question 2 What are your views on the requirement for all newspaper proprietors to register their business name under the Act?

I agree.

Should this requirement be extended to other types of media or repealed? Please provide reasons for your views.

I believe it should where media owners, editors or organisations charge fees or sell information access or sell advertising in conjunction with their activities – this makes them businesses as opposed to individuals. It is especially true of web based providers who should be required to disclose their ownership.

Question 3 What are your views on the disclosure of business name requirements? Should they be expanded, reduced or eliminated? Please provide reasons for your views.

I think the requirements should be transparent, publicly accessible and under the domain of the registrar of business names.

Question 4 What are your views on extending the powers of the Registrar to amend or delete a name from the Business Names Register in certain circumstances? If so, please provide examples. Public Consultation on the Registration of Business Names Act 1963 — 12.

As with the CRO's entitlement to strike off a company for non-compliance with company legislation, owners of business names should be accountable for their business operations and if in some respect such operations are found to be in breach of statutory regulations, a record of such breaches, remedy or failure to remediate should be available to the general public. This provides security and transparency for others who may transact or engage with such entities and the personnel who are their beneficial owners.

Question 5 What are your views on the Registrar automatically updating the Business Names Register when the Companies Register and the Limited Liability Partnership list is updated?

This seems sensible and I agree.

Question 6 What are your views on requiring business name registration applicants to provide proof of identity to ensure that the information on the Business Names Register is accurate?

Essential, correct and should be enforced as a matter of law.

Question 7 What are your views on a minor registering a business name under the Act?

I have no difficulty with this – the ownership of a business name should not be restricted by age. However, conditions, fees and requirements should attach to business names so as to avoid the generation of innumerable redundant business names which will create work and cost in administering oversight and governance. Business names should require registration fees, maintenance(renewal) fees and carry a penalty for abuse of the process, irrespective of the age of the owner.

Question 8 What are your views on the compulsory regular renewal of a business name to ensure the Business Names Register is current and accurate, and why? If your views support renewal of a business name, how often should this occur?

Business name renewal should be a requirement to maintain an accurate registry. Renewal should be automatic and annual, unless an instruction not to renew is given by the business owner. Where such renewal occurs, an annual fee for renewal and maintenance should be levied on the owner.

Question 9 What are your views on providing the Registrar with the power to bring and prosecute offences under the Act?

Completely agree – business owners, business name owners, company executives, beneficial owners, directors etc., should all be enjoined in ensuring appropriate governance and where such if found wanting, sanctions, including prosecution under the law should apply. It is essential to our SME economy to have a properly functioning register and operation of businesses and their names.

Question 10 Do you have any observations to make in relation to the offences and penalties provided for under the Act?

No, but I would imagine congruence with penalties such as apply to directors/company owners under the CRO makes sense – e.g. strike off for penalty, disbarred from registering/owing a business name, record of previous business name infringements to remain on public record for a minimum of 5 years post prosecution or negative finding, by appropriate authorities.

Question 11 What are your views on the retention of fees by the Registrar for non-complying business name application forms?

I agree, and in addition to fees, fines should apply if appropriate.

Question 12 What are your views on the mandatory e-filing of registration of business names forms?

Completely agree. E-filing far preferable to paper filing and registration as to trading status, (trading, non-trading) should be included.

Question 13 What are your views in relation to the continuation of business names registration by the Registrar? Please provide reasons for your views?

I believe the registrar probably does a good job...I have no reason to believe or assume the contrary. I am not aware of arguments as to superior alternative options under headings of cost or efficiency. If expanding the oversight of business names will result in significant costs above today's costs, then this should be shared in public and justification for further investment outlined and costed.

Question 14 The Department would welcome any other comments you may have in relation to the Act and the registration of business names.

Transparency and good governance are essential to improve the efficiency and effectiveness of our SME's especially. The treatment of business names, their ownership, registration, protection and control has implications for individuals, directors and citizens, ensuring individuals can identify parties they deal with, where beneficial ownership lies and in matters of public importance, such as media control, individuals cannot hide behind a registered business name or use it to conceal or shield activities likely to be in the public interest. There is also the matter of name registration and the entitlement of anyone creating brand equity via a business name, who having registered it properly, should be entitled to refuse the granting of a very similar or confusing name by the competent authority. In this regard, business names should be considered like trademarks, requiring defence by their owners and accorded protection by the national registrar.

Where owners abuse or fail to adhere to principles pertinent to business names which are designed to support the common good, such owners should be open to sanction within the law, primarily by financial penalties. Where flagrant abuse is evident, along with any prosecution which may arise, the registrar should be authorised to note on the register such failures and to keep such failure on the register for a period of time (5 years) so that citizens accessing the register can see if individuals have had a history of compliance or non-compliance with legislation and/or the rules of registration.