



The Governance
Institute

ICSA: The Governance Institute

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Private and Confidential

Tara Keane
Department of Business, Enterprise and Innovation
Earlsfort Centre
Lower Hatch Street
Dublin 2

27 August 2019

Dear Tara,

ICSA: The Governance Institute

ICSA: The Governance Institute is the qualifying and membership body for company secretaries and governance practitioners, in all sizes of organisations across private, public and charity sectors. Established in 1891 we now have approximately 13,000 members and students worldwide including 800 in the Republic of Ireland.

We represent our members' interests by working with government and regulators to bring a practitioner perspective and to influence change. We develop our members with a wide range of qualifications, training and events to ensure that they have the best preparation for their work and career progression.

Public Consultation on the Registration of Business Names Act 1963

I am writing to you in relation to your request to participate in a review on the Registration of Business Names Act 1963 as per your email dated 11 July 2019.

Please find enclosed a copy of our response to the consultation. Should you require anything further please do not hesitate to contact the undersigned at the following address: jburns@icsa.org.uk

Yours sincerely,

John Burns
Business Development Manager
ICSA: The Governance Institute



Public Consultation on the Registration of Business Names Act 1963

Question No.	Question	Response
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. The search system is used to carry out searches to ascertain the owner of certain business names in Ireland.
2	What are your views on the requirement for all newspaper proprietors to register their business name under the Act? Should this requirement be extended to other types of media or repealed? Please provide reasons for your views.	We are of the view that it is in the public interest to be able to identify the proprietors of all types of media. If the requirement is there for Newspapers and retained we would expect this should extend to all media or else be repealed, we do not see a reason to extend to only one media outlet.
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.	We believe that disclosure is an important aspect of good governance where a business is trading under a business name so that people can ascertain who they are dealing with. For example the majority of legal and accounting firms trade as partnerships but the registration of a business name allows for visibility on this and the relevant partners.
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.	We see no issue with and would welcome the Registrar being allowed to delete or remove business names under certain circumstance once the owner is given advance notice of the deletion or removal and is permitted the right of challenge. We would suggest that if a limited partnership or company is dissolved and ceased that any associated business name would also be automatically cancelled/ceased.
5	What are your views on the Registrar automatically updating the Business Names Register when the Companies Register and the Limited Partnership list is updated?	We would like further clarity on this but in board terms do not see it as an issue. We would suggest that if a limited partnership or company is dissolved and ceased that any associated business name would also be automatically cancelled/ceased.

6	<p>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?</p>	<p>This will depend on the type of identification required and whether this extends to all business types or just where the business is not already registered as a company or limited partnership. We do not see that an overly cumbersome approach would be beneficial. The reason for registering a business name is so that you can disclose your identity and right to use that name so would see little reason for proof of identity</p>
7	<p>What are your views on a minor registering a business name under the Act?</p>	<p>There is an age requirement for directors, as directors are subject to duties and obligations under the law. However, there are no analogous duties for persons registering a business name. There are many minors (teens and younger) earning from YouTube (ie gamers) and Instagram from advertisements on their channels. Some of them may be trading under a different name to their own. It may be there in line with Contract Law where minors cannot legally enter into a contract therefore it may make sense to continue the age restriction for business names purposes</p> <p>SN Query: existing Act applies to minors. If the principle is to identify the individual carrying out the business, why would you exclude minors?</p> <p>We do not see value in the added administrative burden this would bring, especially if the Registrar has the right of removal.</p>
9	<p>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?</p>	<p>It would make sense to give the power to prosecute to Registrar as they are dealing with the registrations.</p>
10	<p>Do you have any observations to make in relation to the offences and penalties provided for under the Act?</p>	<p>The fines appear very low and modest increases should be considered.</p>

11	What are your views on the retention of fees by the Registrar for non-complying business name application forms?	If the business name is not registered the fee should be returned
12	What are your views on the mandatory e-filing of registration of business names forms?	We have no issue with this. We would suggest that the signing process is given due consideration as where all partners of a limited partnership are required to sign the application this can cause unnecessary administrative burden. Where a general partner is appointed we would recommend that applications be accepted where signed by the general partner.
13	What are your views in relation to the continuation of business names registration by the Registrar? Please provide reasons for your views?	We believe this is an important function with allows for sole traders, partnerships and companies to trade under varying names and still providing the public with access to their identity.
14	The Department would welcome any other comments you may have in relation to the Act and the registration of business names.	Registration of a business name should remain part of the corporate governance framework in Ireland, subject to the introduction of sufficient measures that ensure an accurate and up to date register.