

**SUBMISSION TO THE PUBLIC CONSULTATION ON
THE REGISTRATION OF BUSINESS NAMES ACT 1963**

10 SEPTEMBER 2019

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We refer to the consultation paper in respect of the public consultation on the Registration of Business Names Act 1963 (the “1963 Act”). In this submission, we address the issues raised in questions 5, 6, 8 and 13 of the consultation paper.

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?

Response: We would agree with a proposal that the register of business names be automatically updated when the companies register or the limited liability partnership register are updated.

In addition, consideration might be given to a facility for automatically updating the register of business names where a company or limited partnership changes its name or registered office address. Further, as the Companies Act 2014 provides for the power to restore a company to the register of companies after it has been struck-off, consideration might also be given to a facility to restore any business names for a company which is restored to the register of companies.

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?

Response: We would disagree with a proposal requiring business name registration applicants to provide proof of identity. We note that proof of identity is generally not required when making filings in respect of either companies or limited partnerships and we are not aware of any systemic issues with the system of registration as currently applies to companies and limited partnerships.

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?

Response: We would disagree with a proposal requiring compulsory regular renewal of a business name. Given the obligation on businesses to maintain current registrations at all times, the benefits to the public of such an approach are unclear. The drawbacks of the approach are: (1) an increased regulatory burden on businesses; and (2) a risk to consumers that a business name associated with a currently trading business would be removed if the business inadvertently fails to make a renewal application.

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

Response: In light of the to the financial and administrative cost, we believe that there would be merit to conducting a more detailed study of the system of the registration of business names and, in particular, to consider the experience of businesses operating in the UK, where the equivalent register was closed almost 40 years ago.

In addition, in our experience, businesses can sometimes (mistakenly) believe that the registration of their trading name as a business name provides that business with protection for the use of the name. This misunderstanding can result in businesses not then applying for a trademark to provide the business with the proper legal protection to its brand name.

MASON HAYES & CURRAN

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Mason Hayes & Curran is a leading commercial law firm with 87 partners. We understand the challenges international organisations face when investing or locating in a foreign country. We assist them during initial establishment and in meeting their ongoing legal and commercial imperatives. We have offices in London, New York and San Francisco, three of Ireland's most important conduits for inward investment to Ireland. Corporate social responsibility is a natural fit with the way we do business. We invest in our society and communities through a range of focused programmes.

Our Corporate Governance and Compliance Team provides an integrated and extensive range of corporate advisory, corporate governance and company compliance services to our Irish and overseas clients. We have a broad client base ranging from start-up companies to listed and regulated public limited companies and we advise them on all aspects of Irish company law.

The corporate lawyers on the team specialise in advising on complex company law matters, providing advice and bespoke training to the boards of Irish companies and in assisting organisations, both domestic and international, in designing and implementing suitable group structures.

Our compliance team is made up of experienced chartered secretaries that provide company secretarial compliance advice and services to our corporate clients. These services encompass the entire life cycle of an Irish company from establishment, through meeting annual and other filing requirements to dissolution.

The corporate lawyers and chartered secretaries on the team work closely, ensuring that the company law needs of our portfolio of Irish companies are met in a streamlined and holistic manner.

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