

PAPUA.



No. 8 of 1923.

AN ORDINANCE

To Provide for the Registration of Firms.

STANIFORTH SMITH.

[L.S.]

24th July, 1923.

BE it enacted by the Lieutenant-Governor of the Territory of Papua with the advice and consent of the Legislative Council thereof as follows:—

1. This Ordinance may be cited as the *Registration of Firms Ordinance, 1923.* Short Title.

2. This Ordinance shall commence on a date to be fixed by the Lieutenant-Governor by a Proclamation to be published in the *Gazette.* Commencement

3. In this Ordinance unless the context otherwise indicates the following terms shall have the meanings set against them respectively that is to say— Interpretation. Registration of Firms Acts, 1902-1912 (Q), s. 2.

“Business”—Any business trade or profession;

“Firm”—Any person individually or any two or more persons in association or partnership carrying on any business or having any place of

business in the Territory under any firm name ; the term does not include any incorporated Company whether incorporated in accordance with the laws of the Territory or elsewhere than in the Territory which carries on business in the Territory solely under its corporate name.

“ Firm name ”—A name or style under which a business is carried on and which does not consist solely of the full or usual name of the person individually carrying on the business or solely of the full or usual names of all the persons in association or partnership carrying on the business.

“ Registered Firm ”—A firm registered under this Ordinance ;

“ Registrar ”—The Registrar of firms appointed under this Ordinance.

Registrar.
Registration of
Firms Acts,
1902-1912 (Q),
3.

4. (1) The Lieutenant-Governor may from time to time appoint a Registrar of Firms.

(2) Unless and until any such appointment is made the Registrar of Companies for the time being shall be the Registrar of Firms.

Firms to be
registered.
Cf. *Ib.* s. 4.

5. From and after the commencement of this Ordinance every firm shall be registered in the manner directed by this Ordinance.

Time for
registration
Cf. *Ib.* s. 6.

6. Every firm shall be registered before commencing business.

Provided that if any firm has carried on business in the Territory before the date of the commencement of this Ordinance it shall be sufficient if registration is effected within three months after that date.

Manner and
particulars of
registration
Cf. *Ib.* s. 7.
First Schedule

7. (1) Registration shall be effected by sending by post or delivering to the Registrar a notice in writing in the form set out in the First Schedule hereto or to the like effect.

(2) The registration of every firm shall in like manner be annually renewed on or before the thirty-first day of January in every year.

(3) The first registration of a firm shall have effect from the date of such registration until the thirty-first day of January next ensuing.

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(4) No firm or person shall carry on business in the Territory or be registered under a firm name included as part thereof the word "limited" or any contraction of such word.

(5) Unless with the sanction of the Registrar no firm or person shall be registered under a firm name identical with or nearly resembling the firm name of any registered firm or the name of any registered joint stock Company. The Registrar shall decide all questions arising from this subsection but an appeal from his decision may be made to a Judge of the Central Court.

8. No Company whether incorporated in accordance with the laws of the Territory or elsewhere than in the Territory and which carries on business in the Territory solely under its corporate name shall be registered as a firm under this Ordinance.

Companies not to be registered under this Ordinance. *Registration of Firms Act, 1902-1912 (Q), s. 7A.*

9. If a firm carries on or proposes to carry on business under more than one firm name such firm shall for all the purposes of this Ordinance be deemed to be a separate and distinct firm in respect of each and every different firm name under which it carries on or proposes to carry on business and shall be so registered accordingly.

Firm carrying on under more than one name. *Cf. Ib. s. 8.*

10. A registered firm upon changing its firm name shall be registered as a new firm and the notice sent or delivered to the Registrar shall be in the form of the First Schedule to this Ordinance or to the like effect with an addition to be inserted before the attestation of the words set out in the Second Schedule hereto.

Registration on change of Firm name. *Cf. Ib. s. 9.*

First Schedule.

Second Schedule.

11. When a change occurs in the constitution of a registered firm the member or members of the firm as originally constituted and as reconstituted shall within one month after such change send by post or deliver a notice in writing thereof to the Registrar in the form of the Third Schedule hereto or to the like effect.

Registration of change in firm *Cf. Ib. s. 11.*

Third Schedule.

12. When and so often as a registered firm—

- (a) establishes a new place of business; or
- (b) removes its place of business from one premises to another premises; or
- (c) ceases to carry on business at any place, the firm shall within fourteen days thereafter send by post or deliver a notice in writing of the fact

Change in place of business. *Cf. Ib. s. 12.*

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to the Registrar in the form of the Fourth Schedule hereto or to the like effect.

Fourth
Schedule.

Notice of
dissolution of
firm.

13. (1) When and so often as a registered firm is dissolved whether by mutual consent or by operation of law or otherwise or ceases to carry on business under its registered firm name without changing its firm name the late or surviving members or the members of such firm as the case may be shall within fourteen days thereafter send by post or deliver a notice in writing of the fact to the Registrar in the form of the Fifth Schedule hereto or to the like effect.

Fifth
Schedule.

(2) The late or surviving members or the members of such registered firm as the case may be shall be jointly and severally responsible for furnishing such notice and the payment of the prescribed fee.

(3) Upon receipt of such notice the Registrar shall cancel the registration of such firm.

Fees.
Cf.
*Registration of
Firms Acts,
1902-1912 (Q),
ss. 7, 8, 9, 10, 11
12.*

14. (1) There shall be paid to the Registrar in respect of each of the following matters namely—

(a) The registration of every firm ;

(b) the annual renewal of the registration of every firm ;

(c) the registration of a firm upon changing its firm name ;

(d) notification of any change in the constitution of a registered firm ;

(e) the notification of any addition omission or change of a place of business of a registered firm ; and

(f) The notification of the dissolution of a registered firm ;

a fee of five shillings.

(2) Such fee shall be transmitted with the notice sent or delivered in respect of the matter upon which it is payable.

Signature &c.,
of notice.
Cf. *Id.* s. 13.

15. (1) Save as hereinafter provided every notice given for any of the purposes of this Ordinance shall be signed or acknowledged by the person individually constituting the firm or by all the members of the firm as the case may be.

(2) Every such signature or acknowledgement shall be attested if in the Territory by and before a Justice of the Peace or if elsewhere by and before a British Consul, Notary Public or a Justice of the Peace.

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(3) The provisions of subsection (1) of this Section shall be deemed to be sufficiently complied with if all members of the firm in the Territory (if any) sign or acknowledge the notice or if there being no member of the firm in the Territory the notice is signed or acknowledged under a power of attorney by any person who has previously filed in the office of the Registrar a Statutory Declaration that he is duly authorised by or on behalf of the firm to carry on the business of the firm in the Territory :

Provided that it shall not be sufficient for such last mentioned person to sign or acknowledge a notice under the provisions of Section 13 of this Ordinance.

(4) A fee of two shillings and six-pence shall be paid to the Registrar on filing any such Statutory Declaration.

16. Upon the receipt of a notice given in pursuance of this Ordinance and the prescribed fee the Registrar shall file and register such notice and shall without further fee send by post or deliver a certificate of the registration thereof to the firm registering.

Certificate of Registration.
Registration of Firms Acts, 1902-1912 (Q), s. 14.

17. The Registrar shall keep in proper books to be provided for the purpose a register and an index of all registered firms and of all the notices registered in reference thereto.

Register and Index.
Cf. *Ib.* s. 15. (2).

18. (1) Any person on payment of a fee of one shilling shall be entitled to inspect and make an extract from or copy of any notice filed and registered by the Registrar.

Inspection and copies of notices.
Cf. *Ib.* s. 15. (4) (5)

(2) Any person on payment of a fee of two shillings and six pence shall be entitled to receive a certificate of the registration of any firm or a copy or extract from any registered notice signed by the Registrar issuing the same and certified by him to be correct.

19. Upon receipt of the fees prescribed for search and for the certified copies or extracts required the Registrar shall send by post in reply to any enquiry made of him by letter certified copies of or extracts from any notice registered under this Ordinance with reference to any registered firm.

Registrar to reply to enquiries.
Cf. *Ib.* s. 16.

20. (1) If any firm or person by this Ordinance required to send or deliver any notice to the Registrar makes default without reasonable excuse in sending or delivering the same

Offences and legal process.
Cf. *Ib.* s. 17.

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in the manner and within the time prescribed or in complying with any other provision of this Ordinance such firm or person shall for every day during which the default continues be liable on conviction for the first offence to a penalty not exceeding Five pounds and for every subsequent offence to a penalty not exceeding Fifty pounds.

(2) All good chattels wares merchandise and effects found on the premises where such firm or person carries on business shall be liable to be distrained and sold to satisfy any penalty for any breach of this Ordinance or of any Regulation made thereunder.

(3) If in any case the person or persons constituting a firm is or are not known or cannot be ascertained or is or are found to be absent from the Territory then such firm may be proceeded against for any penalty incurred under this Ordinance or any Regulation made thereunder under its firm name without any further description or designation.

(4) Service of any complaint or other process upon any person apparently in charge of any premises where any firm carries on business shall be deemed to be sufficient service thereof on such firm.

21. (1) The firm-name of every registered firm shall be used in all matters connected with or relating to the business of the firm.

(2) When the business of a registered firm is carried on in any building the registered firm name of such firm shall be kept conspicuously exhibited on or near the main door or principal entrance thereof.

22. (1) When a firm by this Ordinance required to send or deliver any notice to the Registrar has therein made default and during the default commences an action in any Court in the firm-name or for a cause of action arising out of any dealing by such firm in the firm-name the Court shall order the firm in default to send or deliver to the Registrar the proper notice and may stay all proceedings in the action until the order is complied with or allow proceedings to be continued on an undertaking to comply with the order within a time to be limited by the Court.

(2) The power given by Subsection (1) of this Section may in the Central Court be exercised by a Judge in Chambers.

(3) The costs of and incidental to any such order shall be paid by the firm in default.

Registered name always to be used. *Registration of Firms Acts, 1902-1912 (Q), s. 18.*

Actions by firms in default. *Cf. Ib. s. 19.*

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23. (1) In any proceedings for the recovery of any penalty imposed by this Ordinance or any Regulation made thereunder the averment in the complaint that the defendant is a firm within the meaning of this Ordinance shall be sufficient evidence of the fact until the contrary is proved.

Evidence.
Registration of
Firms Acts,
1902-1912 (Q),
s. 20.

(2) A certificate of registration of a firm or a copy of or extract from any notice registered under this Ordinance purporting to be signed and certified by the Registrar shall in any Court or in any proceeding be prima facie evidence of all the statements and matters contained therein and of the fact and date of registration as shown therein.

24. (1) The Lieutenant Governor in Council may make Regulations for the more effectual execution of this Ordinance.

Regulations.
Cf. *ib.* s. 21.

(2) Such Regulations may impose a penalty not exceeding Ten pounds for any breach of the provisions thereof.

25. (1) All penalties imposed by this Ordinance or any Regulation made thereunder may be recovered on the complaint of the Registrar in a summary way before any Magistrate.

Recovery of
penalties.
Cf. *ib.* s. 22.

(2) Notwithstanding any provision to the contrary in any Ordinance proceedings for the recovery of penalties imposed by this Ordinance or the Regulations thereunder may be commenced at any time within six months next after the fact of the commission of the offence charged came to the knowledge of the complainant.

Passed in Council this twenty-fourth day of July, in the year of Our Lord One thousand nine hundred and twenty-three.

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FIRST SCHEDULE.

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Secs. 7. 10.

To the Registrar of Firms, Port Moresby.
Take notice that I [or we] desire to have my [or our] Firm registered under the provisions of the above-mentioned Ordinance.

The necessary particulars are truly and correctly set out as follows:—

The Firm-name is

The business of the Firm is

The Firm carries [or proposes to carry] on business at [*insert the place or places of business.*]

The principal place of business is [or will be] at [*to be stated if the firm carries on or intends to carry on business at more than one place in the Territory.*]

The date of commencement of the business was [or will be].

The name of the person [or the name of the persons] carrying on [or proposing to carry on] the business is [or are]—

Full name to be written or acknowledged by each person himself.	Usual Residence.	Other Occupation, description and addition (if any) of each person.

Signed (or acknowledged] at _____ on the _____ day of _____ 19 _____ Before me. _____ Justice of the Peace (or as the case may be).

SECOND SCHEDULE.

Sec. 10.

And take further notice that the persons now registering are the persons who heretofore carried on business under the registered firm-name of _____ which is abandoned as from the date of this notice.

THIRD SCHEDULE.

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Sec. 11.

To the Registrar of Firms, Port Moresby.

I [or we] the undersigned [*the member or members of the firm as originally constituted and as reconstituted*] hereby give notice that on the _____ day of _____ 19 _____, the following change took place in the constitution of the firm of _____ that is to say—

A. B. retired from the Firm

C. D. became a member of the Firm

} or as the case may be.

Description of a new member [or new members] (*as upon an original registration*)

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Full name to be written or acknowledged by each person himself.	Usual Residence.	Other Occupation description and addition (if any) of each person.

Signed [or acknowledged] at _____ on the _____ day of _____ 19 , Before me
Justice of the Peace (or as the case may be).

FOURTH SCHEDULE.

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To the Registrar of Firms, Port Moresby.

Sec. 12

Take notice that on the _____ day of _____ 19 ,
the following change was made in the place [or places] of business of
the Firm registered under the firm-name of _____ , that is
to say—

A new place of business was opened at _____ [or
the place of business at _____ was removed from
street to _____ street, or the place of business at
was closed (or as the case may be)
(Signed)

Signed (or acknowledged) at _____ on the _____ day of _____ 19 , Before me
Justice of the Peace (or as the case may be).

FIFTH SCHEDULE.

Registration of Firms Ordinance, 1923.

To the Registrar of Firms, Port Moresby.

Sec. 13

Take notice that on the _____ day of _____ 19 ,
the firm registered under the firm-name of _____ was
dissolved (or ceased to carry on business under the said firm-name)
(Signed)

Signed [or acknowledged] at _____ on the _____ day of _____ 19 , Before me
Justice of the Peace (or as the case may be).