

REGISTRATION OF FIRMS.

4° and 5° GEO. VI., No. XXXII.

No. 32 of 1940.

AN ACT to make provision in the Registration of Firms Act, 1897, for the prohibition and regulation of the use of certain firm names, and of certain words in firm names, and for other purposes incidental thereto.

[Assented to 16th December, 1940.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the *Registration of Firms Act Amendment Act*, 1940, and shall be read as one with the Registration of Firms Act, 1897 (No. 14 of 1897), hereinafter referred to as the principal Act.

Short title.

2. A new section is inserted in the principal Act after section four, as follows:—

New section.

4A. (1) From and after the commencement of this section, and notwithstanding anything in any Act, no firm or person shall use a firm name, and no firm name shall be registered which—

Prohibition against use of certain firm names and of certain words in firm names.

(a) includes the word "Royal" or the word "King," or the word "Queen" or the word

cf. Vic. 19, Geo. V., No. 3648, s. 21.

“Crown,” or the word “Empire” or the word “Imperial,” or the word “Commonwealth” or the word “State,” or any word which, in the opinion of the Registrar of Companies, suggests, or is calculated to suggest, the patronage of His Majesty or any member of the Royal Family or Government support or patronage unless the Governor by order in Council published in the *Government Gazette* consents to the use of such word in the said firm name:

Provided that nothing in this paragraph shall prevent the continuance of the use by any firm or person or its or his successor in interest of any of the words (other than the word “Commonwealth” or the word “State”) the use of which is prohibited by this paragraph, in any firm name under which it or he was registered under this Act prior to the commencement of this section;

- (b) includes the word “saving” or “savings” or the words “savings bank” or “savings institution” or “savings department” or “savings section” as part of the designation or title, or as a description of the business, or of any department, section, or other part of the business of such firm or person;
- (c) includes the word “bank,” “banker,” “banking company,” “banking house,” “banking association,” or “banking institution,” or words of like import, or the word “proprietary,” or the word “co-operative,” or the word “trust” or “trustee,” as part of the designation or title or as a description of the business of such firm or person;
- (d) is identical with the firm name of a firm or person already registered under this Act, or which, in the opinion of the Registrar of Companies, so nearly resembles that firm name as to be calculated to deceive, except where the Registrar of Companies is satisfied that such firm or person has ceased

carrying on business for a period of not less than one year or where the said firm or person is about to cease carrying on business and signifies its or his consent in such manner as the Registrar of Companies requires;

(e) is identical with that by which—

(i) a company which is registered under (or has complied with Part VIII. of) the Companies Act, 1893, is registered or known;

(ii) an association in existence is already incorporated under the Associations Incorporation Act, 1895;

(iii) a society in existence is already registered or deemed to be registered under the Friendly Societies Act, 1894-1938;

or, in the opinion of the Registrar of Companies, so nearly resembles that name as to be calculated to deceive, or contains any words or combination of letters which are or is identical with the words or initial letters of the name by which a society in existence is already registered or deemed to be registered as aforesaid or any words so nearly resembling the words or any of the words of that name as to be calculated to deceive except where the company, association or society in existence is in the course of being dissolved and signifies its consent in such manner as the Registrar of Companies desires;

(f) in the opinion of the Registrar of Companies, is likely to mislead the public as to the identity of any firm or person required to register or as to the nature of its or his business.

(2) Any firm or person which or who in any respect contravenes any of the provisions of subsection (1) of this section shall be guilty of an offence.

Penalty: Ten pounds, and, in addition, a daily penalty of two pounds during every day or part of a day upon which the offence is continued.

(3) The consent of the Governor as provided for in paragraph (a) of subsection (1) of this section shall not be granted in any case if in the opinion of the Governor the use of any word mentioned in the said paragraph (a) in a firm name by the firm or person using or proposing to use the same would imply or be likely to convey the impression that such firm or person is or will be wholly or partly authorised or supported by or connected with His Majesty's Government in any part of His Majesty's Dominions.

(4) Every application for the consent of the Governor under subsection (1) of this section shall be made in the first instance to the Registrar of Companies and shall be in writing; and for any Order in Council granting any consent under the said subsection (1) there shall be paid by the applicant to the Registrar of Companies a fee of five pounds five shillings.

(5) Nothing in this section contained shall apply to any person whose Christian or surname may include any word or words prohibited from use as aforesaid nor shall such person be prohibited from continuing to use such name or names provided such name or names are not used in combination with any other word or words unless the consent of the Governor by Order in Council be first obtained.

(6) (a) Any firm or person which or who, through inadvertence or otherwise, is registered under any firm name prohibited or containing any word or words or combination of letters prohibited by this section—

(i) may, with the sanction of the Registrar of Companies, change its or his firm name; and

(ii) shall comply with the provisions of this Act relating to the change of particulars registered in respect of firms or persons so far as such provisions are applicable.

(b) The Registrar of Companies shall enter the new firm name in the register in place of the former name and issue a certificate of registration altered to meet the circumstances of the case.

(7) If any firm or person registered under any firm name prohibited or containing any word or words or combination of letters prohibited by this section (the use of which has not been consented to as aforesaid) neglects or refuses to take within three months all necessary steps to change its or his firm name after being required by the Registrar of Companies by notice in writing to change the same, every member of such firm and every such person shall be guilty of an offence.

Penalty—Five pounds, and, in addition, a daily penalty of five pounds for every day or part of a day during which such offence continues.

(8) Nothing in this section shall affect any liability incurred by any firm or person under this or any other Act.

3. The principal Act as amended by the Act No. 26 of 1899 and the Act 1 and 2 Edw. VII., No. 14, and by this Act may be cited as the Registration of Firms Act, 1897-1940.

Citation of
principal
Act as
amended.