Regulations made under s.7

REGISTER OF BUSINESS TRADES AND PROFESSION REGULATIONS

(LN. 1991/163)

8.8.1991

Amending enactments		Relevant current provisions	Commencement date
LN.	1991/197	rr. 10(2) and (4)(b) and 12	24.10.1991
	2005/046	rr. 11(1)(a), (b) and (c)	1.4.2005
	2014/133	r. 5(1)	24.7.2014
	2016/064	rr. 11(1)(a), (b) and (c), 11A	1.4.2016

ARRANGEMENT OF REGULATIONS.

Rule
1. Title and commencement.
2. Interpretation.
3. Form and manner of registration.
4. Variation in the particulars.
5 Annual notification.
6. Certificates of registration.
7. Register.
8. Refusal to make an entry in the Register.
9. Cancellation of entry in the register.
10. Inspection.
11. Fees.
11A.
12. Confidentiality.

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1989-05

Businesses Trades and Professions (Registration)

Subsidiary 1991/163

REGISTER OF BUSINESS TRADES AND PROFESSION REGULATIONS

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REGISTER OF BUSINESS TRADES AND PROFESSION REGULATIONS

Subsidiary 1991/163

In exercise of the powers conferred on me by section 7 of the Business Trades and Professions (Registration) Act 1989, I have made the following regulations—

Title and commencement.

1. These Regulations may be cited as the Register of Business Trade and Professions Regulations 1991 and shall come into operation on the 8th day of August 1991.

Interpretation.

2. In these Regulations, unless the context otherwise requires,–

(a) "Certificate of Registration" means a certificate issued in accordance with regulation 6;

(b) "inspector" means a person appointed in accordance with regulation 10.

Form and manner of registration.

3. (1) A person required, in accordance with section 3 of the Business Trades and Professions (Registration) Act 1989, to submit for registration a statement relating to the business trade or profession carried on by him in Gibraltar, shall do so at the office of the Registrar.

(2) A statement submitted in accordance with subregulation (1) shall be in the form prescribed by the Registrar from time to time and shall be accompanied by the fee specified in regulation 11.

(3) Subject to subregulation (4), the Registrar shall enter into the register kept for this purpose –

(a) the particulars of the business trade or profession contained in the statement submitted in accordance with subregulation (1);

(b) the date on which such entry into the register was made.

(4) The Registrar may refuse to enter in the register the particulars provided in the statement where–

(a) the appropriate fee has not been paid;

(b) the particulars provided in the statement are, in the opinion of the Registrar, incomplete;

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(c) the Registrar has reason to believe that the information in relation to any or all of the prescribed particulars provided in the statement is untrue or misleading.

Variation in the particulars.

4.(1) A statement specifying a change in a prescribed particular required to be submitted in accordance with section 3 (3) shall be –

(a) in the form prescribed by the Registrar from time to time;

(b) accompanied by–

(i) the fee specified in regulation 11; and

(ii) the Certificate of Registration issued in accordance with regulation 6 in respect of the business trade or profession to which that statement relates.

(2) Where a statement is submitted in accordance with sub- regulation (1) the Registrar shall, subject to subregulation (4) –

(a) amend the relevant entry in the register; and

(b) subject to subregulation (3) endorse the Certificate of Registration–

(i) to the effect that the entry in the register has been amended;

(ii) with the date on which such amendment was made.

(3) Where an amendment of the particulars contained in the register has been made in accordance with subregulation (2) and that amendment is to–

(a) the name of the person; or

(b) the address of the principal place of business or, in the case of a company the registered office,

the Certificate of Registration shall be –

(i) amended in like manner;

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(ii) endorsed in accordance with the requirements of sub-regulation (2).

(4) Where the change specified in the statement submitted in accordance with section 3 (3) is to the effect that the business trade or profession in respect of which the registration has been made has ceased to operate, the Registrar shall cancel–

(a) the entry in the register in respect of that business trade or profession; and

(b) the Certificate of Registration,

and shall cause that notice of such cancellation and the reason for it be published in the Gazette.

(5) The Registrar may refuse to enter in the register a change in respect of any prescribed particular specified in the statement where–

(a) the appropriate fee has not been paid;

(b) the particulars of the change provided in the statement are, in the opinion of the Registrar, incomplete;

(c) the Registrar has reason to believe that information in relation to any or all of the prescribed particulars provided in the statement is untrue or misleading.

Annual notification.

5. (1) For the purposes of enabling the Registrar to keep an up-to-date register pursuant to section 4(1), any person required to submit a statement in accordance with the provisions of section 3(1), shall, within one month of the day, twelve months from the day of registration of the business, trade or profession and at intervals of twelve months thereafter, submit to the Registrar an annual notification, in any form prescribed by the Registrar from time to time irrespective as to whether or not any change in any prescribed particular has occurred.

(2) The notification provided for in subregulation (1) shall be accompanied by –

(a) the fee specified in regulation 11;

(b) the Certificate of Registration of the business trade or profession in respect of which the annual notification is made.

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(3) Subject to subregulation (4) the Registrar shall –

(a) enter in the register the date on which the notification required by subregulation (1) was received;

(b) record any variation in the particulars contained in such notification in accordance with the provisions of regulation 4;

(c) endorse the Certificate of Registration with the date of the entry of the annual notification in the register.

(4) The Registrar may refuse –

(a) to make an entry in the Register in accordance with sub-regulation (3)(a);

(b) to record a variation in the particulars in accordance with sub-regulation (3)(b);

(c) to endorse a Certificate of Registration in accordance with subregulation (3)(c),

where –

(i) the appropriate fee has not been paid;

(ii) the notification is, in the opinion of the Registrar, incomplete;

(iii) the Registrar has reason to believe that the information in relation to any or all of the prescribed particulars provided in the notification is untrue or misleading.

Certificates of registration.

6. (1) Where, in accordance with regulation 3, the Registrar enters in the register the prescribed particulars of the business trade or profession, he shall issue to the person by whom the statement was submitted in accordance with regulation 1, a Certificate of Registration in the form prescribed by the Registrar from time to time.

(2) The Certificate of Registration as endorsed or amended by the Registrar from time to time, of a business trade or profession, shall be displayed at the principal place of business or, in the case of a company, the registered office of that business trade or profession.

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(3) A copy of the Certificate of Registration certified as a true copy by the Registrar, shall be displayed at each location at or from which the business trade or profession carries on or operates its business.

(4) Where, in accordance with the provisions of these Regulations, a Certificate of Registration is endorsed, the Registrar shall in like manner endorse every copy of such Certificate of Registration certified in accordance with subregulation (3).

Register.

7. (1) The register to be kept in accordance with regulation 3(3) shall be in such form as the Registrar may determine from time to time.

(2) The register may be inspected at the office of the Registrar or at such other places he may determine during normal office hours on payment of the fee prescribed in regulation 11.

(3) The Registrar shall provide a copy of an entry in the register, certified as a true copy and may charge the prescribed fee in respect of such certified copy.

Refusal to make an entry in the Register.

8. (1) Without prejudice to the provisions of section 6, where in the exercise of the powers contained in paragraphs (b) and (c) of regulations 3(4) or 4(5) or paragraphs (ii) and (iii) of regulation 5(4) the Registrar intends to refuse to make an entry in the register, he shall so inform the person by whom the statement or notification, as the case may be, has been submitted, by notice in writing at that person's principal place of business, or, in the case of a company, the registered office.

(2) In any notice issued in accordance with subregulation (1) the Registrar shall specify by reason of which paragraph of which subregulation referred to in subregulation (1) he intends to refuse to make an entry.

(3) The Registrar shall consider any written representations,

(a) made by a person on whom notice has been served in accordance with subregulation (1), and

(b) received by the Registrar within 14 days of the date of such notice.

(4) Unless the Registrar shall have been satisfied by any written representations made in accordance with subregulation (3) that–

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(a) where the reason for refusal to make an entry was that the particulars were incomplete, the particulars are complete;

(b) where the reason for refusal to make an entry was that the information in relation to the prescribed particulars was untrue or misleading, the information is not untrue or misleading; or

(c) where the reason for refusal to make an entry was either that in (a) or (b) above, the written representations contain an amended statement or notification, as the case may be, such as to satisfy the Registrar that either–

(i) the particulars are complete; or

(ii) the information is not untrue or misleading in such amended statement or notification,

the Registrar shall refuse to make the entry in the register and shall cause notice of such refusal and the reason for it to be published in the Gazette.

Cancellation of entry in the register.

9. (1) Without prejudice to the provisions of section 6, the Registrar may, subject to the provisions of this regulation, cancel an entry in the register where–

(a) the person required by section 3 or by these Regulations to have submitted a statement or notification, has not done so within the prescribed time limit;

(b) there has been some other failure by the person referred to in (a) to comply with the Act;

(c) the Registrar has reason to believe that information in any statement or notification submitted in accordance with regulations 3, 4 or 5 is, in relation to any prescribed particular, untrue or misleading.

(2) Where the Registrar intends to cancel an entry in the register, he shall so inform the person by whom the application for registration was made, by notice in writing to the principal place of business or, in the case of a company, the registered office.

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(3) In any notice issued in accordance with subregulation (2) the Registrar shall specify by reason of which paragraph of subregulation (1) he intends to cancel the entry.

(4) The Registrar shall consider any written representations–

(a) made by a person on whom notice has been served in accordance with subregulation (2), and

(b) received by the Registrar within 14 days of the date of such notice.

(5) Unless the Registrar shall have been satisfied by any written representations made in accordance with subregulation (4) that –

(a) where the reason for cancellation was failure to submit a statement or notification within the prescribed time–

(i) the required statement or notification has been submitted, and

(ii) the fee provided for in Regulation 11 in respect of late submission of a statement or notification has been paid; or

(b) where the reason for cancellation was some other failure to comply with the Act, that failure has been remedied; or

(c) information in any statement or notification is not untrue or misleading or, having been untrue or misleading, the statement or notification has been so amended that such information is not now untrue or misleading,

he shall cancel that entry in the register and cause notice of such cancellation and the reason for it to be published in the Gazette.

Inspection.

10. (1) The Registrar may appoint such persons as he shall deem suitable and necessary from time to time to be inspectors for the purposes of the Act.

(2) An inspector appointed under subregulation (1) may where he has reasonable grounds to suspect and for the purposes of establishing whether or not the provisions of these Regulations have been complied with,–

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(a) enter at all reasonable times any place, location or premises in Gibraltar at or from which–

(i) any business, trade or profession is carried on;

(ii) an inspector has reason to believe any business, trade or profession is carried on;

(b) interrogate, alone or in the presence of witnesses, any person apparently engaged in any capacity in any business, trade or profession;

(c) require the production of any certificate required to be displayed by these Regulations;

(d) require the production of any documents, books or materials, howsoever stored, necessary to substantiate information contained in any statement or notification submitted in accordance with the regulations and to copy such documents etc. or take extracts from them:

Provided that no person shall be required under the provisions of paragraph (b) to give any information tending to incriminate him.

(3) On the occasion of any inspection visit, an inspector shall, whenever it is possible to identify that person, notify the person by whom a statement or notification has been or should have been submitted, of his presence, unless the inspector considers that such notification may be prejudicial to the performance of his duties.

(4) A person appointed as an inspector under this regulation shall –

(a) be prohibited from having any direct or indirect interest in any place or premises which may be subject to inspection by him;

(b) not reveal–

(i) except for the purposes of enforcing any statutory or legal obligation, information;

(ii) at any time, even after ceasing to be an Inspector, any manufacturing or commercial secrets or working process, which may come to his knowledge in the course of his duties.

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(5) An inspector appointed under this regulation shall be furnished with a certificate of his appointment which he may, be required to produce on applying for admission to any place, location or premises.

(6) A person shall not–

(a) omit truly to answer or reply, or cause any other person to omit truly to answer or reply, to any question which an inspector is authorised to ask under the Act;

(b) fail to produce any certificate, document, book or other record, howsoever stored, which he is required by an inspector to produce;

(c) directly or indirectly prevent any person from appearing before or being questioned by an inspector;

(d) in any other way prevent or seek to prevent an inspector from exercising his powers under these Regulations.

Fees.

11. (1) The fee prescribed to be paid by a person submitting a statement or notification required by these Regulations shall be in respect of–

(a) a statement to which regulation 3 applies, £65;

(b) a statement to which regulation 4 applies, £15;

(c) a notification to which regulation 5 applies, £25;

(d) a statement or notification to which regulation 9(5) applies, twice the amount specified in relation to that statement or notification in this subregulation if that statement or notification had been made within the prescribed time.

(2) The fee prescribed in respect of –

(a) inspecting;

(b) a certified copy of,

an entry in the register in accordance with regulation 7 shall be £5:

Provided that no fee shall be payable under this subregulation by the Government of Gibraltar.

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11A. (1) Subject to the provision of this regulation, the fees set out in regulation 11(1) must be revised annually in accordance with the Index of Retail Prices published by the Government Statistician.

(2) The first revision under this regulation shall apply as from 1 April 2017 and shall apply the index of retail prices for the year ending on 31 January 2017, and subsequent revisions shall apply on each subsequent 1 April and apply the index of retail prices prevailing on the preceding 31 January of that year.

(3) Any figure revised pursuant to subregulation (1) shall be rounded up to the next whole penny.

Confidentiality.

12. (1) Every person being employed in the administration of the Act or these Regulations shall, subject to subregulations (3) and (4) regard information obtained in the exercise of the powers contained in these Regulations as confidential.

(2) No person employed in carrying out the provisions of the Act or these Regulations, shall be required to produce in any court any document or to divulge or communicate to any court any matter or thing coming under his notice in the performance of his duties under the Act or these Regulations except as may be necessary for the purpose of carrying into effect the provisions of this or any other Act or in order to institute a prosecution or in the course of a prosecution for any offence committed in relation to this or other Act.

(3) Notwithstanding anything contained in this regulation, a person employed in the administration of the Act or these Regulations, shall, at the request of the Financial and Development Secretary provide to him such information relating to any matter referred to in this regulation as the Government of Gibraltar may require for the purposes of formulating the economic and fiscal policies of the Government.

(4) The provisions of this regulation shall not apply to the information contained in the Register.

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