



REGISTRATION OF BUSINESS NAMES (AMENDMENT) BILL 2019

EXPLANATORY NOTES

These notes are circulated for the information of Members with the approval of the Member in charge of the Bill.

1. INTRODUCTION

These explanatory notes relate to the Registration of Business Names (Amendment) Bill 2019 (the Bill). They have been prepared by the Treasury in order to assist readers of the Bill. They do not form part of the Bill.

The notes need to be read in conjunction with the Bill. They are not, and are not intended to be, a comprehensive description of the Bill.

2. EUROPEAN CONVENTION ON HUMAN RIGHTS

In the opinion of the Member moving the Bill, the provisions of the Bill are compatible with the Convention rights.

3. FINANCIAL IMPLICATIONS

It is not anticipated that the resulting amended Act will involve any significant change to Government income or expenditure.

4. BACKGROUND

The primary purpose of the Registration of Business Names Act 1918 (the Act) is to create and maintain a public register of companies, firms, or individuals carrying on a business under a name other than their legal name. This is a matter primarily of consumer protection.

The requirement to register extends to companies defined under the Companies Act 1931 to 2004, the Limited Liability Companies Act 1996, and the Foreign Companies Act 2014, but does not extend to companies defined under the Companies Act 2006. The exclusion of such companies from the

requirement to register under the Act is inconsistent with the treatment of other companies and creates a lacuna within the Act.

In June 2019 the Companies Registry became aware that it had been incorrectly applying the Act to companies incorporated under the Companies Act 2006 ('2006 Act Companies'). Consequently the Registry stopped accepting business name applications for 2006 Act Companies after that time. Business names registered to 2006 Act Companies prior to June have not been removed from the Register.

5. CLAUSE BY CLAUSE NOTES

Clauses 1 and 2 provide respectively for the short title and commencement of the resulting Act.

Clause 3 extends the requirement to register to under the Registration of Business Names Act 1918 to companies formed under the Companies Act 2006

Clause 4 makes transitional arrangements for companies formed under the Companies Act 2006 by providing a 3 month period for complying with sections 7 and 20 of the 1918 Act and confirms that decisions in relation to 2006 companies, purportedly made under the 1918 Act have effect as if clause 3 had been in operation.