

*These notes refer to the Companies Act 2006 (c.46)
which received Royal Assent on 8 November 2006*

COMPANIES ACT 2006

EXPLANATORY NOTES

COMMENTARY

Schedule 5: Communications by a company

Part 41: Business Names

Chapter 2: Disclosure Required in Case of Individual Or Partnership

1531. This Chapter re-enacts for individuals and partnerships the Business Names Act provisions relating to information which must be displayed at places of business and in correspondence. These sections ensure that a business's suppliers and customers can discover the legal identity of the person with whom they are doing business and can serve documents upon it. Section 1203 makes special provision for large partnerships so that not all the partners' names are required in all business documents, provided certain conditions are met.

Section 1200: Application of this Chapter

1532. This section partly replaces section 1 of the Business Names Act 1985. It provides that Chapter 2 applies to:

- sole traders if they trade under any name other than their true surnames augmented only by their forenames and/or initials. (Section 1208 defines initial to include any recognised abbreviation of a name);
- partnerships unless their name is the surnames of all its human partners (augmented only by their forenames and/or initials) and the registered names of its other partners.

1533. It also excludes sole traders and partnerships if the only addition to their name shows the business's previous ownership.

1534. This section ensures that the coverage of this Chapter is the same as the Business Names Act except that, unlike that Act, it does not apply to any companies. The comparable requirements for companies are in Part 5, Chapter 6.

Section 1201: Information required to be disclosed

1535. This section replaces section 4(1)(a)(i), (ii) and (iv) of the Business Names Act 1985. It specifies the information that is to be the subject of disclosure under this Chapter (ie names and addresses for service).

Sections 1202 to 1204: Disclosure requirements

1536. Sections 1202 and 1203 replace section 4(1)(a) and (2) to (7) of the Business Names Act 1985. They are designed to ensure that customers and suppliers:

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- of sole traders know the true identity of the person with whom they are dealing and have an address for him/her which is effective for the service of documents relating to the business;
 - of partnerships with 20 or fewer partners know the identity of every partner and the address which is effective for the service of documents relating to the business;
 - of larger partnerships know the address which is effective for the service of documents relating to the business and either the identity of every partner or the address at which they can discover the identity of every partner.
1537. Large partnerships are not permitted to choose which partners' names are included in documents: they must either include the names of all the partners or none (except in the text or as a signatory) (see *subsection (2)(b)*).
1538. **Section 1202** also provides power for regulations relating to the form of a notice giving the trader's or partners' name(s) and address in response to any person who asks for the information in the course of business. For companies' registered names, equivalent provision may be made in regulations under section 82.
1539. **Section 1204** replaces section 4(1)(b) of the Business Names Act 1985 so far as it applies to sole traders and partnerships. It makes provision to enable customers and suppliers to discover the name(s) and the address for service of documents when visiting any business premises of the trader or partners.

Section 1205: Criminal consequences of failure to make required disclosure

1540. This section provides that certain provisions in Part 36 (offences under the Companies Acts) also apply to offences under this Part. It replaces and expands upon section 7 of the Business Names Act 1985 so far as it applies to sole traders and partnerships. It retains the existing offences of failure to comply with the requirements relating to disclosure of name and address in documents and notices.

Section 1206: Civil consequences of failure to make required disclosure

1541. This section replaces section 5 of the Business Names Act 1985 so far as it applies to sole traders and partnerships. It provides legal rights to anyone who has sustained losses as a result of failure to comply with this Chapter's requirements by a sole trader or partnership.