

COMPANY NAMES

GUIDELINES 1998



Companies Registry

(A) INTRODUCTION

1. A company may now register its name in either English or Chinese or both in English and Chinese. When choosing a company name, it is particularly important that persons forming companies should satisfy themselves in advance on the registrability of the proposed name, bearing in mind that an objection might be received which could result in the company being directed to change its name (see section E). The name reservation system has been abolished since 1991, and provisional name approval is not given. However, in cases where the prior approval of the Chief Executive is specifically required, advice can be obtained as described in paragraphs 6 and 8 below. "Company Names - Guidelines" issued in 1991 are replaced by these Guidelines.

(B) CIRCUMSTANCES IN WHICH A COMPANY NAME WILL NOT BE REGISTERED

2. Generally speaking, a company name will not be registered if:-

- (a) it is the same as a name already appearing on the index of company names (companies registered under the Companies Ordinance) maintained by the Registrar of Companies;
- (b) it is the same as that of a body corporate incorporated or established under another Ordinance;
- (c) in the opinion of the Chief Executive it is offensive or otherwise contrary to the public interest;
- (d) in the opinion of the Chief Executive its use would constitute a criminal offence.

3. In addition, the approval of the Chief Executive is required before a company may be registered by a name which would be likely to give the impression that the company is in any way connected with the Central People's Government or the Government of Hong Kong Special Administrative Region or any department thereof or which contains a word or expression specified in an order.

(C) HOW TO REGISTER A COMPANY NAME

4. Applicants are advised to check whether the name proposed is the same as one already registered by reference to the index of company names which is available and can be inspected free of charge in the Public Computer Terminal Room of the Companies Registry. In determining whether one name is 'the same as' another, certain words and their abbreviations, together with accents and punctuation marks, will be disregarded. These words include the definite article and the words "company", "and company", "company limited", "and company limited", "limited", "unlimited", "public limited company", the characters "公司", "有限公司", "無限公司" and "公眾有限公司" whilst "and" and "&", "Hongkong", "Hong Kong", and "HK", "Far East" and "FE" will be taken to be the same.

5. If the name is not the same as one already on the index of company names and is not a name that requires the prior consent of the Chief Executive, the incorporation documents or, in the case of a change of name, the necessary special resolution, should be submitted to the Registrar of Companies. If the name is acceptable within the provisions of the Ordinance, and if the documents are correctly completed, the company will then be registered and the Certificate of Incorporation or Certificate of Incorporation on Change of Name issued.

6. The Chief Executive's approval is required for a name which contains any of the words or expressions listed in Appendix A. This power of approval has been delegated to the Registrar of Companies. Applicants should seek the advice of the Companies Registry about this type of name and apply for approval before the incorporation documents or the special resolution for change of name are lodged.

7. The use of certain words and expressions in company names is covered by other legislation. Their improper use will be a criminal offence. For example, under the Banking Ordinance, it is an offence to use "Bank" in a company name without the consent of the Monetary Authority. Under the Securities Ordinance, no person other than the Exchange Company as therein defined shall use the title "Stock Exchange" or "Unified Exchange" or other variations. Contravention of this section will constitute a criminal offence. It will also be an offence for a company other than a corporate practice as defined in the Professional Accountants Ordinance to use in its name the description "certified public accountant" or "public accountant" or the initials "C.P.A." or "P.A." or the characters "執業會計師", "核數師" or "審計師".

8. The Chief Executive's approval is required for a name which gives the impression that the company is connected with the Central People's Government or the Government of Hong Kong Special Administrative Region or any department thereof. This power of approval has been delegated to the Registrar of Companies. Such names will be allowed only where it is considered there is a genuine connection with the Central People's Government or the Government of the Hong Kong Special Administrative Region. The use of words such as 'Department', 'Government', 'Commission', 'Bureau', 'Federation', 'Council', 'Authority', would in certain circumstances imply such a connection and will normally not be approved. Applicants should seek the advice of the Companies Registry about this type of name and apply for approval before the incorporation documents or the special resolution for change of name are lodged.

(D) REGISTRATION OF COMPANY NAMES IN CHINESE

9. The Registrar of Companies will accept for registration companies with names in Chinese which contain characters in full-stroke version that can be found in the Kang Xi Dictionary (康熙字典) or Chi Hai Dictionary (辭海字典).

10. For the purposes of determining whether a company name in Chinese is the same as another, the Registrar of Companies has now specified a list of interchangeable Chinese characters at Appendix B which are regarded as the same. The list of Chinese characters is not exhaustive and the Registrar of Companies may amend it from time to time.

(E) DIRECTIONS TO CHANGE A COMPANY'S NAME

11. The Registrar of Companies has certain powers to direct a company to change its name. A company can be directed to change its name within 12 months of its registration if :-

- (a) it is 'the same as' or, in the opinion of the Registrar, 'too like' a name appearing in the index of company names at the time of registration;
- (b) it is 'the same as' or, in the opinion of the Registrar, 'too like' a name which should have appeared in that index at that time; or
- (c) it is 'the same as' or, in the opinion of the Registrar, 'too like' the name of a body corporate incorporated or established under any Ordinance at the time of the registration.

Company names which are 'too like' will normally be brought to the Registrar's attention by objections being lodged by any person who may feel that the name is 'too like' that of a previously registered company. Objections should be submitted to the Registrar, giving reasons in full and including any available evidence of confusion which is claimed to have arisen. Objections lodged should be headed "Names Complaints" and marked for the attention of the "New Companies Section" of the Companies Registry. Objections to new company names should be made to the Registrar in good time so as to enable him to make any enquiries and serve any notices that may be required before the expiry of the 12 month period.

12. Details of the criteria which the Registrar will apply in forming an opinion on whether a name is 'too like' are given at Appendix C. It is therefore important that, before applying for registration or changing the name of a company, applicants should consider carefully whether the proposed name could lead to a complaint from another company, and the possibility that it may be subject to a change of name direction by the Registrar after incorporation or change of name. This aspect will not form a part of the Registrar's consideration when examining the name before incorporation or change of name.

13. Section 22A of the Companies Ordinance (Cap.32) provides power for a company to be directed to change its name if the name gives so misleading an indication as to the nature of the company's activities as to be likely to cause harm to the public.

14. A company can also be directed to change its name within five years of the date of registration where it appears to the Registrar that it has provided misleading information for the purposes of its registration or has given undertakings or assurances for that purpose that have not been fulfilled.

(F) COMPANIES WHICH WISH TO OMIT THE WORD 'LIMITED' FROM THEIR NAMES

15. A company which wishes to apply for a licence under Section 21 to omit the word 'Limited' or the characters '有限公司' from its name (either on incorporation or change of name by special resolution) may obtain further details from the Companies Registry. A Memorandum on Procedure for applying for a Licence under Section 21 can be obtained from the enquiry counter of the Companies Registry at the 14th Floor, Queensway Government Offices, 66 Queensway, Hong Kong.

(G) OVERSEA COMPANIES

16. Section 333 of the Companies Ordinance contains provisions for the registration of an overseas company. Further details can be obtained from the Companies Registry.

17. Under Section 337B of the Companies Ordinance, if the Registrar is satisfied that the corporate name of an overseas company is 'the same as' or is 'too like' a name appearing in the Registrar's index of company names on the date on which the overseas company has complied with Section 333 or where there has been a change in its corporate name under Section 335, the Registrar may, within six months of that date, serve a notice to that effect on the overseas company. An overseas company on which such notice has been served must not at any time after the expiration of two months from the service of that notice carry on business in Hong Kong under its corporate name. A Memorandum on the operation of Section 337B is available from the Companies Registry.

18. Company names which are "too like" will normally be brought to the Registrar's attention by objections being lodged by any person who may feel that the corporate name is 'too like' that of a previously registered company. Objections should be submitted to the Registrar, giving reasons in full and including any available evidence of confusion which is claimed to have arisen. Objections lodged should be headed "Names Complaints" and marked for the attention of the "New Companies Section" of the Companies Registry. Objections to new corporate names should be made to the Registrar in good time so as to enable him to make any enquiries and serve any notices that may be required before the expiry of the six month period.

19. Details of the criteria which the Registrar will apply for a direction on an alleged 'too like' name are the same as those for locally registered companies and are given at Appendix C. It is therefore important that, before applying for registration or changing the corporate name of an overseas company, applicants should consider carefully whether the proposed corporate name could lead to a complaint from another company, and the possibility that it may be subject to a change of name direction by the Registrar after registration. This aspect will not form a part of the Registrar's consideration when dealing with the registration or changing the corporate name of an overseas company.

Date : 2 January 1998

APPENDIX A

The following words and expressions will require the consent of the Chief Executive before their use will be allowed in a company name :

Building Society
Chamber of Commerce
Cooperative
Kaifong
Mass Transit
Municipal
Savings
Tourist Association
Trust
Trustee
Underground Railway
市政
地下鐵路
地鐵
合作
受託
受託人
建屋合作社
信託
旅遊協會
商會
街坊
總商會
儲蓄

APPENDIX B

List of interchangeable Chinese character which are regarded as the same by the Registrar of Companies :-

1	兩 兩 兩	21	嶮 崙	41	獎 獎	61	窗 窗
2	峯 峰	22	滙 匯	42	叟 叟	62	鎮 鎮
3	真 眞	23	焰 燄 焰	43	麪 麪 麵	63	翱 翱
4	廡 廡	24	羣 群	44	塚 塚	64	廠 廠
5	眾 衆	25	聚 聚	45	窑 窑 窯	65	為 爲
6	賓 賓	26	貓 猫	46	櫃 柜	66	殮 殮
7	妝 粧	27	寶 寶	47	響 响	67	隲 雋
8	迪 廸	28	巖 巖	48	衛 衛	68	瀨 瀨
9	荊 荆	29	廚 厨	49	氈 毡	69	偽 偽
10	峩 峨	30	憩 憩	50	厦 廈	70	免 免
11	畧 略	31	舉 舉	51	臘 腊	71	冲 沖
12	啟 啓	32	鐵 鉄	52	上 上	72	獵 獵
13	捷 捷	33	藥 葯	53	綉 繡	73	珏 珏
14	場 場	34	輝 輝	54	雞 鷄	74	填 填
15	疊 疊	35	嶢 嶢	55	籐 藤	75	滇 滇
16	拍 拍	36	穎 穎	56	龐 龐		
17	牀 床	37	潤 潤	57	線 綫		
18	恒 恆	38	霸 霸	58	裡 裏		
19	柏 栢	39	證 証	59	晋 晉		
20	強 强	40	哈 峇	60	獻 獻		

APPENDIX C

'TOO LIKE' NAMES

In considering whether names are 'too like', the Registrar of Companies will take account of all factors which may be considered to suggest similarity and lead to confusion between the names of two companies. These will include, for example, the nature of the business concerned, the public awareness of the names concerned.

Subject to this requirement, names may be considered to be 'too like' in the opinion of the Registrar of Companies if :-

- a) the names are visually and/or phonetically identical;
- b) there is only a slight variation in the spelling of the two names and the variation does not make a significant difference between the names, e.g. grammatical variations such as trade/trading, addition of 's' or 'es'.
- c) the names contain a word or words which might be regarded as a distinctive element, unless that element is qualified in such a way as would minimise risk of confusion. A distinctive element will normally be defined as 'English made up words', 'non-dictionary English words' or 'unusual combinations of two or more letters as a key part'. In some cases, everyday words used in a 'distinctive' way may also be considered as distinctive elements. Place names, or everyday descriptive words in general use will not normally be regarded as distinctive. Similar business classifier or descriptive elements, e.g. press/printing, staff agency/employment agency, or the inclusion in one name of only a general or 'weak' qualification such as international, holding, group, services etc., would not normally be regarded as a sufficient qualification or distinction.

EXAMPLES

- 1 Names which are the same - KWUN TONG ENGINEERING LIMITED v KWUN TONG ENGINEERING COMPANY LIMITED or 發達(貿易)有限公司 v 發達貿易有限公司.

2. Names which are phonetically identical - LYFECITY LIMITED v LIFECITY LIMITED and AB-CHEM LIMITED v ABKEM LIMITED or 興隆企業有限公司 v 興龍企業有限公司.
3. Names in which the slight variation in spelling does not make a significant difference - CONSOLAIR LIMITED v CONSULAIR LIMITED or 美儂有限公司 v 美濃有限公司.
4. Grammatical variations which do not have significant difference - ADVANCE TRAVEL LIMITED v ADVANCED TRAVEL LIMITED.
5. Names which contain the same distinctive element :-
 - (a) Where the names are sufficiently qualified - FACTROMATIC COMPUTERS LIMITED v FACTROMATIC PLANT HIRE LIMITED.
 - (b) Where the names are not sufficiently qualified - MECHALA LIMITED v MECHALA HOLDING LIMITED or ODDBODS PRESS LIMITED v ODDBODS PRINTING LIMITED or 禾豐印刷有限公司 v 禾豐印務有限公司.