

[DEPARTMENT ADMINISTRATIVE ORDER NO. 18-07, September 18, 2018]

REVISED RULES AND REGULATIONS IMPLEMENTING ACT NO. 3883 AS AMENDED, OTHERWISE KNOWN AS AN ACT TO REGULATE THE USE IN BUSINESS TRANSACTIONS OF NAMES OTHER THAN TRUE NAMES

Adopted: 13 August 2018

Date Filed: 18 September 2018

WHEREAS, under Section 20, Article II of the 1987 Constitution of the Republic of the Philippines (henceforth referred to as the 1987 Constitution), "The State recognizes the indispensable role of the private sector, encourages private enterprise, and provides incentives to needed investments";

WHEREAS, Article XII, Section 6 of the 1987 Constitution further provides that, "The use property bears a social function, and all economic agents shall contribute to the common good. Individuals and private groups, including corporations, cooperatives, and similar collective organizations, shall have the right to own, establish, and operate economic enterprises, subject to the duty of the State to promote distributive justice and to intervene when the common good so demands";

WHEREAS, on November 14, 1931, Act No. 3883 was issued to regulate the use in business transactions of names other than true names, wherein a person intending to engage in business is required to first register with then Director of Commerce (now the Department of Trade and Industry, henceforth to be referred to as DTI) a name, other than its true name, before such name is used in any business transactions;

WHEREAS, Act No. 3883, Executive Order No. 913 dated October 7, 1983, and Executive Order No. 292 dated July 25, 1987, otherwise known as the Administrative Code of 1987, empower the DTI Secretary to make such rules and regulations as may be deemed necessary for the implementation of laws relevant to its functions;

WHEREAS, several rules and regulations implementing Act 3883 have already been issued by DTI;

WHEREAS, based on Section 2, Article II of the 1987 Constitution, the Philippines adopts the generally accepted principles of international law which shall form part of the law of the land;

WHEREAS, the Republic of the Philippines has acceded to the 1951 United Nations Convention Relating to the Status of Refugees, the 1967 Protocol Relating to

the Status of Refugees and the 1954 United Nations Convention Relating to the Status of Stateless Persons, which obligate the Contracting States to accord to a refugee lawfully in their territory favorable treatment, in any event, not less favourable than that accorded to aliens generally in the same circumstances, as regards the right to engage on his own account in agriculture, industry, handicrafts and commerce and to establish commercial and industrial companies;

WHEREAS, Section 5 of Republic Act No. 7042 otherwise known as the Foreign Investments Act of 1991 as amended by Republic Act No. 8179 requires non-Philippine nationals who intend to establish sole proprietorships in the Philippines to register with the DTI in accordance with the Implementing Rules and Regulations of RA 7042 and other applicable rules and regulations;

WHEREAS, in view of recent developments, particularly the Ease of Doing Business and Efficient Delivery of Government Services Act of 2018 or Republic Act 11032, it is high time to establish a revised Implementing Rules and Regulations to keep it aligned with the said law, by consolidating the several DTI issuances relevant to Act No. 3883, and streamline the rules and regulations to implement the other aforementioned related legal mandates;

WHEREFORE, these Rules and Regulations are hereby issued for the guidance of those concerned.

RULE I GENERAL PROVISIONS

Section 1. Title – These Rules shall be referred to as the Revised Implementing Rules and Regulations of 2018 of Act No. 3883.

Section 2. Objective – The objectives of these Rules are the following:

2.1 To regulate the use of business names by businesses in their transactions and thereby protect the public dealing with such businesses through the disclosure of the name and the real identity of the owner of person operating the business;

2.2 To provide streamlined requirements for processing BN applications and promote ease of doing business; and

2.3 To set guidelines in the disclosure of information, appearing in the records of this Department, subject to existing rules and regulations including all future amendments, modifications, or revisions set under the Data Privacy Act and the Freedom of Information Act.

Section 3. Coverage – These Rules shall apply to natural persons, Filipino or a non-Philippine national, a recognized refugee or a recognized stateless person as defined in Section 4.3, 4.14, and 4.15 of Rule I, respectively.

Section 4. Definition of Terms – For purposes of these Rules, the term:

4.1 Applicant refers to a natural person, who may be a Filipino citizen, and authorized non-Philippine national, or a recognized refugee/stateless person.

4.2 Application refers to an application for Business Name Registration.

4.3 Authorized non-Philippine National refers to a foreign national who is authorized to transact business in the Philippines in accordance with the Foreign Investment Act of 1991, the Philippine immigration laws, and other related laws and their respective implementing rules and regulations.

4.4 Authorized Personnel refers to the person who is officially designated to perform stipulated duties related to business name registration.

4.5 Business Name (BN) refers to any name used or signed by an individual or natural person in connection with his/her business on any written or printed receipts, including receipts for business taxes, or on any written or printed contract not verified by a Notary Public, or on any written or printed evidence of business transaction, or any name used in connection with his/her business other than his/her true name, or keep conspicuously exhibited in plain view in or at the place where his/her business is concluded. If he/she is engaged in a business, any sign announcing a business name or style.

4.6 BN Number (BNN) refers to the series of numbers assigned to a registered BN.

4.7 BN Certification refers to the document being issues by the DTI to any request for certification of such BN in accordance with RULE XI of these Rules.

4.8 BN Owner refers to the individual who holds in his/her name a valid Certificate of BN Registration in accordance with these Rules.

4.9 Certificate of BN Registration refers to the document being issued to a business owner as proof of successful registration of his/her BN.

4.10 DOJ-RSPPU refers to the Department of Justice – Refugee and Stateless Person Protection Unit.

4.11 DTI refers to the Department of Trade and Industry.

4.12 Natural Persons refer to a Filipino or an authorized non-Philippine national as defined in Section 4.3. It shall also include recognized refugees and recognized stateless persons defined in Sections 4.14 and 4.15, respectively.

4.13 New Application refers to the application that is filed for the first time with DTI. Application for BN registration filed beyond the grace period as defined in Section 3, Rule VII hereof shall be considered

new application.

4.14 Recognized Refugee refers to a person who "owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his or her nationality and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of that country; or who, not having a nationality and being outside the country of his or her former habitual residence is unable or owing to such fear, is unwilling to return to it", and whose application for refugee status has been approved and issued a written recognition from the DOJ-RSPPU.

4.15 Recognized Stateless Person refers to one "who is not considered a national by any State under the operation of its law", and whose application for stateless status has been approved and is issued a written recognition from the DOJ-RSPPU.

4.16 Renewal Application refers to the application for renewal of BN Registration within the period prescribed herein.

4.17 Territorial Scope for BN refers to the extent of geographical area within which the pertinent business may locate its offices, stores, shops, branches, manufacturing or processing plants, or other business structures, or where the pertinent BN may be used without prejudice to engaging in business elsewhere. 4.18 True Name refers to a natural person's full name as appearing in his identification documents.

RULE II REQUIREMENTS

Section 1. Qualification of the Applicant. – Only those who meet any of the following requirements may apply for Business Name Registration:

1.1 Filipino citizen who is at least eighteen (18) years of age;

1.2 Non-Philippine national who has obtained a Certificate of Registration of Sole Proprietorship pursuant to RA 7042 and who is at least 18 years of age;

Where the laws of the home country of the authorized non-Philippine national provides for the legal or contract age lower than 18 years, said authorized non-Philippine national shall submit proof thereof.

1.3 Refugee or stateless person, at least 18 years of age, who has been issued a written recognition from the DOJ-RSPPU, and whose recognition is not subject to cancellation, revocation or cessation, in accordance with applicable government rules and regulations.

Section 2. Documents Required – An application shall be acted upon the complete presentation/submission of the following requirements:

2.1 For walk-in/over-the-counter applications:

2.1.1 Presentation of one (1) valid government-issued ID of the BN applicant as listed in Annex A of these Rules;

2.1.2 Submission of one (1) duly accomplished DTI-prescribed application form (Annex B) signed by the applicant of the BN registration;

2.1.3 Submission of Authorization Letter upon filing of the application if filed by a representative and presentation of the authorized representative's valid ID as listed in Annex A of these Rules;

2.2 Supporting documentary requirements for non-Philippine national, refugee/stateless person, as follows:

2.2.1 For Non-Philippine National:

a. Submission of one (1) duly accomplished DTI-prescribed application form (Annex B) signed by the applicant of the BN registration;

b. Submission of a clear certified copy of the Alien Certificate of Registration; and the Certificate of Registration for Sole Proprietorship/Certificate of Authority to engage in business in the Philippines issued by the concerned DTI Office per Republic Act No. 7042 (Foreign Investment Act) as amended by Republic Act No. 8179, Republic Act No. 8762 (Retail Trade Liberalization Law) or such other applicable laws, as the case may be.

For online applications, the applicant may submit the required documents through the web-enabled BN registration system and must be in accordance with Section 2.3, Rule II hereof.

2.2.2 For Refugee/Stateless Person:

a. Submission of one (1) duly accomplished DTI-prescribed application form (Annex B) signed by the applicant of the BN registration; and

b. Submission of a clear certified copy of the Certificate of Recognition issued by the DOJ-RSPPU showing that the applicant is recognized as a refugees/stateless person or presentation of the original Certificate of Recognition and submission of a duplicate copy thereof.

Other documents required by subsequent laws and regulations, if any, shall likewise be submitted.

2.3 For online applications, as signed application form is no longer required since the accomplished online application is equivalent to the duly- accomplished physical application form. The online application for BN registration is subject to the Terms and Conditions set forth under these Rules and by clicking the "I Agree" button, the applicant is deemed to have understood and accepted all such Terms and Conditions including the mandatory undertakings enumerated under Section 2, Rule III hereof as posted on the web-enabled BN registration system.

Online applications filed by refugees and stateless persons shall be acted upon