

*Regulations for the implementation of the Law on trading names, company names and shop signs*

**EXPLANATION OF REASONS**

The Regulations implementing the Law on trading names, company names and shop signs applies the Law on trading names, company names and shop signs of 10 July 1996. Trading names, company names and shop signs are distinctive signs with different tasks of identification and hence they have different levels of requirements. A company name is a sign which must enable one merchant company to be distinguished from another merchant company. A trading name is a sign which also has a task of distinguishing between persons in the exercise of a trading activity but the trading name also serves to exercise an individual or a legally constituted body in the exercise of his, her or its trading activity. In order to have this capacity for identification, the trading name must be distinctive not only from other trading activities but must be distinctive with regard to the trading activity itself. This different level of requirement means that a sign may be granted as a company name for a merchant company but the same sign may be refused as a trading name to identify the trading activity of said merchant company if, for instance, the sign lacks any distinctive character with regard to the trading activity.

In view of the need to apply the Law on trading names, company names and shop signs, the Government, on a proposal from the minister of the Presidency and the Economy, approves in session on 16 September 2000 these Regulations implementing the Law on trading names, company names and shop signs applies the Law on trading names, company names and shop signs.

**INDEX**

**Chapter I. *Trading names***

- Regulation 1. *Reservation of a trading name*
- Regulation 2. *Examination of the application for a reservation of a trading name*
- Regulation 3. *Granting of a reservation of a trading name*
- Regulation 4. *Definitive registration of a trading name*
- Regulation 5. *Register of Trading Names; other registrations*
- Regulation 6. *Changing a trading name*

**Chapter II. *Company names***

- Regulation 7. *Reservation of a company name*
- Regulation 8. *Examination of the application for a reservation of a company name*
- Regulation 9. *Granting of a reservation of a company name*
- Regulation 10. *Definitive registration of a company name*
- Regulation 11. *Register of Company Names; other registrations*
- Regulation 12. *Changing a company name*

**Chapter III. *Shop signs***

- Regulation 13. *Application for a shop sign*
- Regulation 14. *Examination of the application for a shop sign*
- Regulation 15. *Granting of a shop sign*

## **Chapter IV. *Final provisi3n***

Coming into effect

### **CHAPTER I**

#### ***TRADING NAMES***

##### ***Regulation 1. Reservation of a trading name***

1. The filing of an application for the reservation of a trading name is subject to prior payment of a public price equal to that laid down for the certificate of a company name.
2. The application for the reservation of a trading name must be filed with the Register of Commerce and Industry in the name of the individual or legally constituted body which the trading name applied for is to identify in the exercise of his, her or its trading activity, before filing the application for opening shop, using the form fixed by the Register in which the applicant must fill in the following data:
  - a) if the trading name is to identify an individual in the exercise of his or her trading activity, his or her full name;
  - b) if the trading name is to identify a legally constituted body in the exercise of its trading activity, the full company name and the juridical form in which it has been incorporated;
  - c) the applicant's address and postal address;
  - d) the proposed trading name to be reserved;
  - e) the trading activity to be carried out under the proposed trading name.
3. Any application for the reservation of a trading name may also contain the following data:
  - a) any other indication facilitating the identification of the applicant;
  - b) any other data facilitating contact with the applicant such as a telephone or fax number or an e-mail address.
4. If the trading name contains any non-Catalan word in virtue of article 7.b) and/or f) of the Law on trading names, company names and shop signs, or a surname in virtue of article 7.c) of said Law, the applicant must add to the application for the reservation of a trading name a declaration to the effect that the individual or legally constituted body in question shall be identified by this trading name in his, her or his trading activity, signed by the person in question, and a photocopy of an identity document containing the data of this person.
5. The reservation of a trading name expires 90 days after being issued.

##### ***Regulation 2. Examination of the application for a reservation of a trading name***

The minister responsible for the Register of Commerce and Industry shall grant the reservation of a trading name requested except in one of the following circumstances:

- a) if the application does not comply with one of the conditions laid down in regulations 1.1, 1.2 and if such is the case 1.4;
- b) if the proposed trading name lacks the capacity to identify a person in the exercise of his or her trading activity. To determine this, the examiner of the Register of Commerce and Industry shall particularly bear in mind the following considerations:
- i)* if the proposed trading name lacks a distinctive character, above all if it comprises only indications which could serve to indicate the trading activity or a part thereof;
  - ii)* if the proposed trading name has acquired a distinctive character through use.
- c) if the trading name does not comply with one of the requirements laid down in articles 4.1 and 7 of the Law on trading names, company names and shop signs. To determine this, the examiner of the Register of Commerce and Industry shall particularly bear in mind the following considerations:
- i)* he shall consider that a word is Catalan if it is found in any dictionary of the Catalan language and in the trading name the word has a meaning bearing in mind the dictionary definition of the word;
  - ii)* if the trading name it is wished to reserve contains acronyms as an element of the trading name or the trading name comprises only acronyms, the application shall be refused if the examiner of the Register of Commerce and Industry is aware that these acronyms form a non-Catalan word.
- d) if the examiner of the Register of Commerce and Industry is aware that the trading name applied for is identical or similar to one of the signs mentioned in article 5 of the Law on trading names, company names shops signs. To determine this, the examiner of the Register of Commerce and Industry shall bear in mind the following considerations:
- i)* whether or not the trading name it is wished to reserve is identical to a trading name registered in Andorra; if it is, the application for the reservation of the trading name must be rejected;
  - ii)* whether or not the trading name it is wished to reserve is identical to a company name registered in Andorra by another person; if it is, the application for the reservation of the trading name must be rejected;
  - iii)* whether or not the trading name it is wished to reserve is identical to a verbal trade mark registered in Andorra by another person; if it is and if in view of the trading activity it is wished to exercise under the trading name and of the products and services for which the trade mark has been registered there may arise a risk of confusion in the mind of the public or harm may be done to the holder of said registered trade mark, the application for the reservation of the trading name must be rejected;
  - iv)* the examiner of the Register of Commerce and Industry is not obliged to examine if the trading name it is wished to reserve is similar to a company name, a trading name or a trade mark registered in Andorra by another person neither is he obliged to examine if it is similar to a foreign trading or company name not registered in Andorra but which is sufficiently well known to the public of the Principality of Andorra to give rise to a risk of confusion.
- e) if the examiner of the Register of Commerce and Industry is aware that the proposed trading name may not be a trading name under the conditions laid down in article 4.2 of the Law on trading names, company names and shop signs.

### **Regulation 3. *Granting of a reservation of a trading name***

1. For any application for the reservation of a trading name granted under regulation 2, the Register of Commerce and Industry issues the applicant with a certificate of reservation of a trading name containing the following data:

- a) the data of the applicant for the reservation of the trading name, in accordance with regulation 1.2. a) to c) and if such be the case 1.3;
- b) the reserved trading name in accordance with regulation 1.2.d) ;
- c) the trading activity it is wished to exercise under the reserved trading name in accordance with regulation 1.2.e).

2. The competent officer of the Register of Commerce and Industry shall enter in the Register of Trading Names all reservations of trading names granted under paragraph 1 of this regulation with the data mentioned in paragraph 2.a) to c) of this regulation with the note "Reservation of trading name".

#### **Regulation 4. *Definitive registration of a trading name***

Once the opening of the shop has been authorized, the competent officer of the Register of Commerce and Industry shall register the trading name definitively and make the following notes in the Register of Trading Names:

- a) cancellation of the note "Reservation of trading name";
- b) date of the authorization to open the shop;
- c) the address of the shop;
- d) the trading activity for which the trading name has been authorized.

#### **Regulation 5. *Register of Trading Names; other registrations***

1. The Register of Commerce and Industry is obliged to keep the Register of Trading Names up to date.
2. The competent officer of the Register of Commerce and Industry shall cancel the registrations of reservations of trading names not used within the time limit of 90 days laid down in regulation 1.5.
3. The competent officer of the Register of Commerce and Industry shall enter the cancellation of a trading name in the Register of Trading Names.
4. The competent officer of the Register of Commerce and Industry shall enter in the Register of Trading Names judicial decisions with the notes appropriate to each case.
5. If a trading activity is cancelled in the Register of Commerce, the competent officer of the Register of Commerce and Industry cancels the trading name which identified it in the Register of Trading Names.

#### **Regulation 6. *Changing a trading name***

1. To change a trading name, an application must first be filed to reserve the new trading name, in accordance with the provisions set out in regulation 1 and this shall be examined in accordance with the provisions set out in regulation 2.
2. The application for changing a trading name must be filed with the Register of Commerce and Industry, using the form established by the Register and including the certificate of reservation of a trading name for the new trading name.
3. Once the change of trading name has been authorized, the competent officer of the Register of Commerce and Industry cancels the previous trading name and definitively registers the new trading name, making the following notes in the Register of Trading Names:
  - a) cancellation of the note "Reservation of trading name";
  - b) date of authorization of the change of trading name.

## CHAPTER II

### **COMPANY NAMES**

#### **Regulation 7. *Reservation of a company name***

1. The filing of an application for the reservation of a company name is subject to prior payment of the public price for the certificate of a company name.
2. The application for the reservation of a company name must be filed with the Register of Merchant Companies in the name of one of the future founding partners, before the company is incorporated, using the form fixed by the Register in which the applicant must fill in the following data:
  - a) the personal data of the applicant(s);
  - b) the address and postal address of the applicant(s);
  - c) the complete company name it is wished to reserve, including the indication of the juridical nature of the company in accordance with article 11 of the Law on trading names, company names and shop signs;
  - d) up to three different proposals may be made for the company name which it is wished to reserve and these must be given in order of preference;
  - e) the juridical form under which the merchant company will be incorporated which is to be identified by the company name it is wished to reserve;
  - f) the company aim of the company which it is wished to incorporate under the proposed company name.
3. Any application for the reservation of a company name may also contain the following data:
  - a) any other indication facilitating the identification of the applicant;
  - b) any other data facilitating contact with the applicant such as a telephone or fax number or an e-mail address.
4. If the trading name contains any non-Catalan word in virtue of article 14.b) and/or f) of the Law on trading names, company names and shop signs, or a surname in virtue of article 14.c) of said Law, the applicant must add to the application for the reservation of a company name a declaration to the effect that the individual or legally constituted body in question shall be a partner of the merchant company it is wished to incorporate, signed by the person in question, and a photocopy of an identity document containing the data of this person.
5. The reservation of a company name expires 90 days after being issued.

#### **Regulation 8. *Examination of the application for a reservation of a company name***

The minister responsible for the Register of Merchant Companies shall grant the reservation of a trading name requested except in one of the following circumstances:

- a) if the application does not comply with one of the conditions laid down in regulations 7.1, 7.2 and 7.4;
- b) if the company name it is wished to reserve fails to comply with one of the requirements laid down in articles 10.1, 11 and 14 of the Law on trading names, company names and shop signs. To determine this, the examiner of the Register of Commerce and Industry shall particularly bear in mind the following considerations:
  - j) he shall consider that a word is Catalan if it is found in any dictionary of the Catalan language and in the company name the word has a meaning bearing in mind the dictionary definition of the word;

*ii)* if the trading name it is wished to reserve contains acronyms as an element of the trading name or the trading name comprises only acronyms, the application shall be refused if the examiner of the Register of Merchant Companies is aware that these acronyms form a non-Catalan word.

c) if the examiner of the Register of Merchant Companies is aware that the company name it is wished to reserve, or if such be the case its anagram, is identical or similar to one of the signs mentioned in article 12 of the Law on trading names, company names shops signs. To determine this, the examiner of the Register of Commerce and Industry shall bear in mind the following considerations:

*i)* whether or not the company name it is wished to reserve, or if such be the case its anagram, is identical to a company name registered in Andorra; if it is, the application for the reservation of the trading name must be rejected;

*ii)* he shall examine whether or not the company name it is wished to reserve, or if such be the case its anagram, is identical to a trading name registered in Andorra by another person; if it is, the application for the reservation of the trading name must be rejected;

*iii)* he shall examine whether or not the company name it is wished to reserve, or if such be the case its anagram, is identical to a verbal trade mark registered in Andorra by another person; if it is and if in view of the company aim of the company and of the products and services for which the trade mark has been registered there may arise a risk of confusion in the mind of the public or harm may be done to the holder of said registered trade mark, the application for the reservation of the trading name must be rejected;

*iv)* the examiner of the Register of Merchant Companies is not obliged to examine if the company name it is wished to reserve, or if such be the case its anagram, is similar to a company name, a trading name or a trade mark registered in Andorra by another person neither is he obliged to examine if it is similar to a foreign trading or company name not registered in Andorra but which is sufficiently well known to the public of the Principality of Andorra to give rise to a risk of confusion.

e) if the examiner of the Register of Commerce and Industry is aware that the proposed company name, or if such be the case its anagram, does not comply with any of the conditions laid down in article 10.2 of the Law on trading names, company names and shop signs.

### **Regulation 9 - *Granting of a reservation of a company name***

1. For any application for the reservation of a company name granted under regulation 8, the

Register of Merchant Companies issues the applicant with a certificate of reservation of a company name containing the following data:

a) the data of the applicant for the reservation of the company name, in accordance with regulation 7.2. a) to c) and if such be the case 7.3;

b) the complete reserved company name in accordance with regulation 7.2.c) and if such be the case 7.2 d);

c) the juridical form of the company it is wished to incorporate and for which the reservation has been made in accordance with regulation 7.2.e).

d) the company aim of the company it is wished to incorporate and for which the reservation has been made in accordance with regulation 7.2.f).

2. The competent officer of the Register of Merchant Companies shall enter in the Register of Company Names all reservations of company names granted under paragraph 1 of this regulation with the data mentioned in paragraph 2.a) to f) of this regulation with the note "Reservation of company name".

### **Regulation 10. *Definitive registration of a company name***

Once the incorporation of the company has been authorized, the competent officer of the Register of Merchant Companies shall register the company name definitively and make the following notes in the Register of Company Names:

- a) cancellation of the note "Reservation of company name";
- b) date of the authorization to incorporate the company;
- c) the registered office of the merchant company incorporated;
- d) the company aim of the merchant company incorporated.

### **Regulation 11. *Register of Company Names; other registrations***

1. The Register of Merchant Companies is obliged to keep the Register of Company Names up to date.
2. The competent officer of the Register of Merchant Companies shall cancel the registrations of reservations of company names not used within the time limit of 90 days laid down in regulation 7.5.
3. The competent officer of the Register of Merchant Companies shall enter in the Register of Company Names judicial decisions with the notes appropriate to each case.
4. If a merchant company is cancelled in the Register of Merchant Companies, the competent officer of the Register of Merchant Companies cancels the company name which identified it in the Register of Company Names.

### **Regulation 12. *Changing a company name***

1. To change a company name, an application must first be filed to reserve the new company name, in accordance with the provisions set out in regulation 7 and this shall be examined in accordance with the provisions set out in regulation 8.
2. The application for changing a company name must be filed with the Register of Merchant Companies, using the form established by the Register and including the certificate of reservation of a company name for the new company name.
3. Once the change of company name has been authorized, the competent officer of the Register of Merchant Companies cancels the previous company name and definitively registers the new company name, making the following notes in the Register of Company Names:
  - a) cancellation of the note "Reservation of company name";
  - b) date of authorization of the change of company name.

## **CHAPTER III**

### ***SHOP SIGNS***

#### **Regulation 13. *Application for a shop sign***

1. The filing of an application for a shop sign is subject to prior payment of the public price for the certificate of a company name.
2. The application for a shop sign must be filed with the Register of Commerce and Industry in the name of the future owner of the shop, before filing the application for opening shop, using the form fixed by the Register in which the applicant must fill in the following data:

- a) the name and surnames or the company name of the applicant;
  - b) the applicant's address and postal address;
  - c) a declaration by the applicant to the effect that the use of the establishment to be identified by the shop sign shall be one of the following:
    - i) registered office of a company;
    - ii) premises for the exercise of an economic activity;
    - iii) premises for the exercise of an activity in a priority manner connected with a product or service identified by a trade mark;
    - iv) any combination of the uses noted in points i) to iii) of this subheading, specifying the proportion of the space of the premises reserved for each use.
  - d) if in accordance with subsection c) i) of this regulation, the applicant declares that the establishment is to be used as the registered office of a company, the company name which constitutes the shop sign and its registration number;
  - e) if in accordance with subsection c) ii) of this regulation, the applicant declares that the establishment is to be used as premises for the exercise of an economic activity, the trading name which constitutes the shop sign and its registration number;
  - f) if in accordance with subsection c) iii) of this regulation, the applicant declares that the establishment is to be used as premises for the exercise of an activity in a priority manner connected with a product or service identified by a trade mark, the trade mark which constitutes the shop sign and, if the applicant is the owner of the trade mark, the registration number of said mark and, if the applicant is the licensee of the trade mark, the number of the application for the registration of the license contract at the Trade Mark Office of the Principality of Andorra or a copy of the license contract for the trade mark or an extract from said contract giving the names of the contracting parties and the clauses related to the right to use the trade mark as a shop sign;
  - g) if in accordance with subsection c) iv) of this regulation, the applicant declares that the establishment is to have a combination of uses, the distinctive signs corresponding to the use declared which constitute the shop sign whether in equal parts or in proportion to the space allocated for each use and the relevant elements referred to in subsections d) to f).
3. Any application for a shop sign shall be accompanied by a colour photographic reproduction in 13x18 format of the contents of the shop sign for which authorization is sought.
4. Any application for the reservation of a shop sign may also contain the following data:
- a) any other indication facilitating the identification of the applicant;
  - b) any other data facilitating contact with the applicant such as a telephone or fax number or an e-mail address.

#### **Regulation 14. Examination of the application for a shop sign**

The minister responsible for the Register of Commerce and Industry shall authorize a shop sign requested except in one of the following circumstances:

- a) if the application does not comply with one of the conditions laid down in regulation 13;
- b) if bearing in mind the declarations of use, the shop sign requested does not comply with one of the requirements laid down in article 18 of the Law on trading name, company names and shop signs and in regulation 13.

#### **Regulation 15. Granting of a shop sign**

1. For any application for a shop sign granted under regulation 14, the competent officer of the Register of Commerce and Industry shall issue a permit for the use of the shop

sign, valid for the period of time in which there is compliance with the requirements laid down in article 18 of the Law on trading names, company names and shop signs and containing the following data:

- a) the data of the applicant, in accordance with regulation 13.1. a) and b);
  - b) the shop sign, in accordance with regulation 13.2;
  - c) the declared use of the establishment, in accordance with regulation 13.1. c);
  - d) the trading name, the company name, the trade mark or the combination of these elements which constitute the shop sign in accordance with regulation 13.1. d) to g);
2. The competent officer of the Register of Commerce and Industry shall enter in the Register of Shop Signs the permits for shop signs granted under paragraph 1 of this regulation with the same data as those noted in paragraph 1.a) to d).

## **CHAPTER IV**

### **FINAL PROVISIÓN**

#### **Coming into Effect**

These regulations shall come into effect one fortnight after their publication in the *Official Gazette of the Principality of Andorra*.