

Pharmacy, Trading, Travel Agency, Real Estate Agents, Veterinary Services.

#### Words reserved for non-profit undertakings

The following words will only be approved for use by non-profit undertakings: *Society, Association.*

#### Words indicating global or regional scope of operations

When a word contained in a proposed name is indicative of an extra-territorial scope of operations the applicant will be required to substantiate the suitability of the name by providing evidence on the scope and scale of business.

E.g.: *Global, International, World*

#### Special standing

Where a word is indicative of special status or standing, the applicant will be required to furnish information on the level of activity at which the company is competent to function, including criteria for admission to membership, international affiliation, etc.

E.g.: *Council, Foundation*

#### Geographical names

A name that consists of a geographical location alone will be refused on the ground that it lacks distinctiveness. Where the name of any geographical location is used in a name the company should be physically present in the relevant geographical location.

E.g.: *Caribbean, Saint Vincent, Bequia, Kingstown*

#### One word names:

Names comprised of one word apart from the corporate designation will be rejected if the word exists in a registered name.

#### Punctuation marks:

A name may contain punctuation marks. However they are limited to the following characters:

E.g. # ! " \$ % & ' ( ) \* + , - / : ; ? [ ]

#### Letters and Numbers:

Names with numbers or letters alone, e.g. 6593 Ltd, XYZ Ltd, will be refused on the ground that they lack distinctiveness. The addition of a descriptive word is necessary in such cases.

#### Personal Names:

The consent of an individual or estate will be required for corporate names which contain the name or surname of an individual. A descriptive word must also be present for such names to be considered distinctive.

#### Are there any special requirements relative to the incorporation of 'dot com' companies?

Where a '.com' or domain name forms part of a proposed corporate name, in addition to the documents required for incorporation, the applicant will be required to submit a statutory declaration containing the following information:

- Full name and address of the incorporator;
- Domain name of the website and the fact that it is legally owned by the incorporator;
- Contact information of the domain name administrator;

- A statement that there are no known disputes concerning the use and ownership of the domain name;
- A statement that the applicant as owner of the website consents to use of the domain name or a variation thereof being used in the corporate name of a proposed company formed under the laws of Saint Vincent and the Grenadines;
- An undertaking that the applicant will inform the Registrar of Companies in the event that the domain name becomes involved in any dispute and will request a change of name if the dispute is not resolved in favour of the applicant within a reasonable period of time.

#### What other guidance does CIPO offer regarding names?

No money should be invested in a proposed or pre-approved name prior to the completion of registration and the issue of the relevant certificate (e.g. the preparation of business cards, flyers, signs, stationery). The approval of a name is not a guarantee that no other rights exist in respect of it. It is important to ensure that the chosen name is not identical or confusingly similar to an existing trade mark, internet domain name or other business identifier, as this may result in the company being sued.

#### What are the statutory provisions that apply to corporate names?

*Companies Act, CAP. 143, Revised Edition, 2009 of the Laws of St. Vincent and the Grenadines:* ss. 10, 11,12, 213, 331,359, 506,514, 515, 516,517.

*Companies Regulations #2 of 2013*

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## Domestic Companies:



# Choosing a Corporate Name



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If you have decided to form a company, it will be necessary for you to choose a suitable corporate name. To assist you in this process, this brochure sets out the statutory requirements and administrative practice in respect of the approval of corporate names under the Companies Act CAP. 143, Revised Edition, 2009 of the Laws of St. Vincent and the Grenadines.

### What's in a name?

A company's name is the means by which it is identified in the business community. It is therefore important to ensure that corporate names are unique and that they do not confuse or mislead members of the public.

### Are there any restrictions on corporate names?

Yes. The Companies Act restricts two categories of names.

The first category consists of *prohibited names*:

- Names that are reserved for other companies.
- Names that are identical or similar to the name of any other person or entity, where the use of the name would be likely to confuse or mislead, *unless* the party concerned gives written consent to use of the name and undertakes to cease to carry on business or to change its name to a dissimilar name, within 6 months of the filing of the Articles of Incorporation containing the similar name. (*A form of consent is available from CIPO*)
- Names that are likely to be confused with the name of an existing company, *unless* the proposed company is a successor to the business of the existing company, the existing company undertakes in writing to dissolve or change its name within a stipulated period and the proposed corporate name sets out in numerals the year of incorporation in brackets before the corporate designation.
- Names that are identical to the name of a domestic company incorporated prior to the 1<sup>st</sup> June 1996 commencement of the current Companies Act.
- Names that are obscene or connote an undertaking that is obscene or immoral.
- Names that suggest a connection with the Crown or the Government or any department thereof, *unless* the written consent of the appropriate Minister has been obtained.
- Names that imply or suggest a connection with a political party or a leader of a political party.
- Names that imply or suggest a connection with a university or professional association recognized by the laws of the State, *unless* that body consents in writing.

The second category consists of *objectionable names*:

- Names that lack distinctiveness because they are too general, or are descriptive only of the quality, function or other characteristic of the goods or services in which the company intends to deal or is a geographic name used alone, *unless* the applicant establishes that the name has acquired and continues to have a secondary meaning.
- Names that are likely to be confused with the name of a dissolved company.
- Names that contain the words "credit union" or "co-operative" or "co-op", connoting a co-operative venture.

- Names that are defectively inaccurate in describing the business, the goods or services in association with which the name is to be used, the conditions under which the goods or services will be produced or supplied, the persons to be employed in the production or supply of those goods or services or the place of origin of those goods and services. Examples of names considered to be defectively inaccurate in the absence of certain preconditions being met or undertakings being made, include names which suggest involvement in licensable activity, names that are indicative of a business requiring special qualification and names that represent that a company will operate on a particular scale or have special standing.
- Names that are, in the opinion of the Registrar, for any reason, objectionable.

External companies wishing to conduct business in St. Vincent and the Grenadines and seeking registration under the Act are also subject to the above restrictions (s.359). In addition, where through inadvertence or otherwise, a registered corporate name contravenes any of these restrictions, the Registrar is empowered to direct that the company amend its articles to change its name.

### Are there any additional statutory requirements relevant to the approval of corporate names?

Yes. The names of domestic companies are required to end with a prescribed corporate designation. In the case of private a company with share capital, the words Limited, Corporation or Incorporated or the abbreviations Ltd., Corp., or Inc. and in the case of a non-profit company, the words Corporation or Incorporated or the abbreviations Corp. or Inc..

### Can I secure pre-approval of a corporate name?

Pre-approval of a corporate name may be obtained by filing a *Request for Name Search and Reservation* (Form 26) with the Commerce and Intellectual Property Office (CIPO) in advance of the related application. To avoid unnecessary delay, care should be taken to comply with the statutory instructions for completion of the form. A fee of \$25.00 is payable and the form must be filed in duplicate original. Form 26 makes provision for the choice of 3 alternative names. Choices should be listed in order of preference and all 3 choices be utilized to ensure a greater chance of availability of one of the names. A request may not be amended to propose additional names where the names originally proposed are not approved.

### How are requests for pre-approval processed?

On receipt of a request for name reservation, CIPO will conduct a comparative search of registered business and corporate names and will consider the overall suitability of the proposed having regard to the prescribed restrictions. Where a name is approved, it will be reserved for a period of 90 days from approval, during which the application for which the name has been reserved may be made. It is recommended that all applicants use the name reservation procedure, particularly those seeking to incorporate a non-profit company, who will need to have the Attorney General approve Articles of Incorporation prepared in the proposed corporate name. Name reservation avoids the inconvenience of having to prepare a new set of forms should the first chosen name be refused.

### What factors are considered in deciding if a proposed name is too similar to the name of an existing entity?

In determining the likelihood of confusion that might be caused to the public by a name being similar to another name, the Registrar will consider the following:

- Identical words – whether the names start with or contain the same words
- Phonetics – whether the names sound similar, where their spelling is not the same
- Nature of business – whether the business of the existing entity is similar to the intended business of the proposed company

### Apart from cases of name similarity, what are some examples of names that are objectionable?

The lists which follow are not exhaustive but provide examples of sensitive words and expressions and the conditions which must be met before names containing those words or their derivatives can be approved.

#### *Financial or insurance services*

Where a name suggests the provision of financial or insurance services approval will be conditional on an undertaking to furnish proof that the company has been granted a licence under the Banking Act, CAP. 87 or the Insurance Act, No. CAP. 306, within 3 months of incorporation. (Relevant Authority: *Ministry of Finance - Minister of Finance, Supervisor of Insurance*)

*E.g.: Assets Management, Bank, Capital, Credit, Finance, Fiscal, Fund, Investment, Loans, Money, Savings, Securities*

#### *Trustee services*

Where a name contains a word that suggests the offering of trustee services, approval will be subject an undertaking to furnish proof that the company has been granted a trust licence under the provisions of *The Registered Agent and Trustee Licensing Act, CAP. 105*, within 3 months of incorporation. (Relevant Authority: *International Financial Services Authority*)

*E.g.: Fiduciary, Trust Services, Trustee*

#### *Academic institutions and early childhood education*

Where a name contains any of the words listed below, its approval will be conditional on the company furnishing proof of its compliance with the *Education Act CAP. 202* within 3 months of its incorporation. (Relevant Authority: *Ministry of Education*)

*E.g.: School, College, Pre-school, University*

#### *Professions*

Where a name suggests membership of a professional body or the carrying on of business requiring special qualification, the applicant will be required to provide confirmation of membership in the relevant body or details of qualification and/or experience. The company will also be required to furnish proof that one or more of the directors holding the necessary credentials has been granted the appropriate licence, within 3 months of incorporation. (Relevant Authority: *Ministry of Finance: Income Tax Division*)

*E.g.: Auctioneers, Architects, Building Contractors, Chartered/Certified Accountants, Chemists, Consultants, Customs Brokerage, Insurance, Land Surveyors, Legal Services Medical,*