

Company Names

A key feature of the formation of a company is the choice of name.

While this might seem a simple decision companies often find that their first choice of name is not available. Over the years a number of restrictions have been put in place to protect existing companies and to avoid misleading the general public.

First considerations

- The name must end in a particular way e.g. a private company limited by shares or guarantee must end with Limited or Ltd
- The name cannot be the same as a name already on the Register
- Must not be offensive!

There are also controls on:

- the use of words with certain meanings, e.g. “right to manage”, “CIC”, “community interest company” can only be used where the companies meet specific conditions;
- the use of characters, signs, symbols and punctuation;
- the use of “limited” in the company name. Unlimited companies are exempt and some guarantee companies may be exempt if the companies meet certain conditions;
- names suggesting a link with national or local government and/or public authorities;
- names including “sensitive” words and expressions

‘Identical’ or “Same as” rules

Prior to 1 October 2009, if a proposed name was not identical to another it would be allowed. Companies were still well advised to take care in registering a name too similar to another entity’s name in order to avoid being accused of ‘passing off’. This meant that the pre-existing company could take action if it felt that the new company was trading on the goodwill it had built up.

The ‘identical as’ restriction still applies but has been widened to include ‘same as’ rules, an area that often causes confusion.

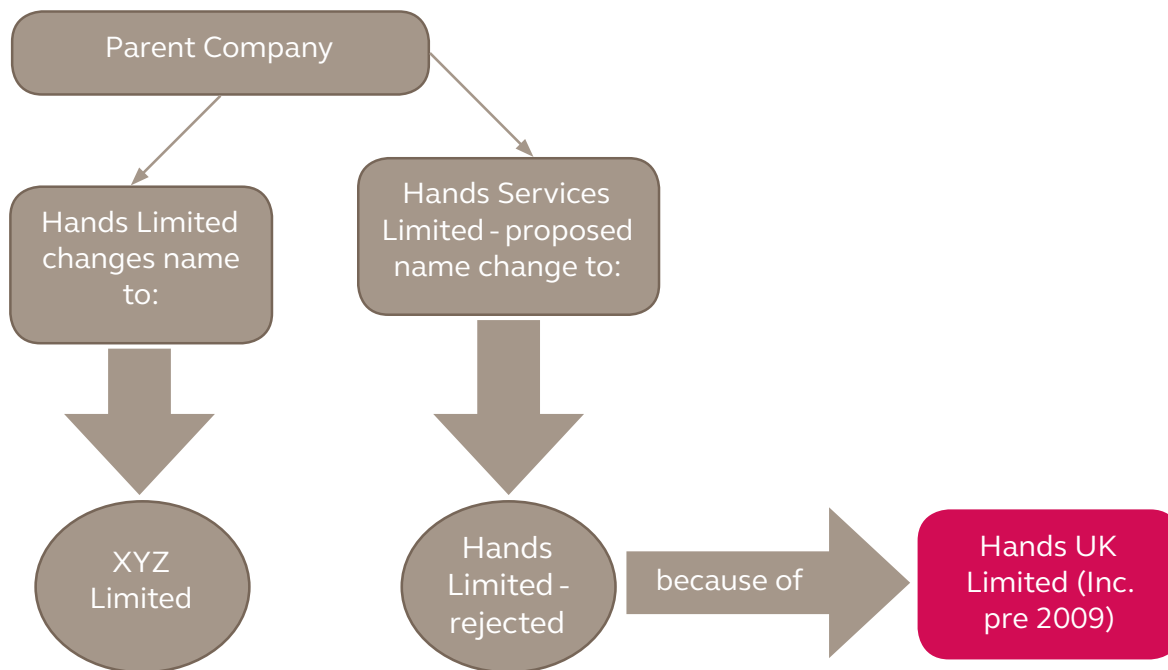
Names that seem, look and sound quite different can be considered the same as each other.

The Registry now have a set of filters that result in certain words and expressions being discounted as differentiating a company name. For example simply adding ‘UK’ or ‘and company’ will not work. Punctuation marks will also be disregarded.

Where might problems arise?

Group company name swaps can prove problematic. In this example, a parent company wishes to swap names between two companies in its group (Hands Limited and Hands Services Limited).

Hands Limited changes its name successfully to “XYZ Limited”. The group thinks that (subject to someone else taking the name) the name Hands Limited, which has been in the group for the past 10 years, is now available. However, the name is not available as it is considered the same as that of an existing company that is not part of the Hands group. Prior to October 2009, an unconnected company had been incorporated with the name ‘Hands UK Limited. Whilst this name is not identical, under the new rules ‘UK’ would be disregarded by the Registry, so when this filter is applied the names are the same.



Sensitive words and expressions

Certain words and expressions will only be allowed as part of the company name if supporting justification is provided.

These rules are in place to avoid companies, by their choice of name, purporting to have levels of expertise that they don't actually have or appearing to represent professional bodies that they have no link to. It is good to know that if a company is using the word 'Optician' that they have been authorised by the General Optical Council.

The positioning of a word can also affect the level of justification required, e.g. the use of 'Britain' or 'British' at the beginning of the name is much more difficult to register than if used later in the name.

Relevant legislation

In addition to ss 53-85 (inc) and 1192-1207 (on business names) of the Companies Act 2006 there are a number of other statutory instruments that currently impact upon this area. These are:

- *The Company, Limited Liability Partnership and Business (Names and Trading Disclosures) Regulations 2015 (SI2015/0017)*
- *The Company, Limited Liability Partnership and Business Names (Sensitive Words and Expressions) Regulations 2014 (SI2014/3140)*
- *The Company Names Adjudicator Rules 2008 (SI 2008/1738)*