

ORDER under the Companies Act 2006

In the matter of application

No. 667 by UK Asbestos Training Association Limited

For a change of company name of registration

No. 08403195

DECISION

The company name UKATA Limited has been registered since 14 February 2013 under number 08403195.

By an application filed on 21 November 2013, UK Asbestos Training Association Limited applied for a change of name of this registration under the provisions of section 69(1) of the Companies Act 2006 (the Act).

A copy of this application was sent to the primary respondent's registered office on 12 December 2013, in accordance with rule 3(2) of the Company Names Adjudicator Rules 2008. The copy of the application was sent by Royal Mail special delivery. On 21 January 2014, the parties were advised that no defence had been received to the application and so the adjudicator may treat the application as not being opposed. The parties were granted a period of 14 days to request a hearing in relation to this matter, if they so wished.

On the 14th day, 4 February 2014, a defence and counterstatement was filed on Form CNA2 with the fee of £150. No request to be heard was made via form CNA4 (and no fee of £100 was paid) and no request to be heard was made in the letter accompanying the defence and counterstatement. The author of the letter, Mr Orville Wright, gave his apologies for the late filing of the defence, but gave no reasons why it was late.

Consequently, the Tribunal wrote to the primary respondent at its registered address on 13 March 2013, stating that the defence had been filed out of time; the primary respondent was informed that before the Tribunal would consider the defence, it should file a form CNA5 and fee (£100) to request a retrospective extension of time, providing full reasons for the delay in filing the defence. A period of 14 days (to 27 March 2014) was given for this purpose. It was then noticed that the address on the letter and the CNA2 differed slightly from the registered address and so, on 3 April 2014, the letter dated 13 March 2014 was sent to the altered address. No response was received to either letter.

The primary respondent did not file a defence within the one month period specified by the adjudicator under rule 3(3). Rule 3(4) states

“The primary respondent, before the end of that period, shall file a counter-statement on the appropriate form, otherwise the adjudicator may treat it as not opposing the application and may make an order under section 73(1).”

Under the provisions of this rule, the adjudicator may exercise discretion so as to treat the respondent as opposing the application. The primary respondent was given the opportunity on 21 January 2014 to explain the lack of defence and, again, on 13 March 2014 (and the 3 April 2014) to explain the late filing of its defence. No reasons were given. Without reasons, there is no basis upon which to exercise such discretion and, therefore, I decline to do so.

The consequences are that the primary respondent is treated as not opposing the application. Therefore, in accordance with section 73(1) of the Act I make the following order:

- (a) UKATA Limited shall change its name **within one month** of the date of this order to one that is not an offending name¹;
- (b) UKATA Limited shall:
 - (i) take such steps as are within its power to make, or facilitate the making, of that change;
 - (ii) not to cause or permit any steps to be taken calculated to result in another company being registered with a name that is an offending name.

If no such change is made within one month of the date of this order, I will determine a new company name as per section 73(4) of the Act and will give notice of that change under section 73(5) of the Act.

UK Asbestos Training Association Limited, having been successful, is entitled to a contribution towards its costs. I order UKATA Limited to pay UK Asbestos Training Association Limited costs on the following basis:

Fee for application:	£400
Statement of case:	£300
Total:	£700

This sum is to be paid within seven days of the expiry of the appeal period or within seven days of the final determination of this case if any appeal against this decision is unsuccessful.

Any notice of appeal against this decision to order a change of name must be given within one month of the date of this order. Appeal is to the High Court in England, Wales and Northern Ireland and to the Court of Session in Scotland.

The company adjudicator must be advised if an appeal is lodged, so that implementation of the order is suspended.

Dated this 30th day of April 2014

Judi Pike
Company Names Adjudicator

ⁱAn “offending name” means a name that, by reason of its similarity to the name associated with the applicant in which he claims goodwill, would be likely— to be the subject of a direction under section 67 (power of Secretary of State to direct change of name), or to give rise to a further application under section 69.