

O-003-17

ORDER under the Companies Act 2006

In the matter of application No. 1213

By SABMiller plc

for a change of company name of registration

No. 10239439

DECISION

The company name SABMILLER HOLDINGS & SPIRITS LTD has been registered since 20 June 2016.

By an application filed on 7 July 2016, SABMiller plc 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 26 July 2016, 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. That letter was returned to the tribunal by the Royal Mail marked "refused" and on 30 August 2016, the letter was reissued to the primary respondent's registered office by ordinary post; that letter was also returned to the tribunal.

On 18 October 2016, 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. No request for a hearing was made. The letter sent to the primary respondent's registered office was returned to the tribunal marked "RTS" i.e. return to sender. On 21 November 2016, the tribunal sent a further copy of its letter of 18 October 2016 to the primary respondent's registered office allowing a further period expiring on 5 December 2016 for a hearing to be requested; that letter was also returned to the tribunal marked "RTS".

The primary respondent did not file a defence within the two 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. In this case I can see no reason to exercise such discretion and, therefore, decline to do so.

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As the primary respondent has not responded to the allegations made, it is treated as not opposing the application. Therefore, in accordance with section 73(1) of the Act I make the following order:

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

In accordance with section 73(3) of the Act, this order may be enforced in the same way as an order of the High Court or, in Scotland, the Court of Session

In any event, 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.

In line with the guidance provided in paragraph 10.4.1 of the tribunal's practice direction i.e. "The adjudicator will, likewise, normally not award costs if the applicant indicates in box 7 of the application form (CNA1) that it did not contact the company prior to making the application", I make no award of costs.

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 9th day of January 2017



Christopher Bowen
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.