

O-229-17

ORDER under the Companies Act 2006

In the matter of application

No. 1326 by Flogas Britain Limited

For a change of company name of registration

No. 09227276

DECISION

The company name Flogas (UK) Ltd has been registered since 19 September 2014 under number 09227276.

By an application filed on 07 December 2016, Flogas Britain 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 the application was sent by recorded delivery to the primary respondent's registered office on 19 December 2016, in accordance with rule 3(2) of the Company Names Adjudicator Rules 2008. On 13 March 2017, the parties were advised that as no defence had been received to the application, 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 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.

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) Flogas (UK) Ltd shall change its name **within one month** of the date of this order to one that is not an offending nameⁱ;
- (b) Flogas (UK) 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.

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.

Flogas Britain Limited has been successful as the application has not been defended. Accordingly, I have considered whether it is appropriate to make an award of costs in their favour. The following question is asked at box 7 of the statutory application form (CNA1):

“Did you contact the company/limited liability partnership in relation to this matter prior to filing the application? If so, when did you do so and what did you say to the company/limited liability partnership?”

The following answer is given to this question:

“No”

As Flogas Britian Limited did not inform Flogas (UK) Ltd of its intention to file the subject application with the Company Names Tribunal, it is not entitled to an 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 15TH day of May 2017

Beverley Hedley
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.