

STATES OF JERSEY



Jersey

DRAFT LIMITED PARTNERSHIPS (JERSEY) AMENDMENT LAW 202-

**Lodged au Greffe on 17th October 2024
by the Minister for External Relations
Earliest date for debate: 10th December 2024**

STATES GREFFE



Jersey

DRAFT LIMITED PARTNERSHIPS (JERSEY) AMENDMENT LAW 202-

European Convention on Human Rights

In accordance with the provisions of Article 16 of the Human Rights (Jersey) Law 2000, the Minister for External Relations has made the following statement –

In the view of the Minister for External Relations, the provisions of the Draft Limited Partnerships (Jersey) Amendment Law 202- are compatible with the Convention Rights.

Signed: **Deputy I.J. Gorst of St. Mary, St. Ouen and St. Peter**
Minister for External Relations

Dated: 14th October 2024

REPORT

Background

In August 2022 the [Limited Partnerships \(Jersey\) Law 1994](#) (“the LP Law”) was amended by way of [Limited Partnerships \(Amendment No. 2\) \(Jersey\) Law 2022](#) (“the Amendment Law”). The purpose of the Amendment Law was to reflect enhancements to partnership laws made in other jurisdictions and to resolve ambiguities which had been identified in the LP Law, particularly around the process of terminating a limited partnership.

The Amendment Law came into force on 12 August 2022. It was subsequently identified that a reference to “insolvency” had been included in the amendment which had not historically existed. This is problematic in the context of limited partnerships (see below) and is causing difficulty for industry.

Historically, the bankruptcy of a general partner has always been included in Article 24, however this only covers “terminal” bankruptcy proceedings, using the [Interpretation \(Jersey\) Law 1954](#) definition of “bankruptcy”.

Article 24 of the LP Law was amended in 2022 to permit not only body corporates to be general partners to limited partnerships, but also unincorporated bodies. The terms “termination” and “insolvency” were included in the Amendment Law, but it remains unclear to officials and industry engaged in the legislation and policy development as to why “insolvency” was included at this time.

“Insolvency” is defined in Jersey legislation as cash flow insolvency (Article 1(1) [Bankruptcy \(Désastre\) \(Jersey\) Law 1990](#)). As a result of the insertion of “insolvency” by the Amendment Law, the cash flow insolvency of a general partner now results in the automatic winding up of a limited partnership. However, it can be difficult to establish from a factual perspective at what point the general partner becomes cash flow insolvent. This is undesirable from a commercial and legal perspective, causing uncertainty in respect of timing of an event which triggers the winding up of the limited partnership. Contrastingly, “bankruptcy” only includes insolvency proceedings so that the bankruptcy clearly refers to a defined event.

Many alternative investment fund limited partnerships have special purpose vehicle (SPV) general partners who often rely on injections of capital as necessary from their parent company. A general partner could therefore, become temporarily insolvent and receive a further capital injection.

Consultation

During summer 2024, the Government of Jersey consulted industry via Jersey Finance Limited on proposed draft amends to the LP Law, seeking views and comments on the removal of “insolvency” from Articles 13 and 24 (Article 13 removal necessary for consistency). A limited “informal” consultation took place given the minor technical amends proposed. The informal consultation period ran between 30 July and 3 September 2024. Consultees in 2024 were members of the technical working group that had originally been formed for the purposes of the 2022 Amendment Law.

The Government of Jersey received 3 responses to the 2024 consultation, all of which indicated contentment with the proposed amendments.

The Draft Law Amendments

The draft Law amendments set out in the proposed amendments are as follows:

Article 13 of the LP Law sets out the rights of a limited partner in a limited partnership. Article 13(2) of the LP Law sets out the circumstances in which a limited partner may dissolve the limited partnership, and Article 13(3) provides that the limited partnership is not dissolved by:

- the death, legal incapacity, bankruptcy, retirement or withdrawal from the limited partnership of a partner (if the limited partner is an individual); or
- the winding up, *insolvency*, termination, dissolution, bankruptcy or withdrawal from the limited partnership of a limited partner (if the limited partner is not an individual) (Article 13(3)).

Article 24 of the LP Law provide that a limited partnership must be wound up in the event of:

- the death, legal incapacity, bankruptcy, retirement or withdrawal from the limited partnership of its sole general partner (if the sole general partner is an individual); or
- the dissolution, *insolvency*, termination bankruptcy or withdrawal from the limited partnership of its sole general partner (if the sole general partner is not an individual) (Article 24(1)(b)).

[emphasis added]

Article 1 of the proposed amendments removes the references to “insolvency” from both Articles 13 and 24.

Article 2 of the proposed amendments gives the name of the law and provides for it come into force 7 days after it is registered.

Financial and staffing implications

There are no resource or staffing implications for the States of Jersey as a result of these amendments.

Children’s Rights Impact Assessment

A Children’s Rights Impact Assessment (CRIA) has been prepared in relation to this proposition and is available to read on the States Assembly website.

Human Rights

The notes on the human rights aspects of the draft Law in the **Appendix** have been prepared by the Law Officers’ Department and are included for the information of States Members. They are not, and should not be taken as, legal advice.

APPENDIX TO REPORT**Draft Limited Partnerships (Jersey) Amendment Law 202- (the “draft Law”)****Human Rights Notes**

These notes have been prepared in respect of the draft Law by the Law Officers’ Department.

These notes are included for the information of States Members. They are not, and should not be taken as, legal advice.

The draft Law gives rise to no human rights concerns. It provides for amendments to the Limited Partnerships (Jersey) Law 1994 (the “**Principal Law**”) to remove references to “insolvency” from Article 13(3) (rights of limited partner) and Article 24(1)(b) (winding up of limited partnership on death etc. of general partner).

EXPLANATORY NOTE

This Law, if passed, would make minor amendments to the Limited Partnerships (Jersey) Law 1994 (the “1994 Law”).

Article 13 of the 1994 Law sets out the rights of a limited partner in a limited partnership. Article 13(2) of the 1994 Law sets out the circumstances in which a limited partner may dissolve the limited partnership, and Article 13(3) provides that the limited partnership is not dissolved by –

- the death, legal incapacity, bankruptcy, retirement or withdrawal from the limited partnership of a limited partner (if the limited partner is an individual); or
- the winding up, insolvency, termination, dissolution, bankruptcy or withdrawal from the limited partnership of a limited partner (if the limited partner is not an individual).

Article 24 of the 1994 Law provides that a limited partnership must be wound up in the event of –

- the death, legal incapacity, bankruptcy, retirement or withdrawal from the limited partnership of its sole general partner (if the sole general partner is an individual); or
- the dissolution, insolvency, termination, bankruptcy or withdrawal from the limited partnership of its sole general partner (if the sole general partner is not an individual).

The amendments made by *Article 1* remove both references to “insolvency”.

Article 2 gives the name of the Law and provides for it to come into force 7 days after it is registered.



Jersey

DRAFT LIMITED PARTNERSHIPS (JERSEY) AMENDMENT LAW 202-

A **LAW** to make minor amendments to the [Limited Partnerships \(Jersey\) Law 1994](#).

<i>Adopted by the States</i>	<i>[date to be inserted]</i>
<i>Sanctioned by Order of His Majesty in Council</i>	<i>[date to be inserted]</i>
<i>Registered by the Royal Court</i>	<i>[date to be inserted]</i>
<i>Coming into force</i>	<i>[date to be inserted]</i>

THE STATES, subject to the sanction of His Most Excellent Majesty in Council, have adopted the following Law –

1 [Limited Partnerships \(Jersey\) Law 1994](#) amended

In the following places in the [Limited Partnerships \(Jersey\) Law 1994](#), “insolvency,” is deleted –

- (a) Article 13(3) (rights of limited partner);
- (b) Article 24(1)(b) (winding up of limited partnership on death etc. of general partner).

2 Citation and commencement

This Law may be cited as the Limited Partnerships (Jersey) Amendment Law 202- and comes into force 7 days after it is registered.