

STATES OF JERSEY



DRAFT LIMITED PARTNERSHIPS (AMENDMENT) (JERSEY) LAW 200

Lodged au Greffe on 3rd June 2008
by the Minister for Economic Development

STATES GREFFE



Jersey

DRAFT LIMITED PARTNERSHIPS (AMENDMENT) (JERSEY) LAW 200

European Convention on Human Rights

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

In the view of the Minister for Economic Development the provisions of the Draft Limited Partnerships (Amendment) (Jersey) Law 200- are compatible with the Convention Rights.

(Signed) **Senator P.F.C. Ozouf**

REPORT

The Limited Partnerships (Jersey) Law 1984 (“**the principal Law**”) is one of the key pieces of legislation used by the finance industry. Limited partnerships are used particularly frequently in the funds sector of the industry, but are also in widespread use for a variety of other transactions, particularly where tax transparency is important.

A review of the Limited Partnership vehicle has taken place chaired by the Economic Development Department in conjunction with the Law Society and Jersey Finance. This has concluded that changes are desirable. The changes proposed in this amendment are some of the recommended changes with further changes to introduce a limited partnership with legal personality to follow shortly.

Some amendments to the registration provisions have been requested by the Registrar to ensure the smooth functioning of this vehicle, which is in the interests of the finance industry as a whole. Opportunity has also been taken to make a number of other minor improvements in the principal Law.

Articles 3 and 6 of this amending Law insert provisions into the principal Law designed to ensure that limited partnerships have permission from the occupier to use premises as their registered office. This has been introduced because registered office facilities are commonly provided on a commercial basis to limited partnerships which have no substantive permanent presence in Jersey. A problem has been created in the past for providers of registered office facilities when the limited partnership fails to pay the relevant fees, or where the provider otherwise wishes to withdraw the service, but there is no way of forcing the limited partnership to change its registered address.

The effect of new Article 8(1A) of the principal Law is that a limited partnership will not satisfy the requirement to have a registered office in Jersey, and will therefore be committing an offence, unless the occupier of the registered office permits its use for this purpose. There are also provisions for the registrar to refuse to register an office if he or she is not satisfied that permission has been granted and there is a power for the Minister to prescribe information which limited partnerships must provide to the Registrar in this regard.

Article 8 of the Amendment is intended primarily to allow the Registrar to deregister limited partnerships at the request of the general partners. This is because from time to time limited partnerships wish to cease to be governed by the principal Law, but without dissolving. At the moment there is no provision for this. Article 8 also makes a drafting improvement by gathering together all the cancellation provisions in the principal Law.

A consultation exercise was carried out covering these and other issues relating to limited partnerships in 2006. Industry has also been consulted, through Jersey Finance, as to the detailed form of the Amendment. No objections to the substance of the Amendment have been received.

Financial/manpower implications

There are no financial or manpower implications for the States arising from the adoption of this Draft Law.

European Convention on Human Rights

Article 16 of the Human Rights (Jersey) Law 2000 requires the Minister in charge of a Projet de Loi to make a statement about the compatibility of the provisions of the Projet with the Convention rights (as defined by Article 1 of the Law). On 2nd June 2008 the Minister for Economic Development made the following statement before Second Reading of this Projet in the States Assembly –

In the view of the Minister for Economic Development the provisions of the Draft Limited Partnerships (Amendment) (Jersey) Law 200- are compatible with the Convention Rights.

Explanatory Note

This draft Law contains miscellaneous amendments to the Limited Partnerships (Jersey) Law 1994 (which provides for the establishing of unincorporated limited partnerships). It is arranged in the following way –

Article 1 is an interpretation clause.

Article 2 is intended to emphasize that although a person may be a partner in a limited partnership in 2 capacities – i.e. that of a general partner and that of a limited partner (see Article 6 of the principal Law)– the partnership must nevertheless consist of at least 2 separate persons.

Article 3 empowers the registrar of limited partnerships to refuse to register the declaration that is required for the formation of a limited partnership, if the registrar is not satisfied that the occupier of the premises that are proposed as its registered office authorizes that use.

It also makes a minor drafting improvement.

Article 4 is a drafting improvement.

Article 5 provides that the name of an unincorporated limited partnership must end with the words “Limited Partnership”, or with either of the abbreviations “L.P.” and “LP”.

Article 6 provides that a limited partnership does not comply with the requirement to maintain a registered office in Jersey, unless the occupier of the premises that constitute the registered office continues to authorize their use for that purpose.

It also empowers the registrar to refuse to register a change of registered office if not satisfied that the occupier of the proposed new premises authorizes their use as such.

It also enables the Minister, by Order, to impose procedural requirements for proof of the fact than an occupier authorizes the use of premises as a registered office.

In addition, Article 6 requires a limited partnership to keep at its registered office a statement of the nature and value of any services contributed to the partnership by any limited partner.

It also enables the registrar of limited partnerships to require such a partnership to produce its register to him or her for inspection, during normal working hours, at the partnership’s registered office.

Article 7 is a drafting improvement.

Article 8 requires the registrar of limited partnerships, if all of the general partners of a partnership so request, to cancel the registration of the declaration that must be filed before a partnership can have the status of a limited partnership.

It also seeks to make a drafting improvement by providing in this Article for the other circumstances in which the principal Law provides for the registrar to cancel the registration of the declaration on dissolution of the partnership.

Article 9 is consequential on Article 8.

Article 10 is also consequential on Article 8.

Article 11 is also consequential on Article 8.

Article 12 introduces provisions that are similar to Article 200 of the Companies (Jersey) Law 1961. If a document or information must be delivered to the registrar but no form has been published, it may be delivered in any form that is acceptable to the registrar.

Article 13 is consequential on Article 14.

Article 14 inserts in the principal Law the current standard clause imposing criminal liability, for offences committed by bodies corporate or limited liability partnerships, on persons involved in the direction and management of such bodies.

Article 15 provides for the citation of the amending Law, and for it to come into force on a day or days to be appointed by the States, by Act.



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Arrangement

Article

<u>1</u>	<u>Interpretation</u>
<u>2</u>	<u>Article 3 amended</u>
<u>3</u>	<u>Article 4 amended</u>
<u>4</u>	<u>Article 5 amended</u>
<u>5</u>	<u>Article 7 amended</u>
<u>6</u>	<u>Article 8 amended</u>
<u>7</u>	<u>Article 13 amended</u>
<u>8</u>	<u>Article 21A inserted</u>
<u>9</u>	<u>Article 22 amended</u>
<u>10</u>	<u>Article 24 amended</u>
<u>11</u>	<u>Article 25 amended</u>
<u>12</u>	<u>Article 31A inserted</u>
<u>13</u>	<u>Article 36 amended</u>
<u>14</u>	<u>Article 36A inserted</u>
<u>15</u>	<u>Citation and commencement</u>



Jersey

DRAFT LIMITED PARTNERSHIPS (AMENDMENT) (JERSEY) LAW 200

A LAW to amend further the Limited Partnerships (Jersey) Law 1994.

Adopted by the States [date to be inserted]

Sanctioned by Order of Her Majesty in Council [date to be inserted]

Registered by the Royal Court [date to be inserted]

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

1 Interpretation

In this Law, “principal Law” means the Limited Partnerships (Jersey) Law 1994^[1].

2 Article 3 amended

In Article 3(2)(b) of the principal Law, for the words “one or more persons” there shall be substituted the words “one or more other persons”.

3 Article 4 amended

(1) In Article 4(3)(c) of the principal Law, for the words “in the case of a body corporate” there shall be substituted the words “in the case of a general partner that is a body corporate”.

(2) After Article 4(6) of the principal Law there shall be inserted the following paragraph–

“(6A) The registrar may refuse to register a declaration if he or she is not satisfied that the occupier of the premises which are to be the registered office of the limited partnership authorizes their use as its registered office.”.

4 Article 5 amended

In Article 5(1) of the principal Law, after the words “Article 4’ there shall be inserted the words “(other than a change in respect of the registered office of the limited partnership)”.

5 Article 7 amended

For Article 7(1) of the principal Law there shall be substituted the following paragraph–

“(1) The name of each limited partnership shall end with the words ‘Limited Partnership’ in

full or either of the abbreviations ‘L.P.’ and ‘LP’.”.

6 Article 8 amended

- (1) After Article 8(1) of the principal Law there shall be inserted the following paragraph—

“(1A) A limited partnership does not comply with the requirement in paragraph (1) unless the occupier of the premises which are the registered office authorizes for the time being their use for that purpose.”.
- (2) After Article 8(3) of the principal Law there shall be inserted the following paragraph—

“(3A) The registrar may refuse to register the notice if he or she is not satisfied that the occupier of the premises which are to be the registered office of the limited partnership authorizes their use as its registered office.”.
- (3) In Article 8(4)(e) of the principal Law, for the word “property” there shall be substituted the words “property or services”.
- (4) After Article 8(5) of the principal Law there shall be inserted the following paragraphs—

“(5A) The registrar may require a limited partnership to produce its register during normal working hours to the registrar at its registered office, for inspection by the registrar.

(5B) A requirement under paragraph (5A) shall be made by a notice in writing served on the limited partnership. The notice shall specify a date (being not sooner than 5 days after it is served) and a time at which the limited partnership is to produce the register.

(5C) The Minister may prescribe information which –

 - (a) an applicant for the formation of a limited partnership; or
 - (b) a limited partnership,

must provide to the registrar for the purpose of showing that an occupier of premises authorizes or continues to authorize the use of the premises as its registered office.

(5D) An Order under paragraph (5C) may contain such other provisions as are reasonably necessary for or incidental to that purpose.”.
- (5) In Article 8(6) of the principal Law, for the words “in compliance with this Article” there shall be substituted the words “in compliance with any requirement made by or under this Article”.

7 Article 13 amended

In Article 13(1)(a) of the principal Law, for the words “books and records” there shall be substituted the word “records”.

8 Article 21A inserted

After Article 21 of the principal Law there shall be inserted the following Article—

“21A Cancellation of registration

The registrar shall cancel the registration of the declaration of a limited partnership on the occurrence of any of the following events –

- (a) on the delivery to the registrar of a request for its cancellation, signed by each person who is, or is to be on the formation of the limited partnership, a general partner;
- (b) on the delivery to the registrar under Article 22 of a statement of dissolution of the limited partnership;

- (c) on the delivery to the registrar under Article 24 of a statement of dissolution of the limited partnership;
- (d) on the delivery to the registrar under Article 25 of an Act of the Court ordering the dissolution of the limited partnership.”.

9 Article 22 amended

Article 22(2) of the principal Law shall be repealed.

10 Article 24 amended

Article 24(3) of the principal Law shall be amended by deleting the words “who shall thereupon cancel the registration of the declaration”.

11 Article 25 amended

Article 25(3) of the principal Law shall be amended by deleting the words “and the registrar shall thereupon cancel the registration of the declaration”.

12 Article 31A inserted

After Article 31 of the principal Law there shall be inserted the following Article–

“31A Form of documents to be delivered to registrar

Where any Article of this Law requires a document to be delivered to the registrar, but the form of the document has not been published, it shall be sufficient compliance with that requirement if –

- (a) the document is delivered in a form which is acceptable to the registrar; or
- (b) any information to which the requirement relates is delivered in material, other than a document, which is acceptable to the registrar,

and the document or material, as the case may be, is accompanied by the published fee, if any.”.

13 Article 36 amended

Article 36(3) shall be repealed.

14 Article 36A inserted

After Article 36 there shall be inserted the following Article–

“36A Criminal liability for offences by bodies corporate

(1) Where an offence under this Law committed by a limited liability partnership or a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of –

- (a) a person who is a partner of the partnership, or director, manager, secretary or other similar officer of the body corporate; or

(b) any person purporting to act in any such capacity,
the person shall also be guilty of the offence and liable in the same manner as the partnership or body corporate to the penalty provided for that offence.

- (2) Where the affairs of a body corporate are managed by its members, paragraph (1) shall apply in relation to acts and defaults of a member in connection with his or her functions of management as if the member were a director of the body corporate.”.

15 Citation and commencement

- (1) This Law may be cited as the Limited Partnerships (Amendment) (Jersey) Law 200-.
- (2) This Law shall come into force on such day or days as the States by Act appoint.

