

ORDER IN COUNCIL

VIII
1995

ratifying a Projet de Loi

ENTITLED

The Partnership (Guernsey) Law, 1995

(Registered on the Records of the Island of Guernsey
on the 22nd August, 1995.)



1995

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

*The 22nd day of August, 1995 before Sir Graham Dorey, Bailiff;
present:— Stanley Walter John Jehan, Leonard Arthur Moss, John
Edward Morris, Charles Anthony Spensley, Kenneth John Rowe,
Lawrence Oscar Ozanne, John Richard Rowe Henry, David Charles
Lowe, Esquires, Mrs. Eileen May Glass, Laurence Lenfestey Guille,
Derek Martin Le Page and Stephen Edward Francis Le Poidevin,
Esquires, Jurats.*

The Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 28th day of June, 1995, approving and ratifying a *Projet de Loi* entitled “The Partnership (Guernsey) Law 1995”, THE COURT, after the reading of the said Order in Council and after having heard Her Majesty’s Procureur thereon, ordered that the said Order in Council be registered on the records of this Island; of which Order in Council the tenor followeth:—

At the Court at Buckingham Palace

The 28th day of June 1995

PRESENT,

The Queen's Most Excellent Majesty in Council

WHEREAS there was this day read at the Board a Report from the Right Honourable the Lords of the Committee of Council for the affairs of Guernsey and Jersey dated the 13th day of June 1995 in the words following, viz.:—

“YOUR MAJESTY having been pleased, by Your General Order of Reference of the 22nd day of February 1952, to refer unto this Committee the humble petition of States of the Island of Guernsey setting forth:—

‘1. That, in pursuance of their Resolution of the 28th day of July 1994 the States of Deliberation at a Meeting held on the 25th day of January 1995 approved a Bill or “Projet de Loi” entitled “The Partnership (Guernsey) Law, 1995”, and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction thereto. 2. That the said Bill or “Projet de Loi” is set forth in the Schedule hereunto annexed. And most humbly praying that Your Majesty might be graciously pleased to grant Your Royal Sanction to the Bill or “Projet de Loi” of the States of Guernsey entitled “The Partnership (Guernsey) Law, 1995”, and to order that the same shall have force of law in the Islands of Guernsey, Herm and Jethou.”

“THE LORDS OF THE COMMITTEE, in obedience to Your Majesty’s said Order of Reference, have taken the said Petition and the said Projet de Loi into consideration and do this day agree humbly to report, as their opinion, to Your Majesty, that it may be advisable for Your Majesty to comply with the prayer of the said Petition and to approve of and ratify the said Projet de Loi.”

HER MAJESTY having taken the said Report into consideration is pleased, by and with the advice of Her Privy Council, to approve of and ratify the said Projet de Loi, and to order, and it is hereby ordered, that the same shall have the force of Law within the Islands of Guernsey, Herm and Jethou.

AND HER MAJESTY doth hereby further direct that this Order, and the said Projet de Loi (a copy whereof is hereunto annexed), be entered upon the Register of the Island of Guernsey and observed accordingly.

AND the Lieutenant Governor and Commander-in-Chief of the Island of Guernsey, the Bailiff and Jurats, and all other Her Majesty's Officers for the time being in the said Island, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

N. H. Nicholls

PROJET DE LOI

ENTITLED

The Partnership (Guernsey) Law, 1995

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PROJET DE LOI

ENTITLED

The Partnership (Guernsey) Law, 1994

THE STATES, in pursuance of their Resolution of the 27th day of July, 1994(a), have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Islands of Guernsey, Herm and Jethou.

PART I

NATURE OF PARTNERSHIP

Meaning of "partnership".

1. (1) Partnership is the relationship which subsists between persons carrying on a business in common with a view to profit.

(2) The relationship between the members of a body corporate incorporated with or without limited liability in any part of the world is not, of itself, a partnership within the meaning of this Law.

Rules for determining existence of partnership.

2. In determining whether a partnership does or does not exist, regard shall be had to the following rules-

- (a) joint, common or part ownership of property does not of itself create a partnership as to that property, whether or not the owners share any profits made from the use thereof;

(a) Article XIII of Billet d'État No. XVI of 1994.

- (b) the sharing of gross returns does not of itself create a partnership, whether or not the persons sharing the returns have any joint or common right or interest in any property from which or from the use of which the returns are derived;
- (c) the receipt by a person of a share of the profits of a business, or of a payment contingent on or varying with such profits, does not of itself make him a partner in the business, and in particular-
 - (i) the receipt by a person of a debt or other liquidated amount by instalments or otherwise out of the accruing profits of a business does not of itself make him a partner in the business;
 - (ii) an agreement for the remuneration of a servant or agent of a person engaged in a business by a share of the profits of the business does not of itself make the servant or agent a partner in the business;
 - (iii) the widow or child of a deceased partner receiving by way of annuity a portion of the profits made in the business in which the deceased person was a partner is not by reason only of such receipt a partner in the business;
 - (iv) the advance of money by way of loan to a person engaged or about to engage in any business under an agreement with that person which provides that the lender shall receive a rate of interest varying with the profits, or shall receive a share of the profits arising from carrying on the business, does not of itself, provided that the agreement is

in writing and signed by or on behalf of all parties thereto, make the lender a partner with the person carrying on the business;

- (v) a person receiving by way of annuity or otherwise a portion of the profits of a business in consideration of the sale by him of the goodwill of the business is not by reason only of such receipt a partner in the business.

Postponement of rights of lender and vendor.

3. (1) Where a person to whom money has been advanced by way of loan under an agreement described in section 2(c)(iv) becomes bankrupt, the lender may not recover anything in respect of his loan other than the capital thereof together with interest at an ordinary commercial rate until the claims of all other creditors of the borrower for valuable consideration in money or money's worth have been satisfied.

(2) Where a purchaser of goodwill in consideration of a share of the profits of the business becomes bankrupt, the vendor of the goodwill may not recover anything in respect of the share of profits contracted for until the claims of all other creditors of the purchaser for valuable consideration in money or money's worth have been satisfied.

Meaning of "firm" and "firm name".

4. Persons who enter into partnership with one another are, for the purposes of this Law, called collectively a firm and the name under which their business is carried on is called the firm name.

PART II

RELATIONS OF PARTNERS TO THIRD PERSONS

Power of partner to bind firm.

5. (1) Every partner is an agent of the firm and of his other partners for the purposes of the partnership business.

(2) The acts of every partner for carrying on in the usual way business of the kind carried on by his firm shall bind the firm and his partners unless-

- (a) the partner so acting has in fact no authority to act for the firm in the particular matter; and
- (b) the person with whom he is dealing either knows that he has no authority or does not know or believe him to be a partner.

Partners bound by acts on behalf of firm.

6. (1) An act or instrument relating to the business of a firm done or executed-

- (a) in the firm name or in any other manner showing an intention to bind the firm; and
- (b) by any person thereto authorised, whether a partner or not;

is binding on the firm and all partners.

(2) This section does not affect any general rule of law relating to the execution of documents.

Partner using firm's credit for private purposes.

7. (1) Where a partner pledges the firm's credit for a purpose apparently unconnected with the firm's ordinary course of business, the firm is not bound unless he is in fact specifically authorised by the other partners.

(2) This section does not affect any personal liability incurred by an individual partner.

Effect of notice that firm not bound by partner.

8. If it is agreed between the partners that the power of any of them to bind the firm shall be restricted, no act done in contravention of the agreement shall bind the firm in relation to persons having notice of the agreement.

PART III
LIABILITY

Liability of partners.

9. (1) Every partner in a firm is liable jointly and severally with the other partners for all debts of the firm incurred while he is a partner.

(2) After a partner's death his estate is also severally liable for such debts so far as they remain unsatisfied.

Liability of firm for wrongs.

10. Where by any wrongful act or omission of any partner acting either in the ordinary course of the firm's business or with the authority of his partners-

- (a) loss or injury is caused to a person who is not a partner in the firm; or
- (b) any penalty is incurred;

the firm is liable therefor to the same extent as that partner.

Misapplication of money and property.

11. In the following cases, namely-

- (a) where a partner acting within the scope of his apparent authority receives the money or property of a third person and misapplies it; or

- (b) where a firm in the course of its business receives the money or property of a third person and any of the partners misapplies it while it is in the custody of the firm;

the firm is liable to make good the loss.

Misapplication of trust property.

12. (1) If a partner who is a trustee improperly employs trust property in the business or on the account of the partnership, no other partner is liable, subject to subsection (2), for the trust property to the persons beneficially interested therein.

(2) Nothing in this section-

- (a) affects any liability incurred by a partner by reason of his having notice of a breach of trust; or
- (b) prevents trust money from being followed and recovered from the firm if still in its possession or under its control.

Persons liable by holding out.

13. (1) A person who by words spoken or written or by conduct represents himself, or who knowingly suffers himself to be represented, as a partner in a firm, is liable as a partner to any person who, on the faith of any such representation, gives credit to the firm.

(2) Subsection (1) applies whether or not the representation was made or communicated to the person giving credit by or with the knowledge of the apparent partner.

(3) Where after a partner's death or retirement the partnership business is continued in the old firm's name, the continued use of that name or of the deceased or retired partner's name as part thereof shall not of itself render him or his estate liable for partnership debts incurred after his death or retirement.

Admissions or representations of partners.

14. An admission or representation made by a partner concerning the partnership affairs, and made in the ordinary course of its business, is evidence against the firm.

Notice to acting partner is notice to firm.

15. Notice to a partner who habitually acts in the partnership business of any matter relating to partnership affairs shall, except in the case of fraud on the firm committed by or with the consent of that partner, be deemed to be notice to the firm.

Liability of incoming and outgoing partners.

16. (1) A person admitted as a partner in an existing firm does not thereby become liable to the firm's creditors for anything done before he became a partner.

(2) A partner who retires from a firm does not thereby cease to be liable for partnership debts incurred before his retirement.

(3) A retiring partner may be discharged from any existing liabilities by an agreement to that effect between himself, the members of the firm as newly constituted and the creditors.

(4) Such an agreement may be express or may be inferred from the course of dealing between the creditors and the firm as newly constituted.

Rights of persons dealing with firm against apparent members.

17. (1) Where a person deals with a firm after a change in its constitution, he may treat all apparent members of the old firm as still being members of the firm until he has notice of the change.

(2) An advertisement in La Gazette Officielle is, for the purposes of subsection (1), notice to persons who had no dealings with the firm before the date of the dissolution or change so advertised.

(3) In the case of a partner-

- (a) who becomes bankrupt or who dies; or
- (b) who, not having been known to the person dealing with the firm to be a partner, retires from the firm;

neither the partner nor his estate is liable for partnership debts incurred after the date of the bankruptcy, death or retirement.

PART IV

RELATIONS BETWEEN PARTNERS & PARTNERSHIP PROPERTY

Variation by consent of terms of partnership.

18. (1) The mutual rights and duties of partners, whether ascertained by agreement or defined by this Law, may be varied by the consent of all the partners.

(2) Such consent may be express or may be inferred from a course of dealing.

Partnership property.

19. (1) All property and all rights and interests therein-

- (a) originally brought into the partnership stock; or
- (b) acquired, by purchase or otherwise, on account of the firm or for the purposes of and in the course of the partnership business;

are called in this Law "partnership property."

(2) Partnership property shall be held and applied by the partners exclusively for the purposes of the partnership and in accordance with the partnership agreement.

(3) Where co-owners of any real property which is not itself partnership property-

- (a) are partners as to the profits made from the use thereof;
and
- (b) purchase from those profits any other real property to be used in like manner;

the real property so purchased belongs to them, in the absence of agreement to the contrary, not as partners, but as co-owners with the same respective rights and interests as they have, at the date of the purchase, in the real property first mentioned.

(4) In this section "real property" includes any estate or interest therein.

Property bought with partnership money.

20. Property bought with money belonging to the firm shall, for the purposes of section 19(1)(b), unless the contrary intention appears, be deemed to have been bought on account of the firm.

Procedure against partnership property for partner's debt.

21. (1) No person may arrest or levy execution upon any partnership property except in respect of or pursuant to a debt of the firm.

(2) Notwithstanding the provisions of subsection (1), the Court may, on the application of any creditor of a partner, by order-

- (a) direct payment of the debt, interest thereon and costs from that partner's interest in the partnership property and profits;
- (b) appoint Her Majesty's Sheriff or any other person to locate, ascertain, hold, arrest or otherwise take possession or control of that partner's interest in the partnership property or profits (whether already declared or accruing)

and any other money or property coming to him in respect of the partnership; and

- (c) direct all other accounts and inquiries and give all other orders and directions (including orders for the charging of property) which may be necessary for the implementation or enforcement of an order under paragraph (a) or (b) or which the circumstances of the case may require.

(3) The other partners may-

- (a) at any time redeem any interest in the partnership property and profits subject to an order under subsection (2);
- (b) with the approval of the Court, purchase any such interest directed to be sold.

Duty of utmost good faith.

22. The utmost good faith is due from every member of a partnership towards every other member.

Rules as to interests and duties of partners.

23. The rights, duties and interests of partners in relation to the partnership and the partnership property shall be determined, subject to the provisions of any agreement (express or implied) between them, in accordance with the following rules-

- (a) all partners may share equally in the capital and profits of the firm's business and shall contribute equally towards the losses, whether of capital or otherwise, sustained by the firm;
- (b) the firm shall indemnify every partner in respect of payments made and personal debts incurred by him-

- (i) in the ordinary and proper conduct of the firm's business; or
 - (ii) in respect of anything necessarily done for the preservation of the firm's business or property;
- (c) a partner making, for the purposes of the partnership, any actual payment or advance beyond the amount of capital which he has agreed to subscribe is entitled to interest thereon at such rate as may be agreed between the partners or, if none, at the rate of 5% per annum (or such other rate as the States may determine by Ordinance) from the date of the payment or advance;
- (d) a partner is not entitled, before ascertainment of the profits, to interest on the capital subscribed by him;
- (e) all partners may take part in the management of the partnership business;
- (f) no partner shall be entitled to remuneration for acting in the partnership business;
- (g) no person may be introduced as a partner without the consent of all existing partners;
- (h) any difference arising as to ordinary matters connected with the partnership business may, subject to paragraph (i), be decided by a majority of the partners;
- (i) no change may be made in the nature of the partnership business without the consent of all existing partners;

- (j) the partnership books shall be kept at the place of business of the partnership or, if there is more than one such place, the principal such place;
- (k) every partner may, when he thinks fit, have access to, inspect and copy any such book.

Expulsion of partner.

24. No majority of partners may expel a partner unless a power to do so has been conferred by express agreement between the partners.

Determination of partnership at will.

25. (1) Where no fixed term has been agreed for the duration of a partnership, any partner may determine the partnership at any time on giving notice of his intention to do so to all other partners.

(2) Where a partnership was originally constituted by document, a notice in writing, signed by the partner giving it, shall be sufficient for this purpose.

(3) The provisions of this section are without prejudice to those of section 31.

Where term expires, continuance on old terms presumed.

26. (1) Where a partnership entered into for a fixed term is continued without any express new agreement after the term has expired, the rights and duties of the partners remain the same as they were at the expiration of the term, so far as is consistent with the incidents of a partnership at will.

(2) A continuance of the business by the partners (or by such of them as habitually acted therein during the term) without any settlement or winding up of the partnership affairs is presumed to be a continuance of the partnership for the purposes of this section.

Duty of partners to render accounts.

27. Partners shall render true accounts and full information of all things affecting the partnership to any partner or his personal representatives.

Accountability of partners for private profits.

28. (1) Every partner must account to the firm for any benefit derived by him without the consent of the other partners from-

- (a) any transaction concerning the partnership; or
- (b) any use by him of the partnership property, name or business connection.

(2) This section applies also to transactions undertaken-

- (a) after a partnership has been dissolved by the death of a partner; but
- (b) before the affairs thereof have been completely wound up;

by any surviving partner or by the personal representatives of the deceased partner.

Duty of partner not to compete with firm.

29. If a partner, without the consent of the other partners, carries on a business of the same nature as and competing with that of the firm, he must account for and pay to the firm all profits made by him in that business.

Rights of assignee of share in partnership.

30. (1) An assignment by a partner to another person ("the assignee") of his share in the partnership, whether absolute or otherwise, and whether with or without a proviso or condition for re-assignment, does not as against the other partners entitle the assignee, during the continuance of the partnership-

- (a) to interfere in the management or administration of the partnership business or affairs;

- (b) to require any accounts of the partnership transactions; or
- (c) to inspect the partnership books.

(2) The assignee is entitled only to receive the share of profits to which the assigning partner would otherwise be entitled.

(3) The assignee must, unless the Court directs otherwise, accept the account of profits agreed to by the partners.

(4) In the case of a dissolution of the partnership, whether as respects all the partners or as respects the assigning partner, the assignee is entitled to receive-

- (a) the share of the partnership assets to which the assigning partner is entitled as between himself and the other partners; and
- (b) for the purpose of ascertaining that share, an account as from the date of dissolution.

PART V DISSOLUTION

Dissolution by expiration or notice.

31. (1) Subject to any agreement between the partners, a partnership is dissolved-

- (a) if entered into for a fixed term, by the expiration of that term;
- (b) if entered into for a single venture or undertaking, by the termination of that venture or undertaking;

- (c) if entered into for an undefined time, by any partner giving notice to the others of his intention to dissolve the partnership.

(2) In the last mentioned case the partnership is dissolved as from the date specified in the notice as the date of dissolution or, if none, the date of communication of the notice.

(3) The provisions of section 25(2) shall apply in relation to any such notice.

Dissolution by bankruptcy, death or charge.

32. (1) Subject to any agreement between the partners, every partnership is dissolved as regards all the partners by the death or bankruptcy of any partner.

(2) A partnership may, at the option of the other partners, be dissolved if an order under section 21(2) is made, in respect of a partner's separate debt, against his interest in the partnership property or profits.

Dissolution by illegality of business.

33. A partnership is dissolved by the happening of any event which makes it unlawful-

- (a) for the firm's business to be carried on; or
- (b) for the members of the firm to carry that business on in partnership.

Dissolution by the Court.

34. The Court may, on the application of any partner, order the dissolution of a partnership in any of the following cases-

- (a) when a partner, other than the partner suing-
 - (i) becomes in any way permanently incapable of performing his part of the partnership agreement;
 - (ii) is guilty of such conduct as, in the opinion of the Court, and having regard to the nature of the business, is calculated prejudicially to affect the carrying on of the business;
 - (iii) wilfully or persistently commits a breach of the partnership agreement; or
 - (iv) otherwise so conducts himself in matters relating to the partnership business that it is not reasonably practicable for the other partners to carry on business in partnership with him;
- (b) when the business of the partnership can only be carried on at a loss;
- (c) whenever, in the opinion of the Court, it is just and equitable in all the circumstances of the case that the partnership be dissolved.

Right of partners to notify dissolution.

35. Upon the dissolution of a partnership or the retirement of a partner, any partner may-

- (a) publicly notify the fact; and
- (b) require the other partners to concur for that purpose in any necessary or proper acts which cannot be done without their concurrence.

Continuing authority of partners on dissolution.

36. (1) Upon the dissolution of a partnership, the authority of each partner to bind the firm, and the other rights and obligations of the partners, shall cease except so far as may be necessary-

- (a) to wind up the affairs of the partnership; and
- (b) to complete transactions begun but unfinished at the time of the dissolution.

(2) Notwithstanding the provisions of subsection (1), the firm is in no case bound by the acts of a partner who has become bankrupt.

(3) Subsection (2) does not affect the liability of a person who, after the bankruptcy, has represented himself or knowingly suffered himself to be represented as a partner of the bankrupt.

Rights of partners to partnership property.

37. Upon the dissolution of a partnership, every partner is entitled, as against the other partners and all persons claiming through them in respect of their interests as partners-

- (a) to have the property of the partnership applied in payment of the firm's debts; and
- (b) thereafter, to have the surplus assets applied in payment of whatever is respectively due to the partners after deducting whatever is respectively due from them as partners to the firm.

Apportionment of premium on premature dissolution.

38. (1) Where a partner has paid a premium to another on entering a partnership for a fixed term, and the partnership is dissolved before the expiration of that term otherwise than by the death of any partner, the Court may order the repayment of the premium, or of such part thereof as it thinks just, having regard to the

terms of the partnership agreement and to the length of time during which the partnership has continued.

(2) Subsection (1) does not apply where-

- (a) the dissolution is, in the opinion of the Court, wholly or chiefly due to the misconduct of the partner who paid the premium; or
- (b) the partnership has been dissolved by an agreement containing no provision for a return of any part of the premium.

Rights where partnership dissolved for fraud.

39. Where a partnership agreement is rescinded on the ground of the fraud or misrepresentation of any party thereto, the party entitled to rescind is, without prejudice to any other right, entitled-

- (a) to a lien on the surplus partnership assets, after satisfying the partnership debts-
 - (i) for any sum of money paid by him for the purchase of a share in the partnership; and
 - (ii) for any capital contributed by him;
- (b) to stand in the place of the firm's creditors for any payments made by him in respect of the partnership debts; and
- (c) to be indemnified by the person guilty of the fraud or misrepresentation against all debts of the firm.

Right in certain cases to profits after dissolution.

40. (1) In any case where-

- (a) a member of a firm dies or otherwise ceases to be a partner;
and
- (b) the surviving or continuing partners carry on the business of the firm with its capital or assets without any final settlement of accounts as between the firm and the outgoing partner or his estate;

then, in the absence of any agreement to the contrary, the outgoing partner or his estate is entitled, at the option of himself or his personal representatives-

- (c) to such share of the profits made since the dissolution as is attributable to the use of his share of the partnership assets; or
- (d) to interest at the rate of 5% per annum (or such other rate as the States may determine by Ordinance) on the amount of his share of the partnership assets.

(2) Where an option is given by the partnership agreement to surviving or continuing partners to purchase the interest of a deceased or outgoing partner, and that option is duly exercised, the outgoing partner or his estate is not, subject to subsection (3), entitled to any further share of profits.

(3) Where a partner purporting to act in exercise of any such option does not in all material respects comply with the terms thereof, he is liable to account in accordance with subsection (1).

Retiring or deceased partner's share to be a debt.

41. Subject to any agreement between the partners, the amount due from surviving or continuing partners to an outgoing partner or the personal representatives

of a deceased partner in respect of the outgoing or deceased partner's share is a debt accruing at the date of the dissolution or death.

Rule for distribution of assets on final settlement.

42. In settling accounts between the partners after a dissolution of partnership, the following rules shall, subject to any agreement to the contrary, be observed-

- (a) losses, including losses and deficiencies of capital, shall be paid-
 - (i) firstly, out of profits;
 - (ii) next, out of capital; and
 - (iii) lastly, if necessary, by the partners individually in the proportion in which profits were divisible;
- (b) the assets of the firm, including any sums contributed by the partners to make up losses or deficiencies of capital, shall be applied in the following manner and order-
 - (i) in paying the debts of the firm to persons who are not partners therein;
 - (ii) in paying to each partner rateably what is due from the firm to him for advances (as distinguished from capital);
 - (iii) in paying to each partner rateably what is due from the firm to him in respect of capital;
 - (iv) any residue shall be divided among the partners in the proportion in which profits were divisible.

Power of Royal Court to make orders in relation to dissolution.

43. (1) Upon the dissolution of a partnership any partner or creditor thereof or any other interested party may apply to the Court for an order or for directions, which in either case may be granted on such terms and conditions as the Court thinks fit, for or in relation to the dissolution or the winding up of the firm's affairs; and, without prejudice to the generality of the foregoing, such an order or such directions may make provision in relation to-

- (a) the cessation and settlement of the firm's business;
- (b) the powers, functions and authority of the partners, whether to act for or bind the firm or to transact its business or otherwise;
- (c) the payment of the firm's debts and the realisation and distribution of its assets;
- (d) the appointment of a person, with all necessary powers, to supervise or carry out all or any part of the winding up;
- (e) the payment of all or any of the costs and expenses incurred in relation to the winding up;
- (f) any matter incidental to or necessary or desirable for the implementation of any of the above.

(2) An application under subsection (1) may be made when a partnership is dissolved or at any time thereafter, and may also be made at the same time as an application to the Court under section 34 for dissolution.

PART VI
SUPPLEMENTARY PROVISION

Interpretation.

44. (1) In this Law, unless the contrary intention appears-

"bankrupt", in relation to any person, means-

- (a) that he has been declared by the Court to be insolvent or that a Commissioner or Committee of Creditors has been appointed by the Court to supervise or secure his estate;
- (b) that his affairs have been declared in a state of "désastre" by his arresting creditors at a meeting held before a Commissioner;
- (c) that a preliminary vesting order has been made against him in respect of any of his real property in the Bailiwick;
- (d) in the case of a registered company, that-
 - (i) a liquidator (provisional or otherwise) has been appointed to act; or
 - (ii) the company has passed a special resolution requiring the company to be wound up voluntarily;

otherwise than for the sole purpose of solvent amalgamation or solvent reconstruction;

- (e) that a composition or arrangement with creditors has been entered into in respect of him whereby his creditors will receive less than 100p in the pound or that possession or

control has been taken of any of his property or affairs by or on behalf of creditors; or

(f) where the person is deceased, that his estate is insolvent;

"business" includes every trade, occupation, or profession;

"Court" means the Royal Court sitting as an Ordinary Court;

"debts" includes obligations and liabilities;

"firm" and **"firm name"** have the meanings given by section 4;

"partnership" has the meaning given by section 1;

"partnership property" has the meaning given by section 19;

"person" includes any body of persons, corporate or unincorporate;

"personal representative", in relation to any person, means the executor or administrator of his estate.

(2) Any reference in this Law to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

Service of documents on partnerships.

45. (1) Without prejudice to any other lawful method of service, any document to be given to or served on-

(a) a partnership, may be given or served-

(i) by being left at, or sent by post to, the partnership's principal or last known principal place of business in Guernsey or, if there is no

such place, its principal or last known principal place of business elsewhere; or

(ii) by being delivered to any partner thereof, or by being left at, or sent by post to, his usual or last known place of abode;

(b) a partner, may be given or served-

(i) by being left at, or sent by post to, the place described in paragraph (a)(i); or

(ii) by being delivered to him, or by being left at, or sent by post to, his usual or last known place of abode;

and in this section the expression "by post" means by registered post or recorded delivery service.

(2) A document sent by post shall, unless the contrary is shown, be deemed for the purposes of this section to have been received-

(a) in the case of a document sent to an address in the United Kingdom, the Channel Islands or the Isle of Man, on the third day after the day of posting;

(b) in the case of a document sent elsewhere by airmail, on the seventh day after the day of posting;

excluding in each case any non-business day within the meaning of section 1(1) of the Bills of Exchange (Guernsey) Law, 1958, as amended^(b).

(b) Ordres en Conseil Vol. XVII, p. 384; Vol. XXIV, p. 84; No. XI of 1993; and No. XIV of 1994.

(3) Service of any document sent by post shall be proved by showing the date of posting, the address thereon and the fact of prepayment.

Transitional provisions in relation to existing partnerships.

46. (1) No provision of this Law shall apply in relation to an existing partnership to the extent that the provision is inconsistent with any express term or condition of the partnership agreement, being a term or condition which, immediately prior to the commencement of this Law, was a lawful term or condition; and in such a case the existing partnership shall, to the extent only of the inconsistency, continue in all respects as if that provision had not been enacted.

(2) In this section an "existing partnership" means a partnership formed or entered into before the date of commencement of this Law.

(3) The States may by Ordinance make such consequential, incidental, supplemental and transitional provision (whether in relation to existing partnerships or otherwise) as they may consider to be necessary or expedient for the purposes of the implementation of this Law; and any such Ordinance may, to the extent necessary to give effect to its provisions, make consequential modifications to any provision of this Law (including this section) or to any other enactment relating to, or in its application to, partnerships.

(4) An Ordinance made under this section may be amended or repealed by a subsequent Ordinance so made.

Citation.

47. This Law may be cited as the Partnership (Guernsey) Law, 1995.

Commencement.

48. This Law shall come into force on the day appointed by Ordinance of the States; and different days may be appointed for different provisions and different purposes.