

PROJET DE LOI

ENTITLED

The Limited Liability Partnerships (Guernsey) Law, 2013 *

[CONSOLIDATED TEXT]

NOTE

This consolidated version of the enactment incorporates all amendments listed in the footnote below. It has been prepared for the Guernsey Law website and is believed to be accurate and up to date, but it is not authoritative and has no legal effect. No warranty is given that the text is free of errors and omissions, and no liability is accepted for any loss arising from its use. The authoritative text of the enactment and of the amending instruments may be obtained from Her Majesty's Greffier, Royal Court House, Guernsey, GY1 2PB.

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* No. VI of 2014; as amended by the Beneficial Ownership of Legal Persons (Guernsey) Law, 2017 (No. VI of 2017); the Guernsey Financial Services Commission (Transfer of Functions) (Fees) (Bailiwick of Guernsey) Ordinance, 2015 (No. XII of 2015); the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016); the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018 (No. XXVII of 2018); the Income Tax (Substance Requirements) (Implementation) Regulations, 2021 (G.S.I. No. 64 of 2021). See also the Police Force (Guernsey) Law, 1986 (Ordres en Conseil Vol. XXIX, p. 207); the Companies (Registrar) (Credit Arrangements) Regulations, 2015 (G.S.I. No. 112 of 2015).

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The Limited Liability Partnerships (Guernsey) Law, 2013

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The Limited Liability Partnerships (Guernsey) Law, 2013

THE STATES, in pursuance of their Resolutions of the 29th day of April, 2009^a and the 30th day of May, 2013^b, 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

FORMATION AND ATTRIBUTES

Introductory

Limited liability partnerships.

1. (1) A limited liability partnership (an "**LLP**") may be formed in Guernsey for the carrying on within Guernsey or elsewhere of any lawful business with a view to profit, or any other lawful activity; and unless the context otherwise requires, references in this Law to the "**business**" of an LLP include references to any lawful activity.

(2) An LLP shall have two or more members who are admitted to the LLP in accordance with the members' agreement.

(3) An LLP is a body corporate and has legal personality separate

^a Article XI of Billet d'État No. XI of 2009.

^b Article VII of Billet d'État No. VIII of 2013.

from that of its members.

(4) An LLP is formed by being incorporated under this Law.

(5) For the avoidance of doubt, a change in the members of an LLP shall not affect its existence, rights or obligations.

(6) Subject to subsection (7) and section 13 (Members), either of the following may be a member of an LLP –

(a) a natural person, or

(b) a body corporate.

(7) The States may by Ordinance add to or otherwise amend the list in subsection (6).

LLP property.

2. The property of an LLP consists of –

(a) the capital contributed to it by the members, and

(b) all property created or acquired by or acquired on behalf of the LLP.

Capacity of LLP.

3. An LLP has unlimited capacity.

Members' agreement.

4. (1) Every LLP shall have a members' agreement.

(2) The members' agreement shall be an agreement in writing of the members as to the affairs of the LLP and the conduct of its business.

(3) The members' agreement shall be binding on the LLP and the members as if the members' agreement –

(a) were comprised in an agreement duly executed by the LLP and each member, and

(b) contained covenants on the part of the LLP and each member to observe all its provisions.

(4) For the avoidance of doubt, the members' agreement may provide that the business of the LLP shall not be conducted in a way that disadvantages one or more of the members.

(5) The members' agreement shall be binding upon the members and their assigns and upon subsequent members in the same manner as if those persons had themselves executed it.

(6) The members' agreement may be amended only by an instrument in writing executed in accordance with the members' agreement.

(7) All amendments duly made to the members' agreement shall be binding upon the persons and in the manner mentioned in subsection (5).

(8) The [Committee] may prescribe a standard form members' agreement.

NOTE

In section 4, the word in square brackets in subsection (8) was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 2, with effect from 1st May, 2016.

Limited liability of members.

5. (1) For the avoidance of doubt, and without prejudice to section 100 (Non-applicability of general partnership law), section 9 of the Partnership (Guernsey) Law, 1995^c does not apply in respect of LLPs, and accordingly a member of an LLP is not liable for any debt of the LLP, or of any other member of the LLP, by virtue solely of his membership of the LLP.

(2) Subsection (1) is without prejudice to any provision to the contrary in the members' agreement or any other agreement.

Establishment of the office of Registrar of LLPs and the Register.

6. (1) Schedule 1 (which makes provision in relation to the establishment of the Office of the Registrar and related matters) has effect.

(2) The Registrar shall keep and maintain a register of LLPs, to be called the Register of Limited Liability Partnerships, for the purposes of this Law (referred to in this Law as "**the Register**").

Resident agents.

7. Schedule 2 (which makes provision in relation to resident agents) has effect.

Incorporation

Incorporation of LLP.

8. (1) An LLP must be incorporated in accordance with this section.

^c Ordres en Conseil Vol. XXXVI, p. 179.

(2) Only a corporate services provider may apply to effect the incorporation of an LLP.

(3) A corporate services provider applying to effect the incorporation of an LLP shall pay to the Registrar such fee as the Registrar may prescribe after consultation with the [Committee] and file a statement in such medium and form as the Registrar may prescribe, to which every person who is to be a member of the LLP has subscribed his name (an "**incorporation statement**"), containing the following particulars –

- (a) the name of the LLP,
- [(b) a statement of the resident agent (if any), comprising his name and address, and confirmation that he has complied with his obligations under paragraph 3 of Schedule 2,]
- (c) the nature and principal place of its business,
- (d) the address of its registered office, which must be situate within Guernsey, and
- (e) such other information as may be specified in regulations made by the [Committee].

(4) The incorporation statement may also propose the date on which the incorporation shall take effect, being a date not later than three months after the date of the application.

(5) The Registrar may, in any particular case, require the

incorporation statement to be verified in such manner as he considers fit.

(6) On receiving the incorporation statement and prescribed fee, and being satisfied that the incorporation statement complies with the provisions of this section, the Registrar shall, subject to the provisions of this Law, register the LLP, issue a certificate of incorporation in such form as the Registrar may determine, and allocate a registration number to the LLP.

(7) The LLP is incorporated on the date of issue of the certificate of incorporation by the Registrar, and the certificate of incorporation is conclusive evidence that the LLP is incorporated, and registered by the name specified in the certificate.

(8) If the incorporation statement proposes a date on which the incorporation is to have effect and that date is later than the date on which the Registrar issues the certificate of incorporation, then the date stated on the certificate as the date of incorporation shall be the date of incorporation.

NOTES

In section 8,

the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 2, with effect from 1st May, 2016;

paragraph (b) of subsection (3) was substituted by the Beneficial Ownership of Legal Persons (Guernsey) Law, 2017, section 20(2), with effect from 15th August, 2017.

The following Regulations have been made under section 8:

Limited Liability Partnerships (Registrar) (Fees and Penalties) Regulations, 2014.

Change in registered particulars.

9. (1) An LLP must ensure that where there is a change in any particular referred to in section 8(3), notice of the change shall be delivered to the Registrar within 21 days beginning on the date of the change.

(2) A notice delivered under subsection (1) –

- (a) shall be in a form approved by the Registrar,
- (b) shall be accompanied by such fee as the [Committee] may prescribe, and
- (c) shall be signed by a member of the LLP or authenticated in a manner approved by the Registrar.

(3) If an LLP fails to comply with subsection (1), the LLP is liable to a civil penalty.

(4) For the avoidance of doubt, a failure by an LLP to comply with subsection (1) does not affect the person becoming or ceasing to be a member.

NOTES

In section 9, the word in square brackets in subsection (2) was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 2, with effect from 1st May, 2016.

The following Regulations have been made under section 9:

Limited Liability Partnerships (Fees) Regulations, 2014.

Names of LLPs.

10. Schedule 3 (which makes provision in relation to the names of LLPs)

has effect.

Application to change name.

11. (1) An application may be made to the Registrar to change the name of an LLP in accordance with the provisions of this section.

(2) The application shall be in the form required by the Registrar and shall be accompanied by such fee as the [Committee] may prescribe.

(3) If the Registrar grants the application for change of name he shall –

- (a) issue a certificate of change of name, and the certificate shall state the date upon which the certificate has effect,
- (b) register the new name of the LLP in the Register, and
- (c) publish the new name in such manner as he thinks fit for three months.

(4) If, during the period of three months referred to in subsection (3)(c), a person objects to the LLP's new name to the Registrar, the Registrar may, at his absolute discretion, require the LLP to revert to its previous name, or propose an alternative name to it; and if the LLP is required to revert to its previous name, or accepts the proposed alternative name, then the Registrar shall take the steps set out in subsection (3) in respect of that previous or alternative name.

(5) For the avoidance of doubt, where an LLP changes its name by virtue of this section, on and from the date of registration of the change of name –

- (a) all property and rights to which it was entitled

immediately before the change remain its property and rights,

- (b) it remains subject to all criminal and civil liabilities, including for the avoidance of doubt any civil penalty imposed under this Law, and all contracts and debts to which it was subject immediately before the change,
- (c) all actions and other legal proceedings which, immediately before the change, were extant or pending by or against it may be continued by or against it in the new name, and
- (d) a conviction, ruling, order or judgment in favour of or against it before the change may be enforced by or against it after the change.

NOTES

In section 11, the word in square brackets in subsection (2) was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 2, with effect from 1st May, 2016.

The following Regulations have been made under section 11:

Limited Liability Partnerships (Fees) Regulations, 2014.

Reservation of names.

12. (1) The following persons may apply to the Registrar to reserve a name for an LLP –

- (a) a corporate services provider intending to effect incorporation of the LLP in accordance with section 8,

and

- (b) a member of an LLP intending to apply to the Registrar for a change of name in accordance with section 11.

(2) An application under this section must be in the form prescribed by the Registrar.

(3) Where a name has been reserved under this section and for the period for which it is reserved, that name –

- (a) cannot be used in an application for registration of an LLP, a limited partnership, a company or a foundation except by or with the consent of the person who reserved that name, and

- (b) cannot be reserved by any other person,

except in circumstances where the person who reserved the name has died or, if a company, has been dissolved.

(4) A reservation under this section lapses after a period of three months beginning on the date the reservation was made.

(5) The Registrar may –

- (a) refuse an application to reserve a name, or
- (b) revoke a reservation already made,

if the name breaches any of the provisions of Schedule 3.

(6) The Registrar may refuse to register a name, notwithstanding that it has already been reserved, if it breaches any of the provisions of Schedule 3.

Members of an LLP

Members.

- 13.** (1) An LLP shall have at least two members.
- (2) The following persons shall not be members of an LLP –
- (a) a minor,
 - (b) a person who is subject to a disqualification order under Part V of this Law, or under Part XXV of the Companies (Guernsey) Law, 2008^d ("**the Companies Law**"), or under any equivalent provisions in a district, territory or place outside Guernsey,
 - (c) a person subject to a disqualification order under section 67A of the Companies (Guernsey) Law, 1994^e,
 - (d) a person subject to a disqualification order under paragraph 15 of Schedule 1 to the Foundations

^d Order in Council No. VIII of 2008; amended by No. XXV of 2008; No. XIII of 2010; Ordinance No. LIV of 2008; Ordinance No. VII of 2009; Ordinance No. XIV of 2009; G.S.I. No. 34 of 2009.

^e Ordres en Conseil Vol. XXXV, p. 672; amended by Vol. XXXVI, p.707; Vol. XLII, p. 5; Order in Council No. IX of 2006; Recueil d'Ordonnances Tome XXVII, p.190; Tome XXIX, p. 406; and Tome XXXI, p. 295, 305 and 436.

(Guernsey) Law, 2012^f, or

- (e) a person who is disqualified, by reason of misconduct or unfitness, from acting as a director of a company or as a councillor of a foundation under the law of a district, territory or place outside Guernsey,

subject, in the case of persons falling within paragraphs (b) to (e), to the terms of that order or disqualification.

(3) Admission to the membership of an LLP, or continued membership of an LLP, in contravention of subsection (2) is void.

(4) Nothing in this section affects the liability of a person under any provision of this Law if he purports to act as a member of an LLP although he could not, by virtue of this section, be validly admitted to the membership of an LLP.

(5) On the registration of an LLP its members are the persons who subscribed their names to the incorporation statement (other than any who have since died or been dissolved).

(6) Subject to the provisions of the members' agreement and of this Law, any other person may become a member of an LLP by and in accordance with an agreement with the existing members.

(7) A person may cease to be a member of an LLP (as well as by death or dissolution) in accordance with the members' agreement or, in the absence of provision in the members' agreement as to cessation of membership, by giving at least three months' notice in writing to the other members.

^f Order in Council No. I of 2013.

(8) A member of an LLP shall not be regarded for any purpose as employed by the LLP unless, if he and the other members were partners in a partnership, he would be regarded for that purpose as employed by the partnership.

(9) An LLP must keep a register of members; and Schedule 4, which makes provision in relation to such registers, the use of service addresses by members, and related matters, has effect.

(10) An employee, officer or servant of an LLP shall not be regarded as a member of that LLP unless his name appears on the register of members.

(11) Unless the members' agreement otherwise provides, if a member of an LLP becomes bankrupt –

- (a) his bankruptcy shall not by itself cause him to cease to be a member of the LLP, and
- (b) any Commissioner of the Royal Court, Committee of Creditors, liquidator or administrator appointed shall not interfere in the management of the LLP but shall be entitled to receive distributions from the LLP that the bankrupt member is entitled to receive under the members' agreement.

NOTE

The Companies (Guernsey) Law, 1994 was repealed by the Companies (Guernsey) Law, 2008, section 543, Schedule 5, paragraph 4(1)(a), with effect from 1st July, 2008, subject to the savings and transitional provisions in, first, section 541 of and Schedule 4 (paragraphs 2 and 4 of which entered into force on 12th June, 2008) to the 2008 Law, second, the Companies

(Transitional Provisions) Regulations, 2008, third, the Companies (Transitional Provisions) (No. 2) Regulations, 2008 and, fourth, the Companies (Transitional Provisions) (No. 3) Regulations, 2008.

Relationship of members, etc.

14. (1) Except as far as otherwise provided by this Law, the mutual rights and duties of the members of an LLP, and the mutual rights and duties of an LLP and its members, shall be governed by the members' agreement.

(2) An agreement made before the registration of an LLP between the persons who subscribe their names to the incorporation statement may impose obligations on the LLP (to take effect at any time after its registration).

(3) Unless the members' agreement otherwise provides –

- (a) all the members of an LLP are entitled to share equally in the profits of the LLP as and when those profits arise,
- (b) every member may take part in the conduct and management of the LLP, and
- (c) each member must render true accounts and full information of all things affecting the LLP to any member or his legal representative.

Ex-members.

15. (1) This section applies where a member of an LLP has either ceased to be a member or –

- (a) has died, or

- (b) has assigned the whole or any part of his share in the LLP.

(2) Subject to subsection (3), in such an event the former member or (as the case may be) –

- (a) his personal representative,
- (b) his assignee,

may not interfere in the management or administration of any business or affairs of the LLP, unless such interference is provided for in the members' agreement or all the members otherwise agree to it.

(3) For the avoidance of doubt, unless the members' agreement provides otherwise, or all the members otherwise agree –

- (a) on a member leaving an LLP he has the right to demand the return of any capital he contributed to the LLP, and
- (b) on a member dying, any capital he contributed to the LLP vests in his estate.

Corporate Capacity

Corporate capacity.

16. For the avoidance of doubt, the validity of an act done by an LLP shall not be called into question on the ground of lack of capacity by reason of anything contained in or omitted from the members' agreement.

Formalities of doing business

Members as agents.

17. (1) Every member of an LLP is the agent of the LLP with power to bind the LLP, but an LLP is not bound by anything done by a member in dealing with a person if –

- (a) the member in fact has no authority to act for the LLP by doing that thing, and
- (b) the person knows that he has no authority or does not know or believe him to be a member of the LLP.

(2) Where a person has ceased to be a member of an LLP, the former member is to be regarded (in relation to any person dealing with the LLP) as still being a member of the LLP unless –

- (a) the person has notice that the former member has ceased to be a member of the LLP, or
- (b) notice that the former member has ceased to be a member of the LLP has been delivered to the Registrar.

Contract may be made on behalf of LLP.

18. A contract may be made on behalf of an LLP, by a person acting under its authority, express or implied.

Execution of documents.

19. A document is executed for and in the name of an LLP by signature of a member of the LLP.

LLP may give power of attorney.

20. (1) An LLP may, by power of attorney, empower any person, either generally or in respect of any specified matter, to represent it, act in its name and execute documents on its behalf, and such a power –

- (a) is not valid unless signed by a member of the LLP, and
- (b) is, unless it states otherwise, capable of use in any place in Guernsey or elsewhere.

(2) This section –

- (a) is without prejudice to the provisions of section 34 of the Trusts (Guernsey) Law, 2007^g, and
- (b) for the avoidance of doubt, has effect notwithstanding the provisions of the Powers of Attorney and Affidavits (Bailiwick of Guernsey) Law, 1995^h.

PART II
RECORD KEEPING

Records and accounts.

21. (1) An LLP shall keep the following or a copy thereof at its registered office –

- (a) the register of members,

^g Order in Council No. III of 2008.

^h Ordres en Conseil Vol. XXXVI, p. 116.

- (b) the name and address of its resident agent (if any),
- (c) the members' agreement,
- (d) its accounting records, which shall be –
 - (i) sufficient to show and explain the LLP's transactions, including a record of all contributions and loans to and from members,
 - (ii) sufficient to show and explain that, without prejudice to section 2, the LLP's property is kept separate from the property of its members,
 - (iii) such as to disclose with reasonable accuracy, at any time, the LLP's financial position at that time, and
 - (iv) such as to enable the members to ensure that the LLP's balance sheet and profit and loss account are prepared properly and in accordance with any relevant enactment for the time being in force,and which, without prejudice to the foregoing, shall include all underlying documentation, such as invoices, receipts and contracts,
- (e) the minutes of all meetings of the members, and
- (f) all documents from time to time filed with the Registrar

(including, without prejudice to the generality of the foregoing, the incorporation statement).

(2) All documents or copy documents required by subsection (1) to be kept at the LLP's registered office shall, subject to the provisions of the members' agreement, and, in respect of the register of members, the provisions of Schedule 4, be available for inspection by any member during ordinary business hours.

(3) Any accounting records which an LLP is required by this section to keep shall be preserved by it for a period of at least six years from the date on which they are made.

(4) Any account, record or other document required by this Law to be kept by an LLP may be kept either by making entries in books or by recording the matters in question in any other manner including, without prejudice to the generality of the foregoing, a non-legible form.

(5) If any such account, record or other document is kept not by making entries in a book but in some other manner –

- (a) it is deemed for the purposes of this Law to be kept at a place if access to it and written copies of it can be obtained at that place,
- (b) adequate measures shall be taken for guarding against its falsification and for facilitating its discovery and production, and
- (c) if the matters in question are recorded in a non-legible form, the recording shall be capable of being reproduced in a legible form.

(6) If in respect of an LLP there is a contravention of any provision of this section, the LLP shall be guilty of an offence.

(7) Any duty imposed by law to allow inspection, or to furnish a copy, of any account, record or other document required by this Law to be kept by an LLP shall be treated, where the matters in question are recorded in a non-legible form, as a duty to allow inspection, or to furnish a copy, of the relevant part of the recording in a legible form.

Duty to submit annual validation.

22. In each calendar year before the 30th June, every LLP registered before 1st May shall –

- (a) complete an annual validation in accordance with section 24 (Content of annual validation), containing information current on the 31st May,
- (b) deliver to the Registrar –
 - (i) the annual validation, and
 - (ii) a declaration of compliance (annual validation), as defined in section 23, and
- (c) file a copy of the annual validation in a register kept by the LLP for that purpose.

Declaration of compliance (annual validation).

23. (1) A declaration of compliance (annual validation) is a declaration, signed by at least one member, that the requirements of this Law in

respect of the annual validation have been fulfilled.

(2) The Registrar, when performing his functions under this Law, may rely upon the declaration in all respects and accordingly is not bound to enquire further as to whether, in relation to the annual validation, the provisions of this Law have been complied with.

(3) A person who without reasonable excuse makes a declaration which is misleading in a material particular, false, or deceptive is guilty of an offence.

[Content and timing of annual validation.]

24. (1) The annual validation shall be in such form as is prescribed by the Registrar, and shall state the particulars set out at section 8(3) and such other particulars as the Registrar may direct.

[(1A) The Registrar may prescribe different dates from those specified in section 22 for the completion of the annual validation and for the currency of the information contained therein.]

(2) The Registrar must consult with and obtain the approval of the [Committee] before making regulations under subsection (1) [and subsection (1A)].

NOTES

In section 24,

the section heading was substituted, subsection (1A) was inserted and the words, parentheses, figure and letter in the second pair of square brackets in subsection (2) were inserted by the Beneficial Ownership of Legal Persons (Guernsey) Law, 2017, section 20(3), with effect from 15th August, 2017;

the word in the first pair of square brackets in subsection (2) was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 2, with effect from 1st

May, 2016.

The following Regulations have been made under section 24:

LLPs (Annual Validation) Regulations, 2017;
LLPs (Annual Validations) Regulations, 2020.

Failure to submit annual validation.

25. (1) An LLP which fails to comply with section 22 is guilty of an offence, and is in addition liable to a daily default fine and liable to be struck off the Register in accordance with Part VI (Striking Off).

(2) An annual validation and declaration of compliance (annual validation) which has been delivered to the Registrar which does not comply with all the requirements of this Part shall be treated as if it has not been delivered to the Registrar.

PART III

CONVERSION OF FIRM TO LLP

Eligibility for conversion.

26. (1) A firm may apply to convert to an LLP in accordance with this Part only if the members of the LLP to which the firm is to be converted comprise all the partners of the firm and no-one else.

(2) A firm shall publish notice of its application to convert to an LLP in *La Gazette Officielle* or in such other manner and at such time and for such period as may be prescribed by the Registrar; and such a notice must invite any person interested in the application to make representations on the same to the Registrar.

(3) In this Part, "**firm**" has the meaning given in the Partnership (Guernsey) Law, 1995, and "**convert**", in relation to a firm converting to an LLP,

means a transfer of the property, interests, rights, privileges, and debts and the undertaking of the firm to the LLP in accordance with the provisions of this Part, and "**conversion**" shall be construed accordingly.

Registration of conversion.

27. (1) A firm may apply to convert to an LLP by filing with the Registrar –

- (a) a statement signed by all the partners in such a form as the Registrar may prescribe containing the name of the firm, the names of all the partners in the firm, and such other information as the Registrar may prescribe,
- (b) an incorporation statement, and
- (c) such fee as the [Committee] may prescribe.

(2) The Registrar may, in any particular case, require the statements referred to in subsection (1) to be verified in such manner as he thinks fit.

(3) On receiving the statements and the fee referred to in subsection (1), and being satisfied that the incorporation statement complies with the provisions of section 8(3), the Registrar shall, subject to the provisions of this Law, register the LLP and issue a certificate of incorporation in such form as he may determine.

(4) The certificate of incorporation is conclusive evidence that the requirements of this section have been complied with, that the LLP is incorporated, and that it is registered with the name specified in the certificate.

NOTES

In section 27, the word in square brackets in subsection (1) was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 2, with effect from 1st May, 2016.

The following Regulations have been made under section 27:

Limited Liability Partnerships (Fees) Regulations, 2014.

Effect of incorporation.

28. (1) Subject to section 29, on and from the date of the incorporation of the LLP –

- (a) all property vested in the firm, and all interests, rights, privileges, and debts relating to the firm shall be transferred and vest in the LLP without further assurance, act, instrument or deed, and
- (b) the firm shall be dissolved.

(2) All proceedings (including, for the avoidance of doubt, criminal proceedings) by or against the firm which are pending immediately before the date of incorporation of the LLP may be continued, completed and enforced by or against the LLP, and any conviction, ruling, order or judgment in favour of or against the firm may be enforced by or against the LLP.

(3) All agreements, contracts, bonds, schemes, instruments, arrangements, security, guarantees, indemnities, approvals and licences subsisting immediately before the date of incorporation of the LLP to which the firm is a party, or otherwise relating to the firm, whether or not of such nature that the rights and liabilities thereunder could be assigned, shall continue in force on and after that date as if they relate to the LLP and shall be enforceable by or against the LLP as if the LLP were a party thereto or otherwise named therein (as appropriate) instead of the

firm.

(4) For the avoidance of doubt, every contract of employment to which subsection (3) applies shall continue in force on and after the date of incorporation of the LLP as if the LLP were the employer thereunder instead of the firm.

(5) A conversion under this Part shall not be regarded as giving rise to any remedy, by a party to a contract or other instrument, as an event of default under any contract or other instrument or as causing or permitting the termination of any contract or other instrument or of any obligation or relationship.

(6) Every appointment of the firm or the partners of the firm in any role or capacity (including, for the avoidance of doubt, a prospective, conditional or contingent appointment) which is in force immediately before the date of incorporation shall have effect from that date as if the LLP were so appointed, and any authority or power conferred on the firm or the partners (including, for the avoidance of doubt, a prospective, conditional or contingent authority or power) which is in force immediately before the date of the incorporation of the LLP shall have effect from that date as if it were conferred on the LLP.

(7) Subsection (6) is of no effect in respect of an appointment of a named individual.

Partner liable for liabilities of firm before conversion.

29. (1) Every partner of a firm that has converted to an LLP shall continue to be personally liable, jointly and severally with the LLP, for the debts of the firm which were incurred before conversion or which arise from any contract entered into before conversion.

(2) If such a partner discharges any such debt, he shall be entitled,

subject to any provision in the members' agreement to the contrary, to be fully indemnified by the LLP in respect of that debt.

Notice of conversion.

30. (1) An LLP that has converted from a firm shall ensure that for a period of 12 months from the date of incorporation of the LLP, all correspondence of the LLP and every invoice issued by it bears –

(a) a statement that, on the date of registration of the LLP, it converted from a firm to an LLP, and

(b) the name of the firm from which it was converted.

(2) An LLP that fails to comply with subsection (1) is liable to a civil penalty.

NOTE

The following Regulations have been made under section 30:

Limited Liability Partnerships (Registrar) (Fees and Penalties) Regulations, 2014.

**PART IV
MIGRATIONS**

Registration of an overseas LLP as a Guernsey LLP

Overseas LLP may be registered as a Guernsey LLP.

31. (1) An overseas LLP may apply to the Registrar to be registered as a Guernsey LLP in accordance with the provisions of this Part.

(2) In this Part "**registered as a Guernsey LLP**" means –

- (a) ceasing to be registered as an LLP in the district, territory or place in which it was incorporated or where it is now registered, and
- (b) becoming registered as an LLP in the Register,

and "**registration as a Guernsey LLP**" shall be construed accordingly; and "**an overseas LLP**" means an LLP incorporated or registered outside Guernsey.

Registration must be authorised by foreign law.

32. An overseas LLP cannot be registered as a Guernsey LLP unless –

- (a) the LLP is able under the law of the district, territory or place in which it is incorporated to be registered as a Guernsey LLP, and
- (b) the LLP has complied with the requirements of that law in relation to its registration as a Guernsey LLP.

LLP cannot be in liquidation, etc.

33. An overseas LLP cannot be registered as a Guernsey LLP if –

- (a) the LLP is being wound up, is in liquidation or has been declared insolvent,
- (b) a receiver or administrator has been appointed, whether by a court or not, in relation to any property of the LLP,
- (c) the LLP has entered into a compromise or arrangement

with a creditor, and the compromise or arrangement is in force, or

- (d) an application has been made to a court, whether in Guernsey or elsewhere –
 - (i) to put the LLP into liquidation, to wind it up or to have it declared insolvent,
 - (ii) for the approval of a compromise or arrangement between the LLP and a creditor (other than a compromise or arrangement approved by the Commission), or
 - (iii) for the appointment of a receiver or administrator in relation to any property of the LLP,

and (in each case) the application has not been finally disposed of.

LLP must satisfy solvency test.

34. (1) An overseas LLP cannot be registered as a Guernsey LLP unless it would, immediately after registration, satisfy the solvency test.

(2) For the purposes of this Law an LLP satisfies the solvency test if –

- (a) it is able to pay its debts as they become due,
- (b) the value of its property is greater than the value of its liabilities, and

- (c) in the case of a supervised LLP, the LLP satisfies any other requirements as to solvency imposed in relation to it by or under –
 - (i) the Protection of Investors (Bailiwick of Guernsey) Law, 1987ⁱ,
 - (ii) the Insurance Business (Bailiwick of Guernsey) Law, 2002^j,
 - (iii) the Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002^k,
 - (iv) the Banking Supervision (Bailiwick of Guernsey) Law, 1994^l,

ⁱ Ordres en Conseil Vol. XXX, p. 281; amended by Vol. XXX, p. 243; Vol. XXXI, p. 278; Vol. XXXII, p. 324; Vol. XXXV, p. 271; Vol. XXXVI, p. 264; Vol. XXXVII, p. 24; Vol. XLII, p. 644; Vol. XLIII, p. 440 and 1086; Order in Council No. XVIII of 2008; No. XIII of 2010; and No. XX of 2010. Also amended by Recueil d'Ordonnances Tome XXIV, p. 324; Tome XXVI, p. 333; Tome XXVIII, pp. 51 and 87; Tome XXIX, p. 210; Ordinance XXXI of 2008; and G.S.I. No. 83 of 2010.

^j Ordres en Conseil Vol. XLII, p. 766; amended by Recueil d'Ordonnances Tome XXIX, p. 406; Ordinance No. XII of 2008; Ordinance No. LI of 2008; Ordinance No. VIII of 2010; Ordinance No. XXXI of 2010; Order in Council No. XIII of 2010; Ordinance XXXVI of 2011; G.S.I. No. 33 of 2004; G.S.I. No. 4 of 2008; G.S.I. No. 15 of 2010; and G.S.I. No. 83 of 2010.

^k Ordres en Conseil Vol. XLII, p. 1022; amended by Recueil d'Ordonnances Tome XXIX, p. 406; Ordinance No. XIII of 2008; Ordinance No. IX of 2010; Ordinance No. XXXII of 2010; Order in Council No. XIII of 2010; G.S.I. No. 2 of 2008; and G.S.I. Nos. 16 and 83 of 2010.

^l Ordres en Conseil Vol. XXXV, p. 271; amended by Vol. XLII, pp. 644 and

(v) the Regulation of Fiduciaries, Administration Businesses and Company Directors etc (Bailiwick of Guernsey) Law, 2000^m, and

(vi) any other enactment prescribed by the Commission for the purposes of this section,

and "**solvent**", "**insolvent**" and cognate expressions shall be construed accordingly.

(3) Without prejudice to subsection (2), in determining whether the value of an LLP's property is greater than the value of its liabilities, the members –

(a) must have regard to –

(i) the most recent accounts of the LLP, and

(ii) all other circumstances that they know or ought to know affect, or may affect, the value of the LLP's property and the value of the LLP's liabilities, and

(b) may rely on valuations of the LLP's property or estimates of liabilities that are reasonable in the circumstances.

766; Vol. XLIII, p. 462; Order in Council No. XVI of 2008; No. IV of 2009; No. XIII of 2010; No. XXI of 2010; Recueil d'Ordonnances Tome XXIX, p. 406; G.S.I. No. 1 of 2008; G.S.I. Nos. 35 and 83 of 2010.

^m Ordres en Conseil Vol. XLI, p. 13; amended by Vol. XLIII, p. 430; Order in Council No. XVI of 2007; No. VIII of 2008; No. XXV of 2008; No. XIII of 2010; No. XVIII of 2010; Recueil d'Ordonnances Tome XXIX, p. 406; G.S.I. No. 3 of 2008; and G.S.I. No. 83 of 2010.

NOTE

The Protection of Investors (Bailiwick of Guernsey) Law, 1987, the Banking Supervision (Bailiwick of Guernsey) Law, 1994 and the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc (Bailiwick of Guernsey) Law, 2000 have all since been repealed by, respectively, the Protection of Investors (Bailiwick of Guernsey) Law, 2020, section 80(a), with effect from 1st November, 2021, subject to the savings and transitional provisions in section 81 of the 2020 Law; the Banking Supervision (Bailiwick of Guernsey) Law, 2020, section 67(a), with effect from 1st November, 2021, subject to the savings and transitional provisions in section 68 of the 2020 Law; and the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc (Bailiwick of Guernsey) Law, 2020, section 62(a), with effect from 1st November, 2021, subject to the savings and transitional provisions in section 60 of the 2020 Law.

Supervised LLPs cannot be registered without consent of Commission.

35. (1) An overseas LLP which –
- (a) intends to become a supervised LLP in Guernsey, or
 - (b) is the equivalent of a supervised LLP in the district, territory or place outside Guernsey from which it is migrating,

cannot be registered as an LLP unless it has the written consent of the Commission, and its registration must be in accordance with the terms and conditions of that consent.

- (2) The Commission may, from time to time and in such manner as it thinks fit –
- (a) vary or revoke any term or condition subject to which a consent under subsection (1) was granted, and

- (b) impose any new term or condition in relation to any such consent.

Application for consent of Commission.

36. (1) An application for the consent of the Commission for an overseas LLP to be registered in Guernsey shall be made in accordance with this section.

(2) The application shall be in such form as the Commission may require and shall include or be accompanied by –

- (a) the migration details, as defined in section 40 (Migration details),
- (b) such other information and documents, verified in such manner as the Commission may require, and
- (c) such fee as may be prescribed by [the States of Guernsey [Committee for Economic Development]].

(3) Sections 50 (Determination of applications to Commission) and 51 (Appeals from determinations of Commission) apply to applications under this section and under section 45 (Application for consent of Commission).

NOTES

In section 36,

the words in square brackets in paragraph (c) of subsection (2) were substituted by the Guernsey Financial Services Commission (Transfer of Functions) (Fees) (Bailiwick of Guernsey) Ordinance, 2015, section 2(b), with effect from 1st May, 2015;

the words in square brackets within the square brackets in paragraph (c) of subsection (2) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 1(a), with effect from 1st May, 2016.

The functions, rights and liabilities of the Commerce and Employment Department and of its Minister or Deputy Minister under paragraph (c) of subsection (2) of this section relating to the enactment of regulations or orders which prescribe or specify fees or charges payable to the Guernsey Financial Services Commission and ancillary matters were transferred to and vested in, respectively, the Committee for Economic Development and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 1(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.¹

Application for registration as a Guernsey LLP.

37. (1) An application by an overseas LLP for registration as a Guernsey LLP shall be made to the Registrar.

(2) The application shall be in a form prescribed by the Registrar and shall include or be accompanied by –

- (a) the migration details,
- (b) such other information and documents, verified in such manner, as the Registrar may require,
- (c) such fee as the [Committee] may prescribe, and
- (d) a declaration of compliance (migration), as defined in section 52 (Declaration of compliance (migration)).

(3) The application may propose the date on which registration as a Guernsey LLP shall take effect, being a date no later than three months after the

date of the application.

(4) An application for registration as a Guernsey LLP may only be made by a corporate services provider.

NOTES

In section 37, the word in square brackets in subsection (2) was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 2, with effect from 1st May, 2016.

The following Regulations have been made under section 37:

Limited Liability Partnerships (Fees) Regulations, 2014.

Effect of registration.

38. (1) Upon receipt of the application for registration as a Guernsey LLP –

- (a) the Registrar shall register the migration details,
- (b) the Registrar shall issue a certificate of registration in respect of the LLP which shall be conclusive evidence that the LLP is duly registered, and
- (c) subject to the provisions of this Part, the LLP shall be treated in all respects as an LLP incorporated under this Law.

(2) If the application proposes a date on which registration as a Guernsey LLP is to have effect and that date is later than the date on which the Registrar issues the certificate of registration, then the date stated on the certificate as the date of registration shall be the date of registration.

Cancellation of registration.

39. (1) Where an overseas LLP is registered as a Guernsey LLP under this Part, the LLP shall, as soon as possible, file with the Registrar –

- (a) a certificate or other document issued under the law of the district, territory or place in which the LLP has ceased to be incorporated and registered evidencing the fact that the LLP has ceased to be incorporated and registered under the law thereof; or, in the absence of such a certificate or document,
- (b) such other evidence of that fact as the Registrar is prepared to accept for the purposes of this section.

(2) If the Court is satisfied that –

- (a) an overseas LLP has been registered as a Guernsey LLP pursuant to the provisions of this Part, and
- (b) the LLP continues to be incorporated or registered under the law of any district, territory or place outside Guernsey,

the Court may on the application of –

- (i) the LLP or any of its members or creditors,
- (ii) the Registrar, or
- (iii) in the case of a supervised LLP, the

Commission,

make such order as it thinks fit for the removal of the LLP's name from the Register.

(3) An order under subsection (2) may be made subject to such terms and conditions and subject to such penalty as the Court thinks fit.

(4) On the making of an order under subsection (2) the LLP's registration in Guernsey shall (unless the Court orders otherwise) be void from the outset.

Migration details.

40. (1) In this Law "**migration details**" means –

- (a) a copy of the LLP's certificate of incorporation or registration in the district, territory or place in which it is incorporated or registered,
- (b) a statement of the LLP's current members,
- (c) a statement of the LLP's members as proposed immediately after registration as a Guernsey LLP,
- (d) a statement of the address of the LLP's registered office –
 - (i) in the district, territory or place in which it is incorporated or registered, and
 - (ii) as proposed, in Guernsey, and

- (e) evidence satisfactory to the Registrar that, on the date of registration, the LLP will cease to be incorporated and registered under the law of any district, territory or place outside Guernsey.

(2) The statement of the LLP's current members, and the statement of the LLP's members as proposed immediately after registration as a Guernsey LLP, shall comprise their names and any other particulars that the Registrar may prescribe.

(3) For the avoidance of doubt, the members' agreement which is to be binding on the LLP immediately after its registration in Guernsey may be different from its current members' agreement if the amendments have been consented to by election of the members of the LLP in accordance with the law of the place outside Guernsey.

Transfer of registration of Guernsey LLP to overseas

LLPs may transfer registration.

41. (1) A corporate services provider acting on behalf of an LLP may apply to the Registrar for that LLP to be removed from the Register in accordance with the provisions of this Part.

(2) In this Part "**removed from the Register**" means removed from the Register for the purposes of becoming registered as an LLP under the law of a district, territory or place outside Guernsey.

LLPs cannot transfer registration if in liquidation, etc.

42. (1) An LLP cannot be removed from the Register if –

- (a) the LLP's affairs have been declared to be in a state of désastre at a meeting of arresting creditors held before a

Commissioner of the Royal Court,

- (b) an interim vesting order has been made against the LLP in respect of any of its real property in the Bailiwick,
- (c) possession or control has been taken of any of the LLP's property or affairs by or on behalf of creditors, or
- (d) an application has been made to the Court under section 86(1) for the LLP's winding up.

(2) An LLP cannot be removed from the Register unless Her Majesty's Procureur and the [Director of the Revenue Service] have confirmed that they have no objection to its removal.

NOTE

In section 42, the words in square brackets were substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance.

LLPs cannot transfer registration unless they satisfy solvency test and give notice to creditors.

43. (1) An LLP cannot be removed from the Register unless it would immediately before removal satisfy the solvency test.

(2) An LLP cannot be removed from the Register unless, before an application is made to the Registrar under this Part for removal, it gives written notice to all its creditors stating that it intends to so apply.

Supervised LLPs cannot transfer registration without consent of Commission.

44. (1) A supervised LLP cannot be removed from the Register unless it has the written consent of the Commission, and its removal must be in accordance with the terms and conditions of that consent.

(2) The Commission may, from time to time and in such manner as it thinks fit –

- (a) vary or revoke any term or condition subject to which a consent under subsection (1) was granted, and
- (b) impose any new term or condition in relation to any such consent.

Application for consent of Commission.

45. (1) An application for the consent of the Commission for a supervised LLP to be removed from the Register shall be in accordance with this section.

(2) The application shall be in such form as the Commission may require and shall include or be accompanied by –

- (a) evidence acceptable to the Commission that the removal of the LLP from the Register is not prohibited by section 42 or 43,
- (b) evidence acceptable to the Commission that the LLP is able to become registered under the law of the district, territory or place in question,
- (c) such other information and documents, verified in such manner, as the Commission may require (whether in

relation to any particular application or otherwise), and

- (d) such fee as may be prescribed by [the States of Guernsey [Committee for Economic Development]].

NOTES

In section 45,

the words in square brackets in paragraph (d) of subsection (2) were substituted by the Guernsey Financial Services Commission (Transfer of Functions) (Fees) (Bailiwick of Guernsey) Ordinance, 2015, section 2(b), with effect from 1st May, 2015;

the words in square brackets within the square brackets in paragraph (d) of subsection (2) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 1(a), with effect from 1st May, 2016.

The functions, rights and liabilities of the Commerce and Employment Department and of its Minister or Deputy Minister under paragraph (d) of subsection (2) of this section relating to the enactment of regulations or orders which prescribe or specify fees or charges payable to the Guernsey Financial Services Commission and ancillary matters were transferred to and vested in, respectively, the Committee for Economic Development and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 1(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.²

The following Regulations have been made under section 45:

Financial Services Commission (Limited Liability Partnerships) (Fees) Regulations, 2021.

Application for transfer of registration.

46. (1) An application for removal from the Register shall be made to the Registrar.

(2) The application shall be in a form prescribed by the Registrar and shall include or be accompanied by –

- (a) in the case of a supervised LLP, the consent required under section 44,
- (b) confirmation from Her Majesty's Procureur and the [Director of the Revenue Service] that they have no objection to the removal of the LLP from the Register,
- (c) evidence acceptable to the Registrar that the removal of the LLP from the Register is not prohibited by section 42 or 43,
- (d) evidence acceptable to the Registrar that on the date of the removal of the LLP's name from the Register the LLP will be registered or incorporated under the law of the district, territory or place in question,
- (e) such other information and documents, verified in such manner, as the Registrar may require,
- (f) such fee as the [Committee] may prescribe, and
- (g) a declaration of compliance (migration).

(3) Upon receipt of the documents specified in subsection (2), the Registrar shall give notice of the proposed transfer in such manner and for such period as he thinks fit.

(4) An application for removal from the Register may only be made by a corporate services provider.

NOTES

In section 46,

the words in square brackets in paragraph (b) of subsection (2) were substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;

the word in square brackets in paragraph (f) of subsection (2) was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 2, with effect from 1st May, 2016.

The following Regulations have been made under section 46:

Limited Liability Partnerships (Fees) Regulations, 2014.

Effect of transfer.

47. Not less than 28 days after the day on which the Registrar gave notice under section 46(3) –

- (a) the Registrar shall remove the LLP's name from the Register,
- (b) the LLP shall cease to be an LLP within the meaning of this Law,
- (c) the Registrar shall file in the Register a notice stating that the LLP's name has, pursuant to the provisions of this section, been removed from the Register for the purpose of the LLP becoming incorporated or registered under the law of the district, territory or place specified in the notice, and
- (d) the Registrar shall publish the fact that the LLP has

been removed from the Register in such manner and for such period as he thinks fit.

Cancellation of transfer.

48. (1) Where an LLP is removed from the Register under this Part, the LLP shall, as soon as possible, file with the Registrar any certificate or other document issued under the law of the district, territory or place in which the LLP has become incorporated or registered evidencing the fact that the LLP has become incorporated under the law thereof.

(2) If the Court is satisfied that –

- (a) an LLP's name has been removed from the Register pursuant to the provisions of this Part, and
- (b) the LLP has not become incorporated under the law of any district, territory or place outside Guernsey,

the Court may, on the application of –

- (i) the LLP or any of its members or creditors,
- (ii) the Commission, or
- (iii) the Registrar,

make such order as it thinks fit for the restoration of the LLP's name to the Register.

(3) An order under subsection (2) may be made subject to such terms and conditions and subject to such penalty as the Court thinks fit.

(4) On the making of an order under subsection (2) the removal of the LLP's name from the Register shall (unless the Court otherwise orders) be void from the outset.

Power of Court to make orders as to transfer of registration.

49. (1) Subject to subsection (3), if the Court is satisfied that the removal of an LLP from the Register under this Part would unfairly prejudice a member or creditor of the LLP or any other person to whom the LLP is under any obligation or liability, the Court may, on the application of that person made at any time before the date on which the removal of the LLP takes place, or within three months after that date, make such order as it thinks fit in relation to the removal, including, without prejudice to the generality of the foregoing, an order –

- (a) directing that the removal of the LLP shall not take place, or shall only take place subject to such terms and conditions as the Court thinks fit,
- (b) modifying the proposal for the removal of the LLP in such manner as may be specified in the order,
- (c) directing the LLP or its members to reconsider the proposal for the removal of the LLP or any part of the proposal.

(2) An order under subsection (1) may be made on such terms and conditions and subject to such penalty as the Court thinks fit.

(3) A member of an LLP the members' agreement of which includes a provision of the type mentioned in section 110(1) may not make an application under this section.

Determination of applications to Commission, and appeals

Determination of applications to Commission.

50. (1) In deciding whether to grant any application made under section 36 or section 45 and, if so, subject to what, if any, terms or conditions, the Commission shall have regard to the protection of the public interest, including the need to –

- (a) protect the public, in Guernsey and elsewhere, against the effects of dishonesty, incompetence or malpractice,
- (b) counter financial crime and the financing of terrorism in Guernsey and elsewhere, and
- (c) protect and enhance the reputation of the Bailiwick as a financial centre,

and the Commission shall consider those matters, both in determining the extent to which any person would in its opinion be a fit and proper person to be concerned in the business of the LLP, and also more generally.

(2) If the Commission –

- (a) refuses an application for consent,
- (b) grants an application for consent but imposes terms or conditions upon that consent, or
- (c) imposes new terms or conditions or varies or revokes terms or conditions in relation to such consent,

it shall give the applicant a written notice of its decision and the reasons for it and of that person's right under section 51 to appeal.

(3) Nothing in subsection (2) requires the Commission to disclose information the disclosure of which would be prejudicial to –

- (a) a criminal or regulatory investigation, whether in Guernsey or elsewhere,
- (b) co-operation or relations with any investigatory, regulatory or prosecuting authority, or
- (c) a third party,

but, if the Commission decides pursuant to this subsection to withhold information which it considers relevant to the decision taken, the Commission must so inform the applicant by written notice and, in the event of an appeal under section 51, subsection (2) of that section shall apply.

Appeals from determinations of Commission.

51. (1) An applicant may appeal to the Court against –

- (a) the refusal of an application for consent,
- (b) the granting of an application for consent being subject to terms or conditions,
- (c) the imposition of new terms and conditions or the variation or revocation of terms and conditions in relation to such consent, or

- (d) the withholding of information pursuant to section 50(3),

by a summons served on the Chairman of the Commission; and the summons must state the grounds and material facts on which the appellant relies and must be served within 28 days after the date of the written notice referred to in section 50(3).

(2) On an appeal under subsection (1)(d), the Court may examine any information the disclosure of which the Commission considers would be prejudicial as set out in section 50(3); but that information shall not be disclosed to the appellant or any person representing him unless the Court determines that the prejudice occasioned to the appellant by its non-disclosure would be disproportionate to any legitimate objective of preventing prejudice as set out in that section.

(3) The grounds of an appeal under this section are that –

- (a) the decision was *ultra vires* or there was some other error of law,
- (b) the decision was unreasonable,
- (c) the decision was made in bad faith,
- (d) there was a lack of proportionality, or
- (e) there was a material error as to the facts or as to the procedure.

(4) The Commission may, where an appeal under this section has been instituted, apply to the Court, by summons served on the appellant, for an order that the appeal shall be dismissed for want of prosecution; and on hearing the

application the Court may –

- (a) dismiss the appeal or dismiss the application (in either case on such terms and conditions as the Court may direct), or
- (b) make such other order as the Court considers just.

The provisions of this subsection are without prejudice to the inherent powers of the Court or to the provisions of rule 52 of the Royal Court Civil Rules, 2007ⁿ.

- (5) On an appeal under this section the Court may –
 - (a) set the decision of the Commission aside and, if the Court considers it appropriate to do so, remit the matter to the Commission with such directions as the Court thinks fit, or
 - (b) confirm the decision, in whole or in part.

(6) On an appeal under this section against a decision of the Commission the Court may, on the application of the appellant, and on such terms as the Court thinks just, suspend or modify the operation of the decision pending the determination of the appeal.

(7) An appeal from a decision of the Court under this section lies to the Court of Appeal on a question of law.

- (8) In this section "**the Court**" means the Court sitting as an

ⁿ Order of the Court No. IV of 2007.

Ordinary Court, constituted by the Bailiff sitting unaccompanied by the Jurats; and for the purposes of an appeal under this section the Court may appoint one or more assessors to assist it in the determination of any matter before it.

General

Declaration of compliance (migration).

52. (1) A declaration of compliance (migration) is a declaration, signed by a corporate services provider, that all the requirements of this Law in respect of registration as a Guernsey LLP, or the removal of an LLP from the Register (as the case may be), have been fulfilled.

(2) The Registrar, when performing his functions under this Part, may rely upon a declaration of compliance (migration) in all respects and accordingly is not bound to enquire further as to whether, in relation to an application for registration as a Guernsey LLP, or an application for the removal of an LLP from the Register (as the case may be), the provisions of this Part have been complied with.

(3) A person who without reasonable excuse makes a declaration of compliance under this Part which is misleading in a material particular, false or deceptive is guilty of an offence.

Documents in a language other than English.

53. (1) Where a document provided to the Registrar or Commission under this Part is not in the English language, a translation of it into the English language must also be provided.

(2) The Registrar or the Commission (as the case may be) may require the translation referred to in subsection (1) to be accompanied by a statement signed by the translator that the translator is competent both in the language of the document and in English, and confirming that the translation is an accurate translation

of the document.

Registration or transfer not to prejudice continuity of LLP's existence.

54. (1) Registration as a Guernsey LLP or removal from the Register does not create a new legal person, or prejudice or affect the identity or continuity of the legal person constituted by the LLP.

(2) Upon registration as a Guernsey LLP or removal from the Register –

- (a) all property and rights to which the LLP was entitled immediately before that registration or removal remain its property and rights,
- (b) the LLP remains subject to all criminal and civil liabilities, and all contracts and debts to which it was subject immediately before that registration or removal,
- (c) all actions and other legal proceedings which immediately before that registration or removal could have been instituted or continued by or against the LLP may be instituted or continued by or against it after that registration or removal, and
- (d) a conviction, ruling, order or judgment in favour of or against the LLP before that registration or removal may be enforced by or against it after that registration or removal.

Terminology used in other jurisdictions.

55. References in this Part to LLPs, certificates of incorporation or

registration, liquidations, members or any other matter concerning an LLP include references to their equivalents, in the view of the Registrar and, in the case of a supervised LLP, the Commission, in the law of the territory, district or place outside Guernsey from which or to which an LLP is migrating.

PART V
DISQUALIFICATION ORDERS

Disqualification orders.

56. (1) A disqualification order is an order made by the Court prohibiting a person from being a member of any LLP or of a specified LLP.

(2) The Court can make a disqualification order of its own motion or upon an application made by –

- (a) the [Committee],
- (b) the Commission,
- (c) Her Majesty's Procureur,
- (d) the Registrar,
- (e) an LLP of which the person in question is or has been a member,
- (f) a liquidator or creditor of such an LLP as is mentioned in paragraph (e), or
- (g) any other interested party, with the leave of the Court.

(3) The order may be made during proceedings initiated for that purpose or in the course of any other proceedings.

(4) A disqualification order may be granted by consent.

(5) A disqualification order may contain such incidental and ancillary terms and conditions as the Court thinks fit.

(6) The Court shall direct that a copy of the order be served upon the Registrar.

(7) For the purposes of this Part, the Court means the Royal Court constituted by the Bailiff sitting unaccompanied by the Jurats.

NOTE

In section 56, the word in square brackets in subsection (2) was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 2, with effect from 1st May, 2016.

Ground for making a disqualification order.

57. (1) The Court may make a disqualification order where it considers that, by reason of a person's conduct in relation to an LLP or otherwise, that person is unfit to be a member of an LLP.

(2) In determining whether a person is unfit, regard shall be had to

—

(a) his probity, competence, experience and soundness of judgement for fulfilling the responsibilities of a member of an LLP,

- (b) the diligence with which he has fulfilled his responsibilities,
- (c) whether the interests of members or creditors or potential members or creditors of any LLP or any specified LLP are or are likely to be in any way threatened by his being a member of an LLP,
- (d) his educational and professional qualifications, his membership of any professional or other relevant bodies and any evidence of his continuing professional education or development,
- (e) the rules, standards and guidelines of any relevant professional, governing, regulatory or supervisory authority,
- (f) his knowledge and understanding of the legal and professional obligations of members of LLPs, and
- (g) such other matters as the Court thinks fit.

(3) Without prejudice to the generality of the foregoing, the Court may also have regard to –

- (a) the previous conduct and activities in business or financial matters of the person in question,
- (b) any convictions he has for an offence in connection with the promotion, formation, management, liquidation or striking off of an LLP or a company,

- (c) any convictions he has for any offence and in particular any offence involving fraud or dishonesty,
- (d) whether he has been held liable to make contributions to a company's property under section 433, 434 or 435 of the Companies Law, and
- (e) any misfeasance or breach of any fiduciary or other duty by him in relation to an LLP or company.

Duration of disqualification order.

58. (1) A disqualification order shall have effect for such period not exceeding 15 years as shall be specified therein.

(2) Where a disqualification order is made against a person already subject to such an order, the periods specified in those orders shall run concurrently unless the Court orders them to run consecutively.

Revocation of disqualification orders.

59. (1) A person subject to a disqualification order may apply to the Court for a revocation of the order on the ground that he is no longer unfit to be a member of an LLP.

(2) The Court may only grant an application under subsection (1) if it is satisfied that it would not be contrary to the public interest to do so.

(3) An application under this section for the revocation of a disqualification order shall not be heard unless the person upon whose application the disqualification order was made has been served with notice of the application to revoke not less than 28 days (or such other period as the Court may direct) before the

date of the hearing; and, without prejudice to the foregoing, the Court may –

- (a) direct that notice of the application to revoke shall also be served on such other persons as the Court thinks fit, and
- (b) for that purpose adjourn the hearing of the application.

(4) The revocation of a disqualification order may, with the consent of the parties, be granted by consent.

Consequences of contravening a disqualification order.

60. (1) A person who contravenes any provision of a disqualification order –

- (a) is guilty of an offence, and
- (b) is personally liable for any debts of the LLP in relation to which the contravention was committed which were incurred at any time when he was acting in contravention of the disqualification order.

(2) A person's liability pursuant to subsection (1)(b) is joint and several with that of the LLP and of any other person so liable in relation to that LLP.

PART VI
STRIKING OFF

Striking defunct LLP off the Register.

61. (1) This section applies where –

- (a) the Registrar has reasonable cause to believe that an LLP is not carrying on business, or
- (b) the Registrar has reasonable cause to believe, in the case of an LLP which is being wound up –
 - (i) that no liquidator is acting, or
 - (ii) that the affairs of the LLP are fully wound up.

(2) Where this section applies in relation to an LLP, the Registrar may give notice stating –

- (a) the paragraph of subsection (1) by virtue of which this section applies, and
- (b) that, at the expiration of a period of two months beginning with the date of the notice, the LLP will be struck off the Register and the LLP will be dissolved, unless cause is previously shown to the contrary.

(3) A notice given under subsection (2) shall be published in such manner and for such period as the Registrar thinks fit.

(4) A notice given under subsection (2) shall be sent, by recorded delivery service or in such other manner as may be determined by the Registrar –

- (a) when this section applies by virtue of subsection (1)(b)(ii), to the liquidator at his last known place of business,

- (b) in any other case, to the LLP at its registered office,

and the Registrar may, if he thinks fit, send it to any officer, servant or member of the LLP.

(5) At the expiration of the period mentioned in subsection (2)(b) the Registrar shall, unless cause to the contrary has been shown, strike the LLP off the Register and, upon such striking off, the LLP shall be dissolved.

(6) The Registrar shall publish notice of the striking off in such manner and for such period as he thinks fit.

Striking defaulting LLP off the Register.

62. (1) This section applies where –

- (a) an LLP fails to deliver to the Registrar an annual validation in accordance with the requirements of section 22 before the 30th June in any year,
- (b) a resident agent has requested information under the provisions of Schedule 2 and, on receipt of such request, the LLP has failed to comply with that request within the period specified in the request,
- (c) it appears to the Registrar that the LLP has only one member, or
- (d) the Registrar has the opinion set out in section 99 (Striking off for persistent or gross contraventions) in respect of an LLP[, or

- (e) the Registrar has received notice from the Director of the Revenue Service under regulation 11, 12 or 13 of the Income Tax (Substance Requirements) (Implementation) Regulations, 2018 (penalties where substance requirements not met – first, third or fourth accounting period of default)].

(2) Where this section applies in relation to an LLP, the Registrar may give notice (save where subsection (1)(c) applies, he must give notice) stating –

- (a) the paragraph of subsection (1) by virtue of which this section applies, and
- (b) that, at the expiration of a period of two months beginning with the date of the notice, the LLP will be struck off the Register and the LLP will be dissolved, unless cause is previously shown to the contrary.

(3) A notice given under subsection (2) shall be published in such manner and for such period as the Registrar thinks fit.

(4) A notice given under subsection (2) shall be sent, by recorded delivery service or in such other manner as may be determined by the Registrar, to the LLP at its registered office and the Registrar may, if he thinks fit, send it to any officer, servant or member of the LLP.

(5) At the expiration of the period mentioned in subsection (2)(b) the Registrar shall, unless cause to the contrary has been shown, strike the LLP off the Register and, upon such striking off, the LLP shall be dissolved.

(6) The Registrar shall publish notice of the striking off in such

manner and for such period as he thinks fit, and such notice may include the names of the members of the LLP struck off.

(7) Where this section applies in relation to an LLP by virtue of subsection (1)(a), the LLP shall not be considered to have shown cause to the contrary within the meaning of this section unless it –

- (a) delivers its annual validation to the Registrar, and
- (b) pays to him the appropriate penalty for each calendar month or part of a calendar month between the date by which it should have delivered its annual validation and the date when it in fact did so.

(8) Where this section applies in relation to an LLP by virtue of subsection (1)(b), the LLP shall not be considered to have shown cause to the contrary within the meaning of this section unless it shows, to the satisfaction of the Registrar, that the requested information has been provided to the resident agent.

[(8A) Where this section applies in relation to an LLP by virtue of subsection (1)(e), the LLP shall not be considered to have shown cause to the contrary within the meaning of this section unless the Registrar is satisfied, after consultation with the Director of the Revenue Service, that the LLP would, if not struck off, comply with the substance requirements applicable to it by virtue of the Income Tax (Substance Requirements) (Implementation) Regulations, 2018, but this is without prejudice to the application of section 63 (LLPs party to proceedings).]

(9) In subsection (7)(b), **"appropriate penalty"** means such penalty as may be prescribed by the Registrar.

NOTES

In section 62, first, paragraph (e) of subsection (1) and the word immediately after paragraph (d) thereof and, second, subsection (8A) were inserted by the Income Tax (Substance Requirements) (Implementation) Regulations, 2021, regulation 36, respectively paragraph (1) and paragraph (2), with effect from 30th June, 2021.

The Income Tax (Substance Requirements) (Implementation) Regulations, 2018 have since been revoked by the Income Tax (Substance Requirements) (Implementation) Regulations, 2021, regulation 38(a), with effect from 30th June, 2021.

Provisions applying to all strikings off

LLPs party to proceedings.

63. If it is shown to the Registrar that an LLP is party to proceedings, this is cause to the contrary within the meaning of section 61(5) and 62(5), and accordingly he shall not strike the LLP off.

No prejudice to liabilities or powers to wind up.

64. Notwithstanding the striking off of an LLP pursuant to the provisions of this Part –

- (a) the liability, if any, of every officer and member of the LLP continues and may be enforced accordingly, and
- (b) the power of the Court to wind up the LLP is not affected.

Property of struck off LLP.

65. Where an LLP is dissolved under the provisions of this Part all property and rights then vested in it or held on trust for it (but not property held by it on trust for another person) shall, unless Her Majesty's Receiver-General directs otherwise, become bona vacantia belonging to the Crown.

Restoration to the Register

Application for restoration to the Register.

66. (1) The following persons –
- (a) an LLP which has been struck off under this Part or wound up under Part VIII (Winding Up and Dissolution of LLPs),
 - (b) any member or creditor thereof,
 - (c) any liquidator thereof,
 - (d) the Commission in respect of a supervised LLP, or
 - (e) any other person appearing to the Court to have a sufficient interest in making the application,

may, subject to the provisions of this section, apply to the Court for an order restoring the LLP to the Register.

(2) An application under this section must be made before the expiry of 10 years beginning on the date on which the LLP was struck off.

(3) An application cannot be made under this section if the LLP was struck off for the reason set out in section 99.

- (4) Notice of an application under this section shall be served on –
- (a) the Registrar,

- (b) the Commission in respect of a supervised LLP,
 - (c) Her Majesty's Procureur,
 - (d) Her Majesty's Receiver-General, and
 - [(dd) the Director of the Revenue Service in respect of an LLP struck off pursuant to notice from the Director of the Revenue Service under regulation 11, 12 or 13 of the Income Tax (Substance Requirements) (Implementation) Regulations, 2018 (penalties where substance requirements not met – first, third or fourth accounting period of default), and]
 - (e) any liquidator of the LLP (except where he is the applicant).
- (5) The Registrar shall publish notice of the application in such manner and for such period as he thinks fit.

NOTES

In section 66, paragraph (dd) of subsection (4) was inserted by the Income Tax (Substance Requirements) (Implementation) Regulations, 2021, regulation 36(3), with effect from 30th June, 2021.

The Income Tax (Substance Requirements) (Implementation) Regulations, 2018 have since been revoked by the Income Tax (Substance Requirements) (Implementation) Regulations, 2021, regulation 38(a), with effect from 30th June, 2021.

Restoration to the Register.

67. (1) Before making an order for the restoration of an LLP, the Court shall give an opportunity to make representations to –

- (a) the Registrar,
- (b) the Commission in respect of a supervised LLP,
- (c) Her Majesty's Procureur and Her Majesty's Receiver-General, and

[(cc) the Director of the Revenue Service in respect of an LLP struck off pursuant to notice from the Director of the Revenue Service under regulation 11, 12 or 13 of the Income Tax (Substance Requirements) (Implementation) Regulations, 2018 (penalties where substance requirements not met – first, third or fourth accounting period of default), and]

- (d) such other persons, if any, as the Court thinks fit, including (without limitation) –

- (i) any member or creditor of the LLP, and

- (ii) any liquidator of the LLP.

(2) The Court may, if satisfied –

- (a) that the LLP was, at the time of its striking off, carrying on business or in operation, or

[(aa) that the LLP would, in the case of an LLP struck off

pursuant to notice from the Director of the Revenue Service under regulation 11, 12 or 13 of the Income Tax (Substance Requirements) (Implementation) Regulations, 2018 (penalties where substance requirements not met – first, third or fourth accounting period of default), if reinstated, comply with the substance requirements applicable to it by virtue of those regulations, or]

- (b) otherwise that it would be just and equitable for the LLP to be restored to the Register,

order the LLP to be restored to the Register.

(3) In deciding whether or not to restore an LLP to the Register, and without prejudice to any other matter it may have regard to, the Court shall have regard to –

- (a) whether or not the LLP would satisfy the solvency test if it is restored, unless the application for restoration is made by a creditor,
- (b) whether the persons who were members at the time the LLP was struck off consent to being members if the LLP is restored,
- (c) the circumstances in which the LLP was struck off,
- (d) whether there were persistent or gross violations of this Law in respect of the LLP,

- (e) whether the LLP was used for fraudulent purposes,
- (f) whether restoration to the Register would jeopardise the reputation of the Bailiwick as a financial centre, and
- (g) whether it would be otherwise just and equitable to restore the LLP to the Register.

(4) The restoration of an LLP's name pursuant to an order under this section is, unless the Court otherwise directs, and without prejudice to any other term of the order, conditional upon the payment by the applicant to the Registrar of –

- (a) all sums which would have been payable by the LLP if it had not been dissolved and had each year delivered its annual validation in accordance with section 22, and
- (b) such additional amount as may be prescribed by the Registrar.

(5) The restoration of an LLP's name pursuant to an order under this section is, unless the Court otherwise directs, and without prejudice to any other term of the order, conditional upon the payment by the applicant to Her Majesty's Procureur of –

- (a) any costs incurred by Her Majesty's Receiver-General in administering any property belonging to the LLP, and
- (b) any costs incurred by Her Majesty's Procureur in connection with the striking off or the application for restoration.

(6) Upon the restoration of the LLP's name in accordance with an order under this section, the LLP shall be deemed to have continued in existence.

(7) An order under this section may contain such directions and make such provision as the Court thinks fit for placing the LLP and all other persons in the same position as nearly as may be as if the LLP had not been dissolved.

(8) An order under this section may contain such directions and make such provisions as to costs as the Court thinks fit, including directions –

- (a) requiring any person responsible for the LLP being struck off to pay the costs of the application for restoration, and
- (b) requiring any person responsible for the LLP being struck off to reimburse the applicant for any payments made under subsection (4) or (5),

notwithstanding that that person is not a party to the application for restoration.

(9) The Registrar may, subject to such terms and conditions as he thinks fit, restore a struck-off LLP to the Register (whether of his own motion or at the request of the LLP or any member or creditor thereof) if he is satisfied that –

- (a) the LLP was struck off in error, or in circumstances in which, under the provisions of this Part, it should not have been struck off, and
- (b) the restoration of the LLP to the Register under this subsection would not prejudice any creditor or third

party

[provided that in each case the Registrar has previously consulted Her Majesty's Procureur, Her Majesty's Receiver-General, the Director of the Revenue Service in the case of a body struck off pursuant to notice from the Director of the Revenue Service under regulation 11, 12 or 13 of the Income Tax (Substance Requirements) (Implementation) Regulations, 2018 (penalties where substance requirements not met – first, third or fourth accounting period of default) and, in the case of a supervised LLP, the Commission].

(10) The Registrar may, subject to the conditions set out at subsection (11) and such further terms and conditions (if any) as he thinks fit, restore to the Register, at the request of the LLP or any member of creditor thereof, an LLP that was struck off in the circumstances set out in section 62(1)(a), on its delivering its annual validation to the Registrar.

(11) The conditions are that –

- (a) the LLP pays to the Registrar the sums specified in subsection (4), and
- (b) the Registrar is satisfied that the restoration of the LLP to the Register would not prejudice any creditor or third party.

(12) Where the Registrar restores an LLP to the Register under subsection (9) or (10), and except to the extent that the Registrar directs otherwise, the provisions of this Law apply in respect of the LLP as if it had been restored to the Register pursuant to an order of the Court under this section.

(13) Subsection (12) is without prejudice to the other provisions of

this section, the provisions of section 66, and section 502 of the Companies Law (Rectification of the Register of Companies) as it has effect by virtue of section 6 and Schedule 1.

NOTES

In section 67, first, paragraph (cc) of subsection (1), second, paragraph (aa) of subsection (2) and, third, the words in square brackets in subsection (9) were inserted by the Income Tax (Substance Requirements) (Implementation) Regulations, 2021, regulation 36, respectively paragraph (4), paragraph (5) and paragraph (6), with effect from 30th June, 2021.

The following Regulations have been made under section 67:

Limited Liability Partnerships (Registrar) (Fees and Penalties) Regulations, 2014.

The Income Tax (Substance Requirements) (Implementation) Regulations, 2018 have since been revoked by the Income Tax (Substance Requirements) (Implementation) Regulations, 2021, regulation 38(a), with effect from 30th June, 2021.

Property of restored LLP.

68. (1) If an LLP's name is restored to the Register of LLPs before the expiration of six years beginning on the date of its dissolution, the LLP is entitled, subject to any order of the Court, to have returned to it –

- (a) any property which vested in the Crown upon dissolution, or
- (b) if any such property has been disposed of, its value at the time of disposal.

(2) The Court may extend the period of six years set out in subsection (1) if it regards it as just and equitable to do so having regard to the degree of prejudice the LLP would otherwise suffer.

Meaning of creditor.

69. In this Part "**creditor**" includes a contingent or prospective creditor.

PART VII
ADMINISTRATION

Administration orders.

- 70.** (1) Subject to the provisions of this section, if the Court –
- (a) is satisfied that an LLP does not satisfy or is likely to become unable to satisfy the solvency test, and
 - (b) considers that the making of an order under this section may achieve one or more of the purposes set out in subsection (3),

the Court may make an order under this section (an "**administration order**") in relation to that LLP.

(2) An administration order is an order directing that, during the period for which the order is in force, the affairs, business and property of the LLP shall be managed by a person (the "**administrator**") appointed for the purpose by the Court.

(3) The purposes for which an administration order may be made are –

- (a) the survival of the LLP, and the whole or any part of its undertaking, as a going concern, or

- (b) a more advantageous realisation of the LLP's property than would be effected on a winding up,

and the order shall specify the purpose for which it is made.

(4) An administration order may be made notwithstanding the occurrence of any of the events mentioned in section 85 (Winding up of LLPs); and, if an administration order is so made, then –

- (a) the order for the LLP's winding up shall be discharged or suspended, or
- (b) the winding up shall cease to have effect or shall be suspended (as the case may be),

on such terms and conditions as the Court thinks fit.

(5) Where an administration order is made, the administrator shall, within seven days after the day of his appointment, send a copy of the order to the Registrar.

Application for administration order.

71. (1) An application for an administration order may be made by all or any of the following, acting together or separately –

- (a) the LLP,
- (b) any member of the LLP,
- (c) any creditor of the LLP, including any contingent or prospective creditor,

- (d) the Commission, in respect of supervised LLPs,
- (e) in the case of an LLP in respect of which the Court has made an order for winding up or in respect of which a liquidator has been appointed, the liquidator.

(2) The Court, on hearing an application for an administration order, may, on such terms and conditions as it thinks fit –

- (a) grant or dismiss the application,
- (b) adjourn the hearing, conditionally or unconditionally, or
- (c) make an interim order or any other order it thinks fit.

(3) An interim order under subsection (2)(c) may, without limitation, restrict the performance of any functions of the members or of the LLP, whether by reference to the consent of the Court or otherwise.

(4) Notice of an application to the Court for an administration order in respect of an LLP shall, unless the Court orders otherwise, be served on –

- (a) the LLP,
- (b) the Registrar,
- (c) the Commission, in respect of supervised LLPs, and
- (d) such other persons, if any, as the Court may direct,

including (without limitation) any creditor,

who shall each be given an opportunity of making representations to the Court before the order is made.

(5) Notice of an application for an administration order shall be delivered to the Registrar at least two clear days before the day of the making of the application or, if that is not reasonably practicable, then as soon as reasonably practicable thereafter.

(6) The Registrar shall give notice of the application for an administration order in such manner and for such period as he thinks fit.

Effect of application for administration order.

72. (1) During the period between the presentation of an application for an administration order and the making of such an order or the dismissal of the application –

- (a) no order may be made for the LLP's winding up,
- (b) the occurrence of an event specified in section 85(1)(a) or (b) shall, for the purposes of that section, be of no effect,
- (c) no proceedings may be commenced or continued against the LLP except with the leave of the Court and subject to such terms and conditions as the Court may impose (but, for the avoidance of doubt and without limitation, rights of set-off and secured interests, including security interests (within the meaning of the

Security Interests (Guernsey) Law, 1993⁰) and rights of enforcement thereof, are unaffected by the provisions of this paragraph).

(2) Nothing in subsection (1) requires the leave of the Court for the presentation of an application for the LLP's winding up.

Effect of administration order.

73. (1) On the making of an administration order any application for the LLP's winding up shall be dismissed.

(2) During the period for which an administration order is in force

—

- (a) no order may be made for the LLP's winding up,
- (b) the occurrence of an event specified in section 85(1)(a) or (b) shall, for the purposes of that section, be of no effect, and
- (c) no proceedings may be commenced or continued against the LLP except with the consent of the administrator or the leave of the Court and subject (where the Court gives leave) to such terms and conditions as the Court may impose (but, for the avoidance of doubt and without limitation, rights of set-off and secured interests, including security interests (within the meaning of the Security Interests (Guernsey) Law, 1993) and rights of enforcement

⁰ Ordres en Conseil Vol. XXXIV, p. 299; amended by Vol. XL, p. 131.

thereof, are unaffected by the provisions of this paragraph).

Details of administration to appear in LLP's correspondence.

74. (1) An LLP subject to an administration order shall ensure that all its correspondence shall contain the administrator's name and a statement that the affairs, business and property of the LLP are being managed by the administrator, unless this is readily ascertainable –

- (a) from the context of the correspondence, or
- (b) from a course of dealing between the LLP and the person to whom the correspondence is addressed.

(2) Where an LLP subject to an administration order has a website, the LLP shall ensure that the administrator's name and a statement that the affairs, business and property of the LLP are being managed by the administrator appears on a reasonably prominent location on that website.

(3) An LLP which fails to comply with this section is guilty of an offence.

General powers of administrator.

75. (1) The administrator may do all such things as may be necessary or expedient for the management of the affairs, business and property of the LLP.

(2) Without prejudice to subsection (1), and unless the Court orders otherwise, the administrator has the same powers in relation to LLPs as an administrator appointed under the Companies Law has in relation to companies as specified in Schedule 1 to that Law.

(3) The administrator may apply to the Court for directions in relation to –

- (a) the extent or performance of any function, and
- (b) any matter arising in the course of his administration,

and on such an application the Court may make such order, on such terms and conditions, as it thinks fit.

(4) In performing his functions the administrator is deemed to act as the LLP's agent, but shall not incur personal liability except to the extent that he is fraudulent, reckless or grossly negligent, or acts in bad faith.

(5) A person dealing with the administrator in good faith is not concerned to enquire whether the administrator is acting within his powers.

(6) The administrator has power –

- (a) to prevent the involvement in the management of the LLP of any member, and
- (b) to call any meeting of members or creditors of the LLP.

General duties of administrator.

76. (1) The administrator shall, on his appointment, take into his custody or under his control all the property to which the LLP is or appears to be entitled.

(2) The administrator shall manage the affairs, business and property of the LLP in accordance with any directions given by the Court.

Co-operation with and by administrator.

77. Any function conferred on the LLP, whether by this Law or otherwise, which could be performed in such a way as to interfere with the performance by the administrator of his functions may not be performed except with the consent of the administrator, which may be given either generally or in relation to particular cases.

Discharge or variation of administration order.

78. (1) The administrator may at any time apply to the Court for the administration order to be discharged or varied.

(2) The administrator shall apply to the Court for the administration order to be discharged or varied if it appears to him that –

- (a) the purpose or each of the purposes specified in the order has been achieved or is incapable of achievement, or
- (b) it would otherwise be desirable or expedient to discharge or vary the order.

(3) The Court, on hearing an application under this section for the discharge or variation of an administration order, may, on such terms and conditions as it thinks fit –

- (a) grant or dismiss the application,
- (b) adjourn the hearing, conditionally or unconditionally, or
- (c) make an interim order or any other order it thinks fit.

(4) Where an administration order is discharged or varied under this section the administrator shall –

- (a) within seven days after the day of the order, send a copy of the order effecting the discharge or variation to the Registrar, and
- (b) within such time as the Court may direct, send a copy thereof to such other persons as the Court may direct.

Remuneration and swearing in of administrator.

79. (1) The administrator's remuneration, and any costs, charges and expenses properly incurred in the administration, are payable from the LLP's property in priority to all other claims.

(2) The administrator's fees shall be fixed by the Court.

(3) An administrator shall be sworn before the Court when the Court makes the administration order or at any other time directed by the Court.

Vacation of office.

80. (1) The administrator –

- (a) may at any time be removed from office by order of the Court,
- (b) may resign his office by giving notice of resignation to the Court, and
- (c) shall vacate office if the administration order is

discharged.

(2) Where there is a vacancy in the office of administrator the Court may, on the application of any interested party, appoint a replacement.

Release of administrator.

81. (1) A person who has ceased to be the administrator of an LLP has his release with effect from –

- (a) in the case of a person who has died, the time at which notice is given to the Court that he has ceased to hold office,
- (b) in any other case, such time as the Court may determine.

(2) Where a person has his release under this section he is, with effect from the time of release, discharged from all liability both in respect of his acts and omissions in the administration and otherwise in relation to his conduct as administrator, except to the extent that he has incurred personal liability by virtue of section 75(4).

(3) However, nothing in this section prevents the exercise, in relation to a person who has his release under this section, of the Court's powers under section 75(3).

Information to be given by administrator.

82. (1) Where an administration order is made, the administrator shall –

- (a) forthwith send to the LLP notice of the order,

- (b) forthwith send a copy of the order to the Registrar,
- (c) within 28 days after the day of the making of the order-
 - (i) unless the Court orders otherwise, send notice of the order to all creditors of the LLP, so far as he is aware of their addresses, and
 - (ii) in the case of a supervised LLP, send notice of the order to the Commission, and
- (d) within such time as the Court may direct, send a copy of the order to such other persons as the Court may direct.

(2) The Registrar shall give notice of the administration order in such manner and for such period as he thinks fit.

Statement of affairs to be submitted to administrator.

83. (1) Where an administration order is made, the administrator may require all or any of the persons mentioned in subsection (3) to make out and submit to him a statement (a "**statement of affairs**") in such form as he may require as to the affairs of the LLP.

(2) The statement of affairs shall be verified by affidavit of the persons required to submit it (or in such other manner as the administrator may require) and shall show –

- (a) particulars of the LLP's property and debts,

- (b) the names and addresses of its creditors,
 - (c) any securities held by any of its creditors,
 - (d) the dates when those securities were respectively given,
and
 - (e) such further or other information as the administrator
may require.
- (3) The persons referred to in subsection (1) are –
- (a) those who are or have been members of the LLP,
 - (b) those who are in the LLP's employment or have been in
its employment at any time within the period of one
year before the date of the administration order ("**the
preceding year**"), and are in the administrator's
opinion capable of giving the information required,
 - (c) those who are or have within the preceding year been
officers or members of, or in the employment of, a
body corporate, limited partnership or other body of the
type specified by Ordinance under section 1(7) which
is, or within the preceding year was, a member of the
LLP.
- (4) In subsection (3), "**employment**" includes employment under
a contract for services.
- (5) Where any persons are required under this section to submit a

statement of affairs to the administrator, they shall do so (subject to the next subsection) within a period of 21 days after the day on which written notice of the requirement is given to them by the administrator.

- (6) The administrator, if he thinks fit, may –
 - (a) at any time release a person from an obligation imposed on him under subsection (1) or (2), or
 - (b) either when giving notice under subsection (5) or subsequently, extend the period mentioned in that subsection,

and where the administrator has refused to exercise a power conferred by this subsection, the Court, if it thinks fit, may exercise it.

(7) If a person without reasonable excuse fails to comply with any obligation imposed under this section, he is guilty of an offence and, in addition, liable to a daily default fine.

(8) Nothing in this section compels the production or divulgence by an Advocate or other legal adviser of an item subject to legal professional privilege (within the meaning of section 24 of the Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law, 2003^P), but an Advocate or other legal adviser may be required to give the name and address of any client.

(9) A requirement imposed by an administrator under this section has effect notwithstanding any obligation as to confidentiality or other restriction on the

^P Ordres en Conseil Vol. XLIII, p. 617; amended by Order in Council No. XVI of 2009; Recueil d'Ordonnances Tome XXIX, p. 406; Ordinance No. XXXIII of 2009; Ordinance No. XXIX of 2011.

disclosure of information imposed by statute, contract or otherwise, and accordingly the obligation or restriction is not contravened by the making of a disclosure pursuant to such a requirement.

Protection of interests of creditors and members.

84. (1) At any time when an administration order is in force, a creditor or member of the LLP or, in the case of a supervised LLP, the Commission, may apply to the Court for an order under this section on the ground –

- (a) that the LLP's affairs, business and property are being or have been managed by the administrator in a manner which is unfairly prejudicial to the interests of its creditors or members generally, or of some part of its creditors or members (including, except where the applicant is the Commission, at least the applicant himself),
- (b) that any actual or proposed act or omission of the administrator is or would be so prejudicial, or
- (c) that it would otherwise be desirable or expedient for an order under this section to be made.

(2) The Court, on hearing an application for an order under this section, may, on such terms and conditions as it thinks fit –

- (a) dismiss the application, or make such order as it thinks fit for giving relief in respect of the matters complained of,
- (b) adjourn the hearing, conditionally or unconditionally,

or

- (c) make an interim order or any other order that it thinks fit.

(3) An order under this section may in particular –

- (a) regulate the future management by the administrator of the LLP's affairs, business and property,
- (b) require the administrator to refrain from doing or continuing an act complained of by the applicant, or to do an act which the applicant has complained he has omitted to do,
- (c) require the summoning of a meeting of members for the purpose of considering such matters as the Court may direct,
- (d) discharge the administration order and make such consequential provision as the Court thinks fit.

(4) Where the administration order is discharged the administrator shall –

- (a) within seven days after the day of the discharge, send a copy of the order effecting the discharge to the Registrar, and
- (b) within such time as the Court may direct, send a copy thereof to such persons as the Court may direct.

(5) An application for an order under this section may also be made, with leave of the Court, by a person other than one described in subsection (1).

PART VIII

WINDING UP AND DISSOLUTION OF LLPs

Winding up of LLPs.

85. (1) An LLP shall commence to be wound up upon the occurrence of any of the following –

- (a) the happening of any event specified in that behalf in the members' agreement,
- (b) the written agreement of all members that the LLP shall be wound up or dissolved, or
- (c) the making by the Court of an order under section 86(1) for the winding up of the LLP.

(2) For the avoidance of doubt, the Court shall not be prevented from entertaining an application under section 86(1) for the winding up of an LLP by the occurrence of an event set out in subsection (1)(a) or (b).

(3) Subject to the provisions of the members' agreement, an LLP shall not be wound up by reason of any change in the members.

Winding up of LLP by the Court.

86. (1) The Court may order the winding up of an LLP on the application of any member or creditor thereof, or on the application of the [Committee], or, in the case of a supervised LLP, the Commission, if in the opinion

of the Court –

- (a) it is not reasonably practicable to carry on the LLP's business in conformity with the members' agreement,
- (b) the LLP cannot satisfy the solvency test,
- (c) without prejudice to the generality of paragraph (b), the following conditions are satisfied –
 - (i) the LLP is indebted to a creditor in a sum exceeding £750 or such other sum as may be prescribed from time to time,
 - (ii) the creditor has, by Her Majesty's Sergeant, served a signification on the LLP demanding payment of the debt, and
 - (iii) the LLP has not, within a period of 21 days immediately following the date of service of that demand, paid the debt or give security for it to the creditor's satisfaction,
- (d) the LLP is being conducted in a manner that is unfairly prejudicial to the interests of the members generally or of some part of the members, or an actual or proposed act or omission of the LLP (including an act or omission on its behalf) is or would be so prejudicial, unless the members have entered into an agreement of the type referred to in section 110(1),

- (e) the affairs of the LLP are being conducted in such a way as to defraud creditors (whether of the LLP or of any other person) or in an unlawful manner,
- (f) persons connected with the formation or management of the LLP have, in connection therewith, been guilty of fraud, misfeasance, breach of fiduciary duty or other misconduct in relation to the LLP,
- (g) it is desirable that the LLP should be wound up for the protection of the public or of the reputation of the Bailiwick as a financial centre, or
- (h) it is otherwise just and equitable to do so.

(2) Upon the making of an order under subsection (1) for the winding up of an LLP or at any time thereafter, the Court may, on the application of any member or assignee thereof or any creditor, make such other orders in relation to the winding up as it thinks fit, including one for the appointment of one or more liquidators to wind up the LLP's affairs and distribute its property.

NOTE

In section 86, the word in square brackets in subsection (1) was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 2, with effect from 1st May, 2016.

General provisions as to winding up of LLPs.

87. (1) When an LLP is required to be wound up its affairs shall, unless a liquidator has been appointed by the Court under section 86(2), be wound up by the person or persons specified for this purpose in the members' agreement or by agreement otherwise between the members.

(2) From the commencement of the winding up of an LLP, no member may, except in accordance with section 91 (Distribution of property upon winding up), claim as a creditor of the LLP.

(3) On the appointment of a liquidator all powers of the members cease; and a person who purports to exercise any power of a member at a time when, pursuant to this subsection, those powers have ceased, shall be guilty of an offence.

(4) Upon the commencement of the winding up of an LLP –

- (a) the members,
- (b) a person appointed by the members, or
- (c) if a liquidator has been appointed, the liquidator,

shall publish notice that the LLP is being wound up in *La Gazette Officielle* or in such other manner and for such period as may be prescribed by the Registrar.

(5) Where there is a contravention of any provision of subsection (4) in relation to an LLP, the members or the liquidator (as the case may be) –

- (a) shall be guilty of an offence, and
- (b) shall each continue to incur liability as if they were the members of an LLP which was not being wound up.

(6) From the commencement of the winding up of an LLP the LLP shall cease to carry on business except to the extent necessary for its beneficial winding up; and where in relation to an LLP there is a contravention of this

subsection, the LLP shall be guilty of an offence.

(7) The liquidator's fees shall be fixed by the Court.

(8) All expenses properly incurred in the winding up of an LLP, including the liquidator's remuneration, are payable from the LLP's property in priority to all other debts.

(9) From the commencement of the winding up of an LLP, the persons winding up the LLP's affairs, in the name of and for and on behalf of the LLP

—

(a) may, to the extent necessary for the beneficial winding up of the LLP, prosecute, defend or settle any civil or criminal action,

(b) shall dispose of the LLP's property and realise its property, and

(c) shall, in accordance with the provisions of section 91-

(i) discharge the LLP's debts, and

(ii) distribute to the members any remaining property of the LLP.

(10) As soon as an LLP's affairs are fully wound up –

(a) the persons who conducted the winding up shall –

(i) prepare an account of the winding up, giving

details of the conduct thereof and the disposal of the LLP's property, and stating whether or not any state of affairs described in section 89(1) or 90(2) has come to their attention,

- (ii) provide all members with a copy of the account, and
 - (iii) within a period of seven days beginning on the date of the completion of the winding up, file with the Registrar, and publish in *La Gazette Officielle* or in such other manner as may be prescribed by the Registrar, notice of completion of the winding up,
- (b) the Registrar shall, as soon as is reasonably practicable after such filing, delete the inscription relating to the LLP from the Register, and
 - (c) the LLP's certificate of incorporation shall thereupon cease to be valid and the LLP shall thereupon be dissolved.

(11) Where there is a contravention of any provision of subsection 10(a), the persons who conducted the winding up –

- (a) shall each be guilty of an offence, and
- (b) shall each continue to incur liability as if they were members of an LLP which had not been dissolved.

(12) The persons conducting the winding up of an LLP may seek the Court's directions as to any matter arising in relation to the winding up; and upon such an application the Court may make such order as it thinks fit.

Release of liquidator.

88. (1) A person who has ceased to be the liquidator of an LLP has his release with effect from –

- (a) in the case of a person who has died, the time at which notice is given to the Court that he has ceased to hold office,
- (b) in any other case, such time as the Court may determine.

(2) Where a person has his release under this section he is, with effect from the time of release, discharged from all liability both in respect of his acts and omissions in the liquidation and otherwise in relation to his conduct as liquidator, except to the extent that he has been fraudulent, reckless or grossly negligent, or acted in bad faith.

Civil liability for fraudulent trading.

89. (1) If in the course of the winding up of an LLP it appears that any business of the LLP has been carried on with intent to defraud creditors (whether of the LLP or of any other person), or for any fraudulent purpose, subsection (2) has effect.

(2) The Court, on the application of the liquidator, administrator, or any creditor or member of the LLP may declare that any persons who were knowingly parties to the carrying on of the business in the manner mentioned in subsection (1) shall be liable to make such contributions to the LLP's property as the

Court thinks proper.

Civil liability of members for wrongful trading.

90. (1) Subject to subsection (3), if in the course of the winding up of an LLP it appears that subsection (2) applies to a person, the Court, on the application of the liquidator or any creditor or member of the LLP, may declare that that person shall be liable to make such contribution to the LLP's assets as the Court thinks proper.

(2) This subsection applies in relation to a person if –

- (a) the LLP has gone into insolvent liquidation,
- (b) at some time before the commencement of the winding up of the LLP, that person knew or ought to have concluded that there was no reasonable prospect of the LLP avoiding going into insolvent liquidation, and
- (c) that person was a member of the LLP at that time.

(3) The Court shall not make a declaration under this section in respect of any person if it is satisfied that, after the condition specified in subsection (2)(b) was first fulfilled in relation to him, he took every step with a view to minimising the potential loss to the LLP's creditors that (assuming him to have known that there was no reasonable prospect of the LLP avoiding going into insolvent liquidation) he ought to have taken.

(4) For the purposes of subsections (2) and (3), the facts which a member of an LLP ought to know, the conclusions which he ought to reach and the steps which he ought to take are those which would be known, reached or taken by a reasonably diligent person having both –

- (a) the general knowledge, skill and experience that may reasonably be expected of a person carrying out the same functions as are carried out by that member in relation to the LLP, and
- (b) the general knowledge, skill and experience of that member.

(5) The reference in subsection (4) to the functions carried out in relation to an LLP by a member of the LLP includes any function which he does not carry out but which has been entrusted to him.

(6) For the purposes of this section an LLP goes into insolvent liquidation if it goes into liquidation at a time when its property is insufficient for the payment of its debts and other liabilities and the expenses of the winding up.

(7) This section is without prejudice to section 89.

(8) This section and section 89 have effect notwithstanding that the person concerned may be criminally liable in respect of matters on the ground of which the declaration under the section is to be made.

(9) On the hearing of an application under this section and section 89, the applicant may himself give evidence and call witnesses.

Distribution of property upon winding up.

91. (1) Subject to section 87(8), which provides that all expenses properly incurred in the winding up of an LLP are payable from the LLP's property in priority to all other debts, the property shall be distributed in the following order-

- (a) firstly, to creditors other than members, in satisfaction of the LLP's debts, as if the LLP were a company which is insolvent,
- (b) secondly, to members who are creditors, to the extent otherwise permitted by law, in satisfaction of the LLP's debts other than debts described in paragraph (a),
- (c) finally, to other members, according to the provisions of the members' agreement.

(2) In the application of the Preferred Debts (Guernsey) Law, 1983^q to the winding up of an LLP by virtue of subsection (1)(a), the expression "the relevant date" shall mean the date on which the winding up of the LLP commenced.

PART IX

CRIMINAL AND CIVIL PENALTIES

Criminal penalties for offences under this Law.

92. (1) A person guilty of an offence under section 23(3), 52(3), [93, or Schedule 2] shall be liable –

- (a) on summary conviction, to imprisonment for a term not exceeding three months, to a fine not exceeding level 5 on the uniform scale, or to both,
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine, or to both.

^q Ordres en Conseil Vol. XXVIII, p. 184; as amended by Vol. XXXIV, p. 217 and 299; Vol. XXXVIII, p. 239; Order in Council No. XIV of 2008; Recueil d'Ordonnances Tome XXX, p. 627; Tome XXXI, p. 527.

(2) A person guilty of any other offence under this Law shall be liable –

(a) on summary conviction, to a fine not exceeding level 5 on the uniform scale,

(b) on conviction on indictment, to a fine.

(3) The imposition by this Law of a criminal penalty in respect of any act or omission is without prejudice to any other remedy or liability (civil or criminal) in respect thereof (except as provided for by section 98 (Relationship of civil penalties with prosecutions)).

NOTE

In section 92, the figures and words in square brackets in subsection (1) were substituted by the Beneficial Ownership of Legal Persons (Guernsey) Law, 2017, section 20(4), with effect from 15th August, 2017.

Criminal and civil liability for false statements.

93. Any person who in connection with the registration of an LLP under this Law, or in submitting any declaration or other document or information to the Commission or Registrar under or for the purposes of any provision of this Law, any regulation made under it, or in compliance or purported compliance with any requirement imposed by or under any such provision, or otherwise for the purposes of any such provision –

(a) makes a statement which he knows or has reasonable cause to believe to be misleading in a material particular, false or deceptive, or

- (b) recklessly makes a statement, dishonestly or otherwise, which is misleading in a material particular, false or deceptive,
- (c) produces or furnishes or causes or permits to be produced or furnished any information or document which he knows or has reasonable cause to believe to be misleading in a material particular, false or deceptive, or
- (d) recklessly produces or furnishes or recklessly causes or permits to be produced or furnished, dishonestly or otherwise, any information or document which is misleading in a material particular, false or deceptive,

shall be guilty of an offence; and, whether or not criminal proceedings are instituted, a person who suffers loss by reasonable reliance upon any such statement, information or document, or upon any statement, information or document which has, by reason of any supervening change of fact or circumstance, become misleading in a material particular, false or deceptive, may recover damages for the loss –

- (i) from the first mentioned person, or

- (ii) from any member –

- (A) who knew or ought reasonably to have known that the statement, information or document was or had become misleading in a material particular, false or deceptive, and

- (B) who had time or opportunity to amend or otherwise correct the statement, information or document before it was relied upon.

Offences by bodies corporate, etc.

94. (1) Where an offence under this Law is committed by a body corporate or by an unincorporated body and is proved to have been committed with the consent or connivance of, or to be attributable to or to have been facilitated by any neglect on the part of, any director, manager, member of any committee of management or other controlling authority, secretary or other similar officer or partner of the body, or any person purporting to act in any such capacity, he as well as the body is guilty of the offence and may be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies to a member in connection with his functions of management as if he were a director.

(3) Proceedings for an offence alleged to have been committed under this Law by an unincorporated body shall be brought in the name of that body and not in the name of any of its members; and a fine imposed on the body on its conviction of such an offence shall be paid out of its funds.

(4) For the purposes of this section a person shall be deemed to be a director of a body corporate if he is a person in accordance with whose directions or instructions the directors of the body corporate are accustomed to act.

Civil penalties

Civil penalties.

95. (1) This section applies to LLPs which are liable to a civil penalty.

(2) If the Registrar is satisfied that an LLP is liable to a civil penalty he may make an order directing it to pay the civil penalty.

(3) The Registrar may, if he thinks fit and has consulted and obtained the approval of the [Committee], make regulations concerning civil penalties, including provision for –

(a) the amount of the civil penalty, and

(b) the imposition and amount of additional daily penalties.

(4) Where regulations make provision for the imposition of additional daily penalties, an order of the Registrar under subsection (2) directing an LLP to pay a civil penalty may provide that an additional daily penalty shall accrue after the date of the imposition of the original penalty without further notice.

(5) In default of payment of a civil penalty, the Registrar may proceed to enforce payment as if the amount due were a civil debt.

NOTES

In section 95, the word in square brackets in subsection (3) was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 2, with effect from 1st May, 2016.

The following Regulations have been made under section 95:

Limited Liability Partnerships (Registrar) (Fees and Penalties) Regulations, 2014.

Daily default.

96. (1) Where a person is liable under the provisions of this Law to a daily default fine in respect of any offence, he is liable, for each day of continued contravention, to a daily default fine in such an amount, not exceeding 10% of the maximum fine, as the Registrar may determine.

(2) In this section the "**maximum fine**" means the amount on the uniform scale which a fine cannot exceed on summary conviction of the offence.

Appeal against civil penalties.

97. An LLP aggrieved by an order made by the Registrar under section 95(2) may apply to set it aside or modify it in accordance with section 102 (General right to apply to Court to set aside action of Registrar).

Relationship of civil penalties with prosecutions.

98. (1) An LLP is not liable to a civil penalty if a prosecution in respect of the matter has been commenced.

(2) If the prosecution commences after the civil penalty has been paid, the Registrar shall repay the civil penalty to the LLP.

Striking off for persistent or gross contraventions.

99. An LLP in respect of which, in the opinion of the Registrar, there have been persistent or gross contraventions of this Law is liable to be struck off the Register in accordance with Part VI (Striking off).

PART X

MISCELLANEOUS PROVISIONS

Non-applicability of general partnership law.

100. Except as provided for by this Law, the rules of law applicable to partnerships shall not apply to LLPs.

Exclusion of liability for certain public officers.

101. (1) No liability shall be incurred by the States, the [Policy & Resources Committee], the [Committee] or the Commission, or by any member, officer or servant thereof, or by the Registrar or any other officer of the Registrar, in respect of anything done or omitted to be done in the discharge or purported discharge of any of their functions under this Law or any regulation made under it, unless the thing is done or omitted to be done in bad faith.

(2) Subsection (1) does not apply so as to prevent an award of damages in respect of the act or omission on the ground that it was unlawful as a result of section 6(1) of the Human Rights (Bailiwick of Guernsey) Law, 2000^r.

NOTES

In section 101,

the words in the first pair of square brackets were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 10(a), with effect from 1st May, 2016;

the word in the second pair of square brackets was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 2, with effect from 1st May, 2016.

General right to apply to Court to set aside action of Registrar.

102. (1) Without prejudice to any specific right of appeal in any enactment, a person who is directly affected by any action, direction, decision or determination of the Registrar (including an order directing payment of a civil penalty) in respect of an LLP can apply to the Court to set aside or modify that action, direction, decision or determination.

^r Ordres en Conseil Vol. XL, p. 396; amended by Order in Council No. I of 2005; Recueil d'Ordonnances Tome XXIX, p. 406; and G.S.I. No. 27 of 2006.

(2) An application under subsection (1) shall be made in such manner as may be prescribed by order of the Court.

(3) On such an application the Court may make such order on such terms and conditions as it thinks fit, and without limitation –

- (a) in relation to an application in respect of a civil penalty, the order may increase the amount of the civil penalty for which the LLP is liable, and
- (b) in relation to an application in respect of a striking off under section 99, the execution of the order may be stayed subject to the payment of any outstanding criminal penalties, fees or civil penalties by the LLP or such other person as it thinks fit.

(4) Subject to any direction given by the Court –

- (a) the applicant shall give notice of the application to the Registrar,
- (b) where the applicant is not the LLP in respect of which the application is made, the applicant shall give notice of the application to the LLP, and
- (c) the application shall be made within 21 days after the day of the action, direction, decision or determination of the Registrar.

(5) An appeal from an order of the Court under this section lies, with leave of the Court or the Court of Appeal, to the Court of Appeal on a question

of law.

(6) Section 21 of the Court of Appeal (Guernsey) Law, 1961^s (powers of a single judge) applies to the powers of the Court of Appeal to give leave to appeal under this section as it applies to the powers of the Court of Appeal to give leave to appeal under Part II of that Law.

Fees recoverable as a civil debt.

103. A fee payable under a regulation made under this Law shall be recoverable from the LLP as a civil debt.

Restrictions on use of certain descriptions and names.

104. (1) No person carrying on any business in the Bailiwick, other than an LLP within the meaning of this Law or a member thereof, shall –

- (a) so describe himself, or so hold himself out, as to indicate or reasonably be understood to indicate (whether in English or any other language), or
- (b) use any name which indicates or may reasonably be understood to indicate (whether in English or any other language),

that he is, or is carrying on business as, an LLP incorporated under this Law or (as the case may be) a member thereof; and in this subsection references to "he" include references to "it", and references to "himself" include references to "itself".

(2) A person who contravenes or causes or permits any contravention of any provision of this section shall be guilty of an offence.

^s Ordres en Conseil Vol. XVIII, p. 315.

Service of documents on LLPs and members.

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

- (a) an LLP, may be given or served –
 - (i) by being left at, or sent by post to, the LLP's registered office, or
 - (ii) by being delivered to any member thereof, or by being left at, or sent by post to, his address shown in the Register,
- (b) a member, may be given or served –
 - (i) by being left at, or sent by post to, the LLP's registered office, or
 - (ii) by being delivered to him, or by being left at, or sent by post to, his address shown in the Register,

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

(2) Notice to a member of any matter relating to the business or affairs of the LLP shall (without prejudice to the provisions of section 114(4)) be deemed to be notice to the LLP.

(3) A document sent by post shall, unless the contrary is shown or

unless otherwise provided for in the members' agreement, 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^t.

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

Electronic communications.

106. (1) Section 526 of and Schedule 3 to the Companies Law, which make provision for the use of electronic communications –

- (a) by a company to its members or their proxies, or
- (b) to a company,

shall have effect for the purposes of this Law, with the modifications set out in Schedule 5.

(2) This section is without prejudice to the Electronic Transactions

^t Ordres en Conseil Vol. XVII, p. 384; amended by Vol. XXIV, p. 84; Vol. XXXIV, p. 504; and Vol. XXXV, p. 367.

(Guernsey) Law, 2000^u.

Unfair prejudice, derivative claims and liability of members

Application by LLP member.

107. A member of an LLP may apply to the Court for an order on the ground –

- (a) that the LLP's affairs are being or have been conducted in a manner that is unfairly prejudicial to the interests of members generally or of some part of its members (including at least himself), or
- (b) that an actual or proposed act or omission of the LLP (including an act or omission on its behalf) is or would be so prejudicial.

Power of the Court under section 107.

108. (1) If the Court is satisfied that an application under section 107 is well founded, it may make such order as it thinks fit for giving relief in respect of the matters complained of.

(2) Without prejudice to the generality of subsection (1), the Court's order may –

- (a) regulate the conduct of the LLP's affairs in the future,
- (b) require the LLP –

^u Ordres en Conseil Vol. XL, p. 263; amended by Recueil d'Ordonnances Tome XXIX, p. 406.

- (i) to refrain from doing or continuing an act complained of, or
- (ii) to do an act that the applicant has complained it has omitted to do,
- (c) authorise civil proceedings to be brought in the name and on behalf of the LLP by such person or persons and on such terms as the Court may direct,
- (d) require the LLP or the members of the LLP not to make any, or any specified, alterations in the members' agreement without the leave of the Court, and
- (e) provide for the purchase of the rights and interests of any members in the LLP by other members or by the LLP itself.

Derivative claims.

109. (1) A member of an LLP may bring a claim –

- (a) in respect of a cause of action vested in the LLP, and
- (b) seeking relief on behalf of the LLP,

and such a claim is referred to in this Law as a "**derivative claim**".

(2) The Court may by order make rules making further provision in relation to derivative claims.

Power of members to exclude rights under sections 107 and 109.

110. (1) The members of an LLP may by unanimous agreement exclude the rights contained in and arising under section 107 and 109, either indefinitely or for such period as is specified in the agreement.

(2) An agreement under subsection (1) must be recorded in writing, and may be contained within the members' agreement of that LLP.

(3) Where the members of an LLP have made an agreement under subsection (1), sections 107 to 109 shall not apply to those members for such period as that agreement is in force.

Subordinate legislation

Power to make regulations.

111. The [Committee] may by regulations make provision as to any of the following matters –

- (a) the duties of the Registrar under this Law,
- (b) without prejudice to the generality of paragraph (a), the fees to be payable by any person for –
 - (i) an inspection by him of the Register,
 - (ii) a copy or extract, or a certified copy or extract, of an entry in the Register or any certificate, and
- (c) generally, the conduct and regulation of the registration of LLPs under this Law and any matters incidental thereto, including the form of the Register.

NOTES

In section 111, the word in square brackets was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 2, with effect from 1st May, 2016.

The following Regulations have been made under section 111:

Limited Liability Partnerships (Fees) Regulations, 2014.

Power to make Ordinances.

112. The States may by Ordinance make provision as to any of the following matters –

- (a) the amendment of any provisions of Part II so as to exclude the application of any requirement of those provisions in relation to LLPs of such classes or descriptions, in such circumstances and subject to such conditions as may be specified in the Ordinance,
- (b) the amendment of Schedule 3 so as to permit an LLP to have an alternate name in a language other than English, including in non-Roman script, on the Register,
- (c) the amendment of this Law to make provision in respect of –
 - (i) the conversion of bodies other than firms, both corporate and unincorporated, into LLPs, and the conversion of LLPs into such bodies, and

- (ii) the amalgamation of LLPs,
- (d) the amendment of any provision of –
 - (i) section 8(3) (which relates to incorporation statements),
 - (ii) section 11 (Application to change name)
 - (iii) section 12 (Reservation of names),
 - (iv) section 21 (Records and accounts),
 - (v) Schedule 2 (Resident agents), and
 - (vi) Schedule 6 (Minor and consequential amendments).

General provisions as to Ordinances and regulations.

113. (1) Any Ordinance and regulations under this Law may –

- (a) empower the [Committee] or the Commission, in prescribed circumstances, to issue licences or permissions and give directions,
- (b) provide that the provisions of this Law shall apply in relation to any class or description of LLP specified by the Ordinance or regulations (as the case may be) subject to such exceptions, adaptations and modifications as may be so specified,

- (c) make provision for their enforcement, including provision as to the creation, trial (summarily or on indictment) and punishment of offences,
- (d) contain incidental, supplemental, transitional and consequential provision,
- (e) be varied or repealed by subsequent regulations or Ordinances (as appropriate) under this Law, and
- (f) make consequential amendments to this Law, and other enactments so far as they relate to LLPs.

(2) Any power conferred by this Law to make Ordinances or regulations may be exercised –

- (a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of cases,
- (b) so as to make, as respects the cases in relation to which it is exercised –
 - (i) the full provision to which the power extends, or any lesser provision (whether by way of exception or otherwise),
 - (ii) the same provision for all cases, or different provision for different cases or classes of cases, or different provision for the same case or class

of case for different purposes,

(iii) any such provision either unconditionally or subject to any prescribed conditions,

(c) so as to prohibit the doing of anything in relation to which provision may be made by Ordinance (or regulations, as the case may be) except under the authority of and in accordance with the conditions of a licence granted, subject to the satisfaction of such criteria and the payment of such fee as may be prescribed, by such person or body as may be prescribed.

(3) The power conferred by subsection (1)(c) to create offences and specify penalties does not include power –

- (a) to provide for offences to be triable only on indictment,
- (b) to authorise the imposition, on summary conviction of an offence, of a term of imprisonment or a fine exceeding the limits of jurisdiction for the time being imposed on the Magistrate's Court by section 9 of the Magistrate's Court (Guernsey) Law, 2008^v, or
- (c) to authorise the imposition, on conviction on indictment of any offence, of a term of imprisonment exceeding five years.

^v Order in Council No. XVIII of 2009; amended by No. XXII of 2009.

(4) Any regulation made under this Law shall be laid before a meeting of the States as soon as possible and shall, if at that or the next meeting the States resolve to annul it, cease to have effect, but without prejudice to anything done under it or to the making of new regulations.

NOTES

In section 113, the word in square brackets in subsection (1) was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 2, with effect from 1st May, 2016.

The following Regulations have been made under section 113:

*LLPs (Annual Validation) Regulations, 2017;
LLPs (Annual Validations) Regulations, 2020;
Financial Services Commission (Limited Liability Partnerships)
(Fees) Regulations, 2021.*

Final provisions

Interpretation.

114. (1) In this Law, unless the context otherwise requires –

"accounting records" shall be construed in accordance with section 21(1)(d),

"Advocate" means an Advocate of the Royal Court,

"bankrupt" means, in relation to any person –

- (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 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, or

(iii) either of the following circumstances applies –

- (A) the period (if any) fixed by the memorandum or articles for the duration of the company expires, or
- (B) the event (if any) occurs on the occurrence of which the memorandum or articles provide that the company shall be dissolved,

provided that in each case the company passes an ordinary resolution that it be wound up voluntarily, or

- (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,

including analogous procedures and declarations in other jurisdictions; and cognate expressions shall be construed accordingly,

["**beneficial owner**" has the meaning it has for the purposes of the Beneficial Ownership Law,]

["**Beneficial Ownership Law**" means the Beneficial Ownership of Legal Persons (Guernsey) Law, 2017,]

"body corporate" means a body incorporated with or without limited liability in any part of the world,

"business" includes every trade, occupation or profession,

"the Commission" means the Guernsey Financial Services Commission established by the Financial Services Commission (Bailiwick of Guernsey) Law, 1987^w,

^w Ordres en Conseil Vol. XXX, p. 243; amended by Vol. XXXI, p. 278; Vol. XXXII, p. 471; Vol. XXV, p. 271; Vol. XXXVII, p. 24; Vol. XLII, p. 644; Vol. XLII,

"the Companies Law" has the meaning given by section 13(2)(b),

"contravention" includes failure to comply, and cognate expressions shall be construed accordingly,

"corporate services provider" means a person who holds a full fiduciary licence within the meaning of the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc (Bailiwick of Guernsey) Law, 2000^x,

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

"customs officer" means an officer within the meaning of section 1(1) of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972^y,

"declaration of compliance (annual validation)" has the meaning given by section 23,

"declaration of compliance (migration)" has the meaning given by section 52,

p. 766; Vol. XLII, p. 49 and 574; Order in Council No. XIX of 2008; No. XXIII of 2008; No. XXIV of 2008; No. XIX of 2010; Recueil d'Ordonnances Tome XXIX, p. 406; Tome XXX, p. 72; Tome XXXIII, p. 617; G.S.I. No. 29 of 2009.

^x Ordres en Conseil Vol. XLI, p. 13; amended by Vol. XLIII, p. 430; Order in Council No. XVI of 2007; No. VIII of 2008; No. XXV of 2008; Recueil d'Ordonnances Tome XXIX, p. 406; G.S.I. No. 3 of 2008.

^y Ordres en Conseil Vol. XXIII, p. 573; amended by Vol. XXIV, p. 87; Vol. XXXI, p. 278; Vol. XXXIII, p. 217; Order in Council No. X of 2004; Recueil d'Ordonnances Tome XXX, p. 718; Tome XXIX, p. 406.

"debt" includes obligation and liability,

"[Committee]" means the States [Committee for Economic Development],

"Guernsey" means the Islands of Guernsey, Herm and Jethou,

"Guernsey licensed fiduciary" means a person who is a licensed fiduciary under the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc (Bailiwick of Guernsey) Law, 2000,

"Her Majesty's Procureur" includes Her Majesty's Comptroller,

"incorporation statement" has the meaning given by section 8(3),

"member", in relation to an LLP, means any person who has been admitted as a member of the LLP in accordance with the members' agreement,

"members' agreement" has the meaning given by section 4,

"migration details" has the meaning given by section 40,

"police officer" means a member of the salaried police force of the Island of Guernsey,

"[Policy & Resources Committee]" means the States [Policy & Resources Committee],

"prescribe" means to prescribe by Regulations, and **"prescribed"** shall be construed accordingly,

"property" means any property, whether tangible or intangible, realty or personalty whether vested contingent or future, and whether property which would be regarded by the law of Guernsey as "meubles" or "immeubles",

"Register" means the register of LLPs established by virtue of section 6,

"Registrar" means the Registrar of LLPs the office of which is established by virtue of section 6 and Schedule 1,

[**"Registrar of Beneficial Ownership"** means the Registrar of Beneficial Ownership of Legal Persons, the office of which was established under section 1 of the Beneficial Ownership Law,]

"registration" means the registration of an LLP by inscription in the Register in accordance with the provisions of this Law, and cognate expressions shall be construed accordingly,

"solvency test" has the meaning given by section 34,

"States" means the States of Guernsey, and

"uniform scale" means the uniform scale of fines for the time being in force under the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989^z.

(2) In this Law, a **"supervised LLP"** means an LLP which –

(a) holds or has held within the previous six years a licence

^z Ordres en Conseil Vol. XXXI, p. 278.

under section 4 of the Protection of Investors (Bailiwick of Guernsey) Law, 1987^{aa} or an authorisation or registration under section 8 of that Law,

- (b) is or has been within the previous six years a licensee within the meaning of the Insurance Business (Bailiwick of Guernsey) Law, 2002^{bb} or the Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002^{cc},
- (c) is or has been within the previous six years a licensed institution or former licensed institution within the meaning of the Banking Supervision (Bailiwick of Guernsey) Law, 1994^{dd},
- (d) is or has been within the previous six years a licensed fiduciary or former licensed fiduciary within the meaning of the Regulation of Fiduciaries, Administration Businesses and Company Directors etc. (Bailiwick of Guernsey) Law, 2000, or

^{aa} Ordres en Conseil Vol. XXX, p. 281; amended by Vol. XXX, p. 243; Vol. XXXI, p. 278; Vol. XXXII, p. 324; Vol. XXXV, p. 271; Vol. XXXVI, p. 264; Vol. XXXVII, p. 24; Vol. XLII, p. 644; Vol. XLIII, pp. 440 and 1086. Also amended by Recueil d'Ordonnances Tome XXIV, p. 324; Tome XXVI, p. 333; Tome XXVIII, pp. 51 and 87; Tome XXIX, p. 406.

^{bb} Ordres en Conseil Vol. XLII, p. 766; amended by Recueil d'Ordonnances Tome XXIX, p. 406.

^{cc} Ordres en Conseil Vol. XLII, p. 1022; amended by Recueil d'Ordonnances Tome XXIX, p. 406.

^{dd} Ordres en Conseil Vol. XXXV, p. 271; amended by Vol. XLII, pp. 644 and 766; Vol. XLIII, p. 462; and Recueil d'Ordonnances, Tome XXIV, p. 406.

- (e) is an LLP of any other class or description prescribed by the [Committee] for the purposes of this subsection.

(3) 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.

(4) Any provision of this Law requiring or authorising any thing to be done by or in relation to the members shall be satisfied, except where the context requires otherwise, by that thing being done by or in relation to any one member.

NOTES

In section 114,

the definitions of the expressions "beneficial owner", "Beneficial Ownership Law" and "Registrar of Beneficial Ownership" in subsection (1) were inserted by the Beneficial Ownership of Legal Persons (Guernsey) Law, 2017, section 20(5), with effect from 15th August, 2017;

the words in, first, the first and, second, the second pair of square brackets in the definition of the expression "Committee" in subsection (1) and, third, the word "Committee" in square brackets wherever else occurring were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, respectively section 5(1), Schedule 3, paragraph 2, section 2, Schedule 1, paragraph 1(a) and section 5(1), Schedule 3, paragraph 2, with effect from 1st May, 2016;

the words in the first and second pairs of square brackets in the definition of the expression "Policy & Resources Committee" in subsection (1) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 10(a), with effect from 1st May, 2016.

The functions, rights and liabilities of the Commerce and Employment Department and of its Minister or Deputy Minister arising under or by virtue of this Law were transferred to and vested in, respectively, the Committee for Economic Development and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 1(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016

Ordinance.

The functions, rights and liabilities of the Policy Council and of its Minister or Deputy Minister arising under or by virtue of this Law were transferred to and vested in, respectively, the Policy & Resources Committee and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 10(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.

In accordance with the provisions of the Police Force (Guernsey) Law, 1986, section 2(2), with effect from 19th August, 1986, the reference herein to a member of the salaried police force of the Island of Guernsey shall include a reference to a member of a force present in the Island by virtue of an agreement made under section 1 of the 1986 Law.

The Protection of Investors (Bailiwick of Guernsey) Law, 1987, the Banking Supervision (Bailiwick of Guernsey) Law, 1994 and the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc (Bailiwick of Guernsey) Law, 2000 have all since been repealed by, respectively, the Protection of Investors (Bailiwick of Guernsey) Law, 2020, section 80(a), with effect from 1st November, 2021, subject to the savings and transitional provisions in section 81 of the 2020 Law; the Banking Supervision (Bailiwick of Guernsey) Law, 2020, section 67(a), with effect from 1st November, 2021, subject to the savings and transitional provisions in section 68 of the 2020 Law; and the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc (Bailiwick of Guernsey) Law, 2020, section 62(a), with effect from 1st November, 2021, subject to the savings and transitional provisions in section 60 of the 2020 Law.

Minor and consequential amendments, savings and transitional provisions.

115. (1) Schedule 6 (which makes minor and consequential amendments) has effect.

(2) The [Committee] may make regulations containing such savings and transitional provisions as it thinks fit in connection with the commencement or implementation of any provision of this Law.

(3) Regulations under this section may, without limitation, make such exceptions to, and adaptations and modifications of, the provisions of this Law, whether or not already in force, as the [Committee] thinks fit.

(4) Savings and transitional provisions made under this section are additional and without prejudice to those made by or under any other provision of this Law.

NOTE

In section 115, the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 2, with effect from 1st May, 2016.

Citation.

116. This Law may be cited as the Limited Liability Partnerships (Guernsey) Law, 2013.

Commencement.

117. This Law shall come into force on the day specified by regulations of the Department; and different days may be appointed for different provisions and different purposes.

NOTE

The Law was brought into force on 13th May, 2014 by the Limited Liability Partnerships (Guernsey) Law 2013 (Commencement) Regulations, 2014, regulation 1.

SCHEDULE 1

Section 6

Office of the Registrar of LLPs

1. There is established the office of the Registrar of Limited Liability Partnerships ("**the Registrar**"), which shall be held by the Registrar of Companies whose office is established under section 495 of the Companies Law.

2. For the avoidance of doubt, the functions of the Registrar conferred by or under this Law are, for the purposes of sections 495(5) and 499(1)(f) of the Companies Law, functions assigned or transferred to him by or under an enactment, and the provisions of that Law relating to the Registrar's functions (whether conferred by or under that Law or otherwise), together with the associated penalties and offences, and other ancillary, incidental and supplementary provision, apply *mutatis mutandis* to the Registrar's functions conferred by or under this Law.

NOTES

The following Regulations have been made under Schedule 1:

Limited Liability Partnerships (Registrar) (Fees and Penalties) Regulations, 2014.

In accordance with the provisions of the Companies (Registrar) (Credit Arrangements) Regulations, 2015, regulation 1(b)(ii), with effect from 18th December, 2015 and for the avoidance of doubt, for the purposes of paragraph 2 of this Schedule, the 2015 Regulations apply mutatis mutandis to the Registrar's functions conferred by or under this Law.

SCHEDULE 2

Section 7

Resident agents

Obligation for LLPs to have a resident agent.

1. (1) Subject to subparagraph (2), every LLP shall have a resident agent who is either –

- (a) an individual, resident in Guernsey, who is a member of the LLP, or
- (b) a corporate services provider.

(2) An LLP is exempted from the requirement contained in subparagraph (1) to have a resident agent if the LLP is –

- (a) a closed-ended investment scheme or an open-ended investment scheme, both within the meaning of the Protection of Investors (Bailiwick of Guernsey) Law, 1987^{ee}, or
- (b) a member of a class of LLPs prescribed for this purpose by the [Committee].

(3) If an LLP has more than one member who satisfies subparagraph (1)(a), then some or all of them may be resident agents, and if this is the

^{ee} Ordres en Conseil Vol. XXX, p. 281; amended by Vol. XXX, p. 243; Vol. XXXI, p. 278; Vol. XXXII, p. 324; Vol. XXXV, p. 271; Vol. XXXVI, p. 264; Vol. XXXVII, p. 24; Vol. XLII, p. 644; Vol. XLIII, pp. 440 and 1086; Order in Council No. XVIII of 2008; No. XIII of 2010; and No. XX of 2010. Also amended by Recueil d'Ordonnances Tome XXIV, p. 324; Tome XXVI, p. 333; Tome XXVIII, pp. 51 and 87; Tome XXIX p. 406; Ordinance XXXI of 2008; and G.S.I. No. 83 of 2010.

case, their functions and liabilities shall be joint and several.

(4) An LLP which fails to comply with this paragraph is guilty of an offence.

(5) An LLP which fails to comply with this paragraph is liable to be struck off the Register of LLPs in accordance with Part VI.

Record of resident agent.

2. (1) An LLP shall keep a record of its resident agent, which shall comprise –

(a) in the case of a resident agent who is a member, his name,

(b) in the case of a resident agent who is a corporate services provider –

(i) its corporate or firm name, and

(ii) its address.

(2) An LLP must, within 14 days after the date of the occurrence of –

(a) any change in its resident agent, or

(b) any change in the details contained in its record of resident agent,

give notice to the Registrar of the change and of the date on which it occurred.

(3) An LLP which fails to comply with subparagraph (1) or (2) is liable to a civil penalty.

[Duties of resident agent on incorporation.]

3. (1) Before an application is made for the incorporation of an LLP the proposed first resident agent must take reasonable steps to ascertain the identity of the beneficial owners in relation to that LLP, and when such an application is made he must –

- (a) provide a statement of the required particulars of the beneficial owners in relation to the LLP (or, if no beneficial owners have been identified by the resident agent, a statement to that effect) to the Registrar of Beneficial Ownership,
- (b) take reasonable steps to verify the information in the statement, and provide with the statement a statement that the resident agent has taken reasonable steps to verify that information, and
- (c) serve copies of the statements on –
 - (i) the LLP, and
 - (ii) upon request, the proposed first members of the LLP.

(2) In this paragraph, "**required particulars**" has the meaning given in section 10 of the Beneficial Ownership Law.]

Record of beneficial owners.

4. ...

Notice to members to disclose beneficial ownership.

5. ...

Suspension [...] of interests for failure to disclose beneficial ownership or provide accounting records.

6. [(1) This paragraph applies when, in the opinion of the resident agent of an LLP, a member of the LLP or a beneficial owner in relation to the LLP (a "beneficial owner") has –

- (a) failed, without reasonable excuse, to comply with a notice served under section 9 or 11 of the Beneficial Ownership Law within the time specified in it,
- (b) failed, without reasonable excuse, to comply with the duty under section 15(2) or 16(2) of the Beneficial Ownership Law (in circumstances where those sections apply), or
- (c) made a statement under those sections which is false, deceptive or misleading in a material particular.

(2) This paragraph also applies when, in the opinion of the Registrar of Beneficial Ownership, a member or beneficial owner has failed to comply with a requirement of the Registrar of Beneficial Ownership under paragraph 4 of Schedule 2 to the Beneficial Ownership Law to produce information, or has made a statement under that paragraph which is false, deceptive or misleading in a material particular.

(2A) When this paragraph applies by virtue of subparagraph (1), the resident agent must as soon as reasonably practicable notify the Registrar of the opinion referred to in subsection (1), and when this section applies by virtue of subparagraph (2), the Registrar of Beneficial Ownership may notify the Registrar of the opinion referred to in subsection (2).

(2B) On the Registrar receiving a notification under subsection (2A), or when he otherwise has reasonable grounds for believing that a member or beneficial owner has failed to comply with an obligation or duty under the Beneficial Ownership Law or has made a statement which is false, deceptive or misleading in a material particular in purported compliance with such an obligation or duty (whether he has reasonable grounds for that belief because he has received relevant information from the Commission or for some other reason), the Registrar may, if he thinks it proportionate and appropriate in all the circumstances place such restrictions as he thinks fit on rights attaching to the relevant member's interest in the LLP.

(2C) For the avoidance of doubt, when the Registrar places restrictions on a member's interests under subsection (2B), he must notify the member and the LLP.

(2D) A resident agent who fails to comply with the duty under subsection (2A), and an LLP which fails to comply with or give effect to restrictions placed on rights attaching to a member's interest under subsection (2B), is guilty of an offence.]

(3) Any restriction under subparagraph [(2B)] is removed if the LLP is struck off or upon the commencement of the LLP's winding up.

(4) A member may apply to the Court to set aside any restriction [...] under subparagraph [(2B)].

(5) The Court shall not hear an application under subparagraph (4) unless satisfied that [the LLP and the Registrar have] been notified of the date and time of the hearing.

(6) The Court may make an order on such terms and conditions as it thinks fit on an application under subparagraph (4).

[(7) For the avoidance of doubt, this section is without prejudice to the powers and duties of resident agents under the Beneficial Ownership Law.]

[Resignation of resident agent.]

6A. (1) A registered agent of an LLP may give notice stating that he intends to resign from his position as registered agent.

(2) A notice under subsection (1) shall be served on –

(a) the Registrar,

(b) the Registrar of Beneficial Ownership,

(c) each member at –

(i) his service address, and

(ii) his usual residential address where that address is different from his service address, and

(d) the LLP.

(3) The notice must state –

- (a) the LLP's name and registration number,
- (b) the date from which the resignation of the resident agent shall be effective,
- (c) that the company may be struck off the Register in accordance with Part VI if it does not appoint a new resident agent.

(4) An LLP which does not appoint a new replacement agent on the resignation of the resident agent becoming effective following a notice under this section is liable to be struck off the Register in accordance with Part VI.]

Disclosure of beneficial ownership information by resident agent.

7. (1) The resident agent shall, on receipt of a certificate described in subparagraph (2), disclose to (as the case may be) –

- (a) Her Majesty's Procureur,
- (b) the Commission,
- (c) a police officer, or
- (d) a customs officer,

any information required by that person which the resident agent is required to hold by virtue of his obligations under this Schedule and any other information he holds in respect of the beneficial ownership of an LLP.

(2) The certificate referred to in subparagraph (1) is a certificate signed by –

- (a) Her Majesty's Procureur,
- (b) the Director General of the Commission,
- (c) the Chief Officer of the salaried police force of the Island of Guernsey, or
- (d) the Chief Officer of Customs and Excise,

(as the case may be) or any person appointed by any of them for that purpose.

(3) The certificate shall state –

- (a) what information is required,
- (b) that the information is required for the purpose of –
 - (i) any criminal or regulatory investigation which is being or may be carried out, whether in Guernsey or elsewhere,
 - (ii) any criminal or regulatory proceedings which have been or may be initiated, whether in Guernsey or elsewhere,
 - (iii) the initiation or bringing to an end of any such investigation or proceedings, or
 - (iv) facilitating a determination of whether any such investigation or proceedings should be initiated

or brought to an end, and

- (c) that the person signing it has satisfied himself that the making of the disclosure is proportionate to what is sought to be achieved by it.

(4) Nothing in this paragraph prejudices any power to disclose information which exists apart from this paragraph.

(5) The information that may be disclosed by virtue of this paragraph includes information obtained before this Law came into force.

(6) A resident agent who without reasonable excuse –

- (a) fails to comply with this paragraph, or
- (b) makes a statement, in response to a certificate under this paragraph, which is misleading in a material particular, false or deceptive,

is guilty of an offence.

Tipping off.

8. (1) A resident agent is guilty of an offence if he knows or suspects that a certificate has been issued, or is proposed to be issued, under paragraph 7 in respect of an LLP for which he is a resident agent, and he discloses to any person information or any other matter which may prejudice –

- (a) any criminal or regulatory investigation which is being or may be carried out, whether in Guernsey or elsewhere, or

- (b) any criminal or regulatory proceedings which have been or may be initiated, whether in Guernsey or elsewhere,

which are connected with the issue of that certificate.

(2) Nothing in subparagraph (1) makes it an offence for an Advocate or other legal adviser to disclose any information or other matter –

- (a) to, or to a representative of, a client of his in connection with the giving by him of legal advice to the client, or
- (b) to any person –
 - (i) in contemplation of or in connection with legal proceedings, and
 - (ii) for the purpose of those proceedings.

(3) Subparagraph (2) does not apply in relation to any information or other matter which is disclosed with a view to furthering any criminal purpose.

(4) In proceedings against a person for an offence under this paragraph, it is a defence to prove that he did not know or suspect that the disclosure was likely to be prejudicial in the way mentioned in subparagraph (1).

Privileged information.

9. (1) Nothing in this Schedule compels the production or divulgence by an Advocate or other legal adviser of an item subject to legal professional privilege (within the meaning of section 24 of the Police Powers and Criminal

Evidence (Bailiwick of Guernsey) Law, 2003), but an Advocate or other legal adviser may be required to give the name and address of any client.

(2) A requirement imposed by or under this Schedule has effect notwithstanding any obligation as to confidentiality or other restriction on the disclosure of information imposed by statute, contract or otherwise, and accordingly the obligation or restriction is not contravened by the making of a disclosure pursuant to such a requirement.

Provisions in members' agreement concerning beneficial ownership.

10. The operation of this Schedule does not limit or otherwise restrict any provision in a members' agreement that relieves the LLP from recognising any interests other than the interests of the members of the LLP.

NOTES

In Schedule 2,

the word in square brackets in paragraph 1 was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 2, with effect from 1st May, 2016;

first, paragraph 3 was substituted, second, paragraph 4 and paragraph 5 were repealed, third, the words omitted in square brackets in the paragraph heading to paragraph 6 were repealed, subparagraph (1) and subparagraph (2) of that paragraph were substituted and subparagraph (2A), subparagraph (2B), subparagraph (2C) and subparagraph (2D) thereof were inserted, fourth, the parentheses, figure and letter in square brackets in subparagraph (3) of paragraph 6 were substituted, the words omitted in the first pair of square brackets in subparagraph (4) thereof were repealed, the parentheses, figure and letter in the second pair of square brackets therein were substituted and the words in square brackets in subparagraph (5) thereof were substituted, fifth, subparagraph (7) of paragraph 6 was inserted and, sixth, paragraph 6A was inserted by the Beneficial Ownership of Legal Persons (Guernsey) Law, 2017, respectively section 20(6), section 20(7), section 20(8), section 20(9), section 20(10) and section 20(11), with effect from 15th August, 2017.

The Protection of Investors (Bailiwick of Guernsey) Law, 1987 has since been repealed by the Protection of Investors (Bailiwick of Guernsey) Law,

2020, section 80(a), with effect from 1st November, 2021, subject to the savings and transitional provisions in section 81 of the 2020 Law.

SCHEDULE 3

Section 10

Names of LLPs

Names of LLPs.

1. (1) The name of an LLP must end with –

- (a) the expression "Limited Liability Partnership", or
- (b) the abbreviation "llp" or "LLP".

(2) No LLP shall carry on business under a name that is not registered under this Law.

Prohibited names.

2. (1) An LLP must not have a name which is the same as a name currently appearing on the Register.

(2) In determining for the purposes of subparagraph (1) whether one name is the same as another, there are to be disregarded –

- (a) the definite article, where it is the first word of the name,
- (b) the expressions "LLP", and the abbreviations "llp" and "LLP",
- (c) type and case of letters, accents, spaces between letters and punctuation marks,

and "and" and "&" are to be taken as the same.

(3) Without prejudice to the Trade Marks (Bailiwick of Guernsey) Ordinance, 2006^{ff}, an LLP must not have a name which, in the opinion of the Registrar, is likely to cause the public to confuse the LLP with –

- (a) some other person already established in Guernsey, or
- (b) a trade mark which has already been registered in accordance with the Trade Marks (Bailiwick of Guernsey) Ordinance, 2006,

unless that other person or the proprietor of that trade mark (as the case may be) has consented to the use of that name.

(4) The Registrar may consider, in exercising his functions under subparagraph (3) –

- (a) whether the name of the LLP and –
 - (i) the name of the person already established in Guernsey or elsewhere, or
 - (ii) the trade mark (as the case may be),

are the same or similar, and

- (b) whether the LLP engages in the provision of the same or similar goods and services as –

^{ff} Recueil d'Ordonnances Tome XXXI, p. 1; amended by Tome XXXI, p. 622.

- (i) the person already established in Guernsey or elsewhere, or
- (ii) the goods and services in respect of which the trade mark was registered (as the case may be).

(5) An LLP must not have a name which, in the opinion of the Registrar, gives so misleading an indication of its activity as to be likely to cause confusion.

(6) An LLP must not have a name –

- (a) the use of which would in the opinion of the Registrar constitute a criminal offence, or
- (b) which would in the opinion of the Registrar be contrary to public policy or to accepted principles of morality.

(7) An LLP must not have a name which in the opinion of the Registrar implies, or might be taken to imply, royal or government connection, support or patronage, unless Her Majesty's Procureur has given written permission for the use of that name.

SCHEDULE 4

Section 13(9)

Register of members, etc.

Register of members.

1. (1) An LLP shall keep its register of members at its registered office.

(2) Where a member is an individual, the following particulars must be entered in the register –

- (a) his name and any former name,
- (b) his address, which may be either –
 - (i) his usual residential address, or
 - (ii) his service address (which may be stated as "the LLP's registered office"),
- (c) his nationality,
- (d) his business occupation (if any), and
- (e) his date of birth.

(3) Where a member is not a natural person, the following particulars must be entered in the register –

- (a) its corporate or firm name and any former such name it has had within the preceding five years,

- (b) its registered office (or, if it has no registered office, its principal office),
- (c) its legal form and the law by which it is governed, and
- (d) if applicable, the register in which it is entered and its registration number in that register.

(4) It is not necessary for the register to contain particulars of a former name in the following cases –

- (a) in the case of a peer or an individual normally known by a British title, where the name is one by which the person was known before the adoption of or succession to the title,
- (b) in the case of any person, where the former name –
 - (i) was changed or disused before the person attained the age of 18 years, or
 - (ii) has been changed or disused for 20 years or more.

(5) An LLP which fails to comply with this paragraph is guilty of an offence.

Rights to inspect and require copies.

2. (1) The register of members must be open, during ordinary business hours, to the inspection of –

- (a) any member without charge,
- (b) any other person on payment of such fee as may be prescribed by the [Committee] or such lesser fee as the LLP may stipulate.

(2) A person may require a copy of the register, or any part of it, on payment of such fee as may be prescribed by the [Committee] or such lesser fee as the LLP may stipulate; and the LLP shall cause any copy so requested to be sent to the person within five working days of the receipt of the request.

(3) An LLP which fails to comply with this paragraph is guilty of an offence and the Court may by order compel an immediate inspection or, as the case may be, direct that a copy be sent to the person requesting it.

Duty to notify Registrar of changes.

3. (1) An LLP must, within the period of 14 days from the occurrence of –

- (a) any change in its members, or
- (b) any change in the particulars contained in its register of members,

give notice to the Registrar of the change and of the date on which it occurred.

(2) Notice of a person having become a member of the LLP must

contain the particulars set out in paragraph 1 relating to that member, and a statement that he consents to becoming a member signed by him or authenticated in a manner approved by the Registrar.

- (3) An LLP which fails to comply with this paragraph is –
 - (a) guilty of an offence, and
 - (b) liable to a civil penalty.

Validity of service address.

4. Where a member's address entered in the register of members is a service address, service of any summons, notice, document or other matter at that address is deemed as effective as if it were service at the member's usual residential address.

Record of usual residential address.

5. (1) Where a member's address entered in the register of members is a service address, the LLP shall keep a record of the member's usual residential address.

(2) An LLP which fails to comply with this paragraph is guilty of an offence.

Duty to notify Registrar of change in usual residential address.

6. (1) Where a person becomes a member of an LLP and his address entered in the register of members is a service address, the LLP must, within the period of 14 days after the day the person becomes a member, give notice to the Registrar of the member's usual residential address.

(2) Where a member's address entered in the register of members

is a service address, the LLP must, within the period of 14 days from any change in its record of the member's usual residential address, give notice to the Registrar of the change and of the date on which it occurred.

(3) An LLP which fails to comply with this paragraph is guilty of an offence.

Disclosure of usual residential address by LLP.

7. (1) Where a member's address entered in the register of members is a service address, a person may request the LLP to disclose the member's usual residential address to him in accordance with the provisions of this paragraph.

(2) A request under subparagraph (1) shall contain the following information –

- (a) in the case of an individual, his name and address,
- (b) in the case of an organisation, the name and address of an individual responsible for making the request on behalf of the organisation,
- (c) the purposes for which the information is to be used, and
- (d) whether the information will be disclosed to any other person, and if so –
 - (i) where that person is an individual, his name and address,
 - (ii) where that person is an organisation, the name

and address of an individual responsible for receiving the information on its behalf, and

- (iii) the purpose for which the information is to be used by that person.

Application to Court for disclosure of usual residential address.

8. (1) If an LLP does not comply with a request made under paragraph 7 within two weeks, the person who made the request ("**the applicant**") may make an application to the Court.

(2) The applicant must notify the LLP if he makes an application under subparagraph (1).

(3) If on an application under this paragraph the Court is satisfied that the request is made for a proper purpose, it may direct the LLP to comply with the request.

(4) If on an application under this paragraph the Court is satisfied that the request is not made for a proper purpose, it may direct the LLP not to comply with the request.

(5) If the Court gives a direction under subparagraph (4) and it appears to the Court that the LLP is or may be subject to other requests made for a similar purpose (whether made by the same person or different persons) it may direct that the LLP is not to comply with any such request, and the order must contain such provision as appears to the Court appropriate to identify the requests to which it applies.

(6) In considering whether a request is made for a proper purpose, the Court may consider how effective the service address is in effecting service in

respect of proceedings taking place outside Guernsey.

(7) The Court may make such order as to costs as it thinks fit on an application under this paragraph.

(8) An LLP which fails to comply with subparagraph (3) is guilty of an offence and the Court may by order compel the LLP to comply with the request.

Disclosure of usual residential address by Registrar.

9. (1) Where a member's address entered in the register of members is a service address, the Registrar shall disclose the member's usual residential address to the following persons upon request by those persons –

- (a) Her Majesty's Procureur, Her Majesty's Sheriff or Her Majesty's Sergeant,
- (b) the Commission,
- (c) the [Director of the Revenue Service],
- (d) a police officer,
- (e) a customs officer, or
- (f) such other persons as may be prescribed by the [Committee].

(2) A request under subparagraph (1) shall –

- (a) be in writing,

- (b) state that disclosure is required by that person for the proper exercise of his functions, and
- (c) shall be signed by the person seeking disclosure or by any person appointed by him for that purpose.

Offences in connection with request for or disclosure of information.

10. (1) It is an offence for a person without reasonable excuse to make in a request under paragraph 7 a statement that is false, deceptive or misleading in a material particular.

(2) It is an offence for a person in possession of information obtained by exercise of the rights conferred by paragraph 7 –

- (a) to do anything that results in the information being disclosed to another person, or
- (b) to fail to do anything with the result that the information is disclosed to another person,

knowing or having reason to suspect that that person may use the information for a purpose that is not a proper purpose.

NOTES

In Schedule 4,

the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 2, with effect from 1st May, 2016;

the words in square brackets in paragraph 9(c) were substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings

and transitional provisions in section 2 of the 2018 Ordinance.

The following Regulations have been made under Schedule 4:

Limited Liability Partnerships (Inspection and Copying of Documents) (Fees) Regulations, 2014.

SCHEDULE 5

Section 106

Electronic communications

Section 526 of the Companies Law shall have effect for the purposes of this Law with no modifications.

Schedule 3 to the Companies Law shall have effect for the purposes of this Law with the following modifications –

- (a) references (however expressed) to a company shall be construed as references to an LLP,
- (b) references (however expressed) to the articles of association of a company shall be construed as references to the members' agreement of an LLP,
- (c) references (however expressed) to the members of a company shall be construed as references to the members of an LLP,
- (d) references (however expressed) to a company meeting shall be construed as references to a meeting of the members of the LLP,
- (e) references (however expressed) to a resolution of a company shall be construed as references to a unanimous agreement of the members of the LLP, whether recorded in writing or otherwise,
- (f) the words "or their proxies" in paragraph 1(a) shall be

disregarded,

- (g) the words "and sections 189 and 208" in paragraph 6(b) shall be disregarded, and
- (h) paragraph 10(1)(a) and the words "if no such period is specified," in paragraph 10(1)(b) shall be disregarded.

SCHEDULE 6

Section 115

Minor and consequential amendments

1. In section 137(2)(a) of the Companies Law, after "under Part XXV", insert "or under Part V of the Limited Liability Partnerships (Guernsey) Law, 2013,".

2. In the section 209(1) of the Income Tax (Guernsey) Law, 1975 –

(a) after the definition of "limited partnership", insert –

""**LLP**" means a limited liability partnership formed in Guernsey under the Limited Liability Partnerships (Guernsey) Law, 2013," and

(b) for the definition of "partnership", substitute –

""**partnership**" includes a limited partnership and an LLP,".

¹ The functions of the Commerce and Employment Department under paragraph (c) of subsection (2) of this section relating to the enactment of regulations or orders which prescribe or specify fees or charges payable to the Guernsey Financial Services Commission and ancillary matters were previously transferred to

and vested in them from the Guernsey Financial Services Commission by the Guernsey Financial Services Commission (Transfer of Functions) (Fees) (Bailiwick of Guernsey) Ordinance, 2015, section 1(b), with effect from 1st May, 2015, subject to, first, the savings and transitional provisions in section 3 and, second, the provisions of section 6 of the 2015 Ordinance.

² The functions of the Commerce and Employment Department under paragraph (d) of subsection (2) of this section relating to the enactment of regulations or orders which prescribe or specify fees or charges payable to the Guernsey Financial Services Commission and ancillary matters were previously transferred to and vested in them from the Guernsey Financial Services Commission by the Guernsey Financial Services Commission (Transfer of Functions) (Fees) (Bailiwick of Guernsey) Ordinance, 2015, section 1(b), with effect from 1st May, 2015, subject to, first, the savings and transitional provisions in section 3 and, second, the provisions of section 6 of the 2015 Ordinance.