

EXECUTIVE NOTE

THE LIMITED LIABILITY PARTNERSHIPS (SCOTLAND) AMENDMENT REGULATIONS 2009

S.S.I 2009/310

1. This instrument is made in exercise of powers conferred by sections 14(1), 17(2) and (3) of the Limited Liabilities Partnership Act 2000 and is subject to negative resolution.

Policy Objectives

2. The Limited Liability Partnerships (Scotland) Regulations 2001 (“the principal regulations”) apply certain provisions of the Insolvency Act 1986 (“the 1986 Act”) to limited liability partnerships. This instrument amends the principal regulations in consequence of changes made to the 1986 Act by the Insolvency Act 2000, the Commonhold and Leasehold Reform Act 2002 and the Enterprise Act 2002.
3. Regulation 3 amends Schedule 2 to the principal regulations to reflect changes made to the 1986 Act by the Enterprise Act 2002. The Enterprise Act 2002 replaced references to ‘administration orders’ in sections 234 (and consequentially 236 and 237), 235 and 244 of the 1986 Act with references to companies entering administration to take account of new out-of-court entry routes.
4. Regulation 4 amends the principal regulations in consequence of changes made to section 233 of the 1986 Act by the Insolvency Act 2000. It removes an obsolete entry in Schedule 3 which modified section 233 of the 1986 as it applies to limited liability partnerships. This entry is no longer necessary because section 233 of the 1986 Act, as amended, applies equally to limited liability partnerships.
5. Regulation 4 also makes a minor change to the entry in Schedule 3 of the principal regulations relating to section 84 of the 1986 Act. To improve clarity, subsection 4 is renumbered 3A to distinguish it from another subsection 4 which was inserted, in relation to England and Wales, by the Commonhold and Leasehold Reform Act 2002.

Consultation

6. The changes made to the insolvency regime will have minimal impact. Formal public consultation was not considered necessary but the draft instrument was circulated to stakeholders including the Committee of Scottish Clearing Bankers, the Society of Messengers-at-Arms and Sheriff Officers, and R3 (the Association of Business Recovery Professionals). R3 suggested one minor change but this was rejected in favour of retaining consistent terminology. No other changes were suggested.

Financial Effects

7. A regulatory impact assessment is not considered necessary because the change is expected to have no financial impact on Scottish businesses.

Accountant in Bankruptcy
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