

LIMITED LIABILITY PARTNERSHIPS ACT 2000

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Incorporation

Section 2: Incorporation document etc

Section 2 sets out the conditions which must be met for an LLP to be incorporated.

Subsection (1) To form an LLP, there must at the outset be at least two people who are associated for the carrying on of a lawful business with a view to profit and who subscribe their names to a document called an “incorporation document”. The incorporation document must be delivered to the registrar (defined in section 18). A statement must also be delivered to the registrar that there has been compliance with the requirement that at least two persons, associated for the purpose of carrying on a lawful business with a view to profit, have subscribed their names to the incorporation document. The statement must be made by a subscriber to the incorporation document or a solicitor engaged in the formation of the LLP.

Subsection (2) The incorporation document must contain various items of information: the name of the LLP, whether the registered office is to be situated in England and Wales, in Wales or in Scotland, the address of the registered office, the name and address of the persons who are to be members on incorporation and whether some or all of the members are to be designated members.

Subsection (3) An offence is committed if a person makes a statement under subsection (1)(c) that he knows to be false or does not believe to be true.

Subsection (4) Where a person is guilty of an offence under subsection (3) that person will be liable on summary conviction to imprisonment for no longer than six months or a fine that does not exceed the statutory maximum (currently £5,000) or both. If the conviction is on indictment that person will be liable to imprisonment for a period of not more than two years or a fine or both.

Section 3: Incorporation by registration

Subsection (1) When the registrar receives the incorporation document he will retain and register it. Once the documents have been registered, the registrar will issue a certificate that the LLP is incorporated by the name specified in the incorporation document.

Subsection (2) A statement that is delivered under section 2(1)(c) may be accepted by the registrar as sufficient evidence that the requirement in section 2(1)(a) has been complied with.

Subsection (4) The certificate issued by the registrar is evidence that all requirements have been complied with.