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STATUTORY INSTRUMENTS

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**2001 No. 1090**

Limited Liability Partnerships Regulations 2001

PART I

CITATION, COMMENCEMENT AND INTERPRETATION

**Citation and commencement**

1. These Regulations may be cited as the Limited Liability Partnerships Regulations 2001 and shall come into force on 6th April 2001.

**Interpretation**

2. In these Regulations—

“the 1985 Act” means the Companies Act 1985<sup>(1)</sup>;

“the 1986 Act” means the Insolvency Act 1986<sup>(2)</sup>;

“the 2000 Act” means the Financial Services and Markets Act 2000<sup>(3)</sup>;

“devolved”, in relation to the provisions of the 1986 Act, means the provisions of the 1986 Act which are listed in Schedule 4 and, in their application to Scotland, concern wholly or partly, matters which are set out in Section C.2 of Schedule 5 to the Scotland Act 1998<sup>(4)</sup> as being exceptions to the reservations made in that Act in the field of insolvency;

“limited liability partnership agreement”, in relation to a limited liability partnership, means any agreement express or implied between the members of the limited liability partnership or between the limited liability partnership and the members of the limited liability partnership which determines the mutual rights and duties of the members, and their rights and duties in relation to the limited liability partnership;

“the principal Act” means the Limited Liability Partnerships Act 2000; and

“shadow member”, in relation to limited liability partnerships, means a person in accordance with whose directions or instructions the members of the limited liability partnership are accustomed to act (but so that a person is not deemed a shadow member by reason only that the members of the limited partnership act on advice given by him in a professional capacity).

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(1) 1985 c. 6.  
(2) 1986 c. 45.  
(3) 2000 c. 8.  
(4) 1998 c. 46.

## PART II

### ACCOUNTS AND AUDIT

#### **Application of the accounts and audit provisions of the 1985 Act to limited liability partnerships**

3.—(1) Subject to paragraph (2), the provisions of Part VII of the 1985 Act (Accounts and Audit)<sup>(5)</sup> shall apply to limited liability partnerships.

(2) The enactments referred to in paragraph (1) shall apply to limited liability partnerships, except where the context otherwise requires, with the following modifications—

- (a) references to a company shall include references to a limited liability partnership;
- (b) references to a director or to an officer of a company shall include references to a member of a limited liability partnership;
- (c) references to other provisions of the 1985 Act and to provisions of the Insolvency Act 1986 shall include references to those provisions as they apply to limited liability partnerships in accordance with Parts III and IV of these Regulations;
- (d) the modifications set out in Schedule 1 to these Regulations; and
- (e) such further modifications as the context requires for the purpose of giving effect to those provisions as applied by this Part of these Regulations.

## PART III

### COMPANIES ACT 1985 AND COMPANY DIRECTORS DISQUALIFICATION ACT 1986

#### **Application of the remainder of the provisions of the 1985 Act and of the provisions of the Company Directors Disqualification Act 1986 to limited liability partnerships**

4.—(1) The provisions of the 1985 Act specified in the first column of Part I of Schedule 2 to these Regulations shall apply to limited liability partnerships, except where the context otherwise requires, with the following modifications—

- (a) references to a company shall include references to a limited liability partnership;
- (b) references to the Companies Acts shall include references to the principal Act and regulations made thereunder;
- (c) references to the Insolvency Act 1986 shall include references to that Act as it applies to limited liability partnerships by virtue of Part IV of these Regulations;
- (d) references in a provision of the 1985 Act to other provisions of that Act shall include references to those other provisions as they apply to limited liability partnerships by virtue of these Regulations;

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(5) Section 221 was substituted by section 2 of the Companies Act 1989 (c. 40) (the “1989 Act”); section 223 was substituted by section 3 of the 1989 Act; section 226 was substituted by section 4 of the 1989 Act; section 227 was substituted by section 5 of the 1989 Act; sections 229 and 230 were substituted by section 5 of the 1989 Act; section 245C was inserted by section 12 of the 1989 Act; section 248 was substituted by section 13(3) of the 1989 Act and amended by regulation 9 of S.I. 1996/189; section 248A was inserted by regulation 6 of S.I. 1997/220; section 249 was substituted by section 13(3) of the 1989 Act and amended by regulation 6 of S.I. 1992/2452; section 256 was substituted by section 19 of the 1989 Act; section 258 was substituted by section 21(1) of the 1989 Act; section 259 was substituted by section 22 of the 1989 Act; section 261 was substituted by section 22 of the 1989 Act. The footnotes to Schedule 1 to these Regulations provide details of the amendments made to the provisions which are listed in that Schedule.

- (e) references to the memorandum of association of a company shall include references to the incorporation document of a limited liability partnership;
  - (f) references to a shadow director shall include references to a shadow member;
  - (g) references to a director of a company or to an officer of a company shall include references to a member of a limited liability partnership;
  - (h) the modifications, if any, specified in the second column of Part I of Schedule 2 opposite the provision specified in the first column; and
  - (i) such further modifications as the context requires for the purpose of giving effect to that legislation as applied by these Regulations.
- (2) The provisions of the Company Director Disqualification Act 1986<sup>(6)</sup> shall apply to limited liability partnerships, except where the context otherwise requires, with the following modifications—
- (a) references to a company shall include references to a limited liability partnership;
  - (b) references to the Companies Acts shall include references to the principal Act and regulations made thereunder and references to the companies legislation shall include references to the principal Act, regulations made thereunder and to any enactment applied by regulations to limited liability partnerships;
  - (d) references to the Insolvency Act 1986 shall include references to that Act as it applies to limited liability partnerships by virtue of Part IV of these Regulations;
  - (e) references to the memorandum of association of a company shall include references to the incorporation document of a limited liability partnership;
  - (f) references to a shadow director shall include references to a shadow member;
  - (g) references to a director of a company or to an officer of a company shall include references to a member of a limited liability partnership;
  - (h) the modifications, if any, specified in the second column of Part II of Schedule 2 opposite the provision specified in the first column; and
  - (i) such further modifications as the context requires for the purpose of giving effect to that legislation as applied by these Regulations.

## PART IV

### WINDING UP AND INSOLVENCY

#### Application of the 1986 Act to limited liability partnerships

5.—(1) Subject to paragraphs (2) and (3), the following provisions of the 1986 Act, shall apply to limited liability partnerships—

- (a) Parts I, II, III, IV, VI and VII of the First Group of Parts (company insolvency; companies winding up),
- (b) the Third Group of Parts (miscellaneous matters bearing on both company and individual insolvency; general interpretation; final provisions)<sup>(7)</sup>.

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<sup>(6)</sup> 1986 c. 46.

<sup>(7)</sup> The provisions of the Insolvency Act 1986 applied by this regulation have been amended as follows:— Section 19 was amended by sections 1 and 5 of, and Schedule 2 to, the Insolvency Act 1994 (c. 7); section 44 was amended by section 2 of the Insolvency Act 1994 (c. 7); section 45 was amended by sections 107 and 212 of, and paragraph 3 of Schedule 16 and Schedule 24 to, the Companies Act 1989 (c. 40) as from a day to be appointed; section 53 was amended by sections 107 and 212 of the Companies Act 1989 (c. 40) and section 74 of, and Schedule 8 to the Law Reform (Miscellaneous Provisions)

(2) The provisions of the 1986 Act referred to in paragraph (1) shall apply to limited liability partnerships, except where the context otherwise requires, with the following modifications—

- (a) references to a company shall include references to a limited liability partnership;
- (b) references to a director or to an officer of a company shall include references to a member of a limited liability partnership;
- (c) references to a shadow director shall include references to a shadow member;
- (d) references to the 1985 Act, the Company Directors Disqualification Act 1986, the Companies Act 1989(8) or to any provisions of those Acts or to any provisions of the 1986 Act shall include references to those Acts or provisions as they apply to limited liability partnerships by virtue of the principal Act;
- (e) references to the memorandum of association of a company and to the articles of association of a company shall include references to the limited liability partnership agreement of a limited liability partnership;
- (f) the modifications set out in Schedule 3 to these Regulations; and
- (g) such further modifications as the context requires for the purpose of giving effect to that legislation as applied by these Regulations.

(3) In the application of this regulation to Scotland, the provisions of the 1986 Act referred to in paragraph (1) shall not include the provisions listed in Schedule 4 to the extent specified in that Schedule.

## PART V

### FINANCIAL SERVICES AND MARKETS

#### **Application of provisions contained in Parts XV and XXIV of the 2000 Act to limited liability partnerships**

6.—(1) Subject to paragraph (2), sections 215(3),(4) and (6), 356, 359(1) to (4), 361 to 365, 367, 370 and 371 of the 2000 Act shall apply to limited liability partnerships.

(2) The provisions of the 2000 Act referred to in paragraph (1) shall apply to limited liability partnerships, except where the context otherwise requires, with the following modifications—

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(Scotland) Act 1990 (c. 40); section 54 was amended by sections 107 and 212 of, and Schedules 16 and 24 to, the Companies Act 1989 (c. 40) as from a day to be appointed; section 57 was amended by section 3 of, the Insolvency Act 1994 (c. 7); section 62 was amended by sections 107 and 212 of, and Schedules 16 and 24 to, the Companies Act 1989 (c. 40) as from a day to be appointed; section 162 was amended by section 52 of, and Part III of Schedule 2 to, the Court of Session Act 1988 (c. 36); section 184 was amended by article 2 of, and Part I of the Schedule to, S.I. 1986/1996; section 241 was amended by section 1 of the Insolvency (No. 2) Act 1994 (c. 12); section 413 was amended by section 190 of, and paragraph 78 of Schedule 25 to, the Water Act 1989 (c. 15), by section 2 of, and paragraph 46 of Schedule 1 to, the Water Consolidation (Consequential Provisions) Act 1991 (c. 60) and section 152 of, and paragraph 25 of Schedule 12 to the Railways Act 1993 (c. 43); section 426 was amended by article 381 of, and paragraph 41 of Part II of Schedule 9 to, S.I. 1989/2405 (N.I. 19); Schedule 6 was amended by regulation 2 of S.I. 1987/2093, section 844 of, and paragraph 32 of Schedule 29 to the Income and Corporation Taxes Act 1988 (c. 1); section 7 of, and paragraph 22 of Schedule 2 to, the Finance Act 1991 (c. 31), section 4 of, and paragraph 73 of Schedule 2 to, the Social Security (Consequential Provisions) Act 1992 (c. 6), section 190 of, and paragraph 18 of Schedule 8 to, the Pensions Schemes Act 1993 (c. 48), section 36 of the Finance Act 1993 (c. 34), section 64 of, and paragraph 7 of Part III of Schedule 7 to, the Finance Act 1994 (c. 9), section 100 of and paragraph 8 of Schedule 14 to, the Value Added Tax Act 1994 (c. 23), section 40 of, and paragraph 13(1) of Schedule 6 to, the Finance Act 1994 (c. 9), section 60 of, and paragraph 12 of Part III of Schedule to, the Finance Act 1996 (c. 8), section 240 of, and paragraph 29 of Schedule 1 to, the Employment Rights Act 1996 (c. 18), and sections 13 and 113 of, and paragraph 6 of Part II of Schedule 2 and Part II of Schedule 18 to, the Finance Act 1997 (c. 16); Schedule 7 was amended by section 71(2) of, and paragraph 67 of Schedule 10 to, the Courts and Legal Services Act 1990 (c. 41) and by section 18 of, and paragraph 19 of Schedule 3 to, the Tribunals and Inquiries Act 1992 (c. 53). The footnotes to Schedule 3 to these regulations provide details of the amendments made to the provisions which are listed in that Schedule.

(8) 1989 c. 40.

- (a) references to a company shall include references to a limited liability partnership;
- (b) references to body shall include references to a limited liability partnership; and
- (c) references to the 1985 Act, the 1986 Act or to any of the provisions of those Acts shall include references to those Acts or provisions as they apply to limited liability partnerships by virtue of the principal Act.

## PART VI

### DEFAULT PROVISION

#### **Default provision for limited liability partnerships**

7. The mutual rights and duties of the members and the mutual rights and duties of the limited liability partnership and the members shall be determined, subject to the provisions of the general law and to the terms of any limited liability partnership agreement, by the following rules:

(1) All the members of a limited liability partnership are entitled to share equally in the capital and profits of the limited liability partnership.

(2) The limited liability partnership must indemnify each member in respect of payments made and personal liabilities incurred by him—

- (a) in the ordinary and proper conduct of the business of the limited liability partnership; or
- (b) in or about anything necessarily done for the preservation of the business or property of the limited liability partnership.

(3) Every member may take part in the management of the limited liability partnership.

(4) No member shall be entitled to remuneration for acting in the business or management of the limited liability partnership.

(5) No person may be introduced as a member or voluntarily assign an interest in a limited liability partnership without the consent of all existing members.

(6) Any difference arising as to ordinary matters connected with the business of the limited liability partnership may be decided by a majority of the members, but no change may be made in the nature of the business of the limited liability partnership without the consent of all the members.

(7) The books and records of the limited liability partnership are to be made available for inspection at the registered office of the limited liability partnership or at such other place as the members think fit and every member of the limited liability partnership may when he thinks fit have access to and inspect and copy any of them.

(8) Each member shall render true accounts and full information of all things affecting the limited liability partnership to any member or his legal representatives.

(9) If a member, without the consent of the limited liability partnership, carries on any business of the same nature as and competing with the limited liability partnership, he must account for and pay over to the limited liability partnership all profits made by him in that business.

(10) Every member must account to the limited liability partnership for any benefit derived by him without the consent of the limited liability partnership from any transaction concerning the limited liability partnership, or from any use by him of the property of the limited liability partnership, name or business connection.

## **Expulsion**

8. No majority of the members can expel any member unless a power to do so has been conferred by express agreement between the members.

## **PART VII**

### **MISCELLANEOUS**

#### **General and consequential amendments**

9.—(1) Subject to paragraph (2), the enactments mentioned in Schedule 5 shall have effect subject to the amendments specified in that Schedule.

(2) In the application of this regulation to Scotland—

- (a) paragraph 15 of Schedule 5 which amends section 110 of the 1986 Act shall not extend to Scotland; and
- (b) paragraph 22 of Schedule 5 which applies to limited liability partnerships the culpable officer provisions in existing primary legislation shall not extend to Scotland insofar as it relates to matters which have not been reserved by Schedule 5 to the Scotland Act 1998.

#### **Application of subordinate legislation**

10.—(1) The subordinate legislation specified in Schedule 6 shall apply as from time to time in force to limited liability partnerships and—

- (a) in the case of the subordinate legislation listed in Part I of that Schedule with such modifications as the context requires for the purpose of giving effect to the provisions of the Companies Act 1985 which are applied by these Regulations;
- (b) in the case of the subordinate legislation listed in Part II of that Schedule with such modifications as the context requires for the purpose of giving effect to the provisions of the Insolvency Act 1986 which are applied by these Regulations; and
- (c) in the case of the subordinate legislation listed in Part III of that Schedule with such modifications as the context requires for the purpose of giving effect to the provisions of the Business Names Act 1985 and the Company Directors Disqualification Act 1986 which are applied by these Regulations.

(2) In the case of any conflict between any provision of the subordinate legislation applied by paragraph (1) and any provision of these Regulations, the latter shall prevail.

19th March 2001

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