STATUTORY INSTRUMENTS

2009 No. 1804

The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009

PART 7

CERTIFICATION AND TRANSFER OF DEBENTURES

Issue of certificates etc on allotment

24. Section 769 applies to LLPs, modified so that it reads as follows—

"**Duty of LLP as to issue of certificates etc on allotment**

769.—(1) An LLP must, within two months after the allotment of any of its debentures or debenture stock, complete and have ready for delivery—

(a) the debentures allotted, or

(b) the certificates of the debenture stock allotted.

(2) Subsection (1) does not apply—

(a) if the conditions of issue of the debentures or debenture stock provide otherwise, or

(b) in the case of allotment to a financial institution (see section 778).

(3) If default is made in complying with subsection (1) an offence is committed by every member of the LLP who is in default.

(4) A person guilty of an offence under subsection (3) is liable on summary conviction to a fine not exceeding level 3 on the standard scale and, for continued contravention, a daily default fine not exceeding one-tenth of level 3 on the standard scale.".

Transfer of debentures

25. Sections 770 and 771 apply to LLPs, modified so that they read as follows—

"**Registration of transfer**

770.—(1) An LLP may not register a transfer of debentures of the LLP unless—

(a) a proper instrument of transfer has been delivered to it, or

(b) the transfer is an exempt transfer within the Stock Transfer Act 1982 (c. 41).

(2) Subsection (1) does not affect any power of the LLP to register as debenture holder a person to whom the right to any debentures of the LLP has been transmitted by operation of law.

Procedure on transfer being lodged

771.—(1) When a transfer of debentures of an LLP has been lodged with the LLP, the LLP must either—

(a) register the transfer, or

(b) give the transferee notice of refusal to register the transfer, together with its reasons for the refusal,

as soon as practicable and in any event within two months after the date on which the transfer is lodged with it.

(2) If the LLP refuses to register the transfer, it must provide the transferee with such further information about the reasons for the refusal as the transferee may reasonably request.

This does not include copies of minutes of meetings of members.

(3) If an LLP fails to comply with this section, an offence is committed by—

(a) the LLP, and

(b) every member of the LLP who is in default.

(4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale and, for continued contravention, a daily default fine not exceeding one-tenth of level 3 on the standard scale.

(5) This section does not apply in relation to the transmission of debentures by operation of law.”.

Other matters

26. Sections 774 and 775 apply to LLPs, modified so that they read as follows—

“**Evidence of grant of probate etc**

774. The production to an LLP of any document that is by law sufficient evidence of the grant of—

(a) probate of the will of a deceased person,

(b) letters of administration of the estate of a deceased person, or

(c) confirmation as executor of a deceased person,

shall be accepted by the LLP as sufficient evidence of the grant.

Certification of instrument of transfer

775.—(1) The certification by an LLP of an instrument of transfer of any debentures of the LLP is to be taken as a representation by the LLP to any person acting on the faith of the certification that there have been produced to the LLP such documents as on their face show a prima facie title to the debentures in the transferor named in the instrument.

(2) The certification is not to be taken as a representation that the transferor has any title to the debentures.

(3) Where a person acts on the faith of a false certification by an LLP made negligently, the LLP is under the same liability to him as if the certification had been made fraudulently.

(4) For the purposes of this section—

(a) an instrument of transfer is certificated if it bears the words “certificate lodged” (or words to the like effect);

(b) the certification of an instrument of transfer is made by an LLP if—

(i) the person issuing the instrument is a person authorised to issue certificated instruments of transfer on the LLP's behalf, and

(ii) the certification is signed by a person authorised to certificate transfers on the LLP's behalf or by a member or employee of the LLP or by an officer or employee of a body corporate so authorised;

(c) a certification is treated as signed by a person if—

(i) it purports to be authenticated by his signature or initials (whether handwritten or not), and

(ii) it is not shown that the signature or initials was or were placed there neither by himself nor by a person authorised to use the signature or initials for the purpose of certificating transfers on the LLP's behalf.".

Issue of certificates etc on transfer

27. Section 776 applies to LLPs, modified so that it reads as follows—

"**Duty of LLP as to issue of certificates etc on transfer**

776.—(1) An LLP must, within two months after the date on which a transfer of any of its debentures or debenture stock is lodged with the LLP, complete and have ready for delivery—

(a) the debentures transferred, or

(b) the certificates of the debenture stock transferred.

(2) For this purpose a "transfer" means—

(a) a transfer duly stamped and otherwise valid, or

(b) an exempt transfer within the Stock Transfer Act 1982 (c. 41),

but does not include a transfer that the LLP is for any reason entitled to refuse to register and does not register.

(3) Subsection (1) does not apply—

(a) if the conditions of issue of the debentures or debenture stock provide otherwise, or

(b) in the case of a transfer to a financial institution (see section 778).

(4) If default is made in complying with subsection (1) an offence is committed by every member of the LLP who is in default.

(5) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale and, for continued contravention, a daily default fine not exceeding one-tenth of level 3 on the standard scale.".

Issue of certificates etc on allotment or transfer to financial institution

28. Section 778 applies to LLPs, modified so that it reads as follows—

"**Issue of certificates etc: allotment or transfer to financial institution**

778.—(1) An LLP—

(a) of which debentures are allotted to a financial institution,

(b) of which debenture stock is allotted to a financial institution, or

(c) with which a transfer for transferring debentures or debenture stock to a financial institution is lodged,

is not required in consequence of that allotment or transfer to comply with section 769(1) or 776(1) (duty of LLP as to issue of certificates etc).

(2) A "financial institution" means—

(a) a recognised clearing house acting in relation to a recognised investment exchange, or

(b) a nominee of—

(i) a recognised clearing house acting in that way, or

(ii) a recognised investment exchange,

designated for the purposes of this section in the rules of the recognised investment exchange in question.

(3) Expressions used in subsection (2) have the same meaning as in Part 18 of the Financial Services and Markets Act 2000 (c. 8).".

Supplementary provisions

29. Section 782 is applied to LLPs, modified so that it reads as follows—

"**Issue of certificates etc: court order to make good default**

782.—(1) If an LLP on which a notice has been served requiring it to make good any default in complying with—

(a) section 769(1) (duty of LLP as to issue of certificates etc on allotment), or

(b) section 776(1) (duty of LLP as to issue of certificates etc on transfer),

fails to make good the default within ten days after service of the notice, the person entitled to have the certificates or the debentures delivered to him may apply to the court.

(2) The court may on such an application make an order directing the LLP and any member of it to make good the default within such time as may be specified in the order.

(3) The order may provide that all costs (in Scotland, expenses) of and incidental to the application are to be borne by the LLP or by a member of it responsible for the default.".