

**EXPLANATORY MEMORANDUM TO  
THE LIMITED LIABILITY PARTNERSHIPS (AMENDMENT) REGULATIONS  
2009**

**2009 No. 1833**

1. This explanatory memorandum has been prepared by the Department for Business, Innovation and Skills and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Purpose of the instrument**

2.1 The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (SI 2009/1804) (“the main regulations”) replaced and repealed much of the Limited Liability Partnerships Regulations 2001 (SI 2001/1090). By mistake they repealed the application to limited liability partnerships of sections in Part 18 of the Companies Act 1985 on floating charges in Scotland. The present instrument corrects this, and so its effect will be to maintain the existing rules on floating charges granted by limited liability partnerships under the law of Scotland.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 As these Regulations correct an error in the main regulations, copies of these Regulations will be provided free of charge to those who purchase the main regulations.

4. **Legislative Context**

4.1 Limited liability partnerships (LLPs) were created by the Limited Liability Partnerships Act 2000. That Act set out the basic structure of an LLP, and the remainder of the law on LLPs is provided by applying other legislation with modification as necessary. Among other provisions, the LLP Regulations 2001 applied appropriate parts of the Companies Act 1985 to LLPs. The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911) together with the main regulations dealt with the replacement of most of the Companies Act 1985 with the Companies Act 2006.

4.2 Among the elements of the 1985 Act that were applied to LLPs, two are not being repealed – relating to investigations and to floating charges under the law of Scotland. The main regulations (in Schedule 2, paragraph 13(5)) correctly preserved the application to LLPs of the provisions on investigations, but did not preserve the application by the LLP Regulations 2001 of provisions of the 1985 Act on floating charges created under the law of Scotland.

## **5. Territorial Extent and Application**

5.1 This instrument applies to all of the United Kingdom.

## **6. European Convention on Human Rights**

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

- *What is being done and why*

7.1 Since the creation of LLPs, they have been able to grant floating charges in the same way as companies. As for companies, this includes floating charges created under the law of Scotland, and relevant provisions of the Companies Act 1985 have been applied to them. This instrument maintains the application of these provisions.

## **8. Consultation outcome**

8.1 Since February 2007, the Government has consulted several times on the approach to the application to LLPs of the Companies Act 2006. There has always been support for applying to LLPs all the provisions of the Companies Act 2006 that correspond to provisions of the Companies Act 1985 that were applied to LLPs.

8.2 The main regulations were published for comment on the BERR website from November 2008, that consultation closing on 28 January 2009. There were six responses, all of which supported the Government's approach.

8.3 The purpose of this instrument is to make those regulations consistent with the approach that was supported in all earlier consultations, and so the Government has not consulted specifically on this instrument.

## **9. Guidance**

9.1 Guidance on the main regulations is now available on the Companies House website.

## **10. Impact**

10.1 The impact on business, charities or voluntary bodies is to avoid those that use the LLP form from losing the ability to grant effective floating charges under the law of Scotland.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument. The Impact Assessment on the preceding regulations was made in ignorance of the error that is being corrected in this instrument. It is obvious that the option of not making the

correction delivered by this instrument would impose unnecessary costs on some LLPs.

## **11. Regulating small business**

11.1 The legislation applies to small business.

11.2 The legislation will help businesses of all sizes that use the LLP form. No special provision has been made for small businesses.

## **12. Monitoring & review**

12.1 This instrument, along with the other instruments applying the Companies Act 2006 to LLPs, will be reviewed from 2011, as part of the Companies Act 2006 evaluation.

## **13. Contact**

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