

THE LIMITED LIABILITY PARTNERSHIPS ACT 2016

Act No. 24 of 2016

I assent

Bibi Ameenah Firdaus Gurib-Fakim

2 December 2016

President of the Republic

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An Act

To provide for the registration and administration of limited liability partnerships, and for related matters

ENACTED by the Parliament of Mauritius, as follows –

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Limited Liability Partnerships Act 2016.

2. Interpretation

In this Act —

“appropriate authority” includes any Ministry or Government department, local authority, statutory body or the Rodrigues Regional Assembly;

“Category 1 Global Business Licence” means a Category 1 Global Business Licence issued under the Financial Services Act;

“CBRIS” has the same meaning as in the Companies Act;

“Commission” means the Financial Services Commission established under the Financial Services Act;

“Court” means the Bankruptcy Division of the Supreme Court;

“financial summary” means the financial summary referred to in section 40;

“foreign limited liability partnership” means a partnership –

- (a) constituted under the law of a country other than Mauritius;
- (b) in which the partners have limited liability; and
- (c) registered as such under this Act;

“Global Legal Advisory Services licence” means the licence referred to in section 77A(1) of the Financial Services Act;

“limited liability partnership”–

- (a) means a limited liability partnership constituted or continued in Mauritius; and
- (b) includes a foreign limited liability partnership registered as a foreign limited liability partnership under this Act;

“liquidator” has the same meaning as in the Insolvency Act;

“local authority” has the same meaning as in the Local Government Act;

“manager” means the manager referred to in section 38;

“Minister” means the Minister to whom responsibility for the subject of finance is assigned;

“officer” means a director, associate, trustee or any other natural person or a manager involved, directly or indirectly, in the management of a partner or a limited liability partnership;

“partner”, in relation to a limited liability partnership, means any person who has been admitted as a partner in the limited liability partnership in accordance with its partnership agreement;

“partnership agreement” means an agreement, in writing, between the partners of a limited liability partnership which determines –

- (a) the manner in which the affairs of the limited liability partnership shall be conducted; and
- (b) the mutual rights and duties of the partners and their rights and duties in relation to the limited liability partnership;

“partnership interest” means the interest of a partner in a limited liability partnership in respect of the profit, capital, voting and other rights, benefits or obligations to which he is entitled or subject under this Act or the partnership agreement;

“receiver” has the same meaning as in the Insolvency Act;

“register” means the register of limited liability partnerships referred to in section 25;

“Registrar” means the Registrar of Limited Liability Partnerships referred to in section 5;

“resident” means –

- (a) a natural person who resides in Mauritius; or
- (b) an entity incorporated, registered or established under the laws of Mauritius;

“service address”–

- (a) means the address at which documents may be served; and
- (b) includes the address of a registered office;

“wrongful act or omission” includes any act or omission –

- (a) amounting to dishonesty, fraud, breach of fiduciary duty or gross negligence; or
- (b) in breach of any enactment.

3. Application of Act

- (1) This Act shall apply to a person –
 - (a) offering professional or consultancy services;
 - (b) holding a Global Legal Advisory Services licence; or

(c) engaging in such other activities as may be prescribed.

(2) This Act shall not apply to a *société* formed under *Titre Neuvième* of *Livre Troisième* of the Code Civil Mauricien or *Titre Troisième* of *Livre Premier* of the Code de Commerce.

4. Non-application of Code Civil Mauricien and Code de Commerce

The provisions of *Titre Neuvième* of *Livre Troisième* of the Code Civil Mauricien and *Titre Troisième* of *Livre Premier* of the Code de Commerce shall not apply to a limited liability partnership registered under this Act.

PART II – REGISTRAR OF LIMITED LIABILITY PARTNERSHIPS

5. Registrar of Limited Liability Partnerships

The Registrar of Limited Liability Partnerships shall be the Registrar of Companies appointed under the Companies Act.

6. Powers of inspection of Registrar

(1) For the purpose of ascertaining whether a limited liability partnership, a manager or a partner is complying with this Act, the Registrar may, on giving at least 3 days' notice in writing to the limited liability partnership, call for the production of, or inspect, any book, record or other document required to be kept by the limited liability partnership.

(2) The Registrar may, by notice in writing and within such time as may be specified in the notice, require a limited liability partnership or any of its partners or its manager to produce any book, record or other document and to furnish any information relating to the accounting records referred to in section 41.

7. Power of Registrar to reconstitute file

(1) Where a partnership agreement or any other document relating to a limited liability partnership which has been filed with the Registrar is lost or destroyed, the Registrar may require the limited liability partnership to submit a certified copy of the partnership agreement or document within such time as he may determine.

(2) The certified copy of the partnership agreement or document shall, on being registered by the Registrar, have the same force and effect as the original.

8. Practice Directions

- (1) The Registrar may, from time to time, issue Practice Directions setting out –
- (a) the form of notices required to be given to the Registrar under this Act; or
 - (b) the procedure to be followed in registering documents or performing any act or thing required to be done under this Act.
- (2) Any Practice Direction issued under subsection (1) shall be published in the Gazette and shall remain in force unless amended or revoked by publication in the Gazette.

9. Use of electronic system

The Registrar may require –

- (a) the registration of a limited liability partnership;
- (b) the payment of any fee;
- (c) the submission of the financial summary of a limited liability partnership and filing of any notice or document; or
- (d) the performance of an act or thing which is required to be done in relation to paragraph (a),(b) or (c),

to be made, submitted or done electronically through CBRIS and in such manner as he may approve.

PART III – NATURE OF LIMITED LIABILITY PARTNERSHIP

10. Separate legal personality

(1) A limited liability partnership registered under this Act shall be a body corporate and shall have legal personality separate from that of its partners.

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- (2) Unless otherwise specified in the partnership agreement –
- (a) a limited liability partnership shall have perpetual succession;
 - (b) any change in the partners of a limited liability partnership shall not affect the existence, rights or liabilities of the limited liability partnership.

11. Validity of actions

(1) Where the partnership agreement of a limited liability partnership provides for any restriction on the business or activities in which the limited liability partnership may engage –

- (a) the capacity and powers of the limited liability partnership shall not be affected by that restriction; and
- (b) no –
 - (i) act of the limited liability partnership;
 - (ii) contract or other obligation entered into by the limited liability partnership; and
 - (iii) transfer of property to or by the limited liability partnership,shall be invalid by reason only that it was done in contravention of that restriction.

(2) The capacity of the limited liability partnership to do an act shall not be affected by the fact that the act is not, or would not be, in the best interests of the limited liability partnership.

(3) A limited liability partnership or a guarantor of an obligation of a limited liability partnership shall not assert against a person dealing with the limited liability partnership or with a person who has acquired property, rights or interests from the limited liability partnership that –

- (a) this Act, insofar as it provides for limited liability partnership meetings and internal procedure or the partnership agreement of the limited liability partnership, has not been complied with;

- (b) a person named as an officer of the limited liability partnership in the last statement received by the Registrar under section 44 –
 - (i) is not an officer of the limited liability partnership;
 - (ii) has not been duly appointed; or
 - (iii) does not have the authority to exercise a power which an officer carrying on business of the kind carried on by the limited liability partnership customarily has authority to exercise;
- (c) a person held out by the limited liability partnership as an officer of the limited liability partnership –
 - (i) has not been duly appointed; or
 - (ii) does not have the authority to exercise a power which an officer of the limited liability partnership carrying on business of the kind carried on by the limited liability partnership customarily has authority to exercise;
- (d) a person held out by the limited liability partnership as an officer of the limited liability partnership with authority to exercise a power which an officer of a limited liability partnership carrying on business of the kind carried on by the limited liability partnership does not customarily have authority to exercise, does not have the authority to exercise that power;
- (e) a document issued on behalf of the limited liability partnership by an officer of the limited liability partnership with actual or usual authority to issue the document is not valid or not genuine,

unless the person has, or ought to have, by virtue of his position or relationship with the limited liability partnership, knowledge of the matters referred to in paragraph (a), (b), (c), (d), or (e), as the case may be.

(4) Subsection (3) shall apply notwithstanding that a person referred to in paragraph (b), (c), (d) or (e) of that subsection acts fraudulently or forges a document that appears to have been signed on behalf of the limited liability partnership, unless the person dealing with the limited liability partnership or with a person who has acquired property, rights or interests from the limited liability partnership has actual knowledge of the fraud or forgery.

(5) A person shall not be affected by, or deemed to have notice or knowledge of the contents of, the partnership agreement of a limited liability partnership, or any other document relating to, a limited liability partnership merely on grounds that the partnership agreement or document is registered in a register kept by the Registrar.

(6) Subject to this Act and any other enactment, a limited liability partnership shall –

- (a) have, both within and outside Mauritius –
 - (i) full capacity to carry on or undertake any lawful business or activity, do any related act or thing, or enter into any related transaction; and
 - (ii) for the purpose of subparagraph (i), full rights, powers and privileges;
- (b) be capable of suing and being sued in its own name.

12. Constitution of limited liability partnership

(1) A limited liability partnership shall consist of 2 or more persons associated for carrying on a lawful business.

(2) Any individual, body corporate or unincorporated body formed or registered with or without liability in Mauritius or elsewhere, including any *société*, partnership or any other body of persons, may be a partner of a limited liability partnership.

(3) The contribution of a partner may be satisfied by the provision of money, loan, any other property or services, and where non-cash contribution is provided, the value of the contribution shall be agreed upon and specified in the partnership agreement.

13. Limited liability of partners

(1) A partner shall –

- (a) exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances; and
- (b) discharge his or its duties honestly, in good faith and in the best interests of the limited liability partnership.

(2) A partner shall not be liable to pay the debts of the limited liability partnership beyond the amount he or it has agreed to contribute to the limited liability partnership.

(3) An obligation of a limited liability partnership, whether arising in contract, tort or otherwise, shall be solely the obligation of the limited liability partnership.

(4) A person shall not be personally liable, directly or indirectly, by way of indemnification, contribution, assessment or otherwise, for an obligation referred to in subsection (3) solely by reason of being a partner of the limited liability partnership.

(5) Subsections (2) and (3) shall not affect the liability of a partner or an officer of a partner arising out of his or its own wrongful act or omission.

(6) A limited liability partnership shall be liable to any third party for any act or omission of its partners in their position as partner or done under the authority of the limited liability partnership.

(7) This section shall be without prejudice to section 52.

14. Power of partner to bind limited liability partnership

(1) Every partner of a limited liability partnership shall be an agent of the limited liability partnership.

(2) Notwithstanding subsection (1), a limited liability partnership

shall not be bound by anything done by a partner in dealing with any other person where –

- (a) the partner did not have any authority to act for the limited liability partnership for that purpose; and
- (b) the other person knew or ought to have known that the partner had no authority.

15. Relationship of partners

(1) Every limited liability partnership shall have a partnership agreement.

(2) Unless otherwise provided in this Act, the mutual rights and duties of a limited liability partnership and its partners shall be governed by the partnership agreement of the limited liability partnership.

(3) Any reference to a resolution of partners of a limited liability partnership for a particular matter shall be a reference to a resolution passed by all or such number of partners as may be required by the partnership agreement.

(4) A partnership agreement shall be binding on the partners and subsequent partners in the same manner as if all those persons had themselves executed it.

(5) (a) Subject to any provision of a partnership agreement, a partnership agreement may be amended by written resolution.

(b) Where a partnership agreement does not make provision for its amendment, it may be amended by the unanimous agreement of all the partners.

(6) Any amendment made to a partnership agreement under this section shall be binding on every existing and subsequent partner.

(7) A partnership agreement may, to the extent specified in it, confer rights upon any person, including a person who is not a party to the partnership agreement.

(8) A partnership agreement shall provide for the circumstances in which the interest of the partners may be transferable.

16. Cessation of partnership interest

(1) A partner of a limited liability partnership shall cease to be a partner –

- (a) on the termination or dissolution of the partner or on his death;
- (b) upon his or its bankruptcy or insolvency;
- (c) in accordance with the provisions of the partnership agreement; or
- (d) in the absence of any provision in the partnership agreement, upon giving 30 days' notice to the other partners, of his intention to resign as partner.

(2) Unless otherwise provided in the partnership agreement, where a partner of a limited liability partnership ceases to be a partner, that partner, or his or its personal representative or liquidator, as the case may be, shall be entitled to receive from the limited liability partnership an amount equal to his capital contribution to the limited liability partnership and he or it shall have the right to his or its share in the accumulated profits of the limited liability partnership after the deduction of losses of the limited liability partnership.

(3) The amount referred to in subsection (2) shall be determined as at the date the partner ceased to be a partner.

(4) For the avoidance of doubt, a partner who or which has ceased to be a partner, his or its personal representative or liquidator, as the case may be, shall not interfere in the management of the limited liability partnership.

(5) A partner may not be removed from a limited liability partnership by the other partners unless the power to do so is expressly provided in the partnership agreement.

17. Assignment of partnership interest

(1) Unless otherwise provided in the partnership agreement, a partner may assign, absolutely or by way of pledge or otherwise, the whole or any part of his or its partnership interest.

(2) An assignee shall, to the extent of the assignment made under subsection (1), be entitled to the rights and subject to the obligations of the assignor in accordance with the partnership agreement and this Act in respect of the partnership interest assigned.

- (3) An assignment made under subsection (1) shall not by itself –
- (a) cause the partner to cease being a partner of the limited liability partnership; and
 - (b) entitle the assignee to interfere in the management of the limited liability partnership.

PART IV – NAME and REGISTRATION**18. Name of limited liability partnership**

- (1) The name of every limited liability partnership –
- (a) other than a foreign limited liability partnership, shall end with the words “Limited Liability Partnership”, the abbreviation “L.L.P.” or the designation “LLP”; and
 - (b) may contain the name of any partner or any derivation thereof.
- (2) A limited liability partnership shall ensure that its name is clearly stated –
- (a) in every written communication sent by, or on behalf of, the limited liability partnership; and
 - (b) on every document issued or signed by, or on behalf of, the limited liability partnership and which evidences or creates a legal obligation on the limited liability partnership.

(3) No limited liability partnership shall be registered under a name which is –

- (a) identical to that of an existing limited liability partnership, company or statutory corporation, except where the existing limited liability partnership, company or statutory corporation is in the course of being dissolved and gives its consent in such manner as the Registrar may require;
- (b) identical to a business name registered under the Business Registration Act.

(4) Except with the ~~Minister's approval in writing~~ Registrar's written consent, in accordance with Practice Directions issued under section 8(2) (Amended Act No. 4 of 2017 – Govt Gazette no. 50 of 20.05.17), no limited liability partnership shall be registered under a name which includes –

- (a) the word “Authority”, “Government”, “Mauritius”, “National”, “President”, “Presidential”, “Regional”, “Republic”, “State”, or any other word which, in the Registrar's opinion, suggests, or is likely to suggest, that it enjoys the patronage of Government or of a statutory corporation, or of Government of any other State;
- (b) the word “Municipal” or “Chartered” or any other word which, in the Registrar's opinion, suggests, or is likely to suggest, a connection with a local authority in Mauritius or elsewhere;
- (c) the word “co-operative”; or
- (d) the words “Chamber of Commerce”.

19. Reservation of limited liability partnership name

(1) An application for reservation of the name of a limited liability partnership may be made to the Registrar in such form and manner as he may approve.

(2) The Registrar shall not reserve a name which –

(a) or the use of which, would contravene an enactment;

-
- (b) is identical to a name that the Registrar has already reserved under this Act, the Companies Act or any other applicable enactment; or
 - (c) in his opinion, is offensive or misleading.
- (3) The Registrar shall inform the applicant, by such means of communication as he may consider appropriate –
- (a) whether the name has been reserved or not; and
 - (b) where the name has been reserved, that unless the reservation is revoked by the Registrar, the name shall be available for the registration of the limited liability partnership for a period of 2 months from the date the applicant is so informed.
- (4) The reservation of a name under this section shall not by itself entitle the proposed limited liability partnership to be registered under that name, either originally or on a change of name.

20. Change of name

- (1) Subject to this section and its partnership agreement, a limited liability partnership may, at any time, change its name.
- (2) Where a limited liability partnership changes its name, it shall, within 21 days of the change, notify the Registrar, in writing, of the change.
- (3) Where the new name does not comply with the requirements set out in sections 18 and 19(2), the Registrar shall not register the limited liability partnership under that new name.
- (4) On notification of a change of name under subsection (2), the Registrar shall –
- (a) record the change of name of the limited liability partnership;
 - (b) on payment of such fee as may be prescribed, issue a new certificate of registration with the new name of the limited liability partnership; and

- (c) require the limited liability partnership to cause a notice of the change to be published in such manner as the Registrar may direct.

(5) Where the Registrar is satisfied that a limited liability partnership should not have been registered under a name, the Registrar may serve notice, in writing, on the limited liability partnership to initiate procedures to change its name by a date specified in the notice, being a date which shall be not less than 28 days from the date on which the notice is served.

(6) Where the limited liability partnership does not change its name within the period specified in the notice referred to in subsection (5), the Registrar may register the limited liability partnership under a new name chosen by him.

(7) Where the Registrar registers the limited liability partnership under a new name under subsection (6), he shall record the new name on the certificate of registration of the limited liability partnership and sections 18(1), (3) and (4) and 19(2) shall apply in relation to the registration of the new name as if the name of the limited liability partnership had been changed under those provisions.

(8) A change of name shall not affect any right or obligation of the limited liability partnership, and any legal proceedings that have been continued or commenced against it, under its former name, may be continued or commenced against it under its new name.

(9) A change of name shall not take effect before a new certificate of registration is issued in the new name of the limited liability partnership by the Registrar.

21. Restriction on use of words “Limited Liability Partnership”, abbreviation “L.L.P.” or designation “LLP”

No person shall use the words “Limited Liability Partnership”, the abbreviation “L.L.P.” or designation “LLP” in relation to a business unless the person carries on his activity through a limited liability partnership.

22. Registration of limited liability partnership

Subject to this Act, any 2 or more persons associated for carrying on a lawful business may apply for the registration of a limited liability partnership under this Act.

23. Manner and particulars of registration

(1) Every limited liability partnership, other than a foreign limited liability partnership, shall be registered in accordance with this Act.

(2) An application for the registration of a limited liability partnership, other than a foreign limited liability partnership, shall be made to the Registrar in such form and manner as the Registrar may determine and shall be accompanied by –

- (a) the written consent of all the partners for the registration of the limited liability partnership, given in such form as the Registrar may determine;
- (b) a statement containing such information on the limited liability partnership as the Registrar may require;
- (c) such fee as may be prescribed; and
- (d) a declaration, in such form as the Registrar may determine, signed by one or more of the partners, stating –
 - (i) the name of the limited liability partnership;
 - (ii) the nature of its business;
 - (iii) its registered office, principal place of business and service address;
 - (iv) where the person making the declaration is a natural person, his full name, usual residential address and service address;
 - (v) where the person making the declaration is a body corporate or an unincorporated body, the address of its registered office or principal place of business and its service address, if any;

- (vi) where a partner or manager is a natural person, his full name, usual residential address and service address;
- (vii) where a partner or manager is a body corporate or an unincorporated body, the address of its registered office or principal place of business and its service address, if any;
- (viii) the duration for which the limited liability partnership will exist and the date of commencement of that duration or, if the limited liability partnership is for an unlimited duration, a statement to that effect; and
- (ix) such other information as the Registrar may require, or as the partners may decide to include, in the declaration.

(3) The Registrar shall, on the registration of a limited liability partnership, issue to the partners a certificate of registration in respect of the limited liability partnership in such form as he may determine and subject to such conditions as he may impose.

(4) The limited liability partnership shall be deemed to have been registered as a limited liability partnership under this Act where the Registrar, on being satisfied with all the information provided in the application made under subsection (2) –

- (a) inscribes the name of the limited liability partnership in the register;
- (b) allocates a registration number to the limited liability partnership; and
- (c) issues to the limited liability partnership a certificate of registration, which shall be conclusive evidence that the limited liability partnership is registered under this Act.

(5) The partners may, by resolution, cause to be rectified any error or formal defect –

- (a) in the entries relating to the limited liability partnership in the register; or
- (b) in any declaration or other document filed with the Registrar in relation to the limited liability partnership for the purposes of this Act.

(6) The Registrar may, when –

- (a) registering a limited liability partnership in the register; and
- (b) issuing a certificate of registration in respect of the limited liability partnership under this section,

rely on the documents filed with him in all respects and shall not be bound to enquire further as to whether, in relation to the limited liability partnership, the requirements of this Act have been complied with.

24. Power to refuse registration

Notwithstanding any other enactment, the Registrar shall refuse to register a limited liability partnership under this Act where he is satisfied that –

- (a) the proposed business is likely to be used for an unlawful purpose or purposes prejudicial to public peace or public order in Mauritius; or
- (b) it would be contrary to public interest for the limited liability partnership to be registered.

25. Register of limited liability partnerships

(1) The Registrar shall keep and maintain a register of limited liability partnerships which shall contain a record of every limited liability partnership registered under this Act and all documents filed in relation to such limited liability partnership.

(2) The register may be kept in such manner as the Registrar may consider appropriate, including, wholly or partly, by means of a device or facility, that –

- (a) records or stores information electronically or by other means; and
- (b) permits the information recorded or stored to be readily inspected or reproduced in usable form.

(3) The register shall contain a record of –

- (a) the name of the limited liability partnership;
- (b) the address of the registered office of the limited liability partnership;
- (c) where a partner is a natural person, his full name and his respective assignee's full name and their respective addresses;
- (d) where a partner is a body corporate or an unincorporated body, the address of its registered office or, if none, its principal place of business;
- (e) the date of registration of the limited liability partnership;
- (f) the duration for which the limited liability partnership is to exist and the date of commencement of that duration, or if the limited liability partnership is for an unlimited duration, a statement to that effect; and
- (g) such other information as the Registrar may require.

(4) Subject to this section, any person may, on payment of such fee as may be prescribed –

- (a) inspect the register and request the Registrar to issue an extract from the register;
- (b) apply to the Registrar for –
 - (i) a copy of the certificate of registration of a limited liability partnership;

- (ii) a copy of, or extract from, a document in any other register;
- (iii) the particulars of any document that has been registered and recorded in any device or facility referred to in subsection (2); or
- (iv) a copy of, or extract from, a registered document, the particulars of which have been entered in any such device or facility.

(5) The Registrar shall, on an application made under subsection (4) and on payment of the appropriate fee, issue the document, particulars or copy or certified copy applied for.

(6) (a) Unless otherwise ordered by the Court, the Registrar shall not produce in any proceedings –

- (i) a document kept by the Registrar; or
- (ii) evidence of the record of particulars or a document in any device or facility referred to in subsection (2).

(b) The Court shall not issue an order under paragraph (a) unless it is satisfied that the evidence is necessary for the purpose of such proceedings.

(7) A copy of or extract from a document in the Register –

- (a) that constitutes part of any register kept by the Registrar; or
- (b) particulars of which have been entered in any device or facility referred to in subsection (2),

certified to be a true copy or extract by the Registrar, shall be admissible in evidence in legal proceedings to the same extent as the original document.

(8) An extract certified by the Registrar as containing particulars of a document in the register that have been entered in any device or facility referred to in subsection (2) shall, in the absence of proof to the contrary, be conclusive evidence of the entry of those particulars.

(9) The register may, in respect of a limited liability partnership holding a Category 1 Global Business Licence or having at least one partner holding a Category 1 Global Business Licence, only be inspected by a partner, an officer of that limited liability partnership or the Commission.

(10) Notwithstanding subsection (9), a person may, on payment of the prescribed fee, request the Registrar to provide, in relation to a limited liability partnership holding a Category 1 Global Business Licence –

- (a) the name of the limited liability partnership and the address of its registered office; and
- (b) the name and address of any management company appointed by the limited liability partnership,

recorded on any register kept by the Registrar.

(11) An appropriate authority shall be exempt from the payment of the prescribed fee required under subsection (10).

26. Certificate of current standing

(1) (a) The Registrar shall, on a request made by any person, issue a certificate of current standing under his hand and seal certifying that a limited liability partnership is of current standing where the Registrar is satisfied that the name of the limited liability partnership is on the register.

(b) A certificate of current standing under paragraph (a) shall contain a statement as to whether –

- (i) the limited liability partnership has submitted its partnership agreement to the Registrar;
- (ii) the limited liability partnership has paid all fees due and payable;
- (iii) the limited liability partnership is under receivership or in the process of being liquidated or dissolved;
- (iv) where applicable, the limited liability partnership is in administration; or

- (v) any proceedings to remove the limited liability partnership from the register have been instituted.

(2) This section shall not apply to a limited liability partnership holding a Category 1 Global Business Licence, unless the person who makes the request is a partner, an officer of that limited liability partnership or the Commission.

PART V – CONVERSION TO LIMITED LIABILITY PARTNERSHIP

27. Conversion to limited liability partnership

(1) A body corporate or an unincorporated body may convert to a limited liability partnership if it complies with the requirements of this Act.

(2) Where a conversion has been effected, the partners of the limited liability partnership shall be bound by this Act.

(3) In this section –

“conversion”, in relation to a body corporate or an unincorporated body converting to a limited liability partnership, means a transfer of the property, assets, interests, rights, privileges, liabilities, obligations and the undertaking of that body to the limited liability partnership.

PART VI – TRANSFER OF REGISTRATION

Sub-Part A – Registration and Continuation of Foreign Limited Liability Partnership

28. Application for registration and continuation of foreign limited liability partnership

(1) Subject to this Part, a foreign limited liability partnership may apply to the Registrar to be registered, or continue, as a foreign limited liability partnership in Mauritius.

(2) A foreign limited liability partnership shall not be registered, or continue, as a foreign limited liability partnership in Mauritius under this Act unless –

- (a) it is authorised under the law of the country in which it is constituted to be registered in Mauritius as a limited liability partnership;
- (b) it has complied with the requirements, if any, of this Act to enable it to be registered as a limited liability partnership in Mauritius;
- (c) the application for registration of the foreign limited liability partnership has obtained the consent of a majority of its partners;
- (d) it would, immediately after being registered under this Act, be solvent; and
- (e) it provides such other document or information as the Registrar may require.

(3) A foreign limited liability partnership shall not be registered under this Act where –

- (a) the foreign limited liability partnership is in the process of being wound up or liquidated;
- (b) a receiver or manager has been appointed, whether by a Court or otherwise, in relation to the property of the foreign limited liability partnership; or
- (c) there is a scheme or order in force in relation to the foreign limited liability partnership where the rights of the creditors are suspended or restricted.

(4) The Registrar may require that any document submitted on an application be translated in English and certified in such manner he may consider appropriate.

(5) For the purpose of this section –

“manager” has the same meaning as in section 182 of the Insolvency Act.

29. Registration of foreign limited liability partnership

(1) On receipt of an application under section 28(1), and on being satisfied that the requirements for registration under this Act have been complied with, the Registrar shall –

- (a) enter in the register the particulars of the foreign limited liability partnership referred to in section 25(3); and
- (b) issue a certificate of registration in such form as he may approve and subject to such conditions as he may determine.

(2) A certificate of registration of a foreign limited liability partnership issued under this section shall, unless it has ceased to be valid, be conclusive evidence that –

- (a) all the requirements of this Act as to its formation and registration have been complied with; and
- (b) the foreign limited liability partnership is registered under this Act as a foreign limited liability partnership as from the date of registration specified in the certificate of registration.

(3) A foreign limited liability partnership shall notify the Registrar of any change or alteration in any of the particulars referred to in section 25(3) within 21 days of such change or alteration.

30. Effect of registration of foreign limited liability partnership

(1) The registration of a foreign limited liability partnership under this Act shall not –

- (a) create a new legal entity;
- (b) prejudice or affect the identity of the partnership constituted by the foreign limited liability partnership or its continuity as a legal entity;
- (c) affect the property, rights or obligations of the foreign limited liability partnership; or

(d) affect proceedings by, or against, the foreign limited liability partnership.

(2) A foreign limited liability partnership shall have a registered office in Mauritius to which all communications and notices may be addressed and which shall be open and accessible to the Registrar.

(3) Unless otherwise specified in this Act, a foreign limited liability partnership shall comply with the requirements applicable to a limited liability partnership under this Act.

(4) Notwithstanding paragraph (3), the Registrar may exempt a foreign limited liability partnership from complying with any requirement of this Act where he is satisfied that the foreign limited liability partnership has complied with similar requirements in the jurisdiction where it was constituted.

Sub-Part B – Transfer of Registration of Limited Liability Partnership to Other Jurisdictions

31. Transfer of registration

Subject to this Act, a limited liability partnership may apply to be removed from the register, in such form and manner as the Registrar may approve, for the purposes of transferring its registration to another country.

32. Application for removal

An application by a limited liability partnership under section 31 for its removal from the register shall be accompanied by –

- (a) documentary evidence which satisfies the Registrar that sections 33 and 35 have been complied with;
- (b) documentary evidence which satisfies the Registrar that the removal of the limited liability partnership from the register is not prohibited by section 46;

-
- (c) written confirmation from the Mauritius Revenue Authority and, where applicable, the Commission that there is no objection to the limited liability partnership being removed from the register;
 - (d) documentary evidence which satisfies the Registrar that the limited liability partnership is organised or registered under the law in force in, or in any part of, another country; and
 - (e) such other document or information as the Registrar may require.

33. Approval of partners

A limited liability partnership shall not apply to be removed from the register unless the application has been approved by a majority of its partners.

34. Limited liability partnership to give public notice

A limited liability partnership shall not apply to be removed from the register unless –

- (a) it has given public notice –
 - (i) that it intends, after the date specified in the notice, which shall not be less than 28 days after the date of the notice, to apply under section 31 to be removed from the register for the purpose of being organised or registered under the law in force in, or any part of, another country;
 - (ii) specifying the country or part of the country under the law of which it is proposed that the limited liability partnership be organised or registered; and
- (b) the application is made after the date specified in the notice.

35. Restriction on removal

(1) A limited liability partnership shall not be removed from the register where –

- (a) it is in the process of being wound up or liquidated;

- (b) a receiver or manager has been appointed, whether by the Court or otherwise, in relation to the property of the limited liability partnership; or
- (c) there is a scheme or order in force in relation to the limited liability partnership where the rights of the creditors are suspended or restricted.

(2) A limited liability partnership shall not be removed from the register unless, immediately before its removal, it is solvent.

36. Removal from register

(1) Where the Registrar is satisfied that an application under section 31 meets the requirements of this Sub-part, he shall remove the limited liability partnership from the register.

(2) Where a limited liability partnership is removed from the register, the Registrar shall forthwith give a notice to that effect to the applicant.

PART VII – MANAGEMENT AND ADMINISTRATION

37. Minimum of 2 partners

(1) Subject to subsection (2), every limited liability partnership shall have at least 2 partners.

(2) Where a limited liability partnership has less than 2 partners due to the withdrawal, death or dissolution of one or more of its partners, the Registrar may authorise a limited liability partnership to conduct business with only one partner for a period of not more than one year.

38. Manager

(1) (a) Every limited liability partnership shall ensure that it has at least one manager who –

- (i) is a natural person of full age and capacity; and
- (ii) is resident in Mauritius.

(b) Every manager shall be qualified as Secretary of a company under the Companies Act.

(2) Notwithstanding subsection (1), the manager of a limited liability partnership holding a Category 1 Global Business Licence shall be a corporation holding a management licence referred to in section 77 of the Financial Services Act.

(3) Every limited liability partnership shall ensure that the particulars of every person who acts as a manager of the limited liability partnership and his consent to act as such are communicated to the Registrar in such form and manner as the Registrar may determine.

(4) A manager shall be responsible for –

- (a) guiding the partners on their duties and obligations under this Act;
- (b) ensuring that minutes of meetings of partners are taken;
- (c) ensuring that proper filing is done with the Registrar and the latter is notified when this is required under this Act; and
- (d) ensuring that the financial summary of the limited liability partnership is prepared on time.

39. Disqualification under the Companies Act

A person who is subject to a disqualification under the Companies Act shall not act as manager of a limited liability partnership during the period of the disqualification.

40. Audited financial statements or financial summary

(1) Every limited liability partnership, other than a limited liability partnership holding a Category 1 Global Business Licence, shall, where the limited liability partnership has a turnover of –

- (a) less than 50 million rupees, file with the Registrar a financial summary which shall give a true and fair view of its state of affairs; or

- (b) 50 million rupees or more, file with the Registrar financial statements in the manner specified in the Companies Act.

(2) A financial summary referred to in subsection (1)(a) shall be in such form as the Registrar may approve.

(3) A financial summary or financial statements under subsection (1) shall be filed not later than 15 months from the date of registration of the limited liability partnership, and subsequently within 6 months following the end of its financial year.

(4) Notwithstanding subsection (3), the Registrar may, where he considers appropriate, on application by a limited liability partnership, grant an extension of time for the filing of its financial summary or audited financial statements.

(5) A financial summary filed with the Registrar under this section shall be certified to be a correct copy by at least one partner of the limited liability partnership.

(6) A limited liability partnership holding a Category 1 Global Business Licence shall file its audited financial statements and report of the auditor with the Commission.

(7) Where the audited financial statements are filed with the Commission under subsection (6), the Commission shall give notice to that effect to the Registrar.

(8) This section shall be without prejudice to any other enactment which imposes a more extensive reporting obligation on a limited liability partnership.

41. Accounts and records to be kept at registered office

(1) Every limited liability partnership shall keep such books, registers, accounts, records, including receipts, invoices and vouchers, and documents (including contracts and agreements) representing a full and

proper record of all transactions and other acts engaged in by the limited liability partnership as to reflect the financial position of the limited liability partnership.

(2) The limited liability partnership shall retain the records referred to in subsection (1) for a period of not less than 7 years from the end of the financial year in which the transactions or operations to which those records relate are completed.

(3) The records referred to in subsection (1) shall be –

(a) kept at its registered office; and

(b) open for inspection by the Registrar during business hours.

(4) Where an inspection under subsection (3)(b) is refused, the Registrar may make an application to the Judge for an order directing the limited liability partnership to allow an inspection of records.

42. Registered office

(1) Every limited liability partnership shall have a registered office in Mauritius to which all communications and notices may be addressed.

(2) Service of any document shall be deemed to have been validly effected on a limited liability partnership where it is left at, or sent by registered post to, the address of its registered office or its service address.

(3) A limited liability partnership may change the address of its registered office or its service address by filing with the Registrar a notice of such change in such medium and form as the Registrar may approve, and the change shall take effect only on the register being amended to that effect.

43. Publication of name and limited liability

Every limited liability partnership shall ensure that its invoices and official correspondence bear the name and registration number of the limited liability partnership.

44. Changes in particulars

(1) Unless otherwise provided in this Act, whenever a change is made or occurs in any of the particulars registered in respect of a limited liability partnership, the limited liability partnership shall, within 21 days from the change, or such further period as the Registrar may determine, following an application made to him, file with the Registrar a statement specifying the nature and date of the change and containing such other information as may be prescribed.

(2) The Registrar may, in any particular case, require a statement filed under subsection (1) to be rectified in such manner as he may consider appropriate.

(3) A limited liability partnership shall file a statement with the Registrar informing him of any change in its partners or manager.

(4) Where a person has ceased to be a partner and the Registrar has not been informed in accordance with subsection (3), that person shall be regarded as still being a partner in relation to any bona fide third party.

(5) Any person who ceases to be a partner or manager of a limited liability partnership may file with the Registrar the statement referred to in subsection (3) where he has reasonable cause to believe that the limited liability partnership will not file the statement with the Registrar.

(6) Any statement required to be filed under this section shall be in such medium and form as the Registrar may approve.

PART VIII – REMOVAL FROM AND RESTORATION TO REGISTER**45. Removal from register**

(1) Where the Registrar is satisfied that –

- (a) a limited liability partnership has ceased to carry on business; and
- (b) there is no other reason for the limited liability partnership to continue in existence,

he shall, by notice in writing, inform the limited liability partnership that he proposes to remove it from the register.

(2) The Registrar shall, unless the limited liability partnership makes satisfactory representations within 21 days from the date of the notice referred to in subsection (1), remove the name of the limited liability partnerships from the register.

(3) (a) Where a limited liability partnership has failed to pay any fee due under this Act, the Registrar shall, by notice in writing, inform the limited liability partnership that its name shall be removed from the register if it fails to pay the fee within 30 days from date of the notice.

(b) Where a limited liability partnership fails to pay the fee referred to in paragraph (a) within the time specified in the notice, the Registrar shall remove the name of the limited liability partnership from the register.

(4) (a) Where a limited liability partnership has failed to file a financial statement or financial summary in accordance with section 40, the Registrar shall, by notice in writing, inform the limited liability partnership that its name shall be removed from the register if it fails to file the financial statement or financial summary within 30 days from the date of the notice.

(b) Where a limited liability partnership fails to file the financial statement or financial summary referred to in paragraph (a) within the time specified in the notice, the Registrar shall remove the name of the limited liability partnership from the register.

(5) (a) A limited liability partnership the name of which has been removed from the register under this section shall remain liable for all claims, debts, liabilities and obligations of the limited liability partnership.

(b) The removal of the name of the limited liability partnership from the register shall not affect the liability of the partners or officers.

46. Effect of removal from register

(1) The removal of a limited liability partnership from the register shall not –

- (a) prejudice or affect the identity of the limited liability partnership that was constituted under this Act;

- (b) affect the property, rights or obligations of that limited liability partnership; or
- (c) affect proceedings, whether already commenced or otherwise, by or against that limited liability partnership.

(2) Where the name of a limited liability partnership has been removed from the register, the limited liability partnership, its partners and officers shall not –

- (a) carry on any business or in any way deal with the assets of the limited liability partnership;
- (b) commence or defend any legal proceedings, make any claim or claim any right for, or in the name of, the limited liability partnership; or
- (c) in any way act with respect to the affairs of the limited liability partnership.

(3) Notwithstanding subsection (2), where the name of a limited liability partnership has been removed from the register, the limited liability partnership or a creditor or liquidator may –

- (a) continue to defend proceedings which were commenced against the limited liability partnership before the date of the removal; and
- (b) continue with any legal proceedings which were instituted on behalf of the limited liability partnership before the date of the removal.

(4) Notwithstanding the fact that the name of a limited liability partnership has been removed from the register –

- (a) the limited liability partnership shall not be precluded from incurring liabilities;
- (b) a creditor shall not be precluded from making a claim against the limited liability partnership and pursuing the claim up to judgment or execution; and

-
- (c) the Court may appoint a liquidator for the limited liability partnership.

47. Restoration to register and effect of removal

(1) Where the name of a limited liability partnership has been removed from the register under section 45(2), the limited liability partnership, a creditor or a liquidator may apply to the Court to have the name of the limited liability partnership restored to the register.

(2) Where, on an application made under subsection (1), the Court is satisfied that –

- (a) at the time the name of the limited liability partnership was removed from the register, the limited liability partnership was still carrying on business, or other reason existed for it to carry on business; and
- (b) it would be fair and reasonable for the name of the limited liability partnership to be restored to the register,

the Court may order that the name of the limited liability partnership be restored to the register on payment of the fee prescribed.

(3) Where the name of a limited liability partnership has been removed from the register under section 45(2), the limited liability partnership, a creditor or a liquidator may, within 5 years from the date of the removal, apply to the Registrar to have the name of the limited liability partnership restored to the register.

(4) The Registrar shall, on payment of any outstanding fee and the payment of the fee prescribed, restore the name of the limited liability partnership to the register.

(5) Where the name of a limited liability partnership is restored to the register under this section, the name of the limited liability partnership shall be considered to have never been removed from the register.

**PART IX – APPLICATION OF THE INSOLVENCY ACT AND
DISSOLUTION OF LIMITED LIABILITY PARTNERSHIP**

48. Application of the Insolvency Act

The Insolvency Act shall apply to a limited liability partnership with such modifications, adaptations and exceptions as may be necessary to bring them in conformity with this Act.

49. Dissolution of limited liability partnership

(1) A limited liability partnership shall be dissolved on the occurrence of any of the following events –

- (a) on the happening of any event specified in that respect in the partnership agreement;
- (b) on the expiry of its fixed duration, unless a notice of its continuance is filed with the Registrar not less than 15 days before the date of expiration;
- (c) where the limited liability partnership is for an unlimited duration, on the agreement of all of the partners;
- (d) on a Court order to that effect.

(2) Unless otherwise provided in the partnership agreement, a limited liability partnership shall not be dissolved by –

- (a) a change in the partners; or
- (b) the bankruptcy, death, retirement, removal, resignation, legal incapacity or dissolution of any partner, whether an individual, a body corporate or an unincorporated body.

(3) A limited liability partnership shall not be dissolved unless a notice of dissolution signed by all the partners is filed with the Registrar and published in the Gazette and 2 daily newspapers.

50. Dissolution of limited liability partnership by Court

(1) The Court may order the dissolution of a limited liability partnership on the application of any partner or creditor of the limited

liability partnership or on the application of the Registrar or the Commission, as the case may be, where, in its opinion –

- (a) it is not reasonably practicable for the limited liability partnership to carry on its business in conformity with the partnership agreement;
- (b) the limited liability partnership is insolvent;
- (c) the affairs of the limited liability partnership are being conducted in such a way as to defraud creditors of the limited liability partnership or of any other person, or in an unlawful manner;
- (d) there has been persistent default by the limited liability partnership or by a simple majority of its partners in complying with the requirements or conditions provided under this Act;
- (e) persons connected with the formation or management of the limited liability partnership have, in connection with it, been found guilty of fraud, misfeasance, breach of fiduciary duty or other misconduct in relation to the limited liability partnership or any of its partners; or
- (f) it is just and equitable to do so.

(2) The Court may, on making an order under subsection (1) for the dissolution of a limited liability partnership or at any time thereafter, make such other order in relation to the dissolution as it considers appropriate, including an order for the appointment of one or more liquidators to wind up the affairs of the limited liability partnership and distribute its assets.

(3) Where a limited liability partnership has been dissolved under this section, the partner making the application, or where a liquidator has been appointed by the Court, the liquidator shall cause the relevant order of the Court to be delivered to the Registrar within 14 days from the date the order is made and the Registrar shall, on the delivery of the order, cancel the registration of the limited liability partnership.

51. General provisions on dissolution of limited liability partnership

(1) The affairs of a limited liability partnership shall, on its dissolution, be wound up by the partners unless a liquidator has been appointed by the Court under this section or under section 50.

(2) A partner shall not, on the dissolution of a limited liability partnership, except in accordance with this Part, withdraw any part of his contribution.

(3) On the dissolution of a limited liability partnership or at any time thereafter, the Court may, on the application of any partner or assignee of the limited liability partnership or any creditor, make such orders in relation to the dissolution as it may consider appropriate, including an order for the appointment of one or more liquidators to wind up the affairs of the partnership and distribute its assets.

(4) On the appointment of a liquidator, the powers of the partners shall cease.

(5) On the dissolution of a limited liability partnership, the limited liability partnership shall cease to carry on business except to the extent necessary for its winding up.

(6) Every expense incurred in the dissolution of a limited liability partnership, including the remuneration of the liquidator, shall be payable from the assets of the limited liability partnership in priority to all other debts.

(7) The certificate of registration shall, on the dissolution of a limited liability partnership, cease to be valid and the persons winding up the affairs of the limited liability partnership, in the name of and for or on behalf of the limited liability partnership –

- (a) may, to the extent necessary for the winding up of the limited liability partnership, prosecute, defend or settle any civil or criminal action;
- (b) shall dispose of the property of the partnership and realise its assets; and

-
- (c) shall, without prejudice to the personal liability of the partners, discharge the debts of the limited liability partnership and distribute to the partners any remaining assets of the limited liability partnership.
- (8) On the dissolution of a limited liability partnership –
- (a) a notice of the dissolution shall, within a period of 7 days from the date of the dissolution, be filed with the Registrar and published in the Gazette;
- (b) the Registrar shall, as soon as is reasonably practicable, delete the inscription relating to the partnership from the register; and
- (c) the certificate of registration of the limited liability partnership shall cease to be valid.
- (9) Where subsection (8)(a) has not been complied with, the partners and the manager of the limited liability partnership shall –
- (a) commit an offence; and
- (b) continue to incur liability as if they were the partners of a limited liability partnership which has not been dissolved.
- (10) The dissolution of a limited liability partnership shall be deemed to take place on –
- (a) the date of the occurrence of the event when, under this Act, the limited liability partnership is dissolved; or
- (b) a Court order for its dissolution under section 50, whichever occurs first.
- (11) Where the affairs of a limited liability partnership are fully wound up, the persons who conducted the winding up shall forthwith –
- (a) prepare an account of the winding up, giving details of the conduct thereof and the disposal of the property of the limited liability partnership, and stating whether or not any state of affairs described in section 53 exists; and
- (b) provide all the partners with a copy of the said account.

(12) The persons conducting the winding up of a limited liability partnership may seek the directions of the Court on any matter arising in relation to the winding up and, on such an application, the Court may make such order as it considers appropriate.

52. Rights of partners to partnership property

On the dissolution of a limited liability partnership, every partner shall be entitled, as against the other partners and all persons claiming through them in respect of their interests as partners –

- (a) to have the property of the limited liability partnership applied in payment of the partnership's debts; and
- (b) thereafter, to have the surplus assets applied in payment of what is respectively due to the partners after deducting what is respectively owed to the limited liability partnership.

53. Personal liability in event of insolvency

- (1) In any case where –
 - (a) a limited liability partnership has been dissolved and is unable to pay its debts; and
 - (b) there has been in relation to the limited liability partnership a contravention of this Act which –
 - (i) has contributed to the inability of the partnership to pay its debts;
 - (ii) has materially misled or deceived any partner or creditor as to, or has resulted in substantial uncertainty as to, the assets, liabilities, client money or investment instruments of the limited liability partnership; or
 - (iii) has substantially impeded the winding up of the limited liability partnership,

the Court may, on the application of any creditor or former partner or of any person conducting the winding up of the limited liability partnership,

declare that any partner or former partner or any manager or former manager in the partnership who is responsible for the contravention to be personally liable, without limitation of liability, for the debts of the limited liability partnership or part of such debts, as may be specified by the Court.

(2) Where the Court makes an order under subsection (1) in relation to any person, it may –

- (a) give such directions as it considers appropriate for the purpose of giving effect to the order; and
- (b) direct that the liability of that person under the order shall be a charge on –
 - (i) any debt due from the limited liability partnership to him, to any person on his behalf, to any person claiming as assignee from or through him or to any person acting on behalf of such an assignee; or
 - (ii) any charge on any property of the partnership or any interest in any such charge held by or vested in him or any such person,

and the Court may also, from time to time, make such other order as it considers appropriate for the purpose of giving effect to any charge imposed under this subsection.

(3) In subsection (2)

– “assignee” –

- (a) includes any person to whom or in whose favour, by the direction of the person liable, the debt, charge or interest was created, issued or transferred; but
- (b) does not include an assignee for valuable consideration, other than consideration by way of marriage, given in good faith and without notice of any of the grounds on which the order might have been made.

(4) The Court shall not make an order under subsection (1) in respect of a person where it considers that –

- (a) he took all reasonable steps to secure compliance by the limited liability partnership with this Act; or
- (b) he had reasonable grounds for believing and did believe that a competent and reliable person –
 - (i) was charged with the duty of ensuring that the provisions of this Act have been complied with; and
 - (ii) was in a position to discharge that duty.

(5) Subsections (1), (2) and (4) shall be without prejudice to any other penalty, remedy or proceedings, whether civil, criminal or disciplinary, in respect of the contravention.

(6) For the purpose of this section, a person shall be considered to be responsible for a contravention of a relevant provision where the contravention –

- (a) was committed with his consent or participation; or
- (b) was attributable to, or facilitated by, any neglect on his part.

54. Distribution of assets on dissolution

The assets shall, on the dissolution of a limited liability partnership, be distributed in the following order –

- (a) firstly, to creditors other than partners, to the extent permitted by law, in satisfaction of debts of the partnership;
- (b) secondly, to partners who are creditors and to the extent permitted by law, in satisfaction of debts of the partnership other than debts described in paragraph (c);
- (c) finally, subject to the partnership agreement, to the partners as follows –
 - (i) firstly, to partners for the return of their contributions or, where appropriate, for the release of their obligations to make contributions;

- (ii) secondly, to partners for their share of the profits on their contributions;
- (iii) thirdly, to partners other than for capital and profits;
- (iv) fourthly, to partners in respect of capital;
- (v) finally, to partners in respect of profits.

55. Debt owed to partner

(1) Any sum due to a partner of a limited liability partnership shall, in his capacity as a partner, not be a debt of the limited liability partnership payable to that partner where there is a competition between himself and any other creditor who is not a partner, provided that any such sum may be taken into account for the purpose of the final adjustment of the rights of the partners among themselves.

(2) Subsection (1) shall not apply to any sum due to a partner as repayment of a loan made in good faith by him to the limited liability partnership.

PART X – MISCELLANEOUS

56. Report to Commission by Registrar

(1) Where the Registrar has reasonable cause to suspect that a limited liability partnership holding a Category 1 Global Business Licence –

- (a) is not complying with any requirement of this Act;
- (b) is carrying on an activity which –
 - (i) is unlawful or contrary to public interest;
 - (ii) may cause prejudice to the good repute of Mauritius as a centre for financial services,

he shall report the matter, in writing, to the Commission.

(2) The Registrar shall report to the Commission any management company of a limited liability partnership holding a Category 1 Global Business Licence which, in the opinion of the Registrar, fails to apply due diligence in the exercise of any of its functions as manager of the limited liability partnership.

57. Protection from liability

(1) No action shall lie against the Registrar or any member of his staff or person delegated by him for anything done or omitted to be done by any one of them in the performance, in good faith, of their functions, or the exercise, in good faith, of their powers, under this Act.

(2) This section shall be in addition to, and not in derogation from, the Public Officers' Protection Act, and for the purposes of that Act, every person specified in subsection (1) shall be deemed to be a public officer or a person engaged or employed in the performance of a public duty.

58. Jurisdiction of Intermediate Court

Notwithstanding any provision to the contrary in any other enactment, the Intermediate Court shall have jurisdiction to try any offence under this Act and shall have the power to impose the penalty in respect of the offence.

59. Failure or refusal to execute document or statement

- (1) Where a limited liability partnership fails or refuses –
- (a) to make or give any statement, declaration or notice required under this Act; or
 - (b) to execute a partnership agreement or any amendment to such agreement or any other document relating to the business or affairs of the limited liability partnership,

any person adversely affected by the failure or refusal may apply to the Court for an order directing –

- (i) that the statement, declaration or notice be made or given, or that the partnership agreement, amendment or other document be executed, within such time as may be specified in the order;
- (ii) the deletion of the particulars of registration of the partnership from the register.

(2) The Court may, on receiving an application under subsection (1), authorise the Registrar to delete, amend or make any entry in the register.

(3) Where the Court orders the deletion from the register of the particulars of registration of the limited liability partnership, the limited liability partnership shall be dissolved and its certificate of registration shall cease to be valid.

(4) An order under this section may contain such ancillary provision as the Court considers appropriate.

(5) An application to the Court under subsection (1) shall be without prejudice to any other penalty, remedy or proceedings, whether civil, criminal or disciplinary, in respect of the failure or refusal.

60. Lost or destroyed document

(1) Where a partnership agreement or any other document relating to a limited liability partnership which is required to be filed, is lost or destroyed, the limited liability partnership may, with the approval of the Registrar, file a copy of the document.

(2) Where the Registrar gives his approval under subsection (1), he may direct that a notice to that effect be given to such person and in such manner as the Registrar may determine.

(3) The Registrar may accept the filing of the partnership agreement or document on being satisfied –

- (a) that the original document is lost or destroyed;
- (b) of the date of the filing of the original document; and
- (c) that the copy of the document produced to him is a true copy.

(4) The copy shall, on being filed, have the same force and effect as the original from such date as may be specified in the certificate to be the date of the filing of the original.

61. Execution of document

A document shall be validly executed by a limited liability partnership where it is –

- (a) signed by a manager or any other person acting under the express or implied authority of the limited liability partnership; and
- (b) expressed, in whatever form of words, to be executed by or on behalf of the limited liability partnership.

62. Appeals from decisions of Registrar

(1) A person who is aggrieved by a decision of the Registrar under this Act may, within 21 days of the date of notification of the decision, appeal to the Court.

(2) The Court may confirm, reverse or vary the Registrar's decision or give such directions as the Court considers appropriate.

63. Extending time for doing any required act

Where a person is required by this Act to do any act within a specified time, the Registrar or the Court may, as the case may be, on good cause being shown, extend the time within which the act is required to be done.

64. Other statutory or regulatory requirements

(1) Nothing in this Act shall prevent a person registered as a limited liability partnership under this Act from complying with any requirement imposed by any other enactment, or guidelines or rules made by any regulatory authority or body.

(2) Where a limited liability partnership proposes to conduct a business for which a licence, authorisation, registration or approval is required under any other enactment, it shall apply for such licence, authorisation, registration or approval as may be required before commencing business.

65. Default procedure

Where any act or thing is required or permitted to be done or taken under this Act and no form is prescribed or procedure laid down, in this Act, an application may be made to the Registrar for directions as to the manner in which the act or thing may be done or taken, and any act or thing done or taken in accordance with such direction shall be a valid performance of such act or thing.

66. Compounding of offences

(1) (a) Notwithstanding section 67, the Registrar may, with the consent of the Director of Public Prosecutions, compound an offence committed by a person under this Act where the person agrees, in writing, to pay to the Registrar an acceptable amount not exceeding the maximum penalty imposable under this Act for that offence.

(b) For the purpose of paragraph (a), the Registrar shall chair a committee which shall include 2 other senior officers from his staff designated by him.

(2) Every agreement to compound shall be in writing and signed by the Registrar and the person referred to in subsection (1)(a), and witnessed by an officer, and a copy shall be delivered to such person.

(3) Every agreement to compound shall be final and conclusive.

(4) Where the Registrar compounds an offence in accordance with this section, no further proceedings shall be taken in respect of the offence so compounded against the person.

67. Offences and penalties

(1) Where a limited liability partnership fails to comply with section 38, the limited liability partnership and every partner of the limited liability partnership shall commit an offence and shall, on conviction, be liable to a fine not exceeding 200,000 rupees.

(2) Where a limited liability partnership fails to file its financial summary or financial statements, as the case may be, within the time limit referred to in section 40(3), the limited liability partnership shall commit an offence and shall, on conviction, be liable to a fine not exceeding 200,000 rupees.

(3) Where a limited liability partnership contravenes section 41(1), (2) or (3), 43 or 44, the limited liability partnership shall commit an offence and shall, on conviction, be liable to a fine not exceeding 200,000 rupees.

(4) Where a limited liability partnership –

(a) otherwise contravenes this Act or any regulation made under it; or

(b) contravenes any condition imposed by the Registrar on the registration of the limited liability partnership,

it shall commit an offence and shall, on conviction, be liable to a fine not exceeding 200,000 rupees.

(5) (a) Where a limited liability partnership is charged with an offence under subsection (4), a representative of the limited liability partnership may appear before the appropriate Court and enter a plea of guilty or not guilty on behalf of the limited liability partnership.

(b) In this subsection –

“representative” means a partner, manager or any other person duly authorised by the limited liability partnership to represent it.

(6) Any person who contravenes section 39 shall commit an offence and shall, on conviction, be liable to a fine not exceeding 200,000 rupees and to imprisonment for a term not exceeding 2 years.

(7) Any person who prepares or assists in the preparation of a financial summary or audited financial statements under section 40 or 41

which he knows to be misleading shall commit an offence and shall, on conviction, be liable to a fine not exceeding 200,000 rupees.

(8) Any person who knowingly exercises any power of a partner in contravention of section 51(4) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 200,000 rupees and to imprisonment for a term not exceeding 2 years.

(9) Any person who knowingly carries on business in contravention of section 51(5) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 200,000 rupees and to imprisonment for a term not exceeding 2 years.

(10) Any person who knowingly and falsely holds out that a business is registered as a limited liability partnership under this Act shall commit an offence and shall, on conviction, be liable to a fine not exceeding 200,000 rupees and to imprisonment for a term not exceeding 2 years.

(11) Any person who knowingly makes any statement or furnishes any information to the Registrar under this Act which is false in any material particular shall commit an offence and shall, on conviction, be liable to a fine not exceeding 200,000 rupees and to imprisonment for a term not exceeding 2 years.

68. Regulations

(1) The Minister may make such regulations as he thinks fit for the purposes of this Act.

(2) Without prejudice to the generality of subsection (1), regulations made under subsection (1) may provide –

- (a) for the forms for the purposes of this Act, including the form of registers to be kept and the places at which the registers are to be kept;
- (b) for the taking of fees and levying of charges;
- (c) for the persons or classes of persons who shall be exempted from the payment of any fee or part thereof;

- (d) for the merger and consolidation of one or more limited liability partnerships with or into one or more other bodies corporate or unincorporate and the rights and obligations of persons when a merger or consolidation is made;
- (e) that any person who contravenes them shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding one year.

69. Consequential amendments

- (1) The Companies Act is amended –
 - (a) in section 2(1) –
 - (i) in the definition of “CBRIS” or “Companies and Businesses Registration Integrated System”, by deleting the words “and the Limited Partnerships Act” and replacing them by the words “, the Limited Partnerships Act and the Limited Liability Partnerships Act 2016”;
 - (ii) by inserting, in the appropriate alphabetical order, the following new definition –
“limited liability partnership” has the same meaning as in the Limited Liability Partnerships Act 2016;
 - (b) in section 198(2)(d), by adding the words “, except a limited liability partnership”.
- (2) The Income Tax Act is amended, in section 2 –
 - (a) by deleting the definition of “associate” and replacing it by the following definition –
“associate” includes –
 - (a) a general partner or limited partner of a limited partnership; and

-
- (b) a partner of a limited liability partnership;
- (b) by inserting, in the appropriate alphabetical order, the following new definition –
“limited liability partnership” has the same meaning as in the Limited Liability Partnerships Act 2016;
- (c) in the definition of “*société*”, in paragraph (b), by inserting, after subparagraph (iA), the following new subparagraph –
(iB) a limited liability partnership;
- (3) The Interpretation and General Clauses Act is amended by inserting, after section 44B, the following new section –

44C. Offence by limited liability partnership

(1) Where an offence is committed by a limited liability partnership, every person who, at the time of the commission of the offence, was concerned in the management of the limited liability partnership or was purporting to act in that capacity, shall also commit the like offence, unless he proves that the offence was committed without his knowledge or consent and that he took all reasonable steps to prevent the commission of the offence.

(2) (a) Where a limited liability partnership is charged with an offence, a representative may appear before the appropriate Court and enter a plea of guilty or not guilty on behalf of the limited liability partnership.

(b) In this section –

“limited liability partnership” has the same meaning as in the Limited Liability Partnerships Act 2016;

“representative” means a partner, manager or any other person duly authorised by the limited liability partnership to represent it.

- (4) The Law Practitioners Act is amended, in section 2 –
- (a) in the definition of “law firm”, by inserting, after the words “company,” the words “registered as a limited liability partnership,”;
 - (b) by inserting, in the appropriate alphabetical order, the following new definition –
“limited liability partnership” has the same meaning as in the Limited Liability Partnerships Act 2016;

70. Commencement

(1) Subject to subsection (2), this Act shall come into operation on a date to be fixed by Proclamation.

(2) Different dates may be fixed for the coming into operation of different sections of this Act.

Passed by the National Assembly on the twenty-ninth day of November two thousand and sixteen.

Bibi Safeena Lotun (Mrs)
Clerk of the National Assembly
