

ABILL

ENTITLED

AN ACT to Provide for the formation and operation of limited partnerships and to repeal the *Partnerships (Limited) Act* and for connected purposes.

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BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows:—

PART I—*Preliminary*

1. This Act may be cited as the Limited Partnership Act, 2015, and shall come into operation on a day to be appointed by the Minister by notice published in the *Gazette*.

Short title
and
commence-
ment.

Interpretation.

2. In this Act—

“bankrupt” has the meaning assigned to it in the *General Partnership Act*;

“body corporate” means a body corporate established, or for the establishment of which provision is made, by an enactment and shall include a company;

“business” includes every trade, occupation or profession;

“certificate of limited partnership” means a certificate issued by the Registrar pursuant to section 30 or 35, and includes a certificate as amended or restated;

“company” means a company incorporated or registered pursuant to the *Companies Act* or any body or association incorporated or registered under any enactment, which is prescribed by the Minister, by order, to be a company;

“Court” means the Supreme Court;

“dissociation” means a general partner’s or limited partner’s disengagement or exit from a partnership to which Part III applies, whether voluntarily or otherwise, and which does not by itself lead to the dissolution of the partnership or the winding up of the business of the partnership;

“distributions” means a transfer of money or other property from a limited partnership to a partner in the partner’s capacity as a partner or to a transferee on account of a transferable interest owned by the transferee;

“firm” means a group of persons who have entered into partnerships with one another;

“firm name” means the name under which a firm conducts its business;

“foreign limited liability limited partnership” or “foreign LLLP” means a foreign limited partnership whose general partners have limited liability for the obligations of the foreign limited partnership under a provision similar to section 48;

“foreign limited partnership” means a partnership which is formed under the laws of a jurisdiction other than Jamaica and is required by those laws to have one or more general partners and one or more limited partners, and includes a foreign LLLP;

“general partner” means a partner in a partnership who is liable, (whether on his own or jointly or severally with the other partners) for all obligations of the partnership, whether the partnership is a general partnership or a limited partnership;

“general partnership” has the meaning assigned to it in the *General Partnership Act*;

“limited liability company” or “LLC” means a limited liability company or LLC as prescribed by the Minister by Order published in the *Gazette*;

“limited liability limited partnership” or “LLLP”, except the phrase “foreign limited liability limited partnership” or “foreign LLLP”, means a limited partnership—

- (a) whose certificate of limited partnership states that it is a limited liability limited partnership; and
- (b) that has the characteristics set out in section 36;

“L.P.E or LPE” means a limited partnership—

- (a) whose certificate of limited partnership states that it is a limited partnership entity; and
- (b) that has the characteristics as set out in section 35;

“limited partner” means a partner in a limited partnership who is not a general partner;

“limited partnership”, means a limited partnership governed, or formed and governed under the provisions of this Act or created under the comparable law of another jurisdiction;

“limited partnership agreement” means an agreement as to the affairs of a limited partnership and the conduct of its business;

“partner” means a person who is a party to a partnership agreement;

“person” includes—

- (a) a partnership governed by Part III of the *General Partnership Act*; and
- (b) a limited partnership governed or formed and governed under Part III;

“principal office” means the office where the principal executive of a limited partnership or foreign limited partnership is located, whether or not the office is located in Jamaica;

“record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;

“Register” means the Register of limited partnerships required by this Act to be kept by the Registrar in accordance with this Act;

“Registrar” means the Registrar of Companies;

“required information” means the information that a limited partnership is required to maintain under section 28;

“transfer” includes an assignment, a conveyance, a sale, lease, mortgage or security interest, an encumbrance, including a gift, and a transfer by operation of law;

“transferable interest” means the right as initially owed by a person in the person’s capacity as partner, to receive distributions from a limited partnership whether or not the person remains

or continues to own any part of the right and applies to any fraction of the interest, by whomever owned;

“transferee” means a person to which all or part of a transferable interest has been transferred, whether or not the transferor is a partner.

3. This Act shall be read and construed in conjunction with the *General Partnership Act* subject to the following—

Application of the General Partnership Act.

(a) subject to paragraph (d), the provisions of Part II of the *General Partnership Act* shall apply equally to limited partnerships formed under Part II subject to the provisions of Part II of this Act;

(b) the provisions of Part II of the *General Partnership Act* shall be inapplicable and shall be construed as having no relevance to partnerships governed by Part III of this Act, and *vice versa*;

(c) the provisions of Part III of the *General Partnership Act* shall be inapplicable and shall be construed as having no relevance to partnerships governed by Part II of this Act, and *vice versa*; and

(d) in the event of any inconsistency between a provision of Part II of the *General Partnership Act* and a provision of Part 1A of this Act, the provisions of Part 1A shall prevail.

4. The rules of common law and of equity, applicable to partnerships continue in force and apply to partnerships governed by or formed under this Act, except so far as they are inconsistent with the provisions of this Act.

Rules of common law and equity apply to limited partnerships where not excluded.

PART 1A—*General Provisions Relating to Limited Partnership*

5. Every limited partnership formed under this Act shall, subject to the provisions of the relevant Part of this Act, be governed by a limited partnership agreement.

The limited partnership agreement.

Formation of
limited
partnerships
and
conversion of
form.

6.—(1) A limited partnership may be formed under this Act either—

- (a) without separate legal personality, under Part II; or
- (b) with separate legal personality, under Part III, and shall, in either case and subject to the provisions of this section, be governed by all the provisions contained in the respective Part under which it was formed.

(2) A limited partnership may be formed for any lawful purpose.

(3) A limited partnership formed or governed under Part II may, subject to the provision of the limited partnership agreement, convert to a limited partnership governed by Part III by completing and filing with the Registrar such form as may be prescribed and paying the prescribed fee.

(4) Where a partnership that was formed under Part II converts to a limited partnership governed by Part III, such conversion shall be permanent and irreversible.

(5) A limited partnership formed with separate legal personality under Part III may not convert to a limited partnership without separate legal personality under Part II.

Dual
capacity.

7.—(1) A person may simultaneously be both a general partner and a limited partner in the same limited partnership.

(2) A person that is both a general partner and a limited partner in the same limited partnership shall have, in each of those capacities, the rights, powers, duties, and obligations provided for in either Part II or Part III, as appropriate, and as provided for in the limited partnership agreement.

(3) When a person acts as a general partner, the person shall be subject to the obligations, duties and restrictions provided for general partners under either Part II or Part III, as appropriate, and the limited partnership agreement.

(4) When a person acts as a limited partner, the person shall be subject to the obligations, duties, and restrictions provided for limited

partners under either Part II or Part III, as appropriate, and as provided for in the limited partnership agreement.

8.—(1) The name of a limited partnership may contain the name of any partner. Name of limited partnership.

(2) Where a provision in Part II or Part III requires a particular phrase or abbreviation to be used in relation to a particular type of partnership, the partnership may not use any of the other phrases or abbreviations specifically provided for any other type of partnership in this Act.

(3) Where a limited partnership proposes to use a name other than the name of one or more of the general partners, the use of that name by the limited partnership shall be subject to the Registrar's reasonable determination that the proposed name is not—

- (a) identical to a name already in use within Jamaica that is registered on a register maintained by the Registrar under any enactment; or
- (b) so similar to such a name already in use in Jamaica as to be likely to cause confusion in the minds of members of the public.

(4) A limited partnership that proposes to trade under a name other than its registered name shall comply with the provisions of section 3 of the Registration of *Business Names Act*.

9.—(1) The right to register a limited partnership under a name that complies with section 8 may be reserved by the Registrar upon application by— Reservation of name.

- (a) the person intending to form a limited partnership under this Act and with that name;
- (b) a limited partnership or a foreign limited partnership authorised to transact business in Jamaica intending to register the partnership with that name;

- (c) a foreign limited partnership intending to obtain a certificate of authority to transact business in Jamaica and to register the partnership with that name;
- (d) a person intending to form a foreign limited partnership and to have the foreign limited partnership obtain a certificate of authority to transact business in Jamaica and adopt the name;
- (e) a foreign limited partnership formed under the name; or
- (f) a foreign limited partnership formed under a name that does not comply with a requirement of this Act for the inclusion of a particular phrase or abbreviation in its name but is not inconsistent with any of the preceding paragraphs, but the name reserved under this paragraph may differ from the foreign limited partnership's name only to the extent necessary.

(2) A person may apply to reserve a name under subsection (1), by filing with the Registrar an application in the prescribed form that states the name to be reserved and the paragraph of subsection (1) that applies, and accompanied by the prescribed fee.

(3) Where the Registrar finds that the name is available for use by the person who makes an application under subsection (2), the Registrar shall confirm in writing the reservation of the name and thereby reserve the name for the registration of the partnership for a period of one hundred and twenty days from the date of the confirmation.

(4) A person who has reserved a name under this section may transfer the reservation to another person to whom subsection (1) applies by filing with the Registrar a notice of transfer which states—

- (a) the reserved name;
- (b) the name and street and mailing address of the person to which the reservation is to be transferred; and
- (c) the paragraph of subsection (1) which applies to the other person,

and, subject to section 18, the transfer shall be effective when the notice of transfer is filed with the Registrar.

10. If during the continuance of a limited partnership any change is made or occurs in—

Registration of changes in partnerships.

- (a) the firm name;
- (b) the general nature of the business;
- (c) the principal office;
- (d) the partners or the name of any partner;
- (e) the term for which the partnership is entered into;
- (f) the sum contributed by any limited partner; to the capital of the partnership; or
- (g) the liability of any partner by reason of his becoming a limited instead of a general partner or a general instead of a limited partner,

a statement, signed by all the general partners, specifying the nature of the change, shall, within twenty-one days of the change, be filed with the Registrar.

11. On receipt of any statement filed with the Registrar under section 10, the Registrar shall issue to the firm from whom the statement was received a certificate of the registration of the change.

Registrar to file statement and issue certificate of registration.

12. The Registrar shall maintain a register of all the limited partnerships registered under this Act, and of all the statements, records or other documents registered in relation to such partnerships.

Register and index to be kept.

13.—(1) A person may inspect the statements filed with the Registrar and there shall be paid for such inspection such fees as may be prescribed.

Inspection of statements registered.

(2) A person may, upon payment of the prescribed fee, require a certificate of limited partnership or a certificate of registration of any limited partnership, or a copy of or extract from any registered statement, to be certified by the Registrar.

(3) A certificate of registration, or a copy of or extract from any statement registered under this Part, if duly certified by or on behalf of the Registrar shall, in all legal proceedings, be admissible as *prima facie* evidence of the contents thereof.

Fees for late-filing.

14. Where pursuant to the provisions of this Act a person is required to file a statement or other document or record with the Registrar—

- (a) the filing shall be accompanied by payment of the prescribed fee; and
- (b) in the event that the filing is not duly made within the time required by this Act—
 - (i) the person shall be liable to pay a late-filing fee in the amount which is equal to the amount of the prescribed fee in addition thereto;
 - (ii) the provisions of section 82 with respect to administrative dissolution of the partnership to which the filing relates shall apply.

Roles of Limited partners and General partners.

15.—(1) Subject to subsection (3), a limited partner in a limited partnership governed under this Part shall not take part in the management of the partnership business, and shall not have power to bind the firm.

(2) Notwithstanding subsection (1), a limited partner may, by himself or his agent, at any time inspect the books of the firm and examine into the state of the partnership business, and may advise the partners thereon.

(3) Subject to subsection (4), if a limited partner takes part in the management of the partnership business, he shall be liable for all debts and obligations of the firm incurred while he so takes part in the management as though he were a general partner.

Schedule.

(4) Notwithstanding subsection (3), and for the purposes of this Act, a limited partner who engages in any of the activities specified in the Schedule shall not be regarded as taking part in the management of the partnership business as though he were a general partner.

(5) The Minister may amend the Schedule, by Order published in the *Gazette*.

(6) An obligation of a limited partnership, whether arising in contract or otherwise, is not the obligation of a limited partner.

16.—(1) A limited partnership shall not be dissolved by the death or bankruptcy of a limited partner, and the fact that a limited partner is alleged to be suffering from a mental disorder within the meaning of the *Mental Health Act* shall not be a ground for dissolution of the partnership by the Court unless that limited partner's share cannot be otherwise ascertained and realised.

Limited partnership not dissolved by death or bankruptcy of limited partner.

(2) In the event of the dissolution of a limited partnership, its affairs shall be wound up by the general partners unless —

- (a) the Court orders otherwise; or
- (b) otherwise provided for in this Act or any other enactment.

(3) Subject to any agreement expressed or implied between the partners—

- (a) any difference arising as to ordinary matters connected with the partnership business may be decided by a majority of the general partners;
- (b) a limited partner may, with the consent of the general partners, transfer his transferable interest in the partnership, and upon such a transfer the transferee shall become a limited partner with all the rights of the transferor;
- (c) the other partners shall not be entitled to dissolve the partnership by reason of any limited partner allowing his transferable interest in the partnership to be charged for his separate debt;
- (d) a person may be introduced as a partner without the consent of the existing limited partners;
- (e) a limited partner shall not be entitled to dissolve the partnership by notice.

Signing of
statements
and other
records.

17.—(1) Each statement or other record filed with the Registrar in relation to a partnership under this Act shall be signed by the following persons—

- (a) save as otherwise provided by this section, statements under this Act shall be signed by one or more general partners having authority to do so under the terms of the partnership agreement;
- (b) a statement designating as general partner a person admitted under section 73(c)(ii) following the dissociation of a limited partnership's last general partner shall be signed by that person;
- (c) a statement required by section 76(2) following the appointment of a person to wind up the dissolved limited partnership's activities shall be signed by that person;
- (d) articles of conversion shall be signed by each general partner of the limited partnership;
- (e) articles of merger shall be signed as provided for in section 107(1);
- (f) a statement by a person stating that the person has dissociated as a general partner shall be signed by that person;
- (g) a statement of withdrawal by a person pursuant to section 44 shall be signed by that person;
- (h) a record delivered on behalf of a foreign limited partnership to the Registrar for filing shall be signed by at least one general partner of the foreign limited partnership;
- (i) any other record filed with the Registrar by any person shall be signed by that person.

(2) Any person may sign by an attorney in fact any record to be filed pursuant to this Part.

Filing of
records with
the Registrar.

18.—(1) Save as may be otherwise prescribed, a statement or other record authorised or required to be filed with the Registrar in relation to a partnership under this Act shall be captioned to describe

the purpose of the statement or other record and shall be in such form as may be acceptable to the Registrar.

(2) Where the Registrar determines that a statement or other record complies with the filing requirements of this Act, and all filing fees have been paid, the Registrar shall issue a certified copy of the filed statement or other record to the person who made the filing.

(3) Save as otherwise provided in this Act, any statement or other record filed with the Registrar, shall, if requested by the Registrar, take effect on the date and time of the filing and where applicable, on such later date as may be specified therein.

19.—(1) Where a person is required by this Act to sign a statement or other record or file a statement or other record with the Registrar and fails to do so, a person who is aggrieved by the failure of the person to sign the statement or other record may make an application to the Court for an order to compel the person to sign or file, as may be required, the statement or other record with the Registrar.

Signing and
filing
pursuant to
judicial order.

(2) Where the person aggrieved under subsection (1) is not the limited partnership or foreign limited partnership to which the statement or other record relates, he shall make the limited partnership or foreign limited partnership a party to the action.

20.—(1) Whereafter the filing of a statement or other record pursuant to section 18, a limited partnership or foreign limited partnership discovers that the record contains false information, (including where the information has become false due to a change of circumstances) the limited partnership or foreign limited partnership shall forthwith, file with the Registrar a statement of correction to correct the statement or other record previously filed by the limited partnership or foreign limited partnership with the Registrar.

Correcting
the filed
record.

(2) Each general partner of a partnership referred to in subsection (1) shall ensure that the partnership duly complies with that subsection.

(3) A statement of correction may not state a delayed effective date and shall—

- (a) describe the statement or other record to be corrected, including its filing date, or attach a copy of the record as filed;
- (b) specify the false or erroneous information and the reason why it is false or erroneous; and
- (c) contain the correction of the false or erroneous information.

(4) Subject to subsection (5), a statement of correction when filed with the Registrar is effective retroactively as of the effective date of the record that the statement corrects.

(5) Notwithstanding subsection (4), a statement of correction is effective when filed, both—

- (a) for the purposes of subsections (3) and (4) of section 25; and
- (b) as to persons relying on the uncorrected record and adversely affected by the correction.

Liability for
false
information
in filed
record.

21. If a record filed with the Registrar under this Act contains false information, a person who suffers loss by reliance on the information may recover damages for the loss from—

- (a) a person who signed the record, or caused another to sign it on the person's behalf, knowing the information to be false at the time the record was signed; and
- (b) a general partner who had notice that the information was false when the record was filed or became false because of changed circumstances, if the general partner had such notice for a reasonably sufficient time before the information was relied on to—
 - (i) effect amendment under section 23;

- (ii) file with the Registrar—
 - (A) a statement of change pursuant to section 27; or
 - (B) a statement of correction pursuant to section 20.
- (iii) apply to the court under section 19.

22.—(1) A limited partnership, or foreign limited partnership authorized to transact business in Jamaica, shall file with the Registrar an annual return which provides for the following—

Annual
return to
Registrar.

- (a) the name of the limited partnership or foreign limited partnership and the names and addresses of the partners;
- (b) the street address of the partnership's place of business and if different, the street address of an office of the partnership in Jamaica, if any;
- (c) if the partnership does not have an office in Jamaica, the name and street address of the partnership's current agent for service of process; and
- (d) in the case of a foreign limited partnership, the state or other jurisdiction under whose law the foreign limited partnership is formed and any alternative name adopted under section 90(1).

(2) The information provided in the annual return under subsection (1) shall be current as of the date the annual return is filed with the Registrar.

(3) An annual return shall be made up to March 31st and filed no later than June 30th of each year following the calendar year in which a partnership files a statement of qualification for as long as it is registered as a limited partnership under this Act.

(4) The Registrar may revoke the statement of qualification of a partnership that fails to file an annual return when due or pay the required filing fee, upon providing the partnership with at least sixty days' written notice of intent to revoke the statement, which notice shall

be mailed to the partnership at its principal place of business set forth in the last filed statement of qualification or annual return.

(5) A notice under subsection (4) shall specify—

- (a) the annual return that has not been filed;
- (b) the fee that has not been paid; and
- (c) the effective date of the revocation, and the revocation is not effective if the annual return is filed and the fee is paid before the effective date of the revocation.

(6) A revocation under subsection (4) only affects a partnership's status as a limited partnership and is not an event of dissolution of the partnership.

(7) A partnership whose statement of qualification has been revoked may apply to the Registrar for reinstatement within two years after the effective date of the revocation, and the application shall state—

- (a) the name of the partnership and the effective date of the revocation; and
- (b) that the ground for revocation either did not exist or has been corrected.

(8) Upon the receipt of an application for reinstatement pursuant to subsection (7), the Registrar shall, within thirty days thereafter, determine whether the grounds for revocation did not exist or has been corrected and if satisfied thereof, shall issue a notice of reinstatement to the partnership.

(9) A reinstatement under subsection (7) relates back to and takes effect as of the effective date of the revocation, and the partnership's status as a limited partnership continues as if the revocation had never occurred.

Amendment
of certificate
of limited
partnership.

23.—(1) A certificate of limited partnership may be amended by the Registrar at any time, upon receipt of a request so to do in such form if any, as may be prescribed, for any proper purpose.

(2) A request, in such form, if any, as may be prescribed, for a restated certificate to be issued by the Registrar may be filed with the Registrar in the same manner as a request for an amendment.

(3) If a request under this section is approved by the Registrar, an amendment or restated certificate becomes effective as of the date and time the request was filed with the Registrar.

24.—(1) The Registrar shall, upon request by any general partner or limited partner of a foreign limited partnership or a limited partnership and on payment of the prescribed fee, furnish a certificate of partnership status for the limited partnership or foreign limited partnership.

Certificate of
partnership
status.

(2) A certificate of partnership status shall state in relation to the limited partnership—

- (a) its name;
- (b) that it was duly formed under this Act, the date of formation, the part of this Act under which it was formed, and the part under which it is currently governed;
- (c) whether it has elected to have limited liability for all its partners;
- (d) whether all fees, due to the Registrar by the limited partnership have been paid;
- (e) whether its most recent annual return required by section 22 has been filed with the Registrar;
- (f) whether the Registrar has administratively dissolved it;
- (g) whether its certificate of limited partnership has been amended to state that the limited partnership is dissolved;
- (h) that a statement of termination has not been filed with the Registrar;
- (i) in the case of a foreign limited partnership—
 - (A) its name and any alternate name adopted under section 90 for use in Jamaica;

- (B) that its authorized to transact business in Jamaica;
- (C) whether all fees and penalties due to the Registrar has been paid;
- (j) other facts of record filed with the Registrar which may be requested by the applicant.

(3) Subject to any qualification stated in the certificate of partnership status, a certificate of partnership status issued by the Registrar may be relied upon as conclusive evidence of the status of the limited partnership or foreign limited partnership as shown in the certificate.

Knowledge
and notice.

25.—(1) For the purposes of this Act—

- (a) a person knows a fact if the person has actual knowledge of it;
- (b) a person has notice of a fact if the person—
 - (i) knows of it;
 - (ii) has received a notification of it; or
 - (iii) has, from all of the facts known to the person at the time in question, reason to know it exists;
- (c) a person is deemed to have duly delivered a notification of a fact to another person if the person takes reasonable steps to inform the other person thereof, whether or not the other person learns of the fact;
- (d) a person receives a notification of a fact when the notification—
 - (i) comes to the person's attention; or
 - (ii) is delivered at the person's place of business or at any other place held out by the person as a place for receiving service;
- (e) a body corporate, has notice, or receives a notification, of a fact for the purposes of a particular transaction when a person

conducting the transaction on behalf of the body corporate knows, has notice, or receives a notification, of the fact, or in any event when the fact would have been brought to the person's attention if the person had exercised reasonable diligence;

- (f) a partner's knowledge, notice or receipt of a notification, of a fact relating to the partnership is effective immediately as knowledge by, notice to, or receipt of a notification by, the partnership except in the case of a fraud on the partnership committed by or with the consent of that partner.

(2) A certificate of limited partnership on file in the Companies Office is notice that the partnership is a limited partnership and the persons designated in the certificate as general partners are general partners and, except as otherwise provided in subsection (4), the certificate is not notice of any other fact.

(3) A person has notice of—

- (a) another person's dissociation as a general partner, ninety days after—
 - (i) the effective date of an amendment to the certificate of limited partnership which states that the other person has dissociated; or
 - (ii) the effective date of a statement of dissociation pertaining to the other person,

whichever occurs first;

- (b) a limited partnership's dissolution, ninety days after the effective date of an amendment to the certificate of limited partnership stating that the limited partnership is dissolved;
- (c) a limited partnership's termination, ninety days after the effective date of a statement of termination;
- (d) a limited partnership's conversion under sections 100 to 103, ninety days after the effective date of the articles of conversion; or

- (e) a merger under sections 104 to 107, ninety days after the effective date of the articles of merger.

Administrative Provisions

Office and agent for service of process.

26.—(1) A limited partnership that holds a certificate of authority pursuant to section 30 or 35 shall designate and continuously maintain in Jamaica either—

- (a) an office, which need not be a place of its activity in Jamaica; or
- (b) an agent for service of process.

(2) A foreign limited partnership shall—

- (a) maintain a principal office, which may or may not be located in Jamaica; and
- (b) where the foreign limited partnership does not have an office in Jamaica, continuously maintain in Jamaica an agent for service of process.

(3) An agent for service of process of a limited partnership or foreign limited partnership shall be a person who is licensed under such enactment as may be prescribed by the Minister by Order published in the *Gazette*.

Change of designated office and agent for service of process.

27.—(1) In order to change its principal office, agent for service of process, or the address of its agent for service of process, a limited partnership or a foreign limited partnership shall file with the Registrar a statement of change pursuant to section 10 containing such of the following information as applies in relation to the limited partnership or foreign limited partnership, as the case may be—

- (a) its name of;
- (b) the street and mailing address of its principal office;
- (c) if the principal office is to be changed, the street and mailing address of the new principal office;
- (d) the name and street and mailing address of its agent for service of process; and

- (e) if the agent for service of process is to be changed, the name of the new agent for service of process; and
- (f) if the address of the agent for service of process is to be changed, the new street and mailing address of the agent.

(2) A statement of change is effective when filed with the Registrar.

28.—(1) A limited partnership or a foreign limited partnership shall maintain at its principal office the following information— Required information.

- (a) a current list showing the full name and last known street address and mailing address of each partner, separately identifying, in alphabetical order, the general partners and the limited partners;
- (b) a copy of the initial application for registration as a limited partnership and all statements filed on or on behalf of the partnership, together with signed copies of any powers of attorney under which any statement has been signed;
- (c) a copy of any filed articles of conversion or merger;
- (d) a copy of the limited partnership's tax returns, if any, for the three most recent years;
- (e) a copy of any limited partnership agreement made in a record and any amendment made in a record to any limited partnership agreement;
- (f) a copy of any financial statement of the limited partnership for the three most recent years;
- (g) a copy of the seven most recent annual returns filed with the Registrar by the limited partnership pursuant to section 22;
- (h) a copy of any record made by the limited partnership during the past three years of any consent given or vote taken by any partner pursuant to this Part or the limited partnership agreement;

- (i) unless contained in a limited partnership agreement made in a record, a record stating—
 - (i) the amount of cash, and a description and statement of the agreed value of the other benefits, contributed and agreed to be contributed by each partner;
 - (ii) the times at which, or events on the happening of which, any additional contributions agreed to be made by each partner are to be made;
 - (iii) for any person that is both a general partner and a limited partner, a specification of what transferable interest the person owns in each capacity; and
 - (iv) any events upon the happening of which the limited partnership is to be dissolved and its activities wound up.

(2) A limited partner may upon giving ten days notice in writing to the limited partnership, inspect and copy required information during regular business hours in the limited partnership's principal office, and the limited partner need not have any particular purpose for seeking the information.

(3) During regular business hours and at a reasonable location specified by the limited partnership, a limited partner may obtain from the limited partnership, and inspect and copy, full and accurate information regarding the state of the activities and financial condition of the limited partnership and other information regarding the activities of the limited partnership as is just and reasonable, if—

- (a) the limited partner seeks the information for a purpose reasonably related to the partner's interest as a limited partner;
- (b) the limited partner makes a demand in a record received by the limited partnership, describing with reasonable

particularity the information sought and the purpose for seeking the information; and

- (c) the information sought is directly connected to the limited partner's purpose.

(4) Within ten days after receipt of a notice made pursuant to subsection (2), the limited partnership in a record shall inform the limited partner that made the demand—

- (a) what information the limited partnership will provide in response to the demand;
- (b) when and where the limited partnership will provide the information; and
- (c) if the limited partnership declines to provide any demanded information, the limited partnership's reason for declining.

(5) Subject to subsection (7), a person dissociated as a limited partner may inspect and copy required information during regular business hours in the limited partnership's principal office if—

- (a) the information pertains to the period during which the person was a limited partner;
- (b) the person seeks the information in good faith; and
- (c) the person meets the requirements of subsection (3).

(6) In the case of subsection (4), the limited partnership shall respond to a demand made pursuant to subsection (5) in the same manner as provided in subsection (4).

(7) If a limited partner dies, section 72 applies.

(8) The limited partnership may impose reasonable restrictions on the use of information obtained under this section and, in any dispute concerning the reasonableness of a restriction under this subsection, the limited partnership has the burden of proving reasonableness.

(9) A limited partnership may charge a person that makes a demand under this section reasonable costs of copying, limited to the costs of labour and material.

(10) Whenever the provisions of Part III or a limited partnership agreement provides for a limited partner to give or withhold consent to a matter, the limited partnership shall, before the consent is given or withheld, without demand provide the limited partner with all the information known to the limited partnership that is material to the limited partner's decision.

(11) A limited partner or person dissociated as a limited partner may exercise the rights under this section through an attorney in fact or other agent, and any restriction imposed under subsection (8) or by the limited partnership agreement applies both to the attorney in fact or other agent and to the limited partner or person dissociated as a limited partner.

(12) The rights stated in this section do not extend to a person as transferee, but may be exercised by the legal representative of an individual under legal disability who is a limited partner or a person dissociated as a limited partner.

*PART II—Limited Partnerships without Separate
Legal Personality*

Construction
or references
to limited
partnership
in Part II.

29.—(1) In this Part, references to a “limited partnership” means a limited partnership formed and governed under this Part.

(2) A limited partnership formed and governed under this Part is not an entity distinct from its partners and accordingly does not have separate legal personality and perpetual succession.

Formation
and
registration
of limited
partnership
under Part II.

30.—(1) A limited partnership may be formed in the manner provided for in this section and shall be subject to the conditions provided for in this Part.

(2) In order for a limited partnership to be formed under this Part, a person who proposes to become a partner shall file with the Registrar, a statement, and other records in the prescribed form, signed by all of the persons proposing to be general partners, containing the following particulars—

- (a) the firm name, which shall include the words limited partnership or either of the abbreviations, LLLP or L.L.L.P.

at the end as part of its name or LLLP or L.L.L.P. where the person is making such an election;

- (b) the general nature of the business;
- (c) the street and mailing address of its principal office;
- (d) if the principal office is not located in Jamaica, the name and street and mailing address of the agent for service of process;
- (e) the full name of each of the partners and a statement as to whether they are general partners or limited partners;
- (f) the term, if any, for which the partnership is entered into, and the date of its commencement;
- (g) a statement that the partnership is a limited partnership;
- (h) the sum contributed by each limited partner, whether paid in cash or otherwise; and
- (i) the name or names of the general partner or general partners authorized to sign statements or other records required to be filed under this Act.

(3) If the Registrar is satisfied that the provisions of subsection (2) have been complied with then, subject to section 18, the Registrar shall issue to the limited partnership a certificate of limited partnership and enter the name and any other particulars relating to the limited partnership, as may be prescribed, in the Register.

(4) A partnership registered under subsection (2) shall be subject to the conditions provided for in this Part.

(5) If any provision of a limited partnership agreement is inconsistent with the information contained in the prescribed form referred to in subsection (1), or with a filed statement of dissociation, a filed statement of termination, a filed statement of change or filed articles of conversion or merger—

- (a) the limited partnership agreement prevails as to partners and transferees; and
- (b) the filed statement of dissociation, filed statement of termination, filed statement of change, or filed articles of conversion or merger, shall prevail

as to persons, other than partners and transferees, who reasonably rely on the filed record to their detriment.

(6) A limited partnership shall consist of—

- (a) one or more persons to be called general partners, who shall be liable for all debts and obligations of the firm; and
- (b) one or more persons to be called limited partners, who—
 - (i) shall, at the time of entering into such partnership, contribute thereto a sum or sums as capital or property valued at a stated amount as capital; and
 - (ii) shall not be liable for the debts or obligations of the firm beyond the amount so contributed.

(7) A body corporate or a company may be a limited partner; and in construing the provisions of this Part, reference to partners or limited partners shall be construed as including references to partners or limited partners, as the case may be, that are bodies corporate or companies.

(8) During the continuance of the limited partnership, a limited partner shall not, either directly or indirectly, draw out or be refunded any part of his contribution, and if he does so draw out or is refunded any such part of his contribution, he shall be liable for the debts and obligations of the firm up to the amount so drawn out or refunded.

(9) An obligation of a limited partnership whether arising in contract, tort or otherwise is not the obligation of a limited partner.

Applicable
phrase and
abbreviation.

31. Every registered limited partnership to which this Part applies, shall as from the date of the registration, have the words “Limited Partnership”, or either of the abbreviations “L.P”. or “LP,” as part of its name or where the limited partnership makes an election to be a limited liability partnership, the abbreviation as stated under section 30(2)(a).

Dissolution
of limited
partnership
under this
Part.

32.—(1) The provisions of sections 39 to 51 of the *General Partnership Act* shall apply to dissolution of limited partnerships formed under this Part, subject to the following—

- (a) limited partners have no authority to bind the limited partnership;

(b) section 46 of the *General Partnership Act* shall not apply to limited partners;

(c) where—

(i) a limited partnership has not been entered into for a specified term; and

(ii) all of the limited partners of the limited partnership either leave the limited partnership or opt, in accordance with the limited partnership agreement, to become general partners instead,

the limited partnership shall be regarded in law as having technically dissolved.

(2) Where the limited partnership is regarded as being technically dissolved, under subsection (1)(c)(ii) the business of the limited partnership may, at the option of the partners, be—

(a) subject to the procedure for dissolution in accordance with sections 39 to 51 of the *General Partnership Act*; or

(b) continue as a new general partnership formed and governed under Part II of the *General Partnership Act*.

PART III—*Limited Partnerships with Separate Legal Personality*

33.—(1) In this Part unless otherwise stated “limited partnership” means a limited partnership formed and governed under this Part.

Construction of references to limited partnerships in Part III.

(2) A limited partnership formed and governed under this Act is an entity distinct from its partners and accordingly has separate legal personality and perpetual succession.

(3) A limited partnership has the powers to do all things necessary or convenient to carry on its activities, including the power to sue, be sued, and defend in its own name and to maintain an action against a partner for harm caused to the limited partnership by a breach of the limited partnership agreement or violation of a duty to the partnership.

(4) A limited partnership that makes an election under this Part shall continue as the same legal entity after the election takes effect.

Registration
of Limited
Partnership
under Part II.

34.—(1) In order for a limited partnership to be formed under this Part, a person who is proposed to become a general partner shall file with the Registrar, a statement, in such form, if any, as may be prescribed, signed by all of the persons proposing to be partners, containing the following particulars—

- (a) the name of the limited partnership, which shall contain—
 - (i) the word Limited Liability Limited Partnerships or the abbreviations LLLP where the person is making an election under section 36; or
 - (ii) the word Limited Partnership Entity or L.P.E where the person is not making an election under section 23;
- (b) the principal office of the partnership and of one office in Jamaica if there is one;
- (c) the names and addresses of all the partners or of an agent is appointed and maintained by the partnership;
- (d) the full name and the street and mailing address of each partner and a statement as to whether they are general or limited partners; and
- (e) whether the limited partnership is a LLLP.

(2) The form prescribed for the purpose of subsection (1) may also contain any other matters but may not vary or otherwise affect the provisions specified in section 37(3) in a manner inconsistent with that section.

(3) If the Registrar is satisfied that the provisions of this section have been complied with then, subject to section 18, the Registrar shall issue to the limited partnership a certificate of limited partnership.

(4) If any provision of a limited partnership agreement is inconsistent with the information captured in the prescribed form referred to in subsection (1) or with a full statement of dissolution, a filed statement

of termination, a field statement of charge or filed articles of concession or merger—

- (a) the limited partnership agreement prevails as to partners and transferees; and
- (b) the filed statement of dissolution, filed statement of termination, filed statement of charge or filed articles of concession or merger shall prevail as to persons other than partners and transferees, who reasonably rely on the filed record to their detriment.

(5) A limited partnership under this Part comes into existence on the date when a certificate of limited partnership is issued by the Registrar in accordance with subsection (3).

35.—(1) A limited partnership formed and governed under Part II may, subject to the terms of its limited partnership agreement, elect to register under this Part to become a limited partnership with separate legal personality.

Election to become a limited partnership with separate legal personality.

(2) In order to give effect to the election under subsection (1), the limited partnership shall complete and file with the Registrar a statement of election, in such form as may be prescribed, and shall pay the prescribed fee.

(3) A statement of election under subsection (2) shall include the phrase or abbreviations under section 30(2)(a) which the limited partnership intends to adopt.

(4) Upon receipt by the Registrar of the statement of election and the prescribed fee under subsection (2), the Registrar shall, upon being reasonably satisfied that the statement has been—

- (a) duly completed; and
- (b) signed by each of the applicants or on their behalf by persons with authority to bind them, as the case may be, issue to the limited partnership a new certificate of limited partnership which shall include a statement that the limited partnership has been registered and has separate legal personality.

(5) A certificate of limited partnership issued under subsection (4) shall have the effect of cancelling the earlier certificate of limited partnership issued to the limited partnership when it was a partnership formed or governed under Part II.

Election to
become
limited
liability
limited
partnerships.

36.—(1) A limited partnership whether formed under Part II or under this Part that did not, at the time of formation, elect to be a LLLP may, subject to its limited partnership agreement, at any subsequent time, elect to become a LLLP by completing and filing with the Registrar a statement or election in such form as may be prescribed, and paying the prescribed fee.

(2) A limited partnership shall at the time of filing a certificate of election under subsection (1), tender for cancellation by the Registrar, its certificate of registration issued under Part II or this Part.

(3) A limited partnership that makes an election under this section shall continue as the same legal entity after the election takes effect.

(4) A limited partnership that has elected to be a LLLP at the time of formation, or a limited partnership that subsequently elects to become a LLLP, may, subject to the limited partnership agreement, at any time relinquish that status and revert to being a limited partnership entity upon completing and filing with the Registrar a statement of election in such form as may be prescribed, and upon paying the prescribed fee, and shall thereafter use the phrase or abbreviation specified in section 31 or 34(1)(a)(ii).

(5) Subject to any agreement to the contrary between the partners, where a limited partnership elects to become a LLLP, the effect of such election shall be that—

- (a) the liability of each general partner for debts and other liabilities incurred by the LLLP shall be limited to the amount of capital, if any, contributed by that general partner;
- (b) each of the limited partners of the LLLP shall be limited to the amount of capital contributed by that partner; and

- (c) notwithstanding that both the limited partners and the general partners have limited liability, the general partners of the LLLP continue to be responsible for the management of the business of the LLLP to the exclusion of the limited partners.

(6) Subject to the limited partnership agreement, there shall be no limit to the number of times that a limited partnership may again elect to again become an LPE after having relinquished that status, neither shall there be any limit to the number of times that a LLLP may relinquish that status.

37.—(1) Except as otherwise provided in subsection (3), a limited partnership agreement governs relations among the partners and between the partners and the limited partnership.

Effect of limited partnership agreement and non-waivable provisions.

(2) Subject to subsection (3), to the extent that the limited partnership agreement does not otherwise provide, this Part governs relations among the partners and between the partners and the limited partnership.

(3) A limited partnership agreement may not—

- (a) vary a limited partnership's power under section 33 to sue, be sued and defend in its own name;
- (b) vary the law applicable to limited partnerships;
- (c) vary the requirements of section 8;
- (d) vary the information required under section 28 or unreasonably restrict the right to information under section 28 or 51;
- (e) unreasonably restrict the right of access to books and records under section 51;
- (f) eliminate the duty of loyalty under section 52(2);
- (g) unreasonably reduce the duty of care under section 52(3);
- (h) eliminate the obligation of good faith and fair dealing under sections 43(2) and 52(4);

- (i) vary the power of a person to dissociate as a general partner under section 65(1) except to require that the notice under section 64(a) be in writing;
- (j) vary the power of a court to decree dissolution in the circumstances specified in section 74;
- (k) vary the requirement to wind up the partnership's business as specified in section 76;
- (l) unreasonably restrict the right to maintain an action under sections 95 to 98;
- (m) restrict the right of a partner under section 109(1) to approve a conversion or merger or the right of a general partner under section 109(2) to consent to an amendment to the certificate of limited partnership which deletes a statement that the limited partnership is an LLLP; or
- (n) restrict rights under this Part of a person other than a partner or a transferee.

(4) Notwithstanding paragraph (d) of subsection (3), a limited partnership agreement may impose reasonable restrictions on the availability and use of information obtained under those sections and may define appropriate remedies, including liquidated damages, for a breach of any reasonable restriction on use.

(5) A limited partnership agreement may—

- (a) identify specific types or categories of activities that do not violate the duty of loyalty, if not manifestly unreasonable; and
- (b) specify the number or percentage of partners which may authorise or ratify, after full disclosure to all partners of all material facts, a specific act or transaction that otherwise would violate the duty of loyalty;
- (c) prescribe the standards by which the performance of the obligation is to be measured, if the standards are not unreasonable.

38.—(1) In order to resign as an agent for service of process of a limited partnership or a foreign limited partnership, the agent shall file with the Registrar a statement of resignation containing the name of the limited partnership or foreign limited partnership with which the agent is employed.

Resignation
of agent for
service of
process.

(2) The resignation of an agent for service of process of a limited partnership is effective on the thirtieth day after the statement of resignation is filed with the Registrar.

Provisions in relation to Limited Partners

39.—(1) An agent for service of process appointed by a limited partnership or foreign limited partnership is an agent of the limited partnership or foreign limited partnership for service of any process, notice, or demand required or permitted by law to be served upon the limited partnership or foreign limited partnership.

Services of
process.

(2) If a limited partnership or foreign limited partnership does not have an office in Jamaica and fails to appoint or maintain an agent for service of process in Jamaica or the agent for service of process cannot with reasonable diligence be found at the agent's address, service of any process, notice or demand on the limited partnership or foreign limited partnership may be made by registered mail to the limited partnership or foreign limited partnership at its designated office or principal office.

(3) Service is effected under subsection (2) at the earliest of—

- (a) the date the limited partnership or foreign limited partnership receives the process, notice or demand;
- (b) the date shown on the return receipt, if signed on behalf of the limited partnership or foreign limited partnership; or
- (c) ten days after the process, notice or demand is deposited in the mail, if mailed post paid and correctly addressed.

(4) This section does not affect the right to serve process, notice, or demand in any other manner provided by law.

40. A person becomes a limited partner—

- (a) as provided in the limited partnership agreement;
- (b) as the result of a conversion or merger under sections 100 to 110; or
- (c) with the consent of all the partners.

Becoming a limited partner.

41. A limited partner shall not have the right or the power as a limited partner to bind the partnership.

No right or power to bind the partnership.

42. A limited partner may lend money to and transact other business with the limited partnership and has the same rights and obligations with respect to the loan or other transaction as a person that is not a partner.

Business transactions of partner with partnership.

43.—(1) Subject to any agreement to the contrary, a limited partner shall not have any fiduciary duty to the limited partnership or to any other partner solely by reason of being a limited partner.

Limited duties of limited partners.

(2) A limited partner shall discharge the duties to the partnership and the other partners under this Part or under the limited partnership agreement, and exercise any rights, consistently with the obligation of good faith and fair dealing.

(3) A limited partner does not violate a duty or an obligation under this Part or under the limited partnership agreement merely because the limited partner's conduct furthers the limited partner's own interest.

44.—(1) Subject to subsection (2) where a person makes an investment in a business enterprise and erroneously, but in good faith, believes that in making the investment he has become a limited partner, the person shall not be liable for the obligations of the enterprise by reason of making or exercising any rights of or appropriate to a limited partner if on ascertaining the mistake the person—

Persons erroneously believing self to be limited partner.

- (a) causes an appropriate statement of change or a statement of correction, to be signed and filed with the Registrar; or
- (b) withdraws from future participation as an owner in the enterprise by signing and filing with the Registrar a statement of withdrawal under this section.

(2) A person who makes an investment as described in subsection (1) is liable to the same extent as a general partner to any third party that enters into a transaction with the limited partnership believing in good faith that the person is a limited partner, before the limited partnership files with the Registrar—

- (a) a statement of change;
- (b) a statement of correction; or
- (c) a statement of withdrawal,

to show that the person is not a general partner.

(3) If a person makes a diligent effort in good faith to comply with subsection (1)(a) and is unable to cause the appropriate statement to be signed and filed with the Registrar, the person has the right to withdraw from the enterprise pursuant to subsection (1)(b) even if the withdrawal would otherwise breach an agreement with others that are, or have agreed to become, co-owners of the enterprise.

Provisions relating to General Partners

45. A person becomes a general partner—

- (a) as provided in the limited partnership agreement;
- (b) under section 73(c)(ii) following the dissociation of a limited partnership's last general partner;
- (c) as a result of a conversion or merger under sections 100 to 110; or
- (d) with the consent of all the partners.

Becoming a
general
partner.

46.—(1) Each general partner is an agent of the limited partnership for the purposes of its activities.

General
partner agent
of limited
partnership.

(2) An act of a general partner, including the signing of a record in the partnership's name, for apparently carrying on in the ordinary course the limited partnership's activities or activities of the kind carried on by the limited partnership, binds the limited partnership, unless the general partner did not have authority to act for the limited partnership in the particular matter and the person with which the general partner

was dealing knew, had received a notification, or had notice under section 25(3), that the general partner lacked authority.

(3) An act of a general partner which is not apparently for carrying on in the ordinary course the limited partnership's activities or activities of the kind carried on by the limited partnership binds the limited partnership only if the act was actually authorised by all the other partners.

Limited partnership liable for partner's actionable conduct.

47.—(1) A limited partnership is liable for loss or injury caused to a person, or for a penalty incurred, as a result of a wrongful act or omission, or other actionable conduct, of a general partner acting in the ordinary course of activities of the limited partnership or with authority of the limited partnership.

(2) If, in the course of the limited partnership's activities or while acting with the authority of the limited partnership, a general partner receives or causes the limited partnership to receive money or property of a person not a partner, and the money or property is misapplied by a general partner, the limited partnership is liable for the loss.

General partner's liability.

48.—(1) Except as otherwise provided in subsections (2) and (3), all general partners are liable jointly and severally for all obligations of the limited partnership unless otherwise agreed by the claimant or provided by law.

(2) A person that becomes a general partner of limited partnership is not personally liable for an obligation of the limited partnership incurred before the person became a general partner.

(3) An obligation of a limited partnership incurred while the limited partnership is an LLLP, whether arising in contract, tort, or otherwise, is solely the obligation of the limited partnership, and a general partner is not personally liable, directly or indirectly, by way of contribution or otherwise, for such an obligation solely by reason of being or acting as a general partner.

(4) Subsection (3) applies despite anything inconsistent in the limited partnership agreement that existed immediately before the consent required to become an LLLP under section 50(2)(b).

49.—(1) Subject to section 48, a general partner of a limited partnership may be joined in an action against the limited partnership or named in a separate action.

Actions by
and against
partnership
and partners.

(2) A judgment against the limited partnership is not by itself a judgment against a general partner, and may not be satisfied from a general partner's assets unless there is also a judgement against the general partner.

(3) A judgement creditor of a general partner may not levy execution against the assets of the general partner to satisfy a judgement based on a claim against the limited partnership, unless the partner is personally liable for the claim under section 48 and—

- (a) a judgment based on the same claim has been obtained against the limited partnership and a writ of execution on the judgment has been returned unsatisfied in whole or in part;
- (b) the limited partnership is bankrupt;
- (c) the general partner has agreed that the creditor need not exhaust the limited partnership's assets;
- (d) the Court grants permission to the judgment creditor to levy execution against the assets of a general partner based on a finding that—
 - (i) the limited partnership's assets that are subject to execution are clearly insufficient to satisfy the judgment;
 - (ii) exhaustion of the limited partnership's assets is excessively burdensome; or
 - (iii) the grant of permission is an appropriate exercise of the Court's equitable powers; or
- (e) liability is imposed on the general partners by law or contract independent of the existence of the limited partnership.

50.—(1) Each general partner shall have equal rights in the management and conduct of the limited partnership's activities and, except as expressly provided in this Part, or as otherwise expressly

Management
rights of
general
partner.

provided in the limited partnership agreement, any matter relating to the activities of the limited partnership may be exclusively decided by the general partner or, if there is more than one general partner, by a majority of the general partners.

(2) The consent of each partner is necessary to—

- (a) amend the limited partnership agreement;
- (b) apply to the Registrar to have the certificate of limited partnership amended to add or, subject to section 109, delete a statement that the limited partnership is an LLLP; and
- (c) sell, lease, exchange or otherwise dispose of all, or substantially all, of the limited partnership's property, with or without the goodwill, other than in the usual and regular course of the limited partnership's activities.

(3) A limited partnership shall reimburse a general partner for payments made and indemnify a general partner for liabilities incurred by the general partner in the ordinary course of the activities of the partnership or for the preservation of its activities or property.

(4) A limited partnership shall reimburse a general partner for an advance to the limited partnership beyond the amount of capital the general partner agreed to contribute.

(5) A payment or an advance made by a general partner which gives rise to an obligation of the limited partnership under subsection (3) or (4) constitutes a loan to the limited partnership.

(6) Except as otherwise provided in the partnership agreement, a general partner is not entitled to remuneration for services performed for the limited partnership.

51.—(1) A general partner, without having or stating any particular purpose for seeking the information, may inspect and copy during regular business hours—

- (a) in the limited partnership's principal office, required information; and

Right of
general
partner and
former
general
partner to
information
relating to
the
partnership.

- (b) at a reasonable location specified by the limited partnership, any other records maintained by the limited partnership regarding the limited partnership's activities and financial condition.

(2) Each general partner and the limited partnership shall furnish to another general partner —

- (a) without demand, any information concerning the limited partnership's activities and activities reasonably required for the proper exercise of the latter general partner's rights and duties under the limited partnership agreement or this Part; and
- (b) on demand, any other information concerning the limited partnership's activities, except to the extent that the demand or the information demanded is unreasonable or otherwise improper under the circumstances.

(3) Subject to subsection (5), upon ten days notice made in a record received by the limited partnership, a person dissociated as a general partner of the limited partnership may have access to the information and records described in subsection (1) at the location specified in subsection (1), if—

- (a) the information or records pertain to the period during which the person was a general partner;
- (b) the person, in good faith, seeks information or desires to view the record; and
- (c) the person satisfies the requirements imposed on a limited partnership by section 28(3).

(4) The limited partnership shall respond to a demand made pursuant to subsection (3) in the same manner as provided in section 28(4).

(5) If the general partner dies, section 72 applies.

(6) The limited partnership may impose reasonable restrictions on the use of information under this section and, in any dispute concerning the reasonableness of a restriction under this subsection, the limited partnership has the burden of proving reasonableness.

(7) A limited partnership may charge a person dissociated as a general partner of the limited partnership, that makes a demand under this section, reasonable costs of copying, limited to the costs of labour and material.

(8) A general partner or person dissociated as a general partner of a limited partnership may exercise the rights under this section through an attorney in fact or other agent, and any restriction imposed under subsection (6) or by the limited partnership agreement applies both to the attorney in fact or other agent and to the general partner or person dissociated as a general partner.

(9) The rights under this section do not extend to a person as transferee, but the rights under subsection (3) of a person dissociated as a general partner may be exercised by the legal representative of an individual who dissociated as a general partner under section 64.

52.—(1) The only fiduciary duties that a general partner has to the limited partnership and the other partners are the duty of loyalty and the duty of care under subsections (2) and (3) respectively.

(2) A general partner's duty of loyalty to the limited partnership and the other partners is limited to the following—

- (a) to account to the limited partnership and hold as trustee for it any property, profit or benefit derived by the general partner in the conduct and winding up of the limited partnership's activities or derived from a use by the general partner of limited partnership property, including the appropriation of a limited partnership opportunity;
- (b) to refrain from dealing with the limited partnership in the conduct or winding up of the limited partnership's activities as or on behalf of a party having an interest adverse to the limited partnership; and

General standards of general partner's conduct.

(c) to refrain from competing with the limited partnership in the conduct or winding up of the limited partnership's activities.

(3) A general partner's duty of care to the limited partnership and the other partners in the conduct and winding up of the limited partnership's activities is limited to refraining from engaging in grossly negligent or reckless conduct, intentional misconduct, or knowing violation of law.

(4) A general partner shall discharge the duties to the partnership and the other partners under this Part or under the limited partnership agreement and exercise any rights consistently with the obligation of good faith.

(5) A general partner does not violate a duty or obligation under this Part under the limited partnership agreement merely because the general partner's conduct furthers the general partner's own interest.

(6) This section shall apply to a person who is in charge of the winding up of the partnership business as the personal or legal representative of the last surviving partner as if the person were a partner.

Contributions and Distributions

53. Subject to the provisions of the limited partnership agreement, a contribution of a partner may consist of tangible or intangible property or other benefit to the limited partnership, including money, services performed, promissory notes, other agreements to contribute cash or property, and contracts for services to be performed. Form of contribution.

54.—(1) A partner's obligation to contribute money or other property or other benefit to, or to perform services for, a limited partnership is not excused by the partner's death, disability, or other inability to perform personally. Liability for contribution.

(2) If a partner does not make a promised non-monetary contribution, the partner is obligated at the option of the limited partnership to contribute money equal to that portion of the value, as stated in the required information, of the stated contribution which has not been made.

(3) The obligation of a partner to make a contribution or return money or other property paid or distributed in violation of this Part may be compromised only by consent of all the partners.

(4) A creditor of a limited partnership that extends credit or otherwise acts in reliance on an obligation described in subsection (1), without notice of any compromise under subsection (3), may enforce the original obligation.

Sharing of distributions.

55. Subject to the provisions of the limited partnership agreement, a distribution by a limited partnership shall be shared among the partners on the basis of value, as stated in the required records when the limited partnership decides to make the distribution, of the contributions the limited partnership has received from each partner.

Interim distributions.

56. A partner does not have a right to any distributions before the dissolution and winding up of the limited partnership, unless the limited partnership decides to make a distribution.

No distributions on account of dissociation.

57. A person shall not have the right to receive a distribution from a limited partnership on account of dissociation from the limited partnership.

Distribution in kind.

58.—(1) Subject to the provisions of the limited partnership agreement, a partner does not have a right to demand or receive any distribution from a limited partnership in any form other than cash.

(2) A limited partnership may distribute an asset in kind to the extent that each partner receives a percentage of the asset equal to the partner's share of distributions.

Right to distribution.

59.—(1) When a partner in a limited partnership or transferee of such a partner becomes entitled to receive a distribution, the partner or transferee has the status of, and is entitled to all remedies available to, a creditor of the limited partnership with respect to the distribution.

(2) Notwithstanding subsection (1), the limited partnership's obligation to make a distribution is subject to a right of set off for any amount owed to the limited partnership by the partner or dissociated partner on whose account the distribution is made.

60.—(1) A limited partnership may not make a distribution in violation of the limited partnership agreement. Limitations
on
distribution.

(2) A limited partnership may not make a distribution if after the distribution—

- (a) the limited partnership would not be able to pay its debts as they become due in the ordinary course of the limited partnership's activities; or
- (b) the limited partnership's total assets would be less than the sum of its total liabilities plus the amount that would be needed, if the limited partnership were to be dissolved, wound up, and terminated at the time of the distribution, to satisfy the preferential rights upon dissolution, winding up, and termination of partners whose preferential rights are superior to those of persons receiving the distribution.

(3) A limited partnership may base a determination that a distribution is not prohibited under subsection (2) on financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances or on a fair valuation or other method that is reasonable in the circumstances.

(4) Except as otherwise provided in subsection (7), the effect of a distribution under subsection (2) is measured—

- (a) in the case of distribution by purchase, redemption, or other acquisition of a transferable interest in the limited partnership, as of the date money or other property is transferred or debt incurred by the limited partnership; and
- (b) in all other cases, as of the date—
 - (i) the distribution is authorised, if the payment occurs within one hundred and twenty days after that date; or
 - (ii) the payment is made, if the payment occurs more than one hundred and twenty days after the distribution is authorised.

(5) Unless otherwise agreed between the partners, a limited partnership's indebtedness to a partner as part of a distribution that is not in contravention of this section, ranks *pari passu* with the limited partnership's indebtedness to its general, unsecured creditors.

(6) A limited partnership's indebtedness, including indebtedness issued in connection with or issued as part of a distribution, is not considered a liability for purposes of subsection (2) if the terms of the indebtedness provide that payment of principal and interest is made only to the extent that a distribution could then be made under this section.

(7) If indebtedness is issued as a distribution, each payment of principal or interest on the indebtedness is treated as a distribution, the effect of which is measured on the date the payment is made.

Liability for
improper
distributions.

61.—(1) A general partner that consents to a distribution made in violation of section 60 is personally liable to the limited partnership for the amount of the distribution which exceeds the amount that could have been distributed without the violation, if it is established that in consenting to the distribution the general partner failed to comply with section 53.

(2) A partner or transferee that received a distribution knowing that the distribution to that partner or transferee was made in violation of section 60 is personally liable to the limited partnership, but only to the extent that the distribution received by the partner or transferee exceeded the amount that could have been properly paid under section 60.

(3) A general partner against whom an action is commenced under subsection (1) may counterclaim against—

- (a) any other person that is liable under subsection (1) and compel contribution from the person; and
- (b) any person that received a distribution in violation of subsection (2) and compel contribution from the person in the amount the person received in violation of subsection (2).

(4) An action under this section is barred if it is not commenced within two years after the distribution.

Dissociation

62.—(1) Subject to the provisions of the limited partnership agreement, a person shall not have a right to dissociate as a limited partner before the termination of the limited partnership. Dissociation as a limited partner.

(2) Notwithstanding subsection (1), a person is dissociated from a limited partnership as a limited partner upon the occurrence of any of the following events—

- (a) the limited partnership's receiving notice of the person's express will to withdraw as a limited partner or on a later date specified by that person in which event the dissociation shall take effect on that date which shall not be a date prior to the date the notice is received;
- (b) an event agreed to in the limited partnership agreement as causing the person's dissociation as a limited partner;
- (c) the person's expulsion as a limited partner pursuant to the limited partnership agreement;
- (d) a person's expulsion as a limited partner by the unanimous consent of the other partners if—
 - (i) it is unlawful to carry on the limited partnership's activities with the person as a limited partner;
 - (ii) there has been a transfer of all of the person's transferable interest in the limited partnership, other than—
 - (A) a transfer for security purposes; or
 - (B) an order of the Court charging the person's interest, which has not been enforced by way of execution against the transferable interest;

(iii) the person is a body corporate and, within ninety days after the limited partnership notifies the person that it will be expelled as a limited partner because—

- (A) it has filed a certificate of dissolution or the equivalent;
- (B) its charter has been revoked; or
- (C) its right to conduct business has been suspended by the jurisdiction of its incorporation,

there is no revocation of the certificate of dissolution or no reinstatement of its charter or its right to conduct business; or

(iv) the person is a body corporate and within ninety days the limited partnership notifies the person that he will be expelled as a limited partner because—

- (A) an order for the winding-up of the body corporate has been made by the Court and the order has not been rescinded or the dissolution has not been declared void by the Court;
- (B) a resolution for the winding-up of the body corporate has been filed and the dissolution of the body corporate has not been declared void by the Court;
- (C) it has been otherwise dissolved in accordance with the law of the jurisdiction of its incorporation;

- (e) the person's expulsion as a limited partner by judicial order, on application by the limited partnership because—
 - (i) the person engaged in wrongful conduct that adversely and materially affected the limited partnership's activities;
 - (ii) the person wilfully or persistently committed a material breach of the limited partnership agreement or of the obligation of good faith and fair dealing under section 43(2); or
 - (iii) the person engaged in conduct relating to the limited partnership's activities which makes it not reasonably practicable to carry on the activities with the person as limited partner;
- (f) in the case of a person who is an individual, the person's death;
- (g) in the case of a person that is or is acting as a limited partner by virtue of being a trustee of a trust, distribution of the trust's entire transferable interest in the limited partnership, but not merely by reason of the substitution of a successor trustee;
- (h) in the case of a person that is acting as a limited partner by virtue of being a personal representative of an estate, distribution of the estate's entire transferable interest in the limited partnership, but not merely by reason of the substitution of a successor personal representative;
- (i) the existence of a limited partner that is not an individual, a partnership, an LLC, a body corporate, a trust or an estate is terminated; or
- (j) the limited partnership's participation in a conversion or merger under sections 100 to 110, if the limited partnership—
 - (i) is not the converted or surviving entity; or
 - (ii) is the converted or surviving entity but, as a result of the conversion or merger, the person ceases to be a limited partner.

Effect of
dissociation
as a limited
partner.

63.—(1) Upon a person's dissociation as a limited partner—

- (a) subject to section 72, the person does not have further rights as a limited partner;
- (b) the person's obligations of good faith as a limited partner under section 43(2) continue only as to matters arising and events occurring before the dissociation; and
- (c) subject to sections 73 and 100 to 110, any transferable interest owned by the person in that person's capacity as a limited partner immediately before dissociation is owned by the person as a mere transferee.

(2) A person's dissociation as a limited partner does not of itself discharge the person from any obligation to the limited partnership or the other partners which the person incurred while a limited partner.

Dissociation
as general
partner.

64. A person is dissociated from a limited partnership as a general partner upon the occurrence of any of the following events—

- (a) the receipt by the limited partnership of notice of the person's express will to withdraw as a general partner on a date specified by the person in which extent the dissolution shall take effect on that date which shall not be a date prior to the date the notice is received;
- (b) an event agreed to in the limited partnership agreement as causing the person's dissociation as a general partner;
- (c) the person's expulsion as a general partner pursuant to the limited partnership agreement;
- (d) the person's expulsion as a general partner by the unanimous consent of the other partners if—
 - (i) it is unlawful to carry on the limited partnership's activities with the person as a general partner;
 - (ii) there has been a transfer of all or substantially all of the person's transferable interest in the limited partnership, other than—
 - (A) a transfer for security purposes; or

- (B) an order of the Court charging the person's interest, which has not been enforced by way of execution against the transferable interest;
 - (iii) the person is a body corporate, and within ninety days after the limited partnership notifies the person that it will be expelled as a general partner because—
 - (A) it has filed a certificate of dissolution or the equivalent;
 - (B) its charter has been revoked; or
 - (C) its right to conduct business has been suspended by the jurisdiction of its incorporation,
there is no revocation of the certificate of dissolution or no reinstatement of its charter or its right to conduct business; or
- (e) the person's expulsion as a general partner by judicial determination, on application by the limited partnership because—
 - (i) the person engaged in wrongful conduct that adversely and materially affected the limited partnership's activities;
 - (ii) the person wilfully or persistently committed a material breach of the limited partnership agreement or of a duty owed to the partnership or the other partners under section 52; or
 - (iii) the person engaged in conduct relating to the limited partnership's activities which makes it not reasonably practicable to carry on the activities of the limited partnership with the person as a general partner;
 - (iv) the person is a body corporate and within ninety days the limited partnership notifies the person

that he will be expelled as a limited partner because —

- (A) an order for the winding-up of the body corporate has been made by the Court and the order has not been rescinded or the dissolution has not been declared void by the Court;
- (B) a resolution for the winding-up of the body corporate has been filed and the dissolution of the body corporate has not been declared void by the Court;
- (C) it has been otherwise dissolved in accordance with the law of the jurisdiction of its incorporation;

(f) the person's—

- (i) becoming a bankrupt;
- (ii) execution of an assignment for the benefit of creditors;
- (iii) seeking, consenting to, or acquiescing in the appointment of a trustee, receiver, or liquidator of the person or of all or substantially all of the person's property; or
- (iv) failure, within ninety days after the appointment, to have vacated or stayed the appointment of a trustee, receiver or liquidator of the general partner or of all or substantially all of the person's property obtained without the person's consent or acquiescence, or failing within ninety days after the expiration of a stay to have the appointment vacated;

(g) in the case of a person who is an individual—

- (i) the person's death;
- (ii) the appointment of a guardian or general conservator of the person or the making of an

order under section 29 of the *Mental Health Act* with respect to the person; or

- (iii) a judicial determination that the person has otherwise become incapable of performing the person's duties as a general partner under the limited partnership agreement;
- (h) in the case of person that is a trust or is acting as general partner by virtue of being a trustee of a trust, distribution of the trust's entire transferable interest in the limited partnership, but not merely by reason of the substitution of a successor trustee;
- (i) in the case of a person who is or is acting as a general partner by virtue of being a personal representative of an estate, distributions of the estate's entire transferable interest in the limited partnership, but not merely by reason of the substitution of a successor personal representative;
- (j) the existence of a general partner that is not an individual or a partnership, trust or an estate is terminated; or
- (k) the limited partnership's participation in a conversion or merger under sections 100 to 110, if the limited partnership—
 - (i) is not the converted or surviving entity; or
 - (ii) is the converted or surviving entity but, as a result of the conversion or merger, the person ceases to be a general partner.

65.—(1) A person has the power to dissociate as a general partner at any time, rightfully or wrongfully, by express will pursuant to section 64(a).

Person's power to dissociate as general partner: wrongful dissociation.

(2) Notwithstanding subsection (1), a person's dissociation as a general partner is wrongful only if—

- (a) it is in breach of an express provision of the limited partnership agreement; or

- (b) it occurs before the termination of the limited partnership, and:—
- (i) the person withdraws as a general partner by express will;
 - (ii) the person is expelled as a general partner by judicial determination under section 64(e);
 - (iii) the person is dissociated as a general partner by becoming a bankrupt; or
 - (iv) in the case of a person that is not an individual, the person is expelled or otherwise dissociated as a general partner because it wilfully dissolved or terminated its existence.

(3) A person that wrongfully dissociates as a general partner is liable to the limited partnership and, subject to section 94, to the other partners for damages caused by the dissociation.

(4) The liability referred to in subsection (3) is in addition to any other obligation of the general partner to the limited partnership or to the other partners.

Effect of dissociation as general partner.

66.—(1) Upon a person's dissociation as a general partner—

- (a) the person's right to participate as a general partner in the management and conduct of the partnership's activities terminates;
- (b) the person's duty of loyalty as a general partner under section 52(2)(c) terminates;
- (c) the person's duty of loyalty as a general partner under paragraphs (a) and (b) of section 52(2) and duty of care under section 52(3) continue only with regard to matters arising and events occurring before the person's dissociation as a general partner;
- (d) the person may sign and file with the Registrar a statement of dissociation pertaining to the person and, at the request of the limited partnership, shall sign a request for an amendment

to the certificate of limited partnership which states that the person has dissociated as a general partner; and

- (e) subject to sections 72 and 101 to 111, any transferable interest owned by the person immediately before dissociation in the person's capacity as a general partner is owned by the person as a mere transferee.

(2) A person's dissociation as a general partner does not of itself discharge the person from any obligation to the limited partnership or the other partners which the person incurred while a general partner.

67.—(1) After a person is dissociated as a general partner and before the limited partnership is dissolved, converted under sections 100 to 111, or merged out of existence under sections 100 to 110, the limited partnership is bound by an act of the person only if—

- (a) the act would have bound the limited partnership under section 49 before the dissociation; and
- (b) at the time another party enters into a transaction with the dissolution person in his purported capacity as a general partner—
 - (i) less than two years has passed since the dissolution; and
 - (ii) the other party does not have notice of the dissociation and reasonably believes that the person is a general partner.

Power to bind and liability to limited partnership before dissolution of partnership of person dissociated as general partner.

(2) If a limited partnership is bound under subsection (1), the person dissociated as a general partner who or which, as the case may be, caused the limited partnership to be bound is liable—

- (a) to the limited partnership for any loss or damage caused to the limited partnership arising from the obligation incurred under subsection (1); and
- (b) if a general partner or another person dissociated as a general partner is liable for the obligation, to the general partner or

other person for any damage caused to the general partner or other person arising from the liability.

Liability to other persons of person dissociated as general partner.

68.—(1) A person's dissociation as a general partner does not of itself discharge the person's liability as a general partner for an obligation of the limited partnership incurred before the dissociation and, except as otherwise provided in subsections (2) and (3), the person is not liable for a limited partnership's obligation incurred after dissociation.

(2) A person whose dissociation as a general partner resulted in a dissolution and winding up of the limited partnership's activities is liable to the same extent as a general partner under section 48 on an obligation incurred by the limited partnership under section 77;

(3) A person that has dissociated as a general partner but whose dissociation did not result in a dissolution and winding up of the limited partnership's activities is liable on a transaction entered into by the limited partnership with one or more other parties after the dissociation only if—

- (a) a general partner would be liable on the transaction; and
- (b) at the time the other party enters into the transaction—
 - (i) less than two years has passed since the dissociation; and
 - (ii) the other party does not have notice of the dissociation and reasonably believes that the person is a general partner.

(4) By agreement with a creditor of a limited partnership and the limited partnership, a person dissociated as a general partner may be released from liability for an obligation of the limited partnership.

(5) A person dissociated as a general partner is released from liability for an obligation of the limited partnership if the limited partnership's creditor, with notice of the person's dissociation as a general partner but without the person's consent, agrees to a material alteration in the nature or time of payment of the obligation.

*Transferable Interests and Rights of
Transferees and Creditors*

69. The only interest of a partner which is transferable is the partner's transferable interest, and a transferable interest is personal property. Partner's transferable interest.

70.—(1) A transfer, in whole or in part, of a partner's transferable interest does not— Transfer of partner's transferable interest.

- (a) by itself cause the partner's dissociation or a dissolution and winding up of the limited partnership's activities; and
- (b) against the other partners or the limited partnership, entitle the transferee to—
 - (i) participate in the management or conduct of the limited partnership's activities;
 - (ii) require access to information concerning the limited partnership's transactions, except as otherwise provided in subsection (3); or
 - (iii) inspect or copy the required information or the limited partnership's other records.

(2) A transferee has a right to receive, in accordance with the transfer—

- (a) distributions to which the transferor would otherwise be entitled; and
- (b) upon the dissolution and winding up of the limited partnership's activities, the net amount otherwise distributable to the transferor.

(3) In a dissolution and winding up, a transferee is entitled to an account of the limited partnership's transactions only from the date of dissolution.

(4) Upon transfer, the transferor retains the rights of a partner other than the interest in distributions transferred and retains all duties and obligations of a partner.

(5) A limited partnership need not give effect to a transferee's rights under this section until the limited partnership has notice of the transfer.

(6) A transfer of a partner's transferable interest in the limited partnership in violation of a restriction on transfer contained in the limited partnership agreement is ineffective as to a person having notice of the restriction at the time of transfer.

(7) A transferee that becomes a partner with respect to a transferable interest is liable for the transferor's obligations under sections 54 and 61.

(8) Notwithstanding subsection (7), the transferee is not obligated for liabilities unknown to the transferee at the time the transferee became a partner.

Rights of
creditor of
partner or
transferee.

71.—(1) The Court may, on application by any judgment creditor of a partner or transferee of such a partner, charge the transferable interest of the judgment debtor with payment of the unsatisfied amount of the judgment with interest and, to the extent so charged, the judgment creditor has only the rights of a transferee.

(2) The Court may appoint a receiver of the share of the distributions due or to become due to the judgment debtor in respect of the partnership and make all other orders, directions, accounts, and inquiries the judgement debtor might have made or which the circumstances of the case may require to give effect to the charging order.

(3) Subject to the provisions of the *Security Interest in Personal Property Act*, a charging order constitutes a security interest on the judgment debtor's transferable interest and, as such, the Court may order a writ of execution upon the interest subject to the charging order at any time, whereupon the purchaser shall have the rights of a transferee.

(4) At any time before execution of the charging of order against the transferable interest, an interest charged may be redeemed—

- (a) by the judgment debtor;
- (b) with property other than limited partnership property, by one or more of the other partners; or
- (c) with limited partnership property, by the limited partnership with the consent of all the partners whose interests are not so charged.

(5) This section provides the exclusive remedy by which a judgment creditor of a partner or transferee may satisfy a judgment out of the judgment debtor's transferable interest.

72. A driver If a partner dies, the deceased partner's personal representative or other legal representative may exercise the rights of a transferee as provided in section 70 and, for the purposes of settling the estate, may exercise the rights of a current limited partner under section 28.

Power of estate of deceased partner.

Dissolution

73. Except as otherwise provided in section 74, a limited partnership is dissolved and its activities shall be wound up, only upon the occurrence of any of the following—

Non-judicial dissolution.

- (a) the happening of an event specified in the limited partnership agreement as giving rise to the dissolution;
- (b) the consent to the dissolution of all general partners and of limited partners owning a majority of the rights to receive distributions as limited partners at the time the consent is to be effective;
- (c) after the dissociation of a person as a general partner—
 - (i) if the limited partnership has at least one remaining general partner, and the consent to dissolve the limited partnership is given within ninety days after the dissociation by partners owning a majority of

the rights to receive distributions as partners at the time the consent is to be effective; or

- (ii) if the limited partnership does not have a remaining general partner, the passage of ninety days after the dissociation, unless before the end of the period—
 - (A) consent to continue the activities of the limited partnership and admit at least one general partner is given by limited partners owning a majority of the rights to receive distributions as limited partners at the time the consent is to be effective; and
 - (B) at least one person is admitted as a general partner in accordance with the consent;
- (d) the passage of ninety days after the dissociation of the limited partnership's last limited partner, unless before the end of the period the limited partnership admits at least one limited partner; or
- (e) the signing and filing of a declaration of dissolution by the Registrar under section 82(3).

Judicial
dissolution.

74. On application by a partner the Court may order dissolution of a limited partnership if it is not reasonably practicable to carry on the activities of the limited partnership in conformity with the limited partnership agreement.

Statement of
termination.

75. A dissolved limited partnership that has completed winding up shall file with the Registrar a statement of termination that states—

- (a) the name of the limited partnership;
- (b) the effective date of its registration under this Act; and
- (c) any other information as determined by the general partners filing the statement or by a person appointed pursuant to subsection (4) or (5) of section 76.

76.—(1) Subject to the provisions of the Insolvency Act, a limited partnership continues after dissolution only for the purpose of winding up its activities— Winding up.

(2) In winding up its activities, the limited partnership may —

- (a) file a request for an amendment to its certificate of limited partnership to State that the Limited partnership is dissolved;
- (b) preserve the limited partnership business or property as a going concern for a reasonable time;
- (c) prosecute and defend actions and proceedings, whether civil, criminal, or administrative;
- (d) transfer the limited partnership's property;
- (e) settle disputes by mediation or arbitration;
- (f) file a statement of termination as provided in section 75; and
- (g) perform other necessary acts.

(3) In winding up its activities the limited partnership shall discharge its liabilities, settle and close its activities, and marshal and distribute its assets.

(4) If the dissolved limited partnership does not have a general partner, a person to wind up the dissolved limited partnership's activities may be appointed by the consent of limited partners owning a majority of the rights to receive distributions as limited partners at the time the consent is to be effective.

(5) A person appointed under subsection (4)—

- (a) has the powers of a general partner under section 79; and
- (b) shall promptly file an amendment to the certificate of limited partnership to state—
 - (i) that the limited partnership does not have a general partner;
 - (ii) the name of the person that has been appointed to wind up the limited partnership; and

(iii) the street and mailing address of the person.

(6) On the application of any partner, the Court may order judicial supervision of the winding up, including the appointment of a person to wind up the dissolved limited partnership's activities, if—

- (a) a limited partnership does not have a general partner and within a reasonable time following the dissolution no person has been appointed pursuant to subsection (3); or
- (b) the applicant establishes other good cause.

Power of
general
partner and
person
dissociated as
general
partner to
bind
partnership
after
dissolution.

77.—(1) A limited partnership is bound by a general partner's act after dissolution which—

- (a) is appropriate for winding up the limited partnership's activities; or
- (b) would have bound the limited partnership under section 46 before dissolution if, at the time the other party enters into the transaction, the other party does not have notice of the dissolution.

(2) A person dissociated as a general partner binds a limited partnership through an act involving a third party occurring after dissolution if—

- (a) at the time the third party enters into the transaction—
 - (i) less than two years have passed since the dissociation; and
 - (ii) the third party does not have notice of the dissociation and reasonably believes that the person is a general partner; and
- (b) the act—
 - (i) is appropriate for winding up the limited partnership's activities; or

- (ii) would have bound the limited partnership under section 46 before dissolution, and at the time the third party enters into the transaction the third party does not have notice of the dissolution.

78.—(1) If a general partner having knowledge of the dissolution causes a limited partnership to incur an obligation under section 77(1) by an act that is not appropriate for winding up the partnership's activities, the general partner is liable—

Liability after dissolution of, general partner and person dissociated as general partner.

- (a) to the limited partnership for any loss or damage caused to the limited partnership arising from the obligation;
- (b) if another general partner or a person dissociated as a general partner is liable for the obligation, to that other general partner or person for any damage caused to that other general partner or person arising from the liability.

(2) If a person dissociated as a general partner causes a limited partnership to incur an obligation under section 77(2), the person is liable—

- (a) to the limited partnership for any loss or damage caused to the limited partnership arising from the obligation; and
- (b) if a general partner or another person dissociated as a general partner is also liable for the obligation, to the general partner or other person for any damage caused to the general partner or other person arising from the liability.

79.—(1) Subject to subsection (5) a dissolved limited partnership may dispose of the known claims against it by following the procedure described in subsection (2).

Known claims against dissolved limited partnership.

(2) A dissolved limited partnership may notify its known claimants of the dissolution in a record, and such notice shall—

- (a) specify the information required to be included in a claim;
- (b) provide a mailing address to which the claim is to be sent;

- (c) state the deadline for receipt of the claim, which may not be less than one hundred and twenty days after the date the notice is received by the claimant;
- (d) state that the claim will be barred if not received by the deadline; and
- (e) unless the limited partnership has throughout its existence been an LLLP, state that the barring of a claim against the limited partnership will also bar any corresponding claim against any general partner or person dissociated as a general partner which is based on section 48.

(3) A claim against a dissolved limited partnership is barred if the requirements of subsection (2) are met and—

- (a) the claim is not received by the specified deadline; or
- (b) in the case of a claim that is timely received but rejected by the dissolved limited partnership, the claimant does not commence an action to enforce the claim against the limited partnership within ninety days after the receipt of the notice of the rejection.

(4) This section does not apply to a claim based on an event occurring after the effective date of dissolution of the limited partnership or a liability that is contingent on that date.

(5) Where a partnership is insolvent, the provisions of the *Insolvency Act* shall apply in lieu of the provisions of this section.

Other claims
against
dissolved
limited
partnership.

80.—(1) Subject to subsection (5), a dissolved limited partnership may publish notice of its dissolution, and request persons having claims against the limited partnership to present them in accordance with the notice.

(2) The notice referred to in subsection (1) shall—

- (a) be published in at least once in a newspaper of general circulation in Jamaica, and also displayed in a prominent place at the limited partnership's principal office in Jamaica

or, if the limited partnership's principal office is not in Jamaica, published at least once in a newspaper of general circulation in the jurisdiction in which the limited partnership's principal office is or was last located;

- (b) describe the information required to be contained in a claim and provide a mailing address to which the claim is to be sent;
- (c) state that the claim against the limited partnership is barred unless an action to enforce the claim is commenced within three years after publication of the notice; and
- (d) unless the limited partnership has been throughout its existence an LLLP, state that the barring of a claim against the limited partnership will also bar any corresponding claim against any general partner or person dissociated as a general partner which is based on section 48.

(3) If a dissolved limited partnership publishes a notice in accordance with subsection (2), the claim of each of the following claimants is barred—

- (a) a claimant who did not receive the notice in a record under section 79;
- (b) a claimant whose claim was timely sent to the dissolved limited partnership but not acted on; or
- (c) a claimant whose claim is contingent or based on an event occurring after the effective date of dissolution,

unless the claimant commences an action to enforce the claim against the dissolved limited partnership within three years after the publication date of the notice.

(4) A claim not barred under this section may be enforced—

- (a) against the dissolved limited partnership, to the extent of its undistributed assets;

(b) if the assets have been distributed in liquidation, against a partner or transferee to the extent of that person's proportionate share of the lesser of—

- (i) the claim; or
- (ii) the limited partnership's assets distributed to the partner or transferee in liquidation,

but a person's total liability for all claims under this paragraph shall not exceed the total amount of assets distributed to the person as part of the winding up of the dissolved limited partnership; or

(a) against any person liable on the claim under section 48.

(5) Where a partnership is insolvent, the provisions of the Insolvency Act shall apply, in lieu of the provisions of this section.

Barring of claims.

81. If a claim against a dissolved limited partnership is barred under section 79 or 80, any corresponding claim under section 48 is also barred.

Administrative Dissolution

Registrar's power to dissolve limited partnerships administratively.

82.—(1) Subject to the provisions of this section, the Registrar may dissolve a limited partnership administratively if the limited partnership does not, within sixty days after the due date—

- (a) pay any fee, or penalty due to the Registrar under this Act or other law; or
- (b) deliver its annual return to the Registrar.

(2) If the Registrar determines that a ground exists for administratively dissolving a limited partnership, the Registrar shall prepare a record of the determination and serve the limited partnership with a copy thereof.

(3) If, within sixty days or such other period as may be prescribed after service of the copy, referred to in subsection (2), the limited partnership does not correct each ground for dissolution or

demonstrate to the reasonable satisfaction of the Registrar that each ground determined by the Registrar does not exist, the Registrar shall administratively dissolve the limited partnership by preparing, signing and having served on the limited partnership a declaration of dissolution that states the grounds for dissolution.

(4) A limited partnership administratively dissolved continues its existence but may carry on only activities necessary to wind up its activities and liquidate its assets under sections 76 and 85 and to notify claimants under sections 79 and 80.

(5) The administrative dissolution of a limited partnership does not terminate the authority of its agent for service of process.

83.—(1) A limited partnership that has been administratively dissolved may apply to the Registrar for reinstatement within two years after the effective date of dissolution, and shall state in the application—

Reinstatement following administrative dissolution.

- (a) the name of the limited partnership at the time of its administrative dissolution and if needed a different name that satisfies the requirements of section 8; and
- (b) that the grounds for dissolution either did not exist or have been eliminated.

(2) If the Registrar determines that an application contains information required by subsection (1) and that the information is correct, the Registrar shall prepare a declaration of reinstatement, and issues a copy to the limited partnership.

(3) If the Registrar determines that an application does not contain the information required by subsection (1) or that the information is incorrect, the Registrar shall deny the application made by the limited partnership for reinstatement.

(4) When reinstatement becomes effective, it relates back to and takes effect as of the effective date of the administrative dissolution, and the limited partnership may resume its activities as if the administrative dissolution had never occurred.

Appeal from
denial of
reinstatement.

84.—(1) If the Registrar denies a limited partnership's application for reinstatement following administrative dissolution, the Registrar shall prepare, sign and serve on the limited partnership a notice that explains the reason or reasons for denial.

(2) Within thirty days after service of the notice of denial, the limited partnership may appeal from the denial of reinstatement by making an application to the Court to set aside the dissolution, and the application shall be served on the Registrar and contain a copy of the Registrar's declaration of dissolution, the limited partnership's application for reinstatement, and the Registrar's notice of denial.

(3) The Court may—

- (a) summarily order the Registrar to reinstate the dissolved limited partnership;
- (b) affirm the Registrar's denial of the reinstatement; or
- (c) take any other action the Court considers appropriate.

Disposition
of assets:
when
contributions
required.

85.—(1) Subject to subsection (8), in winding up a limited partnership's activities, the assets of the limited partnership, including the contributions required by this section, shall be applied to satisfy the limited partnership's obligation to creditors, including, to the extent permitted by law, partners that are creditors.

(2) Any surplus remaining after the limited partnership complies with subsection (1) shall be paid in cash as a distribution.

(3) If a limited partnership's assets are insufficient to satisfy all of its obligations under subsection (1), with respect to each unsatisfied obligation incurred when the limited partnership was not an LLLP, the following rules apply—

- (a) each person that was a general partner when the obligation was incurred and that has not been released from the obligation under section 68 shall contribute to the limited partnership for the purpose of enabling the limited partnership to satisfy the obligation, and the contribution due from each of those persons is in proportion to the right to receive

distributions in the capacity of general partner in effect for each of those persons when the obligation was incurred; and

- (b) if a person does not contribute the full amount required under paragraph (a) with respect to an unsatisfied obligation of the limited partnership, the other persons required to contribute by paragraph (a) on account of the obligation shall contribute the additional amount necessary to discharge the obligation, and the additional contribution due from each of those other persons is in proportion to the right to receive distributions in the capacity of general partner in effect for each of those other persons when the obligation was incurred; and
- (c) if a person does not make the additional contribution required by paragraph (b), further additional contributions shall be determined and due in the same manner as provided in that paragraph.

(4) A person that makes an additional contribution under subsection (3)(b) or (c) may recover from any person whose failure to contribute under subsection (3)(a) or (b) necessitated the additional contribution.

(5) A person may not recover under subsection (4) more than the amount additionally contributed, and the liability of the person who failed to contribute under subsection (4) may not exceed the amount that ought to have been contributed by that latter person.

(6) The estate of a deceased individual is liable for the deceased person's obligations under this section.

(7) A person's obligation to contribute under subsection (3) may be enforced by any of the following—

- (a) an assignee for the benefit of creditors of a limited partnership or a partner;
- (b) a trustee duly appointed under the *Insolvency Act*;

- (c) a receiver duly appointed under an instrument creating a security of interest over the obligation to contribute under subsection (3);
- (d) a person appointment by the Court to represent creditors of a limited partnership or a partner;

(8) Where a partnership is insolvent, the provisions of *the Insolvency Act* shall apply in lieu of the provisions of this section:

However the provisions of subsections (3), (4), (5), (6) and (7) shall apply to the extent that they are not inconsistent with *the Insolvency Act*.

Foreign Limited Partnerships

Governing law.

86. The laws of the jurisdiction under which a foreign limited partnership is organised govern relations among the partners of the foreign limited partnership and between the partners and the foreign limited partnership and the liability of partners as partners for an obligation of the foreign limited partnership.

Application for certificate of authority.

87.—(1) A foreign limited partnership shall not transact business in Jamaica before obtaining a certificate of authority from the Registrar pursuant to section 89.

(2) A foreign limited partnership may apply for a certificate of authority to transact business in Jamaica by filing an application with the Registration in such form as may be prescribed, and the application shall state—

- (a) the name of the foreign limited partnership and, if the name does not comply with section 8, an alternate name adopted pursuant to section 90(1);
- (b) the jurisdiction under whose laws the foreign limited partnership is organised;
- (c) the street and mailing address of the foreign limited partnership's principal office and, if the laws of the jurisdiction under which the foreign limited partnership is organised require the foreign limited partnership to maintain an office in that

jurisdiction, the street and mailing address of the required office;

- (d) the name and street and mailing address of the foreign limited partnership's initial agent for service of process in Jamaica;
- (e) whether the foreign limited partnership is a foreign LLLP; and
- (f) such further information, if any, as may be prescribed.

(3) A foreign limited partnership shall deliver with the completed application a certificate of existence or a record of similar import signed by the authorized official having custody of the foreign limited partnership's publicly filed records in the jurisdiction under whose law the foreign limited partnership is organised

88.—(1) Activities of a foreign limited partnership which do not constitute transacting business in Jamaica within the meaning of this Part include—

Activities
not
constituting
transacting
business.

- (a) initiating, maintaining, defending, and settling an action or proceeding;
- (b) holding meetings of its partners or carrying on any other activity concerning its internal affairs;
- (c) maintaining accounts in financial institutions;
- (d) maintaining offices or agencies for the transfer, exchange, and registration of the foreign limited partnership's own securities or maintaining trustees or depositories with respect to those securities;
- (e) selling through independent contractors;
- (f) soliciting or obtaining orders, whether by mail or electronic means or through employees or agents or otherwise, if the orders require acceptance outside Jamaica before they become contracts;

- (g) creating or acquiring indebtedness, mortgages, or security interests in real or personal property;
- (h) securing or collecting debts or enforcing mortgages or other security interests in property securing debts, and holding, protecting, and maintaining property so acquired;
- (i) conducting an isolated transaction that is not one in the course of similar transactions of a like manner; and
- (j) such other activity (if any) as may be prescribed.

(2) For the purpose of this section, the ownership in Jamaica of income producing real property or tangible personal property, other than property excluded under subsection (1), constitutes transacting business in Jamaica.

(3) This section does not apply in determining the contracts or activities that may subject a foreign limited partnership to service of process, taxation, or regulation under any other enactment.

Filing of
certificate of
authority.

89.—(1) Unless the Registrar determines that an application for a certificate of authority does not comply with the filing requirements of this Part, the Registrar, upon receipt from a foreign limited partnership or its agent of such filing fees as may be prescribed, shall accept the filing of the application and prepare, sign and file a certificate of authority to transact business in Jamaica, and issue a copy of the filed certificate, together with a receipt for the fees, to the foreign limited partnership or its representative.

(2) A foreign limited partnership may not be denied a certificate of authority by reason of any difference between the laws of the jurisdiction under which the foreign limited partnership is organised and the laws of Jamaica.

(3) A certificate of authority does not authorise a foreign limited partnership to engage in any business or exercise any power that a limited partnership may not engage in or exercise in Jamaica.

90.—(1) A foreign limited partnership whose name does not comply with section 8 may not obtain a certificate of authority until it adopts, for the purpose of transacting business in Jamaica, an alternate name that complies with section 8.

Non-complying name of foreign limited partnership.

(2) After obtaining a certificate of authority with an alternate name, a foreign limited partnership shall transact business in Jamaica under the alternate name unless the foreign limited partnership is authorised pursuant to the *Registration of Business Names Act* to transact business in Jamaica under another name

(3) If a foreign limited partnership authorised to transact business in Jamaica changes its name to one that does not comply with section 8, it may not thereafter transact business in Jamaica until it complies with this section and obtains an amended certificate of authority.

91.—(1) A certificate of authority of a foreign limited partnership to transact business in Jamaica may be revoked by the Registrar in the manner provided in subsections (2) and (3) if the foreign limited partnership does not—

Revocation of certificate of authority.

- (a) pay, within sixty days after the due date, any fee or penalty due to the Registrar under this Part or any other enactment;
- (b) deliver, within sixty days after the due date, its annual return required under section 22;
- (c) appoint and maintain an agent for service of process as required by section 26(2); or
- (d) deliver for filing a statement of change under section 27, within thirty days after a change has occurred in the name or address of the agent.

(2) In order to revoke a certificate of authority, the Registrar shall prepare, sign, and serve on the foreign limited partnership or its representative a notice of revocation and send a copy to the foreign limited partnership's agent for service of process in Jamaica, or if the foreign limited partnership does not appoint and maintain a proper agent

in Jamaica, to the foreign limited partnership's principal office, and the notice shall state—

- (a) the revocation's effective date, which shall be at least sixty days after the date the Registrar sends the copy; and
- (b) the foreign limited partnership's non-compliance under any one or more of the paragraphs of subsection (1) which is the reason for the revocation.

(3) The authority of the foreign limited partnership to transact business in Jamaica ceases on the effective date of the notice of revocation, unless before that date the foreign limited partnership cures non-compliance under subsection (1) that is stated in the notice.

(4) If the foreign limited partnership cures all non-compliance referred to in subsection (3), the Registrar shall so indicate in the notice served.

92.—(1) A foreign limited partnership transacting business in Jamaica may not initiate or maintain an action or proceeding in Jamaica unless it has a certificate of authority to transact business in Jamaica.

(2) The failure of a foreign limited partnership to have a certificate of authority to transact business in Jamaica does not impair the validity of a contract or act of the foreign limited partnership or prevent the foreign limited partnership from defending an action or proceeding in Jamaica.

(3) A partner of a foreign limited partnership is not liable for the obligations of the foreign limited partnership solely by reason of the foreign limited partnership's having transacted business in Jamaica without a certificate of authority.

(4) For the purposes of subsection (11), the Registrar shall be entitled to make an application to the Court for an order to serve proceedings on the foreign limited partnership by way of substituted service in such manner as the Registrar considers appropriate in the

circumstances; and the court shall make such order as it deems just and equitable pursuant to the application.

(5) In order to cancel its certificate of authority to transact business in Jamaica, a foreign limited partnership shall file with the Registrar, in such form as may be prescribed, a notice of cancellation as from the effective date stated in the notice (which shall be at least 60 days after the date the statement is filed).

(6) A statement referred to in subsection (5) shall state an address in Jamaica at which service of process may be made; and service of process in any action arising during the time that the foreign limited partnership was authorized to transact business in Jamaica may be made at that address at any time after the effective date of the statement and shall constitute valid service on the foreign limited partnership.

93. The Registrar or Attorney-General may maintain an action to restrain a foreign limited partnership from transacting business in Jamaica in violation of section 84.

Action by
the Attor-
ney-General.

Actions by Partners

94.—(1) Subject to subsection (2), a partner in a limited partnership may maintain a direct action against the limited partnership or another partner for legal or equitable relief, with or without an accounting as to the partnership's activities, to enforce the rights and otherwise protect the interests of the partner, including rights and interests under the limited partnership agreement or this Part or arising independently of the partnership relationship.

Actions by
partners.

(2) A partner commencing a direct action under this section is required to plead and prove an actual or threatened injury that is not solely the result of an injury suffered or threatened to be suffered by the limited partnership.

(3) The accrual of and any time limitation on a right of action for a remedy under this section is governed by other law and the right to an accounting upon a dissolution and winding up does not revive a claim barred by law.

Derivative
action.

95. A partner in a limited partnership may maintain a derivative action to enforce a right of the limited partnership if—

- (a) the partner first makes a demand on the general partners, requesting that they cause the limited partnership to bring an action to enforce the right, and the general partners do not bring an action within a reasonable time; or
- (b) the partner reasonably believes that such a demand would be futile.

Proper
claimant.

96. A derivative action in accordance with section 95 may be maintained only by a person that is a partner at the time the action is commenced and —

- (a) was a partner when the conduct giving rise to the action occurred; or
- (b) whose status as a partner devolved upon the person by operation of law or pursuant to the terms of the limited partnership agreement from a person that was a partner at the time of the conduct.

Pleading.

97. In a derivative action in accordance with section 95, the claimant shall state with particularity —

- (a) the date and content of claimant's demand and the general partner's response to the demand; or
- (b) why demand should not be excused as futile.

Proceeds and
expenses.

98.—(1) Except as otherwise provided in subsection (2)—

- (a) any proceeds or other benefits of a derivative action, whether by judgment, compromise, or settlement, belong to the limited partnership and not to the derivative claimant;
- (b) if the derivative plaintiff receives any proceeds, the derivative plaintiff shall hold in trust for and immediately remit them to the limited partnership.

(2) Without prejudice to any award of costs to which the claimant may be entitled, if a derivative action is successful in whole or in part, the Court may award the claimant reasonable expenses, including reasonable attorney's fees, from the recovery of the limited partnership.

PART IV—*Conversion and Merger*

99.—(1) In this Part—

Definitions.

“constituent limited partnership” means a constituent organisation that is a limited partnership;

“constituent organisation” means an organisation that is party to a merger;

“converted organisation” means the organisation into which a converting organisation converts pursuant to sections 100 to 103;

“converting limited partnership” means a converting organisation that is a limited partnership;

“converting organisation” means an organisation that converts into another organisation pursuant to section 101;

“domestic general partnership” or “domestic partnership” means a partnership governed by Part III of the *General Partnership Act* that is not formed under the laws of a jurisdiction other than Jamaica;

“foreign general partnership” means a partnership formed under the laws of a jurisdiction other than Jamaica and is not required by those laws to have one or more general partners and one or more limited partners;

“general partner” means a general partner of a limited partnership;

“governing statute” means, in relation to an organisation, the statute that governs the organisation's internal affairs;

“organisation” means—

- (a) a general partnership governed by the *General Partnership Act*;
- (b) a limited partnership, including an LLLP; or
- (c) a body corporate;
- (d) any other person that has a governing statute, and includes domestic and foreign organizations whether or not organised for profit;

“organisational documents” means—

- (a) for a domestic general partnership or foreign general partnership, its partnership agreement;
- (b) for a limited partnership or foreign limited partnership, its certificate of limited partnership and limited partnership agreement;
- (c) for a domestic or foreign LLC, its articles of organisation and operating agreement, or comparable records as provided in its governing statute;
- (d) for a domestic or foreign body corporate, articles of incorporation, by laws, and other agreements among its shareholders which are authorised by its governing statute, or comparable records as provided for in its governing statute; and
- (e) for any other organisation, the basic records that create the organisation and determine its internal governance and the relations among the persons that own it, have an interest in it, or are members of it;

“personal liability” means personal liability for a debt, liability, or other obligation of an organisation which is imposed on a person that co-owns, has an interest in, or is a member of the organisation —

- (a) by the organisation’s governing statute, solely by reason of the person co-owning, having an interest in, or being a member of the organisation; or
- (b) by the organisation’s organisational documents under a provision of the organisation’s governing statute authorising those documents to make one or more specified persons liable for all or specified debts, liabilities, and other obligations of the organisation solely by reason of the person or persons co-owning, having an interest in, or being a member of the organisation;

“surviving organisation” means an organisation into which one or more other organisations are merged; however, a surviving organisation may pre-exist the merger or be created by the merger.

100.—(1) An organisation other than a limited partnership may Conversion. convert to a limited partnership, and a limited partnership may convert to another organisation pursuant to this section and sections 102 and 104 and a plan of conversion, if—

- (a) the other organisation’s governing statute authorises the conversion;
- (b) the conversion is not prohibited by the law of the jurisdiction that enacted the governing statute; and
- (c) the other organisation complies with the governing statute in effecting the conversion.

(2) A plan of conversion shall be in a record and shall include—

- (a) the name and form of the organisation before conversion;
- (b) the proposed name and form of the organisation after conversion;
- (c) the terms and conditions of the conversion, including the manner and basis for converting interests in the converting organisation into any combination of money, interests in the converted organisation, and other consideration; and
- (d) the organisational documents of the converted organisation.

Action on
plan of
converting
limited
partnership.

101.—(1) Subject to section 109 a plan of conversion shall not take effect unless it is consented to by the partners of a converting limited partnership.

(2) Subject to section 109 and any contractual rights, after a conversion is approved, and at any time before a filing is made under section 103, a converting limited partnership may amend the plan or abandon the planned conversion—

- (a) as provided in the plan; or
- (b) except as prohibited by the plan, by the same consent as was required to approve the plan.

Filings
required for
conversion.

102. —After a plan of conversion is approved—

- (a) converting limited partnership shall file with the Registrar articles of conversion, which shall include—
 - (i) a statement that the limited partnership is being converted into another organisation;
 - (ii) the name and form of the organisation and the jurisdiction of its governing statute;

- (iii) the date the conversion is effective under the governing statute of the converted organisation;
 - (iv) a statement that the conversion was approved as required by this Part;
 - (v) a statement that the conversion was approved as required by the governing statute of the converted organisation; and
 - (vi) if the converted organisation is a foreign organisation not authorised to transact business in Jamaica, the street and mailing address of an office which the Registrar may use for the purposes of section 103; and
- (b) if the converting organisation is not a converting limited partnership, the converting organisation shall complete and file with the Registrar a statement of conversion in such form as may be prescribed, which shall include, in addition to the information required by section 30 or 35 as the case may require—
- (i) a statement that the limited partnership will upon the conversion becoming effective, be converted from another organisation;
 - (ii) the name and form of the organisation and the jurisdiction of its governing statute; and
 - (iii) a statement that the conversion was approved in a manner that complied with the organisation's governing statute.
- (2) A conversion becomes effective—
- (a) if the converted organisation is a limited partnership, when a certificate of limited partnership is issued to it by the Registrar; and

- (b) if the converted organisation is not a limited partnership, as provided by the governing statute of the converted organisation.

Effect of
conversion.

103.—(1) An organisation that has been converted pursuant to this Part shall not be regarded in law as a separate or distinct entity from that which existed before conversion but shall instead be regarded as the same entity that existed before conversion, subject to the new characteristics brought about by the conversion.

(2) When a conversion takes effect—

- (a) all property owned by the converting organisation remains vested in the converted organisation;
- (b) all debts, liabilities and other obligations of the converting organisation continue as obligations of the converted organisation;
- (c) an action or a proceeding pending by or against the converting organisation may be continued as if the conversion had not occurred;
- (d) except as prohibited by other law, all of the rights, privileges, immunities, powers and purposes of the converting organisation remain vested in the converted organisation;
- (e) except as otherwise provided in the plan of conversion, the terms and conditions of the plan of conversion take effect; and
- (f) except as otherwise agreed, the conversion does not dissolve a converting limited partnership for the purposes of sections 73 to 85.

(3) Where, before the conversion, a converting limited partnership was subject to suit in Jamaica on any of its obligations, the converted organisation that is a foreign organisation shall be deemed to consent to the jurisdiction of the courts of Jamaica to enforce any obligation owed by the converting limited partnership.

(4) A surviving organisation that is a foreign organisation and not authorised to transact business in Jamaica may be served with process at the address referred to in section 106(2) and (9) or such other office in Jamaica as it may designate for this purpose in a subsequent filing.

104.—(1) A limited partnership may merge with one or more other constituent organisations pursuant to this section and sections 105 to 107 and a plan of merger, if— Merger.

- (a) the governing statute of each of the mother organisations authorises the merger;
- (b) the merger is not prohibited by the law of a jurisdiction that enacted any of those governing statutes; and
- (c) each of the other organisations complies with its governing statute in effecting the merger.

(2) A plan of merger shall be in a record and shall include—

- (a) the name and form of each constituent organisation;
- (b) the name and form of the surviving organisation and, if the surviving organisation is to be created by the merger, a statement to that effect;
- (c) the terms and conditions of the merger, including the manner and basis for converting the interests in each constituent organisation into any combination of money, interests in the surviving organisation, and other consideration;
- (d) if the surviving organisation is to be created by the merger, the surviving organisation's organisational documents; and
- (e) if the surviving organisation is not to be created by the merger, any amendment to be made by the merger to the surviving organisation's organisational documents.

105.—(1) Subject to section 108, a plan of merger shall not take effect unless it is consented to by all the partners of a constituent limited partnership.

Action on plan of merger by constituent limited partnership.

(2) Subject to section 108 and any contractual rights, after a merger is approved, and at any time before filing is made under section 106, a constituent limited partnership may amend the plan or abandon the-planned merger—

- (a) as provided in the plan; or
- (b) except as prohibited by the plan, with the same consent as was required to approve the plan.

Filings
required for
merger:
effective
date.

106.—(1) After each constituent organisation has approved a merger, articles of merger shall be signed on behalf of—

- (a) each pre-existing constituent limited partnership, by each general partner listed in the form referred to in section 30 or 35 as the case may be or in any subsequent filing that has amended that list; and
- (b) each other pre-existing constituent organisation, by an authorised representative.

(2) The articles of merger shall include—

- (a) the name and form of each constituent organisation and the jurisdiction of its governing statute;
- (b) the name and form of the surviving organisation, the jurisdiction of its governing statute, and, if the surviving organisation is created by the merger, a statement to that effect;
- (c) the date the merger is effective under the governing statute of the surviving organisation;
- (d) where the surviving organisation is to be created by merger—
 - (i) if it will be a limited partnership, the information to be contained in the form referred to in section 30 or 35 as the case may be; or
 - (ii) if it will be an organisation other than a limited partnership, the organisational document that creates the organisation;

- (e) if the surviving organisation pre-exists the merger, any amendments provided for in the plan of merger to the organisational document that created the organisation;
- (f) a statement as to each constituent organisation that the merger was approved as required by the organisation's governing statute;
- (g) if the surviving organisation is a foreign organisation not authorised to transact business in Jamaica, the street and mailing address of an office which the Registrar may use for the purposes of section 107; and
- (h) any additional information required by the governing statute of any constituent organisation.

(3) A surviving organization shall file with the Registrar—

- (a) the articles of merger; and
- (b) a statement of merger in the prescribed form or where it is a foreign entity, the address for service where it may be served for process.

(4) Subject to section 18(2), where the surviving organization is a limited partnership that is created by the merger, the Registrar shall issue a certificate of limited partnership in respect thereof in accordance with section 30, 35 or 35(2) as the case may require.

(5) A merger becomes effective under this Part—

- (a) if the surviving organisation is a limited partnership, upon the later of—
 - (i) compliance with subsection (3); or
 - (ii) subject to section 8(3) as specified in the articles of merger; or
- (b) if the surviving organisation is not a limited partnership, as provided by the governing statute of the surviving organisation.

Effect of
merger.

107.—(1) When a merger becomes effective—

- (a) the surviving organisation continues or comes into existence;
- (b) each constituent organisation that merges into the surviving organisation ceases to exist as a separate entity; .
- (c) all property owned by each constituent organisation that ceases to exist vests in the surviving organisation;
- (d) all debts, liabilities, and other obligations of each constituent organisation that ceases to exist continue as obligations of the surviving organisation;
- (e) an action or a proceeding pending by or against any constituent organisation that ceases to exist shall be continued as if the merger had not occurred;
- (f) except as prohibited by any other law, all of the rights, privileges, immunities, powers, and purposes of each constituent organisation that ceases to exist vest in the surviving organisation;
- (g) except as otherwise provided in the plan of merger, the terms and conditions of the plan of merger take effect;
- (h) except as otherwise agreed, if a constituent limited partnership ceases to exist, the merger does not dissolve the limited partnership for the purposes of sections 73 to 85;
- (i) where the surviving organisation is created by the merger—
 - (i) if it is a limited partnership, the certificate of limited partnership issued by the Registrar becomes effective; or
 - (ii) if it is an organisation other than a limited partnership, the organisational document that creates the organisation becomes effective; and

- (j) where the surviving organisation pre-exists the merger, any amendments provided for in the articles of merger for the organisational document that created the organisation become effective.

(2) A surviving organisation that is a foreign organisation shall be deemed to consent to the jurisdiction of the courts of Jamaica to enforce any obligation owed by a constituent organisation, if before the merger the constituent organisation was subject to suit in Jamaica on the obligation.

(3) A surviving organisation that is a foreign organisation that is not authorized to transact business in Jamaica may be served with process at the address referred to in section 106(2)(g) or such other office in Jamaica as it may designate for this purpose in a subsequent filing.

108.—(1) If a partner of a converting or constituent limited partnership will have personal liability with respect to a converted or surviving organisation, approval and amendment of a plan of conversion or merger are ineffective without the consent of the partner, unless—

- (a) the limited partnership's limited partnership agreement provides for the approval of the conversion or merger with the consent of fewer than all the partners and does not specifically require his consent; and
- (b) the partner has consented to the provisions of the limited partnership agreement.

(2) A proposed amendment to a certificate of limited partnership which purports to delete a statement that the limited partnership is a LLLP is ineffective without the consent of each general partner, unless—

- (a) the limited partnership agreement provides for the amendment with the consent of less than all the general partners and does not specifically require his consent; and

Restrictions on approval of conversions and mergers and on relinquishing LLLP status.

- (b) each general partner that does not consent to the amendment has consented to the provision of the limited partnership agreement.

(3) A partner does not give the consent required by subsection (1) or (2) merely by consenting to a provision of the limited partnership agreement which permits the limited partnership agreement to be amended with the consent of fewer than all the partners.

Liability of
general
partner after
conversion
or merger.

109.—(1) A conversion or merger under this Part does not discharge any liability under sections 48 and 68 of a person that was a general partner in or dissociated as a general partner from a converting or constituent limited partnership, and accordingly—

- (a) the provisions of this Part pertaining to the collection or discharge of the liability continue to apply to the liability;
- (b) for the purposes of applying those provisions, the converted or surviving organisation is deemed to be a converting or constituent limited partnership; and
- (c) if a person is required to pay any amount under this subsection—
 - (i) the person has a right of contribution from each other person that was liable as a general partner under section 48 when the obligation was incurred and has not been released from the obligation under section 68; and
 - (ii) the contribution due from each of those other persons is in proportion to the right to receive distributions in the capacity of general partner in effect for each of those persons when the obligation was incurred.

(2) In addition to any other liability provided by law—

- (a) a person that immediately before a conversion or merger became effective was a general partner in a converting or

constituent limited partnership that was not a LLLP is personally liable for each obligation of the converted or surviving organisation arising from a transaction with a third party after the conversion or merger becomes effective, if, at the time the third party enters into the transaction, the third party—

- (i) does not have notice of the conversion or merger; and
 - (ii) reasonably believes that—
 - (A) the converted or surviving business is the converting or constituent limited partnership;
 - (B) the converting or constituent limited partnership is not LLLP; and
 - (C) the person is a general partner in the converting or constituent limited partnership; and
- (b) a person that was dissociated as a general partner from a converting or constituent limited partnership before the conversion or merger became effective is personally liable for each obligation of the converted or surviving organisation arising from the transaction with the third party after the conversion or merger becomes effective, if—
- (i) immediately before the conversion or merger became effective the converting or surviving limited partnership was not a LLLP; and
 - (ii) at the time the third party enters into the transaction, less than two years has passed since the person dissociated as a general partner and the third party—
 - (A) does not have notice of the dissociation;

- (B) does not have notice of the conversion or merger; and
- (C) reasonably believes that the converted or surviving organisation is the converting or constituent limited partnership, the converting or constituent limited partnership is not a LLLP, and that the person is a general partner in the converting or constituent limited partnership.

Power to bind the organisation after conversion or merger.

110.—(1) An act of a person that, immediately before a conversion or merger became effective, was a general partner in a converting or constituent limited partnership binds the converted or surviving organisation after the conversion or merger becomes effective, if—

- (a) before the conversion or merger became effective, the act would have bound the converting or constituent limited partnership under section 46; and
- (b) at the time the third party enters into the transaction, the third party—
 - (i) does not have notice of the conversion or merger; and
 - (ii) reasonably believes that the converted or surviving organization is the converting or constituent limited partnership and that the person is a general partner in the converting or constituent limited partnership.

(2) An act of a person that before the conversion or merger became effective was dissociated as a general partner from a converting or constituent limited partnership binds the converted or surviving organisation after the conversion or merger becomes effective, if—

- (a) before the conversion or merger becomes effective, the act would have bound the converting or constituent limited

partnership under section 46 had the person been a general partner; and

- (b) at the time the third party enters into the transaction, less than two years has passed since the person dissociated as a general partner and the third party—
 - (i) does not have notice of the dissociation;
 - (ii) does not have notice of the conversion or merger; and
 - (iii) reasonably believes that the converted or surviving organisation is the converting or constituent limited partnership and that the person is a general partner in the converting or constituent limited partnership.

(3) If a person having knowledge of the conversion or merger causes a converted or surviving organisation to incur an obligation under subsection (1) or (2), the person is liable—

- (a) to the converted or surviving organisation for any damage caused to the organisation arising from the obligation; and
- (b) if another person is liable for the obligation, to that other person for any damage caused to that other person arising from the liability.

PART V—*Miscellaneous*

111.—(1) The Minister may make regulations generally to give effect Regulations.
to the provisions of this Act.

(2) Without restricting the generality of the foregoing, the Minister may exercise his power under this section—

- (a) with respect to the duties to be performed by the Registrar under this Act; and
- (b) so as to prescribe anything required by this Act to be prescribed.

(3) Notwithstanding section 29(b) of the *Interpretation Act*, regulations made under this Act may provide that a person who contravenes the regulations commits an offence and shall be liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding one million dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

Repeal.

112.—(1) The Partnerships (Limited) Act is hereby repealed.

(2) All partnerships formed under the Partnerships Limited Act shall be governed by Part A of this Act.

Transitional provisions.

113.—(1) In so far as anything done under the Partnerships (Limited) Act could have been done under a corresponding provision of this Act, shall not be invalidated by the repeal but shall have effect as if done under that provision.

(2) Without prejudice to subsection (1), any reference in this Act whether expressed or implied to—

- (a) anything done or required or authorized to be done, or omitted to be done; or
- (b) any event which has occurred, under or for the purposes of or by reference to or in contravention of any provisions of this Act,

shall except where the context otherwise requires be constructed as including, as the case may be, a reference to—

- (a) the corresponding thing done or required or authorized to be done or omitted; or
- (b) the corresponding event which occurred, under, or for the purposes of, or by reference to, or in contravention of any corresponding provisions of the Partnership (Limited) Act,

(3) Where a document refers expressly or by implication to the *Partnerships Limited Act*, the reference shall, except where the context otherwise requires, be construed as a reference to the corresponding provision of this Act.

(4) Where any period of time specified in the *Partnership Limited Act* is current at the date of coming into operation of this Act, and there is a corresponding provision in this Act, the Act shall have effect as if that corresponding provision has been in force when that period begins to run.

114. Nothing in this Act shall be construed so as to effect the existence or the continuance of the business of any firm in existence and carrying on business in Jamaica at the date this Act comes into operation, and no such partnership, shall be compelled by any provision of this Act to file any document of any sort; enter into any transaction, pay any fee, or do anything whatsoever in order to continue to lawfully carry on the business of the firm. Savings.

SECOND SCHEDULE (Section 15,(4))

*Activities not regarded as taking part in
management of partnership business*

1. A limited partner in a limited partnership shall be liable as a general partner if he takes part in the management of the limited partnership.

2. For the purposes of paragraph 1, a limited partner does not take part in the management of a limited partnership by reason only of the inclusion of the limited partner's name, or any part of it, in the name of the limited partnership or of his—

- (a) being a contractor for, or an agent or employee of, the limited partnership or a general partner;
- (b) consulting or advising a general partner with respect to the business of the limited partnership including
 - (i) serving on any board or committee of—
 - (A) the limited partnership;
 - (B) a general partnership;
 - (C) the limited partners;
 - (D) the partners or any class or category of those partners; or

- (E) any person in which the limited partnership has an interest; or
- (i) appointing, electing or otherwise participating in the choice of a representative or any other person to serve on any board or committee referred to in sub-paragraph (i);
- (c) taking any actions, or making any decisions, in respect of any investment made by the limited partnership;
- (d) acting as surety for the limited partnership;
- (e) approving or disapproving an amendment to the partnership agreement; or
- (f) voting on any matters specified in subsection (4).

3. The matters referred to in sub-paragraph (e) of paragraph 2 are—

- (a) the dissolution or winding up of the limited partnership;
- (b) the sale, exchange, lease, mortgage, pledge or other transfer of all or substantially all of the assets of the limited partnership otherwise than in the ordinary course of business of the limited partnership;
- (c) the incurring of indebtedness by the limited partnership otherwise than in the ordinary course of business of the limited partnership;
- (d) a change in the general nature of the business transacted by the limited partnership; or
- (e) the removal of general partner.

4. The doing of any other act or thing or the voting on any other matter by a limited partner in relation to a limited partnership shall not, by reason only that such act or thing or such matter is not specified in paragraph 2 or 3 be, construed as taking part in the management of the limited partnership.

MEMORANDUM OF OBJECTS AND REASONS

This Bill seeks to provide the statutory framework for the formation, registration, operation and termination of limited partnerships in Jamaica.

Limited partnerships are partnerships that have at least one general partner and at least one limited partner. In the event that the assets of the limited partnership are inadequate, the general partner shall be liable for the debts or obligations; of the limited partnership. The limited partner shall not be liable for the debts or obligations of the limited partnership in excess of the capital contributed by it to the limited partnership.

The general partner undertakes the conduct of the business whilst the limited partners contribute capital in order that the business may be carried on, and they do not participate in the management. A limited partner may become liable for all debts and obligations of the limited partnership as though he were a general partner if he engages in the management. At the point of registration an election will be required regarding whether or not the limited partnership will have separate legal personality. A limited partnership electing not to have separate legal personality reserves the right to later irreversibly elect to have separate legal personality. A limited partnership electing to have separate legal personality may not relinquish it.

Another distinctive feature of the Bill is its provision for the formation of limited liability limited partnerships ("LLLPs"). LLLPs afford limited liability upon general partners, whilst both the limited liability of the limited partners and the exclusive management responsibilities of general partners are left intact. This status may be relinquished and reassumed as many times as the limited partnership wishes.

Every limited partnership formed under this Bill is to be governed by a limited partnership agreement.

G. ANTHONY HYLTON,
Minister of Industry, Investment
and Commerce.

A BILL
ENTITLED

AN ACT to Provide for the formation and operation of limited partnerships and to repeal the Partnerships (Limited) Act and for connected purposes.

**As introduced by the Honourable Minister of Industry,
Investment and Commerce.**

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