
DRAFT STATUTORY INSTRUMENTS

2009 No.

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

PART 17

SUPPLEMENTARY PROVISIONS AND INTERPRETATION

LLP records

74. Sections 1134 to 1138 apply to LLPs, modified so that they read as follows—

“Meaning of “LLP records”

1134. In this Part “LLP records” means—

- (a) any register, index, accounting records, agreement, memorandum, minutes or other document required by this Act to be kept by an LLP, and
- (b) any register kept by an LLP of its debenture holders.

Form of LLP records

1135.—(1) LLP records—

- (a) may be kept in hard copy or electronic form, and
 - (b) may be arranged in such manner as the members of the LLP think fit, provided the information in question is adequately recorded for future reference.
- (2) Where the records are kept in electronic form, they must be capable of being reproduced in hard copy form.
- (3) If an LLP fails to comply with this section, an offence is committed by every member of the LLP who is in default.
- (4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale and, for continued contravention, a daily default fine not exceeding one-tenth of level 3 on the standard scale.

Where certain LLP records to be kept available for inspection

1136.—(1) The provisions of the Companies (Company Records) Regulations 2008 ([S.I. 2008/3006](#)) relating to places other than the registered office at which records required to be kept available for inspection under a relevant provision may be so kept in compliance with that provision apply to LLPs.

- (2) The “relevant provisions” are—
- section 162 (register of members);
 - section 743 (register of debenture holders);

section 877 (instruments creating charges and register of charges: England and Wales);
 section 892 (instruments creating charges and register of charges: Scotland).

- (3) The provisions applied by subsection (1) are—
 - (a) regulation 3, and
 - (b) any other provision of the regulations having effect for the purposes of that provision.
- (4) In the application of those provisions to LLPs for “company” substitute “LLP”.

Inspection of records and provision of copies

1137.—(1) The provisions of the Companies (Company Records) Regulations 2008 ([S.I. 2008/3006](#)) as to the obligations of an LLP that is required by any provision of this Act or of the Limited Liability Partnerships Act 2000 ([c. 12](#))—

- (a) to keep available for inspection any LLP records, or
- (b) to provide copies of any LLP records,

apply to LLPs.

- (2) Those provisions are—
 - (a) Part 3 (inspection of records),
 - (b) Part 4 (provision of copies of records), and
 - (c) any other provision of the regulations having effect for the purposes of those provisions.
- (3) As those provisions apply to LLPs—
 - (a) for “a company” or “the company” substitute “an LLP” or “the LLP”;
 - (b) for “company record” substitute “LLP record”;
 - (c) in regulation 4 (inspection: private company)—
 - (i) for the reference in paragraph (1) to a private company substitute a reference to an LLP,
 - (ii) for sub-paragraph (b) substitute—

“(b) that person gives the LLP at least 10 working days’ notice of the specified day.”;
 - (d) omit paragraphs (2) and (3); and
 - (e) omit regulation 5 (inspection: public company).
- (4) An LLP that fails to comply with the regulations is treated as having refused inspection or, as the case may be, having failed to provide a copy.
- (5) Nothing in any provision of this Act or in the regulations shall be read as preventing an LLP—
 - (a) from affording more extensive facilities than are required by the regulations, or
 - (b) where a fee may be charged, from charging a lesser fee than that prescribed or none at all.

Duty to take precautions against falsification

1138.—(1) Where LLP records are kept otherwise than in bound books, adequate precautions must be taken—

- (a) to guard against falsification, and
- (b) to facilitate the discovery of falsification.

(2) If an LLP fails to comply with this section, an offence is committed by every member of the LLP who is in default.

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

Service addresses

75. Sections 1139 to 1142 apply to LLPs, modified so that they read as follows—

“Service of documents on LLP

1139.—(1) A document may be served on an LLP by leaving it at, or sending it by post to, the LLP’s registered office.

(2) Where an LLP registered in Scotland or Northern Ireland carries on business in England and Wales, the process of any court in England and Wales may be served on the LLP by leaving it at, or sending it by post to, the LLP’s principal place of business in England and Wales, addressed to the manager or a designated member in England and Wales of the LLP.

Where process is served on an LLP under this subsection, the person issuing out the process must send a copy of it by post to the LLP’s registered office.

Service of documents on members and others

1140.—(1) A document may be served on—

- (a) a member of an LLP, or
- (b) a person appointed in relation to an LLP as a judicial factor (in Scotland),

by leaving it at, or sending it by post to, the member’s or factor’s registered address.

(2) This section applies whatever the purpose of the document in question.

(3) For the purposes of this section a person’s “registered address” means any address for the time being shown as a current address in relation to that person in the part of the register available for public inspection.

(4) If notice of a change of that address is given to the registrar, a person may validly serve a document at the address previously registered until the end of the period of 14 days beginning with the date on which notice of the change is registered.

(5) Service may not be effected by virtue of this section at an address if notice has been registered of the cessation of the membership or (as the case may be) termination of the appointment in relation to which the address was registered and the address is not a registered address of the person concerned in relation to any other appointment.

(6) Nothing in this section shall be read as affecting any enactment or rule of law under which permission is required for service out of the jurisdiction.

Service addresses

1141.—(1) In this Act a “service address”, in relation to a person, means an address at which documents may be effectively served on that person.

(2) The service address must be a place where—

- (a) the service of documents can be effected by physical delivery; and
- (b) the delivery of documents is capable of being recorded by the obtaining of an acknowledgment of delivery.

Requirement to give service address

1142. Any obligation under this Act to give a person's address is, unless otherwise expressly provided, to give a service address for that person.”.

Notice of appointment of judicial factor

76. Sections 1154 and 1155 apply to LLPs, modified so that they read as follows—

“Duty to notify registrar of appointment of judicial factor

1154.—(1) Notice must be given to the registrar of the appointment in relation to an LLP of a judicial factor (in Scotland).

(2) The notice must be given by the judicial factor.

(3) The notice must specify an address at which service of documents (including legal process) may be effected on the judicial factor.

Notice of a change in the address for service may be given to the registrar by the judicial factor.

(4) Where notice has been given under this section of the appointment of a judicial factor, notice must also be given to the registrar by the judicial factor of the termination of the appointment.

Offence of failure to give notice

1155.—(1) If a judicial factor fails to give notice of his appointment in accordance with section 1154 within the period of 14 days after the appointment he commits an offence.

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

Courts and legal proceedings

77. Sections 1156 and 1157 apply to LLPs for the purposes of these Regulations, modified so that they read as follows—

“Meaning of “the court”

1156.—(1) Except as otherwise provided, in this Act “the court” means—

- (a) in England and Wales, the High Court or (subject to subsection (3)) a county court;
- (b) in Scotland, the Court of Session or the sheriff court;
- (c) in Northern Ireland, the High Court.

(2) The provisions of the Companies Acts conferring jurisdiction on “the court” as defined above have effect subject to any enactment or rule of law relating to the allocation of jurisdiction or distribution of business between courts in any part of the United Kingdom.

(3) The Lord Chancellor may, with the concurrence of the Lord Chief Justice, by order—

- (a) exclude a county court from having jurisdiction under this Act, and

(b) for the purposes of that jurisdiction attach that court's district, or any part of it, to another county court.

(4) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005 (c. 4)) to exercise his functions under subsection (3).

Power of court to grant relief in certain cases

1157.—(1) If in proceedings for negligence, default, breach of duty or breach of trust against—

- (a) a member of an LLP, or
- (b) a person employed by an LLP as auditor,

it appears to the court hearing the case that the member or person is or may be liable but that he acted honestly and reasonably, and that having regard to all the circumstances of the case (including those connected with his appointment) he ought fairly to be excused, the court may relieve him, either wholly or in part, from his liability on such terms as it thinks fit.

(2) If any such member or person has reason to apprehend that a claim will or might be made against him in respect of negligence, default, breach of duty or breach of trust—

- (a) he may apply to the court for relief, and
- (b) the court has the same power to relieve him as it would have had if it had been a court before which proceedings against him for negligence, default, breach of duty or breach of trust had been brought.

(3) Where a case to which subsection (1) applies is being tried by a judge with a jury, the judge, after hearing the evidence, may, if he is satisfied that the defendant (in Scotland, the defender) ought in pursuance of that subsection to be relieved either in whole or in part from the liability sought to be enforced against him, withdraw the case from the jury and forthwith direct judgment to be entered for the defendant (in Scotland, grant decree of absolvitor) on such terms as to costs (in Scotland, expenses) or otherwise as the judge may think proper.”.

Requirements of this Act

78. Section 1172 applies to LLPs for the purposes of these Regulations, modified so that it reads as follows—

“References to requirements of this Act

1172. References in the provisions of this Act applied to LLPs to the requirements of this Act include the requirements of regulations and orders made under it.”.

Minor definitions

79. Section 1173 applies to LLPs for the purposes of these Regulations, modified so that it reads as follows—

“Minor definitions: general

1173.—(1) In this Act—

“body corporate” and “corporation” include a body incorporated outside the United Kingdom, but do not include—

- (a) a corporation sole, or

(b) a partnership that, whether or not a legal person, is not regarded as a body corporate under the law by which it is governed;

“the Companies Acts” is to be construed in accordance with section 2;

“firm” means any entity, whether or not a legal person, that is not an individual and includes a body corporate, a corporation sole and a partnership or other unincorporated association;

“the Gazette” means—

(a) as respects LLPs registered in England and Wales, the London Gazette,

(b) as respects LLPs registered in Scotland, the Edinburgh Gazette, and

(c) as respects LLPs registered in Northern Ireland, the Belfast Gazette;

“LLP” means a limited liability partnership registered under the Limited Liability Partnerships Act 2000 (c. 12);

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

“officer”, in relation to a body corporate, includes a director, manager or secretary;

“working day”, in relation to an LLP, means a day that is not a Saturday or Sunday, Christmas Day, Good Friday or any day that is a bank holiday under the Banking and Financial Dealings Act 1971 (c. 80) in the part of the United Kingdom where the LLP is registered.

(2) In this Act, unless the context otherwise requires, “enactment” includes—

(a) an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978 (c. 30),

(b) an enactment contained in, or in an instrument made under, an Act of the Scottish Parliament, and

(c) an enactment contained in, or in an instrument made under, Northern Ireland legislation within the meaning of the Interpretation Act 1978.”.

Regulations and orders

80. Sections 1288 to 1290 apply to LLPs for the purposes of these Regulations, modified so that they read as follows—

“Regulations and orders: statutory instrument

1288. Except as otherwise provided, regulations and orders under this Act shall be made by statutory instrument.

Regulations: negative resolution procedure

1289. Where regulations under this Act are subject to “negative resolution procedure” the statutory instrument containing the regulations shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Regulations: affirmative resolution procedure

1290. Where regulations under this Act are subject to “affirmative resolution procedure” the regulations must not be made unless a draft of the statutory instrument containing

them has been laid before Parliament and approved by a resolution of each House of Parliament.”.

81. Section 1292 applies to LLPs for the purposes of these Regulations, modified so that it reads as follows—

“Regulations and orders: supplementary

1292.—(1) Regulations or orders under this Act may—

- (a) make different provision for different cases or circumstances,
- (b) include supplementary, incidental and consequential provision, and
- (c) make transitional provision and savings.

(2) Any provision that may be made by regulations under this Act may be made by order; and any provision that may be made by order under this Act may be made by regulations.

(3) Any provision that may be made by regulations or order under this Act for which no Parliamentary procedure is prescribed may be made by regulations subject to negative or affirmative resolution procedure.

(4) Any provision that may be made by regulations under this Act subject to negative resolution procedure may be made by regulations subject to affirmative resolution procedure.”.

Continuity of the law

82. Section 1297 applies to LLPs, modified so that it reads as follows—

“Continuity of the law

1297.—(1) This section applies where any provision of this Act applied to LLPs re-enacts (with or without modification) an enactment repealed by this Act which was applied to LLPs.

(2) The repeal and re-enactment does not affect the continuity of the law.

(3) Anything done (including subordinate legislation made and applied to LLPs), or having effect as if done, under or for the purposes of the repealed provision as applied to LLPs that could have been done under or for the purposes of the corresponding provision of this Act as applied to LLPs, if in force or effective immediately before the commencement of that corresponding provision, has effect thereafter as if done under or for the purposes of that corresponding provision.

(4) Any reference (express or implied) in this Act or any other enactment, instrument or document to a provision of this Act as applied to LLPs shall be construed (so far as the context permits) as including, as respects times, circumstances or purposes in relation to which the corresponding repealed provision had effect, a reference to that corresponding provision.

(5) Any reference (express or implied) in any enactment, instrument or document to a repealed provision which was applied to LLPs shall be construed (so far as the context permits), as respects times, circumstances and purposes in relation to which the corresponding provision of this Act applied to LLPs has effect, as being or (according to the context) including a reference to the corresponding provision of this Act.

(6) This section has effect subject to any specific transitional provision or saving contained in this Act as applied to LLPs.

(7) References in this section to this Act as applied to LLPs include subordinate legislation made under this Act as so applied.

(8) In this section “subordinate legislation” has the same meaning as in the Interpretation Act 1978 (c. 30).”.