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STATUTORY INSTRUMENTS

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**2009 No. 1804**

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

PART 13

DISSOLUTION AND RESTORATION TO THE REGISTER

CHAPTER 3

RESTORATION TO THE REGISTER

**Administrative restoration to the register**

**56.** Sections 1024 to 1028 apply to LLPs, modified so that they read as follows—

**“Application for administrative restoration to the register**

**1024.**—(1) An application may be made to the registrar to restore to the register an LLP that has been struck off the register under section 1000 or 1001 (power of registrar to strike off defunct LLP).

(2) An application under this section may be made whether or not the LLP has in consequence been dissolved.

(3) An application under this section may only be made by a former member of the LLP.

(4) An application under this section may not be made after the end of the period of six years from the date of the dissolution of the LLP.

For this purpose an application is made when it is received by the registrar.

**Requirements for administrative restoration**

**1025.**—(1) On an application under section 1024 the registrar shall restore the LLP to the register if, and only if, the following conditions are met.

(2) The first condition is that the LLP was carrying on business or in operation at the time of its striking off.

(3) The second condition is that, if any property or right previously vested in or held on trust for the LLP has vested as *bona vacantia*, the Crown representative has signified to the registrar in writing consent to the LLP’s restoration to the register.

(4) It is the applicant’s responsibility to obtain that consent and to pay any costs (in Scotland, expenses) of the Crown representative—

(a) in dealing with the property during the period of dissolution, or

(b) in connection with the proceedings on the application,

that may be demanded as a condition of giving consent.

- (5) The third condition is that the applicant has—
  - (a) delivered to the registrar such documents relating to the LLP as are necessary to bring up to date the records kept by the registrar, and
  - (b) paid any penalties under section 453 or corresponding earlier provisions (civil penalty for failure to deliver accounts) that were outstanding at the date of dissolution or striking off.
- (6) The fourth condition is that the applicant has sent notice of the application under section 1024 to all those who were members of the LLP at the time of its striking off.
- (7) In this section the “Crown representative” means—
  - (a) in relation to property vested in the Duchy of Lancaster, the Solicitor to that Duchy;
  - (b) in relation to property vested in the Duke of Cornwall, the Solicitor to the Duchy of Cornwall;
  - (c) in relation to property in Scotland, the Queen’s and Lord Treasurer’s Remembrancer;
  - (d) in relation to other property, the Treasury Solicitor.

**Application to be accompanied by statement of compliance**

- 1026.**—(1) An application under section 1024 (application for administrative restoration to the register) must be accompanied by a statement of compliance.
- (2) The statement of compliance required is a statement—
    - (a) that the person making the application has standing to apply (see subsection (3) of that section), and
    - (b) that the requirements for administrative restoration (see section 1025) are met.
  - (3) The registrar may accept the statement of compliance as sufficient evidence of those matters.

**Registrar’s decision on application for administrative restoration**

- 1027.**—(1) The registrar must give notice to the applicant of the decision on an application under section 1024 (application for administrative restoration to the register).
- (2) If the decision is that the LLP should be restored to the register, the restoration takes effect as from the date that notice is sent.
  - (3) In the case of such a decision, the registrar must—
    - (a) enter on the register a note of the date as from which the LLP’s restoration to the register takes effect, and
    - (b) cause notice of the restoration to be published in the Gazette.
  - (4) The notice under subsection (3)(b) must state—
    - (a) the name of the LLP or, if the LLP is restored to the register under a different name (see section 1033), that name and its former name,
    - (b) the LLP’s registered number, and
    - (c) the date as from which the restoration of the LLP to the register takes effect.

### **Effect of administrative restoration**

**1028.**—(1) The general effect of administrative restoration to the register is that the LLP is deemed to have continued in existence as if it had not been dissolved or struck off the register.

(2) The LLP is not liable to a penalty under section 453(1) or any corresponding earlier provision (civil penalty for failure to deliver accounts) for a financial year in relation to which the period for filing accounts and reports ended—

(a) after the date of dissolution or striking off, and

(b) before the restoration of the LLP to the register.

(3) The court may give such directions and make such provision as seems just for placing the LLP and all other persons in the same position (as nearly as may be) as if the LLP had not been dissolved or struck off the register.

(4) An application to the court for such directions or provision may be made any time within three years after the date of restoration of the LLP to the register.”.

### **Restoration to the register by the court**

**57.** Sections 1029 to 1032 apply to LLPs, modified so that they read as follows—

#### **“Application to court for restoration to the register**

**1029.**—(1) An application may be made to the court to restore to the register an LLP—

(a) that has been dissolved under Chapter 9 of Part 4 of the Insolvency Act 1986 (c. 45) or Chapter 9 of Part 5 of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I.19)) (dissolution of LLP after winding up),

(b) that is deemed to have been dissolved under paragraph 84(6) of Schedule B1 to that Act or paragraph 85(6) of Schedule B1 to that Order (dissolution of LLP following administration), or

(c) that has been struck off the register—

(i) under section 1000 or 1001 (power of registrar to strike off defunct LLP), or

(ii) under section 1003 (voluntary striking off),

whether or not the LLP has in consequence been dissolved.

(2) An application under this section may be made by—

(a) the Secretary of State,

(b) any person having an interest in land in which the LLP had a superior or derivative interest,

(c) any person having an interest in land or other property—

(i) that was subject to rights vested in the LLP, or

(ii) that was benefited by obligations owed by the LLP,

(d) any person who but for the LLP’s dissolution would have been in a contractual relationship with it,

(e) any person with a potential legal claim against the LLP,

(f) any manager or trustee of a pension fund established for the benefit of employees of the LLP,

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(1) Section 453 of the Companies Act 2006 was applied to LLPs by regulation 22 of S.I. 2008/1911.

- (g) any former member of the LLP (or the personal representatives of such a person),
- (h) any person who was a creditor of the LLP at the time of its striking off or dissolution,
- (i) any former liquidator of the LLP,

or by any other person appearing to the court to have an interest in the matter.

### **When application to the court may be made**

**1030.**—(1) An application to the court for restoration of an LLP to the register may be made at any time for the purpose of bringing proceedings against the LLP for damages for personal injury.

(2) No order shall be made on such an application if it appears to the court that the proceedings would fail by virtue of any enactment as to the time within which proceedings must be brought.

(3) In making that decision the court must have regard to its power under section 1032(3) (power to give consequential directions etc) to direct that the period between the dissolution (or striking off) of the LLP and the making of the order is not to count for the purposes of any such enactment.

(4) In any other case an application to the court for restoration of an LLP to the register may not be made after the end of the period of six years from the date of the dissolution of the LLP, subject as follows.

(5) In a case where—

- (a) the LLP has been struck off the register under section 1000 or 1001 (power of registrar to strike off defunct LLP),
- (b) an application to the registrar has been made under section 1024 (application for administrative restoration to the register) within the time allowed for making such an application, and
- (c) the registrar has refused the application,

an application to the court under this section may be made within 28 days of notice of the registrar's decision being issued by the registrar, even if the period of six years mentioned in subsection (4) above has expired.

(6) For the purposes of this section—

- (a) “personal injury” includes any disease and any impairment of a person's physical or mental condition; and
- (b) references to damages for personal injury include—
  - (i) any sum claimed by virtue of section 1(2)(c) of the Law Reform (Miscellaneous Provisions) Act 1934 (c. 41) or section 14(2)(c) of the Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1937 (1937 c. 9 (N.I.)) (funeral expenses), and
  - (ii) damages under the Fatal Accidents Act 1976 (c. 30), the Damages (Scotland) Act 1976 (c. 13) or the Fatal Accidents (Northern Ireland) Order 1977 (S.I. 1977/1251 (N.I.18)).

### **Decision on application for restoration by the court**

**1031.**—(1) On an application under section 1029 the court may order the restoration of the LLP to the register—

- (a) if the LLP was struck off the register under section 1000 or 1001 (power of registrar to strike off defunct LLPs) and the LLP was, at the time of the striking off, carrying on business or in operation;
  - (b) if the LLP was struck off the register under section 1003 (voluntary striking off) and any of the requirements of sections 1004 to 1009 was not complied with;
  - (c) if in any other case the court considers it just to do so.
- (2) If the court orders restoration of the LLP to the register, the restoration takes effect on a copy of the court's order being delivered to the registrar.
- (3) The registrar must cause to be published in the Gazette notice of the restoration of the LLP to the register.
- (4) The notice must state—
- (a) the name of the LLP or, if the LLP is restored to the register under a different name (see section 1033), that name and its former name,
  - (b) the LLP's registered number, and
  - (c) the date on which the restoration took effect.

#### **Effect of court order for restoration to the register**

**1032.**—(1) The general effect of an order by the court for restoration to the register is that the LLP is deemed to have continued in existence as if it had not been dissolved or struck off the register.

(2) The LLP is not liable to a penalty under section 453 or any corresponding earlier provision (civil penalty for failure to deliver accounts) for a financial year in relation to which the period for filing accounts and reports ended—

- (a) after the date of dissolution or striking off, and
- (b) before the restoration of the LLP to the register.

(3) The court may give such directions and make such provision as seems just for placing the LLP and all other persons in the same position (as nearly as may be) as if the LLP had not been dissolved or struck off the register.

(4) The court may also give directions as to—

- (a) the delivery to the registrar of such documents relating to the LLP as are necessary to bring up to date the records kept by the registrar,
- (b) the payment of the costs (in Scotland, expenses) of the registrar in connection with the proceedings for the restoration of the LLP to the register,
- (c) where any property or right previously vested in or held on trust for the LLP has vested as *bona vacantia*, the payment of the costs (in Scotland, expenses) of the Crown representative—
  - (i) in dealing with the property during the period of dissolution, or
  - (ii) in connection with the proceedings on the application.

(5) In this section the “Crown representative” means—

- (a) in relation to property vested in the Duchy of Lancaster, the Solicitor to that Duchy;
- (b) in relation to property vested in the Duke of Cornwall, the Solicitor to the Duchy of Cornwall;
- (c) in relation to property in Scotland, the Queen's and Lord Treasurer's Remembrancer;

(d) in relation to other property, the Treasury Solicitor.”.

### Supplementary provisions

58. Sections 1033 and 1034 apply to LLPs, modified so that they read as follows—

#### “LLP’s name on restoration

**1033.**—(1) An LLP is restored to the register with the name it had before it was dissolved or struck off the register, subject to the following provisions.

(2) If at the date of restoration the LLP could not be registered under its former name without contravening section 66 (name not to be the same as another in the registrar’s index of names), it must be restored to the register—

(a) under another name specified—

(i) in the case of administrative restoration, in the application to the registrar, or

(ii) in the case of restoration under a court order, in the court’s order, or

(b) as if its registered number was also its name.

References to an LLP’s being registered in a name, and to registration in that context, shall be read as including the LLP’s being restored to the register.

(3) If an LLP is restored to the register under a name specified in the application to the registrar, the provisions of—

paragraph 5 of the Schedule to the Limited Liability Partnerships Act 2000 (c. 12) (change of name: registration and issue of certificate of change of name), and

paragraph 6 of that Schedule (change of name: effect),

apply as if the application to the registrar were notice of a change of name.

(4) If an LLP is restored to the register under a name specified in the court’s order, the provisions of—

paragraph 5 of the Schedule to the Limited Liability Partnerships Act 2000 (c. 12) (change of name: registration and issue of certificate of change of name), and

paragraph 6 of that Schedule (change of name: effect),

apply as if the copy of the court order delivered to the registrar were notice of a change a name.

(5) If the LLP is restored to the register as if its registered number was also its name—

(a) the LLP must change its name within 14 days after the date of the restoration,

(b) the change may be made by determination of the members,

(c) the LLP must give notice to the registrar of the change, and

(d) paragraphs 5 and 6 of the Schedule to the Limited Liability Partnerships Act 2000 (c. 12) apply as regards the registration and effect of the change.

(6) If the LLP fails to comply with subsection (5)(a) or (c) an offence is committed by—

(a) the LLP, and

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

(7) A person guilty of an offence under subsection (6) 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.

### **Effect of restoration to the register where property has vested as *bona vacantia***

**1034.**—(1) The person in whom any property or right is vested by section 1012 (property of dissolved LLP to be *bona vacantia*) may dispose of, or of an interest in, that property or right despite the fact that the LLP may be restored to the register under this Chapter.

(2) If the LLP is restored to the register—

(a) the restoration does not affect the disposition (but without prejudice to its effect in relation to any other property or right previously vested in or held on trust for the LLP), and

(b) the Crown or, as the case may be, the Duke of Cornwall shall pay to the LLP an amount equal to—

(i) the amount of any consideration received for the property or right or, as the case may be, the interest in it, or

(ii) the value of any such consideration at the time of the disposition,

or, if no consideration was received an amount equal to the value of the property, right or interest disposed of, as at the date of the disposition.

(3) There may be deducted from the amount payable under subsection (2)(b) the reasonable costs of the Crown representative in connection with the disposition (to the extent that they have not been paid as a condition of administrative restoration or pursuant to a court order for restoration).

(4) Where a liability accrues under subsection (2) in respect of any property or right which before the restoration of the LLP to the register had accrued as *bona vacantia* to the Duchy of Lancaster, the Attorney General of that Duchy shall represent Her Majesty in any proceedings arising in connection with that liability.

(5) Where a liability accrues under subsection (2) in respect of any property or right which before the restoration of the LLP to the register had accrued as *bona vacantia* to the Duchy of Cornwall, such persons as the Duke of Cornwall (or other possessor for the time being of the Duchy) may appoint shall represent the Duke (or other possessor) in any proceedings arising out of that liability.

(6) In this section the “Crown representative” means—

(a) in relation to property vested in the Duchy of Lancaster, the Solicitor to that Duchy;

(b) in relation to property vested in the Duke of Cornwall, the Solicitor to the Duchy of Cornwall;

(c) in relation to property in Scotland, the Queen’s and Lord Treasurer’s Remembrancer;

(d) in relation to other property, the Treasury Solicitor.”.