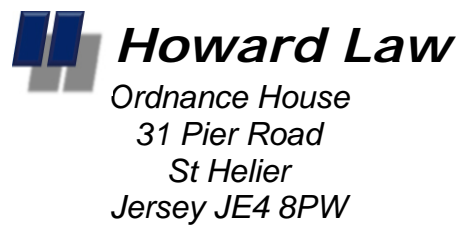


LIMITED PARTNERSHIPS (JERSEY) LAW 1994

AN OVERVIEW



Introduction

The Limited Partnerships (Jersey) Law 1994 makes provision for the establishment of limited partnerships under Jersey law. A limited partnership must have one or more general partners (who have unlimited liability for all the debts and obligations of the partnership, as in an ordinary partnership) and one or more limited partners, whose liability for debts and obligations of the partnership towards third parties is limited to the amount of their capital contribution to the partnership.

The limited partner is essentially a passive or silent investor and is prohibited, subject to certain “safe harbour” provisions set out in the Law, from taking part in the management of the limited partnership. Limited partnerships are principally established for investment purposes and are a favoured structure for use in private equity transactions, joint venture developments and sophisticated structures for asset holding or profit distribution. The general partner, usually a limited liability company, undertakes the role of managing partner whilst the investors are all limited partners. The partnership agreement sets out in full the relationship and respective rights and duties between the parties.

Key Features

There are several features in the Jersey Law that distinguish it from the limited partnership legislation of many other jurisdictions.

1. A Jersey limited partnership is able to be treated as “tax transparent” due to the fact that the limited partnership has no legal personality and is not itself assessed to tax in Jersey. Holders of limited partnership interests are treated as having a pro rata share of each underlying investment and of the income derived therefrom thus allowing each investor to take advantage of any double tax treaty or tax credits or other tax benefits which may exist between their country of residence and the country in which the investment is made.

2. There is no limit on the number of limited partners who can participate in a Jersey limited partnership.
3. The accounts of the partnership may be maintained in any currency and there is no statutory requirement for the accounts to be audited unless the partnership is set up as a regulated investment fund in Jersey or the partners elect to have an annual audit.
4. The general partner, if a company, need not be incorporated in Jersey unless the partnership is set up as a regulated investment fund in Jersey.
5. The main formality on the establishment of a Jersey limited partnership is the filing of a declaration with the Registrar of Limited Partnerships (who is part of the Jersey Financial Services Commission) (the “Commission”) giving the name of the partnership, its registered office address, details of the general partner and the term for which the partnership is established. The formalities do not include any requirement to file the names of the limited partners or the amount of their contributions. The partnership agreement is not required to be filed with the Commission and accordingly it is not available for public inspection.
6. If a limited partner participates in the management of the partnership he risks losing his limited liability status. However the Law contains a lengthy list of “safe harbour” activities that do not constitute taking part in the management of a limited partnership including:
 - being a contractor for or an agent or an employee of the limited partnership
 - acting as a director, officer or shareholder of a corporate general partner

- advising a general partner with respect to the activities of the limited partnership
 - voting on or otherwise signifying approval or disapproval to a variety of matters including the purchase and sale of assets.
7. A limited partner not only has the right to receive from the limited partnership the share of the profits stipulated in the partnership agreement (so long as the partnership is and remains solvent) but is also permitted to receive a return of his capital contribution prior to termination of the partnership subject to the proviso that the partnership is solvent at the time of and immediately following the distribution. Jersey limited partnerships can therefore operate as variable capital vehicles. If it transpires that the limited partnership was not solvent at the time of and immediately after a distribution was made then, for a period of six months from the date of receipt of the payment, the limited partner is liable to repay so much of the amount received with interest as is necessary to assist in the discharge of debts or obligations of the partnership.
8. A limited partner may contribute his capital in the form of money, in any currency, any other property or via the provision of services.
9. There is no requirement for any annual return or annual fee to be paid in Jersey in respect of the limited partnership. It is noteworthy that the Limited Partnerships Law states in Article 41 that the rules of Jersey customary law applicable to partnerships shall apply to limited partnership except in so far as they are inconsistent with the express provisions made in the Law.

Regulatory Matters

All limited partnerships established under the Law (other than partnerships regulated under the Collective Investment Funds (Jersey) Law 1988) require a consent from the Commission under the Control of Borrowing (Jersey) Order 1958 as amended, to the creation of partnership interests as well as to the raising of money in the Island for the purposes of a limited partnership. This consent is granted by the Commission on completion of an application form which is submitted to the Commission on registration of the partnership as a limited partnership. The form requires disclosure of information concerning the purposes of the partnership, the general partner(s), and their beneficial ownership, if companies, and the nature and status of the limited partners. The Commission may call for further information prior to the granting of the consent. All information provided to the Commission is confidential subject to the regulatory responsibilities and powers of the Commission.

Many limited partnership established under the Law will take the form of collective investment schemes. Some of these schemes (in particular, those offered to the public) will fall within the definition of a “collective investment fund” for the purposes of the Collective Investment Funds (Jersey) Law 1988. In those circumstances the general partner will need to be registered under the Financial Services (Jersey) Law 1998 as a fund services business. Separate briefing documents are available providing information regarding certain categories of collective investment funds in Jersey.

Where the number of limited partners in a limited partnership does not exceed 15 and the partnership is established as an investment vehicle the partnership may be able to qualify as a Very Private Fund and be exempt from direct regulatory oversight in Jersey. For further details of this exempt category please refer to separate briefing documents on Private Funds in Jersey.

If a partnership proposes to establish a real presence in Jersey by engaging staff and employees directly in the name of its general partner company, the general partner will need to make application for a licence under the Regulation

of Undertakings and Development (Jersey) Law 1973 for the commencement of a business undertaking in the Island.

Fees

There are no annual fees payable by Jersey limited partnerships under the Limited Partnerships Law. The fee for the registration of a partnership declaration on establishment and issue of a registration certificate is £500. A fee of £100 is payable on the registration of any subsequent amendment to a partnership declaration. Separate regulatory fees may be applicable if the partnership is regulated as a collective investment fund in Jersey.

For further information on the subject of Jersey limited partnerships please contact Simon Howard using the details set out below.

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