
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2001 No.

Limited Liability Partnerships (Scotland) Regulations 2001

PART I

CITATION, COMMENCEMENT EXTENT AND INTERPRETATION

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Limited Liability Partnerships (Scotland) Regulations 2001 and shall come into force on 6th April 2001.

(2) These Regulations extend to Scotland only.

Interpretation

2. In these Regulations—

“the 1985 Act” means the Companies Act 1985(1);

“the 1986 Act” means the Insolvency Act 1986(2);

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

“the principal Act” means the Limited Liability Partnerships Act 2000; and

“shadow member”, in relation to a limited liability partnership, means a person in accordance with whose directions or instructions the members of the limited liability partnership are accustomed to act (but so that a person is not deemed a shadow member by reason only that the members of the limited liability partnership act on advice given by that person in a professional capacity).

PART II

COMPANIES ACT

Application of the 1985 Act to limited liability partnerships

3. The provisions of the 1985 Act specified in the first column of Schedule 1 to these Regulations shall apply to limited liability partnerships, with the following modifications—

(a) references to a company shall include references to a limited liability partnership;

(1) 1985 c. 6.

(2) 1986 c. 45.

- (b) references to the Companies Acts shall include references to the principal Act and any regulations made thereunder;
- (c) references to the 1986 Act shall include references to that Act as it applies to limited liability partnerships by virtue of Part III of these Regulations;
- (d) references in a provision of the 1985 Act to other provisions of that Act shall include references to those other provisions as they apply to limited liability partnerships by virtue of these Regulations; and
- (e) the modifications, if any, specified in the second column of Schedule 1 of the provision specified opposite them in the first column.

PART III

WINDING UP AND INSOLVENCY

Application of the 1986 Act to limited liability partnerships

4.—(1) Subject to paragraph (2), the provisions of the 1986 Act⁽³⁾ listed in Schedule 2 shall apply in relation to limited liability partnerships as they apply in relation to companies.

(2) The provisions of the 1986 Act referred to in paragraph (1) shall so apply, with the following modifications—

- (a) references to a company shall include references to a limited liability partnership;
- (b) references to a director or to an officer of a company shall include references to a member of a limited liability partnership;
- (c) references to a shadow director shall include references to a shadow member;
- (d) references to the 1985 Act, the Company Directors Disqualification Act 1986⁽⁴⁾, the Companies Act 1989⁽⁵⁾ or to any provisions of those Acts or to any provisions of the 1986 Act shall include references to those Acts or provisions as they apply to limited liability partnerships by virtue of the principal Act or these Regulations; and
- (e) the modifications set out in Schedule 3 to these Regulations.

PART IV

MISCELLANEOUS

General and consequential amendments

5. The enactments referred to in Schedule 4 shall have effect subject to the amendments specified in that Schedule.

(3) The provisions of the Insolvency Act 1986 applied by this regulation have been amended as follows: -section 57 was amended by section 3 of, the Insolvency Act 1994 (c. 7); section 162 was amended by section 52 of, and Part III of Schedule 2 to, the Court of Session Act 1988 (c. 36).

(4) 1986 c. 46.

(5) 1989 c. 40.

Application of subordinate legislation

6.—(1) The Insolvency (Scotland) Rules 1986(6) shall apply to limited liability partnerships with such modifications as the context requires for the purpose of giving effect to the provisions of the Insolvency Act 1986 which are applied by these Regulations.

(2) In the case of any conflict between any provision of the subordinate legislation applied by paragraph (1) and any provision of these Regulations, the latter shall prevail.

St Andrew's House,
Edinburgh
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A member of the Scottish Executive