

SEYCHELLES

LIMITED PARTNERSHIPS ACT, 2003

(as amended, 2011)

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Short title and commencement

1. This Act may be cited as the Limited Partnerships Act, 2003 and shall come into operation on such day as the Minister may, by notice published in the Gazette, appoint.

Interpretation

2. In this Act -

“accounting records” means documents relating to assets and liabilities of the limited partnership including receipts and expenditure, sales and purchases and other transactions;

“contribution” means cash, property or other assets which a partner contributes or agrees to contribute to the capital of a limited partnership;

“court” means the Supreme Court;

“designated general partner” means the only general partner in a limited partnership or where there are several general partners, such general partner as has been declared as the designated general partner under section 9(1)(d);

“limited partnership” means a partnership registered under section 9(1);

“general partner” means any person who is named as such in the statement filed pursuant to section 9;

“insolvency” in relation to a limited partnership, means that the general partner is unable to pay the debts and obligations of the limited partnership, otherwise than in respect of liabilities to partners on account of their partnership interest, in the ordinary course of business as they fall due out of the assets of the limited partnership without recourse to the separate assets of the general partner not contributed to the limited partnership and the word “solvent” is construed accordingly;

“limited partner” means a person who has become a limited partner in accordance with section 4(2);

“mortgage” means a legal mortgage by way of assignment and an equitable mortgage, charge or other form of security interest;

“partner” means a limited partner or a general partner;

“partnership agreement” means an agreement of the partners which provides for the establishment and the regulation of the affairs of a limited partnership, the conduct of its business and rights and obligations of the partners amongst themselves;

“partnership interest” means the interest of a partner in a limited partnership in respect of profit, capital and voting or other rights, benefits or obligations to which he is entitled or subject pursuant to the partnership agreement or this Act;

“Registrar” means the Registrar of Limited Partnerships appointed under section 8.

Application of the Commercial Code Act

3. The Commercial Code Act shall apply to a limited partnership in so far as it is not inconsistent with the provisions of this Act.

Constitution

4.(1) A limited partnership may be formed under this Act for any lawful purpose:

Provided that a limited partnership shall not carry on business in Seychelles except so far as may be necessary for the carrying on of the business of that limited partnership outside Seychelles.

(2) A limited partnership shall consist of one or more persons called general partners who shall, in the event that the assets of the limited partnership are inadequate, be liable for all the debts and obligations of the limited partnership and one or more persons called limited partners who shall not be liable for the debts or obligations of the limited partnership, save as provided in the partnership agreement and to the extent specified in section 7(4) and section 14(2):

Provided that a general partner, without derogation from his position as such, may also take, in such limited partnership, an interest as a limited partner.

(3) A general partner shall at all times act in good faith in the interest of the limited partnership.

(4) A body corporate, with or without limited liability, or a partnership, may be a general partner or a limited partner.

(5) Subject to the terms of the partnership agreement, a limited partner of a limited partnership may be a person resident in or outside Seychelles.

(6) Subject to subsection (7) and the terms of the partnership agreement, any one or more of the general partners of a limited partnership may be –

- (a)* an international business company under the International Business Companies Act;
- (b)* a company issued with a special licence under the Companies (Special Licences) Act;
or
- (c)* any person resident outside of Seychelles.

(7) At least one general partner of a limited partnership shall be a person referred to in subsection (6)(a) or (b).

Establishment

5. A partnership shall not be a limited partnership unless registered in accordance with section 9(1).

Name and registered office

6.(1) Every limited partnership shall have a name which shall include the words “Limited Partnership” or the abbreviation “L.P.” or “LP”, and may include the name of any general partner or limited partner or any derivation thereof:

Provided that, no limited partnership shall have a name which is identical or similar to the name of any other entity or suggests the patronage of or a connection with any government or that the partnership is licensed in Seychelles or elsewhere to carry on any type or class of business when it is not in fact so licensed or is otherwise calculated or likely to mislead the public.

(2) Every limited partnership shall have a registered office in Seychelles for the service of process and delivery of all notices and communications.

Modification of general law

7.(1) A limited partner shall not take part in the conduct of the business of a limited partnership and all letters, contracts, deeds, instruments or documents shall be signed by the general partner on behalf of the limited partnership.

(2) *(a)* Any property of the limited partnership which is conveyed to a general partner or vested in or held on behalf of any one or more of the general partners shall be deemed to be held by the general partner and if more than one then by the general partners jointly as an asset of the limited partnership in accordance with the terms of the partnership agreement.

(b) The property of a limited partnership which is conveyed to a general partner or vested in or held on behalf of any one or more of the general partners shall be prescribed by regulations.

(3) Any debt or obligation incurred by a general partner in the conduct of the business of a limited partnership shall be a debt or obligation of the limited partnership.

(4) If a limited partner takes part in the conduct of the business of a limited partnership in its dealings with persons who are not partners, that limited partner shall be liable in the event of the insolvency of the limited partnership for all debts and obligations of that limited partnership incurred during the period in which he so participates in the conduct of the business as though he were for such period a general partner:

Provided always that he shall be rendered liable pursuant to the foregoing provision only to a person who transacts business with the limited partnership during such period with actual knowledge of such participation and reasonable belief that such limited partner was a general partner.

(5) A limited partner does not take part in the conduct of the business of a limited partnership within the meaning of this section by -

(a) being a contractor or an agent or employee of the limited partnership or of a general partner or acting as a director, officer or shareholder of a corporate general partner;

(b) consulting with and advising a general partner with respect to the business of the limited partnership;

(c) investigating, reviewing, approving or being advised as to the accounts or business affairs of the limited partnership or exercising any right conferred by this Act;

(d) acting as surety or guarantor for the limited partnership either generally or in respect of specific obligations;

(e) approving or disapproving an amendment to the partnership agreement; or

(f) voting as a limited partner on any matter.

(6) Subsection (5) shall not import any implication that the possession or exercise of any other power by a limited partner will necessarily constitute participation of such limited partner in the business of the limited partnership.

(7) In the event of the dissolution of a limited partnership its affairs shall be wound up by the general partner unless the Court otherwise orders on the application of any partner or creditor of the limited partnership under section 15(2) or unless the business of the limited partnership is assumed and continued in accordance with section 15(3).

(8) Subject to any express or implied term of the partnership agreement to the contrary and to section 15(3) -

- (a) a limited partnership shall not be terminated or dissolved by -
 - (i) a change in any one or more of the limited partners or general partners,
 - (ii) the assignment of the whole or part of the partnership interest of a limited partner,
 - (iii) the death or bankruptcy or dissolution or winding up of a limited partner,
 - (iv) the incapacity of a limited partner,
 - (v) any one or more of the limited partners granting a mortgage or charge or other form of security interest over the whole or part of their partnership interest,
 - (vi) the sale, exchange, lease, mortgage, pledge or other transfer of any of the assets of the limited partnership;
- (b) any difference arising as to matters connected with the business of the limited partnership shall be decided by the general partner or a majority of the general partners as the case may be;
- (c) a person may, with the consent of the general partner, and if by assignment in accordance with subsection (9)(a), become a limited partner without the consent of the existing limited partners;
- (d) a limited partner shall not be entitled to dissolve the partnership by notice.

(9) A limited partner -

- (a) may, subject to the partnership agreement, assign either absolutely or by way of mortgage the whole or any part of his partnership interest and an assignee shall, to the extent of such assignment, become a limited partner with the rights and subject to the obligations of the assignor in accordance with the partnership agreement and this Act in respect of the partnership interest or part thereof assigned:

Provided that such assignee shall not assume any liability of the assignor arising pursuant to subsection (4) of this section or section 14(2) and provided further that, notwithstanding any term of the partnership agreement or any other agreement to the contrary, no such assignment shall relieve the assignor of any liability arising pursuant to those subsections;

- (b) may, subject to paragraph (a), mortgage the whole or any part of his partnership interest and the mortgagee shall serve written notice at the address of the registered office of the limited partnership of such mortgage together with a copy thereof signed by the mortgagor and the mortgagee and such fee, if any, as may be provided in the partnership agreement, and the general partner shall register the following particulars of such mortgage in a register of mortgages maintained at the registered office, that is to say, the identity of the mortgagor and mortgagee, the date of creation of the mortgage, the partnership interest or part thereof subject thereto and the date of receipt of such notice.

(10) The register described in subsection (9)(b) shall be open for inspection by any person during business hours and any mortgage of the whole or any part of a partnership interest shall have priority according to the date of service of the written notice mentioned in subsection (9)(b) at the registered office.

(11) If a general partner makes default in complying with subsection (9)(b) such general partner in default shall be guilty of an offence and upon conviction liable to a fine of twenty-five US dollars for each day that such default continues.

Registrar

8. There shall be appointed by the Minister a Registrar of Limited Partnerships for the purpose of this Act.

Registration

9.(1) The registration of a limited partnership may be effected by paying to the Registrar the registration fee specified in the Schedule and by filing with the Registrar a statement signed, subject to subsection (6), by or on behalf of a general partner containing the following particulars -

- (a) the name of the limited partnership;
- (b) the general nature of the business of the limited partnership;
- (c) the address in Seychelles of the registered office of the limited partnership;
- (d) the full name and address of the designated general partner, and of any other general partner and in the case of a corporate general partner annexing to the statement a certificate of incorporation or registration and a certificate of good standing or similar document under the laws of the jurisdiction of incorporation or, where applicable, a certificate of good standing and a certificate of registration under Part VII of the Companies Act, 1972;
- (e) a declaration that the limited partnership shall not carry on business in Seychelles except so far as may be necessary for the carrying on of the business of that limited partnership outside Seychelles.

(2) The Registrar may register the limited partnership and issue a certificate of registration specifying the date on which the registration of the limited partnership takes effect, being a date that shall not be earlier than the date on which the certificate is issued.

(3) The Registrar shall maintain a register of each limited partnership registered under this Act and all the statements filed in relation to such limited partnership, and shall make the register and such statements available for public inspection during business hours.

(4) A certificate issued pursuant to subsection (2) shall be conclusive evidence that all the requirements of this Act in respect of the formation and registration of a limited partnership have been complied with.

(5) If a person required by subsection (1) or subsections (1) or (2) of section 10 to execute and file a statement fails to do so, any other partner, and any assignee of a partnership interest, who is or may be affected by the failure or refusal, may petition the court to direct such person as the court sees fit to sign the statement and file the same on behalf of the person in default.

(6) The Registrar may refuse to issue a certificate of registration in any case where in his opinion the name of the proposed limited partnership is in contravention of the proviso to section 6(1).

Changes in registered particulars

10.(1) Without prejudice to subsection (2), if during the continuance of a limited partnership any change is made or occurs in any particular contained in the statement filed under section 9(1) a statement signed, subject to section 9(5), by a general partner specifying the nature of the change shall, within sixty days of such change, be filed with the Registrar.

(2) A statement signed in accordance with subsection (1) in respect of any arrangement or transaction consequent upon which any person will cease to be a general partner in any limited partnership shall, within fifteen days of such arrangement or transaction, be filed with the Registrar and until such statement is so filed, the arrangement or transaction shall, for the purposes of this Act and the partnership agreement, be of no effect.

(3) Save with the written consent of any person thereby affected no arrangement or transaction shall take effect to the extent that it seeks to relieve or discharge a general partner from the obligations of a general partner with regard to any debt or obligation of the limited partnership to a person incurred before such arrangement or transaction takes effect.

(4) If default is made in complying with the requirements of subsection (1) or (2) of this section, each general partner in default shall be liable to a penalty of twenty five US Dollars for each day that such default continues, and the penalty shall be a debt due to the Registrar.

(5) The Registrar may, for good cause, waive all or any part of the penalty imposed under subsection (4).

(6) The name of a limited partnership shall not be changed so as to contravene the proviso to section 6(1) and the Registrar may refuse to accept a statement under subsection (1) of this section which in his opinion seeks to effect such a change.

Register of limited partnership interests

11.(1) The designated general partner shall maintain or cause to be maintained at the registered office of the limited partnership a register containing the name and address of each partner, the amount and date of contribution or contributions made by each partner and the amount and date of any payment representing a return of any part of the contribution of any partner. The register shall be updated within twenty-one business days of any change in the particulars therein.

(1A) The register required to be kept under subsection (1) may be in such form as the general partner may approve.

(2) The register shall be made available for inspection and copying without charge during business hours at the request of a partner and a certified copy of the register or any part thereof, duly certified by the designated general partner shall be issued to a partner at his request.

(3) The register shall be prima facie evidence of the matters which are required to be contained therein.

(4) If default is made in complying with the requirements of this section the designated general partner shall be liable to a penalty of twenty-five US dollars for each day that such default continues, and the penalty shall be a debt due to the Registrar.

(5) The Registrar may, for good cause, waive all or any part of the penalty imposed under subsection (4).

Duty to keep accounting records

11A.(1) The general partner of a limited partnership shall keep or cause to be kept proper accounting records that

- (a) are sufficient to show and explain the limited partnership's transactions;
- (b) enable the financial position of the limited partnership to be determined with reasonable accuracy at any time; and
- (c) allow for accounts of the limited partnership to be prepared.

(2) For the purpose of subsection (1), the accounting records shall not be deemed to be kept with respect to a limited partnership if they do not give a true and fair view of the affairs of the limited partnership and explain its transactions.

(3) The accounting records shall be kept at the registered office of the limited partnership or such other place as the general partners think fit.

(4) Where the accounting records of a limited partnership are kept at a place other than the registered office, the general partner shall at all times keep at the registered office a written record of the physical address of the place at which the accounting records are kept.

(5) A general partner shall retain all accounting records for seven years, from the date of completion of the transactions to which they relate.

(6) A general partner who fails to comply with the provisions of this section is liable to a penalty of twenty-five US dollars for each day that such default continues, and the penalty shall be a debt due to the Registrar.

Right to information

12. Subject to any term of the partnership agreement to the contrary each limited partner may demand and shall receive from the designated general partner true and full information regarding the state of the business and financial condition of the limited partnership.

Legal proceedings

13.(1) Subject to subsection (2), legal proceedings by or against a limited partnership may be instituted by or against any one or more of the general partners only, and no limited partner shall be a party to or named in such proceedings:

Provided that any person or a general partner may, with leave of the Court, join or otherwise institute proceedings against any one or more of the limited partners who may be liable under section 7(4) or to enforce the return of the contribution, if any, required under section 14.

(2) A limited partner may bring an action on behalf of a limited partnership if any one or more of the general partners with authority to do so have within 1 month of being requested to do so by a limited partner refused to institute such proceedings:

Provided, however, that such limited partner shall bear the cost of the proceedings and may only be reimbursed the same by the limited partnership in the event of a successful outcome of the proceedings and only out of the award in favour of the limited partnership, if any.

Return of contributions

14.(1) A limited partner shall not, on the dissolution of the limited partnership or otherwise, receive out of the capital of the limited partnership a payment representing a return of any part of his contribution to the partnership unless at the time of such payment the limited partnership is solvent

(2) For a period of six months from the date of receipt by a limited partner of any payment representing a return of contribution or part thereof received by such limited partner in circumstances where the requirements of subsection (1) have not been met such payment shall, in the event of the insolvency of the limited partnership within that period, be repayable by such limited partner with interest at the legal rate to the extent that such contribution or part thereof is necessary to discharge a debt or obligation of the limited partnership incurred during

the period that the contribution represented an asset of the limited partnership.

(3) In this section the word “receive” shall include the release of any obligation forming part of the capital contribution and, in this context, liabilities to make repayments pursuant to subsection (2) shall be read as including a reference to the due performance of such obligation.

Dissolution

15.(1) A limited partnership shall not be dissolved by an act of the partners until a notice of dissolution signed by a general partner has been filed with the Registrar.

(2) On application by a partner or a creditor, the court may order the dissolution of a limited partnership and may give such directions for the winding up of its affairs as may be just and equitable.

(3) Notwithstanding subsection (1) and any term of the partnership agreement to the contrary, the death, insanity, retirement, bankruptcy, commencement of liquidation proceedings, resignation, insolvency or dissolution of the sole or last remaining general partner shall cause the dissolution of the limited partnership unless, within 30 days from the day of any of the aforementioned occurrences, one or more new general partners are appointed, and if no general partner is appointed in the time specified, the limited partnership shall forthwith be wound up in accordance with the provisions of the partnership agreement or any order of the court pursuant to subsection (2).

Deregistration

16.(1) If the Registrar is satisfied that -

- (a) any general partner, officer, manager, or agent of a limited partnership has in Seychelles or elsewhere in connection with the management or conduct of the affairs of that limited partnership committed an offence involving dishonesty, or has obtained credit or transfer or delivery of assets or performance of services by false representation made fraudulently or by the dishonest concealment of material facts;
- (b) any business or affairs of a limited partnership have been conducted illegally or for an illegal purpose;
- (c) any act has been done by or on behalf of a limited partnership in Seychelles or elsewhere which has harmed or is likely to harm the reputation of Seychelles; or
- (d) a limited partnership has failed to comply with a provision of this Act or regulation made thereunder in disregard of a reminder in writing.

the Registrar may serve a written notice on the limited partnership of the Registrar's intention to deregister the limited partnership stating the grounds on which such deregistration will be made and requiring the limited partnership within one month from the service of the notice to make written representations which the Registrar will take into consideration.

(2) If within one month from the service of a notice under subsection (1), the limited partnership does not make written representations, or if the Registrar after considering any representations which the limited partnership makes within that time is satisfied that the ground specified in the notice for the proposed deregistration is made out, the Registrar may by notice served on the limited partnership remove the registration of the limited partnership and the notice shall only have effect subject to the provisions of subsection (4).

(3) Within 90 days after the service of the notice under subsection (2), the limited partnership may prefer an appeal to the court against the notice of deregistration and the court may annul the notice of deregistration if the court is satisfied that the grounds on which the notice of deregistration was made do not exist or that the notice of

deregistration should be annulled for any other reason.

(4) If a notice has been served under subsection (2) and ninety days have lapsed without the limited partnership preferring an appeal to the court: or where an appeal has been preferred and it has been rejected and the period of time in which an appeal may be preferred to the Court of Appeal has elapsed: or where an appeal to the Court of Appeal has been preferred and it has been decided against the limited partnership, then the notice of deregistration shall take effect immediately.

(5) Where a notice of deregistration takes effect under subsection (4) the limited partnership shall forthwith be wound up in accordance with the provisions of the partnership agreement or any order of the court pursuant to section 15(2).

Deregistration of a limited partnership

16A. Subject to the terms of the partnership agreement, a general partner may at any time deregister a limited partnership by filing a written notice with the Registrar.

Inspection and certification

17.(1) Any person may inspect the records maintained by the Registrar or obtain a copy of the certificate of registration, a certificate of good standing or a copy of or extract from any statement filed in relation to the limited partnership certified as a true copy by the Registrar on payment of the relevant fee specified in the Schedule.

(2) A certificate of registration or a certificate of good standing signed by the Registrar or a copy of or extract from a statement filed with the Registrar issued pursuant to this Act certified by the Registrar to be a true copy or extract shall be admissible in evidence in all legal proceedings.

- (3) (a) The Registrar shall not issue a certificate of good standing under subsection (1) unless the Registrar is satisfied that the limited partnership –
- (i) is duly registered under this Act;
 - (ii) is on the Register of Limited Partnerships;
 - (iii) has paid all fees and any penalty due and payable under this Act.
- (b) The certificate of good standing shall contain a statement as to whether the limited partnership –
- (i) has filed with the Registrar a notice of dissolution of registration; and
 - (ii) is in the process of being deregistered.

Exemptions

18.(1) Notwithstanding anything to the contrary in the Business Tax Act, a limited partnership or a partner thereof shall not be subject to any tax or duty on income or profits accruing to or deriving from such limited partnership or in connection with any transaction to which that limited partnership or partner, as the case may be, is a party.

(2) Notwithstanding any provision of the Stamp Duty Act -

- (a) all transfers of property to or by a limited partnership;

- (b) all transactions in respect of the contributions, debt obligations or other securities of a limited partnership; and
- (c) all other transactions relating to the business of a limited partnership.

are exempt from the payment of stamp duty.

(3) The Exchange Control Act shall not apply to a limited partnership in respect of any transactions relating to the contributions to or securities of or in such limited partnership.

(4) All furniture and equipment imported for the use of an office of a limited partnership and used only for the purpose of such office shall be exempt from the payment of the trades tax GST under the Trades Tax Act.

(5) The Social Security Act shall not apply to a limited partnership to the extent that the limited partnership is an employer of persons employed in its office.

(6) A limited partnership and its expatriate employees in its office shall be exempt from the fee in respect of a gainful occupation permit issued under the Immigration Decree.

(7) The exemptions granted by this section shall remain in force for a period of twenty years from the date of registration of a limited partnership, and after such period the exemptions shall continue in force unless a written law provides otherwise.

Fees

19.(1) There shall be paid to the Registrar in respect of the matters specified in the Schedule the fees so specified.

(2) Notwithstanding any other written law, all fees due under this Act shall be paid in United States dollars.

Regulations

20. The Minister may from time to time make regulations to give effect to the provisions of this Act and such regulations may -

- (a) specify the duties to be performed by the Registrar;
- (b) prescribe the forms to be used for the purposes of this Act; and
- (c) amend the Schedule.

Annual return

21.(1) A limited partnership shall, on or before the 31st day of January in every year after the year in which it is registered under this Act, file with the Registrar a return signed by or on behalf of a general partner certifying that the limited partnership has during the prior calendar year complied with the provisions of this Act and pay to the Registrar an annual fee of such amount as is specified in the Schedule.

(2) If default is made in complying with the requirements of subsection (1), the limited partnership shall be liable to a penalty of twenty-five US dollars for each day that such default continues, and the penalty shall be a debt due to the Registrar.

(3) The Registrar may for good cause waive all or part of the penalty imposed under subsection (2).

Transactions with the limited partnership

22. Subject to any express or implied term of the partnership agreement to the contrary and to the duty imposed upon a general partner by section 4(3), a partner may lend money to, borrow from and transact other business with the limited partnership with or without interest or security as the limited partnership may determine and shall have the same rights and obligations with respect thereto as a person who is not a partner, provided that the obligations of the limited partnership to repay a debt to a general partner shall at all times be subordinated to the claims of other secured and unsecured creditors of the limited partnership.

Immunity

23. The Registrar, officer, employees or authorised agent of the Registrar shall not be liable for civil or criminal liability for any act done or omission made in good faith in the performance of their functions.

Compliance inspection

24.(1) Subject to section 25, the Registrar may for the sole purpose of monitoring and assessing compliance with this Act, after giving reasonable notice to the general partner during business hours –

- (a) access the registered office of the limited partnership;
- (b) inspect the documents required to be kept under this Act;
- (c) during or after a compliance inspection request for explanation from the general partners of the limited partnership.

(2) A person who impedes, prevents or obstructs the Registrar, officers, employees or authorised agent of the Registrar in the conduct of a compliance inspection commits an offence and is liable on conviction to a fine not exceeding SR 300,000.

Non-disclosure

25. The Registrar, officers, employees or authorised agents of the Registrar shall not disclose to a third party any information acquired in the performance of their functions, unless –

- (a) there is a Court order;
- (b) required under this Act or any other written laws of Seychelles;
- (c) the information disclosed is in statistical form or otherwise disclosed in such a manner that does not disclose the identity of a limited partnership, a partner or other person to which the information relates to.

SCHEDULE

Section 19(1) Fees

There shall be paid to the Registrar the following fees-

- (a) \$200 for the registration of a limited partnership;
- (aa) \$200 for the annual fee payable under section 21(1);
- (b) \$50 for filing a statement of change in registered particulars of the limited partnership;
- (c) \$25 for the issue of a certificate of good standing of a limited partnership, other than at the time of the registration of the limited partnership;
- (d) \$25 for the issue of a copy or extract of a document or a part of a document;
- (e) \$10 for the inspection of the documents kept by the Registrar pursuant to this Act;
- (f) \$10 for an inspection of each entry in the Register of Limited Partnerships;
- (g) \$25 to conduct a search of a file kept by the Registrar; and
- (h) \$15 for any other service provided by the Registrar for which no fee is prescribed.