

Issues arising from related amendments to the Business Registration Act

<p>Manner and particulars of registration</p>	<p>6. —(1) In connection with an application under section 5 for registration under this Act, the appropriate person shall lodge with the Registrar a statement in such medium and in such form as the Registrar may determine containing the following particulars:</p> <ul style="list-style-type: none"> (a) the business name; (b) the general nature of the business; (c) the principal place of business and any other place where the business is carried on; (d) the name, identification (if any), nationality and the usual place of residence of every person responsible for the management of the business; (e) where the business is to be carried on by a firm, the name, identification (if any), nationality and the usual place of residence of every partner and, where a partner is a corporation, the corporate name, registration number and registered office of the corporation; (f) where the business is to be carried on by an individual, the name, identification (if any), nationality and the usual place of residence of that individual; (g) where the business is to be carried on by a corporation, its corporate name, registration number and registered office; and (h) the date or proposed date of commencement of business. <p>[40/99;13/2002]</p>	<p>(1A) Where the business is to be carried on by a limited partnership, the appropriate person shall (in addition the relevant requirements in subsection (1)) lodge with the Registrar a statement in such medium and in such form as the Registrar may determine containing the following particulars:</p> <ul style="list-style-type: none"> (a) a statement that the partnership is limited; <p style="text-align: right;"><i>[UK s.8(f)]</i></p> <ul style="list-style-type: none"> (b) in relation to each partner, whether the partner is a general partner or a limited partner; <p style="text-align: right;"><i>[UK s.8(g)]</i></p> <ul style="list-style-type: none"> (c) such other information concerning the proposed limited partnership as may be prescribed by the Minister. <p style="text-align: right;"><i>[LLPA s15(1)(f)]</i></p> <p>Issue (a): Do you agree that limited partnerships should be registered under the Business Registration Act, instead of the LP Act?</p> <p>[One advantage of this arrangement is that a firm can remain registered under the BR Act whether it is a general partnership or a limited partnership. This is important because the conversion between a limited partnership and a general partnership may occur very fluidly. A limited partnership will become a general partnership by operation of law in the event that there are only general partners or limited partners left in the firm. Similarly, a general partnership can easily become a</p>
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		<p>limited partnership by the admission of limited partners. If limited partnerships are registered under the LP Act, it will be necessary to decide what registration requirements should apply in the event of such conversion.]</p> <p>If you are of the opinion that limited partnerships should be registered under the LP Act, how should we treat the legal status of the LP when the limited partners leave the partnership or when new limited partners enter a general partnership?</p> <p>Issue (b): Do you agree that limited partnerships, like sole proprietorships and general partnerships should be required to report the <i>principal</i> place of business and any other place where the business is carried on, instead of a registered address for greater transparency?</p>
	<p>(2) The Registrar may, in any particular case, require the statement referred to in subsection (1) to be verified in such manner as the Registrar may consider fit. [13/2002]</p> <p>(3) The High Court may, on the application of any person alleged or claiming to be a partner, direct the rectification of the register and decide any question arising under this section. [13/2002]</p> <p>(4) In this section, “appropriate person”, in relation to an application for registration,</p>	<p>(5) In this section, “identification” means —</p> <p>(a) in the case of any person issued with an identity card, the number of the identity card; and</p> <p>(b) in the case of a person not issued with an identity card, particulars of the passport or such other similar evidence of identification as is available, if any.</p> <p>[LLPA s.15(4)]</p>

	<p>means —</p> <p>(a) where the registration to be effected is that of an individual, the individual;</p> <p>(b) where the registration to be effected is that of a corporation, a director or the secretary of the corporation or an agent of the corporation within the meaning of section 366 (1) of the Companies Act (Cap. 50) or a manager of the corporation within the meaning of section 2 of the Limited Liability Partnerships Act 2005;</p> <p>(c) where the registration to be effected is that of a foreign firm, the manager of the foreign firm or the person having direct control of the management of the business of the foreign firm; or</p> <p>(d) where the registration to be effected is that of a firm (other than a foreign firm), every individual who is a partner of the firm, and a director or the secretary or manager of every corporation which is a partner of the firm, and includes a prescribed person authorized by a person referred to in paragraph (a), (b), (c) or (d), as the case may be. [13/2002]</p>	<p>{<u>Version 1</u></p> <p>(6) Where the registration to be effected under this section is that of a limited partnership, this section shall not require a limited partner to lodge any statement relating to any particulars of the limited partnership [except for his own particulars].</p> <p><u>Version 2</u></p> <p>(6) Where the firm referred to in paragraph (d) of subsection (4) is a limited partnership, the references to a partner therein shall be taken to exclude a limited partner. }</p> <p><u>Issue (c):</u> Do you agree that the limited partners should have no right/responsibility to register or report any changes to particulars registered under the BR Act?</p> <p><u>Version 1</u> makes it clear that the limited partner is not under a duty to lodge the LP's particulars. He may however lodge the information voluntarily. One other variation (as shown in the square brackets) is to make him responsible to lodge his own particulars only.</p> <p><u>Version 2</u> excludes the limited partner from any duty or right to register his particulars totally.</p>
Registration of changes in particulars	14. —(1) Whenever a change is made or occurs in any of the particulars registered in respect of any person or of the business carried on by him, that person shall, within 14 days after the change, or such further period as the Registrar may on application allow, lodge with the Registrar a statement in such medium and in	<p>{<u>Version 1</u></p> <p>(3A) Where the firm registered under this Act is a limited partnership, this section shall not require a limited partner to inform the Registrar of any change in any particulars relating to the firm [except for changes in his own particulars].</p>

	<p>such form as the Registrar may determine specifying the nature and date of the change, and containing such other information as may be prescribed. [40/99;13/2002]</p> <p>(2) Where a person to whom this Act applies has changed his residential address and has made a report of the change under section 8 of the National Registration Act (Cap. 201) within 14 days thereof, he shall be deemed to have informed the Registrar of the change of his residential address in compliance with subsection (1). [28/94]</p> <p>(3) Where a person ceases to be a partner of a firm registered under this Act, that person and the persons who continue to be registered as partners of the firm shall, within 14 days after the cessation, lodge with the Registrar a statement in such form as the Registrar may determine notifying the Registrar of the cessation. [40/99]</p> <p>(4) Where any person required to lodge the statement referred to in subsection (3) cannot be located or found, the Registrar may allow the other persons who are required to do so to lodge the statement. [40/99]</p> <p>(5) Section 6 (2) shall apply, with the necessary modifications, to any statement lodged under subsection (1), (3) or (4). [40/99;13/2002]</p> <p>(6) Subsection (3) shall not be</p>	<p><u>Version 2</u> (3A) Where the firm registered under this Act is a limited partnership, a limited partner shall not lodge a statement under this section. }</p> <p>Issue (d): (Please see Issue (c) above.) Should a limited partner be allowed to report changes to particulars registered under the BR Act?</p> <p><u>Version 1</u> relieves the limited partner from the duty to report. One possible variation (as shown in square brackets) is to require him to register changes in his own particulars since such changes may not be known to the LP.</p> <p><u>Version 2</u> completely prevents limited partners from registering changes.</p> <p>Issue (e): Do you think there is a need to require publication when a general partner becomes a limited partner? (compare section 10(1) of the UK Act below)</p> <p>“Section 10(1) of the UK Act - Advertisement in Gazette of statement of general partner becoming a limited partner and of assignment of share of limited partner</p> <p><i>10.-(1). Notice of any arrangement or transaction under which any person will cease to be a general partner in any firm, and will become a limited partner in that firm, or under which the share of a limited partner in a firm will be assigned to any person, shall be</i></p>
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	<p>construed to affect the generality of subsection (1). [12</p>	<p><i>forthwith advertised in the Gazette, and until notice of the arrangement or transaction is so advertised the arrangement or transaction shall, for the purposes of this Act, be deemed to be of no effect.”</i></p>
<p>Liability of partners, directors, etc.</p>	<p>33. —(1) Where an offence under this Act is committed by a corporation or other body corporate and the offence is proved to have been committed with the consent or connivance of, or to have been facilitated by any neglect on the part of, any director, chairman, manager, secretary or other officer of the corporation or other body corporate he, as well as the corporation or body corporate, shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.</p> <p>(2) Where any agent or employee in the course of his employment does or omits to do any act, the doing of which or omission to do which by his principal or employer would be an offence under this Act that agent or employee shall be guilty of that offence.</p> <p>(3) Any person who would have been guilty of an offence if anything had been done or omitted to be done by him personally shall be guilty of that offence and shall be liable to the same penalty if that thing had been done or omitted to be done by his partner, agent or employee in the course of the partnership business or in the</p>	<p>Issue (f): S 33(3) would make limited partners liable for offences under the BR Act committed by their partners (including general partners) if the limited partner could himself have been liable for the offence, unless he proves it was committed without his consent, connivance or neglect. Do you agree?</p>

	<p>course of his employment, as the case may be, unless he proves to the satisfaction of the court that the offence was committed without his knowledge or consent and that he took all reasonable precautions to prevent the doing of or omission to do that thing.</p> <p>(4) In this section — “director”, “manager” and “officer” have the same meanings as in the Companies Act (Cap. 50); “secretary” means — (a) in the case of a company incorporated under the Companies Act or under any corresponding previous written law, a secretary appointed under section 171 of that Act; (b) in the case of a body corporate formed or incorporated outside Singapore or any of its branches or subsidiaries, a person appointed to act in such capacity, and includes an assistant or a deputy secretary. [40/99]</p> <p>(5) This section shall be in addition to and not in derogation of any other provisions of this Act. [28</p>	
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Issue pertaining to the Limited Partnership Bill

<p>Accounts and audit</p>	<p>9.—(1) The general partners of a limited partnership shall keep such accounting and other records as will sufficiently explain the transactions and financial position of the limited partnership and enable profit and loss accounts and balance-sheets to be prepared from time to time which give a true and fair view of the state of affairs of the limited partnership.</p> <p>(2) The limited partnership shall retain the records referred to in subsection (1) for 7 years after the completion of the transactions or operations to which they respectively relate.</p> <p>(3) The records referred to in subsection (1) shall be kept at such place as the general partners think fit and shall at all times be open to inspection by the partners.</p> <p>(4) The Registrar may, by notice in writing to any of the general partners, require that partner to produce the records referred to in subsection (1) for his inspection within such time and at such place as may be specified in that notice.</p> <p>(5) If a general partner contravenes subsection (1), (2) or (3), the general partner shall be guilty of an offence and shall be liable on conviction —</p> <p>(a) in the case where the offender is an individual, to a fine not exceeding \$10,000 or to imprisonment for a</p>	<p>Issue (g): Do you agree that limited partnerships should be required to keep accounting and other records in accordance with subsection (1)?</p>
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	<p>term not exceeding 2 years or to both; and</p> <p>(b) in any other case, to a fine not exceeding \$10,000.</p> <p>(6) Any person who fails to comply with a requirement under subsection (4) shall be guilty of an offence and shall be liable on conviction —</p> <p>(a) in the case where the offender is an individual, to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 2 years or to both; and</p> <p>(b) in any other case, to a fine not exceeding \$10,000.</p>	
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