



BERMUDA

PARTNERSHIP ACT 1902

1902 : 10

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NATURE OF PARTNERSHIP

Definition of partnership

1 (1) Partnership is the relation which subsists between persons carrying on a business in common with a view of profit.

(2) Notwithstanding anything in subsection (1), it is hereby declared that the relation between members of any company or association—

- (a) which is registered under any Act of the Legislature of Bermuda which is hereafter passed for the incorporation and regulation of joint stock companies, or any other Act of the Legislature of Bermuda, or any Act of the Parliament of the United Kingdom for the time being in force in Bermuda relating to the registration of joint stock companies; or

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- (b) which is formed or incorporated by or in pursuance of any other Act of the Legislature of Bermuda, or of the Parliament of the United Kingdom or letters patent, or Royal Charter,

is not a partnership within the meaning of this Act.

Interpretation

1A In this Act, unless the context otherwise requires—

“Authority” means the Bermuda Monetary Authority established under section 2 of the Bermuda Monetary Authority Act 1969;

“electronic record” has the meaning given to that expression in section 2(1) of the Electronic Transactions Act 1999;

“Minister” means the Minister of Finance or such other Minister as may be appointed to administer this Act;

“prescribed” means prescribed by regulations under section 4L;

“Registrar” means the Registrar of Companies appointed under section 3 of the Companies Act 1981 or such other person as may be performing his duties under that Act.

[Section 1A inserted by 2015 : 21 s. 2 effective 28 December 2015; Section 1A definition “Authority” inserted by 2018 : 4 s. 2 effective 23 March 2018; Section 1A definition “electronic record” inserted by 2020 : 52 s. 4 effective 31 May 2021]

Delivery of electronic records to Registrar

1B (1) The Minister may, in the regulations, provide that where there is a requirement in the Act or in any statutory instrument made under the Act for a person to file any document or for the Registrar to issue any certificate or other document, such filing or issuing thereof shall be made by means of an electronic record.

(2) For the purposes of subsection (1), “to file” includes to send, forward, give, deliver, provide, deposit, furnish, issue, leave at, serve, submit, circulate, lay, make available or lodge.

(3) The regulations made under subsection (1)—

(a) may provide for any other matter related to electronic records for purposes of this Act; and

(b) shall be subject to the negative resolution procedure.

[Section 1B inserted by 2020 : 52 s. 4 effective 31 May 2021]

Rules for determining existence of partnership

2 In determining whether a partnership does or does not exist, regard should be had to the following rules—

- (a) joint tenancy, tenancy in common, joint property, common property, or part ownership does not of itself create a partnership as to anything so held

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or owned, whether the tenants or owners do or do not share any profits made by the use thereof;

- (b) the sharing of gross returns does not of itself create a partnership, whether the persons sharing such returns have or have not a joint or common right or interest in any property from which or from the use of which the returns are derived;
- (c) the receipt by a person of a share of the profits of a business is prima facie evidence that he is partner in the business, but the receipt of such a share, or of a payment contingent on or varying with the profits of a business, does not of itself make him a partner in the business; and in particular—
 - (i) the receipt by a person of a debt or other liquidated amount by instalments or otherwise out of the accruing profits of a business does not of itself make him a partner in the business or liable as such;
 - (ii) a contract for the remuneration of a servant or agent of a person engaged in a business by a share of the profits of the business does not of itself make the servant or agent a partner in the business or liable as such;
 - (iii) a person being the widow or child of a deceased partner, and receiving by way of annuity a portion of the profits made in the business in which the deceased person was a partner, is not by reason only of such receipt a partner in the business or liable as such;
 - (iv) the advance of money by way of loan to a person engaged or about to engage in any business on a contract with that person that the lender shall receive a rate of interest varying with the profits, or shall receive a share of the profits arising from carrying on the business, does not of itself make the lender a partner with the person or persons carrying on the business or liable as such:

Provided that the contract is in writing, and signed by or on behalf of all the parties thereto;

- (v) a person receiving by way of annuity or otherwise a portion of the profits of a business in consideration of the sale by him of the goodwill of the business is not by reason only of such receipt a partner in the business or liable as such.

Insolvency; postponement of rights

3 In the event of any person to whom money has been advanced by way of loan upon such a contract as is mentioned in section 2, or of any buyer of a goodwill in consideration of a share of the profits of the business, being adjudged a bankrupt, entering into an agreement to pay his creditors less than one hundred cents in the dollar, or dying in insolvent circumstances, then the lender of the loan shall not be entitled to recover anything in respect of his loan, and the seller of the goodwill shall not be entitled to recover anything in respect of the share of profits contracted for, until the claims of the other creditors of the borrower or buyer for valuable consideration in money or money's worth have been satisfied.

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Meaning of firm and firm-name

4 Persons who have entered into partnership with one another are for the purposes of this Act called collectively a firm, and the name under which their business is carried on is called the firm-name.

Election to have legal personality

4A (1) A partnership shall have legal personality if the partnership so elects in accordance with the provisions of this section and files a declaration to that effect with the Registrar of Companies.

(2) Subject to subsection (4), where the partnership wishes to elect that a partnership shall have legal personality, it shall file with the Registrar of Companies a declaration signed by the partnership, stating that the partnership shall have legal personality.

(3) Where the partnership which wishes to make an election is a limited partnership or an exempted partnership, the declaration referred to in subsection (2) shall be specified in the certificate of limited partnership issued under the Limited Partnership Act 1883 or the certificate of exempted partnership issued under the Exempted Partnerships Act 1992, provided that if a partnership is both a limited and an exempted partnership, then the declaration is only required to be made in the certificate of exempted partnership.

(3A) Where the partnership which wishes to make an election—

- (a) is an exempted company that has applied under section 132N of the Companies Act 1981 for conversion from an exempted company to a partnership that is exempted and limited;
- (b) is a foreign partnership that has applied under section 13A of the Exempted Partnerships Act 1992 or section 25 of the Limited Partnership Act 1883 to continue into Bermuda from any jurisdiction as a partnership that is exempted and limited;
- (c) is a limited liability company that has applied under section 102 of the Limited Liability Company Act 2016 for conversion from a limited liability company to a partnership that is exempted and limited,

the declaration referred to in subsection (2) is only required to be made in the certificate of exempted partnership.

(4) *[repealed]*

(5) Where a partnership elects, in accordance with this section, that the partnership shall have legal personality, the partnership shall have legal personality and the Registrar of Companies shall enter that fact in a register to be maintained by him in respect of partnerships making such election and shall issue to the partnership a certificate of registration which shall state that the partnership has legal personality.

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(6) An election made under subsection (2), that a partnership shall have legal personality shall be irrevocable.

[Section 4A inserted by 2006:19 s.2 effective 8 September 2006; subsection (3A) inserted by 2015 : 21 s. 3 effective 28 December 2015; subsections (3A) and (6) amended and subsection (4) repealed by 2016 : 25 s. 4 effective 22 June 2016; subsection (3A) amended by 2016 : 40 s. 258 effective 1 October 2016]

Election of an existing partnership to have legal personality

4B *[Repealed by 2016 : 25 s. 4]*

[Section 4B repealed by 2016 : 25 s. 4 effective 22 June 2016]

Election of an existing partnership to have legal personality

4BA (1) Notwithstanding section 4A, a partnership shall have legal personality, if the partnership so elects, in accordance with this section.

(2) Where a partnership wishes to elect under this section that the partnership shall have legal personality, it shall file with the Registrar of Companies a declaration, signed by the partnership, stating that the partnership shall have legal personality.

(3) Where a partnership elects, in accordance with this section, that it shall have legal personality—

- (a) the partnership shall have legal personality;
- (b) the Registrar of Companies shall enter that fact in the register referred to under section 4A(5); and
- (c) a certificate of registration shall be issued to the partnership by the Registrar of Companies stating that the partnership has legal personality.

(4) An election made under this section that a partnership shall have legal personality shall be irrevocable.

[Section 4BA inserted by 2016 : 25 s. 4 effective 22 June 2016]

Legal personality

4C A partnership that elects to have legal personality under section 4A or 4BA—

- (a) shall be a legal person separate from its partners and shall have the power to own and deal with its separate property in accordance with the agreement of its partners; and
- (b) shall have unlimited capacity.

[Section 4C inserted by 2006:19 s.2 effective 8 September 2006; Section 4C amended by 2018 : 6 s. 6 effective 1 April 2018]

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Change of partners where partnership has legal personality

4D Notwithstanding section 4, and subject to any agreement between the partners, a partnership that has legal personality is not dissolved by a change in the constitution of the partnership.

[Section 4D inserted by 2006:19 s.2 effective 8 September 2006]

Liability where partnership has legal personality

4E A judgment against a partnership that has legal personality may be enforced against any general partner, and on payment of the judgment debt, the partner is entitled to relief, *pro rata*, from the partnership and its other general partners.

[Section 4E inserted by 2006:19 s.2 effective 8 September 2006; amended by 2009:42 s.2 effective 19 July 2009; amended by 2015 : 21 s. 4 effective 28 December 2015]

Register, registration and priority of charges

4F (1) The Registrar shall keep with respect to each partnership that has legal personality a register of charges on the assets of the partnership.

(2) Any person, including the partnership, interested in a charge on the assets of the partnership may apply to have that charge registered, and the Registrar shall register the charge in such form as may be prescribed.

(3) Any charge registered on or after the coming into operation of the Partnership Amendment Act 2015 shall have priority based on the date that it is registered and not on the date of its creation and shall have such priority over any unregistered charge.

(4) Charges created prior to the coming into operation of the Partnership Amendment Act 2015—

- (a) are not subject to the provisions of subsection (3), but shall continue to have the priority they had prior to the coming into operation of that Act; and
- (b) may be registered by any person interested in such a charge, in which case the charge shall continue to have the priority it had prior to registration.

(5) Where a charge is created by a partnership that has legal personality but is a charge on assets outside Bermuda, the instrument creating or purporting to create the charge may be registered under this section notwithstanding that further proceedings may be necessary to make the charge valid or effectual according to the law of the country in which the property is situate.

(6) Notwithstanding anything in this section, a charge on—

- (a) land in Bermuda shall be registered under the Mortgage Registration Act 1786, and not under this Act, and the priority of such charge shall be determined in accordance with the Mortgage Registration Act 1786;
- (b) any ship registered in Bermuda or any interest therein registrable under the Merchant Shipping Act 2002 shall be registered thereunder, and not

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under this Act, and the priority of such charge shall be determined in accordance with the Merchant Shipping Act 2002;

- (c) any aircraft registered in Bermuda or any interest therein or in any aircraft engine registrable under the Mortgaging of Aircraft and Aircraft Engines Act 1999 shall be registered thereunder, and not under this Act, and the priority of such charge shall be determined in accordance with the Mortgaging of Aircraft and Aircraft Engines Act 1999; and
- (d) any assignment of a contract of life insurance to which the Life Insurance Act 1978 applies, shall be subject to the procedures set out in the Life Insurance Act 1978 and not under this Act, and the priority of such a charge shall be determined in accordance with the Life Insurance Act 1978 and not under this Act, irrespective of whether any such charge may have been registered under this Act prior to the coming into operation of this paragraph.

(7) The register of charges shall be available for inspection by members of the public during normal working hours.

(8) For the purposes of sections 4F to 4L—

“charge” has the meaning given in section 55(8) of the Companies Act 1981;

“debenture” has the meaning given in section 2(1) of the Companies Act 1981.

[Section 4F inserted by 2015 : 21 s. 5 effective 28 December 2015; subsection (6) amended by 2016 : 25 s. 4 effective 22 June 2016]

Amendment of register

4G (1) Where a charge registered under section 4F is amended by adding or removing one or more persons entitled to the charge or where the interest of one or more persons entitled to the charge is assigned or transferred, any person, including the partnership, interested in the charge may apply to have such amendment, assignment or transfer registered, and the Registrar shall register the amendment, assignment or transfer in such form as may be prescribed.

(2) The registration of an amendment or an assignment or transfer of an interest in a registered charge under subsection (1) shall not affect the priority of the charge, and the charge shall continue to have priority based on the date that it was registered and not the date that any document effecting the amendment, assignment or transfer was executed or that the amendment, assignment or transfer was registered.

[Section 4G inserted by 2015 : 21 s. 5 effective 28 December 2015]

Correction of register

4H (1) The Registrar, on being satisfied that an omission or misstatement of any particulars with respect to any charge registered under section 4F on the assets of a partnership was accidental, or due to inadvertence or to some other sufficient cause, and is not of a nature to prejudice the position of creditors or partners of the partnership, may, on the application of the partnership or any person interested, rectify the register; and any

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such rectification shall have effect from the date of the first entry of the charge in the register.

(2) Any creditor or partner of the partnership aggrieved by a decision of the Registrar either to rectify or not rectify the register under subsection (1) may within six months of the decision of the Registrar appeal to the Supreme Court which shall have the same powers as the Registrar. No appeal shall lie from a decision of the Supreme Court.

[Section 4H inserted by 2015 : 21 s. 5 effective 28 December 2015]

Registration of series of debentures

4I (1) Where a series of debentures containing, or giving by reference to any other instrument, any charge to the benefit which the debenture holders of that series are entitled *pari passu* is created by a partnership, it shall, for the purposes of the registration of the series under section 4F, be sufficient if the following particulars are registered with the Registrar—

- (a) the total amount secured by the whole series;
- (b) the dates of authorization of the issue of the series, and the date of the covering deed, if any, by which the security is created or defined;
- (c) a general description of the property charged; and
- (d) the names of the trustees, if any, for the debenture holders,

together with a copy of the deed containing the charge, or, if there is no such deed, a copy of one of the debentures of the series.

(2) For purposes of subsection (1), where more than one issue is made of debentures in the series, there shall be sent to the Registrar for entry in the register particulars of the date and amount of each issue, but an omission to do this shall not affect the validity of the debentures issued.

[Section 4I inserted by 2015 : 21 s. 5 effective 28 December 2015]

Particulars to be registered when commission is paid for debentures

4J Where any commission, allowance or discount has been paid or made either directly or indirectly by a partnership that has legal personality to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any debentures of the partnership, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any such debentures, the particulars sent for registration shall include particulars as to the amount or rate per cent of the commission, discount or allowance so paid or made, but omission to do this shall not affect the validity of the debentures issued.

[Section 4J inserted by 2015 : 21 s. 5 effective 28 December 2015]

Entry of satisfaction or release; release of property from charge

4K The Registrar, on evidence being given to his satisfaction with respect to any charge registered under section 4F—

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- (a) that the debt for which the charge was given has been paid or satisfied in whole or in part; or
- (b) that part of the property or undertaking charged has been released from the charge or has ceased to form part of the partnership's property or undertaking,

shall enter on the register a memorandum of satisfaction in whole or in part, or of the fact that part of the property or undertaking has been released from the charge or has ceased to form part of the partnership's property or undertaking, as the case may be, and where he enters a memorandum of satisfaction in whole he shall, if required, furnish the partnership with a copy thereof.

[Section 4K inserted by 2015 : 21 s. 5 effective 28 December 2015]

Regulations

4L (1) The Minister may make regulations—

- (a) prescribing the manner and form in which any application or declaration under sections 4A to 4K may be made;
- (b) prescribing fees.

(2) Regulations, other than those that prescribe fees, shall be subject to the negative resolution procedure.

(3) Regulations prescribing fees shall be subject to the affirmative resolution procedure.

[Section 4L inserted by 2015 : 21 s. 5 effective 28 December 2015]

Interpretation of sections 4M to 4ZE

4M In sections 4M to 4ZE—

“appointed stock exchange” has the meaning given in section 2(1) of the Companies Act 1981;

“beneficial owner” has the meaning given in section 4O;

“beneficial ownership register” means the register referred to in section 4R;

“closed-ended investment vehicle” means a fund that satisfies the requirements in section 3 of the Investment Funds Act 2006, save subsection (2)(b) of that section;

“corporate service provider” means a person licensed to provide corporate service provider business under the Corporate Service Provider Business Act 2012;

“individual” means a natural person;

“legal arrangement” includes a trust, partnership or other similar arrangement;

“legal entity” means a company, limited liability company or other body that is a legal person under the law by which it is governed;

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“minimum required information” means the information referred to in section 4R;

“registrable person” means a beneficial owner or relevant legal entity;

“relevant legal entity” in relation to a partnership means—

- (a) any legal entity that is incorporated or formed or registered (including by way of continuation) in Bermuda or elsewhere; and
- (b) any legal arrangement,

which would be a beneficial owner of the partnership if it were an individual.

[Section 4M inserted by 2018 : 4 s. 3 effective 23 March 2018]

Application of sections 4M to 4ZE

4N (1) Sections 4M to 4ZE apply with respect to all partnerships to which this Act, the Exempted Partnerships Act 1992 and the Limited Partnership Act 1883 apply except those that are exempted under or pursuant to subsection (2); and “partnership” shall be construed accordingly.

(2) The following partnerships, entities or vehicles, and any subsidiary thereof, are exempted from the application of sections 4M to 4ZE—

- (a) a partnership whose interests are listed on the Bermuda Stock Exchange or an appointed stock exchange;
- (b) a closed-ended investment vehicle managed or administered by a person licensed under the Investment Business Act 2003 or the Investment Funds Act 2006 or registered, authorized or licensed by a foreign regulator recognized by the Authority;
- (c) a financial institution as defined in the Third Schedule to the Bermuda Monetary Authority Act 1969;
- (d) any other type of partnership or entity that is exempted by the Minister by order made by him.

(3) For the purposes of this section, a partnership (“partnership S”) is a subsidiary of one or more partnerships, entities or vehicles described in subsection (2) if—

- (a) such partnerships, entities or vehicles, separately or collectively, hold in excess of 75% of the interests or voting rights in partnership S;
- (b) each such partnership, entity or vehicle is a member of partnership S and, separately or collectively, they have the right to appoint or remove a majority of its partners or other governing body; or
- (c) it is a subsidiary of one or more partnerships, entities or vehicles each of which is itself a subsidiary of one or more partnerships, entities or vehicles described in subsection (1).

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(4) An order made under subsection (2)(d) shall be subject to the affirmative resolution procedure and may contain such consequential or transitional provisions as the Minister considers necessary or expedient.

[Section 4N inserted by 2018 : 4 s. 3 effective 23 March 2018]

Partnership to identify beneficial owners

Meaning of beneficial owner

4O (1) In sections 4M to 4ZE—

“beneficial owner” means—

- (a) any individual or individuals who own or control more than 25% of the interests or voting rights in the partnership through direct or indirect ownership thereof;
- (b) if no such individual or individuals referred to in paragraph (a) exist or can be identified, any individual or individuals who control a partnership by other means;
- (c) if no such individual or individuals referred to in paragraphs (a) and (b) exist or can be identified, the individual who holds the position of senior manager of a general partner of the partnership,

and “beneficial ownership” shall be construed accordingly;

“control by other means” includes the right to appoint or remove a majority of the general partners of a partnership and the exercise of control over the partnership by any means other than by control by ownership of any interest;

“senior manager” means the chief executive, managing or executive director or president of a general partner of a partnership or other person holding such senior position in respect of a general partner of the partnership by whatever title known.

(2) Interests or voting rights held by an individual or individuals shall be an indication of direct ownership.

(3) Interests or voting rights held—

- (a) by a relevant legal entity, which is under the control of an individual or individuals; or
- (b) by multiple relevant legal entities, which are under the control of the same individual or individuals,

shall be an indication of indirect ownership by such individual or individuals.

[Section 4O inserted by 2018 : 4 s. 3 effective 23 March 2018]

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Partnerships to obtain information regarding beneficial owners

4P (1) A partnership to which sections 4M to 4ZE apply shall take reasonable steps to identify any individual who is a beneficial owner of the partnership and all relevant legal entities that exist in relation to the partnership.

(2) If, after having taken reasonable steps to identify the beneficial owners of the partnership and all relevant legal entities, the partnership is satisfied that—

- (a) no individuals who are beneficial owners are identified; or
- (b) if the partnership was not able to confirm that the individuals identified by it are the beneficial owners,

the partnership shall keep a record of the actions taken to identify the beneficial owners thereof.

(3) For the avoidance of doubt, reasonable steps include the issue of a notice under section 4Q.

[Section 4P inserted by 2018 : 4 s. 3 effective 23 March 2018]

Partnership to issue notice to beneficial owners

4Q (1) A partnership to which sections 4M to 4ZE apply shall give notice in writing to—

- (a) beneficial owners and relevant legal entities identified by the partnership pursuant to section 4P; and
- (b) any person that the partnership knows or has reasonable cause to believe is a registrable person.

(2) The notice shall require any person to whom it is addressed, within 30 days of the date of receipt of the notice—

- (a) to state whether or not the person is a beneficial owner (within the meaning of section 4O) or a relevant legal entity; and if so
- (b) to confirm or correct any minimum required information that is included in the notice and supply any required information that is missing from the notice.

(3) A partnership is not required to give a notice under subsection (1) if the partnership knows that the person is not a registrable person or the partnership has already been informed of the person's status as a registrable person in relation to it, and has received all the minimum required information.

(4) For the purpose of subsection (1), the partnership shall be entitled to rely, without further enquiry, on the response of a person to whom a notice in writing has been sent in good faith by the partnership, unless the partnership has reasonable cause to believe that a response is misleading or false.

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(5) A person to whom a notice under this section is given is not required by that notice to disclose any information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

[Section 4Q inserted by 2018 : 4 s. 3 effective 23 March 2018]

Beneficial ownership register

Duty to keep beneficial ownership register

4R (1) Every partnership to which sections 4M to 4ZE apply shall establish and maintain in accordance with sections 4M to 4ZE a beneficial ownership register and shall enter in its beneficial ownership register the minimum required information referred to in subsection (2) in respect of every registrable person.

(2) The minimum required information referred to in subsection (1) that the partnership shall enter in its beneficial ownership register is as follows—

- (a) the registrable person's full name including, if applicable, any secondary or other name;
- (b) where the registrable person is an individual—
 - (i) his residential address and, if different from his residential address, an address for service;
 - (ii) his nationality;
 - (iii) his date of birth;
- (c) where the registrable person is a relevant legal entity—
 - (i) the address of the person's registered office or principal office;
 - (ii) the date and place of registration;
 - (iii) the form of legal entity;
 - (iv) where applicable, the name of the exchange on which it is listed;
- (d) the effective date on which each person was entered into the register as a registrable person;
- (e) a statement of the nature and extent of the interest held by each such registrable person;
- (f) in respect of a class of beneficial owners of such a size that it is not reasonably practicable to identify each beneficial owner, details sufficient to identify and describe the class of persons who are beneficial owners; and
- (g) where applicable, the date on which each person who has ceased to be a registrable person in respect of it ceased to be such an owner.

(3) The beneficial ownership register shall be kept at the registered office of the partnership or after giving written notice to the Registrar at such other place in Bermuda convenient for inspection by the Registrar.

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(4) Where the beneficial ownership register is not made available for inspection by the Registrar, the Registrar may exercise the powers conferred on him by Part 3 of the Registrar of Companies (Compliance Measures) Act 2017 in respect of the partnership and may seek an order from the Court that the partnership make the beneficial ownership register immediately available for inspection.

[Section 4R inserted by 2018 : 4 s. 3 effective 23 March 2018]

Partnership to keep beneficial ownership register up-to-date and current

4S (1) The beneficial ownership register shall be updated with respect to a change in beneficial ownership of a partnership, which impacts an entry in the beneficial ownership register, as soon as practicable after the partnership is notified of such change, but not later than 14 days thereafter.

(2) Where a partnership to which sections 4M to 4ZE apply—

- (a) becomes aware of a relevant change to the minimum required information that is set forth in its beneficial ownership register in relation to a registrable person; or
- (b) has reason to believe that such a relevant change has occurred,

the partnership shall give notice in writing to that person requesting confirmation, within 30 days from the date of receipt of the notice, of the matters set out in subsection (6).

(3) The notice by the partnership under subsection (2) shall be given as soon as practicable after the partnership becomes aware of the relevant change or has reason to believe that such a change has occurred, and shall require confirmation as to any such change and the details thereof.

(4) If the person to whom a notice is sent under subsection (2) confirms the relevant change, the partnership's beneficial ownership register shall be updated accordingly.

(5) A partnership is not required to give a notice under subsection (2) if the minimum required information relating to the relevant change has already been provided to the partnership by the beneficial owner or another person with knowledge of the minimum required information.

(6) For the purposes of this section, a relevant change occurs where—

- (a) a beneficial owner or a legal entity ceases to be a registrable person; or
- (b) any other change occurs as a result of which the accuracy of the minimum required information stated with respect to the registrable person in the partnership's beneficial ownership register becomes incorrect or incomplete.

(7) A relevant change with respect to a registrable person is considered to have been confirmed if the details, date and particulars of the change have been supplied or confirmed to the partnership by the registrable person, or by another person with knowledge of the registrable person.

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(8) The beneficial ownership register shall not be updated until the relevant change has been confirmed.

[Section 4S inserted by 2018 : 4 s. 3 effective 23 March 2018]

Disputes regarding beneficial ownership

4T Where there is a bona fide legal dispute as to the beneficial owner of any interest, voting right or any other right or interest in any partnership to which sections 4M to 4ZE apply and which is in the process of being adjudicated by a court—

- (a) no change shall be recorded in the beneficial ownership register with respect to the beneficial owner of that interest or right; and
- (b) no filing with respect to that change shall be made with the Authority,

prior to the determination of that matter unless the court so orders.

[Section 4T inserted by 2018 : 4 s. 3 effective 23 March 2018]

Power of Court to rectify beneficial ownership register

4U (1) Any person who is aggrieved by his inclusion, or lack thereof, on the beneficial ownership register for any reason may apply to the Court for rectification of the beneficial ownership register.

(2) Subsections (2) and (3) of section 67 of the Companies Act 1981 apply with any necessary modifications with respect to rectification of the beneficial ownership register as those subsections apply in relation to rectification of the register of members.

[Section 4U inserted by 2018 : 4 s. 3 effective 23 March 2018]

Beneficial ownership information to be filed with Authority; compliance measures

Filing of beneficial ownership information with the Authority

4V (1) Subject to subsection (2), a partnership to which sections 4M to 4ZE apply shall (in such form as the Authority may require) at the time of its formation, continuation in Bermuda or conversion, as the case may be, file with the Authority the minimum required information regarding its beneficial owners.

(2) Where a partnership engages a corporate service provider which holds an unlimited licence, the filing required under subsection (1) shall occur as soon as practicable but not later than 14 days following such formation, continuation in Bermuda or conversion, as the case may be.

(3) Notification of any change of beneficial ownership of a partnership and information relating to such a change shall be filed with the Authority as soon as practicable, but not later than 14 days after the partnership becomes aware of or is notified of the change, and has confirmed the minimum required information with respect to the change.

(4) Where there is a change in respect of any information for the time being filed with the Authority relating to a beneficial owner of a partnership which would render that

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information inaccurate, the partnership shall, in such form as the Authority may require, file with the Authority updated, accurate and current information regarding such change in information as soon as practicable, but not later than 14 days after the partnership becomes aware of or is notified of the change, and has confirmed the minimum required information with respect to the change.

[Section 4V inserted by 2018 : 4 s. 3 effective 23 March 2018]

Compliance measures

Notice by partnership imposing restrictions

4W (1) This section applies where—

- (a) a notice under section 4Q or 4S is served by a partnership on a beneficial owner; and
- (b) that person fails to give the partnership the information required by the notice within the time specified in it.

(2) Where subsection (1) applies, the partnership may—

- (a) if its partnership agreement so provides, issue a warning notice to that person advising of its intention to impose restrictions on that person's interest;
- (b) if its partnership agreement so provides, issue a decision notice to a person advising of the imposition of restrictions on that person's interests, provided that such decision notice shall not take effect until at least 30 days following the date of receipt of any such decision notice; or
- (c) apply to the Court for an order directing that the interest in question be subject to restrictions.

(3) In deciding whether, pursuant to a warning notice, to issue a decision notice or apply to the Court under subsection (2)(c), and after first giving the person the opportunity to make representations, the partnership shall have regard to the effect of the decision notice or order on the rights of persons in respect of the relevant interest, including—

- (a) third parties;
- (b) persons with a security interest over the relevant interest;
- (c) partners; and
- (d) other beneficial owners.

(4) If the Court is satisfied that such an order issued under subsection (2)(c) may unfairly affect the rights of third parties in respect of the interest, the Court may, for the purpose of protecting those rights and subject to such terms as it thinks fit, direct that such acts by such persons and for such purposes as may be set out in the order shall not constitute a breach of the restrictions.

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(5) On an application under this section, the Court may make an interim order and any such order may be made unconditionally or on such terms as the Court thinks fit.

(6) The effect of a decision notice issued by a partnership or an order made by the Court under this section is that the interest in question may be subject to restrictions as follows—

- (a) any transfer of the interest is void;
- (b) no voting rights are exercisable in respect of the interest;
- (c) no further interest may be issued in right of the interest or in pursuance of an offer made to its holder;
- (d) no payment may be made of sums due from the partnership on the interest, whether in respect of capital or otherwise.

(7) Where an interest is subject to the restriction in subsection (6)(c) or (d), an agreement to transfer any right to be issued with other interests in right of that interest, or to receive any payment on it (otherwise than in a liquidation), is void.

(8) The provisions of this section are subject to any directions for protection of third parties or otherwise given by the Court.

(9) The Court on the application of—

- (a) any person aggrieved by any action taken by the partnership pursuant to this section; or
- (b) any person aggrieved in so far as protecting the rights of third parties, persons with a security interest over the relevant interest, interest holders or other beneficial owners in respect of the relevant interest in respect of which a decision notice has been issued,

may set aside or affirm a notice in whole or in part and give such directions as the Court thinks fit if the Court is satisfied that the decision notice unfairly affects the protection of the rights of third parties.

(10) Section 62 of the Supreme Court Act 1905 shall be deemed to extend to the making of rules under that section to regulate the practice and procedure on an application or an appeal to the Court under this section.

[Section 4W inserted by 2018 : 4 s. 3 effective 23 March 2018]

Power to obtain information and reports

4X (1) The Registrar may by notice in writing served on a partnership or any registrable person require the partnership or registrable person—

- (a) to provide the Registrar (or such person acting on behalf of the Registrar as may be specified in the notice), at such time or times or at such intervals or in respect of such period or periods as may be so specified, with such information as the Registrar may reasonably require for the performance of his functions;

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- (b) to provide the Registrar with a report, in such form as may be specified in the notice, of any matter about which the Registrar has required or could require that partnership, or beneficial owner, to provide information pursuant to sections 4M to 4ZE.

(2) The person to whom a notice is served under subsection (1) shall within 30 days of receipt of such notice respond to the notice and provide the information requested by the Registrar.

[Section 4X inserted by 2018 : 4 s. 3 effective 23 March 2018]

Offences

4Y (1) In sections 4M to 4ZE, where a person—

- (a) contravenes or fails without reasonable excuse to comply with any provision of sections 4M to 4ZE, the person shall be liable on summary conviction to a fine not exceeding \$5,000;
- (b) knowingly provides false information to the Registrar or the Authority, the person shall be liable on summary conviction to a fine not exceeding \$50,000.

(2) It shall be a defence for the person to show that he took reasonable steps to identify beneficial owners for the purposes of sections 4M to 4ZE.

(3) Where an offence under subsection (1) committed by a body corporate is proved to have been committed with the consent or connivance of an officer of the body corporate, the officer as well as the body corporate commits the offence and shall be liable to be proceeded against and punished accordingly.

[Section 4Y inserted by 2018 : 4 s. 3 effective 23 March 2018]

Miscellaneous

Confidentiality

4Z (1) Subject to section 4ZA, a requirement imposed by or under sections 4M to 4ZE has effect despite any obligation as to confidentiality or other restriction on the disclosure of beneficial ownership information imposed by statute, contract or otherwise.

(2) Accordingly, a disclosure made or the sharing of beneficial ownership information in accordance with sections 4M to 4ZE does not breach—

- (a) any obligation of confidence in relation to the beneficial ownership information so disclosed; or
- (b) any other restriction on access to or disclosure of the beneficial ownership information so accessed (however imposed).

(3) Compliance by a person with any requirement under sections 4M to 4ZE to disclose or provide information is an absolute defence to any claim brought against that person in respect of any act done or any omission made by him in good faith in compliance with sections 4M to 4ZE.

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(4) For the avoidance of doubt, nothing in this section shall be construed as restricting the exercise of power by the Registrar under section 18(3) of the Registrar of Companies (Compliance Measures) Act 2017.

[Section 4Z inserted by 2018 : 4 s. 3 effective 23 March 2018]

Privileged information

4ZA A person shall not be required under sections 4M to 4ZE to provide or produce information or to answer questions which the person would be entitled to refuse to provide, produce or answer on grounds of legal professional privilege in proceedings in the Court.

[Section 4ZA inserted by 2018 : 4 s. 3 effective 23 March 2018]

Application of Public Access to Information Act 2010

4ZB (1) Notwithstanding any provision of the Public Access to Information Act 2010, this section shall have effect.

(2) For the purposes of sections 4M to 4ZE, no person who—

- (a) obtains information relating to beneficial ownership directly or indirectly for the purposes of, or pursuant to, sections 4M to 4ZE; and
- (b) receives a request under the Public Access to Information Act 2010 for such information relating to beneficial ownership,

shall disclose the request or beneficial ownership information so requested.

[Section 4ZB inserted by 2018 : 4 s. 3 effective 23 March 2018]

Application of Personal Information Protection Act 2016

4ZC Nothing in sections 4M to 4ZE authorizes a disclosure, in contravention of any provision of the Personal Information Protection Act 2016, of personal information (as defined by that Act).

[Section 4ZC inserted by 2018 : 4 s. 3 effective 23 March 2018]

Other provisions concerning beneficial ownership or registers etc. not affected

4ZD (1) Sections 4M to 4ZE do not, unless it is otherwise expressly provided to the contrary, limit or otherwise restrict any other statutory provision concerning any requirement for a person with an interest to provide information relating to beneficial ownership.

(2) Nothing in sections 4M to 4ZE, unless it is otherwise expressly provided to the contrary, shall be construed as affecting any provisions relating to the use of licensed corporate service providers or Bermuda Monetary Authority consent requirements regarding the issue or transfer of securities or interests.

(3) Nothing in sections 4M to 4ZE, unless it is otherwise expressly provided to the contrary, affects the requirement under this Act or any other enactment for a partnership to which this Act applies to keep any other register.

[Section 4ZD inserted by 2018 : 4 s. 3 effective 23 March 2018]

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Notices

4ZE (1) For the purposes of sections 4M to 4ZE, any notice, direction or other document (hereinafter referred to in this section as “document”) required or authorized by or under sections 4M to 4ZE to be given or sent to any person shall be set out in a document in writing which may be served either—

- (a) by delivering it to that person;
- (b) by leaving it at his proper address;
- (c) by sending it by post to that address;
- (d) by sending it to him by facsimile or electronic mail or other similar means which are capable of producing a document containing the text of the communication, in which case the document shall be regarded as sent when it is received by him in a legible form; or
- (e) by any other method that provides proof of delivery or service,

and where the person is a body corporate the document may be delivered, by any of those means, to the Secretary or other appropriate person in respect of that body corporate.

(2) For the purposes of this section, the proper address of any person shall, in the case of a body corporate, be the registered or principal office of that body corporate, and in any other case, shall be the last known address of the person.

(3) No document required by sections 4M to 4ZE to be given or sent to the Registrar or the Bermuda Monetary Authority or any other person shall be regarded as given or sent until it is received.

(4) For the purposes of sections 4M to 4ZE, a document shall be taken to have been received by the person in relation to whom it was sent—

- (a) where it was delivered to him personally, on the day of delivery;
- (b) where it was sent to him by post at his address on the day on which he acknowledges receipt or, if no such acknowledgement was received from him, it shall, unless it is shown to the contrary, be deemed to have been received by him—
 - (i) seven working days after despatch, if posted to an address within Bermuda; and
 - (ii) fifteen working days after despatch, if posted to an address outside of Bermuda;
- (c) by sending it to him by facsimile or electronic mail or similar means which are capable of producing a document containing the text of the communication, on the second day after the day on which it was transmitted.

(5) If the making of the transmission for purposes of subsection (4)(c) has been recorded in the computer or information processing system of the partnership or its

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representative, it shall be presumed, unless the contrary is proved, that the transmission—

- (a) was made to the person recorded in that system as receiving it;
- (b) was made at the time recorded in that system at the time of delivery;
- (c) contained the information recorded on that system in respect of it.

(6) For the avoidance of doubt, notices, directions or documents that are delivered under sections 4M to 4ZE are not statutory instruments for the purposes of the Statutory Instruments Act 1977.

[Section 4ZE inserted by 2018 : 4 s. 3 effective 23 March 2018]

RELATIONS OF PARTNERS TO PERSONS DEALING WITH THEM

Power of partner to bind firm

5 Every partner is an agent of the firm and of his other partners for the purpose of the business of the partnership; and the acts of every partner who does any act for carrying on in the usual way business of the kind carried on by the firm for which he is a member bind the firm and his partners, unless the partner so acting has in fact no authority to act for the firm in the particular matter, and the person with whom he is dealing either knows that he has no authority, or does not know or believe him to be a partner.

Partners are bound by acts of firm

6 An act or instrument relating to the business of the firm and done or executed in the firm-name or in any other manner showing an intention to bind the firm, by any person thereto authorized, whether a partner or not, is binding on the firm and all the partners:

Provided that this section shall not affect any general rule of law relating to the execution of deeds or negotiable instruments.

Partner using credit of firm for private purposes

7 Where one partner pledges the credit of the firm for a purpose apparently not connected with the firm's ordinary course of business, the firm is not bound unless he is in fact specially authorized by the other partners:

Provided that this section shall not affect any personal liability incurred by an individual partner.

Effect of notice that firm will not be bound by acts of partners

8 If it has been agreed between the partners that any restriction shall be placed on the power of any one or more of them to bind the firm, no act done in contravention of the agreement is binding on the firm with respect to persons having notice of the agreement.

Liability of partners

9 Every partner in a firm is liable jointly with the other partners for all debts and obligations of the firm incurred while he is a partner; and after his death his estate is also

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severally liable in a due course of administration for such debts and obligations, so far as they remain unsatisfied, but subject to the prior payment of his separate debts.

Liability of firm for wrongful act of partner

10 Where, by any wrongful act or omission of any partner acting in the ordinary course of the business of the firm, or with the authority of his co-partners, loss or injury is caused to any person not being a partner in the firm, or any penalty is incurred, the firm is liable therefor to the same extent as the partner so acting or omitting to act.

Misapplication of money or property received for or in custody of firm

11 In the following cases—

- (a) where one partner acting within the scope of his apparent authority receives the money or property of a third person and misapplies it; and
- (b) where a firm in the course of its business receives money or property of a third person, and the money or property so received is misapplied by one or more of the partners while it is in the custody of the firm;

the firm is liable to make good the loss.

Liability for wrongs joint and several

12 Every partner is liable jointly with his co-partners and also severally for everything for which the firm while he is a partner therein becomes liable under either of sections 10 or 11.

Improper employment of trust- property for partnership purposes

13 If a partner, being a trustee, improperly employs trust property in the business or on the account of the partnership, no other partner is liable for the trust-property to the persons beneficially interested therein:

Provided that—

- (a) this section shall not affect any liability incurred by any partner by reason of his having notice of a breach of trust; and
- (b) nothing in this section shall prevent trust-money from being followed and recovered from the firm if still in its possession or under its control.

Persons liable for holding out as partners

14 Every one who by words spoken or written or by conduct represents himself, or who knowingly suffers himself to be represented, as a partner in a particular firm, is liable as a partner to any one who has on the faith of any such representation given credit to the firm, whether the representation has or has not been made or communicated to the person so giving credit by or with the knowledge of the apparent partner making the representation or suffering it to be made:

Provided that where after a partner's death the partnership business is continued in the same firm-name, the continued use of that name or of the deceased partner's name

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as part thereof shall not of itself make his executor's or administrator's estate or effects liable for partnership debts contracted after his death.

[Section 14 proviso amended by 2006:19 s.3 effective 8 September 2006]

Admissions and representations of partners

15 An admission or representation made by any partner concerning the partnership affairs, and in the ordinary course of its business, is evidence against the firm.

Notice to acting partners to be notice to the firm

16 Notice to any partner who habitually acts in the partnership business of any matter relating to partnership affairs operates as notice to the firm, except in the case of a fraud on the firm committed by or with the consent of that partner.

Liabilities of incoming and outgoing partners

17 (1) A person who is admitted as a partner into an existing firm does not thereby become liable to the creditors of the firm for anything done before he became a partner.

(2) A partner who retires from a firm does not thereby cease to be liable for partnership debts or obligations incurred before his retirement.

(3) A retiring partner may be discharged from any existing liabilities by an agreement to that effect between himself and the continuing partners in the firm and the creditors, and this agreement may be either express or inferred as a fact from the course of dealing between the creditors and the firm as constituted by the continuing partners.

[Section 17 subsection (3) amended by 2006:19 s.4 effective 8 September 2006]

Revocation of continuing guaranty by change in firm

18 (1) A continuing guaranty or cautionary obligation given either to a firm or to a third person in respect of the transactions of a firm is, in the absence of agreement to the contrary, revoked as to future transactions by any change in the constitution of the firm to which, or of the firm in respect of the transactions of which, the guaranty or obligation was given.

(2) Subsection (1) does not apply to a partnership that has legal personality except in respect of any continuing guarantee or cautionary obligation given under subsection (1) before the election by the partnership that the partnership shall have legal personality was entered in the register.

[Section 18 subsection (2) inserted by 2006:19 s.5 effective 8 September 2006]

RELATIONS OF PARTNERS TO ONE ANOTHER

Variation by consent of terms of partnership

19 The mutual rights and duties of partners, whether ascertained by agreement or defined by this Act, may be varied by the consent of all the partners, and such consent may be either express or inferred from a course of dealing.

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Partnership property

20 (1) All property and rights and interests in property originally brought into the partnership stock or acquired, whether by purchase or otherwise, on account of the firm, or for the purposes and in the course of the partnership business, are called in this Act partnership property, and must be held and applied by the partners exclusively for the purposes of the partnership and in accordance with the partnership agreement:

Provided that the legal estate or interest in any land which belongs to the partnership shall devolve according to the nature and tenure thereof, and the general rules of law thereto applicable, but in trust, so far as necessary, for the persons beneficially interested in the land under this section.

(2) Where co-owners of an estate or interest in any land, not being itself partnership property, are partners as to profits made by the use of that land or estate, and purchase other land or estate out of the profits to be used in like manner, the land or estate so purchased belongs to them, in the absence of an agreement to the contrary, not as partners but as co-owners for the same respective estates and interests as are held by them in the land or estate first mentioned at the date of the purchase.

Property bought with partnership money

21 Unless the contrary intention appears, property bought with money belonging to the firm is deemed to have been bought on account of the firm. Conversion into personal estate of land held as partnership property

22 Where land has become partnership property, it shall, unless the contrary intention appears, be treated as between the partners (including the representatives of a deceased partner), and also as between the heirs of a deceased partner and his executors or administrators, as personal and not real estate.

Procedure against partnership property for a partner's separate judgment debts

23 (1) A writ of execution shall not issue against any partnership property except on a judgment against the firm.

(2) The Supreme Court may, on the application by petition of any judgment creditor of a partner, make an order charging that partner's interest in the partnership property and profits with payment of the amount of the judgment debt and interest thereon, and may by the same or a subsequent order appoint a receiver of that partner's share of profits (whether already declared or accruing), and of any other money which may be coming to him in respect of the partnership, and direct all accounts and inquiries, and give all other orders and directions which might have been directed or given if the charge had been made in favour of the judgment creditor by the partner, or which the circumstances of the case may require.

(3) The other partner or partners shall be at liberty at any time to redeem the interest charged, or, in case of a sale being directed, to purchase the same.

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Rules as to interests and duties of partners (subject to special agreement)

24 The interest of partners in the partnership property and their rights and duties in relation to the partnership shall be determined, subject to any agreement express or implied between the partners, by the following rules—

- (a) all the partners are entitled to share equally in the capital and profits of the business, and must contribute equally towards the losses whether of capital or otherwise sustained by the firm;
- (b) the firm must indemnify every partner in respect of payments made and personal liabilities incurred by him—
 - (i) in the ordinary and proper conduct of the business of the firm; or
 - (ii) in or about anything necessarily done for the preservation of the business or property of the firm;
- (c) a partner making, for the purpose of the partnership, any actual payment or advance beyond the amount of capital which he has agreed to subscribe, is entitled to interest at the rate of five per cent. per annum from the date of the payment or advance;
- (d) a partner is not entitled, before the ascertainment of profits, to interest on the capital subscribed by him;
- (e) every partner may take part in the management of the partnership business;
- (f) no partner shall be entitled to remuneration for acting in the partnership business;
- (g) no person may be introduced as a partner without the consent of all existing partners;
- (h) any difference arising as to ordinary matters connected with the partnership business may be decided by a majority of the partners, but no change may be made in the nature of the partnership business without the consent of all existing partners;
- (i) the partnership books shall be kept at the place of business of the partnership (or the principal place, if there is more than one), and every partner may, when he thinks fit, have access to and inspect and copy any of them.

Power to expel partner

25 No majority of the partners can expel any partner unless a power to do so has been conferred by express agreement between the partners.

Powers on default

25A (1) A partnership agreement may provide that where a partner fails to perform any of its obligations under, or otherwise breaches the provisions of, the partnership agreement

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that partner may be subject to or suffer remedies for, or consequences of, the failure or breach specified in the partnership agreement or otherwise applicable under any law.

(2) If a partnership agreement so provides, the remedies or consequences under subsection (1) may include, but are not limited to, any one or more of the following—

- (a) reducing, eliminating or forfeiting the defaulting partner's partnership interest in the partnership or any rights of the defaulting partner under the partnership agreement;
- (b) subordinating the defaulting partner's partnership interest to the interests of non-defaulting partners;
- (c) effecting a forced sale or forfeiture of the defaulting partner's partnership interest;
- (d) arranging for the lending by other partners or other persons to the defaulting partner of the amount necessary to meet the defaulting partner's commitment;
- (e) providing for the fixing of the value of the defaulting partner's partnership interest by appraisal or by formula and the redemption or sale of the defaulting partner's partnership interest at that value; or
- (f) exercising any other remedy or consequence specified in the partnership agreement or available under any applicable laws.

(3) No such remedies or consequences may be imposed on any partner unless they are conferred by express agreement between the partners.

(4) The remedies or consequences referred to in this section shall not be unenforceable solely on the basis that they are penal in nature.

(5) Subject to section 8C(8) of the Limited Partnership Act 1883 and the partnership agreement, a general partner shall not be liable for its decision to impose or for imposing any remedies or consequences upon any partner, or for its decision not to do so.

(6) References in this section to a partnership interest shall for the avoidance of doubt also be construed as including any part thereof.

[Section 25A inserted by 2016 : 25 s. 4 effective 22 June 2016]

Retirement from partnership at will

26 (1) Where no fixed term has been agreed upon for the duration of the partnership, any partner may determine the partnership at any time on giving notice of his intention so to do to all the other partners.

(2) Where the partnership has originally been constituted by deed, a notice in writing, signed by the partner giving it, shall be sufficient for this purpose.

Where partnership for term is continued over, continuance on old terms presumed

27 (1) Where a partnership entered into for a fixed term is continued after the term has expired, and without any express new agreement, the rights and duties of the partners

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remain the same as they were at the expiration of the term, so far as is consistent with the incidents of a partnership at will.

(2) A continuance of the business by the partners or such of them as habitually acted therein during the term, without any settlement or liquidation of the partnership affairs, is presumed to be a continuance of the partnership.

Duty of partners to render accounts

28 Partners are bound to render true accounts and full information of all things affecting the partnership to any partner or his legal representatives,

Duty of partners to account for private profits

29 (1) Every partner must account to the firm for any benefit derived by him without the consent of the other partners, from any transaction concerning the partnership, or from any use by him of the partnership property, name or business connection.

(2) The foregoing provisions of this section apply in relation to transactions undertaken after a partnership has been dissolved by the death of a partner, and before the affairs thereof have been completely wound up, either by any surviving partner or by the representatives of the deceased partner.

Records of account

29A (1) A partnership shall keep proper records of account with respect to its business including, without limiting the generality of the foregoing, records of account with respect to its—

- (a) assets;
- (b) liabilities and capital;
- (c) cash receipts and disbursements;
- (d) purchases and sales; and
- (e) income costs and expenses.

(2) Subject to subsection (3), the records of account shall be kept at the principal place of business of the partnership or at such other place as the partners think fit, and shall at all times be open to inspection by the partners.

(3) If the records of account are kept at a place outside Bermuda, there shall be kept at the principal place of business of the partnership such records of account as will enable the financial position of the partnership, at the end of each three month period, to be ascertained with reasonable accuracy.

(4) Every partnership shall keep, for a period of five years from the date on which they were prepared, records of account referred to in subsection (1) and, if applicable, subsection (3).

(5) Any partner who knowingly contravenes, permits or authorizes the contravention of the—

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- (a) provisions of subsection (1), (2) or (3), shall be guilty of an offence and liable on conviction by a court of summary jurisdiction to a fine not exceeding five hundred dollars; or
- (b) provisions of subsection (4) shall be guilty of an offence and liable on conviction by a court of summary jurisdiction to a fine not exceeding seven thousand five hundred dollars.

(6) If any partner refuses to make available the records of account for inspection by another partner the Court may, on application by the second mentioned partner, order the partner so refusing to make the records of account available.

[Section 29A inserted by 2011 : 20 s. 3 effective 28 June 2011]

Duty of partner not to compete with firm

30 If a partner, without the consent of the other partners, carries on any business of the same nature as and competing with that of the firm, he must account for and pay over to the firm all profits made by him in that business.

Rights of assignee of share in partnership

31 (1) An assignment by any partner of his share in the partnership, either absolute or by way of mortgage or redeemable charge, does not, as against the other partners, entitle the assignee, during the continuance of the partnership, to interfere in the management or administration of the partnership business or affairs, or to require any accounts of the partnership transactions, or to inspect the partnership books, but entitles the assignee only to receive the share of profits to which the assigning partner would otherwise be entitled, and the assignee must accept the account of profits agreed to by the partners.

(2) In case of a dissolution of the partnership, whether as respects all the partners or as respects the assigning partner, the assignee is entitled to receive the share of the partnership assets to which the assigning partner is entitled as between himself and the other partners, and, for the purpose of ascertaining that share, to an account as from the date of the dissolution.

Dissolution by expiration of notice

32 Subject to an agreement between the partners, a partnership is dissolved—

- (a) if entered into for a fixed term, by the expiration of that term;
- (b) if entered into for a single adventure or undertaking, by the termination of that adventure or undertaking;
- (c) if entered into for an undefined time, by any partner giving notice to the other or others of his intention to dissolve the partnership.

In the last-mentioned case the partnership is dissolved as from the date mentioned in the notice as the date of dissolution or, if no date is so mentioned, as from the date of the communication of the notice.

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Dissolution by bankruptcy, death or charge

33 (1) Subject to any agreement between the partners, every partnership is dissolved as regards all the partners by the death or bankruptcy of any partner.

(1A) Notwithstanding subsection (1), where a partnership has legal personality and a partner dies, section 4D applies instead of subsection (1).

(2) A partnership may, at the option of the other partners, be dissolved if any partner suffers his share of the partnership property to be charged under this Act for his separate debt.

[Section 33 subsection (1A) inserted by 2006:19 s.6 effective 8 September 2006]

Dissolution by illegality of partnership

34 A partnership is in every case dissolved by the happening of any event which makes it unlawful for the business of the firm to be carried on or for the members of the firm to carry it on in partnership.

Dissolution by Supreme Court

35 On application by a partner the Supreme Court may decree a dissolution of the partnership in any of the following cases—

- (a) when a partner is found by the Supreme Court to be an insane person, or is shown to the satisfaction of the Supreme Court to be permanently of unsound mind, in either of which cases the application may be made as well on behalf of that partner by his committee or next friend or person having tide to intervene as by any other partner;
- (b) when a partner, other than the partner suing, becomes in any other way permanently incapable of performing his part of the partnership contract;
- (c) when a partner, other than the partner suing, has been guilty of such conduct as, in the opinion of the Supreme Court, regard being had to the nature of the business, is calculated prejudicially to affect the carrying on of the business;
- (d) when a partner, other than the partner suing, wilfully or persistently commits a breach of the partnership agreement, or otherwise so conducts himself in matters relating to the partnership business that it is not reasonably practicable for the other partner or partners to carry on the business in partnership with him;
- (e) when the business of the partnership can only be carried on at a loss;
- (f) whenever in any case circumstances have arisen which, in the opinion of the Supreme Court, render it just and equitable that the partnership should be dissolved.

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Rights of persons dealing with firm against apparent members of firm

36 (1) Where a person deals with a firm after a change in its constitution he is entitled to treat all apparent members of the the firm as it was constituted before the change as still being members of the firm until he has notice of the change.

(2) An advertisement in the Gazette shall be notice as to persons who had not dealings with the firm before the date of the dissolution or change so advertised.

(3) The estate of a partner who dies, or who becomes bankrupt, or of a partner who, not having been known to the person dealing with the firm to be a partner, retires from the firm, is not liable for partnership debts contracted after the date of the death, bankruptcy, or retirement respectively.

[Section 36 subsection (1) amended by 2006:19 s.7 effective 8 September 2006]

Rights of partners to notify dissolution

37 On the dissolution of a partnership or retirement of a partner any partner may publicly notify the same, and may require the other partner or partners to concur for that purpose in all necessary or proper acts, if any, which cannot be done without his or their concurrence.

Continuing authority of partners for purposes of winding up

38 After the dissolution of a partnership the authority of each partner to bind the firm, and the other rights and obligations of the partners, continue notwithstanding the dissolution so far as may be necessary to wind up the affairs of the partnership, and to complete transactions begun but unfinished at the time of the dissolution, but not otherwise:

Provided that the firm is in no case bound by the acts of a partner who has become bankrupt, but this proviso does not affect the liability of any person who has after the bankruptcy represented himself or knowingly suffered himself to be represented as a partner of the bankrupt.

Rights of partners as to application of partnership property on dissolution

39 On the dissolution of a partnership every partner is entitled, as against the other partners in the firm, and all persons claiming through them in respect of their interests as partners, to have the property of the partnership applied in payment of the debts and liabilities of the firm, and to have the surplus assets after such payment applied in payment of what may be due to the partners respectively after deducting what may be due from them as partners to the firm; and for that purpose any partner or his representatives may on the termination of the partnership apply to the Supreme Court to wind up the business and affairs of the firm.

Appropriation of premium where partnership prematurely dissolved

40 Where one partner has paid a premium to another on entering into a partnership for a fixed term, and the partnership is dissolved before the expiration of that term otherwise than by the death of a partner, the Supreme Court may order the repayment of the premium, or of such part thereof as it thinks just, having regard to the terms of the

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partnership contract and to the length of time during which the partnership has continued, unless—

- (a) the dissolution is, in the judgment of the Supreme Court, wholly or chiefly due to the misconduct of the partner who paid the premium; or
- (b) the partnership has been dissolved by an agreement containing no provision for a return of any part of the premium.

Right where partnership dissolved for fraud or misrepresentation

41 Where a partnership contract is rescinded on the ground of the fraud, or misrepresentation of one of the parties thereto, the party entitled to rescind is, without prejudice to any other right,—

- (a) entitled to a lien on, or right of retention of, the surplus of the partnership assets, after satisfying the partnership liabilities, for any sum of money paid by him for the purchase of a share in the partnership and for any capital contributed by him; and
- (b) entitled to stand in the place of the creditors of the firm for any payments made by him in respect of the partnership liabilities; and
- (c) entitled to be indemnified by the person guilty of the fraud or making the representation against all the debts and liabilities of the firm.

Right of partner's estate or outgoing partner in certain cases to share profits made after dissolution, death or ceasing to be a partner

42 Where any member of a firm has died or otherwise ceased to be a partner, and the surviving or continuing partners carry on the business of the firm with its capital or assets without any final settlement of accounts as between the firm and the outgoing partner or his estate, then, in the absence of any agreement to the contrary, the outgoing partner or his estate is entitled at the option of himself or his representative to such share of the profits made since the dissolution or, where the firm is a partnership that has legal personality, the date on which the partner died or otherwise ceased to be a partner, as the Supreme Court may find to be attributable to the use of his share of the partnership assets, or to interest at the rate of five per cent. per annum on the amount of his share of the partnership assets:

Provided that where by the partnership contract an option is given to surviving or continuing partners to purchase the interest of a deceased or outgoing partner, and that option is duly exercised, the estate of the deceased partner, or the outgoing partner or his estate as the case may be, is not entitled to any future or other share of profits; but if any partner assuming to act in exercise of the option does not in all material respects comply with the terms thereof, he is liable to account under the foregoing provisions of this section.

[Section 42 amended by 2006:19 s.8 effective 8 September 2006]

Retiring or deceased partner's share to be a debt

43 Subject to any agreement between the partners, the amount due from surviving or continuing partners to an outgoing partner or the representatives of a deceased partner in

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respect of the outgoing or deceased partner's share is a debt accruing at the date of the dissolution or death or, where the firm is a partnership that has legal personality, the date on which the deceased partner died or the outgoing partner ceased to be a partner.

[Section 43 amended by 2006:19 s.9 effective 8 September 2006]

Rules for distribution of assets on final settlement of accounts

44 In settling accounts between the partners after a dissolution of partnership, the following rules shall, subject to any agreement, be observed—

- (a) losses, including losses and deficiencies of capital, shall be paid first out of profits, next out of capital, and lastly, if necessary, by the partners individually in the proportion in which they were entitled to share profits;
- (b) the assets of the firm, including the sums, if any, contributed by the partners to make up losses or deficiencies of capital, shall be applied in the following manner and order—
 - (i) in paying the debts and liabilities of the firm to persons who are not partners therein;
 - (ii) in paying to each partner rateably what is due from the firm to him for advances as distinguished from capital;
 - (iii) in paying to each partner rateably what is due from the firm to him in respect of capital; and
 - (iv) the ultimate residue, if any, shall be divided among the partners in the proportion in which profits are divisible.

Keeping of records of account and beneficial ownership register after dissolution

44A (1) When a partnership has been dissolved, the partner or partners or such other person as may be appointed to wind up the affairs of the partnership (the "responsible person") shall—

- (a) keep the records of account of the partnership referred to in section 29A which are in existence at the date of dissolution of the partnership, for five years from the end of the period to which such records of account relate;
- (b) keep the beneficial ownership register referred to in section 4R which is in existence at the date of the dissolution of the partnership for five years from the date of the conclusion of the winding up of the affairs of the partnership;
- (c) keep the books and papers of the responsible person relating to the winding up of the affairs of the partnership for five years from the date of the conclusion of the winding up of the affairs of the partnership;
- (d) where applicable, keep the records specified in regulation 15 of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008 that are in existence at the date of the dissolution of the

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partnership in relation to the partnership for the period specified in regulation 15.

(2) Where a partnership has been dissolved, the partners at the date of the dissolution of the partnership shall ensure that the beneficial ownership register of the partnership referred to in section 4R of the Partnership Act 1902 that is in existence on that date shall be kept for a minimum of five years from the date of the dissolution of the partnership.

(3) In this section, “responsible person” means—

- (a) the partner or partners responsible for the winding up of the affairs of the partnership; or
- (b) such other person appointed to wind up the affairs of the partnership,

and, where the responsible person is a person referred to in paragraph (b), that person, for the purposes of paragraphs (a) to (d) of subsection (1), shall be required to keep, for the period specified in each of those paragraphs, the records of account, beneficial ownership register, books, papers and records that have been provided to him.

[Section 44A inserted by 2018 : 4 s. 4 effective 23 March 2018]

MISCELLANEOUS PROVISIONS

Definition of “business”

45 In this Act, unless the contrary intention appears, “business” includes every trade, occupation, or profession.

Saving for rules of equity and common law

46 The rules of equity and of common law applicable to partnership shall continue in force except so far as they are inconsistent with the express provisions of this Act.

Supreme Court may make rules or orders

47 (1) The Supreme Court shall have power to make such rules or orders as it may deem necessary for carrying into effect the provisions of this Act so far as they relate to the jurisdiction of the Supreme Court.

(2) Section 6 of the Statutory Instruments Act 1977 [*title 1 item 3*] shall not apply to rules made under this section.

Commencement

48 *[omitted]*

[Assent Date: 24 June 1902]

[this Act came into operation on 1 October 1902]

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Amended by

1952 11
1977 35
2006 19
2009 42
2011 20
2015 21
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