BRITISH VIRGIN ISLANDS

The Partnership Act, 1996

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An Act to declare and amend the law of partnership and to declare the law relating to limited partnerships.

ENACTED by the Legislature of the Virgin Islands as follows:

PART I - Short Title and Interpretation

Short title and commencement

1. This Act may be cited as the Partnership Act, 1996 and shall come into force on the date which the Governor may appoint by proclamation published in the *Gazette.*

Interpretation

2. In this Act, unless the contrary intention appears,

"articles" means the articles of partnership of a limited partnership formed under this Act;

"business" includes every trade, occupation or profession;

"court" means the High Court or a Judge thereof;

"firm" means the group of persons who have entered into partnership with one another;

"firm-name" means the name under which the business of a firm is carried on;

"general partner", in relation to a limited partnership, means a partner who is not a limited partner as defined herein;

"general partnership" means any partnership that is not a limited partnership;

“international limited partnership” means the limited partnership referred to in section 49 of this Act;

“limited partnership” means a partnership formed under Part VI of this Act referred to in section 47 of this Act;

“limited partner”, in relation to a limited partnership, means a partner who does not take part in the control of the partnership business and whose liability is limited subject to the provisions of this Act;

“local limited partnership” means the limited partnership referred to in section 48 of this Act;

“memorandum” means the memorandum of partnership of a limited partnership formed under this Act;

“Minister” means the Minister responsible for finance;

“partner” in relation to a limited partnership includes a limited partner and a general partner;

“person” includes a natural person, a partnership general or limited, domestic or foreign, a company, trust, estate, association, custodian, nominee or any other individual or entity in its own or any representative capacity;

“register” means the register referred to in section 54 of this Act;

"Registrar" means the Registrar of Limited Partnerships referred to in section 52 of this Act;

"substituted limited partner" means a person who, after becoming an assignee of part or all of the interest of a limited partner, is admitted to the limited partnership pursuant to the provisions of its articles or, if the articles are silent on the issue, is admitted with the unanimous consent of the partners.

PART II - Nature Of Partnership

Definition of partnership

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

(2) The relation between members of any company or association which is -

(a) registered as a company under the Companies Act or incorporated as a company under the International Business Companies Act; or

(b) formed or incorporated by or in pursuance of any other Act, letters patent or Royal Charter,

is not a partnership within the meaning of this Act.

Rules for determining existence of partnership

4 . In determining whether a partnership does or does not exist, regard shall be had to the following rules:

(a) all circumstances surrounding the contract are to be considered and the true intent of the parties is to be ascertained from their agreement, words and conduct;

(b) joint tenancy, tenancy in common, joint property, common property or part ownership does not of itself create a partnership as to anything so held or owned, whether the tenants or owners do or do not share any profits made by the use thereof;

(c) 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; and

(d) the receipt by a person of a share of the profits of a business is *prima facie* evidence that he is a partner in the business, but receipt of such a share, or of a payment contingent on or varying with the profits of a business, goes 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 installments 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 in writing with that person, signed by or on behalf of all the parties thereto, that the lender shall receive a rate of interest varying with 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; and

(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.

Postponement of rights of person lending or selling in consideration of share of profits in case of insolvency

5.(1) Where a person to whom money has been advanced by way of loan upon a contract as is mentioned in section 4(d)(iv) is adjudged bankrupt, enters into an arrangement to pay his creditors less than one hundred cents in the dollar or dies insolvent, the lender shall not be entitled to recover anything in respect of the loan until the claims of the borrower's other creditors for valuable consideration in money or money's worth have been satisfied.

(2) Where a person who, in consideration of a share of the profits of a business, has bought of its goodwill, is adjudged bankrupt, enters into an arrangement to pay his creditors less than one hundred cents in the dollar or dies insolvent, 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 buyer's other creditors for valuable consideration in money or money's worth are satisfied.

(3) Nothing in this section shall operate so as to prevent a secured creditor from retaining or realising his security.

Nature of partner's interest in partnership

6 . A partner's interest in a partnership within the meaning of this Act is personal property situate in the Territory.

PART III - Relations of Partners to Persons Dealing With Them

Power of partner to bind the firm

7 .(1) Every partner is an agent of the firm and his other partners for the purpose of the

business of the partnership.

(2) 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 of which he is a partner bind the firm and his partners, unless the partner so acting

(a) has in fact no authority to act for the firm in the particular matter; and

(b) 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 bound by acts on behalf of firm

8. An act or instrument relating to the business of the firm done or executed in the firm-name, or in any other manner showing an intention to bind the firm, by any person thereby authorised, whether a partner or not, is binding on the firm and all the partners except 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

9. 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 authorised by the other partners, but this section does not affect any personal liability incurred by an individual partner.

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

10. 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 for debts and obligations

11. 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 severally liable in the 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 the firm for wrongs

12. 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 the firm

13. In the following cases, namely -

(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 the 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 of partners for wrongs

14. Every partner is liable jointly and severally with his co-partners for everything for which the firm while he is a partner therein becomes liable under either section 12 or section 13.

Improper employment of trust property for partnership

15. If a partner, being a trustee of a trust which is not part of the business of the firm of which he is a partner, improperly employs the 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 except 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 traced and recovered from the firm if still in its possession or under its control.

Persons liable by "holding out"

16.(1) Everyone 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.

(2) Notwithstanding subsection (1) 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 as part thereof shall not of itself make his executors or administrators of his estate liable for any partnership debts contracted after his death.

Admissions and representations of partners

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

Notice to acting partner to be notice to the firm

18. 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

19.(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 members of the firm as newly constituted and the creditors, and this agreement may be either expressed or inferred as a fact from the course of dealing between the creditors and the firm as newly constituted.

Revocation of continuing guarantee by change in firm

20. A continuing guarantee 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 guarantee was given.

PART IV - Relations of Partners to One Another

Variation by consent of terms of partnership

21. 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.

Partnership property

22.(1) Subject to subsections (2) and (3) 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 shall be held and applied by the partners exclusively for the purposes of the partnership and in accordance with the partnership agreement.

(2) The legal estate or interest in any land which belongs to the partnership shall devolve according to 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.

(3) 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 first mentioned at the date of the purchase.

Property bought with partnership money

23. Unless the contrary intention appears, property bought with money belonging to the firm is deemed to have been bought on account of the firm.

Partnership property treated as personal or movable estate

24. Where land or any estate or interest therein 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 or movable and not real estate.

Procedure against partnership property for a partner's separate judgment debt.

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

(2) A court may, on the application by summons 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 -

(a) 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

(b) 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 the case of sale being directed, to purchase the same.

Rules as to interests and duties of partners subject to special agreement.

26. The interests 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 shall contribute equally towards the losses whether of capital or otherwise sustained by the firm;

(b) the firm shall 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 10 per centum 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; and

(i) the partnership books are to be kept at the place of business of the partnership, or the principal place of business, if there is more than one; and every partner may, when he thinks fit, have access to and inspect and copy any of them.

Expulsion of partner

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

Retirement from partnership at will

28.(1) Where no fixed term has been agreed upon for the duration of a 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 or other instrument in writing, a notice in writing, signed by the partner giving it, shall be sufficient for this purpose.

Continuance on old terms presumed.

29.(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 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, etc.

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

Accountability of partners for private profits

31.(1) Every partner shall account to the firm for any benefit derived by him without the consent of the other partners

(a) from any transaction concerning the partnership; or

(b) from any use by him of the partnership property, name or business connection.

(2) This section applies also 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 administrators of the deceased partner.

Duty of partner not to compete with firm

32. 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

33.(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

(a) interfere in the management or administration of the partnership business or affairs,

(b) require any accounts of the partnership transactions; or

(c) 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.

PART V- Dissolution of Partnership and its Consequences

Dissolution by expiration or notice

34. Subject to any 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; or

(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 which 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.

Dissolution by bankruptcy, death or charge

35.(1) Notwithstanding the provisions of section 21, every partnership is dissolved as regards all the partners by the death or bankruptcy of any partner unless all of the remaining partners vote within 90 days after the event giving rise to the dissolution to continue the partnership.

(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.

Dissolution by illegality

36. 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 the court

37.(1) On application by a partner the court may decree a dissolution of the partnership in any of the following cases -

(a) when a partner is shown to the satisfaction of the court to be permanently of unsound mind in an application made on behalf of that partner by his committee or next friend or person having title to intervene or any other partner;

(b) when a partner, other than the partner suing, becomes in any 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 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 court, render it just and equitable that the partnership be dissolved.

Rights of persons dealing with firm against apparent partners of firm

38.(1) Where a person deals with a firm after a change in its constitution he is entitled to treat all apparent partners of the old firm as still being partners of the firm until he has notice of the change.

(2) An advertisement in the *Gazette* shall be sufficient notice as to persons who had 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 such death, bankruptcy or retirement.

Right of partners to notify dissolution.

39. 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

40.(1) Subject to subsection (2), 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.

(2) The firm is in no case bound by the acts of a partner who has become bankrupt, but this exception 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

41.(1) Subject to subsection (2), 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,

(a) to have the property of the partnership applied in payment of the debts and

liabilities of the firm; and

(b) 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 partner to the firm,

and for that purpose any partner or his executors or administrators may on the termination of the partnership apply to the court to wind up the business and affairs of the firm.

(2) Where the dissolution of a partnership is caused by a wrongful act of a partner in contravention of the partnership agreement such partner shall be entitled only to the value of his interest in the partnership at the dissolution less any damages payable by him to the other partners for his breach of the partnership agreement.

Apportionment of premium where partnership prematurely dissolved

42. 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 court may order the repayment of the premium, or of such part thereof as it thinks just, having regard to the terms of the partnership contract and to the length of time during which the partnership has continued, unless

(a) the dissolution is, in the judgment of the 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.

Rights where partnership dissolved for fraud or misrepresentation.

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

(a) 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;

(b) 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) 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 outgoing partner in certain cases to share profits made after dissolution

44.(1) Where any partner 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 executors or administrators to such share of the profits made since the dissolution as the court may find to be attributable to the use of his share of the partnership assets, or to interest at such rate as may be determined by the court.

(2) Notwithstanding the provisions of subsection (1), 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 further 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 subsection (1).

Retiring or deceased partner's share to be a debt

45. Subject to any agreement between the partners, the amount due from surviving or continuing partners to an outgoing partner or the executors or administrators of a deceased partner in respect of the outgoing or deceased partner's share is a debt accruing at the date of the dissolution or death.

Rule for distribution of assets on final settlement of accounts

46. 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; and

(b) the assets of the firm including the sum, 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.

PART VI - Limited Partnerships

Limited partnerships

47.(1) A limited partnership is a partnership formed by two or more persons under this Part which has one or more general partners and one or more limited partners, and a limited partnership may be either a local limited partnership or an international limited partnership.

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

(3) Subject to sections 47 to 108, sections 1 to 46 shall apply to a limited partnership.

Local limited partnership

48. A local limited partnership may be established under this Act for any object or purpose not prohibited under this Act or any law for the time being in force in the Territory and subject to

(a) the conditions, limitations, restrictions and liabilities in its memorandum and articles; and

(b) subsection (1) of section 50.

International limited partnership

49. An international limited partnership may be established under this Act for any object or purpose not prohibited under this Act or under any law for the time being in force in the Territory and subject to

(a) the conditions, limitations, restrictions and liabilities in its memorandum and articles; and

(b) subsections (1) and (2) of section 50.

Restrictions on limited partnership

50. (1) A limited partnership shall not carry on

(a) banking business;

(b) trust business;

(c) the business of insurance, reinsurance, insurance agent, insurance adjuster or insurance broker or any other kind of insurance business; or

(d) the business of company management unless it is licensed or is exempt from being licensed under the Company Management Act.

(2) An international limited partnership shall not

(a) carry on business with persons resident in the Territory;

(b) own an interest in real property situate in the Territory other than a lease referred to in paragraph (e) of subsection (3).

(3) For the purposes of paragraph (a) of subsection (2), an international limited partnership shall not be treated as carrying on business with persons resident in the Territory by reason only that

(a) it transacts banking business in the Territory with or through a bank licensed under the Banks and Trust Companies Act;

(b) it makes or maintains professional contact with solicitors, barristers, accountants, bookkeepers, trust companies, administration companies, investment advisers or other similar persons carrying on business within the Territory;

(c) it prepares or maintains books and records within the Territory;

(d) it holds, within the Territory, meetings of its partners;

(e) it holds a lease of property for use as an office from which to communicate with partners or where books and records of the partnership

are prepared or maintained;

(f) it holds shares, debt obligations or other securities in a company incorporated under the International Business Companies Act; or

(g) any person resident in the Territory or any company registered under the Companies Act or incorporated under the International Business Companies Act is one of its partners.

(4) Notwithstanding anything to the contrary in this Act and in the Company Management Act, an international limited partnership

(a) may serve as a general partner of another international limited partnership;

(b) may hold, within the Territory, meetings of its partners, managers or advisers; and

(c) shall not be required to hold a licence under the provisions of the Company Management Act for the purposes mentioned in paragraphs (a) and (b).

Effect of failure to satisfy the requirements of section 50

51.(1) Where an international limited partnership is formed under this Act without having satisfied the requirements prescribed for an international limited partnership by section 49, or if having satisfied the requirements it subsequently ceases to satisfy the requirements for a continuous period of thirty days, the international limited partnership shall, upon the expiration of the period notify the Registrar of that fact.

(2) A general partner of an international limited partnership that contravenes subsection (1) commits an offence and shall be liable on summary conviction to a fine of $100 for each day or part thereof during which the contravention continues.

Registrar

52. The Registrar of Companies appointed under the Companies Act and any other officer so appointed who acts under the delegated authority of the Registrar pursuant to section 207(6) of the Companies Act shall be the Registrar of Limited Partnerships.

Procedure for forming a limited partnership

53.(1) Two or more persons desiring to form a limited partnership shall execute articles and shall submit them to the registered agent named in the articles and shall cause a memorandum to be submitted to the Registrar.

(2) The memorandum shall include

(a) the firm-name;

(b) the objects and purposes for which the partnership is established;

(c) the address of the registered office of the partnership in the Territory;

(d) the name and address of registered agent of the partnership in the Territory;

(e) the full name of each of the general partners and their respective addresses;

(f) the term, if any, for which the partnership is to exist;

(g) a statement that the partnership is limited;

(h) a statement that every partner not named as a general partner in the memorandum is a limited partner;

(i) in the case of an international limited partnership, a statement that the limited partnership may not carry on the activities set forth in subsections (1) and (2) of section 50 which statement shall set forth verbatim the activities described in that subsection; and

(j) such other information, if any, as the registered agent shall be instructed to include in the memorandum by the provisions of the articles.

(3) The memorandum shall be subscribed by the registered agent named in the memorandum in the presence of another person who shall sign his name as a witness

Establishment of register

54.(1) The Registrar shall establish and maintain in such form as he shall determine, a register of limited partnerships in which shall be registered each memorandum submitted pursuant to sections 53 and 57 and all certificates and advertisements required by this Act.

(2) The register shall be open, during office hours, to the inspection of all persons desiring to view the register.

(3) A certificate of the Registrar certifying that anything required by this Act to be registered

by him has been so registered shall be received in all courts and in all proceedings whatsoever as evidence of the matter to which the certificate relates.

Certificate of limited partnership

55.(1) Upon payment of the prescribed fee, the Registrar shall register each memorandum of partnership submitted pursuant to section 53 and shall issue a certificate of limited partnership under his hand and seal certifying that the partnership is formed in the Territory as a local limited partnership or an international limited partnership, as the case may be.

(2) Upon the issue by the Registrar of a certificate of limited partnership, the partnership is, from the date shown on the certificate of limited partnership, a limited partnership under the name contained in the memorandum.

(3) A certificate of limited partnership of a limited partnership formed under this Act issued by the Registrar is *prima facie* evidence of compliance with all requirements of this Act with respect to the formation of a limited partnership.

Effect of failure to register

56 . A limited partnership shall be registered as such in accordance with section 53 and in default thereof it shall be deemed to be a general partnership and every partner thereof shall be deemed to be a general partner.

Amendment of the memorandum and articles of partnership

57.(1) The memorandum and articles may be amended in such manner as may be set forth in the articles.

(2) Where a change is made or a change occurs in or with respect to any of the details set forth in the memorandum registered with the Registrar the limited partnership shall cause a supplementary memorandum to be submitted to the Registrar.

(3) The supplementary memorandum referred to in subsection (2) shall be subscribed by the registered agent named therein in the presence of another person who shall sign his name as a witness.

(4) The Registrar shall upon payment of the prescribed fee register in the register each supplementary memorandum submitted pursuant to this section and shall issue a certificate of amendment which shall set forth particulars of the amendment.

Contribution

58. The contribution of a limited partner may be cash, property or services.

Name

59.(1) The name of each limited partnership formed under this Act shall have at its end the words "Limited Partnership" or the abbreviation "L.P."

(2) The name of a limited partner shall not appear in the name of a limited partnership, unless

(a) it is also the name of a general partner; or

(b) prior to the time when the limited partner became a limited partner the business had been carried on under a name in which the name of the limited partner appeared.

(3) A limited partner whose name appears in the name of a limited partnership contrary to the provisions of subsection (2) is liable as a general partner to partnership creditors who extend credit to the partnership without actual knowledge that he is not a general partner.

(4) No limited partnership shall be formed under this Act under a name that

(a) is identical with that under which a limited partnership in existence under this Act is formed or a company is incorporated under the International Business Companies Act or registered under the Companies Act, the Limited Life Companies Act or the Business Names Registration Act or so nearly resembles the name as to be calculated to deceive, except where the partnership or company in existence gives its consent; or

(b) contains the words "Assurance", "Bank", "Chartered", "Cooperative", "Imperial", "Insurance", "Municipal", "Royal", "Trust", "Trustee" or a word or abbreviation conveying a similar meaning, or any other word or abbreviation that, in the opinion of the Registrar, suggests or is calculated to suggest

(i) the patronage of Her Majesty or that of a member of the Royal Family;

(ii) a connection with Her Majesty' s Government or a department thereof; or

(iii) a connection with a municipality or other local authority or

with a society or body incorporated by Royal Charter, except with the approval of the Registrar in writing.

(5) A limited partnership may amend its memorandum to change its name.

(6) If a limited partnership formed under a name that

(a) is identical with a name under which a limited partnership in existence under this Act is formed or under which a company in existence was incorporated under the International Business Companies Act or registered under the Companies Act, or

(b) so nearly resembles the name as to be calculated to deceive,

the Registrar may, without the consent of the limited partnership in existence, give notice to the last registered limited partnership to change its name and if it fails to do so within 60 days from the date of the notice, the Registrar shall amend the memorandum to change its name to such name as the Registrar deems appropriate, and the Registrar shall publish notice of the change in the *Gazette***.**

(7) Subject to subsections (4) and (6) where a limited partnership changes its name, the Registrar shall enter the new name on the register and, upon payment of the prescribed Fee, shall issue a certificate of amendment which shall set forth particulars of the amendment.

(8) A change of name does not affect any right or obligation of a limited partnership, or render defective any legal proceedings by or against a limited partnership, and all legal

proceedings that have been commenced against a limited partnership in its former name may be continued against it in its new name.

Reservation of name

60.(1) Subject to subsection (4) of section 59 the Registrar may upon the application of any person and upon payment of the prescribed fee, reserve for a period of ninety days a name for future adoption by a limited partnership under this Act.

(2) Once having reserved a name under subsection (1), the same applicant may, upon payment of the prescribed fee, again reserve the same name for successive ninety day periods.

(3) The right to the exclusive use of a reserved name may be transferred to any other person by paying the prescribed fee and by filing with the Registrar a notice of the transfer executed by the applicant for whom the name was reserved specifying the name to be transferred and the name and address of the transferee.

Liability for false statements in Memorandum.

61. If a memorandum contains a false statement, one who suffers loss by reliance on such statement may hold liable the general partners and the registered agent who made the statement and who knew or should have known the statement to be false

(a) at the time the registered agent signed the memorandum; or

(b) after the memorandum was signed, but within a sufficient time before the statement was relied upon to allow the filing of a supplementary memorandum with the necessary changes.

Liability of limited partner to third parties

62.(1) A limited partner is not liable for the obligations of a limited partnership unless he is also a general partner or, in addition to the exercise of his rights and powers as a limited partner, he participates in the control of the partnership business and, if the limited partner participates in the control of partnership business, he is liable only to persons who transact business with the limited partnership reasonably believing, based upon the limited partner's conduct, that the limited partner is a general partner.

(2) A limited partner shall not be deemed to participate in the control of the partnership business within the meaning of subsection (1) by virtue of his possessing or, regardless of whether or not the limited partner has the rights or powers, or exercising or attempting to exercise one or more of the following rights or powers having or, regardless of whether or not the limited partner has the rights or powers, acting or attempting to act in one or more of the following capacities:

(a) to be an independent contractor for or to transact business with, including being a contractor for, or to be an agent or employee of, the limited partnership or a general partner, or to be a limited partner of a partnership that is a general partner of the limited partnership, or to be a trustee, administrator, executor, custodian or other fiduciary or beneficiary of an estate or trust which is a general partner, or to be a trustee, officer, advisor, stockholder or beneficiary of a business trust which is a general partner or to be a member, manager agent or employee of a limited liability company which is a general partner;

(b) to consult with or advise a general partner with respect to any matter, including the business of the limited partnership;

(c) to act as surety, guarantor or endorser for the limited partnership or a general partner, to guarantee or assume one or more obligations of the limited partnership or a general partner, to borrow money from the limited partnership or a general partner, to lend money to the limited partnership or a general partner, or to provide collateral for the limited partnership or a general partner;

(d) to call, request, or attend or participate at a meeting of the partners or the limited partners;

(e) to wind up a limited partnership pursuant to this Act;

(f) to take any action required or permitted by law to bring, pursue or settle or otherwise terminate a derivative action in the right of the limited partnership;

(g) to serve on a committee of the limited partnership or the limited partners or to appoint, elect or otherwise participate in the choice of a representative or another person to serve on any such committee, and to act as a member of any such committee directly or by or through any such representative or other person;

(h) to act or cause the taking or refraining from the taking of any action, including by proposing, approving, consenting or disapproving by voting or otherwise, with respect to one or more of the following matters:

(i) the dissolution and winding up of the limited partnership or an election to continue the limited partnership or an election to continue the business of the limited partnership;

(ii) the sale, exchange, lease, mortgage, assignment, pledge or other transfer of, or granting of a security interest in, any asset or assets of the limited partnership;

(iii) the incurrence, renewal, refinancing or payment or other discharge of indebtedness by the limited partnership;

(iv) a change in the nature of the business;

(v) the admission, removal or retention of a general partner;

(vi) the admission, removal or retention of a limited partner;

(vii) a transaction or other matter involving an actual or potential conflict of interest;

(viii) an amendment to the memorandum or articles of partnership;

(ix) the merger or consolidation of a limited partnership;

(x) the making of or calling for or the making of other determinations in connection with contributions;

(xi) the indemnification of any partner or other person; or

(xii) such other matters as are stated in the memorandum of partnership or in any written agreement;

(i) to serve on the board of directors or a committee of, to consult with or advise, to be an officer, director, stockholder, partner (other than a general partner of a general partner of the limited partnership), member, manager, trustee, agent or employee of, or to be a fiduciary or contractor for, any person in which the limited partnership has an interest or any person providing management, consulting, advisory, custody or other services or products for, to or on behalf of, or otherwise having a business or other relationship with, the limited partnership or a general partner of the limited partnership; or

(j) any right or power granted or permitted to limited partners under this Act and not specifically enumerated in this subsection.

(3) The list of powers and capacities set forth in subsection (2) shall not be construed as exclusive or as indicating that any other powers possessed or exercised or any other capacities held or acted in by a limited partner shall be sufficient to cause the limited partner to be deemed to take part in the control of the partnership business within the meaning of subsection (1).

(4) This section does not create rights or powers of limited partners, such rights and powers may be created only by the memorandum and articles, a partnership agreement or any other agreement or in writing, or by other sections of this Act.

(5) A limited partner shall not be deemed to participate in the control of the partnership business within the meaning of subsection (1) by

(a) his possessing any one or more of the rights or powers set forth in subsection (2) regardless of the nature, extent, scope, or frequency of his possession of the rights or powers; or

(b) his exercising or attempting to exercise one or more of the rights or powers set forth in subsection (2) regardless of whether he possesses the rights or powers; or

(c) his holding or acting or attempting to act in one or more of the capacities set forth in subsection (2) regardless of whether he has the right or power to hold or act in those capacities.

Admission of additional limited partners

63. After the formation of a limited partnership, additional limited partners may be admitted upon making an amendment to the articles.

Rights, powers and liabilities of a general partner

64. A general partner shall have all the rights and powers and be subject to all the restrictions and liabilities of a partner in a partnership without limited partners, except that without the written

consent or ratification of the specific act by all the limited partners, a general partner or all the general partners have no authority to do any one or more of the following:

(a) do any act in contravention of the articles;

(b) do any act which would make it impossible to carry on the ordinary business of the partnership;

(c) enter a judgment against the partnership;

(d) possess partnership property, or assign their rights in specific partnership property, for other than a partnership purpose;

(e) admit a person as a general partner, unless the right so to do is given in the articles;

(f) admit a person as a limited partner, unless the right so to do is given in the articles; or

(g) continue the business with partnership property on the death, retirement, bankruptcy or incapacity of a general partner, unless the right so to do is given in the articles.

Rights of a Limited Partner

65.(1) A limited partner shall have the same rights as a general partner to

(a) inspect at all times and to copy any of the partnership books;

(b) receive on demand

(i) true and full information of all things affecting the partnership, and

(ii) a formal account of partnership affairs whenever circumstances render it just and reasonable; and

(c) subject to any limitation set forth in the articles apply to the court for an order that the partnership be dissolved and wound up.

(2) A limited partner shall have the right to receive a share of the profits or other compensation by way of income, and to the return of his contribution as provided in sections 71 and 78.

Status of person erroneously believing himself to be a limited partner

66. A person who has contributed to the capital of a business conducted by a person or partnership erroneously believing that he has become a limited partner in a limited partnership is not, by reason of his exercise of the rights of a limited partner, a general partner with the person or in the partnership carrying on the business or bound by the obligations of such person or partnership if on ascertaining the mistake he promptly renounces his interest in the profits of the business or other compensation by way of income.

One person both general and limited partner

67.(1) A person may be a general partner and a limited partner in the same partnership at the same time.

(2) A person who is a general partner, and also at the same time a limited partner, shall have

all the rights and powers and be subject to all the restrictions of a general partner, except that in respect to his contribution he shall have the rights against the other partners which he would have had if he were not also a general partner.

Loans and other business transactions with limited partner

68.(1) A limited partner may loan money to and transact other business with the partnership, and, unless he is also a general partner, receive on account of resulting claims against the partnership, with general creditors, a pro rata share of the assets.

(2) No limited partner shall in respect to any such claim

(a) receive or hold as collateral security any partnership property; or

(b) receive from a general partner or the partnership any payment, conveyance or release from liability, if at the time the assets of the partnership are not sufficient to discharge partnership liabilities to persons not claiming as general partners or limited partners.

(3) The receiving of collateral security, payment, conveyance or release in violation of subsection (2) is a fraud on the creditors of the partnership.

Relation of limited partners *inter se*

69.(1) Where there are several limited partners, the partners may agree that one or more of the limited partners shall have a priority over other limited partners as to

(a) the return of their contributions;

(b) their compensation by way of income; or

(c) any other matter.

(2) If such an agreement is made, it shall be stated in the articles, and in the absence of such a statement all the limited partners shall stand upon equal footing in proportion to their respective contributions actually made to the partnership.

Compensation of limited partner

70. A limited partner may receive from the partnership the share of the profits or the compensation by way of income stipulated in the articles, provided that after the payment is made, whether from the property of the partnership or that of a general partner, the partnership assets are in excess of all liabilities of the partnership except liabilities to limited partners on account of their contributions and to general partners.

Withdrawal or reduction of limited partner's contribution

71.(1) A limited partner shall not receive from a general partner or out of partnership property any part of his contribution until

(a) all liabilities of the partnership, except liabilities to general partners and to limited partners on account of their contributions, have been paid or there remains property of the partnership sufficient to pay them;

(b) the consent of all partners is given, unless the return of the contribution may be rightfully demanded under subsection (2); and

(c) the articles are amended as to set forth the withdrawal or reduction provided that no amendment is required where the withdrawal or reduction occurs in accordance with the articles.

(2) Subject to the provisions of subsection (1), a limited partner may rightfully demand the return of his contribution

(a) upon the dissolution of the partnership unless its business is continued pursuant to the exercise by other partners of a right or power set forth in the articles; or

(b) when the time specified in the articles for its return has arrived or the events set forth in the articles on the happening of which its return shall be made has occurred; or

(c) after he has given six months' notice in writing to all other partners if no time is specified in the articles either for the return of the contribution or for the dissolution of the partnership and no events are set forth in the articles on the happening of which the return of the contribution shall occur.

(3) In the absence of any statement in the articles to the contrary or the consent of all partners, a limited partner, irrespective of the nature of his contribution, has only the right to demand and receive cash in return for his contribution.

(4) A limited partner may have the partnership dissolved and its affairs wound up when

(a) he rightfully but unsuccessfully demands the return of his contribution; or

(b) the other liabilities of the partnership have not been paid or the partnership property is insufficient for their payment as required by paragraph (a) of subsection (1) and the limited partner would otherwise be entitled to the return of his contribution.

Liability of limited partner to partnership

72.(1) A limited partner is liable to the partnership

(a) for the difference between his contribution as actually made and that stated in the articles as having been made; and

(b) for any unpaid contribution which he agreed in the articles to make in the future at the time and on the conditions stated in the articles.

(2) A limited partner holds as trustee for the partnership

(a) specific property stated in the articles as contributed by him but which was not contributed or which has been wrongfully returned; and

(b) money or other property wrongfully paid or conveyed to him on account of his contribution.

(3) The liabilities of a limited partner as set forth in this section can be waived or compromised only by the consent of all partners, but a waiver or compromise shall not affect the right of a creditor of a partnership who extended credit or whose claim arose before an

amendment of the articles to enforce such liabilities.

(4) A limited partner who receives any part of his contribution in violation of subsection (1) of section 71 and who knew at the time of the receipt that the withdrawal or reduction of this contribution violated subsection (1) of section 71 shall be liable to the limited partnership for the amount of the withdrawal or reduction and a limited partner who receives any part of his contribution in violation of subsection (1) of section 71 and who did not know at the time of the receipt that the withdrawal or reduction violated subsection (1) of section 71 shall not be liable for the amount of the distribution.

(5) Subject to subsection (6), subsection (4) shall not affect any obligation or liability of a limited partner under a partnership agreement or other applicable law for the amount of the withdrawal or deduction received.

(6) Unless otherwise agreed, a limited partner who receives any part of his contribution from a limited partnership shall have no liability under this Act or other applicable law for the amount received after the expiration of three years from the date of receipt.

Assignment of limited partner's interest

73.(1) Unless otherwise provided in the articles, a limited partner's interest is assignable.

(2) The successor in interest of a limited partner who has died shall have all the rights of an assignee of that limited partner's interest until the successor in interest is admitted as a substituted limited partner,

Admission as a substituted limited partner

74. (1) An assignee has the right to become a substituted limited partner if

(a) all the partners, except the assignor, consent thereto;

(b) the assignor, being empowered by the articles gives the assignee that right; or

(c) the articles condition the admission of the assignee on the prior approval of one or more partners other than the assignor, and such approval is obtained.

(2) An assignee becomes a substituted limited partner upon the execution of the necessary amendment to the articles reflecting such admission or such later date as is set forth in the amendment, provided that where the assignor's identity is set forth in the memorandum such admission shall not become effective until the memorandum shall have been amended in accordance with section 57.

(3) A substituted limited partner has all the rights and powers which were possessed by the assignor and, subject to subsection (4), is subject to all the restrictions and liabilities to which the assignor was subject regardless of whether the substituted limited partner had knowledge of those restrictions and liabilities at the time he became a substituted limited partner and regardless of whether those restrictions and liabilities were ascertainable from the articles.

(4) The substitution of an assignee as a limited partner does not release the assignor from liability to the partnership under section 72.

(5) An assignee who does not become a substituted limited partner has no right to require any information or account of the partnership transactions or to inspect the partnership books but is only entitled to receive the share of the profits or other compensation by way of income, or the return of contribution to which the assignor would otherwise be entitled.

Effect of retirement, death, incapacity or bankruptcy of a general partner

75. The retirement, death, incapacity, or bankruptcy or insolvency of a general partner dissolves the partnership, unless the business is continued by the remaining general partners

(a) under a right so to do stated in the articles; or

(b) with the consent of all partners,

Death of limited partner

76.(1) On the death of a limited partner his executor or administrator shall have all the rights of a limited partner for the purpose of settling his estate and such power as the deceased had to constitute his assignee a substituted limited partner.

(2) The estate of a deceased limited partner shall be liable for all his liabilities as a limited partner.

Rights of creditors of limited partner

77.(1) On due application to a court of competent jurisdiction by any judgment creditor of a limited partner, the court may

(a) charge the partnership interest of the indebted limited partner with

payment of the unsatisfied amount of the judgment debt;

(b) appoint a receiver of the limited partner's interest in the partnership; and

(c) make all other orders, directions and inquiries which the circumstances of the case may require.

(2) The interest to be charged pursuant to paragraph (a) of subsection (1) may be redeemed with the separate property of any general partner but may not be redeemed with partnership property.

(3) The remedies conferred by subsection (1) shall not be deemed exclusive of others which may exist.

Distribution of assets

78.(1) In settling accounts after dissolution the liabilities of the partnership shall be entitled to payment in the following order:

(a) those to creditors, in the order of priority as provided by law, except those to limited partners on account of their contributions, and to general partners;

(b) except as otherwise provided in the articles -

(i) those to limited partners in respect of their share of the profits and other compensation by way of income on their contributions;

(ii) those to limited partners in respect of the capital of their

contributions;

(iii) those to general partners other than for capital and profits;

(iv) those to general partners in respect of profits; and

(v) those to general partners in respect of capital.

(2) Subject to any provision in the articles, limited partners share in the partnership assets in respect of their claims for capital, and in respect of their claims for profits or for compensation by way of income on their contributions, respectively, in proportion to the amounts of such claims.

Service of notice on partners

79.(1) Any notice, information or written statement required under this Act to be given by a limited partnership formed under this Act to partners must be served

(a) in the manner prescribed in the articles;

(b) in the absence of a provision in the articles, by personal service or by mail addressed to each partner at the address shown in the articles.

Service of process, etc., on limited partnership

80.(1) Any summons, notice, order, document, process, information or written statement to be served on a limited partnership formed under this Act may be served by leaving it, or by sending it by registered mail addressed to the limited partnership, at its registered office, or by leaving it with, or by sending it by registered mail to, the registered agent of the limited partnership.

(2) Service of any summons, notice, order, document, process, information or written statement to be served on a limited partnership formed under this Act may be proved by showing that the summons, notice, order, document, process, information or written statement

(a) was mailed in such time as to admit its being delivered in the normal course of delivery, within the period prescribed for service; and

(b) was correctly addressed and the postage was prepaid.

Books and records

81. A limited partnership formed under this Act shall keep such accounts and records as the partners consider necessary or desirable in order to reflect the financial position of the limited partnership.

Registered office

82. A limited partnership shall at all times have a registered office in the Territory which shall be maintained by the limited partnership or its registered agent.

Register of limited partnership interests

83.(1) Notwithstanding section 81, the general partners of a limited partnership shall maintain or cause to be maintained at the registered office of the limited partnership a register in which shall be recorded the name and address, amount and dates of contributions of each partner and the amount and date of any payment representing a return of any part of any partner's contribution.

(2) The register referred to in subsection (1) shall

(a) be updated within 21 business days of any change in the particulars

required to be entered therein; and

(b) constitute *prima face* evidence of the matters which by subsection (1) are directed to be entered therein.

Registered agent

84.(1) A limited partnership shall at all times have a registered agent in the Territory.

(2) No person shall be a registered agent of a limited partnership unless he is so registered pursuant to the Company Management Act, 1990 or under the Banks and Trust Companies Act except that the registered agent of a local limited partnership may be one of its general partners.

Penalty for contravention of Sections 82, 83 and 84.

85. A general partner of a limited partnership that wilfully contravenes section 82, 83 or 84(1) commits an offence and is liable on summary conviction to a penalty of $100.00, and is liable to the same penalty for each day or part thereof during which the contravention continues.

Registered agent desiring to resign

86.(1) Where the registered agent of a limited partnership desires to cease to act as registered agent and is unable to reach an agreement with the limited partnership for which he is registered agent concerning his replacement, the following provisions apply:

(a) the registered agent shall give not less than ninety days written notice to any partner of the limited partnership of which he is the registered agent at the partner's last known address specifying his wish to resign as registered agent;

(b) the registered agent shall submit to the Registrar a copy of the notice;

(c) if, at the time of expiry of the notice, the limited partnership has not caused to be registered a supplementary memorandum to change its registered agent, the registered agent shall inform the Registrar in writing that the limited partnership has not changed its registered agent whereupon the Registrar shall publish a notice in the *Gazette* that the name of the limited partnership will be struck off the register, unless within thirty days from the date of the publication of the notice in the *Gazette*, there is registered with the Registrar a supplementary memorandum to change its registered agent; and

(d) if within thirty days from the date of the publication of the notice referred to in paragraph (c) there has not been registered with the Registrar a supplementary memorandum to change the registered agent, the Registrar shall strike the name of the limited partnership off the register and shall publish in the *Gazette* a notice that the name of the limited partnership has been struck off.

(2) Where the licence of a registered agent under the Company Management Act or the Banks and Trust Companies Act has been revoked has not been renewed or has expired due to the death of the registered agent,

(a) the Inspector of Company Managers or the Inspector of Banks and Trust

Companies, as the case may be, shall notify the Registrar forthwith; and

(b) the Registrar shall forthwith send a notice, by registered mail to any partner of the limited partnership whose registered agent's licence has been revoked, has not been renewed or has expired by reason of the death of the registered agent, specifying that unless within ninety days of the date of the notice there is filed with him a supplementary memorandum to change its registered agent, the name of the limited partnership shall be struck off the register; and

(c) if, at the expiry of the ninety days specified in paragraph (b) there shall not have been filed a supplementary memorandum to change its registered agent, the Registrar shall strike the name of the limited partnership off the register and shall publish a notice in the *Gazette* to that effect.

(3) A limited partnership that has been struck off the register under this section remains liable for all claims, debts, liabilities and obligations of the limited partnership, and the striking-off does not affect the liability of any of its partners.

Licence Fees.

87. A limited partnership the name of which is on the register shall pay to the Registrar the annual licence fee prescribed in Part I of the Schedule and, in default of payment of the fee, it is liable to the penalties prescribed therein.

Limited partnership struck off liable for fees, etc.

88. A limited partnership formed under this Act continues to be liable for all fees, licence fees

and penalties payable under this Act notwithstanding that the name of the limited partnership has been struck off the Register and all those fees, licence fees and penalties have priority to all other claims against the assets of the limited partnership.

Fees

89.(1) There shall be paid to the Registrar the fees specified in Part II of the Schedule.

(2) Parts I and II of the Schedule may be amended by the Governor in Council by Order published in the *Gazette*.

Recovery of penalties

90. Any fee payable under this Act which remains unpaid for thirty days following the date on which demand for payment is made by the Registrar is recoverable before a magistrate in civil proceedings by the Registrar as a debt due.

Fees, etc. to be paid into Consolidated Fund

91. All fees, licence fees and penalties paid to the Registrar under this Act shall be paid by the Registrar into the Consolidated Fund.

Fees payable to Registrar

92. The Registrar may refuse to take any action required of him under this Act for which a fee is prescribed until all requisite fees have been paid.

Exemptions from tax, etc.

93 .(1) Notwithstanding any provision of the Income Tax Ordinance,

(a) an international limited partnership formed under this Act,

(b) all payments made by an international limited partnership to persons who are not resident in the Territory, and

(c) capital gains realized with respect to any interest in an international limited partnership by persons who are not resident in the Territory,

are exempt from all provisions of the Income Tax Ordinance.

(2) No estate, inheritance, succession or gift tax, rate, duty, levy or other charge is payable by persons who are not resident in the Territory with respect to any interest in an international limited partnership.

(3) Notwithstanding any provision of the Stamp Act,

(a) all instruments relating to transfers of property to or by an international limited partnership,

(b) all instruments relating to transactions in respect of the interests of an international limited partnership, and

(c) all instruments relating to other transactions relating to the business of an international limited partnership,

are exempt from the payment of stamp duty.

Regulations

94. The Governor in Council may make Regulations

(a) with respect to the duties to be performed by the Registrar under this Act;

(b) prescribing the place where the office for the registration of limited partnerships is located;

(c) providing for the conduct and regulation of the registration of limited partnerships under this Act;

(d) prescribing the fees to be paid in respect of matters arising under or provided for or authorised by this Act;

(e) prescribing the forms to be used in respect of matters arising under or provided for or authorised by this Act;

(f) with respect to the conduct, duties and responsibilities of registered agents; and

(g) providing for the restoration of a limited partnership, the name of which has been struck off the register, to the register and the fees applicable thereto;

(h) providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for its due administration.

Form of Certificate

95 . Any certificate or other document required to be issued by the Registrar under this Act shall be in such form as the Governor in Council may approve.

Certificate of good standing

96.(1) The Registrar shall, upon request by any person, and payment of the prescribed fee, issue a certificate of good standing under his hand and seal certifying that a limited partnership formed under this Act is of good standing if the Registrar is satisfied that

(a) the name of the limited partnership is on the register; and

(b) the limited partnership has paid all fees, licence fees and penalties due and payable.

(2) The Registrar shall state on the certificate of good standing issued under subsection (1) whether any proceedings to strike the name of the limited partnership off the register have been instituted.

(3) The certificate of good standing is *prima facie* evidence of the matters contained

therein.

Inspection and copies of documents

97.(1) Any person may, on payment of the prescribed fee,

(a) inspect the documents kept by the Registrar pursuant to this Act; and

(b) require that the Registrar issue

(i) a certified copy of the certificate of limited partnership of a limited partnership; or

(ii) a certified copy of or extract from any document filed with the Registrar pursuant to this Act.

(2) A certificate of limited partnership or extract from any document filed with the Registrar pursuant to this Act if certified as a true copy under the hand and official seal of the Registrar shall in all legal proceedings, civil or criminal, and in all cases whatsoever, be receivable in evidence in proof of the matters which it states.

Appointment and duties of inspector

98.(1) The Minister, on the application of a limited partnership or of the partners together holding not less than a one fourth interest therein, may appoint one or more inspectors to investigate the affairs of a limited partnership and to report thereon in such manner as the Minister may direct.

(2) The application referred to in subsection (1) shall be supported by such evidence as the Minister may require for the purpose of showing that the applicant has good reason for requiring the investigation, and the expenses of and incidental to such investigation shall be defrayed by the limited partnership unless the Minister otherwise directs.

(3) A partner or a registered agent of a limited partnership shall produce to an inspector such books or documents as the inspector may require for the purposes of his investigation.

(4) A partner or a registered agent of a limited partnership who, in the course of an investigation of the affairs of the limited partnership

(a) refuses to produce any book or document required by the inspector to be produced, or

(b) refuses to answer any question relating to the affairs of the limited partnership,

commits an offence and shall be liable on summary conviction to a fine of five thousand dollars.

(5) An inspector may take evidence upon oath in investigating the affairs of a limited partnership and for that purpose may administer an oath.

(6) An investigation under this section shall be held in private unless the limited partnership requests that it be held in public.

(7) An inspector investigating the affairs of a limited partnership may from time to time report to the Minister and shall, on completion of the investigation submit a written report to the Minister.

(8) The Minister may, if he thinks fit,

(a) forward a copy of the report to the registered office of the limited partnership;

(b) furnish a copy or request and upon payment of the prescribed fee to

(i) any partner of the limited partnership;

(ii) any person whose conduct is referred to in the report;

(iii) any other person whose financial interests appear to the Minister to be affected by the matters dealt with in the report;

(c) cause the report to be printed and published.

(9) If the Minister, after examining a report considers that a limited partnership, a partner, the registered agent or any officer, agent or employee of the limited partnership

(a) has knowingly and wilfully done anything in contravention of this Act, the Minister may petition the Court for the dissolution of the limited partnership; or

(b) is carrying on its affairs in a manner that is detrimental to its creditors or the public interest, the Minister may require the limited partnership to take such measures as he considers necessary in relation to its affairs.

(10) A copy of the petition referred to in subsection (9) shall be served on the limited partnership at least seven clear days before the day set by the Court for the hearing thereof.

(11) If the Court, on the hearing of the petition referred to in subsection (9) is satisfied that the limited partnership, or any officer, agent or employee of the limited partnership has done anything in contravention of the provisions of this Act, the Court may

(a) make an order for the dissolution of the limited partnership;

(b) impose a fine not exceeding five thousand dollars on the limited partnership;

(c) impose a like fine on any partner or resident agent or any officer, agent or employee of the limited partnership who knowingly and wilfully authorised or submitted the contravention; or

(d) make an order under paragraph (a) and impose a fine under paragraph (b) and (c).

(12) Any proceedings in connection with the holding of an investigation by an inspector in pursuance of the provisions of this section shall, for the purposes of the Perjury Act be deemed to be an enquiry held before a commissioner.

Minister's power to require production of documents

99.(1) The Minister may, at any time, if he thinks there is good reason to do so, require a limited partnership, a partner or the registered agent of a limited partnership to produce at the time and place as may be specified in the directions, to the officer of the Minister specified in the directions, the books and documents as may be so specified.

(2) The Minister or the officer of the Minister specified in the directions referred to in subsection (1) may take copies of any books and papers produced and require any past or present, partner, registered agent, officer or agent of a limited partnership to provide an explanation of any of them or make a statement in relation to any of them.

(3) A partner, registered agent, officer or agent of a limited partnership who refuses to produce books or papers as required under subsection (1) commits an offence and shall be liable on summary conviction to a fine of five thousand dollars.

(4) A past or present partner, registered agent, officer or agent of a limited partnership who refuses to provide an explanation or make a statement as required by subsection (2) commits an offence and shall be liable on summary conviction to a fine of five thousand dollars.

(5) If the requirement to produce books or papers is not complied with, a magistrate may, if satisfied on information on oath laid under the authority of the Minister that there are reasonable grounds for suspecting that there are any books or papers of which production has been required under subsection (1), issue a warrant authorising any member of the Royal Virgin Islands Police Force together with any other persons named in the warrant to enter the premises specified in the warrant, using such force as is reasonably necessary for the purpose, and to search the premises and take possession of any books or papers appearing to be the books or papers, the production of which have been required under subsection (1) and to take any other steps which may appear necessary for preserving them or preventing interference with them.

(6) A warrant issued under subsection (5) continues in force until the end of one month after the date on which it is issued.

(7) A person who

(a) obstructs the exercise of a right of entry or search conferred by a warrant issued under this section, or

(b) obstructs the exercise of a right conferred by a warrant issued under this section to take possession of any books or papers,

commits an offence and shall be liable on summary conviction to a fine of five thousand dollars.

(8) Any books or papers of which possession is taken under this section may be retained for a period not exceeding three months unless within that period there are commenced criminal proceedings to which the books or papers are relevant, in which case, they may be retained until the conclusion of those proceedings.

Privileged information

100. Nothing in sections 98 and 99

(a) compels the production by any person of any book or document which he would, in an action in the High Court, be entitled to refuse to produce on grounds of legal professional privilege;

(b) authorises the taking of possession of any such book or document which is in the person's possession; or

(c) requires the disclosure by any person to the Minister or to an inspector appointed by the Minister of information which in an action in the High Court that person would be entitled to refuse to disclose on grounds of legal professional privilege except, if he is a lawyer, the name and address of his client.

Provision for security of information obtained

101.(1) Subject to subsections (2) and (3), no information or document which has been obtained under section 97 and which relates to any person shall, without the previous consent in writing of that person, be published or disclosed unless the publication or disclosure is required

(a) with a view to the institution of or otherwise for the purpose of criminal proceedings;

(b) for the purpose of the examination of any person by inspectors appointed under section 98 in the course of their investigation;

(c) for the purposes of proceedings under subsections (3), (4) and (7) of section 99;

(d) for the purpose of enabling or assisting an official receiver to discharge his functions under enactments relating to insolvency or for the purpose of enabling or assisting a body which is for the time being a recognised professional body for the purposes of any insolvency enactment to discharge its functions as such;

(e) with a view to the institution of, or otherwise for the purpose of, any disciplinary proceedings relating to the exercise by a lawyer, auditor, accountant, valuer or actuary of his professional duties; or

(f) for the purpose of enabling or assisting an authority in a country or territory outside the Territory to exercise functions corresponding to those

of the Inspector of Banks and Trust Companies, the Inspector of Company Managers, the Insurance Supervisor appointed respectively under the provisions of the Banks and Trust Companies Act, the Company Management Act and the Insurance Act or any Act amending or substituted for those Acts.

(2) Any information or document obtained under section 99 may without the consent of the person to whom it relates, be published or disclosed to

(a) the Minister;

(b) an inspector appointed by the Minister under section 100;

(c) the Attorney General;

(d) the Inspector of Banks and Trust Companies;

(e) the Inspector of Company Managers;

(f) the Insurance Supervisor;

(g) any authority designated for the purpose under subsection (3).

(3) The Minister may by order published in the *Gazette* designate any public or other authority to be an authority to which information obtained under section 99 may be published or disclosed subject to such conditions and restrictions as he may deem appropriate and such order shall be subject to annulment pursuant to a resolution of the Legislative Council.

(4) The Minister may, if he thinks fit, disclose any information obtained under sections 98 and 99 to the persons listed at paragraphs (b) to (g) of subsection (2) in any circumstances in which or for any purpose for which the preceding subsections of this section do not preclude disclosure.

Powers of general partners in the event of dissolution

102. Subject to sections 35 (1) and 108, in the event of a dissolution under this Act the general partners may only

(a) authorise a liquidator, who shall not be a body corporate, to carry on the business of the limited partnership if the liquidator determines that to do so would be necessary or in the best interests of the limited partnership or its creditors; and

(b) determine to rescind the articles of dissolution as permitted under section 106.

Duties of liquidator

103. (1) A liquidator shall, upon his appointment by a limited partnership and upon

the commencement of a winding-up proceed

(a) to identify all assets of the limited partnership;

(b) to identify all creditors of and claimants against the limited partnership;

(c) to pay or provide for the payment of, or to discharge, all claims, debts, liabilities and obligations of the limited partnership;

(d) to distribute any surplus assets of the limited partnership to the partners in accordance with the actions and transactions of the liquidator;

(e) to prepare or cause to be prepared a statement of account in respect of the actions and transactions of the liquidator; and

(f) to send a copy of the statement of account to all partners if so required by the plan of dissolution required by section 105.

Powers of liquidator

104. In order to perform the duties imposed on him under section 105, a liquidator has all powers of the general partners including, but not limited to, the power

(a) to take custody of the assets of the limited partnership and in connection therewith, to register any property of the limited partnership in the name of the liquidator or that of his nominee;

(b) to sell any assets of the limited partnership at public auction or by private sale without any notice;

(c) to collect the debts and assets due or belonging to the limited partnership;

(d) to borrow money from any person for any purpose that will facilitate the winding-up and dissolution of the limited partnership and to pledge or mortgage any property of the limited partnership as security for any such borrowing;

(e) to negotiate, compromise and settle any claim, debt, liability or obligation of the limited partnership;

(f) to prosecute and defend, in the name of the limited partnership or in the name of the liquidator or otherwise, any action or other legal proceedings;

(g) to retain solicitors, accountants and other advisers and appoint agents;

(h) to carry on the business of the limited partnership, if the liquidator has received authorisation to do so in the plan of liquidation or by the general partners as permitted under section 102, as the liquidator may determine to be necessary or to be in the best interests of the creditors or the partners;

(i) to execute any contract, agreement or other instrument in the name of the limited partnership or in the name of the liquidator; and

(j) to make any distribution in money or in other property or partly in each, and if in other property, to allot the property, or an undivided interest therein, in equal or unequal proportions.

(2) Notwithstanding paragraph (h) of subsection (1), a liquidator shall not, without the permission of the court, carry on for a period in excess of 2 years the business of a limited partnership that is being wound up and dissolved under this Act.

Procedure on winding-up and dissolution

105.(1) The general partners of a limited partnership required or proposing under this Act to

wind up and dissolve shall approve a plan of dissolution containing

(a) a statement of the reason for the winding-up and dissolution;

(b) a statement that the limited partnership is, and will continue to be, able to discharge or pay or provide for the payment of all claims, debts, liabilities and obligations in full;

(c) a statement that the winding up will commence on the date when articles of dissolution are submitted to the Registrar or on such date subsequent thereto, not exceeding thirty days, as is stated in the articles of dissolution;

(d) a statement of the estimated time required to wind up and dissolve the limited partnership;

(e) a statement as to whether the liquidator is authorised to carry on the business of the limited partnership if the liquidator determines that to do so would be necessary or in the best interests of the limited partnership or creditors;

(f) a statement of the name and address of each person to be appointed a liquidator and the remuneration proposed to be paid to each liquidator; and

(g) a statement as to whether the liquidator is required to send to all partners a statement of account prepared or caused to be prepared by the liquidator in respect of his actions or transactions.

(2) After approval of the plan of dissolution, articles of dissolution shall be executed by the limited partnership and shall contain

(a) the plan of dissolution; and

(b) the manner in which the plan of dissolution was authorised.

(3) The general partners of a limited partnership shall submit articles of dissolution to the Registrar who shall retain and register them and within thirty days immediately following the date on which the articles of dissolution are submitted to the Registrar, the general partners of the limited partnership shall cause to be published, in the *Gazette*, and in a publication of general circulation in the Territory, a notice stating

(a) that the limited partnership is in dissolution;

(b) the date of commencement of the dissolution; and

(c) the names and addresses of the liquidators.

(4) A winding-up and dissolution commences on the date the articles of dissolution are registered by the Registrar or on such date subsequent thereto, not exceeding thirty days, as is stated in the articles of dissolution.

(5) A liquidator shall, upon completion of a winding-up and dissolution, submit to the Registrar a statement that the winding-up and dissolution has been completed in accordance with this Act and upon receiving the notice, the Registrar shall

(a) strike the limited partnership off the register; and

(b) issue a certificate of dissolution under his hand and seal certifying that the limited partnership has been dissolved.

(6) Where the Registrar issues a certificate of dissolution under his hand and seal certifying that the limited partnership has been dissolved,

(a) the certificate is *prima facie* evidence of compliance with all requirements of this Act in respect of dissolution; and

(b) the dissolution of the limited partnership is effective from the date of issue of the certificate.

(7) Immediately following the issue by the Registrar of a certificate of dissolution under subsection (5), the liquidator shall cause to be published, in the Gazette, and in a publication of general circulation in the Territory, a notice that the limited partnership has been dissolved and has been struck off the register.

(8) A general partner of a limited partnership that contravenes subsection (3) commits an offence and shall be liable on summary conviction to a penalty of $100.00 and shall be liable to the same penalty for each day or part thereof during which the contravention continues.

Rescission of dissolution

106.(1) A limited partnership may, prior to submitting to the Registrar the articles of dissolution specified in subsection (3) of section 105, rescind the articles of dissolution by notice in writing to the Registrar.

(2) A copy of the notice referred to in subsection (1) shall be submitted to the Registrar who shall retain and register it in the register.

(3) Within 30 days immediately following the date on which the notice referred to in subsection (1) has been submitted to the Registrar, the limited partnership shall cause a notice stating that the limited partnership has rescinded its intention to wind up and dissolve to be published in the *Gazette*, and in a publication of general circulation in the Territory.

Winding-up and dissolution of limited partnership unable to pay claims, etc.

107. (1) Where, in the event of a dissolution other than a dissolution by the Court,

(a) the general partners of a limited partnership have reason to believe that the limited partnership will not be able to pay or provide for the payment of or discharge all claims, debts, liabilities and obligations of the limited partnership in full, or

(b) the liquidator after his appointment has reason so to believe,

then, the general partners or the liquidator, as the case may be, shall immediately give notice of the fact to the Registrar.

(2) Where notice has been given to the Registrar under subsection (1) , all winding-up and dissolution proceedings after the notice has been given shall be in accordance with the provisions of the Companies Act relating to winding-up and dissolution and those provisions shall apply *mutatis mutandis* to the winding-up and dissolution of the limited partnership.

Winding-up where dissolution ordered by the court

108. Where dissolution of a limited partnership is ordered by the Court under section 37, the Court may make such orders and give such directions for the winding-up of the limited partnership as it deems just and equitable in the circumstances.

PART VII - Miscellaneous.

Declaration by the court

109.(1) A general partner of a limited partnership formed under this Act may, without the necessity of joining any other party, apply to the Court, by summons supported by any affidavit, for a declaration on any question of interpretation of this Act or of the memorandum or the articles of a limited partnership.

(2) A person acting in accordance with a declaration made by the court as a result of an application under subsection (1) shall be deemed, in so far as regards the discharge of any fiduciary or professional duty, to have properly discharged his duties in the subject matter of the application.

Application of Part VIII of Cap. 291

110. Part VIII of the International Business Companies Act applies, *mutatis mutandis*, to this Act.

Judge in Chambers

111. A judge of the High Court may exercise in Chambers any jurisdiction that is vested in the court by this Act and in exercise of that jurisdiction, may award such costs as may be just.

Time for prosecution

112. A prosecution for an offence under this Act or any Regulations made thereunder may be commenced within five years from the date of the commission of the offence but not thereafter.

General penalty

113. Any person who contravenes any provision of this Act or any Regulation made thereunder commits an offence, and, unless otherwise provided in the Act or the Regulations, is liable on summary conviction to a fine of $5,000.00.

Repeals

114.(1) The Partnership Act, 1888 is repealed.

(2) Section 3 of the Companies Act is repealed.

SCHEDULE

(Section 87)

PART I - Licence Fees

(a) A limited partnership the name of which is on the Register on the 31st December in a year shall, before 30th April of the following year, pay to the Registrar an annual licence fee of $500.

(b) If a limited partnership fails to pay the annual licence fee under paragraph (a) by the date specified therein, the licence fee increases by 10 percent of that amount.

(c) If a limited partnership fails to pay the amount due as an increased licence fee under paragraph (b) by 31st July, then the licence fee increases by 25 percent of the licence fee specified in paragraph (a).

(d) If a limited partnership fails to pay the amount due as an increased licence fee under paragraph (c) by 31st October, then the licence fee increases by 50 percent of the licence fee specified in paragraph (a).

PART II

(Section 89(1))

There shall be paid to the Registrar fees as follows:

(a) $500 for the registration of the memorandum of a limited partnership;

(b) for the registration of an amendment to the memorandum of a limited partnership,

(i) $25 if the registration is within 30 days immediately following the amendment of the Articles;

(ii) $50 if the registration is within 60 days immediately following the amendment of the Articles;

(iii) $75 if the registration is within 90 days immediately following the amendment of the Articles; and

(iv) $100 if the registration is later than 90 days following the amendment of the Articles;

(c) $25 for the issue of a certificate of limited partnership or good standing, other than at the time of the registration of a limited partnership;

(d) $25 for the issue of a copy or extract of a document or a part of a document;

(e) $10 for the inspection of the documents kept by the Registrar pursuant to this Act;

(f) $25 for the reservation of a name as provided for in section 60;

(g) $10 for an inspection of each entry in the Register of Limited Partnerships;

(h) $25 to conduct a search of a file kept by the Registrar; and

(i) $15 for any other service provided by the Registrar for which no fee is prescribed.