

GUIDE TO LIMITED PARTNERSHIPS IN SEYCHELLES

CONTENTS

PREFACE	1
1. Introduction	2
2. The Limited and General Partner	2
3. Constitution of a Limited Partnership	3
4. Return of Contribution and Other Sums Due	5
5. Liabilities of a Limited Partner	6
6. Assignment of Interest by a Limited Partner	6
7. Person being both Limited Partner and General Partner	6
8. Death of a Limited Partner	6
9. Admission of New Partners	6
10. Books and Records	6
11. Inspection of Public Documents	7
12. Tax Advantages for Limited Partnerships	7
13. Conclusion	7

PREFACE

This Guide is concerned exclusively with limited partnerships formed under the Seychelles' Limited Partnerships Act, 2003 (the **Act**). No reference has, therefore, been made in this guide to those partnerships established by the Seychellois for the purpose of carrying on business and trading within the Seychelles under the Seychelles Commercial Code Act. A limited partnership may be formed under the Act for any lawful purpose, provided that a limited partnership shall not carry out business in the Seychelles except so far as may be necessary for the carrying on of the business of that limited partnership outside the Seychelles.

We recognise that this Guide will not completely answer detailed questions which clients and their advisers may have; it is not intended to be comprehensive. If any such questions arise in relation to the contents, they may be addressed to any member of the team, using the [contact information](#) provided at the end of this Guide.

Appleby

Seychelles

August 2014

1. INTRODUCTION

A partnership refers to a relationship between two or more persons carrying on business in common with a view to making a profit. Whereas a company is treated by the law as a person distinct from its shareholders, with the liability of shareholders being limited to the amount they have agreed to pay for their shares, in a “traditional” partnership the partnership is not treated as a person separate from its partners, meaning each partner is personally liable for any partnership debts that cannot be paid out of partnership assets. As partners are personally exposed to partnership debts in a traditional partnership structure, there has been a recent shift away from traditional partnerships towards alternative commercial vehicles. This shift has been particularly strong in professional services firms (e.g. in the fields of law, accounting and tax). Incorporation has been a popular alternative to the traditional partnership, however many entities are choosing to maintain the partnership structure but change to a limited partnership.

This Guide focuses exclusively on limited partnerships formed under the Act, whose area of activity is limited to carrying out business outside the Seychelles except so far as may be necessary for the carrying on of the business of those limited partnerships outside the Seychelles. Such limited partnerships, under Seychelles law, benefits from substantial statutory tax advantages including the ability to receive income from sources outside Seychelles and distribute such income to foreign partners without incurring a Seychelles tax liability. A Seychelles limited partnership is highly-suitable for international joint venture activities.

A limited partnership shall consist of one or more persons called general partners who shall, in the event that the assets of the limited partnership are inadequate, be liable for all the debts and obligations of the limited partnership and one or more persons called limited partners who shall not be liable for the debts or obligations of the limited partnership, save as may be provided in the partnership agreement and to the extent specified in the Act. Provided that a general partner, without derogation from his position as such, may also take, in such limited partnership, an interest as a limited partner (§4(2)).

2. THE LIMITED AND GENERAL PARTNER

2.1 The Limited Partner

In general terms, a limited partner contributes to the capital of the business but is not liable for the debts and obligations of the limited partnership (unless that person is also a general partner) and does not generally take part in the conduct and control of the limited partnership's business.

In that respect, the Act sets out a specified list of the kinds of action a limited partner may perform which shall not constitute taking part in the conduct of the limited partnership's business namely in virtue of the limited partner (§7(5)):

- being a contractor or an agent or employee of the limited partnership or of a general partner or acting as a director, officer or shareholder of a corporate general partner;
- consulting with and advising a general partner with respect to the business of the limited partnership;
- investigating, reviewing, approving or being advised as to the accounts or business affairs of the limited partnership or exercising any right conferred under the Act;
- acting as a surety or guarantor for the limited partnership either generally or in respect of specific obligations;
- approving or disapproving an amendment to the partnership agreement; or
- voting as a limited partner on any matter.

If, however, the limited partner takes part in the conduct of the business of the limited partnership in its dealings with persons who are not partners, that limited partner shall be liable, in the event of the insolvency of the limited partnership, for all debts and obligations of that limited partnership incurred during the period in which he so participates in the conduct of the business as though he were for such period a general partner: Provided always that he shall be rendered liable pursuant to the foregoing provision only to a person who transacts business with the limited partnership during such period with actual knowledge of such participation and reasonable belief that such limited partner was a general partner (§7(4)).

The limited partner will generally contribute to the partnership in the form of cash, property or services and has a right to the return of their contribution and to receive a share of the profits or other compensation as set out in any partnership agreement in force between the partners from time to time.

2.2 The General Partner

In accordance with the Act, one or more general partners shall be responsible for the control, administration and management of the limited partnership's business. In the event the assets of the limited partnership are found to be inadequate, general partners shall be liable for all the debts and obligations of the limited partnership (§4(2)). The general partner is also responsible for the signing on behalf of the limited partnership of any letters, contracts, deeds instruments and documents (§7(1)).

A general partner therefore has all the rights and powers and is subject to all the restrictions and liabilities of a partner in a general partnership. A general partner is further subject to any provisions regulating their conduct as may be set out in any partnership agreement in force between the partners from time to time.

A general partner is required, under the Act, to at all times act in good faith in the interest of the limited partnership (§4(3)), the more so since any debt or obligation incurred by a general partner in the conduct of the business of a limited partnership shall be a debt or obligation of the limited partnership.

PART A: FORMATION OF A LIMITED PARTNERSHIP

3. CONSTITUTION OF A LIMITED PARTNERSHIP

3.1 Purpose of the Limited Partnership

A limited partnership may be formed under the Act for any lawful purpose, provided that a limited partnership shall not carry out business in Seychelles except so far as may be necessary for the carrying on of the business of that limited partnership outside Seychelles (§4(1)).

A limited partnership under the Act must therefore carry out its business activities outside Seychelles except where necessary to fulfil the objectives of the limited partnership which shall, at all times, be offshore activities.

3.2 Name and Registered Office

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

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

Every limited partnership shall have a registered office in Seychelles for the service of process and delivery of all notices and communications (§6(2)).

3.3 Establishment of the Limited Partnership

A limited partnership shall be formed by one or more general partners and one or more limited partners (§4(2)).

Any general partner (which by definition includes a corporation), without derogation to his position as such, may also take an interest as a limited partner in the same partnership, at the same time, but the partnership must always consist of at least two distinct persons (§4(2)).

Subject to the terms of the partnership agreement whilst any one or more partners of a limited partnership may be resident, domiciled, established, incorporated or registered pursuant to Seychelles law or the law of any other jurisdiction, the Act requires that at least one general partner must be either:

- an international business company under the International Business Companies Act; or
- a company issued with a special licence under the Company (Special Licences) Act.

Subject to the terms of the partnership agreement, any one or more of the general partners of a limited partnership may be:

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

The act further provides that a partnership shall not be deemed to be a limited unless registered in accordance with §9(1) of the Act.

3.4 Registration under §9(1) of the Act

Registration of a limited partnership, under §9(1) of the Act, may be effected by

- (a) paying to the Registrar of Limited Partnerships (the Registrar) the prescribed registration fee (set out below); and
- (b) filing with the Registrar the prescribed statement (the Registration Statement) signed by or on behalf of a general partner containing the following particulars:
 - name of the limited partnership;
 - general nature of the business of the partnership;
 - address in Seychelles of the registered office of the limited partnership;
 - the full name and address of the designated general partner, and of any other general partner and in the case of a corporate general partner, annexing to the Registration Statement a certificate of incorporation or registration and a certificate of good standing or similar document under the laws of the jurisdiction or incorporation or, where applicable, a certificate of good standing and a certificate of registration under Part VII of the Companies Act, 1972; and
 - a declaration that the limited partnership shall not carry on business in Seychelles except so far as may be necessary for the carrying on of the business of that limited partnership outside Seychelles.

3.5 Registration Fees

Any application for registration must be accompanied by the prescribed registration fee of US\$200.

3.6 Term of Partnership to be Set Out in Partnership Agreement

The terms of the partnership as may be agreed between the partners from time to time is usually set out in a partnership agreement as prescribed under the Act.

While the governing law of limited partnerships in the Seychelles remains the Act, a partnership agreement may be deemed to be the governing agreement by and between the partners which provides for the establishment and regulation of the affairs of a limited partnership, the conduct of its business and the rights and obligations of the partners among themselves. The Seychelles' Commercial Code Act shall also apply to limited partnerships in so far as it is not inconsistent with the provisions of the Act.

3.7 Other Statutory Filings to the Registrar

- A Limited Partnership shall file annual returns certifying compliance with the Act.
- In the event that during the continuance of a limited partnership, changes are made to the filed statement, the general partner must file the stated changes with the Registrar within 60 days of the said change.
- In the event that a general partner ceases to be a general partner, a statement signed by another general partner in respect of the arrangement or transaction shall be filed with the Registrar within 15 days of the arrangement or transaction. Unless such statement is filed, the arrangement or transaction, and the partnership agreement will be of no effect. Anything which seeks to relieve a general partner of his obligations shall have no effect unless written consent is given by those who will be affected by the change.

3.8 Amendments to the Registered Particulars

Any amendments to the registered particulars must be carried out in accordance with the provisions of §10(1) of the Act.

If any particulars contained in the statement filed under §9(1) are to be amended, the general partner shall have 60 days to file that change with the Registrar of Limited Partnerships.

However, if there is a change to the particulars affecting the general partner, then that change will have to be filed with the Registrar of Limited Partnerships within 15 days of such arrangement.

The name of the limited partnership can be changed and will be subject to the same procedures as set out above. However, the change in name must not contravene §6(1) of the Act.

PART B: PRINCIPAL STATUTORY PROVISIONS RELATING TO LIMITED PARTNERS

4. RETURN OF CONTRIBUTION AND OTHER SUMS DUE

The Act provides that a limited partner is entitled to receive such share of profits or compensation by way of income, provided that after the payment is made, the limited partnership is solvent and the partnership assets are sufficient to cover its liabilities (except the return of contributions to limited partners and any amounts due to general partners) (§14(1)).

In addition, a limited partner is entitled to demand the return of their contribution (where the partnership assets are sufficient to cover the liabilities) in the following instances:

- where the time specified in the partnership agreement for its return has arrived;
- where the event specified for its return has occurred;
- on dissolution of the partnership if the partnership business is not continued;
- as otherwise set out in any partnership agreement in force from time to time; or

- with the consent of all the partners where the circumstances for return are not set out in any partnership agreement.

5. **LIABILITIES OF A LIMITED PARTNER**

Generally, a limited partner is only liable for partnership debts or obligations up to the amount of their contribution. As stated above, if the limited partner takes part in the conduct of the business of the limited partnership in its dealings with persons who are not partners, that limited partner shall be liable, in the event of the insolvency of the limited partnership, for all debts and obligations of that limited partnership incurred during the period in which he so participates in the conduct of the business as though he were for such period a general partner (§7(4)).

If the limited partner receives their contribution in violation of the provisions of the Act (for example, where the assets of the partnership are not sufficient to cover the liabilities, and the limited partner knew at the time of receipt that this was the case), then the limited partner is liable to repay to the partnership the amount they received within a period of six months of the date of the payment (§14(2)).

6. **ASSIGNMENT OF INTEREST BY A LIMITED PARTNER**

Unless otherwise provided in the partnership agreement, a limited partner has the right to assign their interest in the partnership either absolutely or by way of mortgage (§7(9)). An assignee to the extent of such assignment shall become a limited partner with the rights and subject to the obligations of the assignor in accordance with the partnership agreement and the Act in respect of the partnership interest or part thereof assigned.

No such assignee shall assume any liability of the assignor arising pursuant to its dealing with persons who are not partners in the conduct of the business of the limited partnership. Likewise no such assignment shall relieve the assignor of any liability arising pursuant to the relevant sections of the Act.

7. **PERSON BEING BOTH LIMITED PARTNER AND GENERAL PARTNER**

A partner who is both a general and a limited partner in the same partnership has all the rights, powers and restrictions of a general partner, except that in respect of their contribution as a limited partner, they have the same rights of a limited partner against the other partners.

8. **DEATH OF A LIMITED PARTNER**

On the death of any limited partner, their executor or administrator has all the rights of the limited partner for the purpose of settling the limited partner's estate and constituting their assignee.

9. **ADMISSION OF NEW PARTNERS**

After the formation of a limited partnership, additional limited partners may be admitted by making an amendment to the registered particulars with the Registrar. An amendment to the registered particulars, however, will be necessary on the admission of additional general partners.

10. **BOOKS AND RECORDS**

The general partners of a limited partnership are required to maintain a register of limited partnership interests in which the following shall be stated

- the name and address of each partner;
- the amount of contribution or contributions by each partner;
- the date the contribution or contributions were made by each partner; and
- the date of any payment representing a return of any part of the contribution of any partner.

This register shall be made available for inspection and copying free of charge of any particulars to any partner upon request to do so. The register must be held at the registered office of the limited partnership and will not, therefore, be available for inspection by the public. The register constitutes prima facie evidence of the matters it contains. Other than the register of limited partnership interests, the general partners are required to keep proper accounting records that: are sufficient to show and correctly explain the limited partnership's transactions;

- enable the financial position of the limited partnership to be determined with reasonable accuracy at any time; and
- enable for accounts of the limited partnership to be prepared.

In order to comply with the above requirements, the accounting records must give a true and fair view of the limited partnership's affairs and explain its transactions, which must be kept for a period of seven years from the date of completion of the transactions. The general partners must at all times keep at the registered office a written record of the place at which the account records are kept.

A general partner who fails to comply with the requirement to maintain a register of limited partnership interests and accounting records may be liable to a penalty (currently US\$25 on a daily basis) throughout the period for which the breach continues.

11. **INSPECTION OF PUBLIC DOCUMENTS**

Any member of the public may search the file of a limited partnership at the Registry in the Seychelles, on payment of a fee, during normal office hours.

The file of a limited partnership will contain all the registered particulars, a copy of the Certificate of Limited Partnership, and where amendments have been made to the registered particulars, a copy of such amendments detailing the changes. The file will also contain details as to whether annual licence fees have been paid and any other documents required by the Act to be filed at the Registry (such as Articles of Dissolution where the limited partnership is being wound up).

12. **TAX ADVANTAGES FOR LIMITED PARTNERSHIPS**

A limited partnership is exempted from all Seychelles tax or duty on income or profits of the limited partnership.

A limited partnership is also exempted from stamp duty on property transfers, share transfers and other business transactions.

A limited partnership is further exempt from trade tax on all furniture and equipment imported into Seychelles for office use.

A limited partnership further benefits from certain exemptions under the Social Security Act.

All payments made by an international limited partnership to persons not resident in Seychelles, and all capital gains realised with respect to any interest in an international limited partnership held by persons who are not resident in Seychelles, are exempted from Seychelles tax or duty.

These exemptions granted under the LP Act are guaranteed for twenty years and shall continue to be in force thereafter unless otherwise provided by law.

13. **CONCLUSION**

The primary benefit of the limited partnership structure in Seychelles is that it provides a flexible vehicle for sophisticated/institutional investors who wish to participate in a partnership up to a certain fixed monetary amount with the full benefit of limited liability (a benefit not enjoyed in a traditional

partnership structure), but without having to have a direct role in the management of the partnership's affairs (a benefit which is often hard to obtain or maintain in a traditional partnership structure).

As has been proven in other leading financial jurisdictions, limited partnerships have multiple and valuable uses. They frequently feature, as part of international tax planning, as a vehicle for private equity and venture capital structures, as part of asset protection arrangements, and as vehicles for mutual funds in the worldwide.

The Seychelles limited partnership regime demonstrates the ability of Seychelles to adapt to the challenges of the global market of commercial transactions and to offer a product which provides a tremendous number of benefits.

For more specific advice on limited partnerships in the Seychelles, we invite you to contact:

Seychelles

Malcolm Moller

Managing Partner, Mauritius and Seychelles

Corporate

+230 203 4301

mmoller@applebyglobal.com

For the convenience of clients in other time zones, a list of contacts available in each of our jurisdictions may be found [here](#).