

LAW SOCIETY SUBMISSION



Legal Services Regulation Act 2015

Limited Liability Partnerships

Legal Services Regulatory Authority

24 August 2018

ABOUT THE LAW SOCIETY OF IRELAND

The Law Society of Ireland is the educational, representative and regulatory body of the solicitors' profession in Ireland.

The Law Society exercises statutory functions under the Solicitors Acts 1954 to 2011 in relation to the education, admission, enrolment, discipline and regulation of the solicitors' profession. It is the professional body for its solicitor members, to whom it also provides services and support.

The headquarters of the organisation are in Blackhall Place, Dublin 7.

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1. Introduction

1.1 The purpose of this submission from the Law Society of Ireland (“the Society”) is to give the views of the Society to the Legal Services Regulatory Authority (“the Authority”) on the commencement and implementation of limited liability partnerships as set out under Part 8 of the Legal Services Regulation Act 2015 (“the Act”).

1.2 Limited liability partnerships are a new form of structure for the provision of legal services proposed under the Act. They are defined under section 99 of the Act as:

“...a relevant business in respect of which an authorisation, granted under section 125, is for the time being in force;

‘relevant business’ means –

(a) partnership of solicitors, or

(b) a legal partnership.

It is important to note that section 123(6) of the Act states that *“the Partnership Act 1890 shall apply to limited liability partnerships to the extent that it is not inconsistent with this Chapter.”* Therefore, anything that does not come under the scope of the Act or regulations made under the Act would continue to come under the remit of the Partnership Act 1890.

1.3 Accordingly, the new proposed business structure for limited liability partnerships may be a partnership of solicitors only or a legal partnership comprising of barristers and barristers or barristers and solicitors.

1.4 As the Society is the professional body for solicitors in Ireland, the Society’s views in this submission will be limited to the Society’s views on matters relating to solicitors only. As such, all references to “limited liability partnerships” should be read as a reference to a partnership comprising of solicitors in limited liability partnerships only and not to any other business structure that contains barristers.

1.5 The Society is mindful that the Act required the Authority to conduct public consultations on legal partnerships and multi-disciplinary practices but omitted any requirement for a public consultation on the matter of limited liability partnerships.

1.6 The Society notes section 13(6) of the Act allows the Authority to do anything which it considers necessary or expedient to enable it to perform its functions, including liaising and co-operating with relevant professional bodies. The Authority has requested any material prepared by the Society in relation to limited liability partnerships which the Society is happy to provide.

- 1.7 The Society observes that the Authority's strategic plan 2018 to 2020 anticipates the commencement of limited liability partnerships in the final quarter of 2018. The Society understands that in order to commence limited liability partnerships the Authority is required to make regulations under section 130 of the Act for the operation and management of those structures.
- 1.8 It is with this in mind that the Society has prepared suggested draft regulations for the operation and management of limited liability partnerships which are available in the index to this submission. The Society would ask the Authority to consider the Society's draft regulations and would welcome a response from the Authority with any observations it may have on those draft regulations.

2. Executive Summary

- 2.1 This submission sets out the Society's views in relation to the introduction and regulation of limited liability partnerships under the Act and provides a copy of draft regulations in relation to the operation and management of those structures for the consideration of the Authority.
- 2.2 The Society's submission will consider how the change from unlimited to limited liability will impact solicitors' practices and notes the likelihood that this will attract international law firms to establish in Ireland.
- 2.3 The Society gives a short overview of the regulation that will apply to limited liability partnerships including complaints, professional indemnity insurance, access to the Compensation Fund, financial regulation and the cessation of practices.
- 2.4 The draft regulations proposed by the Society take into account the requirements of the Act as well as some matters which the Authority may consider prudent for the purposes of commencing and maintaining the register of limited liability partnerships.

3. Changing structures

- 3.1 Solicitors who wish to provide legal services to clients are currently restricted in the business models under which they may practice. Section 64 of the Solicitors Act 1954 prohibits solicitors from providing legal services through a body corporate. Accordingly, if a solicitor wishes to provide legal services to clients through a business model, they may only do so either as a sole practitioner or in conjunction with other solicitors as a partnership.
- 3.2 Under the Partnership Act 1890 each partner is, on the principles of agency, liable for the contracts entered into and the wrongs committed by any other partner acting in the course of the partnership's business. This extends to each partner being personally liable up to and including the full extent of their personal assets for the debts, obligations or liabilities arising in contract, tort or otherwise of the partnership. Partners are also jointly and severally liable for the negligent actions of their fellow partners.
- 3.3 This outdated model of partnership places an unjust burden on innocent partners who may be held personally liable for the negligence of another partner. This can serve as a disincentive to solicitors from seeking to enter partnership with other solicitors as they may be hesitant to expose their personal assets through fear of unlimited joint and several liability. Although the risk of a firm of solicitors being held liable to the extent of their personal assets is low, it is a real danger that still exists and belongs to an earlier era when less protections were afforded to clients than exist today.
- 3.4 The introduction of limited liability partnerships will limit the liability of partners so that they are not personally liable directly or indirectly for the debts, obligations or liabilities arising in contract, tort or otherwise of the partnership arising in the course of its business. The limitation of liability will be subject to some exceptions including acts or omissions caused by a partner involving fraud or dishonesty. Importantly, in circumstances where fraud or dishonesty is committed by one partner, no personal liability will be attached to the remaining partners
- 3.5 The limitation of liability will make limited liability partnerships attractive structures for members of the solicitors' profession to provide legal services to clients. The Society anticipates many current partnerships are likely to convert their existing practices into limited liability partnerships once the option becomes available. It is expected this will encourage sole practitioners to commence in partnership with other solicitors where they would not have done so previously in knowledge that they will not be held personally liable to an unlimited degree for the liabilities of the partnership or for an errant partner.

3.6 Clients who engage solicitors are currently provided with high levels of protection which includes compulsory professional indemnity insurance to a level of €1.5m each and every claim, access to the Society's Compensation Fund and a robust system of financial regulation. These high levels of protection will remain in place for clients of solicitors operating in limited liability partnerships.

4. Limited liability partnerships and foreign firms

- 4.1 Currently law firms in Ireland are placed at a disadvantage in comparison to law firms in many other jurisdictions due to the limited business models available. Legislation allowing for limited liability partnerships has been in place in many US states since 1994 and in England and Wales since 2001. It should be noted that the model for limited liability partnerships in England and Wales is more of a hybrid partnership/company model and it is not considered a desirable model for the Irish market.
- 4.2 Section 70 of the Solicitors (Amendment) Act 1994 made provision for allowing solicitors to provide legal services through incorporated practices but this section was not commenced.
- 4.3 Law firms based in the US, England or Wales who operate a limited liability partnership and wish to set up in Ireland may only do so in the same manner as an Irish firm of solicitors either as a sole practitioner or as an unincorporated partnership. They may operate the Irish office as a branch of the firm, but they are not permitted to call nor operate their Irish branch as a limited liability partnership. The principals of solicitors firms operating in a branch office in Ireland have unlimited liability and joint and several liability.
- 4.4 The introduction of limited liability partnerships will make Ireland more attractive to international law firms seeking to commence practice in the European Union. This will be particularly so in light of Brexit which will leave Ireland as the most significant English speaking common law country remaining within the European Union.
- 4.5 The Society recommends that the transition from a partnership to a limited liability partnership should be a relatively simple matter and not unnecessarily burdensome for current practices to undertake. It should also be amenable for international firms to register as a limited liability partnership.

Recommendation 1 – Setting up a limited liability partnership

It is the recommendation of the Society that the registration process for a limited liability partnership should be a straightforward procedure for both existing and new solicitors' firms.

5. Regulation of limited liability partnerships

- 5.1 There are a number of factors that should be taken into account when considering the regulatory structure that will be in place for the protection of clients of limited liability partnerships. This will include matters relating to complaints, professional indemnity insurance, access to the Compensation Fund, financial regulation, practising certificate conditions, suspended and struck off solicitors and the closure of practices.

Complaints

- 5.2 The Society notes the Authority's strategic plan 2018 to 2020 envisages the commencement of limited liability partnerships in the final quarter of 2018. The Society understands that when this occurs, the Authority will not be in a position to commence its complaints and disciplinary functions which is targeted for the second quarter of 2019. Accordingly, the Society will continue to receive complaints made by clients against all solicitors including those solicitors in limited liability partnerships until such time as the Authority is in a position to do so.
- 5.3 When Part 6 of the Act is commenced and the Authority is in a position to receive complaints against legal practitioners, the Society will finalise the handling of any complaints received against solicitors before the commencement of this Part. Thereafter, any complaints made to the Society about solicitors will be referred to the Authority as required under the Act.

Professional indemnity insurance

- 5.4 The Society will continue to make regulations for the professional indemnity insurance obligations of solicitors under section 26 of the Solicitors (Amendment) Act 1994. The same minimum terms and conditions for professional indemnity insurance will apply to limited liability partnerships as currently apply to solicitors' firms.
- 5.5 The Society notes section 125(5) of the Act specifies that any authorisation issued by the Authority to operate as a limited liability partnership is subject to the condition that there is professional indemnity insurance in place at all times in that partnership. This is similar to how the Society currently operates in relation to solicitors' firms.
- 5.6 Professional indemnity insurance is held by a solicitors' firm for all solicitors in that firm and not by individual solicitors. If a firm does not have professional indemnity insurance in place, the Society will make an application to the High Court to have the solicitors in that firm suspended from practice and orders consequent from the closure of that firm. The Society will take similar action in relation to limited liability partnerships that do not have valid professional indemnity insurance in place.

- 5.7 Limited liability partnerships will have access to the Assigned Risks Pool and the Run-off Fund for ceasing practices to ensure that at all times any valid claims are covered by professional indemnity insurance.

Compensation Fund

- 5.8 The Society runs a statutory Compensation Fund to compensate clients of solicitors who suffer losses suffered by reason of dishonesty of a solicitor in the provision of legal services. The Compensation Fund remains within the remit of the Society and can only be reasonably maintained by exercising financial regulatory powers over solicitors' practices which will include limited liability partnerships. Clients of limited liability partnerships will have access to the Compensation Fund for losses suffered by the dishonesty of a solicitor in the provision of legal services.

Solicitors accounts regulations

- 5.9 As solicitors in limited liability partnerships will handle client moneys, this will represent a potential risk to the Compensation Fund. Accordingly, the Society will investigate the accounts of limited liability partnerships and they will be required to meet existing annual accountant reports obligations as set out in the solicitors accounts regulations. The Society has not identified any reason to amend the existing solicitors accounts regulations in order to investigate the accounts of limited liability partnerships.

Practising certificate conditions

- 5.10 Under the Solicitors Acts, the Society and the High Court have powers to impose limitations on a solicitor's practising certificate by the imposition of conditions. Existing practising certificate conditions which prohibit solicitors from being a principal or partner in a firm will equally apply to limited liability partnerships.
- 5.11 Data sharing procedures between the Society and the Authority will need to be established to ensure solicitors who are subject to relevant practising certificate conditions which prevent them from being a sole practitioner or a partner may not make an application to the Authority to be a partner in a limited liability partnership.

Recommendation 2 – Data sharing for practising certificate conditions

It is the recommendation of the Society that data sharing procedures are set up between the Society and the Authority to prevent solicitors with relevant conditions on their practising certificates which prevent them from being a sole practitioner or a partner from making an application for authorisation to the Authority to be a partner in a limited liability partnership.

Suspended and struck off solicitors

- 5.12 Solicitors who are suspended from practice or struck off the Roll of Solicitors are prohibited from providing legal services, holding themselves out as a solicitor entitled to practice or from being a partner or principal in a solicitors' firm. These restrictions should also apply to limited liability partnerships in order to protect the public.
- 5.13 Data sharing procedures between the Society and the Authority will need to be established to ensure solicitors who are suspended from practice or struck off the Roll of Solicitors do not make an application to the Authority to be a partner in a limited liability partnership.

Recommendation 3 – Suspended and struck off solicitors

It is the recommendation of the Society that solicitors suspended from practice and struck-off solicitors are prohibited from being a partner in a limited liability partnership.

Recommendation 4 – Data sharing for suspended and struck-off solicitors

It is the recommendation of the Society that data sharing procedures are set up between the Society and the Authority to prevent suspended and struck-off solicitors from making an application to the Authority to be a partner in a limited liability partnership.

Cessation of limited liability partnerships

- 5.14 The Society will have the same requirements for the cessation of a limited liability partnership as it currently does for solicitors' firms. The Society will require limited liability partnerships to advise the identity of the practising solicitor(s) who have access to the remaining open and closed files of the limited liability partnership. The Society will also require such firms to file a closing accountant's report reflecting nil balances on the client account within two months of cessation.
- 5.15 The Society will also need to be advised whether the firm has made an application to the Run-off Fund or whether there is a succeeding practice in place.
- 5.16 As the Act requires a limited liability partnership to give written notification to the Authority that it is ceasing practice, data sharing procedures will need to be established for the Authority to advise the Society of any notified cessation.

Recommendation 5 – Data sharing for notification of cessation

It is the recommendation of the Society that data sharing procedures are set up between the Society and the Authority so that the Authority may notify the Society of the cessation of a limited liability partnership.

Timescale for notification of cessation

- 5.17 Section 129 of the Act requires limited liability partnerships to give notification to the Authority when they intend to cease operating as a limited liability partnership. However, the Act does not prescribe any particular time limit within which the limited liability partnership should provide such notice to the Authority. This could result in notification being sent the day prior to the cessation of the limited liability partnership. The Society recommends that the Authority prescribe a period of not less than 30 days for the notification period for cessation.

Recommendation 6 – Timescale for cessation notice

It is the recommendation of the Society that the Authority prescribe a minimum notice period of 30 days for the cessation of a limited liability partnership.

6. Draft regulations on the operation and management of limited liability partnerships

- 6.1 The Society notes that section 130(1) of the Act requires the Authority to make draft regulations in relation to the operation and management of limited liability partnerships. The Society, having considered the provisions of the Act, prepared suggested draft regulations which are intended to assist the Authority when drafting its own regulations on the operation and management of limited liability partnerships.
- 6.2 The Act requires a relevant business to make an application to the Authority as prescribed in the regulations made under section 130 of the Act. The Act prohibits the operation of a limited liability partnership unless authorised to do so by the Authority. Authorisation is subject to the condition that the limited liability partnership has professional indemnity insurance in place at all times.
- 6.3 The Society considered the type of information that the Authority would require in order for a relevant business to make an application for authorisation. The Authority will require certain mandatory information from a relevant business in order for it to maintain the register of legal partnerships as required under section 117 of the Act.

Practising certificate or qualifying certificate requirement

- 6.4 The Society has suggested further information that the Authority may wish to capture during the application process in the interests of good administration. For example under draft regulation 3(3)(g) the Society recommends the Authority should require the practising certificate or qualifying certificate for each solicitor partner in the relevant business or evidence that satisfies the Authority that each solicitor partner has a practising certificate or qualifying certificate. This would ensure the Authority that each solicitor partner is entitled to practice.

Recommendation 7 – Requirement for evidence of practising certificate or qualifying certificate

It is the recommendation of the Society that the Authority should require the practising certificate or qualifying certificate for each solicitor partner in the relevant business or evidence that satisfies the Authority that each solicitor partner has a practising certificate or qualifying certificate.

Draft headed notepaper

- 6.5 It has also been recommended under draft regulation 3(3)(i) that a relevant business should provide the Authority with a draft of their proposed headed notepaper. This has been a requirement of the Society since the commencement of the Solicitors (Practice, Conduct and Discipline) Regulations 1996 (S.I. No. 178 of 1996).

Recommendation 8 – Requirement for sample headed notepaper

It is the recommendation of the Society that a relevant business should provide the Authority with a draft of their proposed headed notepaper when making an application for authorisation.

Application for authorisation

- 6.6 Regulation 4 of the Solicitors Acts 1954 to 2015 (Practising Certificate) Regulations 2017 provides that an application to the Society for an annual practising certificate requires both a duly completed application form and full payment of fees. The Society has suggested similar provisions in draft regulation 3(5) which would provide for an authorisation from the Authority to only be issued following receipt of the duly completed application form together with full payment of the application fee.

Recommendation 9 – Application for authorisation

It is the recommendation of the Society that an authorisation only be issued by the Authority when a correctly completed application form together with full payment of the application fee is received by the Authority.

- 6.7 Section 125(7) of the Act requires a limited liability partnership as soon as practicable after receiving authorisation to notify its clients and creditors of the fact that it is operating as a limited liability partnership. The Society reflected this in draft regulation 4 which would require the limited liability partnership to advise clients and creditors in ordinary language the effect that the limited liability will have on their relationship.

False or misleading information

- 6.8 Draft regulation 6 addresses knowingly providing any false or misleading information or failing to provide material information to the Authority when making an application for authorisation. The Society suggests it should be expressly provided that furnishing such false or misleading information could constitute misconduct. This is to emphasise the requirement for the *bona fides* of the parties making the application. Without such provisions in place, legal practitioners' obligation to provide genuine information to the Authority when submitting an application for authorisation would be less directly provided for.

Recommendation 10 – Penalties for providing false or misleading information

It is the recommendation of the Society that provisions are made for a legal practitioner knowingly providing false or misleading information or failing to provide material information to the Authority when making an application for authorisation being considered as constituting misconduct.

Governance of limited liability partnerships

- 6.9 To all intents and purposes, other than the matters required by the Act and any regulations made by the Authority in relation to limited liability partnerships, the internal governance of a limited liability partnership would mirror that of a partnership under partnership law. The Society suggests that partners could therefore rely on the Partnership Act 1890 and the wealth of case law since the commencement of that Act to deal with all governance matters in a limited liability partnership.

Recommendation 11 – Governance of limited liability partnerships

It is the recommendation of the Society that the internal governance of limited liability partnerships mirror current partnership arrangements.

LEGAL SERVICES REGULATION ACT 2015

**(OPERATION AND MANAGEMENT OF LIMITED LIABILITY PARTNERSHIPS)
REGULATIONS 2018**

The LEGAL SERVICES REGULATORY AUTHORITY in exercise of the powers conferred on it by section 130 of the Legal Services Regulation Act 2015 (No. 65 of 2015) hereby makes the following regulations:

1. **Citation and commencement**

- (1) These Regulations may be cited as the Legal Services Regulation Act 2015 (Operation and Management of Limited Liability Partnerships) Regulations 2018.
- (2) These Regulations shall come into operation on the day of 2018.

2. **Definitions**

- (1) In these Regulations, unless the context otherwise requires, the following terms shall have the following meaning—

“**Act of 1954**” means the Solicitors Act 1954 (No. 36 of 1954);

“**Act of 1960**” means the Solicitors (Amendment) Act 1960 (No 37 of 1960);

“**Act of 1994**” means the Solicitors (Amendment) Act 1994 (No. 27 of 1994);

“**applicant**” means a relevant business which has made an application;

“**application**” means an application delivered to the Authority pursuant to section 125(3) of the Principal Act and these Regulations;

“**application fee**” means the authorisation fee to accompany the application pursuant to section 125(3)(b) of the Principal Act;

“**authorisation**” means authorisation to operate a relevant business as a limited liability partnership pursuant to section 125(4) of the Principal Act;

“**Authority**” means the Legal Services Regulatory Authority established by section 8 of the Principal Act;

“**cessation notification**” means a cessation notification for the purposes of section 129 of the Principal Act;

“**cessation notification fee**” means the fee to accompany a cessation notification under section 129(4) of the Principal Act;

“duly completed application” means an application which has been duly completed by the applicant in accordance with its terms and the Guidelines (if any) and which is accompanied by the full payment of the application fee;

“EFT payment form” means the form made available by the Authority to applicants who wish to pay the application fee by electronic funds transfer;

“Guidelines” means guidelines in respect of applications and cessation notifications as may be published by the Authority from time to time;

“legal partnership” has the meaning given to such term in the Principal Act;

“limited liability partnership” or **“LLP”** has the meaning given to such term in the Principal Act;

“practising certificate” means the certificate issued by the Registrar in accordance with section 46 of the Act of 1954 certifying that the solicitor named therein is entitled to practise as a solicitor during the practice year as and from the date of the certificate;

“practice year” means in relation to a practising certificate, the calendar year ending on 31 December in any given year;

“Principal Act” means Legal Services Regulation Act 2015 [No. 65 of 2015];

“qualifying certificate” means a certificate issued by the Registrar to a lawyer in accordance with Regulation 8 of the European Communities (Lawyers’ Establishment) Regulations 2003 (S.I. No.732 of 2003) as amended by the European Communities (Lawyers’ Establishment) (Amendment) Regulations 2004 (S.I. No. 752 of 2004), certifying that the lawyer is qualified to pursue the professional activities of a solicitor;

“relevant business” means–

- (a) a partnership of solicitors, or
- (b) a legal partnership;

“relevant date” means in relation to an LLP, the anniversary in each year of the date upon which the authorisation in favour of that partnership came into effect;

“relevant fee” means an application fee or cessation notification fee, as the context requires;

“relevant form” means the form of application as may be published by the Authority in electronic format from time to time;

“**Registrar**” means the registrar of solicitors for the time being appointed pursuant to section 8 of the Act of 1954;

“**Society**” means the Law Society of Ireland;

“**solicitor**” has the meaning given in section 3 of the Act of 1954 (as substituted by section 3 of the Solicitors (Amendment) Act 1994).

(2) In these Regulations, unless the context otherwise requires, other words and phrases shall have the meanings (if any) assigned to them by the Principal Act.

3. **Application for authorisation**

(1) An application for authorisation shall be made available by the Authority and shall be accompanied by the fee set out in the Schedule to these Regulations^{*}.

(2) An application may be made by the submission of a duly completed application in electronic form and in such format as may be required by the Authority from time to time.

(3) The application shall include the following—

(a) the name and address of each of the partners in the relevant business making the application,

(b) the full name of the partnership,

(c) the address or addresses at which the partnership ordinarily carries on business,

(d) the relevant form duly completed in accordance with the instructions set out therein,

(e) full payment of the application fee,

(f) evidence that the relevant business has professional indemnity insurance in place which complies with regulations made under section 47 of the Principal Act in relation to LLPs and under section 26 of the Act of 1994 (if applicable),

(g) a current practising certificate or qualifying certificate for each solicitor partner in the relevant business making the application or evidence to the satisfaction of the Authority that each solicitor has a current practising certificate or qualifying certificate,

Comment: Section 130(2)(a) requires the regulations to be made in respect of the form of application for authorisation under section 125. Section 130(2)(e) sets out that the regulations shall detail the fee to accompany an application.

- (h) confirmation from the applicant that the legal partnership has been entered in the register pursuant to section 117 of the Principal Act in the event that the relevant business is a legal partnership,
 - (i) the draft headed notepaper of the relevant business.
- (4) An application which is–
 - (a) not completed in accordance with the instructions set out therein or with the Guidelines (if any),
 - (b) not fully completed, or
 - (c) submitted without full payment of the application feeshall be deemed incomplete and may be returned to the applicant by the Authority.
- (5) An authorisation shall only be issued following receipt by the Authority of a duly completed application and full payment of the application fee and responses (which are deemed to be reasonably satisfactory) to any query raised thereon by the Authority.
- (6) An authorisation under section 125 of the Principal Act is subject to the condition that the LLP has professional indemnity insurance in place which complies with regulations made under section 47 of the Principal Act and under section 26 of the Act of 1994 (if applicable) at all times in respect of that partnership.
- (7) An authorisation given by the Authority shall be in writing and shall have effect from such date as is specified in the authorisation.

4. Information to be provided by an LLP to its clients and creditors as to the nature and effect of LLPs

An LLP shall provide the following information to its clients and creditors, written in clear language that is likely to be understood by them, as soon as practicable after the receipt of an authorisation by it–

- (a) the fact that it is operating as an LLP,
- (b) the date upon which the authorisation of the LLP became effective,
- (c) that a partner in the LLP shall not, by reason only of his or her being a partner or being held out as being a partner in that partnership, be personally liable directly or indirectly, by way of contribution or otherwise, for any debts, obligations or liabilities arising in contract, tort or otherwise of–
 - (i) the LLP,

- (ii) himself or herself,
 - (iii) any other partner in that LLP, or
 - (iv) any employee, agent or representative of that LLP,
- (d) that the limitation on liability referred to in paragraph (c) above shall not apply to a partner in the LLP to the extent that–
- (i) the debt, obligation or liability is incurred as a result of an act or omission of the partner involving fraud or dishonesty, and
 - (ii) that act or omission–
 - (I) was the subject of a finding of misconduct under Part 6 of the Principal Act, or
 - (II) constituted an offence of which the partner was convicted,
- (e) that the limitation of liability referred to in paragraph (c) shall not affect the liability of a partner in an LLP in respect of a debt, obligation or liability incurred by that partner for a purpose not connected with the carrying on of the business of the LLP,
- (f) that the limitation of liability referred to in paragraph (c) shall not affect the personal liability of a partner in an LLP for any debt, obligation or liability referred to in paragraph (c), where the debt, obligation or liability was incurred by reason of an act or omission of the partner which occurred prior to the date of authorisation of the LLP concerned, and
- (g) that the limitation referred to in paragraph (c) shall not apply to a partner in an LLP to the extent that the debt or obligation referred to in paragraph (c) relates to any tax (within the meaning of section 960A of the Taxes Consolidation Act 1997).

5. Information to be provided by an LLP to the Authority

- (1) An LLP shall on or before the relevant date provide to the Authority the following information–
- (a) evidence that the LLP has professional indemnity insurance in place which complies with the regulations made under section 47 of the Principal Act and under section 26 of the Act of 1994 (if applicable) and that the period of cover of that insurance extends to the next succeeding relevant date,
 - (b) a statement as follows–
 - (i) that the LLP has complied with its obligations to provide the information to its clients and creditors pursuant to section 125(7) of

the Principal Act and regulation 4 of these Regulations, and

- (ii) the LLP has, at all times after the date upon which the authorisation given to it pursuant to these Regulations came into effect, conducted the business of the partnership using a name that ends with either the expression “limited liability partnership” or the abbreviation “LLP” in accordance with section 125(8) of the Principal Act and has used that name on all contracts, invoices, negotiable instruments, orders for goods and services, advertisements, invitations to treat, websites or any other publication published in any format by or on behalf of the LLP.
- (2) An LLP shall immediately give notice in writing to the Authority if the professional indemnity insurance in place in respect of that partnership which complies with the Regulations made under Section 47 of the Principal Act or under section 26 of the Act of 1994 (if applicable) ceases to be in place or if any insurance policy in respect thereof ceases to be in place.
- (3) An LLP shall, for the purposes of complying with section 126(3) of the Principal Act, provide the Authority as soon as may be after becoming aware of any of the following occurrences – namely any change in a particular entered in the register, the death, resignation or other cessation as partner in an LLP, any change in the name or address of a partner in an LLP or the appointment of a partner in an LLP – with the date of the occurrence, a description of the nature of the occurrence and, where applicable, the name and the address of the partner concerned.
- (4) An LLP shall immediately notify the Authority in writing in the event that:
- (a) an order is made by the High Court under section 8 of the Act of 1960 to:-
 - (i) strike the name of the solicitor off the roll;
 - (ii) suspend the solicitor from practice; or
 - (iii) restrict the solicitor practising in a particular area of work;the solicitor being a partner in that LLP;
 - (b) an order is made by the High Court under section 20 of the Act of 1960 that the practising certificate of any partner of that LLP be suspended; or
 - (c) a determination of misconduct is made by the Disciplinary Tribunal under section 81(8) of the Principal Act.

6. **False or misleading information**

Where a legal practitioner in an application delivered to the Authority, knowingly furnishes information that is false or misleading in a material respect or fails to provide material information, such act or omission may be considered as

constituting misconduct pursuant to section 50 of the Principal Act.

7. **Compliance with section 125 of the Principal Act**

The authorisation issued to an LLP shall stand revoked from such date as the LLP ceases to have professional indemnity insurance in place as required by section 125 of the Principal Act.

8. **Suspension of authorisation pursuant to section 128(4) of the Principal Act**

The authorisation issued to an LLP shall stand suspended pursuant to section 128(4) of the Principal Act for such period as is specified in the High Court order and subject to such conditions (if any) as the High Court may specify.

9. **Revocation of authorisation pursuant to section 128(5)(b) of the Principal Act**

The authorisation issued to an LLP shall stand revoked pursuant to section 128(5)(b) from such date as is specified in the High Court Order revoking the authorisation issued under section 125 the Principal Act.

10. **Ceasing to operate as an LLP**

(1) A cessation notification shall be made available by the Authority and shall be accompanied by the cessation notification fee set out in the Schedule to these Regulations.

(2) A cessation notification may be made by the submission of a duly completed cessation notification in electronic form and in such format as may be required by the Authority from time to time.

11. **Requirement to hold an authorisation to operate as an LLP**

(1) A relevant business shall not operate as an LLP unless authorised by the Authority to do so under section 125 of the Principal Act.

(2) Every partner in the relevant business is personally responsible for ensuring that he or she complies with regulation 11(1).

(3) Where a legal practitioner fails to comply with regulation 11(1) such omission may be considered as constituting misconduct pursuant to Section 50 of the Principal Act.

12. **Fees**

The fee payment to the Authority for an application and a cessation notification shall be as specified by the Schedule to these Regulations.

13. **Collection and use of personal data**

(1) The Authority shall be entitled to process personal data (“**Personal**

Data”) relating to a legal practitioner, including but not limited to—

- (a) name,
- (b) date of birth,
- (b) practice address,
- (c) personal correspondence address,
- (d) telephone and fax number(s),
- (e) email address,
- (f) academic qualifications, and
- (g) information concerning a legal practitioner arising from the carrying out by the Authority of its regulatory functions under the Principal Act and regulations made thereunder including sensitive or special categories or Personal Data such as health records and information relating to the commission or alleged commission of a criminal offence, to the extent that such processing is necessary and proportionate for the performance of a function of the Authority conferred on it by or under an enactment and where the processing respects the essence of the right to data protection.

- (2) The Personal Data relating to a legal practitioner maintained by the Authority may be used by the Authority in pursuance of the Authority’s regulatory functions to the extent that such processing is necessary and proportionate for the performance of a function of the Authority conferred on it by or under an enactment and where the processing respects the essence of the right to data protection.

14. Where confirmation is required as to content of an application or details in the register

The Authority, at any time following delivery of an application to the Authority or a statement pursuant to regulation 5(1)(b), may, where the Authority deems it appropriate and reasonable to do so, require the applicant or LLP concerned to do either or both of the following within such period as may be specified by the Authority—

- (a) confirm in writing to the Authority the accuracy of all or any specified part or parts of the information provided or of the details entered in the register,
- (b) submit to the Authority such relevant report, certificate, or other documentation which the Authority may require.

15. Payment of fees

- (1) A relevant fee shall be paid to the Authority by payment methods specified by the

Authority, which methods may include, but are not limited to, cheque, bank draft, postal order, electronic funds transfer, debit card and / or credit card.

- (2) A relevant business intending to pay a relevant fee by electronic funds transfer shall complete and return the EFT payment form with the application or cessation notification as the case may be and failure to do so shall result in the application or cessation notification, as the case may be, being returned to the relevant business as incomplete, notwithstanding that the relevant fee may have been received by the Authority.
- (3) A relevant business paying a relevant fee by electronic funds transfer shall include in the EFT payment form an identifiable specific reference, such as the name of the relevant business. Failure to include such a reference will result in the application or cessation notification, as the case may be, being returned to the relevant business as incomplete, notwithstanding that the relevant fee may have been received by the Authority.
- (4) The Authority shall not be responsible for any delay in processing applications or cessation notifications where payment has been made by the relevant business concerned to an incorrect bank account of the Authority. A relevant business which pays the relevant fee by electronic funds transfer shall ensure that the relevant fee is paid to the bank account provided in the EFT payment form.
- (5) The Authority may, in its absolute discretion, issue a refund of the application fee or of the cessation notification fee to a relevant business which has made an application to the Authority requesting same.

L.S.

GIVEN under the seal of the Legal Services Regulatory Authority

_____ 2018

[Signature]

Chairperson of the Legal Services Regulatory Authority

[Signature]

Authorised member of the staff of the Legal Services Regulatory Authority

EXPLANATORY NOTE

(This note is not a part of the instrument and does not purport to be a legal interpretation).

The purpose of these Regulations is to set out rules in relation to the operation and management of LLPs.

SCHEDULE
Fees

	FEE	AMOUNT IN EURO
(a)	Application fee	
(b)	Cessation notification fee	