

# Registration of Limited Partnerships and Business Names Bill 2024

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## **General Scheme of the Registration of Limited Partnerships and Business Names Bill 2024**

A Bill to repeal and replace the Limited Partnerships Act 1907 and the Registration of Business Names Act 1963; to provide for the registration and removal of limited partnerships and business names; to require proof of identification and provide for a register of beneficial ownership of partners of limited partnerships incorporated or administered outside the EEA; to provide for electronic filing and for purposes connected therewith.

**PROPOSED TO BE ENACTED BY THE OIREACHTAS AS FOLLOWS:**

## Part 1 – Preliminary and general

### Head 1: Citation and commencement

To provide for –

- (1) This Bill may be cited as the Registration of Limited Partnerships and Business Names Bill 2024.
- (2) The Bill will come into operation on such day or days as the Minister [for Enterprise, Trade and Employment] may by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.
- (3) Subject to the provisions of this Bill, the Partnership Act 1890 shall apply to limited partnerships.

#### *Explanatory Note*

This is a standard provision and provides for the title of the Bill and for commencement orders. Subheads 1 and 2 apply to both limited partnerships and the registration of business names. Subhead 3 sets out that the Partnership Act 1890 shall apply to limited partnerships.

## Head 2: Interpretation

(1) In this Bill –

“*Act of 1890*” means the Partnership Act 1890;

“*Act of 1907*” means the Limited Partnerships Act 1907;

“*Act of 1963*” means the Registration of Business Names Act 1963;

“*Act of 2010*” means the *Criminal Justice (Money Laundering and Terrorist Financing) Act 2010*;

“*Act of 2014*” means the Companies Act 2014;

“*a business*” is any natural or legal person, or persons collectively engaged in an economic activity;

“*beneficial owner*”, in relation to a [third-country] non-EEA incorporated or administered partner of a limited partnership, means any individual who—

(a) ultimately is entitled to or controls, whether the entitlement or control is direct or indirect, more than a 25 per cent share of the capital or profits of the partner or more than 25 per cent of the voting rights in the partner, or

(b) otherwise controls the partner;

“*business name*” means the name or style used or to be used, to carry on a business;

“*category 1 offence*” has the same meaning as defined in the Act of 2014;

“*category 2 offence*” has the same meaning as defined in the Act of 2014;

“*category 3 offence*” has the same meaning as defined in the Act of 2014;

“*category 4 offence*” has the same meaning as defined in the Act of 2014;

“*company*” means a company formed and registered under the Act of 2014 or an existing company within the meaning of that Act;

“*competent authority*” means a competent authority as that expression, by virtue of sections 60 and 61 of the Act of 2010, is to be construed for the purposes of Part 4 of that Act;

“*court*” means—

(a) the High Court; or

(b) where used in relation to proceedings for an offence, means—

(i) in the case of an offence that is being prosecuted summarily — the District Court; or

(ii) in any other case — the court with jurisdiction in the matter concerned;

*“director”* has the same meaning as it has in section 2 of the Companies Act 2014 and includes shadow directors and de facto directors in accordance with section 221 and 222 of that Act;

*“Director of the National Archives”* and *“Designated Officer of the National Archives”* have the same meaning as in the National Archives Act 1986;

*“disqualification period”* shall be read in accordance with section 850 3(b) of the Companies Act 2014;

*“EEA Agreement”* means the Agreement on the European Economic Area signed at Oporto on 2 May 1992, as adjusted by the Protocol signed at Brussels on 17 March 1993;

*“EEA state”* means a state, including the State, which is a contracting party to the EEA Agreement;

*“European Unique Identifier (EUID)”* shall be construed in accordance the Commission Implementing Regulation (EU) 2021/1042 as regards technical specifications and procedures for the system of interconnection of registers and repealing Commission Implementing Regulation (EU) 2020/2244 (Text with EEA relevance);

*“firm”* has the same meaning as it has in Section 4(1) of the Partnerships Act 1890;

*“CRO Gazette”* has the same meaning as it has in section 2 of the Companies Act 2014;

*“general partner”* means any partner who is not a limited partner;

*“legal entity”* means a body corporate under the Companies Act 2014 or other entity that is a legal person under the law by which it is governed. [the relevant statute] [some other statute];

*“limited partner”* means a partner who, at the time of entering into such partnership, contributes a sum or sums as capital or property valued at a stated amount, and who is not liable for the debts or obligations of the firm beyond the amount so contributed;

*“limited partnership”* is a partnership formed by the registration of an agreement between a general partner and one or more limited partners to carry on business together with the intention to make a profit under Part 3 of this Bill; and includes any limited partnerships registered under the 1907 Act and which does not result in the creation of a separate legal entity;

*“Minister”* means the Minister for Enterprise, Trade and Employment;

*“name”* means –

(a) in the case of a natural person or persons, in respect of each such person the surname together with the forename or the initials of the forename; without any addition, and

(b) in the case of a body corporate, the name of the body corporate without any addition;

*“partner”* means a limited partner or a general partner;

*“partnership”* has the same meaning as in the Partnership Act 1890;

*“Personal Public Service Number”* has the same meaning as it has in section 262 of the Social Welfare (Consolidation) Act 2005 (No.26 of 2005);

*“presenter”* means a person acting on behalf of, as the case may be, a registrant, applicant or agent;

*“prescribed form”* means prescribed by the Minister in regulations under this Bill;

*“public body”* shall be construed in accordance with section 10 of the Data Sharing and Governance Act 2019;

*“Registered office”* shall be construed in accordance with section 2(1) of the Companies Act 2014;

*“Registered business address”* shall be construed in accordance with Head 18 of this Bill;

*“Registrar”* has the same meaning as it has in section 2(1) of the Companies Act 2014;

*“Register of Limited Partnerships”* means the register as maintained by the Registrar of Companies in accordance with Part 3 of this Bill;

*“Register of Beneficial Ownership for Non-EEA Partners of Limited Partnerships”* shall be construed in accordance with Head 35 of this Bill;

*“Register of Business Names”* means the register as maintained by the Registrar of Companies in accordance with Part 4 of this Bill;

*“Registrant”* means the person(s), partnership or legal entity registered on the register as trading under a business name;

*“relevant classification system”* means NACE Rev. 2, the common basis for statistical classifications of economic activities within the European Community set out in the Annex to Council Regulation (EEC) No. 3037/90 of 9 October 1990 on the statistical classification of economic activities in the European Community, as amended for the time being;

*“transition period”* means the period provided for in head 16;

*“trust or company service provider”* means any person whose business it is to provide any of the services as defined under Section 24 of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 (No. 6 of 2010).

*“undertaking”* means (a) a body corporate, (b) a partnership, or (c) an unincorporated body of persons, engaged for gain in the production, supply or distribution of goods, the provision of services or the making or holding of investments

(2) References in this Bill to a body corporate shall be read as not including a corporation sole, but as including a co-operative society or body corporate incorporated outside the State.

### Head 3: Repeals

To provide for –

(1) This Bill repeals and replaces the Limited Partnerships Act 1907 and the Registration of Business Names Act 1963 [on the expiration of the transition period].

#### *Explanatory Note*

Head 3 provides for repeal of the Limited Partnerships Act 1907 and the Registration of Business Names Act 1963 and their replacement with this Bill.



#### Head 4: Savings and transitional provisions

To provide for –

(1) The repeal by this Bill of the Limited Partnerships Act 1907 or Registration of Business Names Act 1963 shall not affect –

(a) the registration of a limited partnership under the Act of 1907;

(b) the registration of a business name under the Act of 1963; or

(c) the validity of any act done or underway by the Registrar, under either enactment so repealed.

(2) Any documents, forms and statements referring to a limited partnership registered under the Act of 1907, or a business name registered under the Act of 1963 shall be read as referring to the corresponding enactment of this Bill.

(3) The Register of Limited Partnerships and index kept under the Limited Partnerships Act 1907 shall be deemed to be the register and index kept under Part 3 of this Bill.

(4) The Register of Business Names and index kept under the Business Names Act 1963 shall be deemed to be the register and index kept under Part 4 of this Bill.

(5) The Registrar [or such other person as may be appointed] shall retain to the extent that she determines necessary in her own discretion all the powers and entitlements of the position of Registrar under the 1963 Act (including specifically the power to retain and maintain data received under the 1963 Act and the Regulations made thereunder).

(6) The Registrar [or such other person as may be appointed] shall retain to the extent that she determines necessary in her own discretion all the powers and entitlements of the position of Registrar under the 1907 Act (including specifically the power to retain and maintain data received under the 1907 Act and the Regulations made thereunder).

(7) This head is without prejudice to –

(a) the generality of the Interpretation Act 2005 and, in particular section 27 of it; and

(b) the special provision made in certain provisions of this Bill for transitional matters as they relate to those provisions.

#### *Explanatory Note*

Head 4 is based on section 5(1), 5(3) and 5(5) of the Companies Act 2014. This Head provides for certain matters that should be saved, specifically – that existing limited partnerships and

existing registered business names will not be affected by the repeal done by this Bill, subject to any specific transitional measures to ensure compliance with the new provisions. Subhead 2 provides that existing documents referring to the Act of 1907 and the Act of 1963 shall be read as referring to this Bill. Subheads 3 and 4 provides for the register kept under the Act of 1907 to be the register for Part 3 of this Bill and the register kept under the Act of 1963 to be the register for Part 4 of this Bill. Subheads 5 and 6 provide for the Registrar to retain all powers and entitlements of the Registrar conferred under the 1907 Act and the 1963 Act specifically to retain and maintain data.

## Head 5: Power of the Minister to make regulations

To provide for –

(1) The Minister may make regulations concerning any of the following matters –

- (a) the duties or additional duties to be performed by the Registrar for the purposes of this Bill;
- (b) the performance by assistant Registrars and other officers of acts by this Bill required to be done by the Registrar;
- (c) the forms to be used for the purposes of this Bill; and
- (d) the general conduct and regulation of registration under this Bill and any matters incidental thereto.

(2) The Minister may make regulations providing that any requirement of this Bill that the usual residential address of a partner of a limited partnership appear on the register kept by the Registrar shall not apply in relation to a particular person who is such a partner if –

- (a) in accordance with a procedure provided in the regulations for this purpose, it is determined that the circumstances of concerning the personal safety or security of the person warrant the application of the foregoing exemption in respect of him or her, and
- (b) such other conditions (if any) as are specified in the regulations for the application of the foregoing exemption is satisfied.

(3) The Minister may make regulations as the Minister considers reasonable and appropriate requiring the payment to the Registrar of different fee amounts specified in the regulations in respect of –

- (a) the registration of a limited partnership;
- (b) the registration of a business name;
- (c) the registration of any notice, return or other document; or
- (d) the doing of any other thing that the Registrar is required or authorised by or under this Bill.

- (4) Without prejudice to the generality of subhead (2), a different amount of fee may be so specified in respect of the doing of a foregoing thing, where the step or steps by another person, in consequence of, or on foot of which, the thing is authorised or required to be done, have not been taken in observance of a time limit specified by or under this Bill.
- (5) In a case falling within subhead (4), any different amount of fee that is specified may be specified by reference to the period of time that has elapsed between the latest date, in observance of the particular time limit specified by or under this Bill, by which one or more steps concerned ought to have been taken and the date on which they have been taken.
- (6) All fees paid to the Registrar in pursuance of this Bill shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister, with the consent of the Minister for Public Expenditure and Reform, may direct.

#### *Explanatory Note*

Head 5 is based upon section 889 of the Companies Act 2014, updating section 17 of the 1907 Act. Subhead 1 provides that the Minister may make regulations relating to the duties of the Registrar (including duties by the Registrar to maintain a register of beneficial ownership for non-EEA partners of limited partnerships) and actions of officers acting for the Registrar; the forms required and the registration process. Subhead 2 provides for the Minister to make regulations exempting the inclusion of the residential address of a partner of a limited partnership on the Register, where it is held that the exemption is required in the interest of their personal safety or security. Subhead 3 provides for the Minister to make regulations regarding fees for registration of a limited partnership or a business name, or any actions required by the Registrar. Subheads 4 and 5 provide for different fees for exceeding time limits and the degree a time limit has been exceeded. Subhead 6 mandates that all payments to the Registrar are paid into the Exchequer.

## Part 2 – Registrar

### Head 6: Registrar of Companies and Registrar of Beneficial Ownership of Companies and Industrial & Provident Societies.

To provide for –

(1) The Registrar shall keep –

(a) a register and index of all the limited partnerships registered under Part 3 of this Bill;

(b) a register and index of all the business names registered under Part 4 of this Bill; and

(c) every statement, notice, return, and other document registered in relation to limited partnerships and business names.

(2) The Registrar of Beneficial Ownership of Companies and Industrial & Provident Societies shall keep the register referred to in Head 35.

(3) The Registrar and the Registrar of Beneficial Ownership of Companies and Industrial & Provident Societies may do all such acts or things as are necessary or expedient for the performance of his or her functions under this Bill [or any other Act].

(4) Neither—

(a) the Registrars or a former Registrar, nor

(b) a present or former officer of the Registrars,

is liable for damages for anything done, anything purported to be done or anything omitted to be done by him or her in performing a function under this Bill, unless the act or omission is shown to have been in bad faith.

#### *Explanatory Note*

Head 6 is based on section 13 and 14 of the 1907 Act and applies to both limited partnerships and the registration of business names. The Registrar of Companies is the Registrar for the Bill in accordance with section 887(9)(b) and (c) of the Companies Act 2014. Subhead 1 requires the Registrar to keep a register of limited partnerships and a register of business names and all related documents. Subhead 2 provides for the Registrar of Beneficial Ownership of Companies and Industrial & Provident Societies to keep a register of beneficial ownership of partners incorporated or administered outside the EEA. Subheads 3 and 4

provide that the Registrars shall do all necessary to perform her functions and excludes the Registrars and her officers from liability for damages arising from their actions, where done in good faith.

## Head 7: Admissibility of certified copy or extract

To provide for:

- (1) A copy of or extract from any document registered with and kept by the Registrar shall be admissible in evidence in all legal proceedings and be of the same evidential effect as the original document if it has been certified as a true copy under the signature of the Registrar, an assistant Registrar or another officer authorised by the Minister.
- (2) For the purposes of subhead (1) it shall not be necessary to prove the official position of the person whose signature appears on the copy concerned.

### *Explanatory note*

Head 7 governs the admissibility of certified copies or extracts from documents registered with and kept by the Registrar in evidence in all legal proceedings. It is based on section 892 of the Companies Act 2014.

## Head 8: Certificate by Registrar admissible as evidence of facts stated

To provide for –

(1) A certificate in writing and signed by the Registrar shall be admissible in all legal proceedings as evidence without further proof of any of the following facts stated in the certificate unless the contrary is shown –

(a) the contents of a register kept by the Registrar;

(b) the date on which a document was filed or registered with or delivered to the Registrar;

(c) the date on which a document was received by the Registrar; or

(d) the most recent date (if any) on which a requirement under this Bill was complied with.

### *Explanatory Note*

Head 8 is new and is based on section 893 of the Companies Act 2014. It provides that a certificate in writing from the Registrar as to the contents of a register, the date on which a document was filed, registered with or delivered to or received by the Registrar, or the date on which a requirement under [the Limited Partnerships Act 1907 or the Registration of Business Names Act 1963] [this Bill] was complied with shall be admissible in all legal proceedings as prima facie evidence, provided that evidence to the contrary is not given.



## Head 9: Disposal of documents

To provide for –

- (1) The Registrar may, in respect of any document that has (whether pursuant to this Bill, the Act of 1907 or the Act of 1963) been received and recorded by the Registrar, destroy the document if the following conditions are satisfied –
  - (a) 6 or more years have elapsed after the date of its receipt by him or her; and
  - (b) its destruction is authorised by the Director of the National Archives under section 7 of the National Archives Act 1986, but this is subject to subhead (2).
- (2) Without prejudice to subhead (3), for so long as a limited partnership or business name is registered, and for a period of 20 years after the date of its dissolution, the Registrar shall keep in electronic form a copy of every document that, in relation to that limited partnership or business name, has been received and recorded (whether pursuant to this Bill, the Limited Partnerships Act 1907 or Registration of Business Names Act 1963) by the Registrar and the keeping of such copy in that form shall be such as to ensure the authenticity and accuracy of the data and that the data may be reliably accessed.
- (3) On and from the expiry of 20 years after the date of its dissolution, a copy of every document kept, in relation to a limited partnership or the registration of a business name, by the Registrar under subhead (2), and in the form specified therein, may be kept and maintained by the Registrar in an archival database comprising the records of business names and limited partnerships, the length of the period of dissolution of which stands at 20 or more years.
- (4) The means of keeping, in electronic form, the archival database referred to in subhead (3) shall be such as are, in the opinion of the Registrar (after consultation with the Director of National Archives), best calculated to preserve and maintain the integrity of the data.

### *Explanatory Note*

Head 9 sets out the process for the Registrar to dispose of documents based on section 894 of the Companies Act 2014. Subhead 1 provides that the Registrar may destroy documents 6 or more years after their receipt with the approval of the Director of the National Archives. Subhead 2 requires the Registrar to keep an electronic copy of every document for 20 years after a limited partnership has been dissolved or a business has ceased business under a registered business name. Subheads 3 and 4 provide that after the 20-year period the Registrar may store the documents in an archive database following consultation with the Director.

## Head 10: Delivery to Registrar of documents in legible form

To provide for –

(1) This section applies to the delivery under any provision of this Bill of a document to the Registrar in legible form.

(2) Each document shall –

(a) state in a prominent position the registered number of the limited partnership or business name to which the document relates; and

(b) comply with regulations (if any) prescribing:

(i) the form and contents of the document,

(ii) requirements to enable the Registrar to copy the document.

(3) The Minister may prescribe different requirements for the form and content of a document with respect to different classes of document under Head 5.

(4) In this Head, “document” includes anything required or entitled to be registered or filed with the Registrar under the provisions of this Bill and in particular, any statement, notification and annual statement or any documents attached thereto.

### *Explanatory Note*

Head 10 is new and is a standard provision that relates to the delivery of documents to the Registrar in legible form. It is based on section 896 of the Companies Act 2014.

## Head 11: Delivery of documents in electronic form may be made mandatory

To provide for –

- (1) If the Minister, after consultation with the Registrar, considers that the performance by the Registrar of functions under this Bill with respect to the receipt and registration of information under any particular provision of it could be more efficiently discharged if an order under this Head were to be made in relation to that provision, then the Minister may make such an order accordingly.
- (2) The order referred to is an order providing that the sole means to be used to deliver, under the particular provision concerned, a document to the Registrar shall be those provided for under the Electronic Commerce Act 2000 and, accordingly, where such an order is made, those means shall, for that purpose, be used to the exclusion of any other means.
- (3) An order under this Head may relate to more than one, or to every, provision of this Bill.
- (4) In subhead (1) “information” shall be read in the same manner as ‘document’ in Head 10.
- (5) In subhead (2), the reference to the use of the means provided for under the Electronic Commerce Act 2000 is a reference to their use in a manner that complies with any requirements of the Registrar of the kind referred to in sections 12(2)(b) and 13(2)(a) of that Act.

### *Explanatory Note*

Head 11 is a new provision based on section 897 of the Companies Act 2014 and provides for the delivery of documents to the Registrar in electronic form, making full use of new technology. Under this Head, following consultation with the Registrar the Minister may make an order, providing that the sole means to be used to deliver a document to the Registrar shall be those provided for under the Electronic Commerce Act 2000.

## Head 12: Registrar's notice that a document does not comply

To provide for –

- (1) On receipt of a non-complying document, the Registrar may, at his or her discretion serve on the general partner in the case of a limited partnership or presenter acting on behalf of a limited partnership, and in the case of the registration of a business name, on the registrant, or presenter acting on behalf of a registrant, a notice that the document does not comply.
- (2) A notice under subhead 1 shall state in what respects the document is a non – complying document.
- (3) A document referred to in subhead (1) shall be deemed not to have been delivered to the Registrar if –
  - (a) it is the subject of a notice served under subhead 1;
  - (b) the Registrar has not received within 14 days after the date of service of the notice a replacement document that –
    - (i) complies with the requirements referred to in subhead (4) (b), or
    - (ii) is not rejected by the Registrar for non-compliance with those requirements.
- (4) In this Head, a non-complying document is a document that –
  - (a) is required or authorised to be delivered to the Registrar under this Bill, and
  - (b) fails to comply with –
    - (i) the relevant requirements of this Bill or regulations made under this Bill, or
    - (ii) any requirements imposed by or under any other enactment in relation to the completion of a document and its delivery to the Registrar.

### *Explanatory Note*

Head 12 is a new provision empowering the Registrar to serve notice on a limited partnership, business name registrant or their presenter rejecting documents which are delivered in a non-compliant form. If within 14 days the limited partnership or business fails to re-deliver the replacement document, the document will be deemed never to have been delivered. It is based on section 898 of the Companies Act 2014.

## Head 13: Registrar's notice that further information is required

To provide for –

- (1) Where the Registrar has reasonable cause to doubt the veracity or authenticity of any document filed in purported compliance with this Bill, he or she may issue a notice requesting such additional information or documents as he or she considers appropriate in the circumstances.
- (2) A request for further information shall be complied with within 28 days of the sending of the notice.
- (3) Section 874 of the 2014 Act applies where the Registrar has reasonable grounds for believing that a person is in default in the delivery, filing or making to the Registrar of a return or similar document required under this Bill (being a default that constitutes a category 3 or 4 offence).

### *Explanatory note*

Head 13 is a new provision for additional powers for the Registrar to request further information in circumstances where he or she has reasonable cause to doubt the authenticity of documents received. This provision is intended to maintain the integrity of information on the Register of Limited Partnerships and the Register of Business Names. Section 874 of the 2014 Act applies where the Registrar has grounds to believe that a person fails to deliver, file or make a return required under this Bill.

## Head 14: Cases in which partners and registrants must supply personal data

To provide for –

(1) Notwithstanding section 262(9) of the Social Welfare Consolidation Act 2005, all partners of a limited partnership and all registrants of a business name shall include his or her personal public service number (or, in any case where the partner(s) or registrant(s) do not have a personal public service number, such other information concerning their identity as stands determined by the Registrar for the purposes of this Head) in—

- (a) an application made under this Bill by him or her to register a limited partnership,
- (b) an application made under this Bill by him or her to register a business name,
- (c) an annual confirmation statement made under this Bill by a limited partnership of which he or she is a general partner, and
- (d) a notice of changes of partners in a limited partnership or registrants of a business name made under this Bill by a partner or a registrant.

(2) Any person who, without just cause, fails to comply with subhead (1) shall be guilty of a category 3 offence.

(3) In this head, ‘personal public service number’, in relation to a partner or registrant, means the number that has been issued to the partner or registrant in accordance with section 262(2) of the Social Welfare Consolidation Act 2005.”

### *Explanatory note*

Head 14 is based on section 888A of the Companies Act 2014. Subhead (1) provides that when submitting certain forms to the Registrar the partner(s) of a limited partnership and registrant(s) of a business name shall provide his or her Personal Public Service Number (PPSN), or such other information required by the Registrar.

The forms concerned are the application to register a limited partnership or a business name, an annual confirmation statement and a notice of change of partners of a limited partnership or registrants of a registered business name. Subhead (2) provides that a person who fails to comply with this head is guilty of a category 3 offence and liable on summary conviction to a class A fine.

Once the data has been validated by the DEASP the PPSN will be encrypted in an irreversible form using hashing, in order to facilitate the CRO to align future filings with persons already on the register.

## Head 15: Inspection of documents registered

To provide for –

- (1) On payment of the prescribed fee any person may inspect any documents received and recorded by the Registrar under this Bill (excluding beneficial ownership information filings made under Head 37) , and any person may require a certificate of the registration of any limited partnership or business name referred to in Heads 26 and 40 or a copy of or extract from any documents kept, to be certified by the Registrar as referred to in Head 7.
- (2) A process for compelling the production of any document kept by the Registrar—
  - (a) shall not issue from any court except with the leave of that court, and
  - (b) if so issued, shall state that it is issued with the leave of the court.
- (3) The Registrar shall not disclose the date of birth of a minor who is the registrant of a registered business name, or the Personal Public Service Number of any partner of a limited partnership or registrant of a registered business name.
- (4) For the purposes of communications between registers through the system of interconnection of registers, the Registrar shall assign to each limited partnership a unique identifier which shall include elements to identify the limited partnerships as a partnership in the State, to identify the number assigned to the limited partnership in the register and other appropriate elements to avoid identification errors.
- (5) The Registrar shall make available, through the system of interconnection of registers, electronic copies of the documents and particulars of limited partnerships.
- (6) The Registrar shall ensure that any changes to those documents and particulars, are entered into the register as soon as practicable.
- (7) The Registrar shall make available, as soon as practicable, through the system of interconnection of registers, information on—
  - (a) the dissolution of a limited partnership on the register;
  - (b) the removal of a limited partnership from the register.
- (8) The Registrar shall ensure that the following particulars relating to a limited partnership on the register are available, free of charge, through the system of interconnection of registers—

- (a) its name and legal form;
- (b) the address of its registered office, including the fact that it is registered in the State; and
- (c) its registration number on the register.

### *Explanatory Note*

Head 15 is based on section 16 of the Act of 1907 and the Act of 1963 and section 891 of the Companies Act 2014 and provides that any person may inspect documents registered by the Registrar or seek a certificate of registration of a limited partnership or business name or a copy or extract of documents to be certified by the Registrar (not to include beneficial ownership information filings). Subhead 2 provides that an order compelling the production of a document shall issue with the leave of the court. Subhead 3 aims to protect the identity of registrants of business names under the age of 18 by not disclosing the date of birth. A person's PPSN will not be stored by the CRO or disclosed in line with the General Data Protection Regulations.

Subheads (4) to (8) are provisions regarding sharing of information on limited partnerships on the interconnection of business registers (BRIS) based on provisions in section 891(3) to (8) of the Companies Act 2014. This is done in light of the inclusion of Irish registered limited partnerships in the Proposal for a Directive amending Directives 2009/102/EC and 2017/1132/EU as regards further expanding and upgrading the use of digital tools and processes in company law.



## Head 16: Reorganisation of registers

To provide for –

- (1) For a transition period of 30 months following the commencement of this Bill, the Registrar shall identify registered limited partnerships that have ceased to operate and businesses with registered business names that are no longer carrying on business and remove them from the Register.
- (2) Following commencement of this Bill [Act], the Registrar shall notify all general partners of a limited partnership and registrants of a business name in writing that:
  - (a) the Registrar is contacting the registrants on the relevant register due to the commencement of this Bill;
  - (b) the registration requirements have changed;
  - (c) due to the new registration requirements, the registrants must re-register:
    - (i) a limited partnership; and/or
    - (ii) a business name,
  - (d) failure to comply with the re-registration requirements within 12 months from the Registrar's notice being issued will lead to the Registrar in her discretion initiating the involuntary removal process in accordance with Head 31 and the removal of a business name in accordance with Head 44.
- (3) The Registrar shall notify the applicants/registrants that following the re-registration process as referred to in subhead 2(c):
  - (a) the limited partnership shall maintain a registered office or place business in the State for the duration of the limited partnership agreement in accordance with Head 18;
  - (b) the limited partnership shall make an annual confirmation statement in accordance with Head 29;
  - (c) the limited partnership shall disclose information on all partners of a limited partnership that are incorporated or administered outside the EEA in accordance with Head 36; and
  - (d) the person(s) behind a registered business names shall renew the registration every five years in accordance with Head 42.

(4) The Registrar's notice shall be sent –

(a) by electronic means where an email address for electronic communications has been furnished, or

(b) where no such address has been furnished or where a failed delivery notification is received, by ordinary post to –

- (i) in the case of a person, including a general partner of a limited partnership, the address at which the person ordinarily resides or in a case where an address for correspondence has been furnished to the Registrar, to that address;
- (ii) in the case of a registered business name to the registered address of the business;
- (iii) in the case of company at its registered office, and
- (iv) in the case of every other body corporate and every unincorporated body at the address provided to the Registrar.

The Registrar shall retain records demonstrating as may be required that notice was issued in accordance with this section, or that it was not possible to issue such a notice, as the case may be.

(5) Upon the passing of the notice period in subhead 2(d) and where the registrant or presenter acting on his or her behalf have failed to respond to the Notice or have failed to take the appropriate steps set out in the Notice, the Registrar shall have the power to remove the limited partnership or business name from the registers.

### *Explanatory Note*

Head 16 provides the process by which existing limited partnerships and persons behind registered business names are informed of the new registration requirements, to facilitate compliance and support the integration of existing registrations with new registrations made under the Bill. The Registrar will inform all general partners and registrants of existing limited partnerships and registered business names of the new requirements within the transition period of thirty months of the commencement of the Bill. Failure to comply within twelve-months of the Registrar's notice will result in the initiation of the removal of the limited partnership or business name from the register.

Subhead 3 provides that following the re-registration process a limited partnership must: maintain a registered office or place of business in the State; make an annual confirmation statement; disclose information on all partners of a limited partnership that are incorporated or administered outside the EEA; and person(s) behind a registered business name must renew the registration every five years. Subhead 4 provides for the Registrar to issue the notification electronically where an email address was provided or by ordinary post if not or where a failed electronic delivery report was received. The Registrar will keep a record of the

notice being issued or otherwise. Subhead 5 provides that the Registrar will initiate the removal of the limited partnership and/or business name from the Register where the registrant or presenter failed to respond to the Notice or take the appropriate remedial step(s) set out in the notice.

## Part 3 – Limited Partnerships

### Chapter 1: Nature of Limited Partnership

#### Head 17: Definition and constitution of limited partnership

To provide for –

- (1) A limited partnership may be formed for any lawful purpose by any person or persons in accordance with the provisions of this Part.
- (2) Subject to section 1435 of the Companies Act 2014, a limited partnership shall not consist of more than twenty persons and in the case of a partnership that is carrying on the business of banking ten persons, and in the case of any other partnership must consist of –
  - (a) one or more persons called general partners who shall be liable for all debts and obligations of the firm; and
  - (b) one or more persons called limited partners who shall at the time of entering into such partnership contribute a sum or sums of capital or property valued at a statement amount and who shall not be liable for debts or obligations of the firm beyond the amount contributed at the entry into the partnership.
- (3) A limited partner shall not, for the duration of the partnership, either directly or indirectly, draw out or receive back any part of his or her contribution and if he or she does so draw out or receives back any such part shall be liable for the debts and obligations of the firm up to the amount originally contributed.
- (4) A body corporate may be a general or limited partner.
- (5) A person shall not be appointed as a general partner of a limited partnership unless he or she has attained the age of 18.
- (6) Any purported appointment of a minor as a general partner of a limited partnership shall be void.
- (7) Where a person appointed as a general partner before the commencement of this Bill has not attained the age of 18 years that person ceases to be a general partner of the limited partnership on the commencement of this Bill and the limited partnership shall notify the Registrar of the change under Head 27.

### *Explanatory Note*

This Head replicates section 4 of the 1907 Act with some minor amendments to update the text and clarify that a body corporate may be a general partner. Subhead 1 provides that limited partnerships can only be formed by registering the limited partnership in compliance with this Bill. Subhead 2 provides that, subject to section 1435 of the Companies Act 2014, limited partnerships shall not have more than twenty members, or ten in the case of banking. Subhead 2(a) provides that limited partnerships must comprise of at least one general partner who has unlimited liability for the debts and obligations of the firm. Subhead (2)(b) provides that the liability of limited partners is limited to the amount of capital contributed on entering the partnership. There is no minimum or maximum contribution; that is a matter for the partnership agreement. Subhead 3 provides that limited partners may not withdraw their capital contribution and if this occurs, liability remains up to the amount originally contributed. The 1907 Act explicitly provides that a limited partner may be a body corporate; it is silent in the matter of general partners. In practice, a body corporate can be a general or limited partner and therefore this is provided for in subhead (4). Subheads (5), (6) and (7) are based on section 131 of the Companies Act 2014 and aim to protect minors from attracting unlimited liability.

## Head 18: Requirement to maintain a registered office or principal place of business in the State

To provide for –

- (1) A limited partnership shall at all times maintain a registered office or principal place of business at an appropriate address in the State, which may be at the same address, to which all communications and notices may be addressed.
- (2) A limited partnership shall not be registered unless it appears to the Registrar that the limited partnership, when registered, will carry on an activity in the State.
- (3) An address is an appropriate address if –
  - (a) in the ordinary course of events –
    - (i) a document addressed to the limited partnership, and delivered there by hand or by post, would be expected to come to the attention of a person acting on behalf of the limited partnership, and
    - (ii) the delivery of documents there is capable of being recorded by the obtaining of acknowledgement of delivery,
  - (b) it is within the State; and
  - (c) it is at least one of the following –
    - (i) the address of the principal place of business of the limited partnership,
    - (ii) the usual residential address of a general partner who is an individual,
    - (iii) the address of the registered or principal office of a general partner that is a legal entity,
    - (iv) an address of an authorised trust or company service provider that is acting for the limited partnership.
- (4) A limited partnership registered under the Limited Partnerships Act 1907 must comply with the requirements of this Head within twelve months of the Registrar's notice to re-register.
- (5) The general partners shall, within the twelve months period, deliver a document in the prescribed form to the Registrar specifying the address of its registered office in the State or principal place of business in the State in accordance with subhead (1). Hereafter referred to as the registered business address.

- (6) A limited partnership shall state its name, registration number and registered business address on all business signs and websites, and on all paper and electronic documents issued by the limited partnership when carrying on business associated with the limited partnership.
- (7) A limited partnership shall display its name in a conspicuous position, in letters easily legible, outside the place where the business is normally carried on and at its registered business address.
- (8) Failure to comply with this Head may lead to the initiation of the involuntary removal process in accordance with Head 31.
- (9) Each general partner who fails to comply with this Head is guilty of a category 3 offence.

### *Explanatory Note*

The purpose of Head 18 is to ensure that a limited partnership maintains an ongoing connection with the State's authorities via a registered office or a principal place of business at an 'appropriate address' in the State, to be known as the 'registered business address'. The objective is to address the issue that some existing limited partnerships are known to have severed connection with the State by moving their principal place of business outside the jurisdiction after registration.

This Head is based on section 50(1) of the Companies Act 2014, section 7(1) of the Irish Collective Asset-management Vehicles Act 2015 and section 12(1) of the Investment Limited Partnership Act 1994 which provides that "An investment limited partnership shall at all times maintain a registered office in the State and a principal place of business in the State which may be at the same address, to which all communications and notices may be addressed".

Subhead 2 is based on section 18 of the Companies Act 2014 and provides that a limited partnership will not be registered unless the Registrar is satisfied it will carry on an activity in the State.

Subhead 3 provides that an 'appropriate address' in the State must be either the principal place of business, the residential address of a general partner, the registered or principal office of a general partner or the address of a trust or company service provider acting for the limited partnership.

Subheads 4 and 5 provide that existing limited partnerships will be required to comply with the Registrar's notice to re-register within twelve months of the Registrar's notice.

Subheads 6 and 7 provide for the disclosure of the name, registration number and registered business address of a limited partnership on all business signs, websites and documents and for the name of a limited partnership to be displayed outside its place of business or registered office in the State.

Subheads 8 and 9 provide that failure to comply this head may lead to the removal from the register and each general partner is guilty of a category 3 offence i.e., on summary conviction liable to a class A fine or imprisonment for up to 6 months or both.



## Head 19: Limited partnership to have general partner resident in an EEA state

To provide for –

- (1) At least one of the general partners for the duration of a limited partnership must be a person who is resident in an EEA State or a body corporate having its registered office and principal place of business in an EEA State.
- (2) A limited partnership registered under the Limited Partnerships Act 1907 must comply with the requirements of this Head within twelve months of the Registrar's notice to re-register the limited partnership.
- (3) At least one general partner must, within the twelve-month period as referred to in subhead (2), deliver a document in the prescribed form to the Registrar specifying their residential address or registered office and place of business address (as the case may be) which must be in an EEA State.
- (4) Each general partner who fails to comply with this Head is guilty of a category 3 offence.
- (5) The Registrar may in her discretion initiate an involuntary removal process in accordance with Head 31 where it appears to her that a limited partnership has failed to comply with this Head.

### *Explanatory Note*

The purpose of Head 19 is to enhance transparency by mandating that at least one of the general partners of a limited partnership must be resident in an EEA State. This Head is based on section 137 of the Companies Act 2014. Subhead 2 provides that existing limited partnerships must comply with the requirements within twelve months of the Registrar's Notice to re-register. Subhead 3 requires that within the twelve-month period, at least one general partner must provide a document to the Registrar with their residential, registered office or place of business address in an EEA state. Subhead (4) provides that each general partner who fails to comply with this Head is guilty of a category 3 offence i.e. on summary conviction liable to a class A fine or imprisonment for up to 6 months or both. Subhead (5) provides that failure to comply with this Head may lead to the removal from the register.

## Head 20: Name of limited partnership

To provide for –

(1) The name of a limited partnership shall end with one of the following:

- (a) comhpháirtíocht theoranta; or
- (b) limited partnership.

(2) The words “comhpháirtíocht theoranta” may be abbreviated to “c.t” or “ct” (including such abbreviation in capitalised form) in any usage after the limited partnership registration by any person.

(3) The words “limited partnership” may be abbreviated to “l.p” or “lp” (including such abbreviation in capitalised form) in any usage after the limited partnership registration by any person.

(4) A limited partnership carrying on business under a name other than its partners names, surnames or abbreviations shall register in the manner directed by law for the registration of business names under Part 4 of this Bill, but the use of the abbreviations set out in subhead (2) or (3) shall not of itself render such registration necessary.

(5) Neither an undertaking that is not a limited partnership registered under the 1907 Act or this Bill, nor an individual shall carry on business under a name which includes, as its last part, the words “comhpháirtíocht theoranta” or “limited partnership” or abbreviations of those words.

(6) If a body or individual contravenes subhead (5), the body or individual shall be guilty of a category 3 offence.

(7) A limited partnership shall not, in the following circumstances, use a name which may reasonably be expected to give the impression that it is any type of firm other than a limited partnership.

(8) Those circumstances are circumstances in which the fact that it is a limited partnership is likely to be material to any person.

(9) A limited partnership shall not be:

- (a) registered; or
- (b) as the case may be, re-registered;

by a name which in the opinion of the Registrar is undesirable in accordance with Head 39.

(10) An appeal shall lie to the court against a refusal by the Registrar to register a limited partnership (in any of the circumstances referred to in paragraph (a) or (b) of subhead (9) on the ground there referred to.

(11) A limited partnership registered under the Limited Partnerships Act 1907 must comply with the requirements of this Head within twelve months of the Registrar's notice to re-register under Head 16.

(12) Each general partner who fails to comply with this Head is guilty of a category 3 offence.

(13) The Registrar may in her discretion initiate an involuntary removal process in accordance with Head 31 where it appears to her that a limited partnership has failed to comply with this Head.

### **Explanatory Note**

Head 20 is new and based on sections 26 and 1179 of the Companies Act 2014.

It requires the name of a limited partnership to end with the words or abbreviations of the words 'limited partnership' in either Irish or English. Based on section 27 of the Companies Act entities or individuals that are not limited partnerships are guilty of a category 3 offence if they misuse the term limited partnership or its abbreviations in their name.

Further, limited partnerships must not use a name that implies they are another type of entity in circumstances where this is likely to be material to any person. Subheads 9 and 10 provide that a limited partnership shall not use a name that in the view of the Registrar is undesirable and that a refusal by the Registrar to register a name under subhead 9 may be appealed to the Court, based on section 26(6) of the Companies Act 2014.

Subhead 11 provides that a limited partnership registered under the Limited Partnership Act 1907 must also comply with the requirements of this Head within twelve months of the Registrar's notice to re-register. Subhead 12 provides that each general partner who fails to comply with this Head is guilty of an offence. Subhead 13 provides that failure to comply with this Head, may lead to the initiation of the involuntary removal process from the register. To ensure the unlimited liability of limited partners is protected to the greatest extent possible the involuntary removal process envisaged is a fair, proportionate response with the necessary checks and balances to ensure a limited partnership is not removed unnecessarily.

## Head 21: Modification of the Act of 1890 in case of limited partnerships

To provide for –

- (1) A limited partner shall not take part in the management of the partnership business and shall not have power to bind the firm.
  - (a) [Provided that] A limited partner may by himself or herself, or his or her presenter, at any time inspect the books of the firm and examine into the state and prospects of the partnership business and may advise with the partners thereon.
  - (b) If a limited partner takes part in the management of the partnership business, he or she shall be liable for all debts and obligations of the firm incurred while he or she so takes part in the management as though he or she were a general partner.
- (2) A limited partnership shall not be dissolved by the death or bankruptcy of a limited partner, and where it is found that a limited partner can no longer be reasonably regarded as possessing an adequate decision-making capacity this shall not be a ground for dissolution of the partnership by the court unless that partner's share cannot be otherwise ascertained and realised.
- (3) In the event of the dissolution of a limited partnership its affairs shall be wound up by the general partners unless the court otherwise orders.
- (4) Applications to the court to wind up a limited partnership shall be under the Companies Act 2014, and the provisions in that Act relating to the winding-up of companies by the court and of the rules made thereunder (including provisions as to fees) shall, subject to such modifications (if any) as the Minister, may prescribe, apply to the winding-up by the court of limited partnerships, with the substitution of general partners for directors.
- (5) Subject to any agreement expressed or implied between the partners—
  - (a) Any difference arising as to ordinary matters connected with the partnership business may be decided by a majority of the general partners;
  - (b) A limited partner may, with the consent of the general partners, assign his share in the partnership, and upon such an assignment the assignee shall become a limited partner with all the rights of the assignor;
  - (c) The other partners shall not be entitled to dissolve the partnership by reason of any limited partner suffering his share to be charged for his separate debt;
  - (d) A person may be introduced as a partner without the consent of the existing limited partners;
  - (e) A limited partner shall not be entitled to dissolve the partnership by notice.

## *Explanatory Note*

Head 21 provides for the modifications of general partnership law in respect of limited partnerships. It is in substance the same as section 6 of the 1907 Act.

### (1) Participation in management

Section 5 of the 1890 Act sets out the power of partners to bind the firm.

This provision makes the significant distinction between ordinary partners and limited partners. In this case, a limited partner shall not take part in the management of the partnership business and shall not have power to bind the firm. Management is not defined in the 1907 Act. However, section 158 of the Companies Act 2014 is instructive in respect of director's powers in relation to companies. Essentially, to be part of management of a company means to be able to exercise a power.

The concept of management is further clarified in this Head in respect of limited partners in that they shall not have power to bind the firm, unlike a partner in an ordinary partnership under the 1890 Act. This is because limited partners liability is only to the value of their contribution at the outset. Having the power to manage or bind the partnership could override the power of the general partner or partners who have unlimited liability.

A limited partner may inspect the firm's accounts and consult regarding the prospects of the business with the general partners.

If a limited partner takes part in the management of the partnership business, he or she will be liable for all debts and obligations of the firm incurred while he or she takes part in the management as though he or she were a general partner. This is a proportionate and long-standing rule.

### (2) Dissolution of a limited partnership

Section 33 of the 1890 Act requires that partnerships are dissolved on the death or bankruptcy of a partner unless there is an agreement otherwise. This section clarifies that a limited partnership is not dissolved by the death or bankruptcy of a limited partner.

Section 35 of the 1890 Act sets out a series of situations where a partnership can be dissolved by the Court. This section makes distinctions given the different roles of limited partners compared to ordinary partners. It clarifies that where a limited partner can no longer be reasonably regarded as possessing an adequate decision-making capacity this shall not be a ground for dissolution of a limited partnership by the court unless that partner's share cannot be otherwise ascertained and realised. The language of the 1907 Act is updated to reflect the approach in section 188 of the Companies Act 2014 as the term lunacy is outdated and inappropriate.

### (3) General dissolution of a limited partnership

Section 38 of the 1890 Act sets out the continuing authority of partners for the purposes of winding up the partnership. This section clarifies that the dissolution of a limited partnership

shall be managed by the general partners unless a court orders otherwise. This is appropriate given the different role of limited partners in the partnership.

#### (4) Winding up of a limited partnership

This section updates the language of the 1907 Act but in substance is unchanged. Where an application is made to the Court to wind-up a limited partnership, the provisions of the Companies Act 2014 apply in relation to the winding-up of limited partnerships subject to any modifications prescribed by the Minister. To date no modifications have been prescribed by the Minister.

#### (5) Other matters

This section sets out a series of modifications of the 1890 Act in respect of limited partnerships in respect of other matters subject to any other agreements made between the partners such that —

- (a) Section 24 subparagraph 8 of the 1890 Act provides that ‘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.’ Subhead (5)(a) clarifies that in respect of limited partnerships any difference arising as to ordinary matters connected with the partnership business may be decided by a majority of the general partners.
- (b) Section 31 of the 1890 Act sets out rules in relation to assignment of a partners share in an ordinary partnership. Subhead (5)(b) sets out the rules in relation to the assignment of a limited partners share in a limited partnership. That is a limited partner may, with the consent of the general partners, assign his share in the partnership, and upon such an assignment the assignee shall become a limited partner with all the rights of the assignor.
- (c) Section 33 subparagraph 2 of the 1890 Act provides that 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. Subhead (5)(c) sets out the rules in relation to limited partners in a limited partnership such that the other partners shall not be entitled to dissolve the partnership by reason of any limited partner offering his or her share to be charged for his or her separate debt.
- (d) Section 24 subparagraph 7 of the 1890 Act provides that no person may be introduced as a partner without the consent of all existing partners. Subhead (5)(d) provides that in the case of limited partnerships a person may be introduced as a partner without the consent of the existing limited partners.
- (e) Section 32 of the 1890 Act sets out a series of situations in which a partnership is dissolved including, if entered into, for:
  - a fixed term, by the expiration of that term; or

- a single adventure or undertaking, by the termination of that adventure or undertaking; or
- an undefined time, by any partner giving notice to the other partner(s) of his intention to dissolve the partnership.

In the last-mentioned scenario, 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.

## Head 22: Partnership Act of 1890 to apply where not excluded by this Act

To provide for –

(1) Subject to the provisions of this Bill, the Partnership Act 1890, and the rules of equity and of common law applicable to partnerships, except so far as they are inconsistent with the express provisions of this Bill, shall apply to limited partnerships.

### *Explanatory Note*

Head 22 provides that the rules applying to ordinary partnerships shall apply to limited partnerships except to the extent that those rules are inconsistent with the rules set out in this Bill. It is the same as section 7 of the 1907 Act.



## Chapter 2: Registration

### Head 23: Registration

To provide for –

- (1) Every limited partnership must be registered in accordance with the provisions of this Head or in default shall be deemed to be a general partnership, and every limited partner shall be deemed to be a general partner.
  
- (2) The registration of a limited partnership shall be effected by delivering to the Registrar a statement in the prescribed form containing –
  - (a) the name of the limited partnership;
  
  - (b) the principal activity of the business that the limited partnership will carry on in the State, and the relevant classification system;
  
  - (c) the limited partnership's registered office and principal place business address in the State in accordance with Head 18;
  
  - (d) the limited partnership's electronic mail address;
  
  - (e) the name, registered office, principal place of business, and registration number of the entity on the register kept by the State or relevant state of each of the general partners, and in the case of each natural person who is a general partner his or her forename and surname including any previous forename or surname, date of birth, residential address, nationality and Personal Public Service Number, and confirmation they are not disqualified or subject to a declaration of restriction, under Chapters 3, 4 and 5 of Part 14 of the Companies Act ;
  
  - (f) in any case where the general partner does not have a Personal Public Service Number, such other information concerning the identity of the general partner as stands determined by the Registrar for the purposes of this subhead in—
    - (i) an application made under this Part to register a limited partnership,
  
    - (ii) an annual return made under this Part by the limited partnership of which he or she is a general partner, and
  
    - (iii) a notice of change of partner made under this Part by the limited partnership of which he or she is a general partner.

(g) the name, registered office, place of business and registration number of the entity on the register kept by the State or relevant state of each of the limited partners, and in the case of each natural person who is a limited partner, his or her forename and surname including any previous forename or surname, date of birth, residential address, nationality and PPSN;

(h) in any case where the limited partners do not have a Personal Public Service Number, such other information concerning the identity of the partners as stands determined by the Registrar for the purposes of this subhead) in—

(i) a registration made under this Part,

(ii) an annual return made under this Part by a limited partnership of which he or she is a limited partner, and

(iii) a notice of change of partners made under this Part by a limited partnership of which he or she is a limited partner.

(i) the term, if any, for which the partnership is entered into, and the date of its commencement;

(j) a statement that the partnership is limited;

(k) a statement of the sum contributed by each limited partner, and whether paid in cash or how otherwise; and

(l) a statement that at least one of the general partners, for the term of the limited partnership shall be a person who is resident in an EEA state or a body corporate with a registered office and place of business in an EEA State in accordance with Head 18.

(3) The general partners are responsible for registration of the limited partnership and must sign a declaration stating that all the requirements in respect of registration of the limited partnership have been complied with.

(4) Where the general partner(s) instruct a presenter to register a limited partnership on their behalf, the registration details at subhead (2) must also include:

(a) the name and [business] address of that presenter,

(b) evidence that the presenter is registered with the relevant supervisory authority as a Trust or Company Service Provider under the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010.

(5) Where a presenter acts under the instruction of a general partner, each of the general partners are responsible for registration and must sign a declaration stating that all the

requirements in respect of registration of the limited partnership have been complied with.

### *Explanatory note*

Subhead 1 is based on section 5 of the 1907 Act and provides that failure to register as a limited partnership means that all partners are general partners and liable for the debts and obligations of the partnership.

Subhead 2 provides that the registration of a limited partnership shall be affected by delivering to the Registrar of Companies a statement in the prescribed form. The statement must contain: the firm name; the principal activity of the business to be carried on in the State; [the address of its registered office and place of business in the State] [registered business address] along with other necessary information as outlined below.

#### The firm name

The requirement to provide the firm name is based on section 8 (a) of the 1907 Act.

#### The principal activity of the business

This provision updates and modernises the language in section 8(b) of the 1907 Act to refer to the principal activity rather than general nature of the business. This seeks to ensure that the register maintains an accurate recording of principal activity of the partnership by using the relevant classification system. Section 15 of the Companies Act 2014 states: *“relevant classification system” means NACE Rev. 2, that is to say, the common basis for statistical classifications of economic activities within the European Community set out in the Annex to Council Regulation (EEC) No. 3037/90 of 9 October 1990 on the statistical classification of economic activities in the European Community, as amended for the time being*”.

The registered business address in the State. This requirement is in accordance with new Head 18.

#### Other relevant Information

The name and registered office, registration number and email address of each of the general partners, and in the case of natural persons who are general partners his or her forename and surname or former names, date of birth, residential address, nationality and Personal Public Service Number (PPSN), and confirmation they are not disqualified from acting as a director or subject to restriction under Chapters 3,4 and 5 of Part 14 of the Companies Act.

Other information also includes in the case of natural persons who are limited partners his or her forename and surname and former names, date of birth, nationality, PPSN and

residential address or the name, registered office address and registration number in the case of a legal persons.

Point (i) requires details of the term, if any, for which the partnership is entered into, beginning with the date of commencement of the agreement based on section 8(e) of the 1907 Act.

Point (j) requires a statement that the partnership is limited. Point (k) requires a statement of the sum contributed by each limited partner, and how it was made. This subhead is based on subhead 8(g) of the 1907 Act.

Point (l) requires a statement that at least one of the general partners, for the term of the limited partnership shall be a person who is resident in an EEA state, or a body corporate registered in an EEA state. This is based on Section 137 of the Companies Act 2014.

Subheads 3 and 4 are new. They refer to the central role and responsibility of general partners in the registration of limited partnerships. Subhead 3 requires that the general partners must sign a declaration stating that all the requirements in respect of registration of the company have been complied with. Subhead 4 provides that where a limited partnership is registered by a presenter, registration details at subhead 2 must also contain the name and address of the presenter, and evidence that the presenter is registered with the relevant supervisory authority as a Trust and Company Service Provider (TCSPs) under the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010. Subhead 5 is based on section 22 of the Companies Act.

In this scenario the general partners must sign a declaration that all the requirements in respect of registration of the limited partnership have been complied with. The Anti-Money laundering Compliance Unit defines a TCSP as any person whose business provides any of the following services:

- forming companies or other bodies corporate;
- acting as a director or secretary of a company under an arrangement with a person other than the company;
- arranging for another person to act as a director or secretary of a company;
- acting, or arranging for a person to act as a partner of a partnership;
- providing a registered office, business address, correspondence or administrative address or other related services for a body corporate or partnership;
- acting, or arranging for another person to act, as a trustee of a trust; and
- acting, or arranging for another person to act, as a nominee shareholder for a person other than a company whose securities are listed on a regulated market.

## Head 24: Persons prohibited from managing limited partnerships

To provide for:

(1) For the duration of the disqualification period, a person who is disqualified from acting as a company director in accordance with the provisions of the Companies Act 2014 [or the Co-Operative Societies Bill 2022], shall not be appointed or act as a general partner or be in any way, whether directly or indirectly, concerned or take part in the formation or management of a limited partnership, and for such period, the appointment of or actions of such persons shall be void.

(2) For the duration of a restriction declaration imposed on a person's acting as a director of a company in accordance with the provisions of the Companies Act 2014 [or the Co-Operative Societies Bill 2022], that person shall not be appointed or act as a general partner or be in any way, whether directly or indirectly, concerned or take part in the formation or management of a limited partnership, and for such period, the appointment of or actions of such persons shall be void.

(3) Each general partner who fails to comply with the requirements of this Head shall be guilty of a category 2 offence.

### *Explanatory note*

Head 24 is new and provides that a person who is subject to a restriction declaration or disqualified from acting as a company director in the State, is also prohibited from acting as a general partner of a limited partnership for the duration of the disqualification period or restriction declaration period. It is modelled on chapters 3, 4,5 and 6 of Part 14 of the Companies Act 2014. Subhead 3 provides that failure to comply with the requirements of this section is a category 2 offence.

## Head 25: Additional statement to be furnished in certain circumstances

To provide for:

(1) If any person named in the statement to be delivered under Head 23(2)(e) as a general partner of the proposed limited partnership concerned, is a person who is disqualified under the law of another state (whether pursuant to an order of a judge or a tribunal or otherwise) from being appointed or acting as a director or secretary of a body corporate or an undertaking, that person has the following obligation.

(2) That obligation is to ensure that the foregoing statement is accompanied by (but as a separate document from that statement) a statement in the prescribed form signed by him or her specifying—

(a) the jurisdiction in which he or she is so disqualified;

(b) the date on which he or she became so disqualified; and

(c) the period for which he or she is so disqualified.

### *Explanatory note*

This Head is modelled on section 23 of the Companies Act 2014. It provides that a person who proposes to become a general partner of a limited partnership in the State and who is disqualified from acting as a director or secretary of a body corporate in another jurisdiction will be required to deliver with the statement under Head 23(e) a separate statement specifying: the jurisdiction in which he or she is disqualified; the date on which he or she became disqualified; and the period of disqualification.

## Head 26: Certificate of registration

To provide for –

- (1) The Registrar shall not register a limited partnership under this Part unless he or she is satisfied that all the requirements of this Part in respect of registration have been complied with.
- (2) Subject to subhead (1), the Registrar shall send the certificate of registration of a limited partnership by electronic means where an email address for electronic communications has been furnished; and where not to the registered business address in accordance with Head 18.
- (3) The certificate shall be in the form prescribed by the Minister and shall clearly state that the limited partnership is not a separate legal entity.
- (4) The date of registration shall be the date as set out in the Certificate of Registration.
- (5) The certificate issued under this Head shall be evidence that the limited partnership came into existence on the date of registration.

#### *Explanatory Note*

This Head is based on section 13 of the 1907 Act and adds some new sections to clarify the duties of the Registrar and the date of registration and certificate.

Subhead 1 provides that the Registrar shall not register a limited partnership unless satisfied that the requirements of this Part have been complied with. This provision is new and reflects the duties of the Registrar analogous to section 21(2) of the Companies Act 2014.

Subhead 2 provides that the Registrar shall send a certificate of registration to the limited partnership's email address where available or to the registered business address if not, where the requirements of registration are satisfied.

Subhead 3 is new and states that the contents of the certificate shall be in the form prescribed by the Minister and shall state clearly that a limited partnership is not a separate legal entity. The Minister may prescribe by regulation the contents of the certificate under powers in Head 5.

Subhead 4 is new and provides that the date of registration is the date certified by the Registrar. This is for clarification purposes, because some respondents to the public consultation considered the date of formation of the partnership was the applicable date even if the Registrar had not issued a certificate of registration. Until the date the Registrar certifies the limited partnership all partners are general partners as provided for in Head 16.

Subhead 5 is new and provides that the certificate when issued is evidence that the limited partnership came into existence on the date of registration. This is analogous to section 25(4) of the Companies Act 2014.

## Head 27: Registration of changes to limited partnership particulars

To provide for –

(1) Notification of any changes and the specific details and nature of such changes to the registered information of a limited partnership must be sent to the Registrar by the general partner(s), or a presenter working on their behalf, in the prescribed form, within 14 days of the change occurring to the registered:

- (a) name, or registered business name of the limited partnership in accordance with Head 43;
- (b) principal activity of the business and relevant classification system;
- (c) registered business address of the limited partnership in accordance with Head 18;
- (d) email address of the limited partnership;
- (e) partners, including new partners and any change to partners names;
- (f) information on any general partner becoming disqualified from acting as a company director;
- (g) term (if any), or that the partnership has ceased;
- (h) sum contributed by any partner;
- (i) liability of a partner by reason of them becoming a limited instead of general partner, or vice versa;
- (j) information held on non-EEA corporate partners in Head 34.

(2) Where a limited partnership changes its name or registered business name under subhead (1)(a) and in accordance with Head 43, the Registrar shall enter the new registered business name in the register of limited partnerships in place of the former registered business name and shall issue a certificate of registration for the limited partnership altered to meet the circumstances of the case.

(3) A change of registered business name by a limited partnership under this Head and in accordance with Head 43 shall not affect any rights or obligations of the limited partnership or render defective any legal proceedings by or against it, and any legal proceedings which might have been continued or commenced against it by its former name may be continued or commenced against it by its new name.



(4) The Registrar shall update the information contained in a register as soon as practicable upon notification that information has changed.

(5) Where a presenter acts under the instruction of a general partner, each of the general partners are responsible for registration of changes and must sign a declaration stating that all the requirements have been satisfied.

(6) Each general partner who fails to comply with this Head is guilty of a category 3 offence.

(7) The Registrar may in her discretion initiate an involuntary removal process in accordance with Head 31 where it appears to her that a limited partnership has failed to comply with this Head.

#### *Explanatory note*

The objective of Head 27 is to ensure the register is reliable by requiring the Registrar be notified of changes to the registered information by the general partner, or a presenter acting on their behalf, within 14 days.

Subheads (2) and (3) are based on section 30 of the Companies Act 2014 and provide that where the limited partnership changes its business name the Registrar will amend the register and issue a new certificate of registration. A change of a limited partnership's name under Head 43 will not affect any rights or obligations of the partnership, or any legal proceedings by or against the partnership.

Subhead 4 is inserted to ensure the integrity of the register of limited partnerships by mandating the Registrar update the register as soon as practicable after receiving a notification of changes. The Head is based on section 58 of the Limited Partnership (New Zealand) Act 2008.

Subheads 5 and 6 provide that failure to comply with this Head renders each general partner guilty of a category 3 offence and may lead to the removal of the limited partnership from the register.

## Head 28: Publication of notices

To provide for –

(1) The Registrar shall publish in the CRO Gazette notice of the delivery to the Registrar of any arrangement under which a general partner –

(a) ceases to be a general partner of a limited partnership;

(b) ceases to be a general partner and will become a limited partner; or

(c) the share of a limited partner will be assigned to any natural or legal person.

(2) Until notice of the cessation is published the arrangement shall, for the purposes of this Bill, be deemed to be of no effect.

(3) The notice published in the CRO Gazette will contain the name of the limited partnership affected by the change in partnership and the name of the general partner concerned.

(4) Full details of the changes to the limited partnership will be detailed on the limited partnership register.

(5) The publication referred to in subhead (1) shall occur within 10 days after the date of the registration.

### *Explanatory Note*

Head 28 is based on section 10 of the 1907 Act and section 33 of the Companies Act 2014 with amendments to remove references to the London and Edinburgh Gazettes. This Head provides that the Registrar shall publish in the CRO Gazette, notice that a general partner ceases management of the limited partnership. Subheads (3) and (4) require the name of the relevant limited partnership [and the name of the relevant general partner] to be published in the gazette and the changes to be included on the register of limited partnerships. Subhead (5) provides that the notice shall be published within 10 days of registration.

## Head 29: Annual confirmation statement

To provide for –

- (1) The date for the submission of the annual confirmation statement of a limited partnership in any year shall be on, or before, the date determined by this Head.
- (2) A limited partnership shall, not later than 1 July in every year, make an annual confirmation statement to the Registrar in the prescribed form.
- (3) The annual statement must confirm that the registered information under Head 23 or Head 27 remains consistent and true, specifically –
  - (a) the membership of the limited partnership ;
  - (b) the activity of the limited partnership;
  - (c) the amounts invested by the partners in the limited partnerships;
  - (d) the registered business address in accordance with Head 18;
  - (e) the email address of the limited partnership;
  - (f) the term or duration (if any) of the limited partnership;
- (4) Where a limited partnership is registered after the 1 July of a calendar year, it must submit its first annual confirmation statement on or before the 1 July of the following calendar year.
- (5) The annual confirmation statement shall be signed by the general partner, or in the case of limited partnerships with more than one general partner, by at least two general partners.
- (6) Each general partner who fails to provide a completed annual confirmation statement is guilty of a category 3 offence.
- (7) Each general partner who provides false information in an annual confirmation statement is guilty of a category 2 offence.
- (8) The Registrar may in her discretion initiate an involuntary removal process in accordance with Head 31 where it appears to her that a limited partnership has failed to comply with this Head.

### *Explanatory Note*

Head 29 introduces the requirement for an annual confirmation statement by July 1 each year confirming the registered information remains correct. The objective is to ensure public trust that the Register is up to date and reliable and to address the perceived potential risk associated with using the services of an agent (TCSP) by ensuring that regular contact between the agent and its client LP is maintained.

Limited partnerships registered after July 1 will submit their confirmation statement by July 1 of the following year. The statement must be signed by the general partner, or where there are more than one, by at least two. Failure to provide an annual confirmation statement or provide false information are category 3 and category 2 offences respectively and may lead to the removal of the limited partnership from the register.

## Chapter 3: Removal from Register

### Head 30: Removal (voluntary) of a limited partnership from the register

To provide for –

(1) A limited partnership can voluntarily apply to be removed from the register where:

(a) a general partner informs the Registrar by notice in the prescribed form, signed by all partners registered in accordance with Head 23, that the limited partnership has never carried on business or has ceased business [for any reason] [including the termination of a close-ended limited partnership];

or

(b) a presenter, acting on behalf of a general partner, formally informs the Registrar by notice in the prescribed form, signed by all partners registered in accordance with Head 23, that the limited partnership has never carried on business or has ceased business [for any reason] [including the termination of a close-ended limited partnership].

(2) A voluntary application to have a limited partnership removed from the register must include a statement from the general partner(s), or a presenter working on their behalf, signed by each partner that:

(a) the limited partnership or its partners are not involved in on-going litigation relating to the limited partnership's activities; and

(b) that from the date of application to the Registrar for voluntary removal, the limited partnership will not carry out any business, or incur liability;

each general partner who fails to comply with this subhead is guilty of a category 3 offence.

(3) Where the Registrar receives a voluntary application, a grace period of 28 days must pass between the notice being received by the Registrar and removal happening.

(4) Within the period of 28 days, the general partner(s) or presenter working on their behalf may send a document to the Registrar in the prescribed form to cancel the voluntary removal process.

(5) Where the Registrar does not receive a document cancelling the removal request within the 28 day period the Registrar shall remove the limited partnership from the register of limited partnerships.

(6) The date that the limited partnership ends, is the date that it is removed from the register of limited partnerships.

(7) Once the limited partnership has been formally removed from the register, the Registrar shall publish a notice in the CRO Gazette that the limited partnership has been removed from the Register and state the date of its removal.

### *Explanatory Note*

Head 30 is new. It provides for the circumstances in which a limited partnership can seek to be removed from the register.

Subhead 1 provides that a limited partnership may initiate its removal from the register. This can be done by a notice to the Registrar from the general partner or a presenter, signed by each partner, that the limited partnership has never carried on business or has ceased business including that a close-ended limited partnership agreement has terminated.

Subhead 2 states that a voluntary request from a limited partnership for removal from the register must include a statement that:

- (a) none of the partners are engaged in litigation relating to the limited partnerships activities, and
- (b) that the limited partnership will not engage in any business activities or incur liability, from the date it submits the voluntary removal request. These three subheads are based on Section 731 of the Companies Act 2014.

Subheads 3, 4, 5 and 6 provide that where the Registrar receives a voluntary removal request, a grace period of 28 days will apply, within which the limited partnership may withdraw the request, and that the date a limited partnership ends is the day that the Registrar removes it from the register. The rules governing the dissolution and winding-up of a limited partnership continue to be governed by the Partnership Act 1890. The dissolution of a limited partnership may not lead to its winding up, but importantly the removal of the limited partnership from the register will mean that limited partners no longer have limited liability. In which case, the partnership become a general partnership and can be wound up as such.

Subhead 7 provides for the publication of a notice of the removal of the limited partnership from the register. This is considered appropriate as there is a notice in the CRO Gazette of the registration of limited partnerships.

## Head 31: Removal (Involuntary) of a limited partnership from the register

To provide for –

(1) A limited partnership may be removed from the register by the Registrar where:

(a) the limited partnership has failed to make, or made, an incomplete annual confirmation statement as required by Head 29;

(b) the Registrar has reasonable cause to believe that false information has been submitted [in the annual confirmation statement, notification of changes or] in any information provided to the Registrar under the provisions of this Bill;

(c) the Registrar has reasonable cause to believe that the limited partnership has ceased to carry on business in the State;

(d) the limited partnership has failed to inform the Registrar formally in writing of any changes to the limited partnership as registered, as required in Head 27;

(e) by the happening of any event which makes it unlawful for the business of the limited partnership to be carried on or for the members of the limited partnership to carry it on in the limited partnership;

(f) the Registrar has reasonable cause to believe there is no EEA state resident general partner;

(g) failure to respond to a notice seeking further information in accordance with Head 13;

[(h) failure to disclose information on non-EEA partners [incorporated or administered] in accordance with Head 34] ;

(i) such further grounds as may be added by the Minister by way of regulations under this subhead.

(2) The Registrar will give notice of his or her intention to remove a limited partnership from the register in accordance with Head 32. A grace period of 28 days will apply from the date the notice to remove is issued.

(3) Where the Registrar removes a limited partnership from the register under subhead (1), the Registrar shall publish a notice in the CRO Gazette that the limited partnership has been removed from the Register of limited partnerships and shall state the date of its removal.

### *Explanatory Note*

Head 31 gives new powers to the Registrar with the objective of upholding the integrity of the register of limited partnerships by ensuring information held is accurate and current.

The Registrar is provided with powers to begin the process of removing a limited partnership from the register on a number of set grounds including failure to comply with reporting obligations; Registrar's belief that false information has been submitted or the partnership has ceased; or such further grounds as may be added by the Minister by way of regulations.

Subhead 2 provides that a notice will be issued by the Registrar to the limited partnership of its intention to remove the limited partnership from the register on any of the grounds listed in (a) to (i). A grace period of 28 days from the date the removal notice issues will apply before the Registrar will publish a notice of his or her intention to remove a limited partnership from the register. Further, where a limited partnership is removed from the register the Registrar must publish a notice in the CRO Gazette and the date of its removal (subhead 3).



## Head 32: Registrar's notice to a limited partnership of its intention to remove it from the register (Involuntary)

To provide that –

may give notice to a limited partnership of the Registrar's intention to remove the limited partnership from the register on any of the grounds set out in Head 31.

A) The Registrar shall serve the notice to the limited partnership by:

(a) electronic means where an email address for electronic communications has been furnished; or

(b) where no such address has been furnished or where a failed delivery notification is received; by leaving at or sending by ordinary post to the registered business address as referred to in Head 18 and registered under Head 23 or Head 27 as the case may be.

(2B) For the purposes of this Head, any document left at or sent by post to the registered business address of the limited partnership, shall be deemed to have been left at or sent by post to the registered business address of the limited partnership notwithstanding that the address may have changed.

(2C) It shall be the duty of the Registrar to enter on the register a document that has, by the means referred to in subhead(2A)(a) and (b), been served on a limited partnership.

(3) The Registrar's notice shall –

(a) state that the issue of the notice is the first step in a process that may lead to the limited partnership being removed from the register;

(b) state the ground or grounds for removal being invoked by the Registrar, as set out in Head 31;

(c) state that the registration of the limited partnership will cease when it is removed from the register;

(d) state that the limited liability afforded to the limited partner(s) under the terms of the limited partnership will end when it is removed from the register;

(e) specify the remedial steps that can be taken to keep the limited partnership on the register;

(f) specify the date on or before which the remedial step must be taken; and

- (g) state that failure to take the remedial step on or before the date so specified will result in the Registrar giving public notice of an intention to remove the registration of the limited partnership from the register.
- (4) The date to be specified in the Registrar's notice for the purposes of subhead (3)(f) shall be a date falling not less than 28 days after the issue date of the notice.
- (5) Where the Registrar has given notice under subhead (1) and the remedial step has not been taken on or before the date specified in that notice, the Registrar may by publishing a notice in the CRO Gazette give public notice of the Registrar's intention to remove a limited partnership from the register.
- (6) The notice shall –
- (a) specify the ground for removing the limited partnership;
  - (b) specify the remedial steps;
  - (c) specify the date on or before remedial steps must be taken;
  - (d) specify that unless remedial steps are taken, on or before the date specified, the Registrar may remove the limited partnership from the register and the limited partnership will become a general partnership.
- The date to be specified for the purposes of subhead 6(c) shall be a date falling not less than 28 days after the publication of the notice.
- (7) Where the Registrar has given notice under subhead (6) and the remedial step has not been taken on or before the date specified in that notice for the purposes of subhead 6(c), the Registrar may remove the limited partnership from the register.
- (8) The Registrar shall publish in the CRO Gazette a notice of the removal of the limited partnership from the register.

### *Explanatory Note*

Head 32 is new and derives from section 728 and 730 of the Companies Act 2014. The objective of the Head is to uphold the integrity of the register of limited partnerships, ensuring that the information held by the Registrar is accurate and current.

The Head provides for the circumstances in which the Registrar may initiate the removal of a limited partnership from the register. The Registrar will inform a limited partnership of its intentions to remove it from the register based on a ground set out in Head 31 by serving notice by email or by registered post. The Registrar will keep a record on the register of the notification being served.

The notice will include that it is the first step in the removal process, the grounds and implications of the removal from the register, the remedial steps to be taken to stop the process and that failure to comply within the specified timeframe (not less than 28 days) will result in the Registrar publishing notice of its intention to remove the limited partnership from the register.

Where the partnership does not comply with the notice, the Registrar will publish a notice in the CRO Gazette of its intention to remove the limited partnership from the register due to the failure of the limited partnership to engage with the remedial process within the specified timeframe. The published notice will include that unless remedial steps are taken on or before the date specified in that notice, which will be not less than 28 days after the publication, the Registrar will remove the LP from the register.

Where the LP fails to comply by the specified time it will be removed from the register and a notice of its removal from the register shall be published in the CRO Gazette. To ensure the limited liability of limited partners is protected to the greatest extent possible the involuntary removal process envisaged is a fair, proportionate response with the necessary checks and balances to ensure a limited partnership is not removed arbitrarily.

### Head 33: Remedial steps and restoration to the register

To provide for –

(1) For the purposes of Heads 31 and 32, the remedial steps for a limited partnership to stop a removal process by the Registrar is whichever of the following applies –

- (a)* in the case of the ground for removal set out in Head 31(1)(b), the delivery to the Registrar of a complete annual confirmation statement as required by Head 29 that the limited partnership has failed to make;
- (b)* in the case of the ground for removal set out in Head 31(1)(c), the provision to the Registrar of evidence that information submitted under the provisions of this Part are correct and true (i.e. Head 23, 24, 27, and 29);
- (c)* in the case of the ground for removal set out in Head 30(1)(d), the provision to the Registrar of evidence that the limited partnership is carrying on business in the State, as required by Head 18;
- (d)* in the case of the ground for removal set out in Head 31(1)(e), the provision to the Registrar of notification of changes to registered information as required by Head 25;
- (e)* in the case of the ground for removal set out in Head 31(1)(h), the provision to the Registrar of evidence that Head 18(1) is being complied with;
- (f)* in the case of the ground for removal set out in Head 31(1)(j), the provision to the Registrar of evidence that Head 34(3) is being complied with;
- (g)* written notification by the general partner(s), or a presenter acting on behalf of the general partner(s), with clear evidence in written form, that the affairs of the limited partnership as registered have not ceased; and
- (h)* written confirmation to the Registrar that no changes have occurred to the limited partnership, as registered.

(2) Where such details are provided in full in the form of formal written notice, and where the Registrar accepts the accuracy of the details received, the limited partnership will remain on the register.

(3) Where a limited partnership has been removed and requests to be restored to the register, the general partner(s), or a presenter acting on their behalf, must deliver to the registrar a written request in the prescribed form.

(4) The written request must be accompanied by –

- (a)* fully completed and accurate limited partnership registration application documentation, as detailed in Head 23;
- (b)* any outstanding fully completed and accurate annual confirmation statements, as required by Head 29;

(c) any other document which was outstanding at the time the Limited Partnership was removed from the Register in accordance with Head 31; and

(d) confirmation that the Limited Partnership has remedied all the matters that resulted in the removal from the Register in accordance with notice served under Head 28.

(5) Where such details are provided in full, and where the Registrar accepts the accuracy of the details received; the Registrar will restore the limited partnership to the register. However, for the period that the limited partnership was not on the register the limited partners shall be liable for all debts and obligations of the firm incurred as though they were general partners.

(6) In the case where the removal of a limited partnership from the register has been ceased and the limited partnership remains on the register, the Registrar will publish a notice in the CRO Gazette to that effect.

(7) In the case where a limited partnership has been restored to the register, the Registrar will publish a notice in the CRO Gazette to that effect.

#### *Explanatory Note*

Head 33 is new and is based upon section 729 of the Companies Act 2014. It provides for the remedial process that allows a limited partnership to end a removal process initiated by the Registrar, and a process for it to be restored to the register after being formally removed by the Registrar.

Subhead 1 provides that where a removal process has been initiated by the Registrar – either by the Registrar or on request of the limited partnership – a limited partnership may seek to stop the process. To do so, the general partner or presenter working on their behalf must deliver to the Registrar the fully complete annual confirmation statement due; written evidence that the business of the limited partnership has not ceased; and written evidence that the registered details of the limited partnership remain accurate. Subhead 2 provides that where all required details are provided, and the Registrar accepts the accuracy of this information, the removal process will cease.

Subheads 3 and 4 provide that where a limited partnership that has been removed wants to be restored to the register, it must send a formal request to the Registrar, accompanied by a fully completed registration document, a fully completed annual statement and confirmation that all the matters that caused the removal have been addressed. Subhead 5 provides that when all required details are provided, and the Registrar is satisfied with the accuracy of the information, the limited partnership will be restored to the register. However, for the period that the limited partnership was not on the register the limited partners shall be liable for all debts and obligations of the firm incurred as though they were general partners.

Subheads 6 and 7 provide that where the Registrar has stopped the removal process or where a limited partnership has been returned to the register, the Registrar will publish a notice to that effect in the CRO Gazette.

## Chapter 4: Register of beneficial ownership of third country partners of a Limited Partnership

### Head 34: Register of beneficial ownership of non-EEA partners of a limited partnership

To provide for –

(1) The general partner(s) of an Irish registered limited partnership shall keep a register of all partners incorporated or administered outside the EEA; [including corporate and legal entities, legal arrangements without legal personality, partnerships, a trustee(s) of an express trust or a person(s) holding an equivalent position in a similar legal arrangement or agreement.]

(2) Information to be held in the register shall include –

(a) the name, legal form, registered office or business address, the public register on which it appears and the registration number (where available) of each partner;

(b) the name and any previous name held, date of birth, ppsn, nationality or nationalities, and residential address of each beneficial owner of a partner [legal entity or legal arrangement] referred to in subhead (a),

(c) a statement of the nature and extent of the interest held, or the nature and extent of control exercised, by each beneficial owner of a partner referred to in subhead (a)

(d) the date on which the name of each individual was entered into the register as a beneficial owner of the [third-country] non-EEA partner;

(e) the date on which each individual who has ceased to be a beneficial owner of the [third-country] non-EEA partner ceased to be an owner.

(3) The general partner(s) of a limited partnership shall provide any member of An Garda Síochána, the Revenue Commissioners, a competent authority, the Criminal Assets Bureau, the Corporate Enforcement Authority, and an inspector appointed under section 764(1) of the Companies Act 2014 with timely access, on request, to the register of beneficial ownership of non-EEA partners of a limited partnership.

(4) Each of the following:

- (a) An Garda Síochána,
- (b) the Corporate Enforcement Authority,
- (c) the Revenue Commissioners,
- (d) the Criminal Assets Bureau,
- (e) a competent authority,

may disclose the information in the register of non-EEA partners of a limited partnership to any corresponding competent authority of another Member State.

(5) Each general partner who fails to comply with this Head is guilty of a category 3 offence.

(6) Each general partner who knowingly provides false information is guilty of a category 1 offence.

(7) Failure to keep a register on non-EEA partners may lead to the initiation of the involuntary removal process in accordance with Head 31.

#### *Explanatory Note*

Head 34 in new and provides that a general partner must keep a register of partners of a limited partnership that are non-EEA incorporated or administered. The objective is to level the playing field with existing beneficial ownership obligations of EEA companies and corporate bodies.

To provide that the information to be kept on the register includes the name, legal form, registered office or business address and registration number of each non-EEA incorporated or administered partner. The name, date of birth, nationality, and residential address of each beneficial owner of each non-EEA incorporated or administered partner and the nature of their interest or control exercised; when the partner became a beneficial owner and if and when they ceased to be a beneficial owner. This Head is based on section 27A of the Investment Limited Partnership (Amendment) Act 2020.

The information is not made available to the public but may be shared with relevant authorities including the Revenue Commissioners, An Garda Síochána, the Department of Justice Anti-money laundering (AML) unit, the Department of Enterprise Trade and Employment Trade compliance unit, the Corporate Enforcement Authority.

Failure by general partners to comply or to knowingly give false information is an offence. Failure to comply may also result in the limited partnership being removed from the register.

## Head 35: Establishment and maintenance of register

To provide for –

- (1) This section establishes a register to be known as the “Register of non-EEA Partners of a Limited Partnership”.
- (2) The register shall be maintained by the Registrar of Beneficial Ownership of Companies and Industrial & Provident Societies; the information required by this Part to be delivered or submitted to the Registrar of Beneficial Ownership of Companies and Industrial & Provident Societies shall be entered in that register by that registrar and that register shall be kept in such form as he or she considers appropriate.

### *Explanatory Note*

Head 35 provides for the establishment of the register of partners of a limited partnership incorporated or administered outside the EEA, to be maintained by the Registrar of Beneficial Ownership of Companies and Industrial & Provident Societies in whatever form he or she deems appropriate and is modelled on regulation 19 of SI 110 of 2019 and section 50 of the Investment Limited Partnerships (Amendment) Act 2020.

[ Will amendment be required to SI 110 of 2019 to include limited partnerships in the name of the Registrar of Beneficial Ownership of Companies and Industrial & Provident Societies?]



## Head 36: Obligation of general partner to deliver information to Registrar

To provide for –

- (1) The general partner(s) of a limited partnership registered under the Act of 1907, shall deliver the information specified in head 37 to the Registrar of Beneficial Ownership of Companies and Industrial & Provident Societies within twelve months of the Registrar's notice to re-register in such manner as the Registrar of Beneficial Ownership of Companies and Industrial & Provident Societies determines.
- (2) The general partner(s) of a limited partnership registered on or after the commencement of this Bill shall deliver the information specified in head 37 to the Registrar of Beneficial Ownership of Companies and Industrial & Provident Societies [within six months] from the date of its registration in such manner as the Registrar determines.

### *Explanatory Note*

Head 36 provides that the general partner(s) of limited partnerships registered under the Act of 1907 and limited partnerships registered following enactment of this Bill shall deliver the information required for non-EEA partners to the Registrar of Beneficial Ownership of Companies and Industrial & Provident Societies within twelve months of the Registrar's notice to re-register or six months following the registration of a new limited partnership under the Bill and is modelled on regulation 20 of SI 110 of 2019 and section 51 of the Investment Limited Partnership (Amendment) Act of 2020.

## Head 37: Information to be delivered to Registrar of Beneficial Ownership of Companies and Industrial & Provident Societies

To provide for –

- (1) The following information shall be delivered by the general partner(s) or a presenter acting on behalf of a limited partnership, to the Registrar of Beneficial Ownership of Companies and Industrial & Provident Societies –
  - (a) the name, legal form, registered office or business address, the public register on which it appears and the registration number (where available) of each non-EEA partner;
  - (b) the name and any previous name held, date of birth, PPSN of each beneficial owner to whom such as number has been assigned (for validation purposes), or such information as stands determined by the Registrar for the purposes of this head, nationality or nationalities, and residential address of each beneficial owner of a partner [legal entity or legal arrangement] referred to in subhead (a);
  - (c) a statement of the nature and extent of the interest held, or the nature and extent of control exercised, by each beneficial owner of a partner referred to in subhead (a), where applicable; and
  - (d) such information as stands determined by the Registrar of Beneficial Ownership of Companies and Industrial and Provident Societies for the purposes of this section.
- (2) The Registrar shall not disclose the PPSN number and only a “hashed” version generated by a mathematical function which does not allow the PPSN to be determined from the hashed version shall be stored by the Registrar of Beneficial Ownership of Companies and Industrial & Provident Societies.
- (3) Where the information specified in section (1) is delivered to the Registrar of Beneficial Ownership of Companies and Industrial and Provident Societies by a presenter acting on behalf of the limited partnership, the following information shall be delivered by the presenter to the Registrar –
  - (a) the presenter’s name, address, phone number, email address;
  - (b) particulars as to the capacity in which the presenter is acting; and
  - (c) evidence that the presenter is registered with the relevant supervisory authority as a Trust or Company Service Provider under the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010.

(4) Access to information held on the Register of Beneficial Ownership of non-EEA partners of a limited partnership will be provided in accordance with access provided to the Register of Beneficial Ownership of Companies and Industrial and Provident Societies.

(5) The Minister may by Regulations make provision for such further matters as he or she considers appropriate to ensure the proper functioning of the Register, including:

(a) further information or documentation which may be required; and

(b) access to the Register.

(6) Each general partner who fails to comply with this Head is guilty of a category 3 offence.

(7) Each general partner who knowingly gives false information is guilty of a category 1 offence.

(8) A presenter who fails to comply with section (3) shall be guilty of an offence.

(9) Failure to comply with subhead (4) may result in the initiation of the involuntary removal process in accordance with Head 31.

### *Explanatory Note*

Head 37 provides that where a partner of a limited partnership is administered or incorporated outside the EEA, the general partner(s) must disclose to the Registrar of Beneficial Ownership of Companies and Industrial and Provident Societies, the name, registered office and place of business address and registration number of each such partner and the name, date of birth, PPSN, nationality, and residential address of each beneficial owner of a non-EEA partner and a statement of the nature of the interest held or control exercised.. This Head is based on section 27A of the Investment Limited Partnership (Amendment) Act 2020.

Once the data has been validated by the DEASP the PPSN will be encrypted in an irreversible form using hashing, in order to facilitate the CRO to align future filings with persons already on the register.

Access to the information held on the register will be in accordance with access to the Register of Beneficial Ownership of Companies and Industrial and Provident Societies i.e. full access by competent authorities and restricted access by obliged entities with no public search available and provisions for access by those with a legitimate interest.

A presenter acting on behalf of a limited partnership must show they are registered with the relevant supervisory authority as a Trust or Company Service Provider under the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 must be shown.

To provide that the Minister may make regulations for the functioning of the register, additional information required or access to the register in light of the Sovim judgement of 2022.

Failure by general partners to comply or to knowingly give false information is an offence. Failure of a presenter to comply is an offence. Failure to comply may also result in the limited partnership being struck off or removed from the register of limited partnerships.

## Part 4 – Business Names

### Chapter 1: Registration

#### Head 38: Persons to be registered

To provide for –

(1) Subject to the provisions of this Bill, every person, firm, or body corporate having a place of business in the State and carrying on a business under a business name that is not their own name shall register the business name in accordance with the provisions of this Bill.

(2) Registration of a business name is not required under subhead (1) where –

(a) a single person is engaged in the business in the name or surname of the person without any addition;

(b) two or more persons are engaged in the business in the names or surnames of those persons without any addition;

(c) two or more persons share the same surname and carry-on business under the plural form of the surname;

(d) any addition merely indicates that the business is carried on in succession to a former owner of the business, that addition shall not of itself render registration necessary;

(e) a company name includes the relevant abbreviation, as set out in sections 26, 969, 1008, 1178, and 1237 of the Companies Act 2014 and a limited partnership includes the relevant abbreviation in accordance with Head 20 of this Bill;

(f) the business is carried out by a trustee in bankruptcy, a trustee of the estate of a debtor, or a receiver or manager appointed by any court.

### *Explanatory Note*

Head 38 replaces section 3 of the 1963 Act. It provides that a business name must be registered where a person, partnership or body corporate carries on business in the State under a name which is not their own name. Subhead 2 details that a registered business name is not required where a person or persons operate under their own name(s); the name indicates succession; a company or partnership name includes the relevant abbreviation for the entity; or the business is being conducted by a trustee or manager appointed by the court.

## Head 39: Registration

(1) Each person (or persons) required under Head 38 to register a business name shall deliver to the Registrar a document in the prescribed form within one month after adoption of a business name.

(2) The document shall contain –

- (a) the business name to be registered;
- (b) the principal activity of the business and the relevant classification system;
- (c) the address and Eircode of the principal place of business in the State;
- (d) the date of adoption of the business name;
- (e) that each body corporate is registered in an EEA State where appropriate; and
- (f) the e-mail address to which all communications and notices from the Registrar shall be addressed and to which the certificate will be issued.

(3) In the case of an applicant that is a natural person, the document shall contain –

- (a) the forename and surname and any former forename and surname of the applicant(s);
- (b) the PPSN;
- (c) date of birth;
- (d) business occupation;
- (e) nationality;
- (f) proof that non- EEA persons are entitled to set up and carry on a business in the State;
- (g) the residential address of each natural person.

(4) In the case of an applicant that is a legal person, the document shall contain the registered office and principal place of business of an applicant specifically –

- (a) in the case of a body corporate registered in Ireland, the name and number of the entity as they appear on the register kept by the Registrar of Companies under the

Companies Act 2014 or, as the case may be, the register kept by the Registrar of Friendly Societies under the Industrial and Provident Societies Acts 1893 to 2021<sup>1</sup>, or as the case may be under some other statute; and the European Unique Identifier (EUID) if applicable;

(b) in the case of a body corporate registered within the EEA, the name of the relevant state and register, the name and number of the entity as they appear on the register kept under the law of the state, and the European Unique Identifier (EUID), if applicable;

(c) in the case of a body corporate registered outside the EEA, the name of the relevant state and register including the name and number of the entity as they appear on that register kept under the law of the relevant state.

(5) In the case of an Irish registered limited partnership, the name and number of the entity as they appear on the register kept under this Bill or the 1907 Act.

(6) The following persons shall sign the document referred to at subhead 1, declaring that the relevant person or persons agree to comply with the requirements of the Bill:

(a) a person who is a natural person;

(b) each of the partners or by an individual partner verified by a statutory declaration;

(b) a director or secretary of a body corporate;

(c) in the case of a firm, either—

(i) by all the individuals who are partners, and by a director or the secretary of all bodies corporate who are partners, or

(ii) by some individual who is a partner, or a director or the secretary of some body corporate which is a partner,

and in a case to which paragraph (c) (ii) applies must be verified by a statutory declaration made by the signatory.

(7) Where a business name is registered by a presenter working under the instruction of a natural person or person(s), a firm, or body corporate the registration details at subhead (1) must also contain the name and address of the presenter.

(8) A business name will not be registered under this Bill unless the Registrar is satisfied that all the requirements of this Bill in respect of registration have been complied with.

- (9) The Registrar will not register a business name where the relevant business name is deemed undesirable, misleading, or the timeframe for providing further information to the Registrar has expired.
- (10) An appeal shall lie to the Court against a refusal by the Registrar to register a business name on the ground referred to in subhead (9).
- (11) The Registrar in his or her sole discretion shall be entitled to request and the registrant shall provide evidence that the registrant is trading from a substantial place of business in the State which cannot be solely a post box or letter box address.
- (12) The registration of a business name under this Bill shall not be construed as authorising the use of that name if apart from such registration the use thereof could be prohibited.
- (13) Where a business is carried on under two or more business names, each of those business names must be registered.
- (14) A person who fails to comply with the requirements of this Head is guilty of category 3 offence.
- (15) It shall be a category 2 offence to knowingly file false registration details.
- (16) A body corporate who fails to comply with the requirements of this Head is guilty of an offence.

### *Explanatory Note*

Head 39 is a standard provision and relates to the delivery of documents to the Registrar and adds several amendments to modernise and clarify the existing legislation. This head is based on relevant sections of the Companies Act 2014.

Subheads 1 and 2 are based on section 896 of the Companies Act 2014, requiring the delivery of documents to the Registrar within one month after the adoption of the business name to include the proposed business name and date of adoption; the principal activity of the business (NACE code); the address and Eircode of the place of business and email address to which all communications including the certificate will be issued and where appropriate confirmation that a body corporate is registered in an EEA State.

Subhead 3 provides for the registration of a business name by an individual or individuals and requires the forename and surname and any former forename and surname of each applicant; PPSN; date of birth; residential address; occupation; nationality; proof of residency permission for non-EEA nationals to set up a business in the State or confirmation they are resident in the EEA.

Subheads 4 and 5 provide for the registration of a business name of a body corporate and limited partnership. The name and number of the entity as they appear on the registers kept under the Companies Act 2014; the Industrial and Provident Societies Acts 1893 to 2014; some other statute; the register kept under the Limited Partnership Act 1907 or this Bill, and



the European Unique Identifier (EUID) if applicable, are required. Where a body corporate is registered outside the State the name and number of the entity as they appear on the register kept under law in the relevant country is required.

Subheads 6 and 7 are new. These provisions are based on section 22 of the Companies Act 2014. Statements delivered to the Registrar must be in the prescribed form, signed by the relevant persons and where a business name is registered by a presenter the statements must include the name and address of the presenter.

Subhead 8 provides that a business name will not be registered unless the Registrar is satisfied all the requirements have been met.

Subheads 9, to 12 are based on section 14 of the 1963 Act and section 26 of the Companies Act 2014 and provides for the Registrar to refuse to register a business name; for an appeal to the High Court regarding the refusal and for the Registrar to require evidence that the business is trading from a place of business in the State. Registration of a business name does not authorise the use of such name if apart from the registration the use could be prohibited.

Subhead 13 requires that a business that is carried on under two or more business names must register each business name.

Subheads 14 to 16 provide that failure by an individual or a body corporate to comply with this Head or to knowingly file false information is an offence.

## Head 40: Certificate of registration

To provide for –

- (1) Subject to Head 39, on receiving any statement made in pursuance of this Bill the Registrar shall cause the same to be filed and shall issue a certificate of registration to the applicant electronically to the email address provided in the application made under Head 39.
- (2) The date of registration shall be the date of the certificate of registration issued by the Registrar.
- (3) The registered business name as certified by the Registrar, and its registered place of business address must be stated on all business signs, business websites and on all paper and electronic documents issued by the business when carrying on business associated with the registered business name.
- (4) A certificate of registration shall be kept exhibited in a conspicuous position at the place of business of a firm or individual or in the case of a body corporate, its registered office in the State and, in every case, in every branch office or place where the business is normally carried on.
- (5) Any natural or legal person(s) and in the case of a limited partnership, every general partner who fails to comply with the requirements of this Head is guilty of a category 3 offence.
- (6) In the case of a body corporate, any person who is a director, manager, secretary, or other officer of the body corporate, or any person who was purporting to act in any such capacity, that person as well as the body corporate who fails to comply with the requirements of this Head shall be guilty of a category 3 offence.

### *Explanatory Note*

Head 40 is based on section 8 of the 1963 Act and provides that the Registrar shall file particulars of a business name and issue a certificate of registration to the applicants electronically. Subhead 2 is new and provides that the date of registration is the date certified by the Registrar. Subhead 3 requires that the business entity must include the registered business name and principal place of business address on all documentation used when conducting business, business signs and the business website. Subhead 4 provides for the requirement that a certificate of registration be exhibited at the principal place of business or registered office. Failure to comply with the requirements of this Head is a category 3 offence.

## Head 41: Disclosing name of person behind a business name

To provide for –

(1) A person (or persons) required by this Bill to register a business name shall, in all business letters, circulars or catalogues on or in which the business name appears, and which are sent to any person, state in legible characters –

(a) in the case of an individual, their present forename, or initials of their forename, their present surname, any former forename and surnames of him or her, and their nationality, if not Irish;

(b) in the case of a firm, the present forename(s), or initials of the forename(s), the present surname(s), any former forename and surnames of him or her, and their nationality if not Irish, of each of the general partners or, in the case of a body corporate being a general partner, the corporate name, place of registration and number under which it is registered;

(c) in the case of a body corporate registered under the Companies Act 2014, its corporate name and company registration number;

(d) in the case of a body corporate that is not registered under the Companies Act 2014, its corporate name and the present forename, or initials of the forename and the present surname, any former forename and surnames of him or her, and the nationality of every director or, in the case of a body corporate being a director, the corporate name, place of registration and number under which it is registered.

(2) Any natural or legal person(s) and in the case of a limited partnership every general partner who fails to comply with the requirements of this Head is guilty of a category 3 offence.

(3) In the case of a body corporate including a general partner of a limited partnership, any person who is a director, manager, secretary, or other officer of the body corporate, or any person who was purporting to act in any such capacity, that person as well as the body corporate who fails to comply with the requirements of this Head shall be guilty of a category 3 offence.

### *Explanatory Note*

Head 41 is based on section 18 of the 1963 Act which is concerned with the obligation on the person/s behind a registered business name to identify themselves on any business correspondence or material issued to another person on or in which the registered business name appears.

## Head 42: Renewal of certificate

To provide for –

- (1) The registration in accordance with the provisions of this Bill and the certificate of registration referred to in Head 40 shall be valid for 5 years from the date of registration.
- (2) Within 3 months of the end of the 5-year registration period as set out in subhead (1), where the registrant intends to continue to carry on business under the registered business name the Registrar must be notified in the prescribed form of –
  - (a) the registered particulars remaining unchanged, or
  - (b) any and all changes required to the registered particulars of the business name.
- (3) If the registrant fails to notify the Registrar in accordance with subhead 2 upon the expiry of the 5-year period from the date of registration, the Registrar will notify the registrant that the business name will be removed from the register within 28 days of the notice.
- (4) Notice may be served electronically on the Registrant at the email address provided at registration under Head 39 or Head 43. Alternatively, the Registrar may in her sole discretion serve a notice by ordinary post to or by leaving at the principal place of business of the registrant registered under Head 39 or Head 43.
- (5) For the purposes of this Head, any document left at or sent by post to the principal place of business shall be deemed to have been left at or sent by post to the principal place of business of the registrant notwithstanding that the address may have changed.

### *Explanatory Note*

Head 42 is new. Subhead 1 provides that the registration and certification of a business name is valid for five years. The purpose of the five-year time limit is to keep the register up to date and transparent.

Subhead 2 provides that where the registrant intends to continue business under the registered business name the certificate must be renewed by making a return within 3 months of the end of the 5-year registration period form to the Registrar; confirming the details remain unchanged or outlining changes required to the registered details.

Subhead 3 provides that failure by the registrant at the end of the 5-year registration period to renew the certificate may result in the removal of the business name from the register by the Registrar within not less than 28 days of the Registrar's notice. Subheads 4 and 5 provide for service electronically, or by post where no email address was provided to the Registrar. A document will be deemed to have been served, where the address has changed and not notified to the Registrar.

## Head 43: Registration of changes

To provide for –

(1) The Registrant shall notify the Registrar of any changes to the registered particulars of the following:

- (a) the registered business name;
- (b) the relevant classification system;
- (c) the principal place of business address;
- (d) the registered name and address of an individual(s), body corporate or partnership;
- (e) the registered email address.

(2) The Registrant (in the case of a partnership in like manner as the statement required on registration) or presenter acting on their behalf shall notify the Registrar in the prescribed form of any changes to the registered particulars of a business name within one month of the change(s) occurring. The notice must be signed by either the registrant or where notice is made by a presenter acting on behalf of a natural person, firm or body corporate be accompanied by a statement in the prescribed form signed by the natural person; each of the partners of a firm; each of the general partners of a limited partnership; and by a director and secretary of a body corporate or by two directors of the body corporate.

(3) Any person and in the case of a limited partnership, every general partner who fails to comply with the requirements of this Head is guilty of a category 3 offence.

(4) In the case of a body corporate including a body corporate that is a general partner of a limited partnership, any person who is a director, manager, secretary, or other officer of the body corporate, or any person who was purporting to act in any such capacity, that person as well as the body corporate who fails to comply with the requirements of this Head shall be guilty of a category 3 offence.

### *Explanatory note*

Head 43 is based on Section 7 of the 1963 Act which obliged the person(s) behind a registered business name to notify the Registrar of any changes to the registered details. This subhead is consistent with requirements on companies in terms of notification of changes. [At present, the fee for change of particulars is €15 (paper), and no fee for electronic

changes via CORE portal.] Failure to comply with this section is equivalent to a category 3 offence in the Companies Act 2014.

## Chapter 2: Removal of Business Name from Register

### Head 44: Removal of business name from register

To provide for –

(1) A business name shall be removed from the register of business names by –

- (a) request of the presenter or registrant, or
- (b) the Registrar.

(2) Where a business has ceased to operate under a registered business name the Registrar must be informed within 3 months by written notice in the prescribed form that the use of the business name has ceased by –

- (a) the registrant, or
- (b) the presenter acting on behalf of a natural person, firm or body corporate, or
- (c) a personal representative of a natural person who is deceased.

The notice must be signed by either the registrant or personal representative of a natural person who is deceased; where notice is made by a presenter acting on behalf of a natural person, firm or body corporate be accompanied by a statement in the prescribed form signed by the natural person; each of the partners of a firm; each of the general partners of a limited partnership; and by a director and secretary of a body corporate or by two directors of the body corporate.

(3) The Registrar shall have the power to remove a business name from the register where the Registrar has reason to believe that:

- (a) the business name is that of a body corporate that was registered on the Register of Companies, and has been removed from the Register, or a body corporate registered on the register of another state within or outside the EEA and has been removed, or
- (b) the business name is that of a body corporate that was registered on the Register of Companies, and has been wound up; or
- (c) the business name is undesirable or misleading, or
- (d) the business name is that of a limited partnership which is no longer registered under the Limited Partnership Act 1907 or this Act, or

- (e) the business name is that of a body corporate which is no longer registered under the Industrial Provident Societies Act 1893 to 2014, or
- (f) the statement referred to in Head 42 has not been submitted to the Registrar within the prescribed period, or
  - (g) the business name is no longer used, or
- (h) the registered person(s) has failed to inform the Registrar in writing of any changes to the registered details of the business name, or
- (i) an event has occurred which makes it unlawful for the business or the registered person or persons to carry it on, or
- (j) the Registrar is directed by an order of the Court.

(4) The Registrar shall notify the registrants by whatever means the Registrar deems appropriate of the Registrar's intention to remove the business name from the register on a ground or grounds set out in subhead 3, in which case the Registrar shall serve the notice to the registrant by sending the notice in the prescribed form to the registrant.

(5) At the Registrar's discretion, this notice may be served electronically on the Registrant at the email address provided upon registration under Head 39 or Head 43. Alternatively, the Registrar may in her sole discretion serve a notice by ordinary post to or by leaving it at the principal place of business of the registrant registered under Head 39 or Head 43.

(6) For the purposes of this Head, any document left at or sent by post to the principal place of business shall be deemed to have been left at or sent by post to the principal place of business of the registrant notwithstanding that the address may have changed.

(7) It shall be the duty of the Registrar to enter on the register that a notice has been served on a business under subhead 3.

(8) The Registrar's notice shall –

- (a) state that the issue of the notice is the first step in the removal process;
- (b) state the ground or grounds for removal of the business name being invoked by the Registrar, as detailed in subhead 3;
- (c) specify the remedial steps that can be taken to keep the business name on the register;
- (d) specify the date, which will fall not less than 28 days after the issue date of the notice referred to in subhead 4 after which failure to comply with point (c) will result in the removal of the business name from the register.



(9) Where such details are provided in full, and where the Registrar accepts the accuracy of the details received, the business name will remain on the register [the notice to remove will be removed from the register at this stage].

(10) Upon the passing of the notice period in subhead 6(d) and where the registrant or presenter acting on its behalf has failed to respond to the notice or has failed to take the appropriate remedial step set out in the notice, the Registrar shall have power to remove the business name registration from the Register.

### *Explanatory Note*

This Head is based on section 12 of the 1963 Act with modifications.

Subhead 1 provides that a registered person(s) and/or the Registrar can remove a business name from the register.

Subhead 2 provides that where a business has ceased to operate under a business name the Registrar must be informed within three months in writing.

Subhead 3 permits the Registrar to remove a business name from the register where any of the scenarios arise.

Subheads 4, 5, 6 and 7 provide that the Registrar must notify the registrants of her intention to remove a business name from the register at the principal place of business electronically or by post to the address provided to the Registrar and enter a record of the notice on the register. A notice will be deemed to have been served, where the address has changed and not notified to the Registrar.

Subhead 8 provides that the notice must include the grounds for removal, the remedial steps and the timeframe to stop the removal and consequences for failure to comply.

Subheads 9 provides that where the remedial steps are taken the name will remain on the register and subhead 10 provides that failure to comply may result in the removal of the name from the register.

## Part 5 – Prosecutions

### Head 45: Summary prosecutions

To provide for –

- (1) Summary proceedings in relation to an offence under this Bill may be brought and prosecuted by;
  - (a) the Director of Public Prosecutions, or
  - (b) the Corporate Enforcement Authority.
  
- (2) Without prejudice to the generality of subhead (1), the Registrar, may at his or her discretion bring and prosecute summary proceedings in relation to a filing offence under each of the following provisions:
  - (a) head 27(6);
  - (c) head 29 (6) & (7); and
  - (d) head 43 (3)
  
- (3) The Registrar of Beneficial Ownership of Companies and Industrial and Provident Societies at his or her discretion, may bring summary proceedings for failure to comply with filing obligations under Heads 37 (5), (6) and (7).

### *Explanatory Note*

Head 45 provides that summary offences may be brought and prosecuted by the Director of Public Prosecutions and the Corporate Enforcement Authority. The Registrar of Companies may prosecute offences which can be prosecuted on the basis of evidence obtained directly from internal Registrar's records. Subheads 1 and 2 are based on section 865 of the Companies Act 2014. The Registrar of Beneficial Ownership of Companies and Industrial and Provident Societies may prosecute offences which can be prosecuted on the basis of evidence obtained directly from the records of the Registrar of Beneficial Ownership of Companies and Industrial and Provident Societies. The Registrars will not have an investigative function therefore it is not considered appropriate to vest the Registrar with a capacity to prosecute offences which require that evidence be adduced which can be obtained only following a comprehensive investigation. Such offences will be prosecutable by the Corporate Enforcement Authority

## Head 46 – District court district within which summary proceedings may be brought

To provide for:

(1) Summary proceedings against a general partner of a limited partnership acting in his or her capacity as such (or a person purporting to so act) for an offence under this Bill may be brought, heard and determined—

(a) before and by a judge of the District Court as provided for under section 79 or 79A of the Courts of Justice Act 1924, or

(b) before and by a judge of the District Court for the time being assigned to the district court district in which the registered office of the limited partnership is situated immediately prior to the commencement of the proceedings.

(2) For the purposes of this head, the place for the time being recorded by the Registrar as the situation of the registered office of the limited partnership shall be deemed to be the registered office of the limited partnership notwithstanding that the situation of its registered office may have changed.

### *Explanatory note*

Head 46 is based on section 866 of the Companies Act 2014. This section makes provision for the District Court area with which summary proceedings against a general partner of a limited partnership may be brought. Proceedings may be heard by a judge of the District Court as provided for in section 79 or 79A of the Courts of Justice Act 1924 - i.e. in the district where the accused resides or was arrested or where the crime was committed. In addition, proceedings may be heard in the District Court area in which the registered office of the limited partnership is situated immediately prior to the commencement of the proceedings.

## Head 47 – Application of other provision relating to offences

To provide for –

(1) Sections 867 and 870 of the Act of 2014 shall apply in relation to offences under this Bill as in relation to offences under that Act.

(2) Sections 868 and 869 of that Act shall apply in relation to a limited partnership as in relation to a private company.

(3) Section 872 of that Act shall apply as if references to that Act included this Bill.

(4) Section 873 of that Act shall apply as if –

(a) the reference to a category 3 or 4 offence within the meaning of that Act included a category 3 or 4 offence under this Bill, and

(b) the reference to a company in subsection (6) included a limited partnership and reference to a director included a general partner.

### *Explanatory Note*

Head 47 cross applies further provisions of the Companies Act 2014:

section 867, ‘Period within which summary proceedings may be commenced’, provides that any summary proceedings may be commenced within 3 years from the date on which the offence was committed. Where, at the end of the 3 years, the person against whom the proceedings are to be brought is outside the State, it will be possible to bring proceedings within 6 months from the date on which that person re-enters the State. Proceedings may be brought at any time within 3 years from the date of which evidence of the breach comes to the attention of the party bringing the prosecution;

section 868, ‘Prosecution of companies on indictment’, provides for procedural matters concerning the representation of a limited partnership when charged with an indictable offence and the entering of pleas;

section 869, ‘Offences by body committed with consent of its officer’, applies where an offence is committed by a body corporate relating to the production, disclosure, destroying or falsifying books or documents of a company. Where the offence can be proven to have been committed with the consent or connivance or due to the neglect of an officer of the company, that officer, together with the body corporate, will be guilty of the offence. Where the affairs of the body corporate are managed by its members, this section will apply to those members as if they were a director or manager of the company;

section 870, 'Further offence, where contravention continued after conviction for an offence, and penalties for such offence', provides that if the contravention in respect of which a person is convicted of an offence under this Bill is continued after the conviction, the person shall be guilty of a further offence on every day on which the contravention continues. Each day of continued breach following conviction constitutes an offence, and the penalties range from fines of up to €5,000 per day for a category 1 offence prosecuted on indictment, down to €50 per day for category 3 and 4 offences;

section 872, 'Court may order that convicted person remedy breach', provides that, following a conviction for an offence under this Bill, the trial court may order that the convicted person should remedy any breach of the Limited Partnership Bill 2024 in respect of which they were convicted;

section 873, 'Notice by Director to remedy default', provides that the Corporate Enforcement Authority may impose an on-the-spot fine in the prescribed form where there are reasonable grounds for believing that a person has committed a category 3 or 4 offence. The person on whom the notice is served has 21 days to remedy the default that constitutes the offence and pay the requisite fine to the Corporate Enforcement Authority. If that person does so remedy the default and pay the fine, he or she will not be prosecuted in respect of the alleged offence.

## Head 48 - Special provisions applying where default in delivery of documents to Registrar

To provide for –

(1) The Registrar may deliver a notice that complies with subhead (2) to a person if the Registrar has reasonable grounds for believing that the person is in default in the delivery, filing or making to the Registrar of a return or similar document required under this Bill (being a default that constitutes a category 3 or 4 offence).

(2) The notice referred to in subhead (1) is a notice that—

(a) is in the prescribed form,

(b) states that the person has failed to deliver, file or make a specified return or similar document to the Registrar under a specified provision of this Bill,

(c) states that the person to whom the notice is delivered may during a period of 21 days beginning after the date of the notice, or such greater period as may be specified in the notice—

(i) remedy the default, and

(ii) pay to the Registrar a prescribed amount which shall be accompanied by the notice, and

(d) states that a prosecution of the person to whom the notice is delivered—

(i) will not be instituted during the period referred to in paragraph (c), and

(ii) will not be instituted in any event if, within the period referred to in paragraph (c), the default is remedied, and payment is made in accordance with the notice.

(3) Where a notice is delivered under subhead (1)—

(a) a person to whom it is delivered may, during the period specified in the notice, make to the Registrar payment of the amount specified in the notice, accompanied by the notice,

(b) the Registrar may receive the payment and issue a receipt for it and no payment so received shall in any circumstances be recoverable by the person who made it, and

(c) a prosecution in respect of the alleged offence shall not be instituted in the period specified in the notice and if the default is remedied to the satisfaction of the Registrar and payment of the amount specified in the notice is made during that

period, no prosecution in respect of the alleged offence shall be instituted in any event.

(4) In a prosecution for an offence to which this head applies, the defendant shall bear the onus of showing that a payment pursuant to a notice under this head has been made.

(5) All payments made to the Registrar in pursuance of this head shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Public Expenditure and Reform may direct.

(6) If the person mentioned in subhead (1) is a general partner of a limited partnership, then that subhead authorises the delivery of the notice mentioned in it to a general partner of the limited partnership but, where the notice is delivered to that general partner, the second reference in that subhead to person, and each reference in subheads (2) and (3) to the person to whom the notice is delivered or otherwise to person, is to be read as a reference to the limited partnership

#### *Explanatory Note*

Head 48 is based on section 874 of the Companies Act and provides that the Registrar of Companies may impose an on-the-spot fine in the prescribed form where he or she has reasonable grounds for believing that a person has committed a category 3 or 4 offence. The person on whom the notice is served has 21 days to remedy the default that constitutes the offence and pay the requisite fine to the Registrar. Where the person remedies the default and pays the fine, he or she will not be prosecuted in respect of the alleged offence.

## Head 49 – General Offences

To provide for –

Section 876, 877 and 878 of the Act of 2014, and other provisions of that Act relating to those provisions, have effect as if—

- (a) the references to a company included a limited partnership, and
- (b) the references to that Act included this Bill.

### *Explanatory Note*

Head 49 cross-applies the following sections of the Companies Act 2014.

section 876, ‘Offence of providing false information’, provides for a category 2 offence where a person knowingly gives false information or is reckless as to whether it is false or not. Provision is made for greater maximum penalties in cases where the conviction is on indictment and the commission of the offence has substantially contributed to the limited partnership being unable to pay its debts or impeded the winding up of the limited partnership or facilitated the defrauding of creditors;

section 877, ‘Offence of destruction, mutilation or falsification of book or document’, provides a category 2 offence for the destruction, mutilation or falsification of a book or document affecting or relating to the affairs of the limited partnership. It shall be a defence for a person to prove that, in carrying out the destruction, mutilation or other act concerned, that the person had no intention to defeat the process of the law;

section 878, ‘Offence of fraudulently parting with, altering or making omission in book or document’, provides for an offence for fraudulently parting with, altering or making an omission in any book or document affecting or relating to the affairs of a limited partnership.



## Head 50 – Evidential Matters

To provide for -

(1) Sections 879 to 886 of the Companies Act 2014 have effect as if references to that Act (or Parts 1 to 15 of that Act) included this Bill.

(2) In the application of section 883(3), the following paragraph is substituted for paragraph (d)

“(d) in respect of [existing] functions that, [continue to apply] under this Bill, are to be performed by the Registrar, an assistant registrar or any other person authorised by the Minister under Head 4;”

(3) Section 885 of that Act shall apply as if the reference to a company included a limited partnership.

### *Explanatory Note*

Head 50 cross-applies further provisions of the Companies Act 2014:

section 879, ‘Proof of certificate as to overseas incorporation’ applies where the existence of a body corporate or undertaking outside the State is alleged or is otherwise in issue. It is provided that a certificate of incorporation or registration in relation to a body corporate or undertaking in another country will be taken to be prima facie evidence of the incorporation or registration of that body corporate in the country concerned;

section 880, ‘Proof of incorporation under overseas legislation’, provides that where the incorporation of a corporation, by virtue of any Act passed in any country other than the State, is alleged or otherwise at issue, a copy of that Act will be prima facie evidence of the incorporation of that corporation where that Act has been passed in any country prescribed for the purposes of this section and has been published by the Government publishers of that country;

section 881, ‘Admissibility in evidence of certain matters’, provides that, where evidence is given by a person in response to a question put to him or her in the exercise of powers under a number of specified sections of this Bill, the answer given by that person may be used in evidence against that individual in any civil proceedings but not in criminal proceedings, unless the prosecution is for perjury in respect of any answer given. Subsection (4) deals with the admissibility of an inspectors’ report as evidence in civil proceedings;

section 882, ‘Provision of information to juries’ provides that a trial judge may order a variety of documents be made available in a trial on indictment of an offence under this Bill. If the prosecution wishes to apply to have a document given to the jury, a copy of the document must first be given to the accused, who then may make representations to the court in relation to that document. Under subsection (3),

where an affidavit by an accountant is given to the jury, the court may require that accountant to explain to the jury any relevant accounting procedures or principles in order to assist the jury in their deliberations;

section 883, 'Certificate evidence', makes provisions relating to certificate evidence which, in the context of any legal proceedings, streamline the giving of evidence by the Minister, the Corporate Enforcement Authority, an inspector appointed under Part 13 of the Companies Act 2014, the Registrar of Companies, [Registrar of Co-operative Societies and Trade Unions], in respect of their performance of their respective statutory functions. For the purpose of the legal proceedings, the relevant officer need not give evidence in court to prove the certificate in question;

section 884, 'Documentary evidence', provides for the admission in evidence of documents that are certified copies or extracts from the records of the Corporate Enforcement Authority, the Minister, an inspector or the Head of Financial Regulation of the Central Bank, without further proof. Subsection (8) clarifies that this section does not in any way derogate from any other provision of this Bill that provides for the receiving in evidence of a particular document;

section 885, 'Saving for privileged communications in context of requirements under section 724' provides that where proceedings are brought under this Bill against any person, nothing in section 724 (duty to provide assistance to the DPP and the Corporate Enforcement Authority) shall be taken to require any person who has acted as a solicitor for the limited partnership to disclose any privileged communication made to him or her in that capacity;

section 886, 'Statutory declaration made in foreign place', provides that statutory declarations for the purposes of the Bill made overseas before Irish solicitors or local notaries or other persons authorised to take declarations are valid.

## Head 51 – The Corporate Enforcement Authority

To Provide for –

(1) Sections 944P, 944Q and 944W of the Act of 2014 shall have effect as if references to that Act included this Bill.

(2) Without prejudice to the generality of subhead (1), and in addition to the functions under section 944D of the Act of 2014, the Authority may perform the functions conferred on the Corporate Enforcement Authority by this Bill and do such acts or things as are necessary or expedient in the performance of those functions.

### *Explanatory Note*

Head 51 cross-applies sections 944P, 944Q and 944W of the Companies Act 2014 which exclude the Corporate Enforcement Authority members and staff from liability for damages arising from their actions if done in good faith; places a duty of professional confidentiality on the Corporate Enforcement Authority members and staff; and provides that the Director may receive and use confidential information from an Garda Síochána, the Revenue Commissioners and other persons.

## Part 6 – Miscellaneous Amendments

### Head 52 – Miscellaneous amendments

To provide for –

- (1) The cross-reference in section 887(9)(b) and (c) of the Companies Act 2014.
- (2) The cross-references in section 1435(1)(c)(iii), (iv)(II) and (5) of the Companies Act 2014 will need to be amended.
- (3) Section 1435(5) should be amended to provide for the substitution of "Head 15(2) of the Registration of Limited Partnerships and Business Names) Bill 2023" for "provisions of section 4 (2) of the Limited Partnerships Act 1907".
- (4) The cross reference in section 7(2)(a) of the Investment Funds, Companies and Miscellaneous Provisions Act 2005.
- (5) Such further technical amendments to update cross referencing in the Acts referenced as may be required during drafting.

### *Explanatory Note*

Head 46 applies to Part 3 and Part 4 of this Bill.