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CORPORATE AND COMMERCIAL

Overhaul of Limited Partnerships

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The Department of Enterprise, Trade and Employment has published a general scheme of a bill to replace the Limited Partnerships Act 1907 and the Registration of Business Names Act 1963. When enacted, the proposed legislation will impose significant additional information and reporting requirements on limited partnerships and enhanced enforcement powers for the Registrar.

Connection with the State

At present, after a limited partnership is registered in Ireland, it can move its principal place of business outside the State. Under the proposed changes, a limited partnership will have to maintain at all times a registered office or place of business in the State at an appropriate address which must satisfy certain specific requirements. The Registrar will not register a limited partnership unless it is satisfied that the limited partnership will, when registered, carry on an activity in the State.

General Partner must be resident in an EEA State

At least one of the general partners must for the duration of the limited partnership be a person who is resident in an EEA State or be a body corporate which has its registered office or principal place of business in an EEA State. Limited partnerships which exist prior to the commencement of the proposed legislation may be required by the Registrar to comply with this requirement within 12 months of a notice given by the Registrar. Failure to comply with this requirement can lead to an involuntary removal process to remove the limited partnership from the register.

Requirement to Re-register

The Registrar is required during a transitional period to identify limited partnerships which have ceased to operate and to remove them from the register of limited partnerships.

In addition the Registrar will write to all general partners of registered limited partnerships requiring them to re-register the partnership and, in the event of failure to do so within 12 months of such notification, the Registrar may commence an involuntary removal process to remove the limited partnership from the register.

Restrictions on Management

A person who is disqualified or restricted from acting as a company director under the Companies Act 2014 shall not be appointed or act as a general partner or be in any way involved in the formation of management of a limited partnership for the period of such disqualification or restriction. This prohibition will also apply to persons who are disqualified under the laws of another jurisdiction from being appointed or acting as a director or secretary of a body corporate or undertaking.

A person under the age of 18 years can not be appointed as a general partner of a limited partnership and any purported appointment of a person under the age of 18 years will be void.

Annual Confirmation Statement

A limited partnership will be required to submit to the Registrar an annual confirmation statement confirming that certain registered information in respect of the limited partnership remains correct. Failure to comply can lead to the Registrar commencing an involuntary removal process to remove the limited partnership from the register.

Removal Processes

A limited partnership will be able to apply in certain circumstances to be voluntarily removed from the register of limited partnerships.

The Registrar will be able to remove a limited partnership from the register of limited partnership on an involuntary basis for failure to comply with certain obligation under the new legislation.

Register of Beneficial Ownership of Non-EEA Limited Partners

A general partner of a limited partnership will be required to keep an internal register containing specified information in respect of all limited partners incorporated or administered outside the EEA. The general partner will also be required to deliver certain information to the Registrar which will maintain a register of non-EEA partners of a limited partnership. These registers will not be available to the public but the police, Revenue authorities, Criminal Asset Bureau, ODCE and other competent bodies will be entitled to access to such information.

Modernisation

The legislation will allow for the delivery of documents in electronic format and include longer periods for the filing of documentation with the Registrar and the publication of notices in the CRO Gazette (where such publication is required).

To discuss this further, please contact at Emmet Scully at escully@lkshields.ie and Lisa McEllin at lmcellin@lkshields.ie.

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