



Jersey

## **LIMITED LIABILITY COMPANIES (AMENDMENT) (JERSEY) LAW 2020**

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## LIMITED LIABILITY COMPANIES (AMENDMENT) (JERSEY) LAW 2020

A LAW to amend the Limited Liability Companies (Jersey) Law 2018.

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<i>Adopted by the States</i>	<i>12th May 2020</i>
<i>Sanctioned by Order of Her Majesty in Council</i>	<i>21st July 2020</i>
<i>Registered by the Royal Court</i>	<i>7th August 2020</i>
<i>Coming into force</i>	<i>in accordance with Article 19</i>

**THE STATES**, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

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### 1 Limited Liability Companies (Jersey) Law 2018 amended

- (1) The Limited Liability Companies (Jersey) Law 2018<sup>1</sup> is amended in accordance with this Law.
- (2) In this Law, a reference to an Article by number only is a reference to the Article of the same number in the Limited Liability Companies (Jersey) Law 2018.

### 2 Article 1 (interpretation) amended

In Article 1(1), for the definition of “amendment statement” there is substituted –

“ “amendment statement” is to be construed in accordance with Article 5(2).”.

### 3 Article 3 (LLC agreement generally) amended

In Article 3, for paragraph (6) there is substituted –

- “(6) An LLC agreement may confer rights on a third party and provide for the way in which those rights may be varied or extinguished. However, if an LLC agreement does not provide otherwise, those rights may only be varied or extinguished with the consent of the third party.

- (6A) Despite not being a party to an LLC agreement, a third party is entitled to enforce any rights conferred on the third party in an LLC agreement.”.

#### **4 Article 5 (amendment of declaration) amended**

For Article 5, there is substituted –

##### **“5 Amendment of declaration**

- (1) This Article applies to a limited liability company if, during the existence of the limited liability company, a manager of the limited liability company or, if there is no manager, a member of the limited liability company becomes aware that, at the time the declaration was delivered to the registrar under Article 4(1) –
- (a) a statement in the declaration was false; or
  - (b) information in the declaration (other than details of the registered office of the limited liability company) was inaccurate.
- (2) A limited liability company to whom this Article applies must, within 21 days of becoming aware, deliver an amendment statement to the registrar that –
- (a) is signed by an authorized person;
  - (b) specifies the information in the declaration that was false or inaccurate; and
  - (c) specifies the correction that should be made to the declaration.
- (3) A limited liability company to whom this Article applies commits an offence if the limited liability company fails to comply with paragraph (2).
- (4) If the registrar is satisfied that the correction complies with the requirements of this Law, the registrar must register the amendment statement and give effect to the change –
- (a) in the certificate of formation issued under Article 4; or
  - (b) if a certificate of formation has been issued, by issuing an amended certificate of formation.”.

#### **5 Article 7 (name of limited liability company) amended**

In Article 7 –

- (a) in paragraph (2), for “the prescribed form” there is substituted “a form approved by the registrar”;
- (b) in paragraphs (8) and (10), for “Article 5(2)” there is substituted “Article 5(4)(b)”.

#### **6 Article 8 (registered office) amended**

In Article 8 –

- (a) for paragraph (6)(a) there is substituted –
  - “(a) a document containing a list of the name and address of each member, manager, deputy secretary and secretary of the limited liability company;”;
- (b) for paragraph (7) there is substituted –
  - “(7) If a limited liability company has 25 or more members, the list of names referred to in paragraph (6)(a) must be kept in alphabetical order.”;
- (c) after paragraph (7) there is inserted –
  - “(7A) In relation to the list that is required to be kept under paragraph (6)(a), a limited liability company –
    - (a) must not enter notice of a trust, whether express, implied or constructive; and
    - (b) subject to the LLC agreement, is not required to record the details of an assignee of an LLC interest (being a person not yet admitted as a member).”;
- (d) in paragraph (9)(a), “and under the LLC agreement such information is intended to be kept confidential” is deleted.

**7 Article 12 (series of members, managers, LLC interests or assets) amended**

In Article 12 –

- (a) in paragraph (8)(a), for “contract” there is substituted “contract,”;
- (b) in paragraph (9)(a), for “liabilities,” there is substituted “liabilities”.

**8 Article 13 (admission of members and LLC interests) amended**

In Article 13(10), after “company” there is inserted “and any interest of a member who has not acquired an LLC interest in a limited liability company”.

**9 Article 16 (voting of members) amended**

In Article 16(5), “or as” is deleted.

**10 Article 21 (management of limited liability company) amended**

In Article 21(2), for “LLC shall vest” there is substituted “limited liability company vests”.

**11 Article 25 (voting of managers) amended**

In Article 25(2), “shall be decided” is deleted.

**12 Article 30 (liability for contribution) amended**

In Article 30, for paragraph (4) there is substituted –

- “(4) Subject to the LLC agreement, any liability for, or obligation on, a member to make a contribution under this Article or to return money or other property paid or distributed in contravention of Part 6 may be compromised only with the consent of all the members.”.

### **13 Article 37 (limitation on distribution) amended**

For Article 37, there is substituted –

#### **“37 Limitation on distribution**

- (1) A limited liability company must not make a distribution to a member or release a member from the performance of an obligation if the limited liability company is insolvent.
- (2) For a period of 6 months from the date of receipt by a member of a distribution or purported release from the performance of an obligation in contravention of paragraph (1) or in the case of fraud, the member is liable to the limited liability company for the amount of the distribution or for performance of the obligation purportedly released.
- (3) In this Article, “distribution” does not include amounts constituting reasonable compensation for present or past services or reasonable payments made in the ordinary course of business under a bona fide retirement plan or other benefits programme.”.

### **14 Article 39 (assignee right to participate in management of limited liability company) amended**

In Article 39, for “not admitted as a member shall have” there is substituted “(being a person not yet admitted as a member) has”.

### **15 Article 46 (rules of customary law) deleted**

Article 46 is deleted.

### **16 Article 47 (fiduciary and other duties owed and not owed) amended**

In Article 47 –

- (a) for paragraph (1) there is substituted –

“(1) Subject to the LLC agreement, a manager does not owe any duty (fiduciary or otherwise) to the limited liability company or any member or other person in respect of the limited liability company other than a duty to act in good faith in respect of the rights, authorities and obligations that are exercised or performed or to which such manager is subject in connection with the management of the limited liability company.”;
- (b) after paragraph (2) there is inserted –

- “(3) Subject to the LLC agreement, an act or omission of a manager that constitutes a breach of a duty to act in good faith may be authorised or ratified if –
- (a) all the members of the limited liability company authorise or ratify the act or omission; and
  - (b) after the act or omission, the limited liability company will be able to discharge its liabilities as they fall due.”.

**17 Article 56 (offences of giving false or misleading etc. information) amended**

In Article 56(1), for “or to delivered” there is substituted “or to be delivered”.

**18 Article 57 (criminal liability of partners, directors and other officers) substituted**

For Article 57 there is substituted –

**“57 Criminal liability of managers**

- (1) Where an offence under this Law committed by a limited liability company is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of a person who is a manager of the limited liability company or any person purporting to act in any such capacity, the person is also guilty of the offence and liable in the same manner as the limited liability company to the penalty provided for that offence.
- (2) Where the affairs of a limited liability company are managed by its members, paragraph (1) applies in relation to acts and defaults of a member in connection with the member’s functions of management as if the member were a manager of the limited liability company.”.

**19 Citation and commencement**

This Law may be cited as the Limited Liability Companies (Amendment) (Jersey) Law 2020 and comes into force on such day or days as the States may by Act appoint.

## ENDNOTES

### Table of Endnote Reference

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*1* *L.32/2018*