

PARTNERSHIP (AMENDMENT) BILL 2012

EXPLANATORY NOTES

These notes are circulated for the information of Members with the approval of the Member in charge of the Bill, Mr R W Henderson MHK.

1. Introduction

- 1.1 These explanatory notes relate to the Partnership (Amendment) Bill 2012. They have been prepared by the Treasury in order to assist readers of the Bill. They do not form part of the Bill and have not been endorsed by the House of Keys.
- 1.2 The notes need to be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill.

2. Background

- 2.1 The purpose of the Bill is to insert additional accounting requirements into the Partnership Act 1909 (the "1909 Act") in respect of limited partnerships. This is to ensure that the Island complies with the recommendation of the OECD in respect of limited partnerships and that the accounting records of those partnerships reflect the OECD standard.
- 2.2 Care has been taken to ensure that compliance with the recommendation has not been at the expense of the commercial attractiveness of the Isle of Man.

3. Overview of clauses

- 3.1 Clause 1 gives the Act resulting from the Bill its short title.
- 3.2 Clause 2 provides for the resulting Act to be automatically repealed on the day after its promulgation. At this stage the amendments to the 1909 Act will have taken effect. This automatic repeal does not affect the continuing operation of any amendments to enactments made by this legislation.
- 3.3 Clause 3 amends section 30 of the 1909 Act. It inserts a new subsection (2) which provides that the additional accounting requirements specified in section 48E (which is inserted by clause 4 of the Bill) apply in respect of limited partnerships.
- 3.4 Clause 4 inserts a new section 48E¹ into the 1909 Act. This provision specifies the additional accounting requirements in respect of limited partnerships:
 - Subsection (1) provides that the new section 48E does not limit existing section 30 of the 1909 Act (duty of partners to render accounts).
 - Subsection (2) specifies that reliable accounting records must be kept which:
 - (a) correctly explain the transactions of the limited partnership;

¹ Sections 48B to 48D were inserted by section 2 of the Limited Partnership (Legal Personality) Act 2011 (c.9).

- (b) enable the financial position of the limited partnership to be determined with reasonable accuracy at any time; and
 - (c) allow financial statements that give a true and fair view of the limited partnership's state of affairs to be prepared.
- Subsection (3) provides that invoices, contracts and any other information that the general partners consider necessary or expedient must be retained to ensure that the limited partnership's accounting records include:
 - (a) day to day entries of all sums of money received and expended and the matters in respect of which that receipt and expenditure takes place;
 - (b) details of all sales, purchases and other transactions; and
 - (c) records of the assets and liabilities of the partnership.
- Subsection (4) provides that the limited partnership's financial statements must be approved by the general partners and include certain written statements (along with any necessary explanatory notes for those statements to be understood).
- Subsection (5) requires the accounting records of a limited partnership to be kept for at least 6 years from the end of the financial period to which they relate.
- Subsection (6) provides that the accounting records must be kept at the limited partnership's principal place of business in the Island, or such other place as the general partners think fit. The records must be available for any partner to inspect during ordinary business hours, without any charge being payable.
- Subsection (7) provides that if the limited partnership's accounting records are kept outside of the Island, copies must be sent to, and be kept at, a place in the Island. Again, these records must be available for any partner of the limited partnership to inspect during ordinary business hours, without any charge being payable.
- Subsection (8) provides that the copies of the accounting records mentioned in subsection (7) must be updated at least every 6 months.
- Subsections (9) and (10) provide that if the requirements of section 48E are not complied with, each of the general partners is guilty of an offence and liable:
 - (a) on conviction on information, to custody for not more than 2 years, a fine, or both;
 - (b) on summary conviction, to custody for not more than 6 months, a fine not exceeding £5,000, or both.

4. Other points

The Bill —

- (a) will come into operation upon the announcement of its Royal Assent to Tynwald;
- (b) is not expected to increase Government expenditure or to reduce the income of Government; and
- (c) is considered, in the view of the member moving it, to be compatible with the Convention rights within the meaning of the Human Rights Act 2001.