



## A RÉSUMÉ OF JERSEY PARTNERSHIPS

*This guide will help you grasp the basic components of partnership law as of 1 December 2020.*

*For further information, please contact your usual advisor at Lexstone Lawyers. We would be delighted to assist you.*

*Kindly note that this guide is intended to provide general guidance and does not represent Jersey legal advice.*

### OVERVIEW

Partnerships may be formed in any manner and are often constituted by written agreements. There are no restrictions regarding the partners' nationality and a corporation, either foreign or local, can be a partner of a Jersey partnership.

Save for where precluded by the relevant law, customary law principles apply to all partnerships.

Jersey has a wealth of partnership vehicles. These are as follows: -

1. the traditional common-law partnership;
2. the limited partnership;
3. the separate limited partnership;
4. the incorporated limited partnership; and
5. the limited liability partnership.

Jersey limited partnerships are regularly used for collective investment funds, private investment structures and family planning. They have also proved popular for structures and transactions where tax transparency is important

### THE TRADITIONAL COMMON-LAW PARTNERSHIP

The common-law partnership is governed by existing customary law.

A partnership is a contract passed between two or more persons by which they oblige themselves to carry on some form of a lawful trade or business together or hold some asset in common to share between them the profits and losses which may accrue from that business or use of that asset: (vide: *Pothier Traité de Contrat de Société* paragraphs 8 to 14).

## KEY FEATURES OF A TRADITIONAL COMMON-LAW PARTNERSHIP

1. A contract whereby each party binds themselves to contribute something of material worth, whether capital, assets, skill, labour or other services for a common purpose.
2. The contributions must be for the benefit of all partners.
3. The purpose of the contract must be to generate a gain or profit in which each partner can expect to share in proportion to the relative value of the contribution.
4. The trade, business or other venture, which is the contract's object, and the gain or profit from it should be lawful.
5. There are no formalities.
6. There is no registration under any statutory legal framework other than the business name.
7. In the absence of an agreement, all partners participate in the management.
8. Each partner has unlimited liability for the debts of the partnership.

## THE LIMITED PARTNERSHIP

A limited partnership is a partnership vehicle registered under the Limited Partnerships (Jersey) Law 1994 (the **LP Law**). A limited partnership is a partnership made between one or more general partners and one or more other persons who are limited partners. The general partner tends to be responsible for managing the limited partnership and is generally a limited liability company. Limited partners are the investors who do not participate in the management of the limited partnership.

## KEY FEATURES OF A LIMITED PARTNERSHIP

1. Any general partner will have unlimited liability for the partnership's debts, whereas the limited partners will be protected by limited liability provided that they have not participated in the management of the partnership.
2. It must consist of one or more general partners and one or more limited partners.
3. Confidentiality: neither the names and addresses of the limited partners nor the partnership agreement are public record matters.
4. There is no limit on the number of limited partners.
5. A limited partner is permitted to assign its interest (subject to the partnership agreement's terms).
6. A limited partner may contribute cash or property.
7. A limited partnership may be established for a specific period or an unlimited period.
8. There are no requirements for an audit, filing of an annual return or annual fee
9. Registration and consent issued under the Control of Borrowing (Jersey) Order 1958 are required (standard applications).

These features are also applicable to separate limited partnerships and incorporated limited partnerships.

## THE SEPARATE LIMITED PARTNERSHIP

A separate limited partnership is a partnership vehicle registered under the Separate Limited Partnership (Jersey) Law 2011. In essence, it is a limited partnership with the ability to contract in its own name, sue and be sued in its name. As it is not regarded as a body corporate, it is not subject to the rules and obligations applicable to companies.

### KEY FEATURES OF A SEPARATE LIMITED PARTNERSHIP

1. Separate limited partnerships have separate legal personality but will not be a body corporate.
2. It will be able to contract in and sue and be sued in its own name.
3. It is not subject to the principles and rules relating to companies.
4. Like a traditional limited partnership, it will be tax transparent.
5. Due to its distinct personality, it will be possible to obtain a judgment against either the separate limited partnership or the general partner.
6. Legal proceedings may be brought in the name of the separate limited partnership or the general partner.
7. It is possible to hold property in the name of either the separate limited partnership or the general partner.

## INCORPORATED LIMITED PARTNERSHIPS

An incorporated limited partnership is a partnership vehicle registered under the Incorporated Limited Partnership (Jersey) Law 2011. This form of partnership is incorporated. It has significant considerations and obligations for the general partner and the limited partners analogous with those when considering the relationships between companies, directors and shareholders such as the general partner must act in honestly and in good faith with a view to the best interests of the incorporated limited partnership.

### KEY FEATURES OF AN INCORPORATED LIMITED PARTNERSHIP

1. An incorporated limited partnership will have separate legal personality and will be a body corporate.
2. It will have perpetual succession.
3. Whilst tax transparent for Jersey purposes, it could be considered opaque for gains by other jurisdictions.
4. A general partner must "*act honestly and in good faith*" and exercise "*care, diligence and skill*".
5. The general partner is regarded as an agent of the incorporated limited partnership, and as such, it will only be liable after the partnership has failed to satisfy the debt.
6. The partners of an incorporated limited partnership can ratify a breach by a general partner provided all partners authorise, and the incorporated limited partnership is able to discharge its liabilities as they fall due.

7. It will be able to own property in its own name.
8. It will be able to contract, sue and be sued in its own name.
9. Due to its incorporated status, it will be capable of committing a criminal offence.

## LIMITED LIABILITY PARTNERSHIPS

A limited liability partnership is a partnership vehicle registered under the Limited Liability Partnership (Jersey) Law 1997. In a nutshell, it is a partnership with a separate legal personality distinct from its partners whilst expressly not being regarded as a body corporate. It allows all partners to be involved in the management of the partnership while limiting their liability.

## KEY FEATURES OF A LIMITED LIABILITY PARTNERSHIP

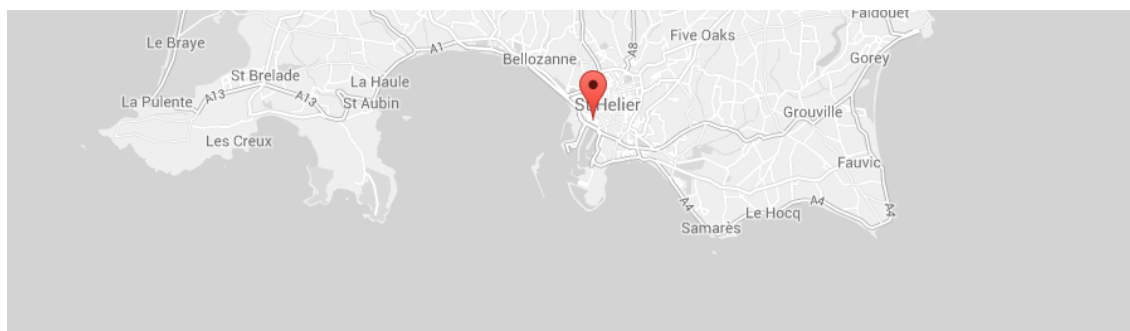
1. A limited liability partnership has a distinct legal personality and unlimited capacity.
2. There is no limit on the number of partners, but there must be at least two.
3. Partners may individuals, body corporates or other limited liability partnerships.
4. A specified solvency statement is required before any withdrawal from the partnership.
5. The declaration must specify at least one partner as the designated partner.
6. No audit requirement.

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### LEXSTONE LAWYERS

Hawk House | 22 Esplanade | St Helier | Jersey JE2 3QA | Channel Islands

D: +44 1534 480 700 | E: [enquiries@lexstone.je](mailto:enquiries@lexstone.je)



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