

BVI Limited Partnership Act 2017 – key points

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The Limited Partnership Act, 2017 (the “Act”) was gazetted and brought into force on 6 February 2018 in the British Virgin Islands (“BVI”). The Act creates a modern regime for new limited partnerships, and replaces Part VI of the former Partnership Act, 1996 (the “1996 Act”) for new limited partnerships and for those existing limited partnerships that elect to re-register under the Act.

Inspired by the success of the BVI Business Companies Act (the “BC Act”), the Act and the Limited Partnership Regulations, 2018 (the “Regulations”) draw on a number of concepts introduced by the BC Act and have been drafted with the same balance of certainty and flexibility in mind.

Limited partnerships are commonly used in investment fund structures. Whilst the 1996 Act was somewhat left behind the fast evolving world of alternative investments, the Act provides a solid but compliant platform that is fit for purpose both today and in the future. The Act adopts a number of universal limited partnership concepts but also introduces new ideas adapted from the BC Act (as detailed in the table below). We anticipate the Act will spark a revival of interest in the use of BVI limited partnerships for collateral investment purposes.

Summary of key points

The Act has made a number of key changes in respect of:

- limited partnerships incorporated under the Act; and
- 1996 Act limited partnerships that re-register under the Act.

We have set out below the key changes under the Act and compared them to the position under the 1996 Act.

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Provision	Limited partnership incorporated or re-registered under the Act	Limited partnership incorporated under the 1996 Act
Legal personality	A limited partnership has legal personality unless the general partner elects to register it with no legal personality ¹	A limited partnership has no legal personality
Formation	A statement signed by the general partner as prescribed by the Act and signed consent from the registered agent of the limited partnership are filed with the BVI Registrar of Limited Partnerships (the "Registrar") ²	Articles were executed by the partners and a memorandum, in the form prescribed by the 1996 Act, signed by the registered agent and filed with the Registrar
Limited partnership agreement	The model agreement (set out in the Regulations to the Act) shall be adopted as the limited partnership agreement (the "LPA") unless it is otherwise excluded or modified by a signed limited partnership agreement. The LPA does not need to be filed with the Registrar. The limited partnership can be incorporated quickly by initially adopting the model agreement which can then be replaced by a LPA at a later date.	Articles, which are the equivalent of a LPA, needed to be agreed and signed before the limited partnership was incorporated. Any amendments were made in accordance with the articles. Any amendments to the memorandum was signed by the registered agent of the limited partnership and filed with the Registrar.
Limited partners' activities	The Act sets out a broad list of activities in which the limited partners may be involved without being deemed to be taking part in the management of the limited partnership, thereby maintaining their limited liability.	The 1996 Act has a shorter list of activities in which a limited partner may participate.
Assets of the limited partnership	Any asset of a limited partnership with legal personality which is transferred or vested in the general partner is held by the general partner as agent of the limited partnership. Any asset of a limited partnership with no legal personality is deemed to be held by the general partner on trust as an asset of the limited partnership. A right to make and receive proceeds of capital calls is deemed to be an asset of a limited partnership.	Legal title of the assets of the limited partnership is held by the general partners for the limited partners who have a beneficial interest in the assets. The limited partnership is not deemed to hold legal or beneficial title.
Legal proceedings	Legal proceedings by, against or in relation to a limited partnership may only be instituted by or against: <ul style="list-style-type: none"> the limited partnership, where the limited partnership has legal personality; or against the general partners for a limited partnership with no legal personality. 	Legal proceedings by, against or in relation to a limited partnership should be brought by or against the general partner of a limited partnership in its capacity as general partner of the limited partnership.

¹ A limited partnership that has legal personality is not a body corporate. The limited partnership has full power, rights and capacity to carry on any business or activity or enter into any transaction.

² If the limited partnership has no legal personality, a declaration signed by each general partner must also be filed with the Registrar.

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Provision	Limited partnership incorporated or re-registered under the Act	Limited partnership incorporated under the 1996 Act
Granting and registration of a charge	<p>Subject to the terms of the limited partnership agreement, a limited partnership:</p> <ul style="list-style-type: none"> • with legal personality may, in writing, create a charge over the assets of the partnership; and • with no legal personality may via its general partner create a charge over its assets, irrespective of where the general partner is incorporated. <p>A limited partnership with legal personality shall keep a register of all relevant charges created over the assets of the limited partnership and keep a copy of the register at its registered office.</p>	<p>Subject to the terms of the articles, a general partner may grant a charge over the assets of the limited partnership.</p> <p>If the general partner is a BVI company, then it will be required to keep a register of relevant charges and a copy of the register at its registered office.</p>
Reorganisation	<p>Subject to the terms of the limited partnership agreement, a limited partnership is permitted under the Act to:</p> <ul style="list-style-type: none"> • continue into a foreign jurisdiction; • merge or consolidate with one or more limited partnerships; • enter into an arrangement; and • redeem minority partnership interests. 	There are no similar provisions under the 1996 Act.

Existing limited partnerships

The 1996 Act will continue to apply to all limited partnerships incorporated under the 1996 Act until they re-register under the Act. Existing limited partnerships may elect to re-register under the Act and adopt a limited partnership agreement, which complies with the terms of the Act. At the time of re-registering, the general partners must elect if the limited partnership is to have legal personality. If no election is made, the existing limited partnership will continue to have no separate legal personality.

If an existing limited partnership does not choose to re-register, it will automatically be re-registered 10 years from the date the Act came into force. An existing limited partnership which is automatically re-registered then has a period of two years from the date of its re-registration to adopt a limited partnership agreement that is compliant with the Act.

For further details on the incorporation of a new limited partnership and ongoing requirements please refer to our [client guide](#).

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