



*Government of Bermuda*  
Ministry of Economic Development

**Ministerial Statement**  
To the House of Assembly

**By**

**Dr. the Hon. E. Grant Gibbons, JP, MP**  
Minister of Economic Development

**PARTNERSHIP AMENDMENT ACT 2015**

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**Mr. Speaker**, I am pleased to introduce to this Honourable House, a Bill entitled **the Partnership Amendment Act 2015**. This Bill is the third of four related Bills being introduced for discussion today in connection with the proposed amendments to the Exempted Partnerships Act 1992, the Limited Partnership Act 1883 and the Companies Act 1981.

**Mr. Speaker**, the proposed amendments in the current Bill include:

- (i) enabling newly converted or continuing partnerships to have legal personality;
- (ii) resolving an inconsistency in the partnership laws in relation to debts of partnerships with legal personality; and
- (iii) establishing a public register of charges against the assets of such partnerships.

**Mr. Speaker,** the Partnership Act 1902 was amended in 2006 to enable Bermuda partnerships to elect to have legal personality. If such an election is made, the partnership becomes a legal person, separate from its partners. Specific procedures, including time tables for an election to be made, are included in the Act for all categories of partnerships that wish to have legal personality. Once the election is made, it is irrevocable. Likewise, any failure by a partnership to make the election to have legal personality as provided in the Act is final.

**Mr. Speaker,** today's Bill includes an amendment to the current procedures to permit an election to be made with respect to any partnership that is either converting from an exempted company or continuing into Bermuda from another jurisdiction. This change is necessary to ensure that those entities which seek to avail themselves of the newly created regimes for conversion or continuation are not prohibited from making an election to have legal personality. The proposed amendment provides

specific rules pursuant to which such converting or continuing partnerships can elect to have legal personality separate from their partners.

**Mr. Speaker,** Bermuda partnerships may be governed by multiple Acts. For instance, a limited partnership is governed by both the Limited Partnership Act 1883 and the Partnership Act 1902. If a limited partnership is also registered as an exempted partnership, then it will also be governed by the Exempted Partnerships Act 1992. For this reason, it is imperative that all of the partnership Acts are consistent with one another, and there are no conflicting provisions.

**Mr. Speaker,** Section 4E of the Partnership Act 1902 currently states that a judgment against a partnership that has legal personality may be enforced against an *“individual partner”*. While a right of recoupment from the partnership is also included for payments made for judgment debts by partners, the provision conflicts with two key sections of the Limited Partnership Act 1883. Section 2 of the 1883 Act states that limited partners shall not be liable for partnership debts, and section 16 requires that suits be prosecuted against the general partners only, except in certain circumstances. Section 4E of the 1902 Act makes no such distinction.

**Mr. Speaker,** as currently written, section 4E could be read as enabling judgment debts of a limited partnership to be enforced directly against any of the individual partners, including a limited partner. This could nullify the limited liability

protection afforded to limited partners for partnership debts under the 1883 Act. As a result, Section 4E must be amended to resolve the inconsistency between the 1902 and 1883 Acts.

**Mr. Speaker,** another consequence of a partnership electing to have legal personality is that the partnership has the power to own and control assets of partnership in accordance with the partnership agreement. This includes the ability to encumber such assets. Currently, the scheme for registration of a charge against the assets of companies is set out in Part V, sections 55 to 59 of the Companies Act 1981. However, there is no corresponding scheme for registration of charges against partnership assets. This Bill provides for the establishment and regulation of a register of charges for partnerships with legal personality.

**Mr. Speaker,** the proposed change will achieve parity with the existing registration scheme used in relation to companies. This new register of charges will enable public access to information related to encumbrances against partnership assets which have been used to collateralize transactions. The amendment sets forth rules regarding priorities of registered charges; amendment and correction of the register; treatment of debentures; and entries of satisfaction and release of property from a registered charge.

**Mr. Speaker**, having a formal register of charges and a statutory priority regime will increase the attractiveness of Bermuda's partnership product for clients looking to use Bermuda partnerships for transactions involving secured financing. The register will be an effective tool for providing much needed assurance and statutory protection to third parties that wish to do business with any Bermuda partnership that is subject to the regime. This is yet another way in which we can modernize and enhance our laws to meet market demands.

Thank you, **Mr. Speaker**.