



RECOMMENDED REFORMS TO THE
LIMITED PARTNERSHIPS ACT

Submitted to: The Honourable Tracy MacCharles
Minister of Government and Consumer Services

Submitted by: The Ontario Bar Association
Business Law Section, Corporate Law
Subcommittee

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Introduction

The Corporate Law Subcommittee (the “**Subcommittee**”) of the Ontario Bar Association (the “**OBA**”) has prepared recommendations to implement certain reforms to the *Limited Partnerships Act* (the “**LPA**”).¹

These recommendations follow on the release of the Business Law Agenda: Priority Findings & Recommendations Report, produced by a panel that was asked by the Minister of Government and Consumer Services to provide advice on priorities for reform of Ontario’s increasingly outdated business law legislation.²

The report made recommendations related to key areas such as establishing a process to keep corporate and commercial law current; making Ontario a jurisdiction of choice for business; and revising the LPA to make Ontario a more attractive jurisdiction for business by, among other things, reducing the risk of unlimited liability faced by limited partners in Ontario.

As noted in greater detail in the attached submission, it is the view of the Subcommittee that the proposed changes are necessary in order to modernize limited partnership law in the Province and assist in not losing business in this area to other jurisdictions. These materials represent a work product developed over four years with input from a number of contributors.

The OBA

Established in 1907, the OBA is the largest voluntary legal association in Ontario and represents some 16,000 lawyers, judges, law professors and law students. The OBA is pleased to analyze and assist government with dozens of legislative and policy initiatives each year - both in the interest of the profession and in the interest of the public.

This submission has been developed by the Corporate Law Subcommittee of the OBA’s Business Law Section. The OBA Business Law Section has nearly 1500 members, and includes leading experts in business law issues who advise a broad range of individuals, businesses, and partnerships in respect of business law issues.

¹ R.S.O. 1990, c. L-16.

² Business Law Agenda: Priority Findings & Recommendations Report. Online: <http://www.ontariocanada.com/registry/showAttachment.do?postingId=18942&attachmentId=33251>



Overview

The submissions to support the proposed amendments to the LPA are organized around the following topics:

- 1) Admission of Limited Partners;
- 2) Term, Removal of General Partner and Dissolution Procedures and Miscellaneous Clean-Up;
- 3) Limited Liability Status – risk of loss of limited liability status;
- 4) Definition of “carrying on business” in the context of harmonizing the definition of “carrying on business” under the LPA and the definition of “carrying on business” under the *Extra-Provincial Corporations Act*. This is also consistent with the OBA proposed submission on the proposed *Extra-Provincial Entities Act*; and,
- 5) Obligation to Provide Information to Non-Partners and to Partners

We believe the changes proposed herein will be highly welcomed by those across industry sectors within the province who commonly utilize limited partnership in the structuring of their business affairs.

Our proposed revisions are primarily organized and addressed in order of the section number of the LPA to which the proposed change relates. The detailed rationale and suggested wording of each proposed change is set out below for your consideration. This is followed by a marked-up version of the LPA that incorporates each of the proposed changes described below and set out in Appendix A.

1. Term and Declaration – Section 3(3)

(a) Reasons for change:

The LPA, in section 3(3) provides that a declaration filed under the LPA expires five years after its date of filing unless it is replaced by the filing of a new declaration prior to the expiry. Many investment vehicles that are structured as limited partnerships are intended to remain active for ten or 15 years after formation. In addition, the length of a limited partnership is one of the subjects for negotiation by parties entering into a limited partnership agreement.

(b) Suggested change:

Our revisions to this provision are intended to permit (i) a limited partnership declaration to remain in effect for the length of time agreed by the parties at the time they enter into the limited partnership agreement or (ii) to be cancelled by a filing by the general partner. Our proposed language for an amended s. 3(3) is as follows:



Expiry of declaration

(3) ~~Every~~ A declaration filed under subsection (1), including a declaration filed by an extra-provincial limited partnership, ~~expires five years after its date of filing unless~~ shall remain in effect for such period of years as is set out in the declaration. Unless it is replaced by a new declaration that is filed before its expiry, the declaration shall expire on the earlier of,

(a) the end of such period; or

(b) the date on which the declaration is cancelled by filing a declaration of dissolution ~~or the declaration is replaced by filing a new declaration before the expiry date.~~

2. **Obligation to Provide Information to Non-Partners and to Partners – Section 4 and Section 26**

(a) *Reasons for change:*

The LPA provides that the general partner is required to both (i) maintain a record of limited partners containing the prescribed information and (ii) permit any person to inspect this record:

Record of limited partners

4. (1) The general partners of every limited partnership other than an extra-provincial limited partnership shall maintain a current record of the limited partners stating, for each limited partner, the prescribed information.

Rights to inspect

(3) Upon request and without charge, any general partner must permit any person to inspect the record of limited partners during the normal business hours of the limited partnership and to make copies or take extracts from them.

And, in respect of extra-provincial limited partnerships:

Record of limited partners

26. (1) The general partners of every extra-provincial limited partnership that has filed a declaration under subsection 25 (1) shall maintain a current record of the limited partners stating, for each limited partner, the prescribed information..



Right to inspect

(4) Any person may inspect the record of limited partners during the normal business hours of the limited partnership or the limited partnership's attorney and representative and may make copies of and take extracts from it.

Limited partnerships are used by sophisticated business parties as a vehicle of choice for many purposes, including as vehicles for the making of venture capital and private equity investments. Used for these purposes, it is often important to investors that information regarding their identity and the amount of their commitment to a limited partnership remain confidential. In other jurisdictions and with other forms of business organizations, it has been accepted that only minimal information is required to be made publicly available in the ordinary course. Because of the requirement to make this information available to the general public, this can be one factor dissuading sponsors (or general partners) willingness to form their investment vehicle in Ontario and deterring investors (or limited partners) from agreeing to make an investment in a limited partnership formed in Ontario.

The Delaware limited partnership law (Del Code Ann tit 6, §17-303), provides for (i) the ability of the general partner to protect confidential information the release of which could have an adverse effect on the limited partnership or its portfolio investments and (ii) limits on who may obtain information regarding partners.

Most notably, the Delaware provision does not provide a right for third parties to obtain partnership information.

Giving the general partner the right to limit, in certain cases, the provision of confidential information to limited partners has many benefits. It protects the reasonable expectations of the partners, but does not permit behaviours that would rob the partners of the benefits of their contract. It does modify the rights of third parties to obtain information about the partners of a limited partnership, but to no greater an extent than is the case for other business entities; for example, third parties do not generally have the right to demand the confidential identifying information for shareholders of private companies. The requirement that a declaration be filed with the Registrar in order to constitute a limited partnership remains in effect and that filing would remain a public record available to all persons. This serves the intended purpose of putting third parties on notice that the liability of limited partners is limited. It is not required, in order to achieve this purpose, for third parties to have access to the identity and commitment of each limited partner, provided that, through the public records function, they are able to determine who the general partner is.



(b) Suggested change:

Our Subcommittee recommends that section 4 of the LPA be amended both to add greater clarity as to who is entitled to obtain information about the partners and to clarify that where the partners agree to permit the general partner to retain certain confidential information, such an agreement will be respected by the LPA. Our proposed language for an amended s. 4 is as follows:

Record of limited partners

4. (1) The general partners of every limited partnership other than an extra-provincial limited partnership shall maintain a current record of the limited partners stating, for each limited partner, the prescribed information.

Where record to be kept

(2) The record of limited partners shall be kept at the limited partnership's principal place of business in Ontario. R.S.O. 1990, c. L.16, s. 4 (2).

Rights to inspect

(3) Upon request and without charge, any general partner must permit any ~~person~~ partner to inspect the record of limited partners during the normal business hours of the limited partnership and to make copies or take extracts from them.

Registrar may require copy of record

(4) The Registrar may at any time by written notice require any general partner to provide to the Registrar ~~or any other person~~ a copy of the record of limited partners.

Copy of record to be provided

(5) Upon receipt of the Registrar's notice, the general partner to whom it is directed shall, within the time specified in the notice, provide a copy of the record of limited partners to the Registrar. ~~or any other person specified in the notice.~~

Our proposed language for an amended s. 26 is as follows:

Record of limited partners

26. (1) The general partners of every extra-provincial limited partnership that has filed a declaration under subsection 25 (1) shall maintain a



current record of the limited partners stating, for each limited partner, the prescribed information.

Right to inspect

(4) Any ~~person~~ partner may inspect the record of limited partners during the normal business hours of the limited partnership or the limited partnership's attorney and representative and may make copies of and take extracts from it.

Registrar may require copy of record

(5) The Registrar may at any time by written notice require any general partner or a limited partnership's attorney and representative to provide to the Registrar ~~or any other person~~ a copy of the record of limited partners.

Copy of record to be provided

(6) Upon receipt of the Registrar's notice, the person to whom it is directed shall, within the time specified in the notice, provide a copy of the record of limited partners to the Registrar. ~~or other person specified in the notice.~~

3. New Section 4(6) and repeal of Section 10

(a) Reasons for change:

Our Subcommittee also recommends that section 10 of the LPA be replaced by a new section 4(6). Subsection (a) and (b) of that section give limited partners the same rights as general partners to inspect and make copies of the limited partnership's books and to be given, on demand, true and full information concerning all matters affecting the limited partnership and receive a complete and formal account of the partnership's affairs; subsection (c) is dealt with in our proposal regarding dissolution. We note that in jurisdictions such as Delaware, the rights of limited partners to access confidential information are subject to various limitations (which are echoed in our proposed language below). In particular, while the LPA gives limited partners the right to be given "a complete and formal account of the partnership's affairs" as though the limited partner were a general partner of the limited partnership, the Delaware legislation recognizes that the general partner of an investment vehicle that is formed as limited partnership will have access to sensitive and highly confidential information such as trade secrets or information that is required to be maintained confidential for securities law purposes. As such, the Delaware legislation permits general partners "to keep confidential from limited partners for such period of time as the general partner deems reasonable, any information which the general partner reasonably believes to be in the



nature of trade secrets or other information the disclosure of which the general partner determines in good faith is not in the best interest of the limited partnership..." The requirement that the general partner's determination to keep information confidential must be reasonable provides any limited partner who is unsatisfied with a general partner's determination on confidentiality, to seek recourse in the courts. The Cayman Islands legislation specifically makes the right of a limited partner to obtain "true and full information regarding the state of the business and financial condition" of the limited partners subject to any express or implied term of the limited partnership agreement.

At present, the limited partnership agreements for Ontario's limited partnerships often include provisions to protect confidential information and limit the access of limited partners to it, but because of section 10 it is uncertain if such provisions are enforceable.

(b) Suggested change:

In place of Section 10, our Subcommittee recommends that a new section 4(6) be added to the LPA. Our proposed language for this new section 4(6) is as follows:

Access to and confidentiality of information

(6) (a) Each limited partner has the right, subject to such reasonable standards (including standards governing what information and documents are to be furnished, at what time and location and at whose expense) as may be provided in the partnership agreement or otherwise established by the general partner, to obtain from the general partner from time to time upon reasonable demand for any purpose reasonably related to the limited partner's interest as a limited partner:

(1) True and full information regarding the status of the business and financial condition of the limited partnership;

(2) A copy of any written partnership agreement and declaration and all amendments thereto, together with executed copies of any written powers of attorney pursuant to which the partnership agreement and any declaration and all amendments thereto have been executed;

(3) True and full information regarding the amount of cash and a description and statement of the agreed value of any other property contributed by each partner and which each partner has agreed to contribute in the future, and the date on which each became a partner; and



(4) Other information regarding the affairs of the limited partnership as is just and reasonable.

(b) Despite (a), a general partner shall have the right to keep confidential from limited partners for such period of time as the general partner deems reasonable, any information which the general partner reasonably believes to be in the nature of trade secrets or other information the disclosure of which the general partner reasonably believes is not in the best interest of the limited partnership or could damage the limited partnership or its business or which the limited partnership is required by law or by agreement with a third party to keep confidential.

(c) A limited partnership may maintain its records in other than a written form if such form is capable of conversion into written form within a reasonable time.

(d) Any demand under this section shall be in writing and shall state the purpose of such demand.

(e) The rights of a limited partner to obtain information as provided in this section may be restricted in an original partnership agreement or in any subsequent amendment approved or adopted by all of the partners and in compliance with any applicable requirements of the partnership agreement. The provisions of this subsection shall not be construed to limit the ability to impose restrictions on the rights of a limited partner to obtain information by any other means permitted under this section.

In recognition of the need to provide a method for certain third parties to obtain a list of holders of limited partnership interests in the case of publicly traded limited partnerships, our Subcommittee recommends that the “prescribed information” required pursuant to the regulations under the LPA provide that the record of limited partnership will include information on any limited partner that receives its interest through a transfer, either directly from another limited partner or via a transfer agent or nominee.

4. Rights of General Partners – Section 8

(a) Reason for change

The LPA contains a general statement as to the rights and powers of general partners and the limits on those rights, linking those rights to those of a partner in a partnership without limited liability. It goes on to enumerate certain exercises of a general partner’s authority that may not be exercised by a general partner without the written consent or ratification of the specific act by limited partners.



Our Subcommittee believes that in many cases, the actions enumerated in this provision should be permitted as long as they are expressly provided for in the partnership agreement, in which case the partners have consented to them in advance by becoming parties to the agreement.

(b) Suggested change:

Our Subcommittee recommends that section 8 of the *LPA* be amended both to (i) permit the partners to pre-approve certain actions by the general partner that are ordinary course to running the business of the limited partnership and (ii) retain the ability to ratify other actions, that by their nature should not be subject to pre-approval. Our proposed language for an amended s. 8 is as follows:

Rights of general partners

8. A general partner in a limited partnership has all the rights and powers and is subject to all the restrictions and liabilities of a partner in a partnership without limited partners except that, without the written consent to or ratification of the specific act by all the limited partners, a general partner has no authority to,

- (a) do any act in contravention of the partnership agreement;
- (b) do any act which makes it impossible to carry on the ordinary business of the limited partnership;
- (c) consent to a judgment against the limited partnership, unless the partnership agreement otherwise provides;
- (d) possess limited partnership property, or assign any rights in specific partnership property, for other than a partnership purpose, unless the partnership agreement otherwise provides;
- (e) admit a person as a general partner, unless the partnership agreement otherwise provides;
- (f) admit a person as a limited partner, unless ~~the right to do so is given in~~ the partnership agreement otherwise provides; or
- (g) continue the business of the limited partnership if a general partner dies, retires or becomes incapable as defined in the Substitute Decisions Act, 1992 or a corporate general partner is dissolved unless ~~the right to do so is given in~~ the partnership agreement otherwise provides.

The revisions do not affect the requirement to obtain consent or ratification for actions by the general partner that alter the foundation of the limited partnership (for example



(a) and (b) above), but do give the partners the ability to pre-approve certain ordinary course actions that limited partners accept should be at the discretion of the general partner without the need for additional consent (for example, consenting to a judgement against the limited partnership or admitting additional limited partners). Typically, sophisticated investors, using limited partnerships as investment vehicles, would expect a general partner to exercise its discretion in these sorts of business judgements without the need to seek consent of the limited partners each time. In addition, with this added flexibility to pre-set limits in the partnership agreement, limited partners can impose limits in the partnership agreement on provisions that they consider material, during the negotiations before the agreement is finalized – for example: (i) permitting the general partner to admit additional limited partners, but only for a set period of time and subject to a cap on the total size of the limited partnership, or (ii) permitting the general partner to settle judgements on its own accord that are valued at less than 5% of the limited partnership's assets under management, but retaining the obligation to obtain limited partner consent for any higher amount.

5. Certain Clean-up Changes – Sections 10, 11 and 12

(a) Reasons for change:

The LPA contains certain concepts that are repeated in more than one provision and our Subcommittee believes that grouping certain provisions will make the LPA simpler and easier to interpret.

(b) Suggested Change:

To this end, we propose the repeal of s. 10 – Rights of limited partner, on the basis that subparagraphs (a) and (b) dealing with the right to information is already dealt with in our proposed s. 4(g) and subparagraph (c) is dealt with in s. 15(4).

We also propose the repeal of s. 11 – Share of profits, on the basis that this concept is already included in s. 14.

In addition, in respect of s. 12 – Business dealings by limited partner with partnership, we propose the following changes on the basis that the fundamental principle set out there, that a limited partner is not entitled to receive profits or payments from a limited partnership in the case where such payment would render the limited partnership insolvent, is unambiguously dealt with in s. 14 -- Limited partners' rights as between themselves, and repetition of this concept introduces the potential for confusion.

Business dealings by limited partner with partnership

12. (1) A limited partner may loan money to and transact other business with the limited partnership and, unless the limited partner is also a general partner, may receive on account of resulting claims against the



limited partnership with general creditors a prorated share of the assets, but no limited partner shall, in respect of any such claim,

(a) receive or hold as collateral security any of the limited partnership property; or

(b) receive from a general partner or the limited partnership any payment, conveyance or release from liability if at the time the ~~assets of the partnership are not sufficient to discharge partnership liabilities to persons who are not general or limited partners~~ conditions for the payment of profit under section 14(1) are not satisfied.

6. Limited Liability Status – Section 13(1)

(a) *Reasons for change:*

The LPA contains the following provisions dealing with the limited liability status of limited partners:

Limited partner in control of business

13. (1) A limited partner is not liable as a general partner unless, in addition to exercising rights and powers as a limited partner, the limited partner takes part in the control of the business.

Additional rights and powers

(2) For the purposes of subsection (1), a limited partner shall not be presumed to be taking part in the control of the business by reason only that the limited partner exercises rights and powers in addition to the rights and powers conferred upon the limited partner by this Act.

There has been relatively little judicial guidance as to the scope or meaning of the language used in these provisions, with the result that limited partners face considerable uncertainty as to their limited liability protection if they do anything or act in any way that might be considered inconsistent with the role of a purely passive investor.

Furthermore, the consequences of crossing this invisible line are dramatic: the limited partner risks being treated as a general partner, with unlimited liability for the obligations and liabilities of the limited partnership. This is so regardless of whether or not those to whom those obligations and liabilities are owed have any knowledge that the limited partner has exceeded its permitted limited role and whether or not those third parties have any reasonable expectation that they would have recourse to the separate assets of the limited partner.



This uncertainty coupled with extreme consequences produces a result that is not optimal for Ontario businesses or the Ontario economy. Limited partners may be reluctant to exercise rights that they may have under law or contract for fear of crossing this line and exposing themselves to unlimited liability. Businesses incur additional transactional costs in structuring limited partnership investments, for example, incurring additional professional fees or using “shell” corporations with limited liability as “liability blocker” entities. Further, businesses may choose to avoid the uncertainty under Ontario law by organizing limited partnerships in other jurisdictions that provide greater guidance as to when a limited partner would lose its limited liability protection or that provide for less severe and more rationale consequences when that does occur.

In addition, jurisdictions such as Delaware (which, we understand, is the jurisdiction of choice in the United States for the formation of limited partnerships) and Manitoba have limited the consequences of transgression of the level of involvement rules. In each jurisdiction, the extent of unlimited liability is constrained to third parties dealing with the limited partner without knowledge (in Manitoba) or belief (in Delaware) that the limited partner is not a general partner.

This approach has many benefits. It protects the reasonable expectations of parties dealing with the limited partner, but does not go further than necessary in doing so. At the same time, it provides some comfort to the limited partner that a transgression across the invisible line of “tak[ing] part in the control of the business” would not cause the limited partner to lose all limited liability protection. As evidence that this issue is of real concern to limited partners, our Subcommittee is aware of many instances where businesses have chosen to organize under The Partnership Act of Manitoba rather than under the LPA to take advantage of this approach to the loss of limited liability protection, even though the businesses had a greater connection to Ontario than to Manitoba. We base our proposed language for this provision on the approach taken in Delaware, which has a pragmatic, business-oriented attitude to this critical issue. As is the case in the Delaware legislation, the language is intended to give legal practitioners, sponsors of investment partnerships and investors certainty on the pivotal question of whether limited partners in an Ontario limited partnership retain limited liability protection when they exercise the rights of ownership of interests in such limited partnership that are typically found in these vehicles around the world.

(b) *Suggested change:*

Our Subcommittee recommends that s. 13 of the LPA be amended both to add greater clarity as to when a limited partner is considered to “take part in the control of the business” and to limit the extent to which the limited partner loses its limited liability protection if it does so, and is based closely on the Delaware text. Our proposed language for an amended s. 13 is as follows:



Limited partner in control of business

13. (1) A limited partner is not liable as a general partner for any liabilities or obligations of the limited partnership unless such limited partner is also a general partner or unless, in addition to exercising such limited partner's rights and powers as a limited partner, the limited partner takes part in the control of the business.

Limitation

(2) The liability of a limited partner under subsection (1) extends only to a person who transacts business with the limited partnership reasonably believing, based upon statements made by such limited partner or the conduct of such limited partner, that the limited partner is a general partner, and only to liabilities and obligations incurred by the limited partnership to such person between the time that the limited partner first so dealt with such person and the time when such person ceased to so reasonably believe that the limited partner is a general partner.

Additional rights and powers

~~(2)~~(3) For the purposes of subsection (1), a limited partner ~~shall~~ does not ~~be presumed to be taking~~ take part in the control of the business by reason only that the limited partner ~~exercises rights and~~ (or, if the limited partner is a person other than an individual, any director, officer, employee, agent or other representative acting on behalf of the limited partner) possesses, exercises or attempts to exercise any one or more of the following rights, powers or capacities in addition to the rights and powers conferred upon the limited partner by this Act, ~~regardless of the nature, extent, scope, number or frequency of the limited partner's exercise or attempted exercise of such rights, powers or capacities:~~

(a) acting as an independent contractor for or to transact business with the limited partnership or a general partner;

(b) acting as an agent or employee of the limited partnership or a general partner;

(c) acting as an officer, director or shareholder of an incorporated general partner;

(d) acting as a partner of a partnership or of a limited partnership that is a general partner of the limited partnership;



(e) acting as a trustee, administrator, executor, custodian or other fiduciary or beneficiary of an estate or trust that is a general partner;

(f) serving on the board of directors or a committee of, to consult with or advise, to be an officer, director, stockholder, partner, member, manager, trustee, agent or employee of, or to be a fiduciary or contractor for, any person in which the limited partnership has an interest or any person providing management, consulting, advisory, custody or other services or products for, to or on behalf of, or otherwise having a business or other relationship with, the limited partnership or a general partner of the limited partnership;

(g) consulting with or advising a general partner or any other person with respect to any matter, including the business of the limited partnership, or acting or causing a general partner or any other person to take or refrain from taking any action, including by proposing, approving, consenting or disapproving, by voting or otherwise, with respect to any matter, including the business of the limited partnership;

(h) acting as surety, guarantor or endorser for the limited partnership or a general partner, guarantying or assuming any obligations of the limited partnership or a general partner, borrowing money from the limited partnership or a general partner, lending money to the limited partnership or a general partner, or providing collateral for the limited partnership or a general partner;

(i) calling, requesting, or attending or participating at, a meeting of the partners or the limited partners of the limited partnership;

(j) taking any action required or permitted by law to bring, pursue or settle or otherwise terminate a derivative action in right of the limited partnership;

(k) serving on a committee of the limited partnership or the limited partners or partners or appointing, electing or otherwise participating in the choice of a representative or another person to serve on any such committee, or acting as a member of any such committee directly or by or through any such representative or other person; or



(l) acting or causing the taking or refraining from the taking of any action, including by proposing, approving, consenting or disapproving, by voting or otherwise, with respect to any one or more of the following matters:

(i) the winding up and dissolution of the limited partnership or an election to continue the limited partnership or an election to continue the business of the limited partnership;

(ii) the sale, exchange, lease, mortgage, assignment, pledge or other transfer of, or the granting of a security interest in, any asset or assets of the limited partnership;

(iii) the incurrence, renewal, refinancing or payment or other discharge of indebtedness by the limited partnership;

(iv) a change in the nature of the business of the limited partnership;

(v) the admission, removal or retention of a general partner or a limited partner;

(vi) a transaction or other matter involving an actual or potential conflict of interest, including of the general partner;

(vii) an amendment to the partnership agreement or other constitutional documents of the limited partnership;

(viii) the indemnification of any partner or other person;

(ix) the making of, or calling for, or the making of other determinations in connection with, contributions of capital to the limited partnership;

(x) the making of, or the making of other determinations in connection with or concerning, investments, including investments in property, whether real, personal or mixed, either directly or indirectly, by the limited partnership;



(xi) the nomination, appointment, election or other manner of selection or removal of an independent contractor for, or an agent or employee of, the limited partnership or a general partner, or an officer, director or shareholder of an incorporated general partner, or a partner of a partnership or a limited partnership that is a general partner, or a trustee, administrator, executor, custodian or other fiduciary or beneficiary of an estate or trust that is a general partner; or

(xii) such other matters as are stated in the partnership agreement, provided that such matters would not cause a person transacting business with the limited partnership to reasonably believe that the limited partner is a general partner.

Idem

(4) Subsection (3) shall not:

(a) confer on any limited partner any rights, powers or capacities referred to in that subsection that are not otherwise conferred upon such limited partner by this Act, the partnership agreement or other agreement; or

(b) be interpreted to mean that the possession, exercise or attempted exercise of any other rights, powers or capacities by a limited partner constitutes taking part by such limited partner in the control of the business of the limited partnership.

7. Limited Partner's Liability to Partnership – Section 16

(a) *Reasons for change:*

The LPA provides that a limited partner is liable to the limited partnership, or its creditors post-dissolution, for all or part of any returned contribution (with interest) in order to discharge the liabilities of the limited partnership that were incurred prior to the return.

Unlike similar provisions in the Delaware and Cayman Islands legislation, there is no clear temporal limitation on the limited partner's liability where the limited partner has received the return of its contribution without knowing that the limited partnership is effectively insolvent, which is the responsibility of the general partner to monitor. This



creates uncertainty for limited partners that could extend for a significant amount of time therefore making an Ontario limited partnership a less palatable investment vehicle.

(b) Suggested change:

Our Subcommittee recommends that section 16 of the LPA be amended to provide certainty to limited partners as to when returned contributions can be “clawed back” while still protecting the rights of third party claimants. The new language introduces two additional limits on the obligation to return capital: (i) a time limit, and (ii) a limit on the obligation imposed on an innocent limited partner who was unaware that the distribution it received was made in a manner contrary to the LPA. We note that in including a time limit and this knowledge qualifier we align our approach to that of Delaware. The Delaware Code provides explicitly that –

“A limited partner who receives a distribution in violation of subsection (a) of this section, and who knew at the time of the distribution that the distribution violated subsection (a) of this section, shall be liable to the limited partnership for the amount of the distribution. A limited partner who receives a distribution in violation of subsection (a) of this section, and who did not know at the time of the distribution that the distribution violated subsection (a) of this section, shall not be liable for the amount of the distribution.”

Our proposed language for an amendment is as follows:

Limited partner's liability to partnership

16. (1) A limited partner is liable to the limited partnership for the difference, if any, between the value of money or other property actually contributed by the limited partner to the limited partnership and the value of money or other property stated in the record of limited partners as being contributed or to be contributed by the limited partner to the limited partnership. R.S.O. 1990, c. L.16, s. 16 (1).

Limited partner as trustee

- (2) A limited partner holds as trustee for the limited partnership,
- (a) specific property stated in the partnership agreement as contributed by the limited partner, but which has not in fact been contributed or which has been returned contrary to this Act; and



(b) money or other property paid or conveyed to the limited partner on account of the limited partner's contribution contrary to this Act. R.S.O. 1990, c. L.16, s. 16 (2).

Idem

~~(3) Where a~~ limited partner who has received the return of all or part of the limited partner's contribution, ~~the limited partner is nevertheless in violation of subparagraph 15(2)(a), and who knew at the time of such return that it violated subparagraph 15(2)(a), is~~ liable to the limited partnership or, where the limited partnership is dissolved, to its creditors for any amount, not in excess of the amount returned with interest, necessary to discharge the liabilities of the limited partnership to all creditors who extended credit or whose claims otherwise arose before the return of the contribution.

(4) A limited partner who receives a return in whole or in part of the limited partner's contribution shall have no liability under subsection 16(3) after the second anniversary from the date of such return in respect of the amount so returned, unless such period is extended by the partnership agreement.

8. Admission of Limited Partners – Section 17(1)

(a) Reasons for change:

The LPA, in section 7 provides for a system of rules for the admission of additional limited partners to a limited partnership. The system set out does not contemplate open-ended limited partnerships, where new limited partners are admitted on a frequent basis or other types of sophisticated transactions that interests in limited partnerships are sometimes used for. The provision of the LPA requires the consent of all existing limited partners to permit the admission of a new limited partner after the formation of the limited partnership.

(b) Suggested change:

Our Subcommittee recommends that the language dealing with admission to the limited partnership be revised to permit the rules for admitting limited partners to be as are reflected in the agreement of limited partnership and to provide a default mechanism (which matches the existing mechanism) in cases where the agreement is silent. Our proposed language for an amended s. 17(1) is as follows:

Admission of Limited Partners



17. ~~(1) After the formation of the limited partnership, additional limited partners may be admitted by amendment of the record of limited partners.~~ A person is admitted as a limited partner of the limited partnership:

(a) In the case of a person who is not an assignee of a partnership interest, including a person acquiring a partnership interest directly from the limited partnership, at the time provided in and upon compliance with the partnership agreement or, if the partnership agreement does not so provide, upon the consent of all partners and when the person's admission is reflected in the record of limited partners;
or

(b) In the case of an assignee of a partnership interest, as provided in section 18, and at the time provided in and upon compliance with the partnership agreement or, if the partnership agreement does not so provide, when any such person's permitted admission is reflected in the record of limited partners.

(2) Subject to the provisions of the partnership agreement, a person admitted to a limited partnership as a limited partner pursuant to subparagraph 1(b) shall be deemed for all purposes of this Act to have contributed or agreed to contribute such amount of money or property as that person's assignor contributed or agreed to contribute to the limited partnership, or was itself deemed to contribute or agree to contribute.

(3) Unless otherwise provided in a partnership agreement, a limited partner shall have no pre-emptive right to subscribe to any additional issue of partnership interests in the limited partnership.

9. Removal of General Partner – Section 21

(a) Reasons for change:

The LPA, in section 21, provides the retirement, death or incapacity to manage property by a general partner causes the dissolution of a limited partnership, unless the business is continued subject to certain prescribed conditions. The LPA goes on to describe other circumstances which may, but do not necessarily, cause the dissolution of a limited partnership. The mechanics of dissolution, as set out in the LPA, rely on a combination of the LPA, the Partnership Act and common law and, as a result, the legal mechanics of dissolution can be unclear.



Limited partnerships are used by sophisticated business parties as a vehicle of choice for many purposes, including as vehicles for the making of venture capital and private equity investments. The relationship between limited partners and general partners in the case of such investment vehicles is typically described in great detail (and after lengthy negotiations) in the limited partnership agreement governing the limited partnership. Such terms often include remedies available to limited partners to mitigate the risks of investing in such illiquid investment vehicles. These include the ability to remove a general partner and replace the general partner with another person selected by some proportion of the limited partners to continue the activities of the limited partnership. The LPA does not clearly provide for this, and the suggested changes clarify how a limited partnership may be continued where the limited partners elect to replace a general partner, or where a general partner becomes incapable of continuing to act in that capacity.

Our proposed changes are intended to permit the partners to agree, through the limited partnership agreement, approaches to both (i) the removal of a general partner and (ii) the continuation of the limited partnership after such removal has occurred. We recognize that during the interim period between the removal of a general partner and the appointment of a replacement general partner, there is no party in place that can “act” on behalf of the limited partnership. This raises the question of what party retains the unlimited liability that is the hallmark of a general partner of a limited partnership. It is our belief that, as a practical and legal matter, this issue is not of great import. As a legal matter, the departing general partner would retain its unlimited liability for all acts that occurred prior to its departure. Once a replacement general partner is appointed, it would have unlimited liability for all acts that occur from its appointment forward. During the period between the departure of the former general partner and the appointment of the replacement general partner either (i) the limited partnership would take no actions to incur liability or (ii) if action were taken during that period, which created liability that had not existed prior to the departure of the former general partner, then for that liability, created during that period of time, the limited partners whose actions generated the liability would share it [jointly and severally] on the basis that their actions effectively made them general partners for the interim period. However, our committee believes that should such events occur, ultimately, it would be up to the courts to determine how liability should be assigned, subject to the basic premise that, absent clear, unambiguous action on the part of one or more limited partners during the interim period, no general partner liability should fall on the limited partners.

(b) Suggested change:

Our Subcommittee recommends that s. 21 of the LPA be amended both to clarify how the removal of a general partner will affect a limited partnership and to provide for the agreement of limited partnership to override the default rules where the partners have clearly negotiated a specific approach to this issue. Our proposed language for an amended s. 21 and a new s. 21.1 and 21.2 is as follows:



Dissolution of limited partnership

21. ~~A general partner's retirement,~~ Subject to any agreement between the partners, a partnership is dissolved,

(a) if entered into for a fixed term, by the expiration of that term; or

(b) if entered into for an undefined time, by a general partner giving notice to the other partner or partners of its intention to dissolve the limited partnership, in which case the limited partnership is dissolved as from the date of filing of the declaration of dissolution with the Registrar.

Dissolution of limited partnership upon a general partner ceasing to be general partner

21.1 The death or incapacity to manage property within the meaning of the Substitute Decisions Act, 1992 ~~or of a corporate general partner's dissolution~~ general partner who is an individual, or the dissolution or otherwise ceasing to exist of any other person that is a general partner, or the resignation or removal of a general partner as general partner, dissolves a limited partnership unless the business is continued,

(a) by the remaining general partners, ~~(a)~~ pursuant to a right to do so contained in the partnership agreement; ~~and~~

(b) with the consent of all the remaining partners.—by a new general partner appointed by some or all of the limited partners pursuant to a right to appoint a new general partner contained in the partnership agreement, provided that such new general partner is appointed within 90 days of the previous general partner having ceased to be a general partner; or

(c) by a new general partner appointed with the consent of all the remaining partners, provided that such new general partner is appointed within 90 days of the previous general partner having ceased to be a general partner.

In an effort to clarify the order and procedure in which the dissolution process occurs, our Subcommittee also recommends that certain provisions of the LPA be reordered to make it more clear the order in which the events leading up to dissolution and dissolution itself occur.

Our Subcommittee also recommends, to ensure that there is a clear method to cause the dissolution of a limited partnership where the revisions to the LPA may have



removed an automatic termination, that the LPA clearly provide that the court reserves the right to order the dissolution of a limited partnership on application by any partner or, under certain circumstances, a third person. Our proposed language for a new s. 21.1 is as follows:

~~**Death**~~ Dissolution of limited partner partnership by the court

21.2. On application by a partner, or with the leave of the court, by any other person, the court may order a dissolution of the limited partnership, whenever it is not reasonably practicable to carry on the business in conformity with the partnership agreement or applicable law.

These amendments will also require a minor revision to Section 2(2) of the LPA to recognize that, for a short period of time, a limited partnership may exist without the presence of a functional general partner.

Whom to consist

(2) A limited partnership shall, subject to this Act, consist of one or more persons who are general partners and one or more persons who are limited partners.

10. Clarification to Sections 24, 14 and 15

Section 24

(a) **Reasons for change:**

In order to make Ontario more welcoming to limited partnership structures, it would assist to be in a position to provide clarification of certain matters in the LPA. The changes suggested are intended to address ambiguities in the LPA that are a source of confusion and which make Ontario less desirable a location to form limited partnerships.

Section 24 sets out a “default” order of distribution to partners on a dissolution of the partnership. It also permits “contracting out” in the partnership agreement as regards the order of distribution among the partners:

24. In settling accounts after the dissolution of a limited partnership, the liabilities of the limited partnership to creditors, except to limited partners on account of their contributions and to general partners, shall be paid first, and then, ***unless the partnership agreement or a subsequent agreement provides otherwise***, shall be paid in the following order:



1. To limited partners in respect of their share of the profits and other compensation by way of income on account of their contributions.
2. To limited partners in respect of their contributions.
3. To general partners other than for capital and profits.
4. To general partners in respect of profits.
5. To general partners in respect of capital.” (emphasis added)

In a typical partnership agreement, distributions on winding-up follow the “waterfall” provided for distributions generally. Section 24 permits that. There is of course a compelling public policy reason why the partnership agreement should not be able to “contract out” from the requirement that creditors be paid first.

(b) Suggested change:

Our Subcommittee recommends a few changes to make section 24 apply more clearly to legal rather than temporal priority and to delete the unclear reference to a “subsequent agreement”. Our proposed language for an amended s. 24 is as follows:

Settling accounts on dissolution – winding up

24. In settling accounts in connection with the dissolution of a limited partnership, the liabilities of the limited partnership to creditors, except to limited partners on account of their contributions and to general partners, shall have priority over distributions to partners, and then, unless the partnership agreement provides otherwise, shall be distributed according to the following order of priority:

1. To limited partners in respect of their share of the profits and other compensation by way of income on account of their contributions.
2. To limited partners in respect of their contributions.
3. To general partners other than for capital and profits.
4. To general partners in respect of profits.
5. To general partners in respect of capital.



Sections 14 and 15

(a) *Reasons for change:*

Section 14 sets out certain fundamental rules dealing with the internal relationship of limited partners. As drafted, this provision of the LPA specifically provides that the rights and obligations set out there are subject to variation by the agreement of the partners as set out in the partnership agreement. Our revision is intended to make clearer when the provision is subject to such variation.

In addition, the provision lays out the fundamental rule that no limited partner has the right to receive a share of the profits or any other compensation where doing so would result in the limited partnership's insolvency. Our changes are intended to make the language setting out this fundamental proposition clearer and remove any ambiguities.

(b) *Suggested change:*

Our Subcommittee recommends that the language dealing with the right of limited partners as between themselves be revised to include certain concepts that were contained elsewhere in the LPA and to make the intent of the provision clearer and less subject to misinterpretation. Our proposed language for an amended s. 14 is as follows:

Limited partners' rights as between themselves

14. (1) ~~Subject to~~ Unless otherwise agreed in the partnership agreement in accordance with subsection (2), limited partners, in relation to one another, share in the limited partnership assets,

(a) for the return of contributions; and

(b) for profits or other compensation by way of income on account of their contributions,

in proportion to the respective amounts of money and other property actually contributed by the limited partners to the limited partnership.

Priority Variation of rights in partnership agreement

(2) Where there are several limited partners, the partners may agree ~~that one or more of the limited partners is to have priority over other limited partners~~ in the partnership agreement that limited partners, in relation to one another, share in the limited partnership assets in such proportions as are specified therein,

(a) as to the return of contributions; or

(b) as to profits or other compensation by way of income; ~~or.~~



~~(c) as to any other matter,~~

~~but the terms of this agreement shall be set out in the partnership agreement.~~

Idem

and may also agree therein that one or more of the limited partners is to have priority over other limited partners in any other respect as specified therein.

When profit may not be paid

~~(3) Where the partnership agreement does not contain an agreement referred to in subsection (2), the shares of the limited partners in the partnership assets shall be determined in accordance with subsection (1).~~

14.1 No payment of a share of the profits or other compensation by way of income shall be made to a limited partner from the assets of the limited partnership or of a general partner if there are reasonable grounds for believing that the payment would reduce the assets of the limited partnership to an amount insufficient to discharge the liabilities of the limited partnership to persons who are not general or limited partners.

In respect of s. 15 – Return of limited partner’s contribution, our goal was to ensure that this provision, which deals with the rights of limited partners to require the return of their contributions to the limited partnership, works together with s. 24, which deals with distributions by the limited partnership upon dissolution. In addition, given that distributions and the return of capital are key commercial issues that are dealt with extensively in the negotiations of limited partnership agreements, we wanted to make clear that, as between the partners, this provision could be varied by the approach agreed by the partners and embodied in the partnership agreement.

(c) Suggested change

Proposed drafting changes in Sections 14, 15, 15(1) and (2) would help clarify what is commonly understood. Our proposed language for amended sections 15(1) and (2) is as follows:

15. (1) A limited partner has the right to demand and receive the return of the limited partner’s contribution,

(a) upon the dissolution of the limited partnership in accordance with the provisions of the partnership agreement or, if the partnership agreement does not so provide, in accordance with section 24;



(b) when the time specified in the partnership agreement for the return of the contribution occurs;

(c) after the limited partner has given six months' notice in writing to all other partners, if no time is specified in the partnership agreement for the return of the contribution or for the dissolution of the limited partnership; or

(d) when all the partners consent to the return of the contribution.

Idem

(2) Despite subsection (1), a limited partner is not entitled to receive any part of the limited partner's contribution out of the limited partnership assets or from a general partner ~~until~~ unless,

(a) all liabilities of the limited partnership, except liabilities to general partners and to limited partners on account of their contributions, have been paid or there ~~remains~~ remain sufficient limited partnership assets to pay them; and

(b) the ~~partnership agreement is terminated or so~~ record of limited partners is amended, ~~if necessary,~~ to set forth the withdrawal or reduction of the contribution.

11. Definition of “carrying on business” in the context of the registration of extra-provincial limited partnerships in Ontario

(a) *Reasons for change:*

The LPA defines as follows when an extra provincial limited partnership is deemed to carry on business in Ontario:

Carry on business

25. (2) For the purposes of this section, an extra-provincial limited partnership carries on business in Ontario if,

(a) it solicits business in Ontario;

(b) its name is listed in a telephone directory for any part of Ontario;

(c) its name is included in any advertisement in which an address in Ontario is given for the limited partnership;



- (d) it has a resident agent or representative or a warehouse, office or place of business in Ontario;
- (e) it owns real property situate in Ontario;
- (f) it effects a distribution of securities in Ontario by way of a prospectus or offering memorandum in compliance with the Securities Act and the regulations made thereunder; or
- (g) it otherwise carries on business in Ontario.

Much of the concern surrounding ss. 25(2) of the LPA is that a number of the concepts regarding how commerce is conducted enumerated therein are outdated and there is a discrepancy between registration requirements for an extra-provincial limited partnership and registration requirements for a foreign corporation, especially with regards to the distribution of securities.

Currently s.1 of the Ontario *Extra-Provincial Corporations Act*, provides:

- (2) For the purposes of this Act, an extra-provincial corporation carries on its business in Ontario if,
 - (a) it has a resident agent, representative, warehouse, office or place where it carries on its business in Ontario;
 - (b) it holds an interest, otherwise than by way of security, in real property situate in Ontario; or
 - (c) it otherwise carries on its business in Ontario.
- (3) An extra-provincial corporation does not carry on its business in Ontario by reason only that,
 - (a) it takes orders for or buys or sells goods, wares and merchandise; or
 - (b) offers or sells services of any type,by use of travellers or through advertising or correspondence.

Presumably, the legislative purpose behind ss. 25(2) of the LPA is the protection of consumers, business partners and other contracting parties who may become creditors to an extra-provincial limited partnership, by ensuring that such potential creditors are able to find all necessary information on the LP and its general and limited partners through the registry in order to pursue their claims.



Presumably the legislative purpose behind s. 1 of the *Extra-Provincial Corporations Act* is exactly the same, in the context of foreign corporations. Therefore, it would appear that the circumstances under which a foreign corporation and an extra-provincial limited partnership is required to be registered should not be any different, especially considering that organizations often reorganize between the two forms purely for tax purposes.

There has been no case law on the definition of “carrying on business” in the context of extra-provincial LP’s, but there is case law on the definition of that phrase in other contexts. The case law, as well as secondary sources, supports the general principle that whether a court would consider an extra-provincial limited partnership to be carrying on business within a province is one of fact and the circumstances of each particular case would be examined to determine the issue.

In addition to reviewing the applicable case law, we also reviewed the definition of “carrying on business” in limited partnership legislation in other jurisdictions both inside and outside of Canada.

(b) Suggested change:

As a result of our review of the case law and comparable legislation the Subcommittee determined that the preferred approach would be to amend ss. 25(2) of the LPA to read as follows:

Carry on business

25 (2) For the purposes of this section, ~~an~~ the term ‘carry on business in Ontario’ includes any extra-provincial limited partnership ~~carries on business in Ontario if~~ where,

(a) it ~~solicits business in Ontario;~~ has employees, agents or other independent contractors in Ontario engaged in the carrying on of its business on its behalf;

~~(b) its name is listed in a telephone directory for any part of Ontario;~~

~~(c) its name is included in any advertisement in which an address in Ontario is given for the limited partnership;~~

(c) it has ~~a resident agent or representative or a~~ an office warehouse, ~~office~~ or other place of business in Ontario; or

~~(f) it effects a distribution of securities in Ontario by way of a prospectus or offering memorandum in compliance with the Securities Act and the regulations made thereunder; or~~



~~(g) it otherwise carries on business in Ontario.~~

(d) it owns real property situate in Ontario.

(2.1) (A) For greater certainty, an extra-provincial limited partnership shall not be deemed to carry on business in Ontario by reason only of conducting one or more of the following activities in Ontario:

(a) effecting a distribution of securities;

(b) maintaining, defending, and/or settling an action or proceeding;

(c) holding meetings of its partners or carrying on any other activity concerning its internal affairs;

(d) maintaining accounts in financial institutions;

(e) maintaining offices or agencies for the transfer, exchange, and registration of the extra-provincial limited partnership's own securities or maintaining trustees or depositories with respect to those securities;

(f) selling goods or services to Ontario residents, or soliciting or obtaining orders for such goods or services, whether by mail, telephonic or electronic communications or through employees or agents or other persons outside Ontario;

(g) subject to the Mortgage Brokerages, Lenders and Administrators Act, 2006, creating or acquiring indebtedness, mortgages, or security interests in real or personal property, or securing or collecting debts or enforcing mortgages or other security interests in property securing the debts, and realizing on any property so acquired; or

(h) engaging in an isolated transaction that is not one in the course of similar transactions of a like nature.

Conclusion

The OBA supports a vibrant business sector operating within an appropriate legislative and regulatory framework. We thank you for considering these proposals for revisions to the LPA, and would welcome the opportunity to discuss this submission with you or your staff at any time.



Appendix A - Blacklined Limited Partnerships Act

Limited Partnerships Act

R.S.O. 1990, CHAPTER L.16

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Definitions

1. In this Act,

“business” includes every trade, occupation and profession; (“entreprise”)

“extra-provincial limited partnership” means a limited partnership organized under the laws of a jurisdiction other than Ontario; (“société en commandite extraprovinciale”)

“person” includes an individual, sole proprietorship, partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, body corporate, and a natural person in his or her capacity as trustee, executor, administrator or other legal representative; (“personne”)

“prescribed” means prescribed in the regulations; (“prescrit”)

“Registrar” means the Registrar appointed under the *Business Names Act*. (“registrateur”) R.S.O. 1990, c. L.16, s. 1.

Limited partnership

2. (1) A limited partnership may, subject to this Act, be formed to carry on any business that a partnership without limited partners may carry on. R.S.O. 1990, c. L.16, s. 2 (1).

Whom to consist

(2) A limited partnership shall, subject to this Act, consist of one or more persons who are general partners and one or more persons who are limited partners. R.S.O. 1990, c. L.16, s. 2 (2).

Formation

3. (1) A limited partnership is formed when a declaration is filed with the Registrar in accordance with this Act. R.S.O. 1990, c. L.16, s. 3 (1).

Declaration

(2) A declaration shall be signed by all of the general partners desiring to form a limited partnership and shall state the prescribed information. R.S.O. 1990, c. L.16, s. 3 (2).

Expiry of declaration

(3) ~~Every~~ A declaration filed under subsection (1), including a declaration filed by an extra-provincial limited partnership, ~~expires five years after its date of filing unless~~ shall remain in effect for such period of years as is set out in the declaration. Unless it is replaced by a new declaration that is filed before its expiry, the declaration shall expire on the earlier of,

(a) the end of such period; or

(b) the date on which the declaration is cancelled by filing a declaration of dissolution ~~or the declaration is replaced by filing a new declaration before the expiry date. R.S.O. 1990, c. L.16, s. 3 (3).~~

Subsequent filing

(4) A limited partnership is not dissolved if a declaration expires, but an additional fee in the required amount is payable for the subsequent filing of a new declaration. 1998, c. 18, Sched. E, s. 161.

3.1 REPEALED: 2004, c. 19, s. 15 (1).

Record of limited partners

4. (1) The general partners of every limited partnership other than an extra-provincial limited partnership shall maintain a current record of the limited partners stating, for each limited partner, the prescribed information. R.S.O. 1990, c. L.16, s. 4 (1). [NTD: To deal with the public, listed limited partnership issue and to confirm transfers of private limited partnership interests, we are proposing that the “prescribed information,” which is set out in the regulations under the LP Act, specifically provide that the record of limited partnership shall include information on any LP that receives its interest through a transfer, either directly from another LP or via a transfer agent or nominee.]

Where record to be kept

(2) The record of limited partners shall be kept at the limited partnership’s principal place of business in Ontario. R.S.O. 1990, c. L.16, s. 4 (2).

Rights to inspect

(3) Upon request and without charge, any general partner must permit any ~~person~~ partner to inspect the record of limited partners during the normal business hours of the limited partnership and to make copies or take extracts from them. ~~1994, e. 27, s. 87 (2).~~

Registrar may require copy of record

(4) The Registrar may at any time by written notice require any general partner to provide to the Registrar ~~or any other person~~ a copy of the record of limited partners. ~~R.S.O. 1990, c. L.16, s. 4 (4).~~

Copy of record to be provided

(5) Upon receipt of the Registrar's notice, the general partner to whom it is directed shall, within the time specified in the notice, provide a copy of the record of limited partners to the Registrar ~~or any other person specified in the notice.~~ ~~R.S.O. 1990, c. L.16, s. 4 (5).~~

Access to and confidentiality of information

(6) (a) Each limited partner has the right, subject to such reasonable standards (including standards governing what information and documents are to be furnished, at what time and location and at whose expense) as may be provided in the partnership agreement or otherwise established by the general partner, to obtain from the general partner from time to time upon reasonable demand for any purpose reasonably related to the limited partner's interest as a limited partner:

(1) True and full information regarding the status of the business and financial condition of the limited partnership;

(2) A copy of any written partnership agreement and declaration and all amendments thereto, together with executed copies of any written powers of attorney pursuant to which the partnership agreement and any declaration and all amendments thereto have been executed;

(3) True and full information regarding the amount of cash and a description and statement of the agreed value of any other property contributed by each partner and which each partner has agreed to contribute in the future, and the date on which each became a partner; and

(4) Other information regarding the affairs of the limited partnership as is just and reasonable.

(b) Despite (a), a general partner shall have the right to keep confidential from limited partners for such period of time as the general partner deems reasonable, any information which the general partner reasonably believes to be in the nature of trade secrets or other information the disclosure of which the general partner reasonably believes is not in the best interest of the limited partnership or could damage the limited partnership or its business or which the limited partnership is required by law or by agreement with a third party to keep confidential.

(c) A limited partnership may maintain its records in other than a written form if such form is capable of conversion into written form within a reasonable time.

(d) Any demand under this section shall be in writing and shall state the purpose of such demand.

(e) The rights of a limited partner to obtain information as provided in this section may be restricted in an original partnership agreement or in any subsequent amendment approved or adopted by all of the partners and in compliance with any applicable requirements of the partnership agreement. The provisions of this subsection shall not be construed to limit the ability to impose restrictions on the rights of a limited partner to obtain information by any other means permitted under this section.

General and limited partners

5. (1) A person may be a general partner and a limited partner at the same time in the same limited partnership. R.S.O. 1990, c. L.16, s. 5 (1).

Idem

(2) A person who is at the same time a general partner and a limited partner in the same limited partnership has the rights and powers and is subject to the restrictions and liabilities of a general partner except that in respect of the person's contribution as a limited partner the person has the same rights against the other partners as a limited partner. R.S.O. 1990, c. L.16, s. 5 (2).

Restriction in name of partnership

6. (1) The surname or a distinctive part of the corporate name of a limited partner shall not appear in the firm name of the limited partnership unless it is also the surname or a distinctive part of the corporate name of one of the general partners. R.S.O. 1990, c. L.16, s. 6 (1).

Liability if limited partner

(2) Where the surname or a distinctive part of the corporate name of a limited partner appears in the firm name contrary to subsection (1), the limited partner is liable as a general partner to any creditor of the limited partnership who has extended credit without actual knowledge that the limited partner is not a general partner. R.S.O. 1990, c. L.16, s. 6 (2).

Use of term limited

(3) Despite any Act, the word “Limited” may be used in the firm name but only in the expression “Limited Partnership”. R.S.O. 1990, c. L.16, s. 6 (3).

Contribution of limited partner

7. (1) A limited partner may contribute money and other property to the limited partnership, but not services. R.S.O. 1990, c. L.16, s. 7 (1).

Personal property

(2) A limited partner’s interest in the limited partnership is personal property. R.S.O. 1990, c. L.16, s. 7 (2).

Rights of general partners

8. A general partner in a limited partnership has all the rights and powers and is subject to all the restrictions and liabilities of a partner in a partnership without limited partners except that, without the written consent to or ratification of the specific act by all the limited partners, a general partner has no authority to,

- (a) do any act in contravention of the partnership agreement;
- (b) do any act which makes it impossible to carry on the ordinary business of the limited partnership;
- (c) consent to a judgment against the limited partnership, unless the partnership agreement otherwise provides;
- (d) possess limited partnership property, or assign any rights in specific partnership property, for other than a partnership purpose, unless the partnership agreement otherwise provides;
- (e) admit a person as a general partner, unless the partnership agreement otherwise provides;
- (f) admit a person as a limited partner, unless ~~the right to do so is given in~~ the partnership agreement otherwise provides;
or
- (g) continue the business of the limited partnership if a general partner dies, retires or becomes incapable as defined in the *Substitute Decisions Act, 1992* or a corporate general partner is dissolved, unless ~~the right to do so is given in~~ the partnership agreement otherwise provides. R.S.O. 1990, c. L.16, s. 8; 2009, c. 33, Sched. 2, s. 44 (1).

Liability of limited partner

9. Subject to this Act, a limited partner is not liable for the obligations of the limited partnership except in respect of the value of money and other property the limited partner contributes or agrees to contribute to the limited partnership, as stated in the record of limited partners. R.S.O. 1990, c. L.16, s. 9.

~~Rights of limited partner~~

Repealed

~~10. A limited partner has the same right as a general partner;~~

Repealed

- ~~(a) — to inspect and make copies of or take extracts from the limited partnership books at all times;~~
- ~~— (b) to be given, on demand, true and full information concerning all matters affecting the limited partnership, and to be given a complete and formal account of the partnership affairs; and~~
- ~~— (c) to obtain dissolution of the limited partnership by court order. R.S.O. 1990, c. L.16, s. 10.~~

~~Share of profits~~

- ~~11. (1) A limited partner has, subject to this Act, the right,~~
- ~~— (a) to a share of the profits or other compensation by way of income; and~~
- ~~— (b) to have the limited partner’s contribution to the limited partnership returned. R.S.O. 1990, c. L.16, s. 11 (1).~~

When profit may not be paid

~~(2) No payment of a share of the profits or other compensation by way of income shall be made to a limited partner from the assets of the limited partnership or of a general partner if the payment would reduce the assets of the limited partnership to an amount insufficient to discharge the liabilities of the limited partnership to persons who are not general or limited partners. R.S.O. 1990, c. L.16, s. 11 (2).~~

Business dealings by limited partner with partnership

12. (1) A limited partner may loan money to and transact other business with the limited partnership and, unless the limited partner is also a general partner, may receive on account of resulting claims against the limited partnership with general creditors a prorated share of the assets, but no limited partner shall, in respect of any such claim,

- (a) receive or hold as collateral security any of the limited partnership property; or
- (b) receive from a general partner or the limited partnership any payment, conveyance or release from liability if at the time the ~~assets of the partnership are not sufficient to discharge partnership liabilities to persons who are not general or limited partners~~ conditions for the payment of profit under section 14.1 are not satisfied. R.S.O. 1990, c. L.16, s. 12 (1).

Rights of limited partner

- (2) A limited partner may from time to time,
 - (a) examine into the state and progress of the limited partnership business and may advise as to its management;
 - (b) act as a contractor for or an agent or employee of the limited partnership or of a general partner; or
 - (c) act as a surety for the limited partnership. R.S.O. 1990, c. L.16, s. 12 (2).

Limited partner in control of business

13. (1) A limited partner is not liable as a general partner for any liabilities or obligations of the limited partnership unless such limited partner is also a general partner or unless, in addition to exercising such limited partner's rights and powers as a limited partner, the limited partner takes part in the control of the business. ~~R.S.O. 1990, c. L.16, s. 13 (1).~~

Limitation

(2) The liability of a limited partner under subsection (1) extends only to a person who transacts business with the limited partnership reasonably believing, based upon statements made by such limited partner or the conduct of such limited partner, that the limited partner is a general partner, and only to liabilities and obligations incurred by the limited partnership to such person between the time that the limited partner first so dealt with such person and the time when such person ceased to so reasonably believe that the limited partner is a general partner.

Additional rights and powers

~~(2)(3)~~ For the purposes of subsection (1), a limited partner ~~shall~~does not ~~be presumed to be taking~~take part in the control of the business by reason only that the limited partner ~~exercises rights and~~(or, if the limited partner is a person other than an individual, any director, officer, employee, agent or other representative acting on behalf of the limited partner) possesses, exercises or attempts to exercise any one or more of the following rights, powers or capacities in addition to the rights and powers conferred upon the limited partner by this Act. ~~R.S.O. 1990, c. L.16, s. 13 (2).~~ regardless of the nature, extent, scope, number or frequency of the limited partner's exercise or attempted exercise of such rights, powers or capacities:

(a) acting as an independent contractor for or to transact business with the limited partnership or a general partner;

(b) acting as an agent or employee of the limited partnership or a general partner;

(c) acting as an officer, director or shareholder of an incorporated general partner;

(d) acting as a partner of a partnership or of a limited partnership that is a general partner of the limited partnership;

(e) acting as a trustee, administrator, executor, custodian or other fiduciary or beneficiary of an estate or trust that is a general partner;

(f) serving on the board of directors or a committee of, to consult with or advise, to be an officer, director, stockholder, partner, member, manager, trustee, agent or employee of, or to be a fiduciary or contractor for, any person in which the limited partnership has an interest or any person providing management, consulting, advisory, custody or

other services or products for, to or on behalf of, or otherwise having a business or other relationship with, the limited partnership or a general partner of the limited partnership;

(g) consulting with or advising a general partner or any other person with respect to any matter, including the business of the limited partnership, or acting or causing a general partner or any other person to take or refrain from taking any action, including by proposing, approving, consenting or disapproving, by voting or otherwise, with respect to any matter, including the business of the limited partnership;

(h) acting as surety, guarantor or endorser for the limited partnership or a general partner, guarantying or assuming any obligations of the limited partnership or a general partner, borrowing money from the limited partnership or a general partner, lending money to the limited partnership or a general partner, or providing collateral for the limited partnership or a general partner;

(i) calling, requesting, or attending or participating at, a meeting of the partners or the limited partners of the limited partnership;

(j) taking any action required or permitted by law to bring, pursue or settle or otherwise terminate a derivative action in right of the limited partnership;

(k) serving on a committee of the limited partnership or the limited partners or partners or appointing, electing or otherwise participating in the choice of a representative or another person to serve on any such committee, or acting as a member of any such committee directly or by or through any such representative or other person; or

(l) acting or causing the taking or refraining from the taking of any action, including by proposing, approving, consenting or disapproving, by voting or otherwise, with respect to any one or more of the following matters:

(i) the winding up and dissolution of the limited partnership or an election to continue the limited partnership or an election to continue the business of the limited partnership;

(ii) the sale, exchange, lease, mortgage, assignment, pledge or other transfer of, or the granting of a security interest in, any asset or assets of the limited partnership;

(iii) the incurrence, renewal, refinancing or payment or other discharge of indebtedness by the limited partnership;

(iv) a change in the nature of the business of the limited partnership;

(v) the admission, removal or retention of a general partner or a limited partner;

(vi) a transaction or other matter involving an actual or potential conflict of interest, including of the general partner;

(vii) an amendment to the partnership agreement or other constitutional documents of the limited partnership;

(viii) the indemnification of any partner or other person;

(ix) the making of, or calling for, or the making of other determinations in connection with, contributions of capital to the limited partnership;

(x) the making of, or the making of other determinations in connection with or concerning, investments, including investments in property, whether real, personal or mixed, either directly or indirectly, by the limited partnership;

(xi) the nomination, appointment, election or other manner of selection or removal of an independent contractor for, or an agent or employee of, the limited partnership or a general partner, or an officer, director or shareholder of an incorporated general partner, or a partner of a partnership or a limited partnership that is a general partner, or a trustee, administrator, executor, custodian or other fiduciary or beneficiary of an estate or trust that is a general partner; or

(xii) such other matters as are stated in the partnership agreement, provided that such matters would not cause a person transacting business with the limited partnership to reasonably believe that the limited partner is a general partner.

Idem

(4) Subsection (3) shall not:

(a) confer on any limited partner any rights, powers or capacities referred to in that subsection that are not otherwise conferred upon such limited partner by this Act, the partnership agreement or other agreement; or

(b) be interpreted to mean that the possession, exercise or attempted exercise of any other rights, powers or capacities by a limited partner constitutes taking part by such limited partner in the control of the business of the limited partnership.

Limited partners' rights as between themselves

14. (1) ~~Subject to~~Unless otherwise agreed in the partnership agreement in accordance with subsection (2), limited partners, in relation to one another, share in the limited partnership assets,

- (a) for the return of contributions; and
- (b) for profits or other compensation by way of income on account of their contributions,

in proportion to the respective amounts of money and other property actually contributed by the limited partners to the limited partnership. R.S.O. 1990, c. L.16, s. 14 (1).

Priority Variation of rights in partnership agreement

(2) Where there are several limited partners, the partners may agree ~~that one or more of the limited partners is to have priority over other limited partners~~in the partnership agreement that limited partners, in relation to one another, share in the limited partnership assets in such proportions as are specified therein.

- (a) as to the return of contributions; or
- (b) as to profits or other compensation by way of income; ~~or,~~

~~—(c) as to any other matter;~~

~~but the terms of this agreement shall be set out in the partnership agreement. R.S.O. 1990, c. L.16, s. 14 (2).~~

Idem

and may also agree therein that one or more of the limited partners is to have priority over other limited partners in any other respect as specified therein.

When profit may not be paid

~~(3) Where the partnership agreement does not contain an agreement referred to in subsection (2), the shares of the limited partners in the partnership assets shall be determined in accordance with subsection (1). R.S.O. 1990, c. L.16, s. 14 (3).~~14.1 No payment of a share of the profits or other compensation by way of income shall be made to a limited partner from the assets of the limited partnership or of a general partner if there are reasonable grounds for believing that the payment would reduce the assets of the limited partnership to an amount insufficient to discharge the liabilities of the limited partnership to persons who are not general or limited partners.

Return of limited partner's contribution

15. (1) A limited partner has the right to demand and receive the return of the limited partner's contribution,

- (a) upon the dissolution of the limited partnership in accordance with the provisions of the partnership agreement or, if the partnership agreement does not so provide, in accordance with section 24;
- (b) when the time specified in the partnership agreement for the return of the contribution occurs;
- (c) after the limited partner has given six months' notice in writing to all other partners, if no time is specified in the partnership agreement for the return of the contribution or for the dissolution of the limited partnership; or
- (d) when all the partners consent to the return of the contribution. R.S.O. 1990, c. L.16, s. 15 (1).

Idem

(2) Despite subsection (1), a limited partner is not entitled to receive any part of the limited partner's contribution out of the limited partnership assets or from a general partner ~~until~~unless,

- (a) all liabilities of the limited partnership, except liabilities to general partners and to limited partners on account of their contributions, have been paid or there ~~remains~~remain sufficient limited partnership assets to pay them; and
- (b) the ~~partnership agreement is terminated or so~~record of limited partners is amended, ~~if necessary,~~ to set forth the withdrawal or reduction of the contribution. R.S.O. 1990, c. L.16, s. 15 (2).

Idem

(3) A limited partner has, irrespective of the nature of the limited partner's contribution, only the right to demand and receive money in return therefor, unless,

- (a) the partnership agreement provides otherwise; or
- (b) all the partners consent to some other manner of returning the contribution. R.S.O. 1990, c. L.16, s. 15 (3).

Dissolution

- (4) A limited partner is entitled to have the limited partnership dissolved and its affairs wound up where,
 - (a) the limited partner is entitled to the return of the limited partner's contribution but, upon demand, the contribution is not returned to the limited partner; or
 - (b) the other liabilities of the limited partnership have not been paid or the limited partnership assets are insufficient for their payment as required by clause (2) (a) and the limited partner seeking dissolution would otherwise be entitled to the return of the limited partner's contribution. R.S.O. 1990, c. L.16, s. 15 (4).

Limited partner's liability to partnership

~~16. (1)~~ 16. (1) A limited partner is liable to the limited partnership for the difference, if any, between the value of money or other property actually contributed by the limited partner to the limited partnership and the value of money or other property stated in the record of limited partners as being contributed or to be contributed by the limited partner to the limited partnership. R.S.O. 1990, c. L.16, s. 16 (1).

Limited partner as trustee

- ~~(2)~~ 16. (2) A limited partner holds as trustee for the limited partnership,
 - (a) specific property stated in the partnership agreement as contributed by the limited partner, but which has not in fact been contributed or which has been returned contrary to this Act; and
 - (b) money or other property paid or conveyed to the limited partner on account of the limited partner's contribution contrary to this Act. R.S.O. 1990, c. L.16, s. 16 (2).

Idem

(3) ~~Where a~~ limited partner who has received the return of all or part of the limited partner's contribution, ~~the limited partner is nevertheless~~ in violation of subparagraph 15(2)(a), and who knew at the time of such return that it violated subparagraph 15(2)(a), is liable to the limited partnership or, where the limited partnership is dissolved, to its creditors for any amount, not in excess of the amount returned with interest, necessary to discharge the liabilities of the limited partnership to all creditors who extended credit or whose claims otherwise arose before the return of the contribution. ~~R.S.O. 1990, c. L.16, s. 16 (3).~~

(4) A limited partner who receives a return in whole or in part of the limited partner's contribution shall have no liability under subsection 16(3) after the second anniversary from the date of such return in respect of the amount so returned, unless such period is extended by the partnership agreement.

Death of limited partner

16.1 (1) The executor or administrator of the estate of a limited partner who is an individual has,

- (a) all the rights and powers of a limited partner for the purpose of settling the estate of the limited partner; and
- (b) whatever power the limited partner had under the partnership agreement to constitute the limited partner's assignee a substituted limited partner. R.S.O. 1990, c. L.16, s. 22 (1).

Liability

(2) The estate of a limited partner is liable for all the liabilities of the limited partner as a limited partner.

Admission of ~~additional limited partners~~ Limited Partners

~~17. After the formation~~ (1) A person is admitted as a limited partner of the limited partnership, ~~additional limited partners may be admitted by amendment of the record of limited partners. R.S.O. 1990, c. L.16, s. 17.;~~

(a) In the case of a person who is not an assignee of a partnership interest, including a person acquiring a partnership interest directly from the limited partnership, at the time provided in and upon compliance with the partnership agreement or, if the partnership agreement does not so provide, upon the consent of all partners and when the person's admission is reflected in the record of limited partners; or

(b) In the case of an assignee of a partnership interest, as provided in section 18, and at the time provided in and upon compliance with the partnership agreement or, if the partnership agreement does not so provide, when any such person's permitted admission is reflected in the record of limited partners.

(2) Subject to the provisions of the partnership agreement, a person admitted to a limited partnership as a limited partner pursuant to subparagraph 1(b) shall be deemed for all purposes of this Act to have contributed or agreed to contribute such amount of money or property as that person's assignor contributed or agreed to contribute to the limited partnership, or was itself deemed to contribute or agree to contribute.

(3) Unless otherwise provided in a partnership agreement, a limited partner shall have no pre-emptive right to subscribe to any additional issue of partnership interests in the limited partnership.

Interest assignable

18. (1) A limited partner's interest is assignable. R.S.O. 1990, c. L.16, s. 18 (1).

Limited partner

(2) A substituted limited partner is a person admitted to all the rights and powers of a limited partner who has died or who has assigned the limited partner's interest in the limited partnership. R.S.O. 1990, c. L.16, s. 18 (2).

Rights of assignee

(3) An assignee who is not a substituted limited partner has no right,

(a) to inspect the limited partnership books;

(b) to be given any information about matters affecting the limited partnership or to be given an account of the partnership affairs,

but is entitled only to receive the share of the profits or other compensation by way of income or the return of the contribution to which the assignor would otherwise be entitled. R.S.O. 1990, c. L.16, s. 18 (3).

Manner of becoming a substituted limited partner

(4) An assignee may become a substituted limited partner, in accordance with subparagraph 17(1)(b).

Repealed

~~—(a) if all the partners, except the assignor, consent in writing thereto; or~~

~~—(b) if the assignor, being so authorized by the partnership agreement, constitutes the assignee a substituted limited partner. R.S.O. 1990, c. L.16, s. 18 (4).~~

~~Idem (5) An assignee, who is otherwise entitled to become a substituted limited partner, becomes a substituted limited partner when the record of limited partners is amended. R.S.O. 1990, c. L.16, s. 18 (5).~~

Rights, liabilities of substituted limited partner

(6) A substituted limited partner has all the rights and powers and is subject to all the restrictions and liabilities of the limited partner's assignor, except any liability of which the limited partner did not have notice at the time the limited partner became a limited partner and which could not be ascertained from the partnership agreement, the declaration or the record of limited partners. R.S.O. 1990, c. L.16, s. 18 (6).

Liability of assignor

(7) The substitution of an assignee as a limited partner does not release the assignor from liability under section 16 or 30. R.S.O. 1990, c. L.16, s. 18 (7).

~~Change of firm name~~

~~19. (1) Where the firm name of a limited partnership is to be changed, a new declaration shall be filed with the Registrar under subsection 3 (1). R.S.O. 1990, c. L.16, s. 19 (1), 1994, c. 27, s. 87 (3).~~

Declaration of change

~~(2)~~ 19. (1) A declaration of change shall be filed with the Registrar for every any change in information, ~~other than a change in the firm name~~, required to be stated in the declaration under subsection 3 (1). R.S.O. 1990, c. L.16, s. 19 (2), 1994, c. 27, s. 87 (3).

Signing of declaration

~~(3)~~ (2) A declaration of change shall be signed by at least one of the general partners. R.S.O. 1990, c. L.16, s. 19 (3).

Change not effective

~~(4)~~ (3) For the purposes of this Act, a change referred to in subsection ~~(2)~~ (1) does not take effect until a declaration of change is filed with the Registrar. R.S.O. 1990, c. L.16, s. 19 (4).

Expiry

~~(5)~~**(4)** A declaration of change expires upon the expiry, replacement or cancellation of the declaration amended by the declaration of change. R.S.O. 1990, c. L.16, s. 19 (5).

Change of address

~~(6) If there is a change in an address set out in a declaration, the declaration of change referred to in subsection (2) shall be filed within 15 days after the change takes place. 1994, c. 27, s. 87 (4).~~

Ability to sue

20. (1) No limited partnership that has unpaid fees or penalties or in respect of which a declaration has not been filed as required by this Act and no member thereof is capable of maintaining a proceeding in a court in Ontario in respect of the business carried on by the limited partnership except with leave of the court. R.S.O. 1990, c. L.16, s. 20 (1).

Idem

- (2) The court shall grant leave if the court is satisfied that,
- (a) the failure to pay the fees or penalties or file the declaration was inadvertent;
 - (b) there is no evidence that the public has been deceived or misled; and
 - (c) at the time of the application to the court, the limited partnership has no unpaid fees or penalties and has filed all declarations required by this Act. R.S.O. 1990, c. L.16, s. 20 (2).

Contracts valid

(3) No contract is void or voidable by reason only that it was entered into by a limited partnership that was in contravention of this Act or the regulations at the time the contract was made. R.S.O. 1990, c. L.16, s. 20 (3).

Dissolution of limited partnership

21. ~~A general partner's retirement,~~ Subject to any agreement between the partners, a partnership is dissolved,

(a) if entered into for a fixed term, by the expiration of that term; or

(b) if entered into for an undefined time, by a general partner giving notice to the other partner or partners of its intention to dissolve the limited partnership, in which case the limited partnership is dissolved as from the date of filing of the declaration of dissolution with the Registrar.

Dissolution of limited partnership upon a general partner ceasing to be general partner

21.1 ~~The~~ death or incapacity to manage property within the meaning of the Substitute Decisions Act, 1992 ~~or of a corporate general partner's dissolution~~ general partner who is an individual, or the dissolution or otherwise ceasing to exist of any other person that is a general partner, or the resignation or removal of a general partner as general partner, dissolves a limited partnership unless the business is continued ;

(a) by the remaining general partners, —(a)— pursuant to a right to do so contained in the partnership agreement; ~~and~~

(b) ~~with the consent of all the remaining partners. R.S.O. 1990, c. L.16, s. 21; 2009, c. 33, Sched. 2, s. 44 (2)~~ by a new general partner appointed by some or all of the limited partners pursuant to a right to appoint a new general partner contained in the partnership agreement, provided that such new general partner is appointed within 90 days of the previous general partner having ceased to be a general partner; or

(c) by a new general partner appointed with the consent of all the remaining partners, provided that such new general partner is appointed within 90 days of the previous general partner having ceased to be a general partner.

~~Death~~ Dissolution of limited partner partnership by the court

~~22. (1) The executor or administrator of the estate of a limited partner has,~~ **21.2.** On application by a partner, or with the leave of the court, by any other person, the court may order a dissolution of the limited partnership, whenever it is not reasonably practicable to carry on the business in conformity with the partnership agreement or applicable law.

~~—(a) all the rights and powers of a limited partner for the purpose of settling the estate of the limited partner; and~~

~~—(b) whatever power the limited partner had under the partnership agreement to constitute the limited partner's assignee a substituted limited partner. R.S.O. 1990, c. L.16, s. 22 (1).~~

Liability

~~(2) The estate of a limited partner is liable for all the liabilities of the limited partner as a limited partner. R.S.O. 1990, c. L.16, s. 22 (2).~~

Repealed

22.

Declaration of dissolution

23. (1) A declaration of dissolution shall be filed with the Registrar when,
- (a) the limited partnership is dissolved; or
 - (b) all of the limited partners cease to be limited partners. ~~R.S.O. 1990, c. L.16, s. 23 (1).~~

Idem

- (2) The declaration of dissolution shall be signed by at least one of the general partners. ~~R.S.O. 1990, c. L.16, s. 23 (2).~~

Declaration cancelled

- (3) When the declaration of dissolution is filed, the declaration filed under subsection 3 (1) is cancelled.

Settling accounts on dissolution – winding up

24. In settling accounts in connection with the dissolution of a limited partnership, the liabilities of the limited partnership to creditors, except to limited partners on account of their contributions and to general partners, shall have priority over distributions to partners, and then, unless the partnership agreement provides otherwise, shall be distributed according to the following order of priority:

1. To limited partners in respect of their share of the profits and other compensation by way of income on account of their contributions.
2. To limited partners in respect of their contributions.
3. To general partners other than for capital and profits.
4. To general partners in respect of profits.
5. To general partners in respect of capital. R.S.O. 1990, c. L.16, s. ~~23 (3); 1994, c. 27, s. 87 (5); 24.~~

Delivery of notices

~~23.1 (1)~~ http://www.e-laws.gov.on.ca/html/statutes/french/elaws_statutes_90l16_f.htm - s23p1s1 **24.1 (1)** A notice or other document that is required or permitted by this Act to be sent by the Registrar may be sent by ordinary mail or by any other method, including registered mail, certified mail or prepaid courier, if there is a record by the person who has delivered it that the notice or document has been sent. 1994, c. 27, s. 87 (6).

Same

(2) A notice or other document referred to in subsection (1) may be sent by telephone transmission of a facsimile of the notice or other document or by another form of electronic transmission where there is a record that the notice or other document has been sent. 1994, c. 27, s. 87 (6).

Deemed delivery

- (3) A notice or other document sent by mail by the Registrar shall be deemed to be received by the intended recipient on the earlier of,
- (a) the day the intended recipient actually receives it; or
 - (b) the fifth day after the day it is mailed. 1994, c. 27, s. 87 (6).

Same

- (4) A notice or other document sent by a method referred to in subsection (2) shall be deemed to be received by the intended recipient on the earlier of,
- (a) the day the intended recipient actually receives it; or
 - (b) the first business day after the day the transmission is sent by the Registrar. 1994, c. 27, s. 87 (6).

Cancellation of declaration

~~23.24.2~~ The Registrar may cancel a declaration filed under subsection 3 (1) for failure to pay the required fee if the limited partnership is given 21 days' notice of the intention to cancel. 1994, c. 27, s. 87 (7); 1998, c. 18, Sched. E, s. 162.

Settling accounts on dissolution

~~24. In settling accounts after the dissolution of a limited partnership, the liabilities of the limited partnership to creditors, except to limited partners on account of their contributions and to general partners, shall be paid first, and then, unless the partnership agreement or a subsequent agreement provides otherwise, shall be paid in the following order:~~

- ~~—1. To limited partners in respect of their share of the profits and other compensation by way of income on account of their contributions.~~
- ~~—2. To limited partners in respect of their contributions.~~
- ~~—3. To general partners other than for capital and profits.~~
- ~~—4. To general partners in respect of profits.~~
- ~~—5. To general partners in respect of capital. R.S.O. 1990, c. L.16, s. 24.~~

Declaration – Extra-provincial limited partnership

25. (1) No extra-provincial limited partnership shall carry on business in Ontario unless it has filed a declaration with the Registrar that sets forth the information required by subsection 3 (2) and states the jurisdiction in which the extra-provincial limited partnership is organized. R.S.O. 1990, c. L.16, s. 25 (1).

Carry on business

(2) For the purposes of this section, ~~an~~the term 'carry on business in Ontario' includes any extra-provincial limited partnership ~~carries on business in Ontario if~~where,

- (a) it ~~solicits business in Ontario;~~has employees, agents or other independent contractors in Ontario engaged in the carrying on of its business on its behalf;
- (b) ~~its name is listed in a telephone directory for any part of Ontario;~~
- ~~—(c) its name is included in any advertisement in which an address in Ontario is given for the limited partnership;—(d) —it has a resident agent or representative or a~~an office warehouse, ~~office~~ or other place of business in Ontario; ~~or~~
- (~~e~~) it owns real property situate in Ontario; ~~;~~
- ~~(f) it effects a distribution of securities in Ontario by way of a prospectus or offering memorandum in compliance with the Securities Act and the regulations made thereunder; or~~(2.1) (A) For greater certainty, an extra-provincial limited partnership shall not be deemed to carry on business in Ontario by reason only of conducting one or more of the following activities in Ontario:
 - (a) effecting a distribution of securities;
 - (b) maintaining, defending, and/or settling an action or proceeding;
 - (c) holding meetings of its partners or carrying on any other activity concerning its internal affairs;
 - (d) maintaining accounts in financial institutions;
 - (e) maintaining offices or agencies for the transfer, exchange, and registration of the extra-provincial limited partnership's own securities or maintaining trustees or depositories with respect to those securities;
 - (f) selling goods or services to Ontario residents, or soliciting or obtaining orders for such goods or services, whether by mail, telephonic or electronic communications or through employees or agents or other persons outside Ontario;
 - (g) ~~it otherwise carries on business in Ontario. R.S.O. 1990, c. L.16, s. 25 (2).~~subject to the Mortgage Brokerages, Lenders and Administrators Act, 2006, creating or acquiring indebtedness, mortgages, or security interests in real or personal property, or securing or collecting debts or enforcing mortgages or other security interests in property securing the debts, and realizing on any property so acquired; or
 - (h) engaging in an isolated transaction that is not one in the course of similar transactions of a like nature.

Signing of declaration

(3) The declaration filed under subsection (1) shall be signed by all of the general partners. R.S.O. 1990, c. L.16, s. 25 (3).

Power of attorney

(4) An extra-provincial limited partnership shall execute a power of attorney in the prescribed form appointing a person resident in Ontario or a corporation having its head or registered office in Ontario to be the attorney and representative in Ontario of the extra-provincial limited partnership. 1994, c. 27, s. 87 (8).

Same

(5) The attorney and representative in Ontario of the extra-provincial limited partnership shall keep the power of attorney referred to in subsection (4) at its address set out in the declaration filed under subsection (1). 1994, c. 27, s. 87 (8).

Same

(6) Upon request and without charge, the attorney and representative shall permit any person to inspect the power of attorney during the normal business hours of the attorney and representative and to make a copy of it. 1994, c. 27, s. 87 (8).

Change of firm name

Repealed

~~(6.1) Where there is a change in the firm name of an extra-provincial limited partnership, a new declaration shall be filed with the Registrar under this section. 1994, c. 27, s. 87 (8).~~

Exemption

(6.2) Subsections (4), (5) and (6) do not apply to an extra-provincial limited partnership formed in another Canadian jurisdiction that has an office or other place of business in Ontario. 1998, c. 18, Sched. E, s. 163.

Declaration of change

(7) An extra-provincial limited partnership shall file a declaration of change with the Registrar for **every** any change in ~~the~~ information, ~~other than a change in the firm name, contained~~ required to be stated in the declaration ~~filed~~ under subsection ~~(4)~~ and the declaration shall be signed in the manner described in section 19. R.S.O. 1990, c. L.16, s. 25 (7).

Declaration of withdrawal

(8) An extra-provincial limited partnership may cancel the declaration and the power of attorney by filing with the Registrar a declaration of withdrawal signed by at least one of the general partners. R.S.O. 1990, c. L.16, s. 25 (8).

Record of limited partners

26. (1) The general partners of every extra-provincial limited partnership that has filed a declaration under subsection 25 (1) shall maintain a current record of the limited partners stating, for each limited partner, the prescribed information. R.S.O. 1990, c. L.16, s. 26 (1).

Where record to be kept

(2) Subject to subsection (3), the record of limited partners shall be kept at the limited partnership's principal place of business in Ontario. R.S.O. 1990, c. L.16, s. 26 (2).

Idem

(3) If an extra-provincial limited partnership does not have a principal place of business in Ontario, the record of limited partners shall be kept by the attorney and representative in Ontario of the extra-provincial limited partnership at the address stated in the power of attorney filed under subsection 25 (4). R.S.O. 1990, c. L.16, s. 26 (3).

Right to inspect

(4) Any ~~person~~ partner may inspect the record of limited partners during the normal business hours of the limited partnership or the limited partnership's attorney and representative and may make copies of and take extracts from it. R.S.O. 1990, c. L.16, s. 26 (4).

Registrar may require copy of record

(5) The Registrar may at any time by written notice require any general partner or a limited partnership's attorney and representative to provide to the Registrar ~~or any other person~~ a copy of the record of limited partners. R.S.O. 1990, c. L.16, s. 26 (5).

Copy of record to be provided

(6) Upon receipt of the Registrar's notice, the person to whom it is directed shall, within the time specified in the notice, provide a copy of the record of limited partners to the Registrar ~~or other person specified in the notice. R.S.O. 1990, c. L.16, s. 26 (6).~~

Liability of limited partner

27. (1) A limited partner of an extra-provincial limited partnership is not liable in Ontario as a general partner of the extra-provincial limited partnership by reason only that it carries on business in Ontario without filing the declaration and power of attorney required by this Act. R.S.O. 1990, c. L.16, s. 27 (1).

Laws applicable to extra-provincial limited partnerships

(2) The laws of the jurisdiction under which an extra-provincial limited partnership is organized govern its organization and internal affairs and the limited liability of its limited partners. R.S.O. 1990, c. L.16, s. 27 (2).

Ability to sue

28. (1) No extra-provincial limited partnership that has unpaid fees or penalties or in respect of which a declaration or power of attorney has not been filed as required by this Act and no member thereof is capable of maintaining a proceeding in a court in Ontario in respect of the business carried on by the extra-provincial limited partnership except with leave of the court. R.S.O. 1990, c. L.16, s. 28 (1).

Idem

(2) The court shall grant leave if the court is satisfied that,

- (a) the failure to pay the fees or penalties or file the declaration or power of attorney was inadvertent;
- (b) there is no evidence that the public has been deceived or misled; and
- (c) at the time of the application to the court, the extra-provincial limited partnership has no unpaid fees or penalties and has filed all declarations and powers of attorney required by this Act. R.S.O. 1990, c. L.16, s. 28 (2).

Contracts valid

(3) No contract is void or voidable by reason only that it was entered into by an extra-provincial limited partnership that was in contravention of this Act or the regulations at the time the contract was made. R.S.O. 1990, c. L.16, s. 28 (3).

Effect of false statement in declaration

29. Where a declaration contains a false or misleading statement, any person suffering loss as a result of relying upon the statement may hold liable,

- (a) every general partner who knew when signing the declaration that the statement was false or misleading; and
- (b) every general partner who became aware after signing the declaration that the statement was false or misleading and failed within a reasonable time to file a declaration of change. R.S.O. 1990, c. L.16, s. 29.

Effect of false statement in record of limited partners

30. Where a record of limited partners contains a false or misleading statement, any person suffering loss as a result of relying upon the statement may hold liable,

- (a) every general partner; and
- (b) every limited partner who became aware that the statement was false or misleading and failed within reasonable time to take steps to cause the record of limited partners to be corrected. R.S.O. 1990, c. L.16, s. 30.

Liability of person mistakenly believing the person is a limited partner

31. A person who contributes to the capital of a business carried on by a person or partnership erroneously believing that the person has become a limited partner in a limited partnership,

- (a) is not, by reason only of exercising the rights of a limited partner, a general partner with the person or in the partnership carrying on the business; and
- (b) is not bound by the obligations of the person or partnership carrying on the business,

if, upon ascertaining the fact that the person is not a limited partner, promptly,

- (c) renounces the person's interest in the profits or other compensation by way of income from the business; or
- (d) takes steps to cause the record of limited partners to be amended to show the person to be a limited partner. R.S.O. 1990, c. L.16, s. 31.

Authority to sign

32. (1) A general or limited partner may give written authority to any other person to sign on the partner's behalf any document referred to in this Act. R.S.O. 1990, c. L.16, s. 32 (1).

Idem

(2) A person who signs a document to be filed with the Registrar under an authority referred to in subsection (1) shall indicate in the document that the person signs on behalf of a general or limited partner. R.S.O. 1990, c. L.16, s. 32 (2).

Access to documents

33. (1) Every limited partnership shall keep at its principal place of business in Ontario,

- (a) a copy of the partnership agreement;
- (b) a copy of the declaration and a copy of each declaration of change amending the declaration;
- (c) a copy of any court order made under section 34;
- (d) a copy of any written authority given under subsection 32 (1); and
- (e) in the case of an extra-provincial limited partnership, a copy of the power of attorney filed with the Registrar. R.S.O. 1990, c. L.16, s. 33 (1).

Where no principal place of business

(2) Where an extra-provincial limited partnership does not have a principal place of business in Ontario, the documents referred to in subsection (1) shall be kept by the attorney and representative in Ontario of the extra-provincial limited partnership at the address stated in the power of attorney filed under subsection 25 (4). R.S.O. 1990, c. L.16, s. 33 (2).

Right to inspect

(3) Any partner may inspect any of the documents referred to in subsection (1) during the normal business hours of the partnership or the partnership's attorney and representative. R.S.O. 1990, c. L.16, s. 33 (3).

Idem

(4) Any person who has a business relationship with the partnership may inspect any of the documents referred to in clauses (1) (b), (c), (d) and (e) during the normal business hours of the partnership or the partnership's attorney and representative. R.S.O. 1990, c. L.16, s. 33 (4).

Order for compliance

34. (1) In this section,

“Court” means the Superior Court of Justice. R.S.O. 1990, c. L.16, s. 34 (1); 2001, c. 9, Sched. D, s. 14.

Application for order for compliance

(2) Where a person who is required by this Act to sign or permit inspection of a document refuses to do so, a person who is aggrieved by the refusal may apply to the Court for an order directing the person to comply with the provisions of this Act and upon such application, the Court may make such order or any other order that the Court considers appropriate in the circumstances. R.S.O. 1990, c. L.16, s. 34 (2).

Order in addition to other rights

(3) An application may be made under subsection (2) despite the imposition of a penalty in respect of the refusal and in addition to any other rights the applicant may have at law. R.S.O. 1990, c. L.16, s. 34 (3).

Offences

35. (1) Every person who,

- (a) contravenes any provision of this Act or the regulations; or
- (b) makes a statement in any document, material, evidence or information submitted or required by or for the purposes of this Act that, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact or that omits to state any material fact, the omission of which makes the statement false or misleading,

is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or, if such person is a corporation, to a fine of not more than \$20,000. R.S.O. 1990, c. L.16, s. 35 (1).

False statements wilful

(2) No person is guilty of an offence referred to in clause (1) (b) if the person did not know that the statement was false or misleading and in the exercise of reasonable diligence could not have known that the statement was false or misleading. R.S.O. 1990, c. L.16, s. 35 (2).

Liability of directors and officers

(3) Where a corporation is guilty of an offence under subsection (1), every director or officer of such corporation, and where the corporation is an extra-provincial corporation, every person acting as its representative in Ontario, who authorized, permitted or acquiesced in such an offence is also guilty of an offence and on conviction is liable to a fine of not more than \$2,000. R.S.O. 1990, c. L.16, s. 35 (3).

Powers of Minister

Minister's regulations

35.1 (0.1) The Minister may make regulations,

- (a) prescribing alternative methods of filing documents under this Act and governing the filing of documents by each method, including the manner of acceptance of documents, the determination of the date of receipt and the form of electronic signatures;
- (b) waiving any of the signature requirements under this Act. 2011, c. 1, Sched. 5, s. 6 (1).

Fees

(1) The Minister may by order require the payment of fees for search reports, copies of documents or information, the filing of documents or other services under this Act and may approve the amount of those fees. 1998, c. 18, Sched. E, s. 164.

Registrar's regulations

35.2 The Registrar may make regulations prescribing forms and providing for their use. 2011, c. 1, Sched. 5, s. 6 (2).

Regulations

36. The Lieutenant Governor in Council may make regulations,

- (a) REPEALED: 1998, c. 18, Sched. E, s. 165 (1).
- (b) prescribing information to be set out in a declaration filed under this Act and information to be set out in a record of limited partners.
- (c)-(e) REPEALED: 2011, c. 1, Sched. 5, s. 6 (3).
- (f) REPEALED: 2004, c. 19, s. 15 (3).

R.S.O. 1990, c. L.16, s. 36; 1994, c. 27, s. 87 (9); 1998, c. 18, Sched. E, s. 165 (1); 2004, c. 19, s. 15 (2, 3); 2011, c. 1, Sched. 5, s. 6 (3).

~~Note: Regulations made under clause (a), as that clause read immediately before March 1, 1999, continue until the Minister makes an order under section 35.1, as enacted by the Statutes of Ontario, 1998, chapter 18, Schedule E, section 164, that is inconsistent with those regulations. See: 1998, c. 18, Sched. E, s. 165 (2).~~

~~Note: The Lieutenant Governor in Council may by regulation revoke regulations made under clause (a), as that clause read immediately before March 1, 1999, if the Minister makes an order under section 35.1, as enacted by the Statutes of Ontario, 1998, chapter 18, Schedule E, section 164, that is inconsistent with those regulations. See: 1998, c. 18, Sched. E, s. 165 (3).~~

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Rendering set	Firm_Standard

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Deletion	
Moved from	
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Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
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Moved from	22
Moved to	22
Style change	0
Format changed	0
Total changes	369

Appendix B – Amended Limited Partnerships Act



Limited Partnerships Act

R.S.O. 1990, CHAPTER L.16

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Definitions

1. In this Act,

“business” includes every trade, occupation and profession; (“entreprise”)

“extra-provincial limited partnership” means a limited partnership organized under the laws of a jurisdiction other than Ontario; (“société en commandite extraprovinciale”)

“person” includes an individual, sole proprietorship, partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, body corporate, and a natural person in his or her capacity as trustee, executor, administrator or other legal representative; (“personne”)

“prescribed” means prescribed in the regulations; (“prescrit”)

“Registrar” means the Registrar appointed under the *Business Names Act*. (“registrateur”) R.S.O. 1990, c. L.16, s. 1.

Limited partnership

2. (1) A limited partnership may, subject to this Act, be formed to carry on any business that a partnership without limited partners may carry on. R.S.O. 1990, c. L.16, s. 2 (1).

Whom to consist

(2) A limited partnership shall, subject to this Act, consist of one or more persons who are general partners and one or more persons who are limited partners. R.S.O. 1990, c. L.16, s. 2 (2).

Formation

3. (1) A limited partnership is formed when a declaration is filed with the Registrar in accordance with this Act. R.S.O. 1990, c. L.16, s. 3 (1).

Declaration

(2) A declaration shall be signed by all of the general partners desiring to form a limited partnership and shall state the prescribed information. R.S.O. 1990, c. L.16, s. 3 (2).

Expiry of declaration

(3) A declaration filed under subsection (1), including a declaration filed by an extra-provincial limited partnership, shall remain in effect for such period of years as is set out in the declaration. Unless it is replaced by a new declaration that is filed before its expiry, the declaration shall expire on the earlier of,

(a) the end of such period; or

(b) the date on which the declaration is cancelled by filing a declaration of dissolution.

Subsequent filing

(4) A limited partnership is not dissolved if a declaration expires, but an additional fee in the required amount is payable for the subsequent filing of a new declaration. 1998, c. 18, Sched. E, s. 161.

3.1 REPEALED: 2004, c. 19, s. 15 (1).

Record of limited partners

4. (1) The general partners of every limited partnership other than an extra-provincial limited partnership shall maintain a current record of the limited partners stating, for each limited partner, the prescribed information. R.S.O. 1990, c. L.16, s. 4 (1). [NTD: *To deal with the public, listed limited partnership issue and to confirm transfers of private limited partnership interests, we are proposing that the “prescribed information,” which is set out in the regulations under the LP Act, specifically provide that the record of limited partnership shall include information on any LP that receives its interest through a transfer, either directly from another LP or via a transfer agent or nominee.*]

Where record to be kept

(2) The record of limited partners shall be kept at the limited partnership’s principal place of business in Ontario. R.S.O. 1990, c. L.16, s. 4 (2).

Rights to inspect

(3) Upon request and without charge, any general partner must permit any partner to inspect the record of limited partners during the normal business hours of the limited partnership and to make copies or take extracts from them.

Registrar may require copy of record

(4) The Registrar may at any time by written notice require any general partner to provide to the Registrar a copy of the record of limited partners.

Copy of record to be provided

(5) Upon receipt of the Registrar’s notice, the general partner to whom it is directed shall, within the time specified in the notice, provide a copy of the record of limited partners to the Registrar.

Access to and confidentiality of information

(6) (a) Each limited partner has the right, subject to such reasonable standards (including standards governing what information and documents are to be furnished, at what time and location and at whose expense) as may be provided in the partnership agreement or otherwise established by the general partner, to obtain from the general partner from time to time upon reasonable demand for any purpose reasonably related to the limited partner's interest as a limited partner:

- (1) True and full information regarding the status of the business and financial condition of the limited partnership;
- (2) A copy of any written partnership agreement and declaration and all amendments thereto, together with executed copies of any written powers of attorney pursuant to which the partnership agreement and any declaration and all amendments thereto have been executed;
- (3) True and full information regarding the amount of cash and a description and statement of the agreed value of any other property contributed by each partner and which each partner has agreed to contribute in the future, and the date on which each became a partner; and
- (4) Other information regarding the affairs of the limited partnership as is just and reasonable.

(b) Despite (a), a general partner shall have the right to keep confidential from limited partners for such period of time as the general partner deems reasonable, any information which the general partner reasonably believes to be in the nature of trade secrets or other information the disclosure of which the general partner reasonably believes is not in the best interest of the limited partnership or could damage the limited partnership or its business or which the limited partnership is required by law or by agreement with a third party to keep confidential.

(c) A limited partnership may maintain its records in other than a written form if such form is capable of conversion into written form within a reasonable time.

(d) Any demand under this section shall be in writing and shall state the purpose of such demand.

(e) The rights of a limited partner to obtain information as provided in this section may be restricted in an original partnership agreement or in any subsequent amendment approved or adopted by all of the partners and in compliance with any applicable requirements of the partnership agreement. The provisions of this subsection shall not be construed to limit the ability to impose restrictions on the rights of a limited partner to obtain information by any other means permitted under this section.

General and limited partners

5. (1) A person may be a general partner and a limited partner at the same time in the same limited partnership. R.S.O. 1990, c. L.16, s. 5 (1).

Idem

(2) A person who is at the same time a general partner and a limited partner in the same limited partnership has the rights and powers and is subject to the restrictions and liabilities of a general partner except that in respect of the person's contribution as a limited partner the person has the same rights against the other partners as a limited partner. R.S.O. 1990, c. L.16, s. 5 (2).

Restriction in name of partnership

6. (1) The surname or a distinctive part of the corporate name of a limited partner shall not appear in the firm name of the limited partnership unless it is also the surname or a distinctive part of the corporate name of one of the general partners. R.S.O. 1990, c. L.16, s. 6 (1).

Liability if limited partner

(2) Where the surname or a distinctive part of the corporate name of a limited partner appears in the firm name contrary to subsection (1), the limited partner is liable as a general partner to any creditor of the limited partnership who has extended credit without actual knowledge that the limited partner is not a general partner. R.S.O. 1990, c. L.16, s. 6 (2).

Use of term limited

(3) Despite any Act, the word "Limited" may be used in the firm name but only in the expression "Limited Partnership". R.S.O. 1990, c. L.16, s. 6 (3).

Contribution of limited partner

7. (1) A limited partner may contribute money and other property to the limited partnership, but not services. R.S.O. 1990, c. L.16, s. 7 (1).

Personal property

(2) A limited partner's interest in the limited partnership is personal property. R.S.O. 1990, c. L.16, s. 7 (2).

Rights of general partners

8. A general partner in a limited partnership has all the rights and powers and is subject to all the restrictions and liabilities of a partner in a partnership without limited partners except that without the written consent to or ratification of the specific act by all the limited partners, a general partner has no authority to,

- (a) do any act in contravention of the partnership agreement;
- (b) do any act which makes it impossible to carry on the ordinary business of the limited partnership;
- (c) consent to a judgment against the limited partnership, unless the partnership agreement otherwise provides;
- (d) possess limited partnership property, or assign any rights in specific partnership property, for other than a partnership purpose, unless the partnership agreement otherwise provides;
- (e) admit a person as a general partner, unless the partnership agreement otherwise provides;
- (f) admit a person as a limited partner, unless the partnership agreement otherwise provides; or
- (g) continue the business of the limited partnership if a general partner dies, retires or becomes incapable as defined in the *Substitute Decisions Act, 1992* or a corporate general partner is dissolved, unless the partnership agreement otherwise provides. R.S.O. 1990, c. L.16, s. 8; 2009, c. 33, Sched. 2, s. 44 (1).

Liability of limited partner

9. Subject to this Act, a limited partner is not liable for the obligations of the limited partnership except in respect of the value of money and other property the limited partner contributes or agrees to contribute to the limited partnership, as stated in the record of limited partners. R.S.O. 1990, c. L.16, s. 9.

Repealed

10.

Repealed

11.

Business dealings by limited partner with partnership

12. (1) A limited partner may loan money to and transact other business with the limited partnership and, unless the limited partner is also a general partner, may receive on account of resulting claims against the limited partnership with general creditors a prorated share of the assets, but no limited partner shall, in respect of any such claim,

- (a) receive or hold as collateral security any of the limited partnership property; or
- (b) receive from a general partner or the limited partnership any payment, conveyance or release from liability if at the time the conditions for the payment of profit under section 14.1 are not satisfied. R.S.O. 1990, c. L.16, s. 12 (1).

Rights of limited partner

- (2) A limited partner may from time to time,
 - (a) examine into the state and progress of the limited partnership business and may advise as to its management;
 - (b) act as a contractor for or an agent or employee of the limited partnership or of a general partner; or
 - (c) act as a surety for the limited partnership. R.S.O. 1990, c. L.16, s. 12 (2).

Limited partner in control of business

13. (1) A limited partner is not liable as a general partner for any liabilities or obligations of the limited partnership unless such limited partner is also a general partner or unless, in addition to exercising such limited partner's rights and powers as a limited partner, the limited partner takes part in the control of the business.

Limitation

(2) The liability of a limited partner under subsection (1) extends only to a person who transacts business with the limited partnership reasonably believing, based upon statements made by such limited partner or the conduct of such limited partner, that the limited partner is a general partner, and only to liabilities and obligations incurred by the limited partnership to such person between the time that the limited partner first so dealt with such person and the time when such person ceased to so reasonably believe that the limited partner is a general partner.

Additional rights and powers

(3) For the purposes of subsection (1), a limited partner does not take part in the control of the business by reason only that the limited partner (or, if the limited partner is a person other than an individual, any director, officer, employee, agent or other representative acting on behalf of the limited partner) possesses, exercises or attempts to exercise any one or more of the following rights, powers or capacities in addition to the rights and powers conferred upon the limited partner by this Act, regardless of the nature, extent, scope, number or frequency of the limited partner's exercise or attempted exercise of such rights, powers or capacities:

(a) acting as an independent contractor for or to transact business with the limited partnership or a general partner;

(b) acting as an agent or employee of the limited partnership or a general partner;

(c) acting as an officer, director or shareholder of an incorporated general partner;

(d) acting as a partner of a partnership or of a limited partnership that is a general partner of the limited partnership;

(e) acting as a trustee, administrator, executor, custodian or other fiduciary or beneficiary of an estate or trust that is a general partner;

(f) serving on the board of directors or a committee of, to consult with or advise, to be an officer, director, stockholder, partner, member, manager, trustee, agent or employee of, or to be a fiduciary or contractor for, any person in which the limited partnership has an interest or any person providing management, consulting, advisory, custody or other services or products for, to or on behalf of, or otherwise having a business or other relationship with, the limited partnership or a general partner of the limited partnership;

(g) consulting with or advising a general partner or any other person with respect to any matter, including the business of the limited partnership, or acting or causing a general partner or any other person to take or refrain from taking any action, including by proposing, approving, consenting or disapproving, by voting or otherwise, with respect to any matter, including the business of the limited partnership;

(h) acting as surety, guarantor or endorser for the limited partnership or a general partner, guarantying or assuming any obligations of the limited partnership or a general partner, borrowing money from the limited partnership or a general partner, lending money to the limited partnership or a general partner, or providing collateral for the limited partnership or a general partner;

(i) calling, requesting, or attending or participating at, a meeting of the partners or the limited partners of the limited partnership;

(j) taking any action required or permitted by law to bring, pursue or settle or otherwise terminate a derivative action in right of the limited partnership;

(k) serving on a committee of the limited partnership or the limited partners or partners or appointing, electing or otherwise participating in the choice of a representative or another person to serve on any such committee, or acting as a member of any such committee directly or by or through any such representative or other person; or

(l) acting or causing the taking or refraining from the taking of any action, including by proposing, approving, consenting or disapproving, by voting or otherwise, with respect to any one or more of the following matters:

(i) the winding up and dissolution of the limited partnership or an election to continue the limited partnership or an election to continue the business of the limited partnership;

(ii) the sale, exchange, lease, mortgage, assignment, pledge or other transfer of, or the granting of a security interest in, any asset or assets of the limited partnership;

(iii) the incurrence, renewal, refinancing or payment or other discharge of indebtedness by the limited partnership;

(iv) a change in the nature of the business of the limited partnership;

(v) the admission, removal or retention of a general partner or a limited partner;

(vi) a transaction or other matter involving an actual or potential conflict of interest, including of the general partner;

(vii) an amendment to the partnership agreement or other constitutional documents of the limited partnership;

(viii) the indemnification of any partner or other person;

(ix) the making of, or calling for, or the making of other determinations in connection with, contributions of capital to the limited partnership;

(x) the making of, or the making of other determinations in connection with or concerning, investments, including investments in property, whether real, personal or mixed, either directly or indirectly, by the limited partnership;

(xi) the nomination, appointment, election or other manner of selection or removal of an independent contractor for, or an agent or employee of, the limited partnership or a general partner, or an officer, director or shareholder of an incorporated general partner, or a partner of a partnership or a limited partnership that is a general partner, or a trustee, administrator, executor, custodian or other fiduciary or beneficiary of an estate or trust that is a general partner; or

(xii) such other matters as are stated in the partnership agreement, provided that such matters would not cause a person transacting business with the limited partnership to reasonably believe that the limited partner is a general partner.

Idem

(4) Subsection (3) shall not:

(a) confer on any limited partner any rights, powers or capacities referred to in that subsection that are not otherwise conferred upon such limited partner by this Act, the partnership agreement or other agreement; or

(b) be interpreted to mean that the possession, exercise or attempted exercise of any other rights, powers or capacities by a limited partner constitutes taking part by such limited partner in the control of the business of the limited partnership.

Limited partners' rights as between themselves

14. (1) Unless otherwise agreed in the partnership agreement in accordance with subsection (2), limited partners, in relation to one another, share in the limited partnership assets,

(a) for the return of contributions; and

(b) for profits or other compensation by way of income on account of their contributions,

in proportion to the respective amounts of money and other property actually contributed by the limited partners to the limited partnership. R.S.O. 1990, c. L.16, s. 14 (1).

Variation of rights in partnership agreement

(2) Where there are several limited partners, the partners may agree in the partnership agreement that limited partners, in relation to one another, share in the limited partnership assets in such proportions as are specified therein,

(a) as to the return of contributions; or

(b) as to profits or other compensation by way of income,

and may also agree therein that one or more of the limited partners is to have priority over other limited partners in any other respect as specified therein.

When profit may not be paid

14.1 No payment of a share of the profits or other compensation by way of income shall be made to a limited partner from the assets of the limited partnership or of a general partner if there are reasonable grounds for believing that the payment would reduce the assets of the limited partnership to an amount insufficient to discharge the liabilities of the limited partnership to persons who are not general or limited partners.

Return of limited partner's contribution

15. (1) A limited partner has the right to demand and receive the return of the limited partner's contribution,

(a) upon the dissolution of the limited partnership in accordance with the provisions of the partnership agreement or, if the partnership agreement does not so provide, in accordance with section 24;

- (b) when the time specified in the partnership agreement for the return of the contribution occurs;
- (c) after the limited partner has given six months' notice in writing to all other partners, if no time is specified in the partnership agreement for the return of the contribution or for the dissolution of the limited partnership; or
- (d) when all the partners consent to the return of the contribution. R.S.O. 1990, c. L.16, s. 15 (1).

Idem

(2) Despite subsection (1), a limited partner is not entitled to receive any part of the limited partner's contribution out of the limited partnership assets or from a general partner unless,

- (a) all liabilities of the limited partnership, except liabilities to general partners and to limited partners on account of their contributions, have been paid or there remain sufficient limited partnership assets to pay them; and
- (b) the record of limited partners is amended to set forth the withdrawal or reduction of the contribution. R.S.O. 1990, c. L.16, s. 15 (2).

Idem

(3) A limited partner has, irrespective of the nature of the limited partner's contribution, only the right to demand and receive money in return therefor, unless,

- (a) the partnership agreement provides otherwise; or
- (b) all the partners consent to some other manner of returning the contribution. R.S.O. 1990, c. L.16, s. 15 (3).

Dissolution

(4) A limited partner is entitled to have the limited partnership dissolved and its affairs wound up where,

- (a) the limited partner is entitled to the return of the limited partner's contribution but, upon demand, the contribution is not returned to the limited partner; or
- (b) the other liabilities of the limited partnership have not been paid or the limited partnership assets are insufficient for their payment as required by clause (2) (a) and the limited partner seeking dissolution would otherwise be entitled to the return of the limited partner's contribution. R.S.O. 1990, c. L.16, s. 15 (4).

16. (1) A limited partner is liable to the limited partnership for the difference, if any, between the value of money or other property actually contributed by the limited partner to the limited partnership and the value of money or other property stated in the record of limited partners as being contributed or to be contributed by the limited partner to the limited partnership. R.S.O. 1990, c. L.16, s. 16 (1).

Limited partner as trustee

(2) A limited partner holds as trustee for the limited partnership,

- (a) specific property stated in the partnership agreement as contributed by the limited partner, but which has not in fact been contributed or which has been returned contrary to this Act; and
- (b) money or other property paid or conveyed to the limited partner on account of the limited partner's contribution contrary to this Act. R.S.O. 1990, c. L.16, s. 16 (2).

Idem

(3) A limited partner who has received the return of all or part of the limited partner's contribution in violation of subparagraph 15(2)(a), and who knew at the time of such return that it violated subparagraph 15(2)(a), is liable to the limited partnership or, where the limited partnership is dissolved, to its creditors for any amount, not in excess of the amount returned with interest, necessary to discharge the liabilities of the limited partnership to all creditors who extended credit or whose claims otherwise arose before the return of the contribution.

(4) Unless otherwise extended by the partnership agreement, a limited partner who receives a return in whole or in part of the limited partner's contribution shall have no liability under subsection 16(3) after the second anniversary from the date of return of such limited partner's contribution in respect of the amount so returned.

Death of limited partner

16.1 (1) The executor or administrator of the estate of a limited partner who is an individual has,

- (a) all the rights and powers of a limited partner for the purpose of settling the estate of the limited partner; and
- (b) whatever power the limited partner had under the partnership agreement to constitute the limited partner's assignee a substituted limited partner. R.S.O. 1990, c. L.16, s. 22 (1).

Liability

(2) The estate of a limited partner is liable for all the liabilities of the limited partner as a limited partner.

Admission of Limited Partners

17. (1) A person is admitted as a limited partner of the limited partnership:

(a) In the case of a person who is not an assignee of a partnership interest, including a person acquiring a partnership interest directly from the limited partnership, at the time provided in and upon compliance with the partnership agreement or, if the partnership agreement does not so provide, upon the consent of all partners and when the person's admission is reflected in the record of limited partners; or

(b) In the case of an assignee of a partnership interest, as provided in section 18, and at the time provided in and upon compliance with the partnership agreement or, if the partnership agreement does not so provide, when any such person's permitted admission is reflected in the record of limited partners.

(2) Subject to the provisions of the partnership agreement, a person admitted to a limited partnership as a limited partner pursuant to subparagraph 1(b) shall be deemed for all purposes of this Act to have contributed or agreed to contribute such amount of money or property as that person's assignor contributed or agreed to contribute to the limited partnership, or was itself deemed to contribute or agree to contribute.

(3) Unless otherwise provided in a partnership agreement, a limited partner shall have no pre-emptive right to subscribe to any additional issue of partnership interests in the limited partnership.

Interest assignable

18. (1) A limited partner's interest is assignable. R.S.O. 1990, c. L.16, s. 18 (1).

Limited partner

(2) A substituted limited partner is a person admitted to all the rights and powers of a limited partner who has died or who has assigned the limited partner's interest in the limited partnership. R.S.O. 1990, c. L.16, s. 18 (2).

Rights of assignee

(3) An assignee who is not a substituted limited partner has no right,

(a) to inspect the limited partnership books;

(b) to be given any information about matters affecting the limited partnership or to be given an account of the partnership affairs,

but is entitled only to receive the share of the profits or other compensation by way of income or the return of the contribution to which the assignor would otherwise be entitled. R.S.O. 1990, c. L.16, s. 18 (3).

Manner of becoming a substituted limited partner

(4) An assignee may become a substituted limited partner, in accordance with subparagraph 17(1)(b).

Repealed

(5)

Rights, liabilities of substituted limited partner

(6) A substituted limited partner has all the rights and powers and is subject to all the restrictions and liabilities of the limited partner's assignor, except any liability of which the limited partner did not have notice at the time the limited partner became a limited partner and which could not be ascertained from the partnership agreement, the declaration or the record of limited partners. R.S.O. 1990, c. L.16, s. 18 (6).

Liability of assignor

(7) The substitution of an assignee as a limited partner does not release the assignor from liability under section 16 or 30. R.S.O. 1990, c. L.16, s. 18 (7).

Declaration of change

19. (1) A declaration of change shall be filed with the Registrar for any change in information required to be stated in the declaration under subsection 3 (1). R.S.O. 1990, c. L.16, s. 19 (2), 1994, c. 27, s. 87 (3).

Signing of declaration

(2) A declaration of change shall be signed by at least one of the general partners. R.S.O. 1990, c. L.16, s. 19 (3).

Change not effective

(3) For the purposes of this Act, a change referred to in subsection (1) does not take effect until a declaration of change is filed with the Registrar. R.S.O. 1990, c. L.16, s. 19 (4).

Expiry

(4) A declaration of change expires upon the expiry, replacement or cancellation of the declaration amended by the declaration of change. R.S.O. 1990, c. L.16, s. 19 (5).

Ability to sue

20. (1) No limited partnership that has unpaid fees or penalties or in respect of which a declaration has not been filed as required by this Act and no member thereof is capable of maintaining a proceeding in a court in Ontario in respect of the business carried on by the limited partnership except with leave of the court. R.S.O. 1990, c. L.16, s. 20 (1).

Idem

(2) The court shall grant leave if the court is satisfied that,

(a) the failure to pay the fees or penalties or file the declaration was inadvertent;

(b) there is no evidence that the public has been deceived or misled; and

(c) at the time of the application to the court, the limited partnership has no unpaid fees or penalties and has filed all declarations required by this Act. R.S.O. 1990, c. L.16, s. 20 (2).

Contracts valid

(3) No contract is void or voidable by reason only that it was entered into by a limited partnership that was in contravention of this Act or the regulations at the time the contract was made. R.S.O. 1990, c. L.16, s. 20 (3).

Dissolution of limited partnership

21. Subject to any agreement between the partners, a partnership is dissolved,

(a) if entered into for a fixed term, by the expiration of that term; or

(b) if entered into for an undefined time, by a general partner giving notice to the other partner or partners of its intention to dissolve the limited partnership, in which case the limited partnership is dissolved as from the date of filing of the declaration of dissolution with the Registrar.

Dissolution of limited partnership upon a general partner ceasing to be general partner

21.1 The death or incapacity to manage property within the meaning of the Substitute Decisions Act, 1992 of a general partner who is an individual, or the dissolution or otherwise ceasing to exist of any other person that is a general partner, or the resignation or removal of a general partner as general partner, dissolves a limited partnership unless the business is continued,

(a) by the remaining general partners, pursuant to a right to do so contained in the partnership agreement;

(b) by a new general partner appointed by some or all of the limited partners pursuant to a right to appoint a new general partner contained in the partnership agreement, provided that such new general partner is appointed within 90 days of the previous general partner having ceased to be a general partner; or

(c) by a new general partner appointed with the consent of all the remaining partners, provided that such new general partner is appointed within 90 days of the previous general partner having ceased to be a general partner.

Dissolution of limited partnership by the court

21.2. On application by a partner, or with the leave of the court, by any other person, the court may order a dissolution of the limited partnership, whenever it is not reasonably practicable to carry on the business in conformity with the partnership agreement or applicable law.

Repealed

22.

Declaration of dissolution

23. (1) A declaration of dissolution shall be filed with the Registrar when,

(a) the limited partnership is dissolved; or

(b) all of the limited partners cease to be limited partners.

Idem

(2) The declaration of dissolution shall be signed by at least one of the general partners.

Declaration cancelled

(3) When the declaration of dissolution is filed, the declaration filed under subsection 3 (1) is cancelled.

Settling accounts on dissolution – winding up

24. In settling accounts in connection with the dissolution of a limited partnership, the liabilities of the limited partnership to creditors, except to limited partners on account of their contributions and to general partners, shall have priority over distributions to partners, and then, unless the partnership agreement provides otherwise, shall be distributed according to the following order of priority:

1. To limited partners in respect of their share of the profits and other compensation by way of income on account of their contributions.
2. To limited partners in respect of their contributions.
3. To general partners other than for capital and profits.
4. To general partners in respect of profits.
5. To general partners in respect of capital. R.S.O. 1990, c. L.16, s. 24.

Delivery of notices

24.1 (1) A notice or other document that is required or permitted by this Act to be sent by the Registrar may be sent by ordinary mail or by any other method, including registered mail, certified mail or prepaid courier, if there is a record by the person who has delivered it that the notice or document has been sent. 1994, c. 27, s. 87 (6).

Same

(2) A notice or other document referred to in subsection (1) may be sent by telephone transmission of a facsimile of the notice or other document or by another form of electronic transmission where there is a record that the notice or other document has been sent. 1994, c. 27, s. 87 (6).

Deemed delivery

(3) A notice or other document sent by mail by the Registrar shall be deemed to be received by the intended recipient on the earlier of,

- (a) the day the intended recipient actually receives it; or
- (b) the fifth day after the day it is mailed. 1994, c. 27, s. 87 (6).

Same

(4) A notice or other document sent by a method referred to in subsection (2) shall be deemed to be received by the intended recipient on the earlier of,

- (a) the day the intended recipient actually receives it; or
- (b) the first business day after the day the transmission is sent by the Registrar. 1994, c. 27, s. 87 (6).

Cancellation of declaration

24.2 The Registrar may cancel a declaration filed under subsection 3 (1) for failure to pay the required fee if the limited partnership is given 21 days' notice of the intention to cancel. 1994, c. 27, s. 87 (7); 1998, c. 18, Sched. E, s. 162.

Declaration – Extra-provincial limited partnership

25. (1) No extra-provincial limited partnership shall carry on business in Ontario unless it has filed a declaration with the Registrar that sets forth the information required by subsection 3 (2) and states the jurisdiction in which the extra-provincial limited partnership is organized. R.S.O. 1990, c. L.16, s. 25 (1).

Carry on business

(2) For the purposes of this section, the term 'carry on business in Ontario' includes any extra-provincial limited partnership where,

- (a) it has employees, agents or other independent contractors in Ontario engaged in the carrying on of its business on its behalf;

- (b) it has an office warehouse or other place of business in Ontario; or
- (c) it owns real property situate in Ontario.

(2.1) (A) For greater certainty, an extra-provincial limited partnership shall not be deemed to carry on business in Ontario by reason only of conducting one or more of the following activities in Ontario:

- (a) effecting a distribution of securities;
- (b) maintaining, defending, and/or settling an action or proceeding;
- (c) holding meetings of its partners or carrying on any other activity concerning its internal affairs;
- (d) maintaining accounts in financial institutions;
- (e) maintaining offices or agencies for the transfer, exchange, and registration of the extra-provincial limited partnership's own securities or maintaining trustees or depositories with respect to those securities;
- (f) selling goods or services to Ontario residents, or soliciting or obtaining orders for such goods or services, whether by mail, telephonic or electronic communications or through employees or agents or other persons outside Ontario;
- (g) subject to the Mortgage Brokerages, Lenders and Administrators Act, 2006, creating or acquiring indebtedness, mortgages, or security interests in real or personal property, or securing or collecting debts or enforcing mortgages or other security interests in property securing the debts, and realizing on any property so acquired; or
- (h) engaging in an isolated transaction that is not one in the course of similar transactions of a like nature.

Signing of declaration

(3) The declaration filed under subsection (1) shall be signed by all of the general partners. R.S.O. 1990, c. L.16, s. 25 (3).

Power of attorney

(4) An extra-provincial limited partnership shall execute a power of attorney in the prescribed form appointing a person resident in Ontario or a corporation having its head or registered office in Ontario to be the attorney and representative in Ontario of the extra-provincial limited partnership. 1994, c. 27, s. 87 (8).

Same

(5) The attorney and representative in Ontario of the extra-provincial limited partnership shall keep the power of attorney referred to in subsection (4) at its address set out in the declaration filed under subsection (1). 1994, c. 27, s. 87 (8).

Same

(6) Upon request and without charge, the attorney and representative shall permit any person to inspect the power of attorney during the normal business hours of the attorney and representative and to make a copy of it. 1994, c. 27, s. 87 (8).

Repealed

(6.1)

Exemption

(6.2) Subsections (4), (5) and (6) do not apply to an extra-provincial limited partnership formed in another Canadian jurisdiction that has an office or other place of business in Ontario. 1998, c. 18, Sched. E, s. 163.

Declaration of change

(7) An extra-provincial limited partnership shall file a declaration of change with the Registrar for any change in information required to be stated in the declaration under subsection (2) and the declaration shall be signed in the manner described in section 19. R.S.O. 1990, c. L.16, s. 25 (7).

Declaration of withdrawal

(8) An extra-provincial limited partnership may cancel the declaration and the power of attorney by filing with the Registrar a declaration of withdrawal signed by at least one of the general partners. R.S.O. 1990, c. L.16, s. 25 (8).

Record of limited partners

26. (1) The general partners of every extra-provincial limited partnership that has filed a declaration under subsection 25 (1) shall maintain a current record of the limited partners stating, for each limited partner, the prescribed information. R.S.O. 1990, c. L.16, s. 26 (1).

Where record to be kept

(2) Subject to subsection (3), the record of limited partners shall be kept at the limited partnership's principal place of business in Ontario. R.S.O. 1990, c. L.16, s. 26 (2).

Idem

(3) If an extra-provincial limited partnership does not have a principal place of business in Ontario, the record of limited partners shall be kept by the attorney and representative in Ontario of the extra-provincial limited partnership at the address stated in the power of attorney filed under subsection 25 (4). R.S.O. 1990, c. L.16, s. 26 (3).

Right to inspect

(4) Any partner may inspect the record of limited partners during the normal business hours of the limited partnership or the limited partnership's attorney and representative and may make copies of and take extracts from it. R.S.O. 1990, c. L.16, s. 26 (4).

Registrar may require copy of record

(5) The Registrar may at any time by written notice require any general partner or a limited partnership's attorney and representative to provide to the Registrar a copy of the record of limited partners. R.S.O. 1990, c. L.16, s. 26 (5).

Copy of record to be provided

(6) Upon receipt of the Registrar's notice, the person to whom it is directed shall, within the time specified in the notice, provide a copy of the record of limited partners to the Registrar.

Liability of limited partner

27. (1) A limited partner of an extra-provincial limited partnership is not liable in Ontario as a general partner of the extra-provincial limited partnership by reason only that it carries on business in Ontario without filing the declaration and power of attorney required by this Act. R.S.O. 1990, c. L.16, s. 27 (1).

Laws applicable to extra-provincial limited partnerships

(2) The laws of the jurisdiction under which an extra-provincial limited partnership is organized govern its organization and internal affairs and the limited liability of its limited partners. R.S.O. 1990, c. L.16, s. 27 (2).

Ability to sue

28. (1) No extra-provincial limited partnership that has unpaid fees or penalties or in respect of which a declaration or power of attorney has not been filed as required by this Act and no member thereof is capable of maintaining a proceeding in a court in Ontario in respect of the business carried on by the extra-provincial limited partnership except with leave of the court. R.S.O. 1990, c. L.16, s. 28 (1).

Idem

(2) The court shall grant leave if the court is satisfied that,

(a) the failure to pay the fees or penalties or file the declaration or power of attorney was inadvertent;

(b) there is no evidence that the public has been deceived or misled; and

(c) at the time of the application to the court, the extra-provincial limited partnership has no unpaid fees or penalties and has filed all declarations and powers of attorney required by this Act. R.S.O. 1990, c. L.16, s. 28 (2).

Contracts valid

(3) No contract is void or voidable by reason only that it was entered into by an extra-provincial limited partnership that was in contravention of this Act or the regulations at the time the contract was made. R.S.O. 1990, c. L.16, s. 28 (3).

Effect of false statement in declaration

29. Where a declaration contains a false or misleading statement, any person suffering loss as a result of relying upon the statement may hold liable,

(a) every general partner who knew when signing the declaration that the statement was false or misleading; and

(b) every general partner who became aware after signing the declaration that the statement was false or misleading and failed within a reasonable time to file a declaration of change. R.S.O. 1990, c. L.16, s. 29.

Effect of false statement in record of limited partners

30. Where a record of limited partners contains a false or misleading statement, any person suffering loss as a result of relying upon the statement may hold liable,

(a) every general partner; and

(b) every limited partner who became aware that the statement was false or misleading and failed within reasonable time to take steps to cause the record of limited partners to be corrected. R.S.O. 1990, c. L.16, s. 30.

Liability of person mistakenly believing the person is a limited partner

31. A person who contributes to the capital of a business carried on by a person or partnership erroneously believing that the person has become a limited partner in a limited partnership,

(a) is not, by reason only of exercising the rights of a limited partner, a general partner with the person or in the partnership carrying on the business; and

(b) is not bound by the obligations of the person or partnership carrying on the business,

if, upon ascertaining the fact that the person is not a limited partner, promptly,

(c) renounces the person's interest in the profits or other compensation by way of income from the business; or

(d) takes steps to cause the record of limited partners to be amended to show the person to be a limited partner. R.S.O. 1990, c. L.16, s. 31.

Authority to sign

32. (1) A general or limited partner may give written authority to any other person to sign on the partner's behalf any document referred to in this Act. R.S.O. 1990, c. L.16, s. 32 (1).

Idem

(2) A person who signs a document to be filed with the Registrar under an authority referred to in subsection (1) shall indicate in the document that the person signs on behalf of a general or limited partner. R.S.O. 1990, c. L.16, s. 32 (2).

Access to documents

33. (1) Every limited partnership shall keep at its principal place of business in Ontario,

(a) a copy of the partnership agreement;

(b) a copy of the declaration and a copy of each declaration of change amending the declaration;

(c) a copy of any court order made under section 34;

(d) a copy of any written authority given under subsection 32 (1); and

(e) in the case of an extra-provincial limited partnership, a copy of the power of attorney filed with the Registrar. R.S.O. 1990, c. L.16, s. 33 (1).

Where no principal place of business

(2) Where an extra-provincial limited partnership does not have a principal place of business in Ontario, the documents referred to in subsection (1) shall be kept by the attorney and representative in Ontario of the extra-provincial limited partnership at the address stated in the power of attorney filed under subsection 25 (4). R.S.O. 1990, c. L.16, s. 33 (2).

Right to inspect

(3) Any partner may inspect any of the documents referred to in subsection (1) during the normal business hours of the partnership or the partnership's attorney and representative. R.S.O. 1990, c. L.16, s. 33 (3).

Idem

(4) Any person who has a business relationship with the partnership may inspect any of the documents referred to in clauses (1) (b), (c), (d) and (e) during the normal business hours of the partnership or the partnership's attorney and representative. R.S.O. 1990, c. L.16, s. 33 (4).

Order for compliance

34. (1) In this section,

“Court” means the Superior Court of Justice. R.S.O. 1990, c. L.16, s. 34 (1); 2001, c. 9, Sched. D, s. 14.

Application for order for compliance

(2) Where a person who is required by this Act to sign or permit inspection of a document refuses to do so, a person who is aggrieved by the refusal may apply to the Court for an order directing the person to comply with the provisions of this Act and upon such application, the Court may make such order or any other order that the Court considers appropriate in the circumstances. R.S.O. 1990, c. L.16, s. 34 (2).

Order in addition to other rights

(3) An application may be made under subsection (2) despite the imposition of a penalty in respect of the refusal and in addition to any other rights the applicant may have at law. R.S.O. 1990, c. L.16, s. 34 (3).

Offences

35. (1) Every person who,

(a) contravenes any provision of this Act or the regulations; or

(b) makes a statement in any document, material, evidence or information submitted or required by or for the purposes of this Act that, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact or that omits to state any material fact, the omission of which makes the statement false or misleading,

is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or, if such person is a corporation, to a fine of not more than \$20,000. R.S.O. 1990, c. L.16, s. 35 (1).

False statements wilful

(2) No person is guilty of an offence referred to in clause (1) (b) if the person did not know that the statement was false or misleading and in the exercise of reasonable diligence could not have known that the statement was false or misleading. R.S.O. 1990, c. L.16, s. 35 (2).

Liability of directors and officers

(3) Where a corporation is guilty of an offence under subsection (1), every director or officer of such corporation, and where the corporation is an extra-provincial corporation, every person acting as its representative in Ontario, who authorized, permitted or acquiesced in such an offence is also guilty of an offence and on conviction is liable to a fine of not more than \$2,000. R.S.O. 1990, c. L.16, s. 35 (3).

Powers of Minister

Minister’s regulations

35.1 (0.1) The Minister may make regulations,

(a) prescribing alternative methods of filing documents under this Act and governing the filing of documents by each method, including the manner of acceptance of documents, the determination of the date of receipt and the form of electronic signatures;

(b) waiving any of the signature requirements under this Act. 2011, c. 1, Sched. 5, s. 6 (1).

Fees

(1) The Minister may by order require the payment of fees for search reports, copies of documents or information, the filing of documents or other services under this Act and may approve the amount of those fees. 1998, c. 18, Sched. E, s. 164.

Registrar’s regulations

35.2 The Registrar may make regulations prescribing forms and providing for their use. 2011, c. 1, Sched. 5, s. 6 (2).

Regulations

36. The Lieutenant Governor in Council may make regulations,

(a) REPEALED: 1998, c. 18, Sched. E, s. 165 (1).

(b) prescribing information to be set out in a declaration filed under this Act and information to be set out in a record of limited partners.

(c)-(e) REPEALED: 2011, c. 1, Sched. 5, s. 6 (3).

(f) REPEALED: 2004, c. 19, s. 15 (3).

R.S.O. 1990, c. L.16, s. 36; 1994, c. 27, s. 87 (9); 1998, c. 18, Sched. E, s. 165 (1); 2004, c. 19, s. 15 (2, 3); 2011, c. 1, Sched. 5, s. 6 (3)