

# **Limited Partnerships Bill**

Government Bill

As reported from the Commerce Committee

## **Commentary**

### **Recommendation**

The Commerce Committee has examined the Limited Partnerships Bill and recommends that it be passed with the amendments shown.

### **Introduction**

Limited partnerships are the internationally preferred investment structure for venture capital. This bill provides for a limited partnership regime, and makes amendments to the tax structure for the purpose of encouraging national and international venture capital investment.

Our commentary focuses first on our recommended amendments to the limited partnership regime, and secondly on our recommended amendments to the tax structure provisions.

### **Commencement date**

We recommend the deletion of clause 2 and the insertion of new clause 2, which details the commencement date of the Act. The bill as introduced provides for the Act to come into force on a date or dates to be appointed by the Governor-General by Order in Council.

Parliament should set a precise date for legislation to come into force, although an Order in Council process may be used where there are good reasons for deferring the commencement. We are disappointed that the explanatory note to the bill failed to provide

any reason for deferring commencement. Our recommended amendment will provide partnerships with certainty about the commencement date.

### **Powers of limited partnership**

We recommend the deletion of clause 11 and the insertion of new clause 11 to make explicit the powers, and the capacity of a limited partnership, and to accord full rights, powers, and privileges under this Act, any other Act, and the common law.

### **Dealings between limited partnership and other persons**

We recommend the insertion of new clause 14, which provides protection to third parties when they deal with a limited partnership. This means that the third party does not have to check whether or not the limited partnership has the capacity, right, or power to enter into a particular transaction or do a particular act.

### **Fiduciary obligations**

We recommend the deletion of clause 43 and the insertion of new clause 43 to set out the fiduciary obligations of a general partner. We also recommend an amendment to allow for a limited partnership agreement to vary or exclude the fiduciary obligations of a general partner.

We recommend the insertion of new clause 43A to provide that a limited partner does not have fiduciary obligations to the limited partnership or to any partner.

### **Confidentiality of limited partner information**

We considered differing views on whether information on limited partners held by the Registrar should be confidential. As introduced, the bill requires a limited partnership applying for registration to include the names and addresses of the general partners and the limited partners.

We understand that the policy intent of the bill is to encourage investment in the New Zealand capital venture market. We are concerned that potential investors might be discouraged from investing in a limited partnership if their personal details were to be made public. Our recommended amendment to clause 99 would be consistent with comparable regimes in some overseas jurisdictions, where this information is kept confidential.

We recommend the deletion of clause 99 and the insertion of new clause 99 to require that the Registrar must treat limited partner information as confidential and must not make it available to a member of the public. Furthermore, we recommend that the Official Information Act 1982 not apply to limited partner information.

Clause 48 allows the Registrar to refuse access to the register in certain circumstances. We recommend an amendment to clause 48 to ensure that the jurisdiction of the Ombudsman is not affected by decisions made by the Registrar.

### **Safe harbours**

We recommend an amendment to clause 27 to provide for a safe harbour mechanism. We also recommend the insertion of a Schedule setting out a list of permitted safe-harbour activities.

The bill provides that limited partners must not take part in the management of a limited partnership. However, a limited partner can take part in safe harbour activities. We understand that the international convention is to include safe harbour mechanisms in primary legislation, not regulations.

### **Derivative actions**

We recommend the insertion of new clauses 74A, 74B, 74C, and 74D, which provide a process for a partner to take proceedings against a limited partnership. New clause 74A sets out a threshold that must be satisfied for a proceeding to take place. It also specifies when a limited partner can institute proceedings; new clause 74B provides for the costs of the proceedings to be met by the limited partnership unless the Court considers that it would be unjust or inequitable for the limited partnership to bear them; new clause 74C provides for but does not limit the powers of the Court during the proceedings; and new clause 74D provides that the Court must approve a settlement, compromise, or discontinuation of a proceeding.

We understand that in some international jurisdictions limited partners may bring a proceeding in the name of, and on behalf of, a limited partnership where the general partners have failed without good cause to do so. We believe that there should be provision in the bill for a partner to undertake such a proceeding.

### **Banking and insurance**

We recommend that clause 13 be deleted. We note that the Partnership Act 1908 prohibits special partnerships from undertaking banking or insurance activities. We are satisfied that the generic regulation that applies to the banking and the insurance sectors provides sufficient safeguards against the governance risks that may arise when a limited partnership operates as such a business. We are also satisfied that there are no tax implications to justify the prohibition of a limited partnership from undertaking banking or insurance activities. We understand that the Inland Revenue Department will monitor developments in this area.

### **Listing agreement**

Clause 14 provides for the prohibition of limited partnerships from listing on a securities market. We are not satisfied that this clause is necessary. We understand that the generic regulatory regimes that apply to issuers to the stock exchange are sufficient to address the governance risks that may arise when a limited partnership agrees to list on the exchange. We recommend that clause 14 be deleted.

### **Method of contracting**

We recommend the insertion of new clause 15A, which sets out the contract or other enforceable obligations entered into by a limited partnership. We believe that it should be clear how a limited partnership executes deeds and agreements. We note the general principle that a limited partnership is bound when a general partner signs a document.

### **Partnerships**

We recommend an amendment to clause 9(5) to allow a limited partnership to amend a partnership agreement, either by means of a written document signed by the limited partners and the general partners, or according to the procedures set out in the limited partnership agreement.

We also recommend the insertion of new clause 9A, which specifies, but does not limit, the contents in a limited partnership agreement. Such an agreement would have to include when a limited partnership must meet, the procedure for conducting a meeting, whether the financial statements are to be audited, and when and how the limited partnership is terminated.

**Partners in limited partnership**

We believe that there is no reason why a general partner should not make a capital contribution. We recommend the deletion of clause 17(2) and the insertion of new subsection (2), which provides that a general partner may make a capital contribution in accordance with the partnership agreement.

We recommend the insertion of new clause 18A, which sets out when a person becomes a general partner; and a parallel new clause 18B, which sets out when a person becomes a limited partner.

We recommend amending clause 20 to make clear that a person may not be both a general partner and a limited partner of the same limited partnership at the same time.

**Partnership interest**

Clause 33 provides a definition of “partnership interest”. We do not believe that this definition captures the rights and obligations associated with the partnership interest of a partner, and recommend that clause 33 be amended to make these rights and obligations clear.

**Limited partnership records**

Clause 68 sets out the list of records a limited partnership must keep and the statutory timeframe for retention of such records. We recommend an amendment to clause 68(1) to require that a limited partnership must prepare its financial statements in accordance with new clause 68A.

**Obligation to prepare financial statements**

We recommend the insertion of new clause 68A, which requires limited partnerships to prepare financial statements. The usage of the term “financial statements” is in accordance with section 8(1) of the Financial Reporting Act 1993.

General partners would be responsible for ensuring that financial statements were completed and signed within five months of the balance date. We recommend the penalty of a summary conviction and a fine not exceeding \$10,000 for each general partner, if the financial statements of a limited partnership were not completed and signed within the specified time.

We also recommend the provision of a defence where a general partner or the general partners had taken all reasonable steps to ensure that the financial statements were completed and signed

within the statutory timeframe. Furthermore, it would be a defence if the general partner could not reasonably have been expected to take steps to ensure that the financial statements had been prepared within the specified time.

### **Terminating event, liquidation, and deregistration**

Clause 75 sets out the circumstances in which a limited partnership may be terminated, and provides the grounds for the appointment of a liquidator. We recommend the insertion of new clause 75A to allow for the continuing authority of the general partners to wind up the affairs of the limited partnership and to complete transactions commenced before the time of the terminating event.

We recommend an amendment to clause 76 to allow a limited partnership, by a resolution of the partnership, to appoint a liquidator, if a terminating event had occurred under section 75.

We recommend the insertion of new clause 83A to require the Registrar, upon notification, to deregister a liquidated limited partnership.

### **Voluntary deregistration of a limited partnership**

We recommend the insertion of new clause 84A, which provides a process for a limited partnership seeking voluntary deregistration. This clause sets out the requirements to be satisfied before the Registrar deregisters a limited partnership, which includes written notice from the Commissioner of Inland Revenue that the Commissioner has no objection to a limited partnership being deregistered. It also allows a limited partner, authorised by a resolution of a limited partnership, to make a request to the Registrar to deregister the limited partnership.

We recommend the insertion of new clause 84B to ensure that provisions of the Companies Act 1993 would apply when a limited partnership had been deregistered.

### **Voluntary administration**

We recommend the insertion of new clause 84C to apply Part 15A of the Companies Act 1993, with the necessary modifications, to a limited partnership. Part 15A of the Companies Act 1993 details the process to be followed when a limited partnership goes into voluntary administration.

## **Taxation**

We recommend amendments to the bill arising from the enactment of the Income Tax Act 2007, including the restructuring of Parts 5 and 6. We also recommend replacing all references to the Income Tax Act 2004 with references to the Income Tax Act 2007.

### **Limited partnerships on stock exchange**

Clause 119 in the bill as introduced provided for the definition of “company”. We recommend that this clause be replaced by new clause 125. We agree that the definition of company should include a listed limited partnership. We understand that it is standard international practice for listed limited partnerships to be treated as companies for tax purposes.

### **Transactions between partners**

Clause 115 in the bill as introduced treated transactions between partners at market value for tax purposes. Some submitters argued that such transactions should not be treated at market value for tax purposes. We disagree, and note that the purpose of this clause is to protect the tax base.

To clarify this purpose, we recommend the insertion of new clause 119 to provide a specific anti-avoidance rule, which deems a transaction to have occurred at market value where the transaction is subject to an arrangement entered into to avoid tax.

### **Tax treatment of dissolved partnerships**

Clause 116 in the bill as introduced sets out a generic process for the tax treatment of a partnership regime. We recommend that clause 116 be replaced by new clause 121.

We recommend that new clause 121 provides for a generic process for the tax treatment of a partnership that has dissolved. We also recommend specified criteria for deeming a partnership to be finally dissolved.

As introduced, clause 116 provided for the deemed dissolution of a limited partnership when the ownership of the partnership changed by 50 percent or more within 12 months. We believe that our proposed amendment should address the concerns of submitters as it determines when a partnership is dissolved.

**Partnership share rule**

We sought clarification on the effect on a partnership of the rules as set out in new clause 121 where one partner's share of the limited partnership income was different from his or her share in the partnership assets. We recommend an amendment to clarify the term "partnership share".

**Associated persons review**

We have considered the application of the associated persons rules in the context of the limited partnership. We understand that the Inland Revenue Department is conducting a review of these rules, due to be completed in 2009. We recommend that specific provisions dealing with the application of the associated persons rules to limited partnerships be inserted pending this review.



## **Appendix**

### **Committee process**

The Limited Partnerships Bill was referred to the committee on 21 August 2007. The closing date for submissions was 5 October 2007. We received and considered 18 submissions from interested groups and individuals. We heard 10 submissions. We received advice from the Ministry of Economic Development, the Inland Revenue Department, and Nick Wells, a specialist adviser.

### **Committee membership**

Gerry Brownlee (Chairperson)

Gordon Copeland (Deputy chairperson)

Dave Hereora

Hon Darren Hughes (from 7 November 2007)

Hon Shane Jones (until 7 November 2007)

Hon Luamanuvao Winnie Laban

Simon Power

Hon Maryan Street (until 7 November 2007)

Hon Paul Swain (from 7 November 2007)

Lindsay Tisch

Dr Richard Worth

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**Key to symbols used in reprinted bill**

**As reported from a select committee**

**Struck out (unanimous)**

Subject to this Act,

Text struck out unanimously

**New (unanimous)**

Subject to this Act,

Text inserted unanimously

*(Subject to this Act,)*

Words struck out unanimously

Subject to this Act,

Words inserted unanimously

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*Hon Lianne Dalziel*

# **Limited Partnerships Bill**

Government Bill

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**The Parliament of New Zealand enacts as follows:**

**1 Title**

This Act is the Limited Partnerships Act **2007**.

**Struck out (unanimous)**

**2 Commencement**

- (1) This Act comes into force on a date to be appointed by the Governor-General by Order in Council.
- (2) One or more Orders in Council may be made appointing different dates for the commencement of different provisions.

5

**New (unanimous)**

**2 Commencement**

This Act comes into force on 1 April 2008.

**Part 1**

10

**Preliminary provisions**

**3 Purpose of Act**

The purpose of Parts 1 to 4 is to repeal the special partnership provisions of the Partnership Act 1908 and to establish a modern regulatory regime for limited partnerships that—

15

- (a) gives the business community in New Zealand the option of a flexible and internationally recognised business structure similar to limited partnerships in use in overseas jurisdictions; and

- (b) facilitates the development of the venture capital industry in New Zealand.

#### 4 Interpretation

In this Act, unless the context requires otherwise,—

**capital contribution** has the meaning given to it in **section 32(1)** 5

**chief executive** means the chief executive of the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

**Court** means the High Court 10

#### New (unanimous)

**Deputy Registrar** means a Deputy Registrar of Companies holding office under the Companies Act 1993

**document** means—

- (a) any material, whether or not it is signed or otherwise authenticated, that bears symbols (including words and figures), images, or sounds or from which symbols, images, or sounds can be derived, and includes— 15
- (i) a label, marking, or other writing which identifies or describes a thing of which it forms part, or to which it is attached: 20
- (ii) a book, map, plan, graph, or drawing:
- (iii) a photograph, film, or negative; and
- (b) information electronically recorded or stored, and information derived from that information 25

**Minister** means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act 25

#### New (unanimous)

**partner** means a general partner or a limited partner

**partnership interest** has the meaning given to it in **section 33(1)** 30

**prescribed** means prescribed by regulations made under this Act

**public notice** means,—

- (a) in respect of public notice that must be given by the Registrar, publication in 1 issue of the *Gazette* and publication on the Companies Office website for not less than 20 working days: 5
- (b) in respect of public notice that must be given by any other person, publication in— 10
  - (a) at least 1 issue of the *Gazette*; and
  - (b) at least 1 issue of a newspaper circulating in the area in which is situated—
    - (i) the limited partnership’s place of business; or
    - (ii) if the limited partnership has more than 1 place of business, its principal place of business; or 15
    - (iii) if the limited partnership has no place of business or neither its place of business nor its principal place of business is known, its registered office 20

**Registrar** means the Registrar of Companies

**New (unanimous)**

**resolution of the limited partnership** means, unless the partnership agreement provides otherwise, a resolution passed or signed by partners having contributed at least 75% of the capital contributions of all the partners. 25

**5 Act binds the Crown**  
This Act binds the Crown.

**Part 2**  
**General** 30

*Nature of limited partnership*

**6 What is limited partnership**  
(1) A limited partnership is a limited partnership that is registered under **section 44**.

- (2) For registration of a limited partnership under **section 44**,—
- (a) the limited partnership must meet the requirements set out in **section 8**; and
  - (b) an application for registration must be made in accordance with **section 45**. 5
- 7 Formation and duration of limited partnership**  
A limited partnership is formed only on its registration and continues in existence until it is deregistered (*see section 84*).
- 8 Requirements for limited partnership**
- (1) A limited partnership must have at least 1 general partner (*see section 17*) and at least 1 limited partner (*see section 18*). 10
- Struck out (unanimous)**
- (2) If a limited partnership has only 1 general partner and only 1 limited partner, they must not be the same person.
- (3) Subject to **subsection (1)**, a limited partnership may have any number of general partners and limited partners. 15
- 9 Partnership agreement**
- (1) A limited partnership must have a written partnership agreement.
  - (2) The partnership agreement is an agreement as to the affairs of the limited partnership and the conduct of its business. 20
  - (3) On registration of the limited partnership, the partnership agreement has effect as a contract between the limited partnership and each partner, and between the partners themselves, under which the limited partnership and each of the partners (including any subsequent partners) agree to observe and perform the agreement so far as it applies to them. 25
  - (4) The partnership agreement has no effect to the extent that it contravenes, or is inconsistent with, this Act.

**Struck out (unanimous)**

- (5) The partnership agreement may be amended by a written document signed by or on behalf of each of the limited partnership and the partners.

**New (unanimous)**

- (5) The partnership agreement may be amended—
- (a) by a written document signed by or on behalf of each of the limited partnership and the partners; or 5
  - (b) in accordance with the procedure specified in the partnership agreement, if any.
- 9A Contents of partnership agreement** 10
- Without limiting what may be contained in a partnership agreement, a partnership agreement must provide for the following matters:
- (a) whether there is any restriction on the ability of a partner to assign or otherwise dispose of that person’s partnership interest, and the nature of that restriction: 15
  - (b) whether there is any restriction on the business or other activities that the limited partnership may undertake, and the nature of that restriction:
  - (c) the entitlement of partners to distributions:
  - (d) whether a general partner may compete with the limited partnership and in what circumstances: 20
  - (e) when a meeting of partners must be held, and the procedure for conducting a meeting of partners:
  - (f) whether the financial statements of the limited partnership must be audited: 25
  - (g) how a partner may leave the limited partnership, including whether a partner may be expelled from the limited partnership, and how a new partner may be admitted to the limited partnership:
  - (h) when and how the limited partnership terminates: 30
  - (i) whether the limited partnership has a conflict of interest policy, and the nature of that policy.

**10 Limited partnership is separate legal person**

A limited partnership is a separate legal person.

*Powers of limited partnership***Struck out (unanimous)****11 Legal capacity**

- (1) A limited partnership has full legal capacity to do any thing that a natural or legal person may do. 5
- (2) Subsection (1) is subject to **section 13**.

**New (unanimous)****11 Capacity and powers**

Subject to this Act, any other enactment, and the general law, a limited partnership has, both within and outside New Zealand,— 10

- (a) full capacity to carry on or undertake any business or activity, do any act, or enter into any transaction; and
- (b) for the purposes of **paragraph (a)**, full rights, powers, and privileges. 15

Compare: 1993 No 105 s 16(1)

**Struck out (unanimous)****12 Partnership agreement may limit business activities**

The partnership agreement may limit the scope or the nature of the limited partnership's business.

**New (unanimous)****12 Partnership agreement may restrict capacity and powers** 20

The partnership agreement of a limited partnership may contain a provision relating to the capacity, rights, powers, or privileges of the limited partnership only if the provision restricts the capacity of the limited partnership or those rights, powers, and privileges. 25

Compare: 1993 No 105 s 16(2)



*(Business of limited partnership)*

**Struck out (unanimous)**

- |           |  |    |
|-----------|--|----|
| <b>13</b> | <b>Restriction on business of limited partnership</b><br>A limited partnership must not undertake banking or insurance business.   |    |
| <b>14</b> | <b>Limited partnership must not list on securities market</b><br>(1) A limited partnership must not be a party to a listing agreement for the listing of securities on a securities market.<br>(2) In this section, <b>securities market</b> means any market, exchange, or other facility for trading securities. | 5  |
| <b>15</b> | <b>Debts of limited partnership must be paid in money</b><br>The debts of a limited partnership must be paid in money and not in property.   | 10 |

**New (unanimous)**

- |           |   |    |
|-----------|---|----|
| <b>13</b> | <b>Validity of actions</b><br>No act of a limited partnership and no transfer of property to or by a limited partnership is invalid merely because the limited partnership did not have the capacity, the right, or the power to do the act or to transfer or take a transfer of the property.<br><small>Compare: 1993 No 105 s 17(1)</small>                     | 15 |
| <b>14</b> | <b>Dealings between limited partnership and other persons</b><br>(1) Subject to <b>subsection (2)</b> , a limited partnership, or a guarantor of an obligation of a limited partnership, may not assert against a person dealing with the limited partnership or with a person who has acquired property, rights, or interests from the limited partnership that— | 20 |
|           | (a) this Act or the partnership agreement of the limited partnership has not been complied with:  | 25 |
|           | (b) a person whose name appears as a general partner of the limited partnership in the register of limited partnerships under <b>section 47</b> —   | 30 |

## New (unanimous)

- |  |    |
|--|----|
| <ul style="list-style-type: none"> <li>(i) is not a general partner of the limited partnership;<br/>or</li> <li>(ii) has not been duly appointed; or</li> <li>(iii) does not have authority to exercise a power that a general partner of a limited partnership carrying on business of the kind carried on by the limited partnership customarily has authority to exercise:</li> </ul>   | 5  |
| <ul style="list-style-type: none"> <li>(c) a person held out by the limited partnership as a general partner, employee, or agent of the limited partnership— <ul style="list-style-type: none"> <li>(i) has not been duly appointed; or</li> <li>(ii) does not have authority to exercise a power that a general partner, employee, or agent of a limited partnership carrying on business of the kind carried on by the limited partnership customarily has authority to exercise:</li> </ul> </li> </ul> | 10 |
| <ul style="list-style-type: none"> <li>(d) a person held out by the limited partnership as a general partner, employee, or agent of the limited partnership with authority to exercise a power that a general partner, employee, or agent of a limited partnership carrying on business of the kind carried on by the limited partnership does not customarily have authority to exercise, does not have authority to exercise that power:</li> </ul>  | 15 |
| <ul style="list-style-type: none"> <li>(e) a document issued on behalf of a limited partnership by a general partner, employee, or agent of the limited partnership with actual or usual authority to issue the document is not valid or not genuine.</li> </ul>   | 25 |
| <p>(2) A person dealing with the limited partnership or a person who has acquired property, rights, or interests from the limited partnership may not rely on any of <b>subsection (1)(a) to (e)</b> if that person has, or ought to have, by virtue of his or her position with, or relationship to, the limited partnership, knowledge of the relevant matter referred to in the paragraph in question.</p>  | 30 |
| <p>(3) <b>Subsection (1)</b> of this section applies even though a person of the kind referred to in <b>subsection (1)(b) to (e)</b> acts fraudulently or forges a document that appears to have been signed on behalf of the limited partnership, unless the person dealing with the limited partnership or with a person who has acquired property, rights, or interests from the limited partnership has actual knowledge of the fraud or forgery.</p>  | 35 |

**New (unanimous)**

- (4) Nothing in this section applies in relation to the acts of a limited partner.

Compare: 1993 No 105 s 18

**15 No constructive notice**

A person is not affected by, or deemed to have notice or knowledge of the contents of, the partnership agreement or any other document relating to a limited partnership merely because it may be available for inspection at an office of the limited partnership.

5

Compare: 1993 No 105 s 19

10

**15A Method of contracting**

- (1) A contract or other enforceable obligation may be entered into by a limited partnership as follows:

(a) an obligation that, if entered into by a natural person, would, by law, be required to be by deed, may be entered into on behalf of the limited partnership in writing signed under the name of the limited partnership by—

15

(i) a general partner; or

(ii) if the partnership agreement of the limited partnership so provides, any person or class of persons whose signature or signatures must be witnessed:

20

(b) an obligation that, if entered into by a natural person, is, by law, required to be in writing, may be entered into on behalf of the limited partnership in writing by a person acting under the limited partnership's express or implied authority:

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(c) an obligation that, if entered into by a natural person, is not, by law, required to be in writing, may be entered into on behalf of the limited partnership in writing or orally by a person acting under the limited partnership's express or implied authority.

30

- (2) **Subsection (1)** applies to a contract or other obligation—

(a) whether or not that contract or obligation was entered into in New Zealand; and

35

**New (unanimous)**

- (b) whether or not the law governing the contract or obligation is the law of New Zealand.

Compare: 1993 No 105 s 180

*Partners in limited partnership***16 Who may be partner**

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- (1) Any person(*, legal or natural,*) may be a partner of a limited partnership.
- (2) A partnership (*established under*) governed by the Partnership(s) Act 1908 or an overseas limited partnership may be a partner of a limited partnership.

10

**17 General partner**

- (1) A general partner is responsible for the management (*and business*) of the partnership.

**Struck out (unanimous)**

- (2) A general partner must not make a capital contribution to the limited partnership.

15

**New (unanimous)**

- (2) Subject to the partnership agreement, a general partner may, but does not have to, make a capital contribution to the limited partnership.

**18 Limited partner**

20

- (1) A limited partner must not take part in the management (*of the business*) of the limited partnership.
- (2) Subject to the partnership agreement, a limited partner may, but does not have to, make a capital contribution to the limited partnership.

**New (unanimous)****18A When person becomes general partner**

A person becomes a general partner of a limited partnership when that person's name is entered in the register of limited partnerships as a general partner of the limited partnership.

**18B When person becomes limited partner**

5

A person becomes a limited partner of a limited partnership when that person's name is entered in the register of limited partnerships as a limited partner of the limited partnership.

**19 Restriction on limited partner as party to limited partnership proceeding**

10

A limited partner must not be a party in that capacity to any proceeding in a court or tribunal in which the limited partnership is a party unless—

- (a) the limited partnership is suing the limited partner; or
- (b) the limited partner is suing the limited partnership; or
- (c) the proceeding is an application *(for an order)* that the limited partnership *(terminate.)* be terminated; or

15

**New (unanimous)**

- (d) the proceeding is an application or proceeding brought under **section 74A**.

**20 Person may not be both general partner and limited partner**

20

A person may not be both a general partner and a limited partner of the same limited partnership at the same time.

**21 Change of partner status**

(1) A general partner may become a limited partner.

25

(2) A limited partner may become a general partner.

**Struck out (unanimous)**

- (3) The change in partner status is effective when it is entered in the register.

**New (unanimous)**

- (4) This section is subject to **section 8(1)**.

*Liability of general partners*

**22 Debts and liabilities of limited partnership include overseas-connected debts and liabilities** 5

In **sections 23 to 27**, the debts and liabilities of the limited partnership include any debt or liability of the limited partnership incurred in connection with the business of the limited partnership conducted overseas. 10

**23 Joint and several liability of general partner for debts and liabilities**

- (1) Each general partner is jointly and severally liable with the limited partnership and the other general partners for the unpaid debts and liabilities of the limited partnership incurred while that person is a general partner. 15

**New (unanimous)**

- (1A) If a general partner is an individual, after death his or her estate is also severally liable in a due course of administration for the unpaid debts and liabilities of the limited partnership incurred while that person was a general partner, subject to prior payment of the general partner's separate debts. 20

- (2) This section is subject to **section 25**.

**24 Joint and several liability of general partner for omission or wrong**

- (1) Each general partner is jointly and severally liable with the limited partnership and the other general partners for a wrong or omission by the limited partnership occurring while that person is a general partner. 25

**Struck out (unanimous)**

(2) If a general partner is an individual, after death his or her estate is also severally liable in a due course of administration for those debts and liabilities of the limited partnership that are unpaid, subject to prior payment of the general partner's separate debts.

5

(3) This section is subject to **section 25**.

**25 Limitations on general partner's liability**

Despite **sections 23 and 24** and unless the partnership agreement provides otherwise, a general partner is only liable for any debts or liabilities of the limited partnership to the extent that the limited partnership cannot pay those debts or liabilities.

10

**New (unanimous)**

**25A Obligation imposed on general partner under this Act**

In any case where this Act requires something to be done by the general partner or (if there is more than 1) the general partners, each general partner is responsible for ensuring that it is done.

15

*Liability of limited partners*

**26 Liability of limited partner who takes part in management (of business) of limited partnership**

(1) A limited partner (A) is liable, to the same extent as a general partner, to a person (B) who deals with the limited partnership if, at the time that the debt or liability of the limited partnership to B was incurred, all of the following applied:

20

- (a) A took part in the management of the limited partnership; and
- (b) B knew that A took part in the management of the limited partnership; and
- (c) B believed on reasonable grounds that A was a general partner.

25

(2) **(Section 19 does) Sections 19 and 25 do** not apply in a case where **subsection (1)** applies.

30

- 27 Liability of limited partner who does not take part in management (of business) of limited partnership**
- (1) A limited partner who does not take part in the management of *(the business of)* the limited partnership is not liable for the debts and liabilities of the limited partnership. 5
- (2) The limitation on the liability of a limited partner in **subsection (1)** extends to any liability incurred—
- (a) in connection with the conduct of the limited partnership’s business overseas; or
- (b) as a result of an act or omission overseas of— 10
- (i) a general partner or limited partner; or
- (ii) the limited partnership; or
- (iii) any officer, employee, agent, or representative of a general partner; or
- (iv) any officer, employee, agent, or representative of the limited partnership. 15
- (3) None of the activities *(prescribed by regulations made under this Act)* listed in the Schedule constitutes taking part in the management *(of the business)* of the limited partnership.

*Name of limited partnership* 20

- 28 Name of limited partnership must include words limited partnership**
- (1) The name of a limited partnership must include the words “limited partnership” or the abbreviation “LP” or “L.P.” at the end of the name. 25

**Struck out (unanimous)**

- (2) The name of the limited partnership must be clearly and conspicuously written on any document issued by or on behalf of a limited partnership.
- (3) In **subsection (2)**, **document** does not include an informal communication. 30

**New (unanimous)**

- (2) A person that is not a limited partnership must not use the words “limited partnership” or the abbreviation “LP” or “L.P.” in a way that suggests to a reasonable person that that



**New (unanimous)**

- person, or the business carried on by that person, is a limited partnership.
- (3) A limited partnership must ensure that its name is clearly stated in—
- (a) every written communication sent by, or on behalf of the limited partnership; and 5
  - (b) every document issued or signed by, or on behalf of, the limited partnership that evidences or creates a legal obligation of the limited partnership.
- (3A) For the purposes of **subsection (3)** and **section 28A**, a limited partnership may use a generally recognised abbreviation of a word or words in its name if it is not misleading to do so. 10
- (3B) If, within the period of 12 months immediately preceding the giving by a limited partnership of any public notice, the name of the limited partnership was changed, the limited partnership must ensure that the notice states— 15
- (a) that the name of the limited partnership was changed in that period; and
  - (b) the former name or names of the limited partnership.
- (4) If a limited partnership fails to comply with **subsection ((2) (3) or (3B))**,— 20
- (a) the limited partnership commits an offence and is liable on summary conviction to a fine not exceeding \$5,000; and
  - (b) every general partner of the limited partnership commits an offence and is liable on summary conviction to a fine not exceeding \$5,000. 25

**New (unanimous)**

- (5) A person who contravenes **subsection (2)** commits an offence and is liable on summary conviction to a fine not exceeding \$5,000. 30

**28A Liability if name of limited partnership incorrectly stated**

- (1) This section applies if—

**New (unanimous)**

- |  |          |
|--|----------|
| <p>(a) a document that evidences or creates a legal obligation of a limited partnership is issued or signed by or on behalf of the limited partnership; and</p> <p>(b) the name of the limited partnership is incorrectly stated in the document.</p>  | 5        |
| <p>(2) In a case to which this section applies, every person who issued or signed the document is liable to the same extent as the limited partnership if the limited partnership fails to discharge the obligation unless—</p>  |          |
| <p>(a) the person who issued or signed the document proves that the person in whose favour the obligation was incurred was aware at the time the document was issued or signed that the obligation was incurred by the limited partnership; or</p> <p>(b) the Court is satisfied that it would not be just and equitable for the person who issued or signed the document to be so liable.</p> | 10<br>15 |

**29 Registrar may object to name****Struck out (unanimous)**

- |   |    |
|---|----|
| <p>(1) The Registrar may object to the name with which a limited partnership proposes to register and may refuse to register the partnership with that name.</p>  | 20 |
| <p>(2) The Registrar must not register a limited partnership with a name—</p>   |    |
| <p>(a) the use of which would contravene an enactment; or</p> <p>(b) that is identical to, or almost identical to, the name of a company registered under the Companies Act 1993 or another limited partnership or an overseas limited partnership registered under this Act; or</p> <p>(c) that, in the Registrar's opinion, is offensive.</p> | 25 |

**30 Change of name** 30

- (1) A limited partnership may apply to the Registrar to change its name.
- (2) The application must be in the prescribed form.

- (3) The Registrar may change the name of a limited partnership by amending the register.
- (4) A change of name of a limited partnership—
  - (a) takes effect from the date of amendment of the register; and 5
  - (b) does not affect rights or liabilities of the limited partnership; and
  - (c) does not affect legal proceedings by or against the limited partnership, and legal proceedings begun or continued against the limited partnership under its former name may be begun or continued against it under its new name. 10

**31 Registrar may change name**

- (1) If the Registrar believes on reasonable grounds that a limited partnership has been registered with a name with which it ought not to have been registered, the Registrar may direct the limited partnership to apply to change its name within the time specified to a name that complies with this Act. 15
- (2) A direction by the Registrar under **subsection (1)** must— 20
  - (a) be in writing; and
  - (b) specify a date for the application for a change of name that is not less than 20 working days after the date on which the direction was served on the limited partnership.
- (3) If the limited partnership does not, within the time specified in the direction, apply to change its name to a name that complies with this Act, the Register may change its name by amending the register. 25

**New (unanimous)**

- (4) If the Registrar registers a new name under **subsection (3)**, the Registrar must issue a certificate of registration for the limited partnership recording the new name of the limited partnership, and **section 30(4)** applies in relation to the new name as if the name of the limited partnership had been changed under that section. 30

*Capital contribution and partnership interest***32 Capital contribution**

- (1) The capital contribution of a (*limited*) partner is the share of the assets contributed, or agreed to be contributed, by a (*limited*) partner to the limited partnership or assigned to a (*limited*) partner under **section 33(2)**. 5

**Struck out (unanimous)**

- (2) The capital contribution of a limited partner may be made in the form of property and need not be paid in money.

**New (unanimous)**

- (2) The capital contribution of a partner may take any form and may be cash, promissory notes, contracts for future services, or real or personal property, and may be made on terms (if any) as provided by the partnership agreement from time to time. 10

- (3) A loan by a (*limited*) partner to the limited partnership is not a capital contribution. 15

**33 Partnership interest****Struck out (unanimous)**

- (1) The partnership interest of a limited partner is the limited partner's—  
 (a) share of the net assets of the limited partnership; and  
 (b) right to receive distributions; and  
 (c) any other benefit conferred by the limited partnership agreement. 20

**New (unanimous)**

- (1) The partnership interest of a partner—  
 (a) is the partner's—  
 (i) share of the assets of the limited partnership; and 25

**New (unanimous)**

<ul style="list-style-type: none"> <li style="margin-left: 40px;">(ii) right to receive distributions from the limited partnership; and</li> <li style="margin-left: 40px;">(iii) right to any other benefit conferred by the partnership agreement; and</li> <li>(b) includes any liability or other burden of the partner in relation to the limited partnership.</li> </ul>	5
<ul style="list-style-type: none"> <li>(2) A (<i>limited</i>) partner may assign <u>or otherwise dispose of</u> all or part of that person's partnership interest to— <ul style="list-style-type: none"> <li>(a) another (<i>limited</i>) partner of the same limited partnership:</li> <li>(b) any other person if all the general partners agree.</li> </ul> </li> <li>(3) However, the partnership agreement may <u>extend</u>, vary, restrict, or exclude a (<i>limited</i>) partner's right to assign that person's partnership interest.</li> </ul>	
	10
<p><i>Distributions to (limited) partners</i></p>	
	15
<p><b>34 Meaning of distribution</b></p> <p>In this Act, unless the context otherwise requires, <b>distribution</b>—</p>	
<ul style="list-style-type: none"> <li>(a) means— <ul style="list-style-type: none"> <li>(i) the direct or indirect transfer of money or property of the limited partnership to or for the benefit of a (<i>limited</i>) partner; or</li> <li>(ii) the incurring of a debt to or for the benefit of a (<i>limited</i>) partner; and</li> </ul> </li> <li>(b) includes a discount to a (<i>limited</i>) partner on goods and services provided by the limited partnership.</li> </ul>	20 25
<p><b>35 Distribution must be authorised</b></p> <p>A distribution must be authorised in writing by each general partner.</p>	
<p><b>36 Distribution must not be authorised unless limited partnership solvent</b></p>	
<ul style="list-style-type: none"> <li>(1) A general partner must not authorise a distribution unless that person is satisfied on reasonable grounds that, immediately after the distribution is made, the limited partnership will be solvent.</li> </ul>	30 35

- (2) A general partner is deemed to have breached **subsection (1)**, if, before the distribution is made, the general partner ceases to be satisfied on reasonable grounds that, immediately after the distribution is made, the limited partnership will be solvent.
- (3) Each general partner who authorises a distribution must sign a certificate stating that, in that person's opinion, the limited partnership will, immediately after the distribution, be solvent and the grounds for that opinion. 5
- (4) A general partner who fails to comply with **subsection (3)** commits an offence and is liable on summary conviction to a fine not exceeding \$5,000. 10

### 37 Solvency test

- (1) A limited partnership is solvent for the purposes of the payment of a distribution if—
- (a) the limited partnership is able to pay its debts as they become due in the normal course of business; and 15
- (b) the value of the limited partnership's assets is greater than its liabilities, including its contingent liabilities.
- (2) In determining whether the value of the limited partnership's assets is greater than its liabilities, a general partner— 20
- (a) must have regard to all circumstances that the general partner knows or ought to know affect, or may affect, the value of the limited partnership's assets and the value of its liabilities, including its contingent liabilities; and 25
- (b) may rely on valuations of assets or estimates of liabilities that are reasonable in the circumstances.
- (3) In determining, for the purposes of this section, the value of a contingent liability, account may be taken of— 30
- (a) the likelihood of the contingency occurring; and
- (b) any claim that the limited partnership is entitled to make and can reasonably expect to be met to reduce or extinguish a contingent liability.

Compare: 1993 No 105 s 4

### 38 Liability of general partner to repay unauthorised distribution 35

A general partner who breaches **section 36(1)** must repay so much of the distribution as is not able to be recovered from the (*limited*) partner to whom the distribution is made.

<b>39</b>	<b>Liability of (<i>limited</i>) partner to repay distribution</b>	
(1)	A ( <i>limited</i> ) partner (A) to whom a distribution has been made at a time when the limited partnership did not, immediately after the distribution, satisfy the solvency test in <b>section 37</b> must repay the distribution if A knew that, immediately after the distribution was made, the limited partnership would not satisfy the solvency test in <b>section 37</b> .	5
(2)	A's liability under <b>subsection (1)</b> ceases after the longer of—	
	(a) 3 years after the distribution is made; or	
	(b) the period specified (if any) in the partnership agreement.	10
<b>40</b>	<b>Defence of partial solvency</b>	
(1)	This section applies if, in an action brought against a general partner under <b>section 38</b> or a ( <i>limited</i> ) partner under <b>section 39</b> , the Court is satisfied that the limited partnership could, by making a distribution of a lesser amount, have satisfied the solvency test.	15
(2)	The Court may permit the limited partner to retain, or relieve the general partner from liability in respect of, an amount equal to the value of any distribution that could properly have been made.	20
<i>Agency</i>		
<b>41</b>	<b>Limited partner not agent of limited partnership, general partner, or limited partner</b>	
	A limited partner is not the agent of the limited partnership or of any general partner or of any other limited partner, and has no authority to bind any of them.	25
<b>42</b>	<b>General partner is agent of limited partnership(, <i>other general partners, and limited partners</i>)</b>	
	A general partner is the agent of the limited partnership(, <i>each other general partner, and each limited partner</i> ) for the purposes of the business of the limited partnership.	30

**New (unanimous)****42A Notice to general partner is notice to limited partnership**

Notice to any general partner of any matter relating to the affairs of the limited partnership operates as notice to the limited partnership, except in the case of a fraud on the limited partnership committed by or with the consent of that general partner.

5

Compare: 1908 No 139 s 19

*Fiduciary obligations***Struck out (unanimous)****43 Exclusion of fiduciary obligations under Partnership Act 1908**

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Sections 31 to 33 of the Partnership Act 1908 do not apply to a limited partner.

**New (unanimous)****43 General partner's fiduciary obligations**

(1) A general partner must—

(a) render true accounts and full information of all things affecting the limited partnership to the limited partnership, to any partner, or to the legal representative of any of them; and

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(b) account to the limited partnership for any profit derived by the general partner without the consent of the limited partnership from—

20

(i) any transaction concerning the limited partnership; or

(ii) the use by the general partner of the name or of any property or business connection of the limited partnership; and

25

(c) account for and pay to the limited partnership any profit made by the general partner in a business if—

(i) the business is of the same nature, and competes with, the business of the limited partnership; and

30



**New (unanimous)**

- (ii) the business is carried on by the general partner without the consent of the limited partnership.
  - (2) The fiduciary obligations described in **subsection (1)** may be varied or excluded by the partnership agreement.
- Compare: 1908 No 139 ss 32, 33, 34

5

**43A Fiduciary obligations of limited partner excluded**

Subject to the partnership agreement, a limited partner does not owe the limited partnership or any partner a fiduciary obligation in that person’s capacity as a limited partner.

*Registration*

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**44 Registration by entry in register**

- (1) As soon as is reasonably practicable after receiving a properly completed application for registration of a limited partnership, the Registrar must register the limited partnership by entering its name in the register of limited partnerships maintained under **section 47(1)(a)**.
- (2) This section is subject to **section 29**.

15

**45 Application for registration**

- (1) An application to the Registrar for registration of a limited partnership must—
  - (a) be made in the prescribed form (if any); and
  - (b) contain the prescribed information; and
  - (c) be accompanied by the consent in writing of each proposed general partner to registration; and
  - (d) be accompanied by a list of the names, dates of birth, and addresses of the proposed limited partners; and

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25

**New (unanimous)**

- (da) be accompanied by a certificate by the applicant that the proposed partners of the limited partnership have entered into a partnership agreement that complies with **section 9A**; and

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- (e) be accompanied by the prescribed fee (if any).

- (2) For the purposes of **subsection (1)(c)**, the consent of a person may be given by that person's agent authorised to do so in writing.

**46 Certificate of registration**

As soon as possible after registering a limited partnership, the Registrar must issue a certificate of registration to the limited partnership. 5

*Registers of limited partnerships*

**47 Registers**

- (1) The Registrar must establish and maintain registers of— 10
- (a) limited partnerships; and
  - (b) overseas limited partnerships.
- (2) The registers may be kept in any manner that the Registrar thinks fit, including, either wholly or partly, by means of a device or facility— 15
- (a) that records or stores information electronically or by other means; and
  - (b) that permits the information so recorded or stored to be readily inspected or reproduced in usable form.
- (3) The registers are prima facie evidence of any matters required or authorised by or under this Act to be entered in them. 20

**48 Public access to registers**

- (1) The registers must be available for access and searching by members of the public at all times unless suspended under **subsection (2)**. 25
- (2) The Registrar may refuse access to a register or suspend its operation, in whole or in part,—
- (a) if the Registrar considers that it is not practical to provide access to the register; or
  - (b) for any other reason that is prescribed by regulations made under this Act. 30

**New (unanimous)**

- (3) Nothing in **subsection (2) or section 85** precludes any person from exercising a right under the Ombudsmen Act 1975 or the Official Information Act 1982 but any such right is subject to **sections 50(2) and 99**.

- 49 Certified copy of information on registers** 5
- (1) Subject to **section 50(2)**, the Registrar must provide a copy, or a certified copy, of any information on a register to any person who applies for it and pays the prescribed fee (if any).
- (2) A certified copy of information on a register signed by the Registrar is conclusive evidence for all purposes that the information in the certified copy has been duly entered in the register. 10

- 50 Contents of registers**
- (1) The register of limited partnerships must contain, in respect of each limited partnership, the following information: 15
- (a) its name:

**New (unanimous)**

- (ab) the date of its registration:

- (b) its registration number:  
 (c) the address of its registered office:  
 (d) the name and address of each general partner: 20

**New (unanimous)**

- (da) the date of birth of each general partner (where applicable):

- (e) the name, date of birth (where applicable), and address of each limited partner:  
 (f) its address for service: 25  
 (g) any other prescribed information.
- (2) The information in **subsection (1)(da) and (e)** (*must not be available to a member of the public and*) must not be able to be searched under **section 58** except by the Registrar.

- (3) The register of overseas limited partnerships must contain, in respect of each overseas limited partnership, the following information:
- (a) the name of the overseas limited partnership: 5
  - (b) its registration number: 5
  - (c) the name and address of each general partner:
  - (d) the overseas address of its registered office:
  - (e) the address of its principal place of business overseas:
  - (f) the name and address of its agent for service in New Zealand: 10
  - (g) any other prescribed information.
- 51 Registrar must update register**
- The Registrar must update the information contained in a register as soon as practicable after notification that the information has changed. 15
- 52 General partners must notify Registrar of any change in limited partnership details (*in register*)**
- (1) The general partners must notify the Registrar in the prescribed form of any change in any of the details entered in a register in relation to the limited partnership. 20
  - (2) The change must be notified within 10 working days.
  - (3) If the general partners fail to comply with this section, each general partner commits an offence and is liable on summary conviction to a fine not exceeding \$10,000.
- 53 General partners must send written consent of new general partner to Registrar** 25
- (1) The general partners must send to the Registrar the written consent of a new general partner to becoming a general partner of the limited partnership.
  - (2) The change must be notified within 10 working days of the new general partner becoming a general partner of the limited partnership. 30
  - (3) The consent must be in the prescribed form.
  - (4) If the general partners fail to comply with this section, each general partner commits an offence and is liable on summary conviction to a fine not exceeding \$10,000. 35

**Struck out (unanimous)**

**54 When Registrar must deregister limited partnership**

On notification of completion of liquidation of a limited partnership, the Registrar must deregister it.

**55 Rectification or correction of register**

- (1) The Registrar may,— 5
  - (a) on the application of any person, rectify a register if the Registrar is satisfied that any information has been wrongly entered in, or omitted from, that register; or
  - (b) if it appears to the Registrar that any particulars have been incorrectly entered in a register due to a clerical error (*by the Registrar*), correct those particulars. 10
- (2) Before the Registrar rectifies a register under **subsection (1)(a)**, the Registrar must—
  - (a) give written notice to the limited partnership that an application has been made to rectify the register in relation to that limited partnership (including details of that application); and 15
  - (b) give public notice setting out—
    - (i) the name of the applicant; and
    - (ii) the name of the limited partnership; and 20
    - (iii) the reasons for and details of the changes sought to be made to the register; and
    - (iv) the date by which a written objection to the proposed rectification must be delivered to the Registrar, being a date not less than 20 working days after the date of the notice. 25
- (3) Any person may deliver to the Registrar, not later than the date specified in accordance with **subsection (2)(b)(iv)**, a written objection to a proposed rectification of the register, and the Registrar must give a copy of the objection to the applicant. 30
- (4) The Registrar must not rectify the register if the Registrar receives a written objection to the proposed rectification by the date specified unless the Registrar is satisfied that the objection has been withdrawn. 35

Compare: 1993 No 105 s 360A

**56 Powers of Court**

- (1) If an objection to a proposed rectification is received by the Registrar under **section 55(3)**, the applicant for the rectification of the register may apply to the Court for an order for rectification. 5
- (2) If an application for an order is made under **subsection (1)**,—
- (a) the applicant must, as soon as practicable, serve notice of the application on the Registrar; and
  - (b) the Registrar may appear and be heard in relation to the application. 10
- (3) On an application for an order under **subsection (1)**, the Court may, if it is satisfied that any information has been wrongly entered in, or omitted from, the register, make an order that the register be rectified. 15
- Compare: 1993 No 105 s 360B

**57 Registrar may note inactivity on register**

The Registrar may insert a note of inactivity against the entry on a register for a limited partnership if the Registrar believes on reasonable grounds that the limited partnership is inactive.

**58 Searches of register**

- (1) A person may search a register in accordance with this Act or regulations made under this Act. 20
- (2) A register may be searched only by reference to the following criteria:
- (a) the name of a limited partnership: 25
  - (b) its registration number:
  - (c) the name of a limited partnership and the address of its registered office or its address for service:
  - (d) the address of its registered office:
  - (e) its address for service: 30
  - (f) the name of a general partner:

**Struck out (unanimous)**

(g) the name of a limited partner:

(h) the name and address of a general partner:

**Struck out (unanimous)**

- (i) the name and address of a limited partner:
- (j) any other prescribed criteria.

**New (unanimous)**

- (3) In addition to the criteria in **subsection (2)**, the Registrar may search on the following criteria:
- (a) the name of a limited partner; or
  - (b) the name and address of a limited partner; or
  - (c) the name and date of birth of a limited partner; or
  - (d) the name and date of birth of a general partner.

5

**59 Search purposes**

A register may be searched—

- (a) by any individual, or a person with the consent of the individual, for the purpose of searching for information about that individual:
- (b) by any person for the purpose of determining whether a business organisation is a limited partnership:
- (c) by any person for determining the address of a limited partnership’s place of business:

10

15

**New (unanimous)**

- (ca) by any person for the purpose of determining whether a person is a general partner of a limited partnership:

- (d) by any person for the purpose of facilitating any of the functions or powers of the Registrar, courts, or any other person under this Act or any other enactment.

20

**60 When search breaches information privacy principle**

A person who searches a register for personal information for a purpose that is not a purpose set out in **section 59** must be treated, for the purposes of Part 8 of the Privacy Act 1993, as if that person has breached an information privacy principle under section 66(1)(a)(i) of that Act.

25

*Administration***61 Registered office**

- (1) A limited partnership must always have a registered office in New Zealand.
- (2) Subject to **section 62**, the registered office of a limited partnership at a particular time is the place that is described as its registered office in the New Zealand register at that time. 5
- (3) The description of the registered office must—
- (a) state the address of the registered office; and
  - (b) if the registered office is at the offices of any firm of chartered accountants or lawyers, or at the offices of any other person, state— 10
    - (i) that the registered office of the limited partnership is at the offices of that firm or person; and
    - (ii) particulars of the location in any building of those offices; or 15
  - (c) if the registered office is not at the offices of a firm or person referred to in **paragraph (b)** but is located in a building occupied by persons other than the limited partnership, state particulars of its location in the building. 20

Compare: 1993 No 105 s 186

**62 Change of registered office**

- (1) Subject to the partnership agreement and to **subsection (3)**, the general partners of a limited partnership may change the registered office of the limited partnership at any time. 25
- (2) Notice in the prescribed form of the change must be given to the Registrar for registration.
- (3) The change in the registered office takes effect on a date stated in the notice not being a date that is earlier than 5 working days after the notice is registered. 30

Compare: 1993 No 105 s 187

**63 Requirement to change registered office**

- (1) Subject to this section, a limited partnership must change its registered office if it is required to do so by the Registrar. 35
- (2) The Registrar may require a limited partnership to change its registered office by notice in writing delivered or sent to the limited partnership at its registered office.



- (3) The notice must—
  - (a) state that the limited partnership is required to change its registered office by a date stated in the notice, not being a date that is earlier than 20 working days after the date of the notice; and 5
  - (b) state the reasons for requiring the change; and
  - (c) state that the limited partnership has the right to appeal to the Court under **section 85**; and
  - (d) be dated and signed by the Registrar.
- (4) A copy of the notice must also be sent to each general partner. 10
- (5) The limited partnership must change its registered office—
  - (a) by the date stated in the notice; or
  - (b) if it appeals to the Court and the appeal is dismissed, within 5 working days after the decision of the Court.
- (6) If a limited partnership fails to comply with this section, every general partner of the limited partnership commits an offence and is liable on summary conviction to a fine not exceeding \$5,000. 15

Compare: 1993 No 105 s 188

- 64 Address for service** 20
- (1) A limited partnership must have an address for service in New Zealand.
  - (2) The address for service may be the limited partnership’s registered office or another place, but it must not be at a postal centre or document exchange. 25
  - (3) A limited partnership’s address for service at any particular time is the address that is described as its address for service in the register at that time.
  - (4) The description of the address for service must state that it is at the registered office of the limited partnership or, if it is at another place, must— 30
    - (a) state the address of that place; and
    - (b) if the address for service is at the offices of any firm of chartered accountants or lawyers, or the offices of any other person, state— 35
      - (i) that the address for service of the limited partnership is at the offices of that firm or person; and
      - (ii) particulars of the location in any building of those offices; or

- (c) if the address for service is not at the offices of a firm or person referred to in **paragraph (b)** but is located in a building occupied by persons other than the limited partnership, state particulars of its location in the building. 5
- 65 Change of address for service**
- (1) Subject to the partnership agreement and to **subsection (3)**, the general partners of a limited partnership may change the address for service of the limited partnership at any time.
- (2) Notice in the prescribed form of the change must be given to the Registrar for registration. 10
- (3) A change of address for service takes effect on a date stated in the notice, not being a date that is earlier than 5 working days after the notice is registered.
- 66 Rectification or correction of address for service** 15
- (1) This section applies if the address for service of a limited partnership is rectified or corrected under **section 55 or 56**.
- (2) The rectification or correction takes effect at the time that the rectification or correction is made to the register.
- Struck out (unanimous)**
- 67 Service of documents** 20

Any document may be served on a limited partnership by sending or delivering the document to its address for service.
- New (unanimous)**
- 67 Service of documents**

Any document may be served on a limited partnership by—

(a) delivery of the document to its address for service; or 25

(b) delivery of the document to a person named as a general partner of the limited partnership in the register of limited partnerships.
- 68 Records of limited partnership**
- (1) A limited partnership must keep the following records at its registered office: 30

- (a) the partnership agreement and all amendments to it:
- (b) minutes of all meetings and resolutions of the general partners within the last 7 years:
- (c) a list of the names and last known business, residential, or mailing addresses of each current partner and of each person who has ceased to be a partner within the last 7 years: 5
- (d) the capital accounts of each current and former limited partner for—
  - (i) the last 7 completed accounting periods of the limited partnership; or 10
  - (ii) if 7 completed accounting periods have not elapsed since the limited partnership was first registered, the completed accounting periods since registration: 15
- (e) accounting records that—
  - (i) correctly record and explain the limited partnership’s transactions; and
  - (ii) at any time enable the financial position of the limited partnership to be determined with reasonable accuracy: 20

**New (unanimous)**

- |  |   |  |
|--|---|--|
|  | <ul style="list-style-type: none"> <li>(f) the limited partnership’s financial statements prepared in accordance with <b>section 68A</b> for—                             <ul style="list-style-type: none"> <li>(i) the last 7 completed accounting periods of the limited partnership; or 25</li> <li>(ii) if 7 completed accounting periods have not elapsed since the limited partnership was first registered, the completed accounting periods since registration.</li> </ul> </li> </ul> |  |
|--|---|--|
- (2) The references in **subsection (1)(b) and (c)** to 7 years and the references in **subsection (1)(d) and (f)** to 7 completed accounting periods include any lesser period that the Registrar may approve by notice in writing to the limited partnership. 30
  - (3) The documents in **subsection (1)** must, subject to the partnership agreement, be available for inspection by any partner during ordinary business hours. 35
  - (4) If the limited partnership fails to comply with the requirements of this section,—

- (a) the limited partnership commits an offence and is liable on summary conviction to a fine not exceeding \$10,000; and
- (b) each general partner commits an offence and is liable on summary conviction to a fine not exceeding \$10,000. 5

**New (unanimous)**

**68A Obligation to prepare financial statements**

- (1) The general partners of a limited partnership must ensure that, within 5 months after the balance date of the limited partnership, financial statements are—
  - (a) completed in relation to the limited partnership and that balance date; and 10
  - (b) dated and signed on behalf of the general partners by 2 general partners of the limited partnership, or, if the limited partnership has only 1 general partner, by that general partner. 15
- (2) In **subsection (1), financial statements** has the same meaning as in section 8(1) of the Financial Reporting Act 1993.
- (3) For the purposes of this section, sections 7(1) to (6) and 8(1) of the Financial Reporting Act 1993 apply as if a reference to—
  - (a) an entity or a reporting entity were a reference to a limited partnership: 20
  - (b) the directors were a reference to the general partners.
- (3) Where financial statements in relation to a limited partnership are not completed and signed within the time specified in **subsection (1)**, every general partner of the limited partnership commits an offence and is liable on summary conviction to a fine not exceeding \$10,000. 25
- (4) It is a defence to a general partner of a limited partnership charged with an offence under **subsection (3)** if the general partner proves that—
  - (a) the general partners of the limited partnership took all reasonable and proper steps to ensure that financial statements in relation to the limited partnership were completed and signed within the time specified in **subsection (1)**; or 30
  - (b) the general partners of the limited partnership took all reasonable and proper steps to ensure that financial statements in relation to the limited partnership were completed and signed within the time specified in **subsection (1)**; or 35

**New (unanimous)**

- (b) the general partner took all reasonable and proper steps to ensure that financial statements in relation to the limited partnership were completed and signed within the time specified in **subsection (1)**; or
- (c) in the circumstances the general partner could not reasonably have been expected to take steps to ensure that financial statements in relation to the limited partnership were completed and signed within the time specified in **subsection (1)**. 5
- (5) Notwithstanding anything to the contrary in the Summary Proceedings Act 1957, an information for an offence under **subsection (3)** may be laid at any time within 3 years after the date of the offence. 10

**69 Annual return**

- (1) The general partners of a limited partnership must ensure that there is delivered to the Registrar each year, for registration, during the month allocated to the limited partnership for the purpose, an annual return in the prescribed form or in a form the use of which by the limited partnership has been approved by the Registrar pursuant to **subsection (9)**, or as near to it as circumstances allow. 15 20
- (2) The annual return of a limited partnership must state the following information:
  - (a) its name:
  - (b) its registered number: 25
  - (c) the address of its registered office:
  - (d) its address for service:
  - (e) the names and addresses of the general partners:
  - (f) the names and addresses of general partners who have ceased to be general partners since the last annual return: 30
  - (g) the names and addresses of the limited partners:
  - (h) the names and addresses of limited partners who have ceased to be limited partners since the last annual return. 35
- (3) The annual return must be dated as at a day within the month during which the return is required to be delivered to the

- Registrar and the information required to be contained in it must be compiled as at that date.
- (4) The annual return must be signed by a general partner of the limited partnership or by a lawyer or chartered accountant authorised for that purpose. 5
- (5) On registration of a limited partnership under this Act, the Registrar must allocate a month to the limited partnership for the purposes of this section.
- (6) The Registrar may, by written notice to a limited partnership, alter the month allocated to the limited partnership under **subsection (5)**. 10
- (7) Notwithstanding **subsection (1)**, a limited partnership need not make an annual return in the calendar year of its registration.
- (8) For the purposes of this section, **prescribed** means prescribed by regulations made under this Act or by the Registrar by notice in the *Gazette*. 15

**Struck out (unanimous)**

- (9) The Registrar may, on the application of any person, approve the use, by a limited partnership or limited partnerships as the Registrar may specify, of a form of annual return different from that prescribed, and may at any time revoke, in whole or in part, that approval. 20
- (10) An annual return in a form approved under **subsection (9)** must contain all the prescribed information.
- (11) If the general partners of a limited partnership fail to comply with **subsection (1) or (2)**, every general partner of the limited partnership commits an offence and is liable on summary conviction to a fine not exceeding \$10,000. 25

Compare: 1993 No 105 s 214

- 70 Registrar may alter register to conform with address contained in annual return** 30
- (1) This section applies if the annual return contains 1 or more of the following addresses that are different from the corresponding address or addresses entered on the register:
- (a) an address of the registered office of the limited partnership; or 35
- (b) an address for service of the limited partnership; or

- (c) a postal address of the limited partnership.
- (2) If this section applies, the Registrar may alter the address or addresses on the register to conform with the address or addresses contained in the annual return.

Compare: 1993 No 105 s 214A

5

*Registrar’s powers of inspection*

**71 Registrar’s powers of inspection**

- (1) The Registrar or a person authorised by the Registrar may take any of the steps listed in **subsection (2)** for the purpose of—
  - (a) ascertaining whether a limited partnership or a general partner of a limited partnership is complying, or has complied, with this Act; or
  - (b) ascertaining whether the Registrar should exercise any of his or her rights or powers under this Act.
- (2) The steps referred to in **subsection (1)** are the following:
  - (a) requiring a person, including a person carrying on the business of banking, to produce for inspection relevant documents within that person’s possession or control:
  - (b) inspecting and taking copies of relevant documents:
  - (c) taking possession of relevant documents and retaining them for a reasonable time, for the purpose of taking copies.
- (3) Nothing in this section limits or affects the Tax Administration Act 1994 or the Statistics Act 1975.
- (4) A person must not obstruct or hinder the Registrar or a person authorised by the Registrar while exercising a power conferred by **subsection (1)**.
- (5) Any person who fails to comply with a requirement under **subsection (2)** or acts in contravention of **subsection (4)** commits an offence and is liable on summary conviction to a fine not exceeding \$10,000.
- (6) In this section, **relevant document**, in relation to a limited partnership, means a document that contains information relating to—
  - (a) the limited partnership; or
  - (b) money or other property that is, or has been, managed, supervised, controlled, or held in trust by or for the limited partnership.

Compare: 1993 No 105 s 365

- 72 Disclosure of information and reports**
- (1) A person authorised by the Registrar for the purpose of **section 71** who has obtained a document or information in the course of making an inspection under that section or prepared a report in relation to an inspection under that section must, if directed to do so by the Registrar, give the document, information, or report to—
- (a) the Minister; or
  - (b) the chief executive; or
  - (c) any person authorised by the Registrar to receive the document, information, or report for the purposes of this Act or in connection with the exercise of powers conferred by this Act; or
  - (d) a liquidator for the purposes of the liquidation of a limited partnership.
- (2) A person authorised by the Registrar for the purposes of **section 71** who has obtained a document or information in the course of making an inspection under that section or prepared a report in relation to an inspection under that section must give the document, information, or report to the Registrar(,) or a Deputy Registrar(, a District Registrar, or an Assistant Registrar) when directed to do so by any person holding (any) either of those offices.
- (3) A person authorised by the Registrar for the purposes of **section 71** who has obtained a document or information in the course of making an inspection under that section or prepared a report in relation to an inspection under that section must not disclose that document, information, or report except—
- (a) in accordance with **subsection (1) or (2)**; or
  - (b) subject to the approval of the Registrar, with the consent of the person to whom it relates; or
  - (c) subject to the approval of the Registrar, for the purposes of this Act or in connection with the exercise of powers conferred by this Act; or
  - (d) to the extent that the information, or information contained in the document or report, is available under any Act or in a public document; or
  - (e) subject to the approval of the Registrar, to a liquidator for the purposes of the liquidation of a limited partnership.



- (4) A person who fails to comply with this section commits an offence and is liable on summary conviction to a fine not exceeding \$10,000.  
 Compare: 1993 No 105 s 366
- 73 Inspector’s report admissible in liquidation proceedings** 5  
 Notwithstanding any other Act or rule of law, a report prepared by a person in relation to an inspection carried out by him or her under **section 71** is admissible in evidence at the hearing of an application to the Court to appoint a liquidator of a limited partnership. 10  
 Compare: 1993 No 105 s 369
- 74 Exercise of powers under section 71 not affected by appeal**
- (1) Subject to **subsection (2)**, but notwithstanding any other provision of any Act or any rule of law, where a person appeals or applies to the Court in relation to an act or decision of the Registrar or a person authorised by the Registrar under **section 71**, until a decision on the appeal or application is given,—  
 (a) the Registrar, or that person, may continue to exercise the powers under that section as if no such appeal or application had been made; and 20  
 (b) no person is excused from fulfilling an obligation under that section by reason of that appeal or application.
- (2) If the appeal or application is allowed or granted, as the case may be,— 25  
 (a) the Registrar must ensure that, as soon as is reasonably practicable after the decision of the Court is given, any copy of a document taken or retained by the Registrar, or by a person authorised by the Registrar in respect of that act or decision, is destroyed; and 30  
 (b) no information acquired under that section in relation to that act or decision is admissible in evidence in any proceedings unless the court hearing the proceedings in which it is sought to adduce the evidence is satisfied it was not obtained unfairly. 35  
 Compare: 1993 No 105 s 371

## New (unanimous)

*Derivative actions***74A Derivative actions**

- |     |   |    |
|-----|---|----|
| (1) | Subject to <b>subsection (3)</b> , the Court may, on the application of a partner of a limited partnership, grant leave to that partner to—   | 5  |
| (a) | bring proceedings in the name and on behalf of the limited partnership; or  |    |
| (b) | intervene in proceedings to which the limited partnership is a party for the purpose of continuing, defending, or discontinuing the proceedings on behalf of the limited partnership, as the case may be. | 10 |
| (2) | Without limiting <b>subsection (1)</b> , in determining whether to grant leave under that subsection, the Court must have regard to—  |    |
| (a) | the likelihood of the proceedings succeeding:   |    |
| (b) | the costs of the proceedings in relation to the relief likely to be obtained:   | 15 |
| (c) | any action already taken by the limited partnership to obtain relief:   |    |
| (d) | the interests of the limited partnership in the proceedings being commenced, continued, defended, or discontinued, as the case may be.  | 20 |
| (3) | Leave to bring proceedings or intervene in proceedings may be granted under <b>subsection (1)</b> only if the Court is satisfied that either—   |    |
| (a) | the limited partnership does not intend to bring, diligently continue or defend, or discontinue the proceedings, as the case may be; or   | 25 |
| (b) | it is in the interests of the limited partnership that the conduct of the proceedings should not be left to the general partners or to the determination of the partners as a whole.                      | 30 |
| (4) | Notice of the application must be served on the limited partnership.  |    |
| (5) | The limited partnership—  |    |
| (a) | may appear and be heard; and  | 35 |
| (b) | must inform the Court whether or not it intends to bring, continue, defend, or discontinue the proceedings, as the case may be.   |    |

**New (unanimous)**

- (6) Except as provided in this section, a limited partner is not entitled to bring or intervene in any proceedings in the name of, or on behalf of, a limited partnership.

Compare: 1993 No 105 s 165

**74B Costs of derivative action to be met by limited partnership** 5

The Court must, on the application of the partner to whom leave was granted under **section 74A** to bring or intervene in the proceedings, order that the whole or part of the reasonable costs of bringing or intervening in the proceedings, including any costs relating to any settlement, compromise, or discontinuance approved under **section 74D**, must be met by the limited partnership unless the Court considers that it would be unjust or inequitable for the limited partnership to bear those costs. 10

Compare: 1993 No 105 s 166 15

**74C Powers of Court where leave granted** 20

The Court may, at any time, make any order it thinks fit in relation to proceedings brought by a partner or in which a partner intervenes, as the case may be, with leave of the Court under **section 74A**, and without limiting the generality of this section, may—

- (a) make an order authorising the partner or any other person to control the conduct of the proceedings: 25
- (b) give directions for the conduct of the proceedings:
- (c) make an order requiring the limited partnership or the general partners to provide information or assistance in relation to the proceedings:
- (d) make an order directing that any amount ordered to be paid by a defendant in the proceedings must be paid, in whole or part, to former and present limited partners of the limited partnership instead of to the limited partnership. 30

Compare: 1993 No 105 s 167

**New (unanimous)****74D Compromise, settlement or withdrawal of derivative action**

No proceedings brought by a partner or in which a partner intervenes, as the case may be, with leave of the Court under **section 74A**, may be settled or compromised or discontinued without the approval of the Court.

5

Compare: 1993 No 105 s 168

*Terminating events, liquidation, and deregistration***75 Terminating event**

- (1) A terminating event is 1 of the following: 10
- (a) an event or the expiry of a period of time when, under the partnership agreement, the limited partnership terminates:
  - (b) subject to anything that the partnership agreement says, a resolution of the limited partnership that the limited partnership terminate: 15

**New (unanimous)**

(ba) there has been no general partner of the limited partnership for 10 working days or more:

- (c) there has been no limited partner of the limited partnership for 10 working days or more: 20
- (d) the partnership agreement has lapsed for 10 working days or more.

**New (unanimous)**

- (2) A general partner or, if there is no general partner, a limited partner, may apply to the Court for an order extending the period of 10 working days referred to in **section 75(1)(ba) to (d)**. 25
- (3) The Court may extend the period even though the period has expired.

**New (unanimous)**

- 75A Continuing authority of general partners continues after terminating event**
- (1) After a terminating event has occurred, the authority of each general partner to bind the limited partnership, and the other rights and obligations of the partners, continue (notwithstanding the terminating event) so far as may be necessary to wind up the affairs of the limited partnership and to complete any transactions begun but unfinished at the time of the terminating event. 5
  - (2) The authority of each general partner to bind the limited partnership and the other rights and obligations of the partners do not continue after a terminating event except as provided by **subsection (1)**. 10

**Struck out (unanimous)**

- 76 Liquidation must follow terminating event**
- (1) In the case of a terminating event under **section 75(a) or (b)**, the limited partnership may appoint a liquidator to the limited partnership. 15
  - (2) The general partner or general partners must apply as soon as is reasonably practicable to the Court for the appointment of a liquidator to the limited partnership if— 20
    - (a) a terminating event under **section 75(a) or (b)** has occurred, and the limited partnership has not appointed a liquidator within 5 working days of the terminating event; or
    - (b) a terminating event under **section 75(c) or (d)** has occurred.

**New (unanimous)**

- 76 Liquidation following terminating event**
- (1) The limited partnership may, by a resolution of the limited partnership, appoint a liquidator to the limited partnership if a terminating event has occurred under **section 75**. 25
  - (2) Nothing in **subsection (1)** affects the right of a person to apply for deregistration under **section 84A**. 30

**77 Court may appoint liquidator**

- (1) On the application of a person listed in **subsection (2)**, the Court may appoint a liquidator to the limited partnership who may be a named person or the Official Assignee for a named district. 5
- (2) Any of the following persons may apply:
- (a) a general partner:
  - (b) a limited partner:
  - (c) a creditor:
  - (d) the Registrar. 10

**78 Grounds for Court appointment of liquidator**

- (1) The Court may appoint a liquidator to a limited partnership under **section (76) 77(1)** on any of the following grounds:

**Struck out (unanimous)**

- (a) there has been no general partner of the limited partnership for 10 working days or more: 15
- (b) a terminating event under **section 75** has occurred, and a liquidator has not been appointed:

**New (unanimous)**

- (ba) there has been no general partner of the limited partnership for 10 working days or more:
- (c) the sole general partner is adjudicated bankrupt: 20
  - (d) the sole general partner is incapacitated:
  - (e) any partner is unable to perform that person's obligations under this Act or the partnership agreement:
  - (f) the conduct of any partner has prejudiced, or is likely to prejudicially affect, the business of the limited partnership or the carrying on of that business: 25
  - (g) material breach by any partner of the partnership agreement:
  - (h) conduct by any partner that, in the Court's opinion, makes it reasonably impracticable for the other partners to carry on the business in partnership with that person: 30

**Struck out (unanimous)**

- (i) the business of the limited partnership can only be carried on at a loss:
- (j) the limited partnership is unable to pay its debts:
- (k) in the opinion of the Court it is just and equitable that the limited partnership terminate. 5
- (2) In **subsection (1)(d)**, a general partner is incapacitated if he or she is a person—
  - (a) who is subject to a compulsory treatment order under the Mental Health (Compulsory Assessment and Treatment) Act 1992; or 10
  - (b) who is subject to an order under section 10(1)(i) or 31 of the Protection of Personal and Property Rights Act 1988; or
  - (c) whose property is managed by a trustee corporation under section 32 or 33 of the Protection of Personal and Property Rights Act 1988. 15

**79 Meaning of inability to pay debts**

For the purposes of **section 78(1)(j)**, a limited partnership is unable to pay its debts—

- (a) if— 20
  - (i) a creditor who is owed an amount exceeding \$100 by the limited partnership has served on the limited partnership a demand for payment of that amount; and
  - (ii) the limited partnership has for 3 weeks after the demand was served on it failed to pay the amount due or secure the payment of it or compound for it to the satisfaction of the creditor; or 25
- (b) if— 30
  - (i) an action or proceeding has been commenced against a general partner of the limited partnership for the payment of an amount owing by the limited partnership or that general partner in his or her capacity as a general partner; and 30
  - (ii) notice in writing of the action or proceeding has been served on the limited partnership; and 35
  - (iii) the limited partnership has not, within 10 days after the notice was served on it, paid or secured

- the debt, or compounded for it or had the action or proceeding stayed or indemnified the general partner for the amount of any judgment that may be entered against him or her and any costs, damages, and expenses that may be incurred by him or her in the action or proceeding; or 5
- (c) if execution or other process issued on a judgment, decree, or order obtained in a court in favour of a creditor against the limited partnership, or a general partner of the limited partnership in his or her capacity as a general partner, or a person authorised to be sued on behalf of the limited partnership, is returned unsatisfied; or 10
- (d) if it is proved to the satisfaction of the Court that the limited partnership is unable to pay its debts, and in determining whether a limited partnership is unable to pay its debts, the Court must take into account the contingent and prospective liabilities of the limited partnership. 15
- Compare: 1908 No 89 s 17C 20

### 80 Application of Companies Act 1993

- Part 16 of the Companies Act 1993 (except sections 241(1) to (4), 268, and 313(4)) applies, with such modifications as may be necessary, in relation to the liquidation of a limited partnership and as if references to— 25
- (a) a company registered under that Act were references to a limited partnership:

#### New (unanimous)

- (ab) the board were references to the general partners:
- (b) a director were references to a general partner: 30
- (c) shareholders or persons entitled to surplus assets under the constitution of a company and the Companies Act 1993 were references to limited partners:



**New (unanimous)**

(d) the constitution of a company were references to the partnership agreement of a limited partnership.

Compare: 1908 No 89 s 17B

<b>81</b>	<b>Power of liquidator to enforce liabilities</b>	
(1)	This section applies to any person who is liable to pay or contribute to the payment of—	5
	(a) any debt or liability of the limited partnership; or	
	(b) any sum for the adjustment of the rights of partners of the limited partnership among themselves; or	
	(c) the costs and expenses of the liquidation.	10
(2)	The liquidator may, by notice in writing, require a person to whom this section applies to pay or contribute the amount due from that person, and that person is liable to pay or contribute accordingly.	
	Compare: 1908 No 89 s 17D	15
<b>82</b>	<b>Actions stayed on liquidation</b>	
	Where the Court appoints a liquidator of a limited partnership, an action or proceeding must not be commenced or continued against any person referred to in <b>section 81</b> in respect of any debt of the limited partnership, except with the leave of the Court, and subject to such terms as the Court may impose.	20
	Compare: 1908 No 89 s 17E	
<b>83</b>	<b>Distribution of surplus assets on liquidation</b>	
	Notwithstanding anything in the Companies Act 1993, the surplus assets of the limited partnership (if any) after all of the limited partnership’s debts and liabilities have been paid must be divided—	25
	(a) in accordance with the partnership agreement; or	
	(b) if the partnership agreement does not specify how surplus assets on liquidation must be distributed, among the limited partners in proportion to the capital contribution of each of them.	30

**New (unanimous)**

**83A When Registrar must deregister limited partnership**

On notification of the completion of the liquidation of a limited partnership, the Registrar must deregister it.

**84 Deregistration**

- (1) A limited partnership ceases to exist only when it is 5  
deregistered.
- (2) A limited partnership is deregistered when the Registrar  
removes its name from the register.

**New (unanimous)**

**84A Deregistration on application of partners**

- (1) The Registrar must deregister a limited partnership if there is 10  
sent or delivered to the Registrar a request in the prescribed  
form that—
- (a) is made on 1 of the grounds set out in **subsection (2)**; and
- (b) complies with **subsection (3)**.
- (2) The grounds on which a request under this section may be 15  
made are—
- (a) that the limited partnership has ceased to carry on busi-  
ness, has discharged in full its liabilities to all its known  
creditors, and has distributed its surplus assets in accor-  
dance with the partnership agreement and this Act; or 20
- (b) that the limited partnership has no surplus assets after  
paying its debts in full or in part, and no creditor has  
applied to the Court under **section 77** for an order  
appointing a liquidator to the limited partnership.
- (3) The request must be made by— 25
- (a) a limited partner authorised to make the request by a  
resolution of the limited partnership; or
- (b) the general partners; or
- (c) any other person, if the partnership agreement so 30  
requires or permits.
- (4) A request that a limited partnership be deregistered under this  
section must be accompanied by a written notice from the

**New (unanimous)**

	Commissioner of Inland Revenue stating that the Commissioner has no objection to the limited partnership being deregistered.	
(5)	Sections 318(5), 320 (except subsection (2)), and 321 to 323 of the Companies Act 1993 apply, with such modifications as may be necessary, to the deregistration of a limited partnership under this section as if references to—	5
	(a) a company were references to a limited partnership:	
	(b) a director were references to a general partner:	
	(c) a shareholder were references to a limited partner:	10
	(d) the constitution were references to the partnership agreement.	
<b>84B</b>	<b>Other provisions of Companies Act 1993 apply to deregistration of limited partnership</b>	
	Sections 324 to 326 and section 328 (except section 328(3)(a)) of the Companies Act 1993 apply, with such modifications as may be necessary, when a limited partnership has been deregistered under this Act as if references to—	15
	(a) a company were references to a limited partnership:	
	(b) a director were references to a general partner:	20
	(c) a shareholder were references to a limited partner.	
<i>Voluntary administration</i>		
<b>84C</b>	<b>Part 15A of Companies Act 1993 applies to limited partnership</b>	
	Part 15A of the Companies Act 1993 applies, with all necessary modifications, to a limited partnership as if references to—	25
	(a) a company were references to a limited partnership:	
	(b) a director were references to a general partner:	
	(c) a shareholder were references to a limited partner;	30
	(d) the board were references to the general partners.	

**New (unanimous)***Restoration to register***84D Restoration to register of limited partnerships**

Sections 328 (except section 328(3)(a)) and 329 of the Companies Act 1993 apply, with all necessary modifications, to a limited partnership as if a references to—

- (a) a company were references to a limited partnership: 5
- (b) a director were references to a general partner:
- (c) a shareholder were references to a limited partner:
- (d) the New Zealand register were references to the register of limited partnerships: 10
- (e) the Companies Act 1993 or regulations made under that Act were references to this Act or regulations made under this Act:
- (f) section 318(1)(d) of the Companies Act 1993 were references to **section 84A(2)** of this Act. 15

**84E When limited partnership restored to register**

- (1) A limited partnership is restored to the register of limited partnerships when the Registrar enters the name of the limited partnership in the register.
- (2) A limited partnership that is restored to the register of limited partnerships is deemed to have continued in existence as if it had not been removed from the register. 20

*Registrar***85 Appeals from Registrar's decisions**

- (1) A person who is aggrieved by an act or decision of the Registrar under this Act may appeal to the Court within 15 working days after the date of notification of the act or decision, or within the further time that the Court allows. 25
- (2) On appeal, the Court may—
  - (a) confirm, modify, or reverse the Registrar's act or decision or any part of it: 30
  - (b) exercise any of the powers that could have been exercised by the Registrar in relation to the matter to which the appeal relates.

### Part 3

#### Overseas limited partnerships

- 86 Definition of overseas limited partnership**  
 In this Act, unless the context otherwise requires, **overseas limited partnership** means a partnership formed or incorporated outside New Zealand with— 5
- (a) 1 or more general partners who are liable for all of the debts and liabilities of the overseas limited partnership; and
  - (b) 1 or more limited partners who have only limited liability for the debts and liabilities of the overseas limited partnership. 10
- 87 Overseas limited partnership must register**
- (1) An overseas limited partnership that, on or after the commencement of this Act, commences to carry on business in New Zealand must apply for registration under this Part in accordance with **section 90** within 10 working days of commencing to carry on business. 15
  - (2) An overseas limited partnership that, immediately before the commencement of this Act, was carrying on business in New Zealand and, on the commencement of this Act, continues to carry on business in New Zealand must apply for registration under this Part in accordance with **section 90** within *(10 working days) 3 months* of the commencement of this Act. 20
  - (3) An overseas limited partnership that changes its name must send or deliver to the Registrar a notice *(in the prescribed form)* of the change of name in the prescribed form *(accompanied by the notice reserving the name within 10 working days of the change of name)*. 25
  - (4) If an overseas limited partnership fails to comply with this section,— 30
    - (a) the overseas limited partnership commits an offence and is liable on summary conviction to a fine not exceeding \$10,000; and
    - (b) every general partner of the overseas limited partnership commits an offence and is liable on summary conviction to a fine not exceeding \$10,000. 35

Compare: 1993 No 105 s 334

**88 Meaning of carrying on business**

For the purposes of this Part,—

- (a) a reference to an overseas limited partnership carrying on business in New Zealand includes a reference to the overseas limited partnership administering, managing, or dealing with property in New Zealand as an agent, personal representative, or trustee, and whether through its employees or an agent or in any other manner: 5
- (b) an overseas limited partnership does not carry on business in New Zealand merely because in New Zealand it— 10
  - (i) is or becomes a party to a legal proceeding or settles a legal proceeding or a claim or dispute; or
  - (ii) holds meetings of its partners or carries on other activities concerning its internal affairs; or 15
  - (iii) maintains a bank account; or
  - (iv) effects a sale of property through an independent contractor; or
  - (v) solicits or procures an order that becomes a binding contract only if the order is accepted outside New Zealand; or 20
  - (vi) creates evidence of a debt or creates a charge on property; or
  - (vii) secures or collects any of its debts or enforces its rights in relation to securities relating to those debts; or 25
  - (viii) conducts an isolated transaction that is completed within a period of 31 days, not being one of a number of similar transactions repeated from time to time; or 30
  - (ix) invests its funds or holds property; or
  - (x) is a partner in a New Zealand limited partnership.

Compare: 1993 No 105 s 332.

**89 Validity of transactions not affected**

A failure by an overseas limited partnership to comply with **section 87** does not affect the validity or enforceability of any transaction entered into by the overseas limited partnership. 35

Compare: 1993 No 105 s 335

**90 Application for registration**

- (1) An application for registration of an overseas limited partnership may be made by delivering to the Registrar an application that complies with **subsection (2)**.
- (2) The application must—
  - (a) be in the prescribed form (if any); and

5

**New (unanimous)**

- |  |  |
|--|--|
| <ul style="list-style-type: none"> <li>(ab) be accompanied by evidence of formation of the overseas limited partnership in its home jurisdiction; and</li> <li>(ac) state the name and address of each general partner; and</li> </ul> |  |
|--|--|
- (b) contain *(the)* any other prescribed information; and
  - (c) be signed by or on behalf of the overseas limited partnership; and
  - (d) state the full name and address of 1 or more persons resident or incorporated in New Zealand who are authorised to accept service in New Zealand of documents on behalf of the overseas limited partnership; and
  - (e) be accompanied by the prescribed fee (if any).

10

15

Compare: 1993 No 105 s 336

**91 Registration of overseas limited partnership**

- (1) As soon as is reasonably practicable after receiving a properly completed application for registration of an overseas limited partnership, the Registrar must register the overseas limited partnership by entering its name in the register of overseas limited partnerships maintained under **section 47(1)(b)**.
- (2) Where the Registrar receives a notice of a change of name of an overseas limited partnership in accordance with **section 87(3)**, the Registrar must register the change of name on the register of overseas limited partnerships.

20

25

Compare: 1993 No 105 s 337(1), (3).

**92 Use of name by overseas limited partnership**

- (1) Every overseas limited partnership that carries on business in New Zealand must ensure that its full name, and the name of the country where it was formed or incorporated, are clearly stated in—

30

- (a) written communications sent by, or on behalf of, the overseas limited partnership; and
- (b) documents issued or signed by, or on behalf of, the overseas limited partnership that evidence or create a legal obligation of the overseas limited partnership. 5
- (2) For the purposes of **subsection (1)**, a generally recognised abbreviation of a word or words may be used in the name of an overseas limited partnership if it is not misleading to do so.
- Compare: 1993 No 105 s 338.
- 93 Notification of changes relating to overseas limited partnership** 10
- (1) An overseas limited partnership that carries on business in New Zealand must ensure that, within 20 working days of the change or alteration, notice in the prescribed form is given to the Registrar of— 15
- (a) a change in the general partners, or in the names or addresses of the general partners, of the overseas limited partnership; or
- (b) a change in the address of the place of business or principal place of business of the overseas limited partnership; or 20
- (c) a change in any person or the address of any person authorised to accept service in New Zealand of documents on behalf of the overseas limited partnership.
- (2) If an overseas limited partnership fails to comply with **subsection (1)**,— 25
- (a) the overseas limited partnership commits an offence and is liable on summary conviction to a fine not exceeding \$10,000; and
- (b) every general partner of the overseas limited partnership commits an offence and is liable on summary conviction to a fine not exceeding \$10,000. 30
- Compare: 1993 No 105 s 339
- 94 Rectification or correction of name or address of person authorised to accept service** 35
- (1) This section applies if the name or address of a person resident or incorporated in New Zealand who is authorised to accept service in New Zealand of documents on behalf of an overseas



limited partnership is rectified or corrected under **section 55 or 56**.

- (2) The rectification or correction takes effect at the time that the rectification or correction is made to the overseas limited partnerships register. 5

Compare: 1993 No 105 s 339A

**95 Annual return of overseas limited partnership**

- (1) Every overseas limited partnership that carries on business in New Zealand must ensure that the Registrar receives each year, during the month allocated to the overseas limited partnership for the purposes of this section, an annual return in the prescribed form confirming that the information on the overseas limited partnership register in respect of the overseas limited partnership referred to in the return is correct at the date of the return. 10  
15
- (2) The annual return must be dated as at a day within the month during which the return is required to be received by the Registrar.
- (3) On registration of an overseas limited partnership under this Part, the Registrar must allocate a month to the limited partnership for the purposes of this section. 20
- (4) The Registrar may, by written notice to an overseas limited partnership, alter the month allocated to the overseas limited partnership under **subsection (3)**.
- (5) Notwithstanding **subsection (1)**, an overseas limited partnership need not make an annual return in the calendar year of its registration under this Part. 25
- (6) If an overseas limited partnership fails to comply with **subsection (1) or (2)**,—
  - (a) the limited partnership commits an offence and is liable on summary conviction to a fine not exceeding \$10,000; and 30
  - (b) every general partner of the overseas limited partnership commits an offence and is liable on summary conviction to a fine not exceeding \$10,000. 35

Compare: 1993 No 105 s 340

- 96 Overseas limited partnership ceasing to carry on business in New Zealand**
- (1) An overseas limited partnership registered under this Part that intends to cease to carry on business in New Zealand must—
- (a) give public notice of that intention; and 5
  - (b) not earlier than 3 months after giving notice in accordance with **paragraph (a)**, give notice to the Registrar in the prescribed form stating the date on which it will cease to carry on business in New Zealand.
- (2) The Registrar must remove an overseas limited partnership from the register of overseas limited partnerships as soon as practicable after—
- (a) the date specified in the notice given in accordance with **subsection (1)(b)**; or
  - (b) receipt of a notice given by a liquidator in accordance with section 257(1)(a)(ii)(C) of the Companies Act 1993 as modified by **section 97(3)**. 15
- Compare: 1993 No 105 s 341
- 97 Liquidation of overseas limited partnership**
- (1) Subject to **subsection (3)**, Part 16 of the Companies Act 1993 (except sections 241(1) to (4), 268, and 313(4)) applies, with such modifications as may be necessary, in relation to the liquidation of the assets in New Zealand of an overseas limited partnership and as if references to—
- (a) a company registered under that Act were references to a limited partnership: 25
  - (b) a director were references to a general partner:
  - (c) shareholders or persons entitled to surplus assets under the constitution of a company and the Companies Act 1993 were references to limited partners: 30
  - (d) references to removal from the New Zealand register were references to ceasing to carry on business in New Zealand.
- (2) An application may be made for the liquidation of an overseas limited partnership whether or not the overseas limited partnership—
- (a) is registered under this Act; or
  - (b) has given public notice of an intention to cease to carry on business in New Zealand in accordance with **section 96(1)(a)**; or 40

- (c) has given notice to the Registrar of the date on which it will cease to carry on business in New Zealand in accordance with **section 96(1)(b)**; or
  - (d) has been dissolved, or otherwise ceased to exist as a limited partnership, under or by virtue of the laws of any other country. 5
- (3) Section 257 of the Companies Act 1993 applies to the liquidation of an overseas limited partnership, but instead of making the statement required by section 257(1)(a)(ii)(C), the liquidator must state that the limited overseas partnership has ceased to carry on business in New Zealand and is ready to be removed from the register established under **section 47(1)(b)**. 10
- (4) Nothing in the Companies Act 1993 as applied to overseas limited partnerships by this section excludes the right of a creditor of an overseas limited partnership to which a liquidator has been appointed— 15
- (a) to bring proceedings outside New Zealand against the limited partnership or its general partners in relation to a debt not claimed in the liquidation, or to the balance of a debt remaining unpaid after the completion of the liquidation; or 20
  - (b) to bring an action in New Zealand in relation to the balance of a debt remaining unpaid after the completion of the liquidation.

**New (unanimous)**

- (5) On the commencement of section 13 of the Insolvency (Cross-Border) Act 2006, the Governor-General may, by Order in Council, amend **subsection (1)** to omit the words “the assets in New Zealand of”. 25

Compare: 1993 No 105 s 342(2), Schedule 9

## Part 4 Miscellaneous

### Struck out (unanimous)

- |           |  |    |
|-----------|--|----|
| <b>98</b> | <b>Relationship with Partnership Act 1908</b>  |    |
| (1)       | In any matter for which this Act provides, this Act prevails over the Partnership Act 1908.  | 5  |
| (2)       | In any matter for which this Act does not provide, the Partnership Act 1908 applies—   |    |
|           | (a) if it is not inconsistent with this Act; or  |    |
|           | (b) unless the Partnership Act 1908 is excluded.   |    |
| <b>99</b> | <b>Obligation imposed on general partner under this Act</b>  | 10 |
|           | In any case where this Act requires something to be done by the general partner or (if there is more than 1) the general partners, each general partner is responsible for ensuring that it is done. |    |

### New (unanimous)

- |            |  |    |
|------------|--|----|
| <b>99</b>  | <b>Confidentiality of limited partner information</b>  | 15 |
| (1)        | The Registrar must treat limited partner information as confidential and must not make it available to a member of the public. |    |
| (2)        | The Official Information Act 1982 does not apply to limited partner information.   | 20 |
| (3)        | In this section, <b>limited partner information</b> means—   |    |
|            | (a) any information relating to limited partners prescribed under <b>section 45(1)(b)</b> ; and                                |    |
|            | (b) the information referred to in <b>section 45(1)(d)</b> ; and   |    |
|            | (c) the information referred to in <b>section 50(1)(e)</b> ; and   | 25 |
|            | (d) any details relating to a limited partner notified under <b>section 52(1)</b> ; and  |    |
|            | (e) the information referred to in <b>section 69(2)(g) and (h)</b> .   |    |
| <b>100</b> | <b>Regulations</b>   | 30 |
| (1)        | The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:    |    |

**Struck out (unanimous)**

- (a) prescribing what conduct does or does not amount to taking part in the management of the business of a limited partnership:
  - (b) prescribing the form of an application for—
    - (i) a change of name under **section 30**: 5
    - (ii) registration under **section 45(1)(a)**:
  - (c) prescribing reasons for refusal by the Registrar under **section 48(2)** of access to the register:
  - (d) prescribing any further information that must be entered on the register of limited partnerships (*see section 50(1)(g)*) or the register of overseas limited partnerships (*see section 50(3)(g)*): 10
  - (e) regulating the search of the register (*see section 58(1)*):
  - (f) prescribing any further search criteria under **section 58(2)(j)**: 15
  - (g) prescribing fees to be paid under this Act or regulations made under this Act, and the method of their payment:
  - (h) prescribing the form for notice to the Registrar of—
    - (i) change of registered office:
    - (ii) change of address for service: 20
    - (iii) change of details in the register:
    - (iv) notice of consent of a new general partner to becoming a general partner:
  - (i) providing for any other matters contemplated by this Act or necessary for its administration or necessary for giving it full effect. 25
- (2) In **subsection (1)(b) and (h), prescribing the form** includes specifying the content, means of communication, or any other requirement of an application without necessarily specifying the use of a particular form. 30

**101 Part 2 of Partnership Act 1908 repealed**  
 Part 2 of the Partnership Act 1908 is repealed.

**102 Orders revoked**  
 The following orders are revoked:

- (a) Partnerships (Architects) Order 1972 (SR 1972/81): 35
- (b) Partnerships (Law Practitioners) Order 1982 (SR 1982/120).

**103 Companies Act 1993 amended**

- (1) Section 357(1)(b) of the Companies Act 1993 is amended by inserting “and the Limited Partnerships Act **2007**” after “Act”.
- (2) Section 357(2) of the Companies Act 1993 is amended by inserting “and the Limited Partnerships Act **2007**” after “Act”.

5

**New (unanimous)****103A Privacy Act 1993 amended**

Schedule 2 of the Privacy Act 1993 is amended by inserting the following item in its appropriate alphabetical order:  
 Limited Partnerships Act **2007**                      **Section 47**

10

**104 Transitional provision for special partnerships**

Part 2 of the Partnerships Act 1908 continues to apply to a special partnership in existence on the commencement of this Act as if that Part had not been repealed, except that a special partnership must not be renewed under section 57 of that Part.

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**Struck out (unanimous)****Part 5****Amendments to Income Tax Act 2004****105 Income Tax Act 2004**

This Part amends the Income Tax Act 2004.

20

**106 New section CB 23B**

- (1) Before section CB 24, the following is inserted:

**“CB 23B Entering partners’ livestock income**

*“When this section applies*

- “(1) This section applies when **section HD 10** applies and a person is an entering partner and has a partner’s interest in specified livestock as a result of entering the partnership, and the relevant exiting partner has a net loss from the amount of consideration paid or payable by the entering partner for the livestock.

25

*“Income*

30

**Struck out (unanimous)**

<p>“(2) For the income year in which the entering partner acquires the livestock, and in each of the following 4 years, the entering partner has income calculated using the following formula:</p> $\frac{\text{loss}}{5.}$ <p>“<i>Definition of item in formula</i></p> <p>“(3) In the formula, <b>loss</b> is the net loss that the exiting partner has for the amount paid or payable by the entering partner for the livestock, ignoring other transactions.”</p> <p>“Defined in this Act: amount, entering partner, income, income year, net loss, partner, partner’s interest, specified livestock”.</p> <p>(2) <b>Subsection (1)</b> applies for income years starting on and after 1 April 2008.</p>	<p>5</p>
<p><b>107 Meaning of asset for sections CU 3 to CU 10</b></p>	
<p>(1) Section CU 11(2) is repealed.</p> <p>(2) <b>Subsection (1)</b> applies for income years starting on and after 1 April 2008.</p>	<p>15</p>
<p><b>108 Amount treated as repayment for purposes of section CU 17: net income</b></p>	
<p>(1) Section CU 19(6)(c) is repealed.</p> <p>(2) <b>Subsection (1)</b> applies for income years starting on and after 1 April 2008.</p>	<p>20</p>
<p><b>109 New section DO 5C</b></p>	
<p>(1) After section DO 5B, the following is inserted:</p> <p><b>“DO 5C Entering partners’ livestock deduction</b></p> <p>“<i>When this section applies</i></p> <p>“(1) This section applies when <b>section HD 10</b> applies and a person is an entering partner and has a partner’s interest in specified livestock as a result of entering the partnership, and—</p> <p>“(a) the relevant exiting partner has net income from the amount of consideration paid or payable by the entering partner for the livestock; and</p> <p>“(b) the amount paid or payable is not exempt or excluded income of the exiting partner.</p>	<p>25</p> <p>30</p>

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**Struck out (unanimous)**


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***“Deduction***

- “(2) For the income year in which the entering partner acquires the livestock, and in each of the following 4 years, the entering partner is allowed a deduction calculated using the following formula:

$$\frac{\text{income}}{5}$$

5.

***“Definition of item in formula***

- “(3) In the formula, **income** is the net income that the exiting partner has for the amount paid or payable by the entering partner for the livestock, ignoring other transactions.” 10

“Defined in this Act: amount, deduction, entering partner, excluded income, exempt income, income year, net income, partner, partner’s interest, specified livestock”.

- (2) **Subsection (1)** applies for income years starting on and after 1 April 2008. 15

**110 Meaning of asset for sections DU 1 to DU 7**

- (1) Section DU 8(2) is repealed.
- (2) **Subsection (1)** applies for income years starting on and after 1 April 2008. 20

**111 Financial arrangements, income, and expenditure relevant to criteria**

- (1) Section EW 58(2) is repealed.
- (2) **Subsection (1)** applies for income years starting on and after 1 April 2008. 25

**112 Section EX 13 repealed**

- (1) Section EX 13 is repealed.
- (2) **Subsection (1)** applies for income years starting on and after 1 April 2008.

**113 Cash basis holder** 30

- (1) Section EZ 34(10) is repealed.
- (2) **Subsection (1)** applies for income years starting on and after 1 April 2008.
-



**Struck out (unanimous)**

**114 Attribution rule: calculation**

- (1) In section GC 14D(2)(b), “section HD 1(1)(b)” is replaced by “**section HD 2**”.
- (2) **Subsection (1)** applies for income years starting on and after 1 April 2008.

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**115 New section GD 16**

- (1) After section GD 15, the following is added:

**“GD 16 Partners transacting within partnership**

“(1) If market value amounts of consideration are not used for transactions between partners of a partnership as members of the partnership, then, for the purposes of this Act, market value amounts of consideration are substituted for the actual amounts, and the actual amounts are ignored.

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“(2) **Subsection (1)** does not apply to the following:

“(a) salary or wages:

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“(b) a change in partner’s interests to which **section HD 4** applies:

“(c) amounts provided in **section HD 11.**”

- (2) **Subsection (1)** applies for income years starting on and after 1 April 2008.

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**116 Subpart HD replaced**

- (1) Subpart HD is replaced by the following:

“Subpart HD—Joint venturers, partners, and partnerships

**“Joint venturers**

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**“HD 1 Joint venturers**

*“When this section applies*

“(1) This section applies when 2 or more people derive income jointly or have deductions jointly, and they are not partners in the same partnership.

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*“Separate shares*

“(2) Each person must calculate their net income for a tax year taking into account their share of the joint income and deductions.

**Struck out (unanimous)*****“Exclusion***

“(3) This section does not apply to the income derived by and the deductions of an airport operator from activities that, in relation to that airport operator, are activities undertaken as an airport operator.

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“Defined in this Act: airport operator, deduction, income, net income, partner, partnership, tax year”

***“Partners and partnerships******“Transparency*****“HD 2 Partnerships are transparent**

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***“Look-through in accordance with share***

“(1) In this Act, unless the context requires otherwise,—

“(a) a partner of a partnership is treated as carrying on an activity carried on by the partnership, and having a status, intention and purpose of the partnership, and the partnership is treated as not carrying on the activity or having the status, intention, or purpose:

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“(b) a partner of a partnership is treated as holding property that a partnership holds, in proportion to the partner’s partnership share, and the partnership is treated as not holding the property:

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“(c) a partner of a partnership is treated as being party to an arrangement to which the partnership is a party, in proportion to the partner’s partnership share, and the partnership is treated as not being a party to the arrangement:

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“(d) a partner of a partnership is treated as doing a thing and being entitled to a thing that the partnership does or is entitled to, in proportion to the partner’s partnership share, and the partnership is treated as not doing the thing or being entitled to the thing.

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***“No streaming***

“(2) The amount of income, tax credit, rebate, gain, expenditure, or loss that a partner of a partnership has, as a member of the partnership, from a particular source, or of a particular nature, is calculated by multiplying the total income, tax credit,

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**Struck out (unanimous)**

<p>rebate, gain, expenditure, or loss of the partners of the partnership from the particular source or of the particular nature by the partner’s partnership share in the partnership’s income.</p>	
<p><i>“Expenditure or loss previously incurred</i></p>	
“(3) A partner of a partnership may be treated as incurring an expenditure or loss which the partnership incurs, despite the partner not being a partner at the time the expenditure or loss is incurred.	5
<p><i>“Excluded amounts</i></p>	
“(4) <b>Subsection (2)</b> does not apply to the following amounts:	10
“(a) supplementary dividends, to the extent to which subpart LE applies:	
“(b) conduit tax relief additional dividends, to the extent to which subpart LG applies:	
“(c) imputation credits, to the extent to which section LB 1 applies:	15
“(d) dividend withholding payment credits, to the extent to which section LB 1 applies.	
“Defined in this Act: arrangement, conduit tax relief additional dividend, dividend withholding payment credit, imputation credit, income, partner, partnership, partnership share, rebate, supplementary dividend, tax credit”	20
<p><i>“Disposals</i></p>	
<p><b>“HD 3 Disposal upon dissolution</b></p>	
<p><i>“When this section applies</i></p>	
“(1) This section applies when a partner (the <b>dissolving partner</b> ) disposes of some or all of their partner’s interests in a partnership (the <b>current disposal</b> ) and the disposal of 50% or more of all partners’ interests in the partnership has occurred, including the current disposal, in the year before the current disposal occurs.	25  30
<p><i>“Disposal</i></p>	
“(2) Each partner of the partnership is treated as disposing of all of their partner’s interests in the partnership, including the current disposal, to a third party for a payment equal to the interests’ market value.	35
<p><i>“Acquisition</i></p>	

**Struck out (unanimous)**

- “(3) Each partner of the partnership is treating as immediately re-acquiring all of their partner’s interest disposed of under **subsection (2)** from a third party for a payment equal to the interest’s market value, unless the partnership is finally dissolved by the current disposal. 5
- “*Property received*
- “(4) Anything received by the dissolving partner for the current disposal is treated as part of the payment for the disposal under **subsection (2)**. 10
- “*Relationship with subject matter*
- “(5) This section overrides **sections HD 4 to HD 10**.  
“Defined in this Act: dispose, partner, partner’s interests, partnership”
- “HD 4 Disposal of partner’s interests within partnership**
- “*When this section applies*
- “(1) This section applies when a partner’s interest in a partnership changes (the **change**) because the partner (the **changing partner**) disposes of some or all of their partner’s interest to another partner or they acquire another partner’s interests, and— 15
- “(a) no partner ceases to be a partner as a result of the arrangement relating to the change; and 20
- “(b) no consideration is paid or payable in relation to the arrangement relating to the change.
- “*Disposing partner: no deduction*
- “(2) The changing partner who disposes of some or all of their partner’s interest to another partner is denied any deduction in relation to the interests for the income year in which the disposal of the interests occurs and later income years to the extent to which the changing partner who acquires the interests is allowed a deduction because of **subsection (3)**. 25 30
- “*Acquiring partner: stepping in*
- “(3) For the purposes of calculating the income tax liability of the changing partner who acquires another partner’s interests for the income year in which the disposal of the interest occurs and later income years, the changing partner who acquires the 35

**Struck out (unanimous)**

interests is treated as if they had originally acquired and held the interests, not the other partner.

*“Relationship with subject matter*

“(4) **Section HD 3** overrides this section.

“Defined in this Act: deduction, dispose, excluded income, income tax liability, partner, partner’s interests, partnership”

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**“HD 5 Disposal of partner’s interests**

*“When this section applies*

“(1) This section applies when a person (the **exiting partner**) disposes of some or all of their partner’s interests (the **current interests**) in a partnership, if the amount calculated using the following formula is less than zero:

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disposal pay- + previous - net adjusted tax value - \$50,000.  
ment payments of partnership prop-  
erty

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*“Definition of items in formula*

“(2) In the formula,—

“(a) **disposal payment** is the total amount of consideration paid or payable to the exiting partner for the interests:

“(b) **previous payments** is the total amount of consideration paid or payable to the exiting partner for other disposals of some or all of their partner’s interests (the **other interests**) that have occurred in the year before the disposal of the current interests:

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“(c) **net adjusted tax value of partnership property** is the value for the purposes of this Act of the current interest and other interests at the time the relevant interest is disposed of minus the liabilities under generally accepted accounting practice at the time the relevant interest is disposed of, calculated by reference to the exiting partner’s partnership share for the relevant interest. If the relevant interest has no value for the purposes of this Act, it is treated as having a value under this Act equal to its accounting book value at the time it is disposed of.

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*“Exiting partner: excluded payment*

**Struck out (unanimous)**

- “(3) The disposal payment described in **subsection (2)(a)** is excluded income of the exiting partner.  
*“Exiting partner: no deduction*
- “(4) The exiting partner is denied any deduction in relation to the current interests for the income year in which the disposal of the interests occurs and later income years to the extent to which the entering partner is allowed a deduction because of **subsection (6)**.  
*“Entering partner: no deduction* 5
- “(5) An entering partner is denied any deduction for the disposal payment described in **subsection (2)(a)**. 10  
*“Entering partner: stepping in*
- “(6) For the purposes of calculating the income tax liability of an entering partner for the income year in which the disposal of the interest occurs and later income years, the entering partner is treated as if they had originally acquired and held the current interests, not the exiting partner. However, this subsection does not apply to a deduction to which **section HD 12** applies to carry forward. 15  
*“Exclusion* 20
- “(7) This section does not apply if the partners of the partnership choose that it does not apply by furnishing a return of income that ignores this section.  
*“Relationship with subject matter*
- “(8) **Section HD 3** overrides this section. 25  
 “Defined in this Act: deduction, dispose, entering partner, excluded income, income tax liability, partner, partner’s interests, partnership, partnership share, return of income”
- “HD 6 Disposal of trading stock** 30  
*“When this section applies*
- “(1) This section applies when a person (the **exiting partner**) disposes of some or all of their partner’s interests in a partnership, to the extent to which those interests include trading stock that is not livestock, and the total turnover of the partners of the partnership is \$3,000,000 or less. 35  
*“Exiting partner: excluded payment*

**Struck out (unanimous)**

“(2) The amount of consideration paid or payable to the exiting partner for the trading stock is excluded income of the exiting partner. <i>“Exiting partner: no deduction</i>	
“(3) The exiting partner is denied any deduction in relation to the trading stock for the income year in which the disposal of the trading stock occurs and later income years, to the extent to which the entering partner is allowed a deduction because of <b>subsection (5)</b> . <i>“Entering partner: no deduction</i>	5  10
“(4) The entering partner is denied any deduction for the amount of consideration paid or payable to the exiting partner for the trading stock. <i>“Entering partner: stepping in</i>	
“(5) For the purposes of calculating the income tax liability of an entering partner, the entering partner is treated as if they had acquired and held the trading stock, not the exiting partner. <i>“Exclusion</i>	15
“(6) This section does not apply if the partners of the partnership choose that it does not apply by furnishing returns of income that ignore <b>sections HD 5 to HD 9</b> , and the partnership is a small partnership. <i>“Relationship with subject matter</i>	20
“(7) <b>Section HD 3</b> overrides this section. “Defined in this Act: deduction, dispose, entering partner, excluded income, income tax liability, partner, partner’s interests, partnership, small partnership, trading stock, turnover”	25
<b>“HD 7 Disposal of depreciable property</b> <i>“When this section applies</i>	
“(1) This section applies when a person (the <b>exiting partner</b> ) disposes of some or all of their partner’s interest in a partnership, to the extent to which those interests include an item of depreciable property that is not depreciable intangible property, and the total cost of the item when it was first acquired by the partners of the partnership is \$200,000 or less. <i>“Exiting partner: excluded payment</i>	30  35

**Struck out (unanimous)**

- “(2) The amount of consideration paid or payable to the exiting partner for the depreciable property is excluded income of the exiting partner.  
*“Exiting partner: no deduction* 5
- “(3) The exiting partner is denied any deduction in relation to the depreciable property for the income year in which the disposal of the depreciable property occurs and later income years, to the extent to which the entering partner is allowed a deduction because of **subsection (5)**.  
*“Entering partner: no deduction* 10
- “(4) The entering partner is denied any deduction for the amount of consideration paid or payable to the exiting partner for the depreciable property.  
*“Entering partner: stepping in* 15
- “(5) For the purposes of calculating the income tax liability of an entering partner for the income year in which the disposal of the depreciable property occurs and later income years, the entering partner is treated as if they had originally acquired and held the depreciable property, not the exiting partner.  
*“Exclusion* 20
- “(6) This section does not apply if the partners of the partnership choose that it does not apply by furnishing returns of income that ignore **sections HD 5 to HD 9**, and the partnership is a small partnership.  
*“Relationship with subject matter* 25
- “(7) **Section HD 3** overrides this section.  
 “Defined in this Act: deduction, depreciable intangible property, depreciable property, dispose, entering partner, excluded income, income tax liability, partner, partner’s interests, partnership, small partnership”
- “**HD 8 Disposal of financial arrangements and certain excepted financial arrangements** 30  
*“When this section applies*
- “(1) This section applies when a person (the **exiting partner**) disposes of some or all of their partner’s interests in a partnership, to the extent to which those interests include a financial arrangement or an excepted financial arrangement described 35



**Struck out (unanimous)**

in section EW 5(10) (What is an excepted financial arrangement?) and,—	
“(a) the purpose for which the financial arrangement or excepted financial arrangement was entered into was necessary and incidental to the business of the partners of the partnership; and	5
“(b) partners of the partnership do not derive income from a business of holding financial arrangements.	
<b><i>“Exiting partner: excluded payment</i></b>	
“(2) The amount of consideration paid or payable to the exiting partner for the financial arrangement or excepted financial arrangement is excluded income of the exiting partner.	10
<b><i>“Exiting partner: no deduction</i></b>	
“(3) The exiting partner is denied any deduction in relation to the financial arrangement or excepted financial arrangement for the income year in which the disposal of the financial arrangement or excepted financial arrangement occurs and later income years.	15
<b><i>“Entering partner: no deduction</i></b>	
“(4) The entering partner is denied any deduction for the amount of consideration paid or payable to the exiting partner for the financial arrangement or excepted financial arrangement.	20
<b><i>“Entering partner: stepping in</i></b>	
“(5) For the purposes of calculating the income tax liability of an entering partner for the income year in which the disposal of the financial arrangement or excepted financial arrangement occurs and later income years, the entering partner is treated as if they had acquired and held the financial arrangement or excepted financial arrangement, not the exiting partner.	25
<b><i>“Exclusion</i></b>	30
“(6) This section does not apply if the partners of the partnership choose that it does not apply by furnishing returns of income that ignore <b>sections HD 5 to HD 9</b> , and the partnership is a small partnership.	
<b><i>“Relationship with subject matter</i></b>	35

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**Struck out (unanimous)**

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- “(7) **Section HD 3** overrides this section.  
 “Defined in this Act: deduction, disposal, entering partner, excepted financial arrangement, excluded income, financial arrangement, income tax liability, partner, partner’s interests, partnership, small partnership”
- “**HD 9 Disposal of short-term agreements for the sale and purchase of property or services** 5  
*“When this section applies*
- “(1) This section applies when a person (the **exiting partner**) disposes of some or all of their partner’s interests in a partnership, to the extent to which those interests include a short-term agreement for the sale and purchase of property or services. 10  
*“Exiting partner: excluded payment*
- “(2) The amount of consideration paid or payable to the exiting partner for the short-term agreement for the sale and purchase of property or services is excluded income of the exiting partner. 15  
*“Exiting partner: no deduction*
- “(3) The exiting partner is denied any deduction in relation to the short-term agreement for the sale and purchase of property or services, to the extent to which the entering partner is allowed a deduction because of **subsection (5)**. 20  
*“Entering partner: no deduction*
- “(4) The entering partner is denied any deduction for the amount of consideration paid or payable to the exiting partner for the short-term agreement for the sale and purchase of property or services. 25  
*“Entering partner: stepping in*
- “(5) For the purposes of calculating the income tax liability of an entering partner for the income year in which the disposal of the short-term agreement for the sale and purchase of property or services occurs and later income years, the entering partner is treated as if they had originally acquired and held the short-term agreement for the sale and purchase of property or services, not the exiting partner. 30  
*“Exclusion 35*
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**Struck out (unanimous)**

“(6) This section does not apply if the partners of the partnership choose that it does not apply by furnishing returns of income that ignore <b>sections HD 5 to HD 9</b> , and the partnership is a small partnership.	
<i>“Relationship with subject matter</i>	5
“(7) <b>Section HD 3</b> overrides this section.	
“Defined in this Act: deduction, disposal, entering partner, excluded income, income tax liability, partner, partner’s interests, partnership, short-term agreement for the sale and purchase of property or services, small partnership”	10
<b>“HD 10 Disposal of specified livestock</b>	
<i>“When this section applies</i>	
“(1) This section applies when a person (the <b>exiting partner</b> ) disposes of some or all of their partner’s interests in a partnership, to the extent to which those interest include specified livestock.	15
<i>“Entering partner: stepping in</i>	
“(2) For the purposes of calculating the income tax liability of an entering partner for the income year in which the disposal of the specified livestock occurs and later income years, the entering partner is treated as if they had originally acquired and held the specified livestock, not the exiting partner.	20
<i>“Exclusion</i>	
“(3) This section does not apply if the partners of the partnership choose that it does not apply by furnishing returns of income that ignore this section.	25
“Defined in this Act: disposal, entering partner, income tax liability, partner, partner’s interests, partnership, specified livestock”	
<i>“Limited partnership deduction rules</i>	
<b>“HD 11 Limitation on deductions by partners in limited partnerships</b>	30
<i>“When this section applies</i>	
“(1) This section applies when the relevant partnership is a limited partnership and, but for this section, a partner is allowed, for an income year, a deduction by virtue of <b>section HD 2 or HD 12</b> .	35

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**Struck out (unanimous)**


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*“No deduction*

- “(2) The partner is denied a deduction for the income year to the extent to which their limited partnership net deduction for the income year is greater than the amount (the **partner’s basis**) calculated using the formula in **subsection (3)** on the last day of the income year. 5

*“Partner’s basis*

- “(3) For the purposes of **subsection (2)**, the amount that is the partner’s basis is calculated using the following formula: 10  
investments – distributions + income – deductions – disallowed amount.

*“Definition of items in formula*

- “(4) In the formula,—
- “(a) **investments** is the total of—
- “(i) the market value of capital contributions made by the partner at the time the relevant contribution is contributed or agreed to be contributed by them: 15
- “(ii) in the case of the assignment of capital contributions to the partner, the amount paid by the partner for the assignment of capital contributions:
- “(iii) consideration paid by the partner to the limited partnership under financial arrangements to which the partnership is a party: 20
- “(iv) the guaranteed amounts:
- “(b) **distributions** is the total of—
- “(i) the market value of withdrawals to the partner from the limited partnership: 25
- “(ii) in the case of the assignment of capital contributions by the partner, the amount paid for the assignment of capital contributions to them:
- “(iii) amounts of consideration paid to the partner under financial arrangements to which the partnership is a party: 30
- “(c) **income** is the total of—
- “(i) income that the partner has in previous income years under **section HD 2**: 35
- “(ii) capital gain amounts under section CD 33(7)(a) (Available capital distribution amount) that the partner has in the income year and previous
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**Struck out (unanimous)**

income years under <b>section HD 2</b> , if the partner is treated as a company for the purposes of section CD 33(7)(a):	
“(iii) assessable income that the partner has in previous income years from goods and services they contributed to the partnership, if the income is not accounted for under <b>paragraph (a)</b> or <b>this paragraph</b> :	5
“(d) <b>deductions</b> is the total of—	
“(i) deductions that the partner is allowed in previous income years under <b>section HD 2</b> , excluding any deductions denied in those years under <b>this section</b> :	10
“(ii) capital loss amounts under section CD 33(9) that the partner incurs in the income year and previous income years under <b>section HD 2</b> , if the partner is treated as a company for the purposes of section CD 33(9):	15
“(iii) deductions that the partner is allowed in previous income year in relation to assessable income described in <b>paragraph (c)(iii)</b> , if the deduction is not accounted for under <b>paragraph (b)</b> or <b>this paragraph</b> :	20
“(e) <b>disallowed amount</b> is the amount of investments, as defined in <b>subparagraph (a)</b> , made by the partner within 60 days of the last day of the income year, if those investments are or will be distributed or reduced within 60 days after the last day of the income year.	25
“ <b>Exclusion</b>	
“(5) This section does not apply to deny a partner (the <b>exiting partner</b> ) a deduction that is equal to or less than the amount of net income that the exiting partner has for the amount paid or payable to the exiting partner for the disposal of their partner’s interests.	30
“ <b>Relationship with subject matter</b>	
“(6) This section is modified by <b>sections HZ 3 and HZ 4</b> .	
“ <b>Some definitions</b>	35
“(7) In this section,—	
“ <b>capital contribution</b> includes a capital contribution for the purposes of the <b>Limited Partnerships Act 2007</b>	

**Struck out (unanimous)**

“**guaranteed amounts** means, for a partner of the relevant limited partnership, the lesser of the amounts following in **paragraphs (a) and (b)**:

“(a) the partner’s partnership share of the limited partnership’s debt, to the extent that the partner has given a guarantee or indemnity in relation to that debt: 5

“(b) the market value of property against which the guarantee or indemnity described in **paragraph (a)** may be enforced, treating the partner’s interests as having a market value of zero 10

“**limited partnership net deduction** means, for a partner of the relevant limited partnership and the income year, the amount of any net loss that would arise if the partner is treated as having no income or deductions other than those that arise by virtue of **sections HD 2 and HD 12** 15

“**partner’s associate** means, for a partner, a person who is not a partner of the relevant limited partnership, and who is—

“(a) a relative of the partner:

“(b) a company in the same wholly-owned group as the partner 20

“**withdrawal** includes a distribution for the purposes of the **Limited Partnerships Act 2007**.

“Defined in this Act: amount, capital contribution, deduction, entering partner, income, income year, net loss, partner, partner’s associate, partnership, limited partnership net deduction, withdrawal” 25

“**HD 12 Limitation on deductions by partners in limited partnerships: carry-forward**

“*When this section applies*

“(1) This section applies when, for an income year, a partner is denied a deduction under **section HD 11**. 30

“*Carry-forward*

“(2) A partner is allowed a deduction, for an amount for which the partner is denied a deduction under **section HD 11**, for the income year after the one for which it is denied under **section HD 11**. 35

“*Relationship with subject matter*

**Struck out (unanimous)**

- “(3) A deduction allowed under this section is subject to **section HD 11.**”  
 “Defined in this Act: amount, income year, partner”.
- (2) **Subsection (1)** applies for income years starting on and after 1 April 2008. 5

**117 Partners of absentee deemed agent**

- (1) Section HK 17 is replaced by the following:  
**“HK 17 Agency: general partners and partners of absentees**  
 “(1) This section applies to a person who—  
     “(a) in New Zealand carries on a business in a partnership that is not a limited partnership: 10  
     “(b) is a general partner of a limited partnership that carries on a business in New Zealand ignoring **section HD 2.**  
 “(2) If the person carries on the business with an absentee or, in the case of a general partner, is responsible for the management of the business of a limited partnership in which a limited partner is an absentee, the person is treated, for the purposes of this Act and the Tax Administration Act 1994, as the agent of the relevant absentee in relation to the absentee’s partnership share of the partnership’s income under **section HD 2.**” 15 20
- (2) **Subsection (1)** applies for income years starting on and after 1 April 2008.

**118 New sections HZ 3 and HZ 4**

- (1) After section HZ 2, the following is added:  
**“HZ 3 Special partnerships: transition into limited partnerships and limited partnerships deduction rules** 25  
*“When this section applies*  
 “(1) This section applies when a special partnership under Part 2 of the Partnership Act 1908—  
     “(a) is in existence on 1 April 2008; and 30  
     “(b) is terminated and a limited partnership registered under the **Limited Partnerships Act 2007** (the **new limited partnership**) succeeds to that special partnership.  
*“No disposal: same partnership*

**Struck out (unanimous)**

- “(2) No partners’ interests are disposed of merely because of the termination and succession described in **subsection (1)(b)**. The partners of the special partnership are treated as the same partners of the new limited partnership.  
*“Initial basis* 5
- “(3) For the purposes of applying **sections HD 11 and HD 12** (which relate to limited partnerships deduction rules) to the partners of the new limited partnership, all of the partners must choose one of the 2 following methods for calculating their partner’s basis under **section HD 11(3)**: 10
- “(a) they may choose to use the market value of the amounts described in **section HD 11(3)**, as at the day the calculation is first performed, namely the last day of the first income year in which they are subject to **sections HD 11 and HD 12**; or 15
- “(b) they may chose to apply **section HD 11(3)** as if the special partnership had always been a limited partnership and all relevant rules relating to limited partnerships had always existed (applying those rules with any necessary modifications). 20
- “Initial basis not less than zero*
- “(4) If the application of **sections HD 11 and HD 12**, as modified by this section, calculates a partner’s basis as less than zero, then the partner’s basis is treated as being zero.
- “HZ 4 Overseas limited partnerships: transition into limited partnerships deduction rules** 25
- “When this section applies*
- “(1) This section applies when a limited partnership described in **paragraphs (a) and (b)** of the definition of **limited partnership** (the **overseas limited partnership**) in this Act is in existence on 1 April 2008, and a partner of that partnership (a **relevant partner**) is a member of the partnership on 1 April 2008 and is subject to **sections HD 11 and HD 12** on or after 1 April 2008. 30
- “Initial basis*
- “(2) For the purposes of applying **sections HD 11 and HD 12** (which relate to limited partnerships deduction rules) to the relevant 35



**Struck out (unanimous)**

<p>partners of the overseas limited partnership, all relevant partners must choose one of the 2 following methods for calculating their partner’s basis under <b>section HD 11(3)</b>:</p> <p>“(a) they may choose to use the market value of the amounts described in <b>section HD 11(3)</b>, as at the day the calculation is first performed, namely the last day of the first income year in which they are subject to <b>sections HD 11 and HD 12</b>; or</p> <p>“(b) they may chose to apply <b>section HD 11(3)</b> as if the overseas limited partnership had always been a limited partnership and all relevant rules relating to limited partnerships had always existed (applying those rules with any necessary modifications).</p> <p><i>“Initial basis not less than zero</i></p> <p>“(3) If the application of <b>sections HD 11 and HD 12</b>, as modified by this section, calculates a partner’s basis as less than zero, then the partner’s basis is treated as being zero.”</p> <p>(2) <b>Subsection (1)</b> applies for income years starting on and after 1 April 2008.</p>	<p>5</p> <p>10</p> <p>15</p>
<p><b>119 Definitions</b></p>	
<p>(1) This section amends section OB 1.</p> <p>(2) After the definition of <b>cancellation</b>, the following is inserted:  <i>“capital contribution</i> is defined in <b>section HD 11(7)</b> (Limitation on deductions by partners in limited partnerships) for the purposes of that section”.</p> <p>(3) In the definition of <b>company</b>, after paragraph (a), the following is inserted:                      “(ab) does not include a partnership:                      “(ac) includes a foreign corporate limited partnership:                      “(ad) includes a listed limited partnership:”.</p> <p>(4) In the definition of <b>dispose</b>, in paragraph (f), “subpart FI applies)” is replaced by “subpart FI applies):”, and the following is added:                      “(g) does not include a partner of a partnership disposing of their partnership interests only because another partner</p>	<p>20</p> <p>25</p> <p>30</p> <p>35</p>

**Struck out (unanimous)**

- disposes of that partner's interests, unless **section HD 3** (Disposal on dissolution) applies".
- (5) After the definition of **employment-related loan**, the following is inserted:
- “entering partner—** 5
- “(a) means a person who acquires a partner's interests in a partnership:
- “(b) includes a person who is already a partner in the partnership when they acquire another partner's interests”.
- (6) After the definition of **foreign company aggregates**, the following is inserted: 10
- “foreign corporate limited partnership** means an entity or group of persons that—
- “(a) meets the definition of overseas limited partnership in **section 86** of the **Limited Partnerships Act 2007**; and 15
- “(b) is treated as a separate legal entity under the laws (other than taxation laws) of the country, territory, or jurisdiction where it is established”.
- (7) After the definition of **limited attribution company**, the following is inserted: 20
- “limited partnership—**
- “(a) means a limited partnership registered under the **Limited Partnerships Act 2007**; and
- “(b) includes an **overseas limited partnership** as defined in **section 86** of the **Limited Partnerships Act 2007**; and 25
- “(c) despite **paragraph (b)**, does not include a foreign corporate limited partnership or a listed limited partnership
- “limited partnership net deduction** is defined in **section HD 11(7)** (Limitation on deductions by partners in limited partnerships) for the purposes of that section”. 30
- (8) After the definition of **listed horticultural plant**, the following is inserted:
- “listed limited partnership** means an entity or group of persons that—
- “(a) meets the definition of **overseas limited partnership** in **section 86** of the **Limited Partnerships Act 2007**; and 35

**Struck out (unanimous)**

- “(b) is party to a listing agreement for the listing of securities on any market, exchange, or other facility for trading securities”.
- (9) The definitions of **partner**, **partnership**, **partnership income**, **partnership loss**, and **partnership net income** are replaced by the following: 5
- “**partner**, in relation to a partnership,—
- “(a) means a person who is a member of the partnership:
- “(b) includes a joint venturer or a co-owner, if they make the relevant choice: 10
- “(c) does not include a general partner of a limited partnership
- “**partner’s associate** is defined in **section HD 11(7)** (Limitation on deductions by partners in limited partnerships) for the purposes of that section 15
- “**partner’s interests** means the relevant interests in rights and obligations and other property, status, and things that a partner has as a result of applying **section HD 2**
- “**partnership** means—
- “(a) a group of 2 or more persons who have, between themselves, the relationship described in section 4(1) of the Partnership Act 1908: 20
- “(b) a joint venture, if the joint venturers all choose to be treated as a partnership for the purposes of the Inland Revenue Acts: 25
- “(c) co-owners of property, other than persons who are co-owners only because they are shareholders of the same company, or settlors, trustees or beneficiaries of the same trust, if the co-owners all choose to be treated as a partnership for the purposes of this Act: 30
- “(d) a limited partnership
- “**partnership share** means the relevant share that a partner has in the rights and obligations and other property, status, and things of a partnership, expressed as a percentage”.
- (10) In the definition of **relative**, paragraph (a), “personal services),” is replaced by “personal services), **HD 11(7)** (Limitation on deductions by partners in limited partnerships),” 35

**Struck out (unanimous)**

- |      |  |    |
|------|--|----|
| (11) | After the definition of <b>small-business taxpayer</b> , the following is inserted:<br>“ <b>small partnership</b> means a partnership that is not a limited partnership and has 5 or less partners, none of whom are companies or partnerships”.   | 5  |
| (12) | The definition of <b>trading stock</b> , paragraph (a)(xxvi) is replaced by the following:<br>“(xxvi) <b>section HD 6</b> (Disposal of trading stock):”.   |    |
| (13) | In the definition of <b>turnover</b> , “livestock))” is replaced by “livestock)) and <b>section HD 6</b> (Disposal of trading stock)”.   | 10 |
| (14) | In the definition of <b>withdrawal</b> , paragraph (c), “their employment” is replaced by “their employment:”, and the following is added:<br>“(d) is defined in <b>section HD 11(7)</b> (Limitation on deductions by partners in limited partnerships) for the purposes of that section”. | 15 |
| (15) | <b>Subsections (2) to (14)</b> apply for income years starting on and after 1 April 2008.  |    |
| <br> |  |    |
|      | <b>120 Further definitions of associated persons</b>   | 20 |
| (1)  | In section OD 8(2),—   | 20 |
|      | (a) in paragraph (a),—   |    |
|      | (i) “or interests in a partnership” is omitted:  |    |
|      | (ii) “a company, partnership, or trust” is replaced by “a company or a trust”:   |    |
|      | (iii) “shareholders, partners, or beneficiaries in the company, trust, or partnership” is replaced by “shareholders or beneficiaries in the company or trust”:   | 25 |
| (b)  | in paragraph (b), “or the interests in a partnership” is omitted:  | 30 |
| (c)  | in paragraph (c),—   |    |
|      | (i) “or interests in a partnership” is omitted:  |    |
|      | (ii) “shares or interests” is replaced in both places in which it appears by “shares”.   |    |
| (2)  | <b>Subsection (1)</b> applies for income years starting on and after 1 April 2008.   | 35 |

**Struck out (unanimous)**

- 121 Classes of income treated as having source in New Zealand**
- (1) After section OE 4(1A), the following is added:
- “(2) **Subsection (3)** applies when—
- “(a) a partnership is a limited partnership registered under the **Limited Partnerships Act 2007**; or 5
- “(b) for a partnership, 50% or more of the partners’ interests in capital, by value, are held by New Zealand residents; or
- “(c) the centre of management of a partnership is in New Zealand ignoring **section HD 2**. 10
- “(3) A class of income has a source in New Zealand if, treating the partners of a partnership as resident in New Zealand, the class of income has a source in New Zealand under subsections (1) and (1A). 15
- “(4) The rules for classes of income in subsections (1) and (1A) are unaffected in the circumstance of **subsection (3)** not applying.”
- (2) **Subsection (1)** applies for income years starting on and after 1 April 2008.

**Part 6**

20

**Amendments to Tax Administration Act 1994**

- 122 Tax Administration Act 1994**
- This Part amends the Tax Administration Act 1994.
- 123 Keeping of business records**
- (1) In section 22(4)(b), “liquidated.” is replaced by “liquidated:” and the following is added: 25
- “(c) by a partner of a partnership, if the partnership retains the records that the partner would be required to retain but for this paragraph.”
- (2) **Subsection (1)** applies for income years starting on and after 1 April 2008. 30

**124 Section 42 replaced**

- (1) Section 42 is replaced by the following:

**Struck out (unanimous)**

- “42 Returns by joint venturers, partners and partnerships**
- “(1) This section applies when 2 or more people derive income jointly or have deductions jointly.
- “(2) Despite **subsection (1)**, this section does not apply to the income derived by and the deductions of an airport operator from activities that, in relation to that airport operator, are activities undertaken as an airport operator. 5
- “(3) In the case of partners,—
- “(a) if the partnership of the partner is a limited partnership registered under the **Limited Partnerships Act 2007** or is a partnership that would carry on a business in New Zealand ignoring **section HD 2** of the Income Tax Act 2004, then the partners must make a joint return of income, including the total amount of income derived by the partners as members of the partnership, the partners’ partnership share in the income, and a summary of the deductions of each partner that relate to the income: 10
- “(b) there is no joint assessment, but each partner must make a separate return of income under section 33, including the income derived by the partner as a member of the partnership, and the partner’s deductions that relate to the income. Each partner is separately assessed. 15
- “(4) In any other case, each person shall make a separate return taking into account that person’s share of the joint income and deductions. Each person is separately assessed.” 20
- (2) **Subsection (1)** applies for income years starting on and after 1 April 2008. 25

**New (unanimous)****Part 5****Amendments to Income Tax Act 2007**

- 105 Income Tax Act 2007** 30  
This Part amends the Income Tax Act 2007.
- 106 New section CB 27B**
- (1) After section CB 27, the following is inserted:

**New (unanimous)**

**“CB 27B Entering partners’ livestock income**

*“When this section applies*

“(1) This section applies when **section HG 10** (Disposal of livestock) applies, and—

“(a) an entering partner acquires partner’s interests in livestock; and 5

“(b) the relevant exiting partner has a net loss from the amount of consideration paid or payable by the entering partner for the livestock, ignoring other transactions.

*“Income: default position 10*

“(2) For the income year in which the entering partner acquires the livestock, the entering partner has income equal to the amount of loss described in **subsection (4)**, unless they choose to apply **subsection (3)** in the return of income for the income year.

*“Income: election to spread 15*

“(3) If the entering partner chooses, for the income year in which the entering partner acquires the livestock, and in each of the following 4 years, the entering partner has income calculated using the following formula:

$$\frac{\text{loss}}{5} \quad 20$$

*“Definition of item in formula*

“(4) In the formula, **loss** is the net loss that the exiting partner has from the disposal of their partner’s interests in livestock, ignoring other transactions. 25

“Defined in this Act: amount, entering partner, income, income year, net loss, partner, partner’s interests”.

(2) **Subsection (1)** applies for income years starting on and after 1 April 2008.

**107 New heading and section CB 35 added 30**

(1) After section CB 34, the following is added:

## New (unanimous)

*“Partners and partnerships***“CB 35 Amounts of income for partners**

A person who is a partner has an amount of income to the extent to which an amount of income results from the application of **subpart HG** (Joint venturers, partners, and partnerships) to them and their partnership.

5

“Defined in this Act: amount, income, partner, partnership”.

- (2) **Subsection (1)** applies for income years starting on and after 1 April 2008.

**108 Meaning of asset for sections CU 3 to CU 10**

10

- (1) Section CU 11(2) is repealed.  
 (2) **Subsection (1)** applies for income years starting on and after 1 April 2008.

**109 Amount treated as repayment for purposes of section CU 17: net income**

15

- (1) Section CU 19(6)(c) is repealed.  
 (2) **Subsection (1)** applies for income years starting on and after 1 April 2008.

**110 New heading and section CW 55B added**

- (1) After section CW 55, the following is added: 20

*“Partners and partnerships***“CW 55B Amounts of exempt income for partners**

A person who is a partner has an amount of exempt income to the extent to which an amount of exempt income results from the application of **subpart HG** (Joint venturers, partners, and partnerships) to them and their partnership.

25

“Defined in this Act: amount, exempt income, partner, partnership”.

- (2) **Subsection (1)** applies for income years starting on and after 1 April 2008.

**111 New heading and section CX 62 added**

30

- (1) After section CX 61, the following is added:



**New (unanimous)**

***“Partners and partnerships***

**“CX 62 Amounts of excluded income for partners**

A person who is a partner has an amount of excluded income to the extent to which an amount of excluded income results from the application of **subpart HG** (Joint venturers, partners, and partnerships) to them and their partnership. 5

“Defined in this Act: amount, excluded income, partner, partnership”.

- (2) **Subsection (1)** applies for income years starting on and after 1 April 2008.

**112 New heading and section DV 20 added 10**

- (1) After section DV 19, the following is added:

***“Partners and partnerships***

**“DV 20 Partners**

A person who is a partner is allowed a deduction for expenditure or loss to the extent to which the deduction results from the application of **subpart HG** (Joint venturers, partners, and partnerships) to them and their partnership. 15

“Defined in this Act: amount, deduction, partner, partnership”.

- (2) **Subsection (1)** applies for income years starting on and after 1 April 2008. 20

**113 New section DO 11B inserted**

- (1) After section DO 11, the following is inserted:

**“DO 11B Entering partners’ livestock deduction**

*“When this section applies*

- “(1) This section applies when **section HG 10** (Disposal of livestock) applies, and— 25

“(a) an entering partner acquires partner’s interests in livestock; and

“(b) the relevant exiting partner has net income from the amount of consideration paid or payable by the entering partner for the livestock, ignoring other transactions; and 30

**New (unanimous)**

“(c) the amount paid or payable is not exempt or excluded income of the exiting partner.	
<i>“Deduction: default position</i>	
“(2) For the income year in which the entering partner acquires the livestock, the entering partner has a deduction equal to the amount of income described in <b>subsection (4)</b> , unless they choose to apply <b>subsection (3)</b> in the return of income for the income year.	5
<i>“Deduction: election to spread</i>	
“(3) If the entering partner chooses, for the income year in which the entering partner acquires the livestock, and in each of the following 4 years, the entering partner is allowed a deduction calculated using the following formula:	10
$\frac{\text{income}}{5.}$	15
<i>“Definition of item in formula</i>	
“(4) In the formula, <b>income</b> is the net income that the exiting partner has from the disposal of their partner’s interests in livestock, ignoring other transactions.	
“Defined in this Act: amount, deduction, entering partner, excluded income, exempt income, income year, net income, partner, partner’s interests”.	20
(2) <b>Subsection (1)</b> applies for income years starting on and after 1 April 2008.	
<b>114 Meaning of asset for sections DU 1 to DU 7</b>	
(1) Section DU 8(2) is repealed.	25
(2) <b>Subsection (1)</b> applies for income years starting on and after 1 April 2008.	
<b>115 Financial arrangements, income, and expenditure relevant to criteria</b>	
(1) Section EW 58(2) is repealed.	30
(2) <b>Subsection (1)</b> applies for income years starting on and after 1 April 2008.	

**New (unanimous)**

<b>116 Section EX 13 repealed</b>	
(1) Section EX 13 is repealed.	
(2) <b>Subsection (1)</b> applies for income years starting on and after 1 April 2008.	
<b>117 Cash basis holder</b>	5
(1) Section EZ 37(10) is repealed.	
(2) <b>Subsection (1)</b> applies for income years starting on and after 1 April 2008.	
<b>118 Attribution rule: calculation</b>	
(1) In section GB 29(2)(b), “section HR 1” is replaced by “ <b>section HG 2</b> ”.	10
(2) <b>Subsection (1)</b> applies for income years starting on and after 1 April 2008.	
<b>119 New heading and section GB 50 added</b>	
(1) After section GB 49, the following is added:	15
<i>“Arrangements involving partners</i>	
<b>“GB 50 Arrangements involving partners</b>	
<i>“When this section applies</i>	
“(1) This section applies when—	
“(a) a partner of a partnership enters into an arrangement; and	20
“(b) the arrangement involves an amount of consideration (the <b>arrangement amount of consideration</b> ) that is not a market value amount of consideration; and	
“(c) the arrangement has a purpose or effect of defeating the intent and application of <b>subpart HG</b> (Joint venturers, partners, and partnerships).	25
<i>“Market value amount substituted</i>	
“(2) A market value amount of consideration is substituted for the arrangement amount of consideration.	30
<i>“Defined in this Act: amount, arrangement, partner, partnership”.</i>	

**New (unanimous)**

- (2) **Subsection (1)** applies for income years starting on and after 1 April 2008.

**120 Section HD 20 replaced**

- (1) Section HD 20 is replaced by the following:

**“HD 20 Persons carrying on business for absentees** 5

A person is treated as an agent if they carry on in New Zealand a business for an absentee, whether or not the income is received by the agent.

“Defined in this Act: absentee, agent, business, income, New Zealand

**“HD 20B General partners and partners carrying on with or managing business involving absentees** 10

- “(1) This section applies to a person who—

“(a) in New Zealand carries on a business in a partnership that is not a limited partnership:

“(b) is a general partner of a limited partnership that carries on a business in New Zealand ignoring **section HG 2** (Partnerships are transparent). 15

- “(2) If the person carries on the business with an absentee or, as a general partner, is responsible for the management of a limited partnership in which a limited partner is an absentee, the person is treated as the agent of the relevant absentee in relation to the absentee’s partnership share of the partnership’s income under **section HG 2**. 20

“Defined in this Act: absentee, agent, business, general partner, income, limited partner, limited partnership, New Zealand, partnership, partnership share”. 25

- (2) **Subsection (1)** applies for income years starting on and after 1 April 2008.

**121 New subpart HG**

- (1) After subpart HF, the following is inserted:

**New (unanimous)**

“Subpart HG—Joint venturers, partners, and partnerships

**“Joint venturers**

**“HG 1 Joint venturers**

“*When this section applies* 5

“(1) This section applies when 2 or more people derive income jointly or have deductions jointly, and they are not partners in the same partnership.

“*Separate shares*

“(2) Each person must calculate their net income for a tax year taking into account their share of the joint income and deductions. 10

“*Exclusion*

“(3) This section does not apply to the income derived by and the deductions of an airport operator from activities that are activities undertaken as an airport operator. 15

“Defined in this Act: airport operator, deduction, income, net income, partner, partnership, tax year

**“Partners and partnerships**

**“HG 2 Partnerships are transparent 20**

“*Look-through in accordance with share*

“(1) For the purposes of a partner’s liabilities and obligations under this Act in their capacity of partner of a partnership, unless the context requires otherwise,—

“(a) the partner is treated as carrying on an activity carried on by the partnership, and having a status, intention and purpose of the partnership, and the partnership is treated as not carrying on the activity or having the status, intention, or purpose: 25

“(b) the partner is treated as holding property that a partnership holds, in proportion to the partner’s partnership 30

## New (unanimous)

share, and the partnership is treated as not holding the property:	
“(c) the partner is treated as being party to an arrangement to which the partnership is a party, in proportion to the partner’s partnership share, and the partnership is treated as not being a party to the arrangement:	5
“(d) the partner is treated as doing a thing and being entitled to a thing that the partnership does or is entitled to, in proportion to the partner’s partnership share, and the partnership is treated as not doing the thing or being entitled to the thing.	10
<i>“No streaming</i>	
“(2) Despite <b>subsection (1)</b> , for a partner in their capacity of partner of a partnership, the amount of income, tax credit, rebate, gain, expenditure, or loss that they have from a particular source, or of a particular nature, is calculated by multiplying the total income, tax credit, rebate, gain, expenditure, or loss of the partners of the partnership from the particular source or of the particular nature by the partner’s partnership share in the partnership’s income.	15
	20
<i>“Expenditure or loss previously incurred</i>	
“(3) A partner of a partnership may be treated as incurring an expenditure or loss which the partnership incurs ignoring this section, despite the partner not being a partner at the time the expenditure or loss is incurred. This subsection does not allow 2 deductions for 1 expenditure or loss.	25
<i>“Excluded amounts</i>	
“(4) <b>Subsection (2)</b> does not apply to the following amounts:	
“(a) expenditure or loss that relates to a person entering a partnership by acquiring partner’s interests disposed of by another partner, to the extent to which <b>sections HG 5 to HG 10</b> do not apply to the partner’s interests:	30
“(b) supplementary dividends, to the extent to which subpart LP applies:	
“(c) CTR additional dividends, to the extent to which subpart LQ applies:	35

**New (unanimous)**

“(d) imputation credits, to the extent to which section LE 6 applies:

“(e) FDP credits, to the extent to which section LF 4 applies.

“Defined in this Act: arrangement, CTR additional dividend, FDP credit, imputation credit, income, partner, partnership, partnership share, rebate, supplementary dividend, tax credit

5

**“HG 3 General provisions relating to disposals**

*“Relationship between disposal upon dissolution and disposal safe harbours*

“(1) **Section HG 4** overrides **sections HG 5 to HG 10**.

10

*“Election out of disposal safe harbours for small partnerships*

“(2) **Sections HG 5 to HG 9** do not apply for the partners of a small partnership if they choose that those sections do not apply by the small partnership furnishing a joint return of income that ignores the sections.

15

*“Election out for livestock disposals*

“(3) **Section HG 10** does not apply for the partners of a partnership if they choose that it does not apply, by the partnership furnishing a joint return of income that ignores the section.

20

**“HG 4 Disposal upon final dissolution**

*“When this section applies*

“(1) This section applies immediately before a partnership is finally dissolved by agreement of the partners, court order, or otherwise, and the partnership’s business ignoring **section HG 2** will not continue to be carried on in partnership.

25

*“Disposal*

“(2) Each partner of the partnership is treated as disposing of all of their partner’s interests in the partnership to a single third party for a payment equal to the interests’ market value.

30

## New (unanimous)

*“Receipts upon dissolution*

- “(3) Anything received by a partner in relation to the dissolution of the partnership described in **subsection (1)** is ignored.

*“Relationship with subject matter*

- “(4) This section overrides **sections HG 4 to HG 10**. 5

“Defined in this Act: dispose, entering partner, excluded income, partner, partner’s interests, partnership

**“HG 5 Disposal of partner’s interests***“When this section applies*

- “(1) This section applies when a person (the **exiting partner**) disposes of some or all of their partner’s interests (the **current interests**) in a partnership, if the amount calculated using the following formula is less than zero: 10

$$\text{disposal payment} + \text{previous payments} - (\text{gross tax value} - \text{liabilities}) - \$50,000. \quad 15$$

*“Definition of items in formula*

- “(2) In the formula,—
- “(a) **disposal payment** is the total amount of consideration paid or payable to the exiting partner for the current interests: 20
- “(b) **previous payments** is the total amount of consideration paid or payable to the exiting partner for other disposals of some or all of their partner’s interests (the **other interests**) that have occurred in the year before the disposal of the current interests: 25
- “(c) **gross tax value** is the value for the purposes of this Act of the current interest and other interests at the time the relevant interest is disposed of, treating any interest that has no value for the purposes of this Act as having a value equal to its accounting book value at the time it is disposed of: 30
- “(d) **liabilities** is the amount of liabilities under generally accepted accounting practice at the time the relevant interest is disposed of, calculated by reference to the



**New (unanimous)**

exiting partner’s partnership share for the relevant interest.

*“Exiting partner: excluded payment*

“(3) The disposal payment described in **subsection (2)(a)** is excluded income of the exiting partner. 5

*“Exiting partner: no deduction*

“(4) The exiting partner is denied any deduction in relation to the current interests for the income year in which the disposal of the interests occurs and later income years to the extent to which the entering partner is allowed a deduction because of **subsection (6)**. 10

*“Entering partner: no deduction*

“(5) An entering partner is denied any deduction for the disposal payment described in **subsection (2)(a)**.

*“Entering partner: stepping in*

“(6) For the purposes of calculating the income and deductions of an entering partner for the part of the income year after the disposal of the interests occurs and later income years (the **post-disposal periods**), the entering partner is treated for the post-disposal periods as if they had originally acquired and held the current interests, not the exiting partner. However, this subsection does not apply to a deduction carried forward under **section HG 12**. 15 20

*“Exclusion by election*

“(7) This section does not apply for the partners of a small partnership if they choose that it does not apply, by the small partnership furnishing a joint return of income that ignores **sections HG 5 to HG 9**. 25

*“Relationship with section HG 4*

“(8) **Section HG 4** overrides this section. 30

“Defined in this Act: deduction, dispose, entering partner, excluded income, income tax liability, partner, partner’s interests, partnership, partnership share, return of income, year

## New (unanimous)

**“HG 6 Disposal of trading stock***“When this section applies*

- “(1) This section applies when a person (the **exiting partner**) disposes of some or all of their partner’s interests in a partnership, to the extent to which those interests include trading stock that is not livestock, and, for the income year of disposal, the total turnover of the partnership, ignoring **section HG 2**, is \$3,000,000 or less. 5

*“Exiting partner: excluded payment*

- “(2) The amount of consideration paid or payable to the exiting partner for the trading stock is excluded income of the exiting partner. 10

*“Exiting partner: no deduction*

- “(3) The exiting partner is denied any deduction in relation to the trading stock for the income year in which the disposal of the trading stock occurs and later income years, to the extent to which the entering partner is allowed a deduction because of **subsection (5)**. 15

*“Entering partner: no deduction*

- “(4) The entering partner is denied any deduction for the amount of consideration paid or payable to the exiting partner for the trading stock. 20

*“Entering partner: stepping in*

- “(5) For the purposes of calculating the income tax liability of an entering partner, the entering partner is treated as if they had acquired and held the trading stock, not the exiting partner. 25

*“Exclusion by election*

- “(6) This section does not apply for the partners of a small partnership if they choose that it does not apply, by the small partnership furnishing a joint return of income that ignores **sections HG 5 to HG 9**. 30

**New (unanimous)**

*“Relationship with section HG 4*

“(7) **Section HG 4** overrides this section.

“Defined in this Act: deduction, dispose, entering partner, excluded income, income tax liability, partner, partner’s interests, partnership, small partnership, trading stock, turnover

5

**“HG 7 Disposal of depreciable property**

*“When this section applies*

“(1) This section applies when a person (the **exiting partner**) disposes of some or all of their partner’s interests in a partnership, to the extent to which those interests include an item of depreciable property that is not depreciable intangible property, and the total cost of the item when it was first acquired by the partners of the partnership is \$200,000 or less.

10

*“Exiting partner: excluded payment*

“(2) The amount of consideration paid or payable to the exiting partner for the depreciable property is excluded income of the exiting partner.

15

*“Exiting partner: no deduction*

“(3) The exiting partner is denied any deduction in relation to the depreciable property for the income year in which the disposal of the depreciable property occurs and later income years, to the extent to which the entering partner is allowed a deduction because of **subsection (5)**.

20

*“Entering partner: no deduction*

“(4) The entering partner is denied any deduction for the amount of consideration paid or payable to the exiting partner for the depreciable property.

25

*“Entering partner: stepping in*

“(5) For the purposes of calculating the income tax liability of an entering partner for the part of the income year after the disposal of the depreciable property occurs and later income years (the **post-disposal periods**), the entering partner is treated for the post-disposal periods as if they had originally

30

**New (unanimous)**

acquired and held the depreciable property, not the exiting partner.	
<i>“Exclusion by election</i>	
“(6) This section does not apply for the partners of a small partnership if they choose that it does not apply, by the small partnership furnishing a joint return of income that ignores <b>sections HG 5 to HG 9</b> .	5
<i>“Relationship with section HG 4</i>	
“(7) <b>Section HG 4</b> overrides this section.	
“Defined in this Act: deduction, depreciable intangible property, depreciable property, dispose, entering partner, excluded income, income tax liability, partner, partner’s interests, partnership, small partnership	10
<b>“HG 8 Disposal of financial arrangements and certain excepted financial arrangements</b>	
<i>“When this section applies</i>	15
“(1) This section applies when a person (the <b>exiting partner</b> ) disposes of some or all of their partner’s interests in a partnership, to the extent to which those interests include a financial arrangement or an excepted financial arrangement described in section EW 5(10) (What is an excepted financial arrangement?) and, ignoring <b>section HG 2</b> —	20
“(a) the purpose for which the financial arrangement or excepted financial arrangement was entered into was necessary and incidental to the business of the partnership; and	25
“(b) the partnership does not derive income from a business of holding financial arrangements.	
<i>“Exiting partner: excluded payment</i>	
“(2) The amount of consideration paid or payable to the exiting partner for the relevant financial arrangement or excepted financial arrangement is excluded income of the exiting partner. The exiting partner is, for the relevant financial arrangement, a party that is not required to calculate a base price	30

**New (unanimous)**

adjustment, despite section EW 29 (When calculation of base price adjustment required).	
<i>“Exiting partner: no deduction</i>	
“(3) The exiting partner is denied any deduction in relation to the relevant financial arrangement or excepted financial arrangement for the income year in which the disposal of the financial arrangement or excepted financial arrangement occurs and later income years.	5
<i>“Entering partner: no deduction</i>	
“(4) The entering partner is denied any deduction for the amount of consideration paid or payable to the exiting partner for the relevant financial arrangement or excepted financial arrangement.	10
<i>“Entering partner: stepping in</i>	
“(5) For the purposes of calculating the income tax liability of an entering partner for the part of the income year after the disposal of the relevant financial arrangement or excepted financial arrangement occurs and later income years (the <b>post-disposal periods</b> ), the entering partner is treated for the post-disposal periods as if they had acquired and held the financial arrangement or excepted financial arrangement, not the exiting partner.	15 20
<i>“Exclusion by election</i>	
“(6) This section does not apply for the partners of a small partnership if they choose that it does not apply, by the small partnership furnishing a joint return of income that ignores <b>sections HG 5 to HG 9</b> .	25
<i>“Relationship with section HG 4</i>	
“(7) <b>Section HG 4</b> overrides this section.	
“Defined in this Act: deduction, disposal, entering partner, excepted financial arrangement, excluded income, financial arrangement, income tax liability, partner, partner’s interests, partnership, small partnership	30

## New (unanimous)

**“HG 9 Disposal of short-term agreements for the sale and purchase of property or services***“When this section applies*

- “(1) This section applies when a person (the **exiting partner**) disposes of some or all of their partner’s interests in a partnership, to the extent to which those interests include a short-term agreement for the sale and purchase of property or services. 5
- “Exiting partner: excluded payment*
- “(2) The amount of consideration paid or payable to the exiting partner for the short-term agreement for the sale and purchase of property or services is excluded income of the exiting partner. 10
- “Exiting partner: no deduction*
- “(3) The exiting partner is denied any deduction in relation to the short-term agreement for the sale and purchase of property or services, to the extent to which the entering partner is allowed a deduction because of **subsection (5)**. 15
- “Entering partner: no deduction*
- “(4) The entering partner is denied any deduction for the amount of consideration paid or payable to the exiting partner for the short-term agreement for the sale and purchase of property or services. 20
- “Entering partner: stepping in*
- “(5) For the purposes of calculating the income tax liability of an entering partner for the part of the income year after the disposal of the short-term agreement for the sale and purchase of property or services occurs and later income years (the **post-disposal periods**), the entering partner is treated for the post-disposal periods as if they had originally acquired and held the short-term agreement for the sale and purchase of property or services, not the exiting partner. 25  
30

**New (unanimous)**

*“Exclusion by election*

- “(6) This section does not apply for the partners of a small partnership if they choose that it does not apply, by the small partnership furnishing a joint return of income that ignores **sections HG 5 to HG 9**. 5

*“Relationship with section HG 4*

- “(7) **Section HG 4** overrides this section.

“Defined in this Act: deduction, disposal, entering partner, excluded income, income tax liability, partner, partner’s interests, partnership, short-term agreement for the sale and purchase of property or services, small partnership 10

**“HG 10 Disposal of livestock**

*“When this section applies*

- “(1) This section applies when a person (the **exiting partner**) disposes of some or all of their partner’s interests in a partnership, to the extent to which those interests include livestock that is not valued using— 15

- “(a) the herd scheme:  
“(b) 1 of the cost price, replacement price, or market value methods described in section EC 25 (Cost price, replacement price, or market value). 20

*“Entering partner: stepping in*

- “(2) For the purposes of calculating the income tax liability of an entering partner for the income year in which the disposal of the relevant non-specified or specified livestock occurs and later income years, the entering partner is treated as if they had originally acquired and held the non-specified or specified livestock, not the exiting partner. 25

*“Exclusion*

- “(3) This section does not apply for the partners of a partnership if they choose that it does not apply, by the partnership furnishing a joint return of income that ignores this section. 30

## New (unanimous)

*“Relationship with section HG 4*

“(4) **Section HG 4** overrides this section.

“Defined in this Act: cost price, disposal, entering partner, herd scheme, income tax liability, partner, partner’s interests, partnership

“**HG 11 Limitation on deductions by partners in limited partnerships** 5

*“When this section applies*

“(1) This section applies for a limited partnership and an income year when, but for this section, a deduction by virtue of **section HG 2 or HG 12** is allowed to— 10

“(a) a limited partner of the limited partnership:

“(b) a general partner of the partnership who—

“(i) was a limited partner of the limited partnership within 60 days of the last day of the income year; and 15

“(ii) is or will be a limited partner of the limited partnership within 60 days after the last day of the income year.

*“No deduction*

“(2) The partner is denied the deduction for an income year to the extent to which their limited partnership net deduction for the income year is greater than the amount (the **partner’s basis**) calculated using the formula in **subsection (3)** on the last day of the income year. 20

*“Partner’s basis* 25

“(3) For the purposes of **subsection (2)**, the amount that is the partner’s basis is calculated using the following formula:  
investments – distributions + income – deductions – disallowed amount.



**New (unanimous)**

*“Definition of items in formula*

“(4) The items in the formula are defined in **subsections (5) to (9)**.

*“Investments*

“(5) **Investments** is the total of—

- “(a) the market value of capital contributions made by the partner to the limited partnership at the time the relevant contribution is contributed or agreed to be contributed by them: 5
- “(b) the amount paid by the partner for the assignment of capital contributions to them: 10
- “(c) the secured amounts.

*“Distributions*

“(6) **Distributions** is the total of—

- “(a) the market value of distributions to the partner from the limited partnership: 15
- “(b) the amount paid to the partner for the assignment of capital contributions by them.

*“Income*

“(7) **Income** is the total of—

- “(a) income that the partner has by virtue of **section HG 2** in the income year and previous income years, excluding dividends paid by a FIF for which the partner has FIF income to the extent to which those dividends are equal to or less than the partner’s FIF income for the relevant income year: 20
- “(b) capital gain amounts under section CD 44(7)(a) (Available capital distribution amount) that the partner would have by virtue of **section HG 2** in the income year and previous income years, if the partner were treated as a company for the purposes of section CD 44(7)(a), unless the gain is accounted for under **paragraph (a)**: 25
- “(c) assessable income that the partner has in previous income years from goods and services they contributed to the limited partnership, if the income is not accounted for under **subsection (5)** or **paragraph (a) or (b) of this subsection**. 30

## New (unanimous)

*“Deductions*

- “(8) **Deductions** is the total of—
- “(a) expenditure or loss in the income year and previous income years, to the extent to which the expenditure or loss is incurred by virtue of **section HG 2** in the partner deriving income by virtue of **section HG 2**, excluding any deductions denied in those previous years under this section: 5
  - “(b) capital loss amounts under section CD 44(9) that the partner would have by virtue of **section HG 2** in the income year and previous income years under **section HG 2**, if the partner is treated as a company for the purposes of section CD 44(9), unless the loss is not accounted for under **paragraph (a)**: 10
  - “(c) deductions that the partner is allowed in previous income year in relation to assessable income described in **subsection (7)(c)**, if the deduction is not accounted for under **subsection (6)** or **paragraphs (a) or (b)** of this section. 15

*“Disallowed amounts*

- “(9) **Disallowed amount** is the amount of investments, as defined in **section (5)**, made by the partner within 60 days of the last day of the income year, if those investments are or will be distributed or reduced within 60 days after the last day of the income year. 20

*“Exclusion*

- “(10) This section does not deny a partner (the **exiting partner**) a deduction that is equal to or less than the amount of net income that the exiting partner has for the amount paid or payable to the exiting partner for the disposal of their partner’s interests, ignoring other transactions. 25  
30

*“Relationship with subject matter*

- “(11) This section is modified by **sections HZ 3 and HZ 4** (which relate to transitions to limited partnerships).

**New (unanimous)**

*“Some definitions*

“(12) In this section,—

“**capital contribution** includes a capital contribution for the purposes of the Limited Partnerships Act **2007**

“**secured amounts** means, for the partner, the lesser of— 5

“(a) the amount of the limited partnership’s debt ignoring **section HG 2** (the **debt**) that the partner or the partner’s associate secures by a guarantee or indemnity:

“(b) the amount that results from dividing the amount described in **paragraph (a)** by the number of partners who are jointly and severally liable for the debt: 10

“(c) the amount that is the market value of property against which the guarantee or indemnity may be enforced, treating the partner’s interests as having a market value of zero: 15

“(d) the proportion of the amount described in **paragraph (c)** that is attributable to the partner in the case of the partners being jointly and severally liable for the debt

“**limited partnership net deduction** means, for the partner and the income year, the amount of any net loss that would arise if the partner is treated as having no income or deductions other than those that arise by virtue of **sections HG 2 and HG 12** 20

“**partner’s associate** means, for a partner, a person who is not a partner of the relevant limited partnership, and who is— 25

“(a) a relative of the partner:

“(b) a company in the same wholly-owned group as the partner.

“Defined in this Act: amount, capital contribution, deduction, dividends, entering partner, FIF, FIF income, income, income year, limited partnership net deduction, net income, net loss, partner, partner’s associate, partnership 30

**“HG 12 Limitation on deductions by partners in limited partnerships: carry-forward**

*“When this section applies*

“(1) This section applies when, for an income year, a partner is denied a deduction under **section HG 11**. 35

## New (unanimous)

	<i>“Carry-forward</i>	
“(2)	The partner is allowed a deduction, for an amount for which the partner is denied a deduction under <b>section HG 11</b> , for the income year after the one for which it is denied under <b>section HG 11</b> .	5
	<i>“Relationship with subject matter</i>	
“(3)	The deduction allowed under this section is subject to <b>section HG 11</b> , to the extent to which that section applies to the deduction and the relevant partner.	
	<i>“Defined in this Act: amount, deduction, income year, limited partner”.</i>	10
(2)	<b>Subsection (1)</b> applies for income years starting on and after 1 April 2008.	
<b>122</b>	<b>Section HR 1 repealed</b>	
(1)	Section HR 1 is repealed.	
(2)	<b>Subsection (1)</b> applies for income years starting on and after 1 April 2008.	15
<b>123</b>	<b>New sections HZ 3 and HZ 4</b>	
(1)	After section HZ 2, the following is added:	
	<b>“HZ 3 Special partnerships: transition into limited partnerships and limited partnerships deduction rules</b>	20
	<i>“When this section applies</i>	
“(1)	This section applies when a special partnership under Part 2 of the Partnership Act 1908—	
	“(a) is in existence on 1 April 2008; and	
	“(b) is terminated and a limited partnership registered under the Limited Partnerships Act <b>2007</b> (the new <b>limited partnership</b> ) succeeds to that special partnership.	25
	<i>“No disposal: same partnership</i>	
“(2)	No partners’ interests are disposed of merely because of the termination and succession described in <b>subsection (1)(b)</b> . The partners of the special partnership are treated as the same partners of the new limited partnership.	30

**New (unanimous)**

*“Initial basis*

- “(3) For the purposes of applying **sections HG 11 and HG 12** (which relate to limited partnerships deduction rules) to the partners of the new limited partnership, all of the partners must choose one of the 2 following methods for calculating their partner’s basis under **section HG 11(3)**:
  - “(a) they may choose to use the market value or the accounting book value of the amounts described in **section HG 11(3)**, as at the day the calculation is first performed, namely the last day of the first income year in which they are subject to **sections HG 11 and HG 12**; or
  - “(b) they may chose to apply **section HG 11(3)** as if the special partnership had always been a limited partnership and all relevant rules relating to limited partnerships had always existed (applying those rules with any necessary modifications).

*“Initial basis not less than zero*

- “(4) If the application of **sections HG 11 and HG 12**, as modified by this section, calculates a partner’s basis as less than zero, then the partner’s basis is treated as being zero.

“Defined in this Act: disposal, limited partnership, partner, partner’s interests, partnership

**“HZ 4 Overseas limited partnerships: transition into limited partnerships deduction rules**

*“When this section applies*

- “(1) This section applies when a limited partnership described in **paragraphs (a) and (b)** of the definition of **limited partnership** (the **overseas limited partnership**) existed before 1 April 2008, and a partner of that partnership (a **relevant partner**) is a member of the partnership on 1 April 2008 and is subject to **sections HG 11 and HG 12** (which relate to limited partnerships deduction rules) on or after 1 April 2008.

## New (unanimous)

*“Initial basis*

- “(2) For the purposes of applying **sections HG 11 and HG 12** to the relevant partners of the overseas limited partnership, all relevant partners must choose one of the 2 following methods for calculating their partner’s basis under **section HG 11**: 5
- “(a) they may choose to use the market value or the accounting book value of the amounts described in **section HG 11**, as at the day the calculation is first performed, namely the last day of the first income year in which they are subject to **sections HG 11 and HG 12**; or 10
- “(b) they may chose to apply **section HG 11** as if the overseas limited partnership had always been a limited partnership and all relevant rules relating to limited partnerships had always existed (applying those rules with any necessary modifications). 15

*“Initial basis not less than zero*

- “(3) If the application of **sections HG 11 and HG 12**, as modified by this section, calculates a partner’s basis as less than zero, then the partner’s basis is treated as being zero. 20
- “Defined in this Act: limited partnership, partner, partnership”.
- (2) **Subsection (1)** applies for income years starting on and after 1 April 2008.

**124 When unincorporated bodies hold certificates**

In section RE 30, the definition of **partnership** and **partner** is omitted. 25

**125 Definitions**

- (1) This section amends section YA 1.
- (2) After the definition of **cancellation**, the following is inserted: 30
- “**capital contribution** is defined in **section HG 11(7)** (Limitation on deductions by partners in limited partnerships) for the purposes of that section”.
- (3) In the definition of **company**, after paragraph (a), the following is inserted:
- “(ab) does not include a partnership:

**New (unanimous)**

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|--|--|
| <p>“(ac) includes a listed limited partnership:<br/>“(ad) includes a foreign corporate limited partnership:”.</p> <p>(4) In the definition of <b>dispose</b>, in paragraph (g), “subpart” is replaced by “subpart:”, and the following is added:</p> <p>“(h) for a partner,—</p> <p style="padding-left: 2em;">“(i) includes surrendering or extinguishing some or all of their partner’s interests:</p> <p style="padding-left: 2em;">“(ii) does not include when their partner’s interests may be treated as disposed of by operation of law because another partner disposes of that partner’s interests, unless <b>section HG 4</b> (Disposal upon final dissolution) applies”.</p> <p>(5) After the definition of <b>engaged in full-time work</b>, the following is inserted:</p> <p>“<b>entering partner</b>—</p> <p style="padding-left: 2em;">“(a) means a person who acquires a partner’s interests in a partnership:</p> <p style="padding-left: 2em;">“(b) includes a person who is already a partner in the partnership when they acquire another partner’s interests”.</p> <p>(6) After the definition of <b>foreign company</b>, the following is inserted:</p> <p>“<b>foreign corporate limited partnership</b> means an entity or group of persons that—</p> <p style="padding-left: 2em;">“(a) meets the definition of <b>overseas limited partnership</b> in <b>section 86</b> of the Limited Partnerships Act <b>2007</b>; and</p> <p style="padding-left: 2em;">“(b) is treated as a separate legal entity under the laws (other than taxation laws) of the country, territory, or jurisdiction where it is established”.</p> <p>(7) After the definition of <b>general limitation</b>, the following is inserted:</p> <p>“<b>general partner</b>—</p> <p style="padding-left: 2em;">“(a) means a general partner of a limited partnership</p> <p style="padding-left: 2em;">“(b) includes a general partner of an <b>overseas limited partnership</b> as defined in <b>section 86</b> of the Limited Partnership Act <b>2007</b>”.</p> | <p>5</p> <p>10</p> <p>15</p> <p>20</p> <p>25</p> <p>30</p> <p>35</p> |
|--|--|

## New (unanimous)

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|------|---|---------------|
| (8)  | After the definition of <b>limited attribution company</b> , the following is inserted:<br><b>“limited partner</b> means a limited partner of a limited partnership or an <b>overseas limited partnership</b> as defined in <b>section 86</b> of the Limited Partnership Act <b>2007</b><br><b>“limited partnership—</b><br><b>“(a)</b> means a limited partnership registered under the Limited Partnerships Act <b>2007</b> ; and<br><b>“(b)</b> includes an <b>overseas limited partnership</b> as defined in <b>section 86</b> of that Act; and<br><b>“(c)</b> despite <b>paragraph (a) or (b)</b> , does not include a listed limited partnership or a foreign corporate limited partnership<br><b>“limited partnership net deduction</b> is defined in <b>section HG 11(12)</b> (Limitation on deductions by partners in limited partnerships) for the purposes of that section”. | 5<br>10<br>15 |
| (9)  | After the definition of <b>listed horticultural plant</b> , the following is inserted:<br><b>“listed limited partnership</b> means an entity or group of persons that is listed on a recognised exchange, and that entity or group of persons—<br><b>“(a)</b> is a limited partnership registered under the Limited Partnerships Act <b>2007</b> ; or<br><b>“(b)</b> meets the definition of <b>overseas limited partnership</b> in <b>section 86</b> of that Act”.   | 20<br>25      |
| (10) | After the definition of <b>New Zealand-new asset</b> , the following is inserted:<br><b>“New Zealand partnership</b> means a partnership that—<br><b>“(a)</b> is a limited partnership registered under the Limited Partnerships Act <b>2007</b> ; or<br><b>“(b)</b> has 50% or more of its partners’ interests in capital, by value, held by New Zealand residents; or<br><b>“(c)</b> has its centre of management in New Zealand ignoring <b>section HG 2</b> ”.  | 30            |
| (11) | The definitions of <b>partner</b> and <b>partnership</b> are replaced by the following:   | 35            |



**New (unanimous)**

“ <b>partner</b> , in relation to a partnership,—	
“(a) means a person who is a member of the partnership:	
“(b) includes—	
“(i) a limited partner of a limited partnership:	
“(ii) a general partner of a limited partnership:	5
“(iii) a joint venturer or a co-owner, if they make the relevant choice to be treated as partnership:	
“ <b>partner’s associate</b> is defined in <b>section HG 11(12)</b> (Limitation on deductions by partners in limited partnerships) for the purposes of that section	10
“ <b>partner’s interests</b> means the relevant interests in rights and obligations and other property, status, and things that a partner has as a result of applying <b>section HG 2</b> (Partnerships are transparent)	
“ <b>partnership</b> means—	15
“ <b>(a)</b> a group of 2 or more persons who have, between themselves, the relationship described in section 4(1) of the Partnership Act 1908:	
“ <b>(b)</b> a joint venture, if the joint venturers all choose to be treated as a partnership for the purposes of this Act and the Tax Administration Act 1994:	20
“ <b>(c)</b> co-owners of property, other than persons who are co-owners only because they are shareholders of the same company, or settlors, trustees, or beneficiaries of the same trust, if the co-owners all choose to be treated as a partnership for the purposes of this Act and the Tax Administration Act 1994:	25
“ <b>(d)</b> a limited partnership	
“ <b>partnership share</b> means, for a particular right, obligation, or other property, status, or thing, the share that a partner has in respect of it”.	30
(12) In the definition of <b>relative</b> , paragraph (a), “personal services),” is replaced by “personal services), <b>HG 11(12)</b> (Limitation on deductions by partners in limited partnerships),”.	
(13) After the definition of <b>small-business person</b> , the following is inserted:	35

## New (unanimous)

- “**small partnership** means a partnership that is not a limited partnership and has 5 or less partners, none of whom are companies or partnerships”.
- (14) In the definition of **turnover**, “livestock))” is replaced by “livestock)) and **section HG 6** (Disposal of trading stock)”.
- “(d) is defined in **section HG 11(12)** (Limitation on deductions by partners in limited partnerships) for the purposes of that section”.
- (15) **Subsections (2) to (14)** apply for income years starting on and after 1 April 2008.
- 126 Partnerships: partnership and partner**
- (1) After section YB 16(1), the following is inserted:
- “*Exception: limited partners*
- “(1B) Subsection (1) does not apply if the partner is a limited partner. Instead, a limited partnership and a limited partner are associated persons if the limited partner has a partnership share of 25% or more in a right, obligation, or other property, status, or thing of the limited partnership.”
- (2) In section YB 16, in the list of defined terms, “limited partner”, “limited partnership”, “partner”, “partnership”, and “partnership share” are inserted.
- (3) **Subsections (1) and (2)** apply for income years starting on and after 1 April 2008.
- 127 Partnerships: partnership and associate of partner**
- (1) After section YB 17(1), the following is inserted:
- “*Exception: limited partners*
- “(1B) Subsection (1) does not apply if the partner is a limited partner. Instead, a limited partnership and a person associated with a limited partner are associated persons if the limited partner has a partnership share of 25% or more in a right, obligation, or other property, status, or thing of the limited partnership.”
- (2) In section YB 17(3)(c). “those provisions.” is replaced by “those provisions; and”, and the following is added:

**New (unanimous)**

- “(d) for the purposes of the 1990 version provisions (which are certain provisions relating to petroleum mining and some other miscellaneous rules), the term **associated** has the meaning that it has for the purposes of those provisions.” 5
  - (3) In section YB 17, in the list of defined terms, “limited partner”, “limited partnership”, “partner”, “partnership”, and “partnership share” are inserted.
  - (4) **Subsections (1) to (3)** apply for income years starting on and after 1 April 2008. 10
- 128 Classes of income treated as having New Zealand source**
- (1) After section YD 4(17), the following is inserted:  
*“Income from New Zealand partnerships*  
 “(17B) Income has a source in New Zealand if, treating all of the partners of a New Zealand partnership as resident in New Zealand, the income is treated as having a source in New Zealand under another provision of this section. The application of the other provisions of this section is unaffected if this subsection does not apply.” 15
  - (2) In section YD 4, in the list of defined terms, “New Zealand partnership” and “partner” are inserted. 20
  - (3) **Subsections (1) and (2)** apply for income years starting on and after 1 April 2008.

**Part 6**

**Amendments to Tax Administration Act 1994** 25

**129 Tax Administration Act 1994**

This Part amends the Tax Administration Act 1994.

**130 Keeping of business records**

- (1) In section 22(4)(b), “liquidated.” is replaced by “liquidated:” and the following is added: 30
  - “(c) by a partner of a partnership, if the partnership retains the records that the partner would be required to retain but for this paragraph.”

## New (unanimous)

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|------------|--|----|
| (2)        | <b>Subsection (1)</b> applies for income years starting on and after 1 April 2008.   |    |
| <br>       |  |    |
| <b>131</b> | <b>Section 42 replaced</b>   |    |
| (1)        | Section 42 is replaced by the following:   |    |
|            | <b>“42 Returns by joint venturers, partners, and partnerships</b>  | 5  |
| “(1)       | This section applies when 2 or more people derive income jointly or have deductions jointly.   |    |
| “(2)       | Despite <b>subsection (1)</b> , this section does not apply to the income derived by, and the deductions of, an airport operator from activities undertaken as an airport operator.  | 10 |
| “(3)       | In the case of partners,—  |    |
|            | “(a) if the partnership of the partner is a limited partnership registered under the Limited Partnerships Act <b>2007</b> or is a partnership that would carry on a business in New Zealand ignoring <b>section HG 2</b> of the Income Tax Act 2007, then the partners must make a joint return of income that includes— | 15 |
|            | “(i) the total amount of income derived by the partners as members of the partnership; and   |    |
|            | “(ii) the partners’ partnership shares in the income; and  | 20 |
|            | “(iii) a summary of the deductions of each partner:  |    |
| “(b)       | there is no joint assessment, but each partner must make a separate return of income under section 33, including the income derived by the partner as a member of the partnership, and the partner’s deductions. Each partner is separately assessed.  | 25 |
| “(4)       | In any other case, each person shall make a separate return taking into account that person’s share of the joint income and deductions. Each person is separately assessed.”   | 30 |
| (2)        | <b>Subsection (1)</b> applies for income years starting on and after 1 April 2008.   |    |

**New (unanimous)**

<b>Schedule</b>		<b>s 27(3)</b>
<b>Activities that do not constitute taking part in management of limited partnership</b>		
The following is the list of activities that do not constitute taking part in the management of the business of a limited partnership:		
(a)	taking part in a decision about the variation or replacement of the partnership agreement:	5
(b)	taking part in a decision about whether to approve or veto investments proposed to be made by the limited partnership—	
	(i) if the value of the investments would be more than half the value of the limited partnership’s assets before the investment; or	10
	(ii) as a member of an advisory committee of the limited partnership:	
(c)	approving (including doing so as a member of an advisory committee of the limited partnership) a change in the senior employees of a general partner or of the limited partnership:	15
(d)	approving (including doing so as a member of an advisory committee of the limited partnership) a change to the manner of operation of a general partner:	20
(e)	taking part in a decision about whether the general nature of the limited partnership business should change:	
(f)	taking part in a decision about whether to dispose of the business of the limited partnership or to acquire another business:	25
(g)	taking part in a decision about whether a person should become or cease to be a general or limited partner:	
(h)	taking part in a decision about whether the limited partnership should end or be terminated:	

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**New (unanimous)**


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| (i) | enforcing rights under the partnership agreement (unless those rights are to carry out management functions):   |    |
| (j) | reviewing and approving the accounts of the limited partnership:  |    |
| (k) | being engaged under a contract by the limited partnership or by a general partner of the limited partnership (unless the contract is to carry out management functions):  | 5  |
| (l) | acting in the capacity as a director or employee of, or consultant or contractor to, or a shareholder in, a general partner that is a body corporate (including any right, to appoint or remove directors and employees, attached to shares held by a shareholder): | 10 |
| (m) | taking part in a decision to determine an actual or potential conflict of interest involving a limited partner (or limited partners) or a general partner (or limited partners), or both, with the limited partnership:   | 15 |
| (n) | discussing the strategic direction or financial prospects of the business of the limited partnership:   |    |
| (o) | consulting or advising a general partner or general partners about the activities of the limited partnership or about its accounts (including doing so as a member of an advisory committee of the limited partnership):  | 20 |
| (p) | acting as a director or employee of, or contractor to, any person in which the limited partnership has an interest:   |    |
| (q) | bringing a derivative action on behalf of the limited partnership in accordance with this Act.  | 25 |
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**Limited Partnerships**

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**Legislative history**

7 August 2007

Introduction (Bill 140–1)

21 August 2007

First reading and referral to Commerce Committee

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