

Queensland



# **PARTNERSHIP (LIMITED LIABILITY) ACT 1988**

**Reprinted as in force on 24 January 1997  
(includes amendments up to Act No. 73 of 1996)**

**Reprint No. 2B**

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# Information about this reprint

This Act is reprinted as at 24 January 1997. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

**Also see endnotes for information about—**

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

Queensland



**PARTNERSHIP (LIMITED LIABILITY)  
ACT 1988**

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# **PARTNERSHIP (LIMITED LIABILITY) ACT 1988**

[as amended by all amendments that commenced on or before 24 January 1997]

## **An Act to provide for the formation and registration of limited partnerships and for related matters**

### **PART 1—PRELIMINARY**

#### **Short title**

1. This Act may be cited as the *Partnership (Limited Liability) Act 1988*.

#### **Commencement**

2.(1) Section 1 and this section shall commence on the date of assent.

(2) Except as provided by subsection (1), this Act shall commence on a day appointed by proclamation.

(3) The day so appointed is in this Act referred to as the commencement of this Act.

#### **Interpretation**

4.(1) In this Act—

“**departure**”, in relation to a partner, means death, dissolution of a corporate person, insolvency or retirement;

“**general partner**” means a partner in a partnership whose liability in connection with the business of the firm is not limited under this Act;

“**insolvency**” means bankruptcy in relation to a partner who is an individual and an equivalent condition in relation to a partner who is a corporate

person;

“**liability**” means a debt, obligation or other liability of any kind;

“**limited partner**” means a partner in a limited partnership whose liability to contribute is limited under this Act;

“**register**” means the register kept by the registrar under section 8;

“**registrar**” means the chief executive of the department.

(2) This Act shall be read as one with the *Partnership Act 1891* the provision of which shall apply to limited partnerships subject to this Act.

## **PART 2—FORMATION AND MAINTENANCE OF LIMITED PARTNERSHIPS**

### **What is a limited partnership**

**6.(1)** A limited partnership is a partnership—

- (a) that exists between 2 or more persons of whom 1 or more shall be a general partner or general partners and 1 or more shall be a limited partner or limited partners;
- (b) that is formed under this Act.

(2) A corporate person may be a general partner or a limited partner in a limited partnership.

### **How formed**

**7.(1)** A limited partnership shall be formed upon registration in the office of the registrar of a statement in the prescribed form signed by each person who is to be a partner in the partnership and payment to the registrar of the prescribed fee.

(2) A statement referred to in subsection (1) shall contain the following particulars—

- (a) the firm name;

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- (b) the full address in Queensland of the registered office of the firm;
  - (c) the full name and address of each partner;
  - (d) a statement that the partnership is to be a limited partnership;
  - (e) a statement in relation to each limited partner to the effect that he or she is a limited partner whose liability to contribute is limited to the extent of an amount of money specified in the statement;
  - (f) such other particulars as are prescribed by regulation.
- (3) A reference in subsection (2) to the address of a partner means—
- (a) in the case of an individual—the individual’s principal place of residence;
  - (b) in the case of a corporate person—its registered office or principal place of business.

**Register—proof of registration**

8.(1) The registrar shall keep a register of all limited partnerships.

(2) The register shall be kept in such form and manner that it may be inspected at any office of the registrar in the State and shall be available for inspection by any person.

(3) The registrar shall, upon registration of a statement referred to in section 7, and may, afterwards, issue a certificate in the prescribed form as to the formation and composition at any time of the limited partnership to which the statement relates.

(4) A certificate issued under subsection (3)—

- (a) shall be conclusive evidence that the limited partnership to which it refers was formed on the date of registration referred to in the certificate; and
- (b) shall be evidence and, in the absence of evidence to the contrary, conclusive evidence that the partnership to which it refers consists or consisted of the general partners and limited partners named in the certificate as such.

**Registration of changes in limited partnership**

**9.(1)** Upon receipt by the registrar of a notice of change, which notice complies with this Act, and payment of the prescribed fee the registrar shall record in the register in respect of the limited partnership concerned a change—

- (a) in the firm name; or
- (b) in the registered office of the firm; or
- (c) consisting in the departure from or admission to the partnership of a partner; or
- (d) in the name or address of a partner in the partnership; or
- (e) in the liability of a partner because of his or her becoming a limited partner instead of a general partner or a general partner instead of a limited partner or because of an alteration in the amount that the partner is liable to contribute as a limited partner; or
- (f) in any particular referred to in section 7(2)(f).

**(2)** If a result of a change notified to the registrar would be that the partnership concerned would be so constituted as not to be capable of being a limited partnership as defined in section 6, the registrar shall not record the change in the register, despite subsection (1).

**(3)** A notice referred to in subsection (1) shall be signed and given—

- (a) by or on behalf of all those who are or will be partners in the partnership after the change takes effect, if the change involves the departure or admission of a partner or the alteration of the extent to which a partner is liable to contribute; or
- (b) by or on behalf of all the general partners in the partnership at the time the change takes effect, in any case other than one referred to in paragraph (a).

**(4)** A notice under subsection (1) that relates to the admission of a limited partner to the partnership shall contain a statement to the effect that the person admitted is a limited partner whose liability to contribute is limited to the extent of an amount of money specified in the statement.

**(5)** Despite the happening of any change in relation to a limited



partnership that the registrar may record in the register (upon notice of the change) under subsection (1)—

- (a) this Act shall continue to apply to the partnership as a limited partnership; and
- (b) a continuing partner shown on the register as a limited partner shall continue to be a limited partner as so registered.

(6) If a change of which notice may be given under subsection (1) involves the admission of a limited partner to a partnership or an alteration to the extent to which a partner in the partnership is liable to contribute, being a change arising from agreement between the partners, the change shall not take effect until notice of the change has been given under subsection (1) to the registrar and the registrar has recorded the change in the register.

(7) Despite the departure of a person as a partner from a limited partnership the partner and the partner's estate shall be liable as if that departure had not happened for liabilities incurred by the partnership after the partner's departure unless and until notice of the departure has been given to the registrar under subsection (1) for recording in the register.

(7A) Subsection (7) does not apply in relation to liabilities incurred in dealings with a person who has notice of the departure.

(8) Subject to the terms of any agreement between the partners in a limited partnership, the general partners in the partnership shall be authorised to give any notice under this section on behalf of all the partners.

## **PART 3—MODIFICATION OF GENERAL LAW OF PARTNERSHIP**

### **Liability of limited partner**

**10.(1)** A limited partner in a limited partnership is liable to contribute towards the liabilities of the firm but so as not to exceed the amount shown in relation to that limited partner in the register as the extent to which that limited partner is liable to contribute or such part of that amount as remains

unpaid.

(2) Subject to subsection (1), the liability of a limited partner in a limited partnership to contribute is that of a partner in a partnership that is not a limited partnership.

### **Liability for limited partnerships formed under corresponding laws**

**10A.(1)** In this section—

**“corresponding law”** means a law of another State, a Territory or a foreign country that is declared by regulation to be a corresponding law for the purposes of this Act;

**“limited partner”**, in a recognised limited partnership, means a partner in the partnership whose liability is limited under the corresponding law applying to the partnership;

**“recognised limited partnership”** means a partnership formed under a corresponding law.

(2) A limitation under a corresponding law on the liability of a limited partner in a recognised limited partnership extends to any liability incurred in connection with the conduct of the partnership’s business in this State.

(3) The law of another State or a Territory may be declared to be a corresponding law only if the Governor in Council is satisfied—

- (a) that the law is similar to this Act; and
- (b) that under the law the limitation of liability of limited partners in a limited partnership formed under this Act extends to any liability incurred in connection with the conduct of the partnership’s business in the State or Territory.

(4) The law of a foreign country may be declared to be a corresponding law only if the Governor in Council is satisfied that the law provides for the limitation of liability for partners or certain partners in certain partnerships.

### **Provisions concerning limited partner’s contribution**

**11.(1)** Any contribution made by a limited partner in a limited partnership towards the discharge of liabilities of the firm shall be in the form of money only.

(1A) Any such contribution made otherwise than in money shall not be taken to reduce the limited partner's liability under section 10(1).

(2) Where a limited partner in a limited partnership has paid contribution, whether or not towards the discharge of liabilities of the firm, and has drawn out or received back any part of the amount of the contribution, the amount so drawn out or received shall be treated as part of the amount referred to in section 10(1) remaining unpaid.

### **Use of descriptive words in name**

**12.(1)** Every business document issued on behalf of a limited partnership in connection with the conduct of its business shall bear in legible characters—

- (a) the firm name shown in relation to the partnership in the register kept by the registrar under section 8; and
- (b) immediately adjacent to the firm name, the words 'a limited partnership'.

(2) In subsection (1)—

**“business document”** means any letter, notice, publication, offer, contract, order for goods or services, invoice, bill of exchange, promissory note, cheque, negotiable instrument, endorsement, letter of credit, receipt or statement of account.

### **Liability for contravention of s.12**

**13.(1)** A person who issues a document to which section 12 applies that does not bear the name and words required by the section commits an offence against this Act.

(2) A partner in a limited partnership who acquiesces in the issue of a document to which section 12 applies knowing that the document does not bear the name and words required by the section shall be taken to have issued the document.

(3) If a document to which section 12 applies issued in contravention of the section bears on its face any indication that it has been approved by or issued under the authority of any person, that person shall be taken to have issued the document unless the contrary is proved.

**Recovery of loss because breach of s.12**

**14.** If any person suffers loss because a document to which section 12 applies issued on behalf of a limited partnership did not bear the name or the words required by the section, the limited partnership and every person who committed an offence defined in section 13(1) in relation to the document are jointly and severally liable to recompense that first person for the loss suffered, which recompense may be recovered by action in the court as for a debt due and owing.

**Registered office**

**15.(1)** A limited partnership shall keep in Queensland at the place shown in the register as the address of the registered office of the partnership an office to which all communications with the firm may be addressed.

**(2)** In the event of default in complying with subsection (1), each general partner in the limited partnership concerned commits an offence against this Act.

**Incidents of limited partnerships**

**16.(1)** A limited partner in a limited partnership—

- (a) shall not take part in the management of the business of the partnership; and
- (b) has no power to bind the firm.

**(1A)** However, the limited partner may, personally or by an agent at any time inspect the books of the firm and examine the state and prospects of the business of the partnership, and may advise and consult with the other partners on those matters.

**(2)** If a limited partner takes part in the management of the business of the limited partnership in breach of subsection (1), the limited partner shall be liable for all liabilities of the firm incurred while the limited partner does so as if the limited partner were a general partner.

**(3)** Subject to the terms of any agreement between the partners in a limited partnership—

- (a) a difference arising as to ordinary matters connected with the

firm's business may be decided by a majority of the general partners; and

- (b) a limited partner may, with the consent of the general partners, assign the limited partner's share in the partnership and upon the recording of the assignment in the register kept by the registrar under section 8 the assignee shall be a limited partner in the assignor's place with all the rights of the assignor; and
- (c) a person may be admitted as a partner in the partnership without the consent of any limited partner.

## **PART 4—DISSOLUTION AND CESSATION OF LIMITED PARTNERSHIPS**

### **Dissolution not available in certain cases**

**17.(1)** Subject to the terms of any agreement between the partners in a limited partnership—

- (a) a limited partner is not entitled to dissolve the partnership by notice; and
- (b) the general partners or the other limited partners are not entitled to dissolve the partnership because a limited partner has suffered the limited partner's share of the partnership property to be charged for the limited partner's separate debt; and
- (c) the departure of a limited partner shall not dissolve the partnership.

**(2)** The fact that a limited partner in a limited partnership is of permanently unsound mind is not a ground for dissolution of the partnership by the court unless the share and interest of the partner in the partnership cannot be otherwise ascertained or realised.

### **Cessation of limited partnerships**

**18.** A partnership shall cease to be a limited partnership if the partners

agree that they shall carry on the business of the firm otherwise than as a limited partnership.

### **Registration of dissolution or cessation of limited partnerships**

**19.(1)** Upon receipt by the registrar of a notice that complies with this Act—

- (a) of dissolution of a partnership registered as a limited partnership;  
or
- (b) of cessation of a limited partnership under section 18;

and, upon payment of the prescribed fee, the registrar shall record in the register the fact of the dissolution or cessation effective on a date specified in the register in that behalf.

**(2)** The date to be specified in the register under subsection (1) shall be the date shown in the notice to the registrar as the date on which the dissolution or cessation took effect or is to take effect or, if no such date is so shown, the date on which the record is made in the register under subsection (1).

### **Winding-up by general partners**

**20.** If the affairs of a limited partnership are to be wound up by the partners with a view to its dissolution, the winding-up shall be carried out by the general partners unless the court otherwise orders.

## **PART 5—MISCELLANEOUS PROVISIONS**

### **Legal proceedings**

**21.(1)** Legal proceedings other than proceedings in relation to an offence may be brought by or against the partners in a limited partnership in the firm name in which the partnership is registered under this Act.

**(2)** Action by way of execution under or enforcement of a judgment obtained in an action against a limited partnership sued in its firm name

shall not be taken against the property or person of a limited partner in the partnership except with the prior leave of the Supreme Court.

### **Duty to notify registrar of changes**

**22.(1)** In the event of—

- (a) a change in the firm name of a limited partnership; or
- (b) a change in the name or address of a partner in a limited partnership; or
- (c) a change that renders false or misleading any particular referred to in section 7(2)(f) shown in the register in relation to a limited partnership; or
- (d) a departure of a partner from or an admission of a partner to a limited partnership; or
- (e) dissolution of a partnership registered as a limited partnership; or
- (f) cessation of a limited partnership under section 18;

each of the general partners at the time the event happens commits an offence against this Act if notice of the event is not given to the registrar under section 9 or 19 before the expiration of 7 days from the happening of the event.

**(2)** An offence against subsection (1) shall be taken to continue until the notice in question is given to the registrar.

**(3)** Proceedings for a continuing offence under this section may be taken from time to time.

**(4)** A matter of complaint for a continuing offence under this section may be in respect of 1 day or more than 1 day of its happening.

**(5)** A person who commits an offence against subsection (1) shall be liable—

- (a) in respect of the failure to give the notice in question before the expiration of the 7 days from the happening of the event of which notice is required—to a maximum penalty of 20 penalty units; and
- (b) in respect of each day during which the offence continues—to a

maximum penalty of 1 penalty unit.

(6) If a corporate person commits an offence against subsection (1), each director or member of the governing body of the corporate person shall be taken also to have committed the offence and is liable to be proceeded against and punished accordingly.

### **Registrar may accept and record notices given by person registered as a partner**

23. Upon receipt by the registrar of a notice in writing given by a person shown on the register as a partner in a limited partnership of the happening of an event affecting the partnership, in respect of which event the registrar may amend the register upon notice given to the registrar under section 9 or 19, the registrar shall record in the register that the notice has been received and the tenor of the notice.

### **Registrar's power to cancel limited partnership's registration**

23A.(1) This section applies if the registrar reasonably believes that a limited partnership registered under this Act has ceased to exist because the partnership's business is not being carried on in the State under the partnership's firm name, or by the partners, stated in the register.

(2) The registrar may, by written notice given to the person registered as the partnership's general partner and to the partnership at its registered office stated in the register—

- (a) ask whether the partnership still exists; and
- (b) ask for documentary proof of its existence or nonexistence.

(3) The notice must state that the registrar may cancel the partnership's registration unless the registrar is satisfied, within 1 month after the date of the notice, that the partnership still exists.

(4) The registrar must also, by public notice, notify the registrar's intention to cancel the registration unless the registrar is satisfied, by the day that is 1 month after the date of the notice mentioned in subsection (2), that the limited partnership still exists.

(5) If the registrar is not satisfied within 1 month after the date of the notice mentioned in subsection (2) that the partnership still exists, the



registrar may cancel the registration.

(6) If the registrar cancels the registration, the registrar must give written notice of the cancellation—

- (a) to the person registered as the partnership's general partner and to the partnership at its registered office stated in the register; and
- (b) by public notice.

(7) In this section—

“**public notice**” means a notice in a newspaper circulating throughout the State.

### **Registrar's power to revoke cancellation of registration**

**23B.(1)** If, for any reason, the registrar reasonably believes it is appropriate, the registrar may revoke the cancellation of a registration made under section 23A.

(2) If a cancellation is revoked under this section, the registration is taken not to have been cancelled.

### **Furnishing false or misleading information**

**24.** A person who furnishes under this Act to the registrar a document that is false or misleading in a material particular, whether by way of a statement in or omission from the document, commits an offence against this Act.

### **Entry in register constitutes notice**

**25.** An entry in the register of any particular concerning a limited partnership, including an entry of the tenor of any notice received by the registrar—

- (a) shall be sufficient notice of the particular or tenor of the notice to all persons who afterwards deal with the firm concerned; and
- (b) shall have effect, for the purposes of section 39(2) of the *Partnership Act 1891*, as if it were an advertisement in the Gazette.

**Proceedings for offences**

**26.(1)** Unless a specific penalty is otherwise prescribed, a person who commits an offence against this Act is liable to a maximum penalty of 20 penalty units.

**(2)** Proceedings in relation to an offence against this Act shall be taken in a summary way under the *Justices Act 1886* within 1 year after the commission of the offence or within 6 months after the offence comes to the knowledge of the complainant, whichever period is the later to expire, and shall be taken on the complaint of the registrar or a person authorised for the purpose by the registrar.

**(3)** In proceedings referred to in subsection (2)—

- (a) the authority of the complainant to make the complaint shall be presumed unless the contrary is proved; and
- (b) a statement in the complaint as to the time when an offence came to the complainant's knowledge shall be sufficient evidence of that fact unless the contrary is proved.

**Mercantile Act register**

**27.** On the commencement of this Act, the Registrar of Titles shall deliver to the registrar within the meaning of this Act the record of registrations kept by the registrar under section 57 of the *Mercantile Act 1867* and the registrar shall keep that record open to inspection by the public.

**Delegations**

**27A.** The registrar may delegate the registrar's powers under this Act to an officer or employee of the department.

**Regulations**

**28.(1)** The Governor in Council may make regulations for the purposes of this Act.

**(2)** A regulation may be made with respect to—

- (a) the particulars to be specified in a statement or notice filed with the registrar; or
- (b) the keeping of the registered office of a limited partnership; or
- (c) the forms to be used under this Act; or
- (d) the fees payable under this Act.

**Service**

**29.** Without prejudice to any other method of serving partners in a limited partnership, a document concerning the business of the partnership shall be duly served on such partners if it is left at or sent by post addressed to the registered office of the partnership for the time being shown in the register.

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## ENDNOTES

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### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(a). Accordingly, this reprint includes all amendments that commenced operation on or before 24 January 1997. Future amendments of the Partnership (Limited Liability) Act 1988 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	(prev)	=	previously
amd	=	amended	proc	=	proclamation
ch	=	chapter	prov	=	provision
def	=	definition	pt	=	part
div	=	division	pubd	=	published
exp	=	expires/expired	R[X]	=	Reprint No.[X]
gaz	=	gazette	RA	=	Reprints Act 1992
hdg	=	heading	reloc	=	relocated
ins	=	inserted	renum	=	renumbered
lap	=	lapsed	rep	=	repealed
notfd	=	notified	s	=	section
om	=	omitted	sch	=	schedule
o in c	=	order in council	sdiv	=	subdivision
p	=	page	SIA	=	Statutory Instruments Act 1992
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered
prev	=	previous			

## 4 Table of earlier reprints

### TABLE OF EARLIER REPRINTS

[If a reprint number includes an arabic letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	to Act No. 40 of 1992	1 December 1992
2	to Act No. 68 of 1993	21 December 1993
2A	to Act No. 56 of 1996	18 December 1996

## 5 Tables in earlier reprints

### TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Corrected minor errors	1
Renumbered provisions	1

## 6 List of legislation

### **Partnership (Limited Liability) Act 1988 No. 78**

date of assent 11 November 1988

ss 1–2 commenced on date of assent

remaining provisions commenced 15 May 1989 (proc pubd gaz 13 May 1989 p 334)

as amended by—

### **Partnership (Limited Liability) Act Amendment Act 1989 No. 100**

date of assent 13 October 1989

ss 1–2 commenced on date of assent

ss 3–4(a), such part of s 5 as omits subsections (5)–(7) of the principal Act and substitutes new subsections (5)–(6), s 6 commenced 15 May 1989 (see s 2(2))

remaining provisions commenced 16 November 1989 (proc pubd gaz 18 November 1989 p 2066)

### **Justice Legislation (Miscellaneous Provisions) Act 1992 No. 40 pt 1, s 163 sch 1**

date of assent 14 August 1992

commenced on date of assent

**Justice and Attorney-General Legislation (Miscellaneous Provisions) Act 1993  
No. 68 pts 1, 5, s 12 sch**

date of assent 23 November 1993

commenced on date of assent

**Consumer Law and Other Justice Legislation (Miscellaneous Provisions) Act  
1996 No. 56 pts 1, 16**

date of assent 20 November 1996

commenced on date of assent

**Sea-Carriage Documents Act 1996 No. 73 ss 1, 11 sch**

date of assent 9 December 1996

commenced on date of assent

## **7 List of annotations**

**Arrangement of Act**

s 3 om R1 (see RA s 36)

**Interpretation**s 4 def “**limited partnership**” om 1989 No. 100 s 3def “**registrar**” sub 1992 No. 40 s 163 sch 1**Effect of this Act on application of ss.53–68 of Mercantile Act**

s 5 om 1996 No. 73 s 11 sch

**What is a limited partnership**

s 6 amd 1989 No. 100 s 4

**Registration of changes in limited partnership**

s 9 amd 1989 No. 100 s 5

**Liability for limited partnerships formed under corresponding laws**

s 10A ins 1993 No. 68 s 9

**Dissolution not available in certain cases**

s 17 amd 1989 No. 100 s 6

**Duty to notify registrar of changes**

s 22 sub 1989 No. 100 s 7

**Registrar may accept and record notices given by person registered as a partner**

s 23 sub 1989 No. 100 s 7

**Registrar’s power to cancel limited partnership’s registration**

s 23A ins 1996 No. 56 s 144

**Registrar’s power to revoke cancellation of registration**

s 23B ins 1996 No. 56 s 144

**Proceedings for offences**

s 26 amd 1989 No. 100 s 8

**Delegations**

**s 27A** ins 1992 No. 40 s 163 sch 1

**Regulations**

**s 28** sub 1993 No. 68 s 12 sch

**Amendment of Partnership Act s.5. Definition of partnership**

**s 30** om R1 (see RA s 40)