

# House of Representatives

# Supplementary Order Paper

Tuesday, 4 March 2008

## Limited Partnerships Bill

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### *Proposed amendments*

Hon Lianne Dalziel, in Committee, to move the following amendments:

#### *Clause 2*

To omit this clause (lines 8 and 9 on page 7) and substitute the following clause:

#### **2 Commencement**

- (1) Parts 1 to 4 and the Schedule come into force on a date to be appointed by the Governor-General by Order in Council.
- (2) The rest of this Act comes into force on 1 April 2008.

#### *Clause 4*

To insert the following definition after the definition of **Minister** (after line 28 on page 8):

**overseas limited partnership** means a partnership formed or incorporated outside New Zealand with—

- (a) 1 or more general partners who are liable for all of the debts and liabilities of the partnership; and
- (b) 1 or more limited partners who have only limited liability for the debts and liabilities of the partnership

To omit paragraph (b) of the definition of **public notice** (lines 8 to 21 on page 9) and substitute the following paragraph:

- (b) in respect of public notice that must be given by any other person, publication in—
  - (i) at least 1 issue of the *Gazette*; and
  - (ii) at least 1 issue of a newspaper circulating in the area in New Zealand in which is situated—
    - (A) the limited partnership's or overseas limited partnership's place of business; or
    - (B) if the limited partnership or overseas limited partnership has more than 1 place

- of business, its principal place of business; or
- (C) in the case of a limited partnership that has no place of business or neither its place of business nor its principal place of business is known, its registered office

*Clause 8*

To insert the following subclause after *subclause (1)* (after line 11 on page 10):

- (1A) A person may not be both a general partner and a limited partner of the same limited partnership at the same time.

*Clause 17(1)*

To insert before “partnership” (line 13 on page 16) “limited”.

*Clause 19*

To omit “A” (line 11 on page 17) and substitute “Subject to **section 26**, a”.

*Clause 20*

To omit this clause (lines 20 to 23 on page 17).

*Clause 21(4)*

To add “**and (1A)**” (line 3 on page 18).

*Clause 26*

To add the following subclause (after line 31 on page 19):

- (3) A limited partner is not liable to a person who deals with a limited partnership for breach of **section 18(1)** except to the extent provided by this section.

*Clause 27(2)(b)(i)*

To omit “general partner or limited” (line 11 on page 20).

*Heading before clause 28*

To add “*or overseas limited partnership*” (line 20 on page 20).

*Clause 29(2)*

To insert after “limited partnership” in the first place where it appears (line 22 on page 22) “or an overseas limited partnership”.

*Clause 30*

*Subclause (1)*: to insert after “limited partnership” (line 31 on page 22) “or an overseas limited partnership”.

*Subclause (3)*: to insert after “limited partnership” (line 1 on page 23) “or an overseas limited partnership”.

*Subclause (4)*: to insert after “limited partnership” in the first place where it appears (line 3 on page 23) “or an overseas limited partnership”.

*Subclause (4)(b)*: to insert after “limited partnership” (lines 6 and 7 on page 23) “or overseas limited partnership”.

*Subclause (4)(c)*: to insert after “limited partnership” in each place where it appears (lines 9 and 10 on page 23) “or overseas limited partnership”.

*Clause 33(2)(b)*

To omit “all the general partners agree” (line 11 on page 25) and substitute “approved by a resolution of the limited partnership”.

*Clause 40(2)*

To omit “limited” (line 18 on page 27).

*Clause 45(1)*

To insert the following paragraph after *paragraph (c)* (after line 24 on page 29):

- (ca) state the date of birth of each proposed general partner (where applicable); and

*Paragraph (d)*: to omit “be accompanied by” (line 25 on page 29) and substitute “contain”.

*Paragraph (d)*: to omit “birth,” (line 25 on page 29) and substitute “birth (where applicable),”.

*Clause 46*

To omit “possible” (line 5 on page 30) and substitute “practicable”.

*Clause 48(3)*

To insert after “1982” (line 3 on page 31) “in relation to a request for official information,”.

*Clause 50(3)(e)*

To omit “overseas” (line 8 on page 32) and substitute “in New Zealand”.

*Clause 55(1)(b)*

To omit “due to a clerical error” (lines 10 and 11 on page 33).

*Clause 55(2)*

*Paragraph (a)*: to insert after “limited partnership” in each place where it appears (lines 14 and 16 on page 33) “or overseas limited partnership”.

*Paragraph (b)(ii)*: to insert after “limited partnership” (line 20 on page 33) “or overseas limited partnership”.

*Clause 57*

To insert after “limited partnership” in the first place where it appears (line 18 on page 34) “or an overseas limited partnership”.

To insert after “limited partnership” in the second place where it appears (line 19 on page 34) “or overseas limited partnership”.

*Clause 58*

*Subclause (2)(a)*: to add “or an overseas limited partnership” (line 25 on page 34).

*Subclause (2)(c)*: to insert after “limited partnership” (line 27 on page 34) “or an overseas limited partnership”.

*Subclause (2)*: to insert the following paragraph after *paragraph (h)* (after line 33 on page 34):

- (ha) the name and address of the person authorised to accept service in New Zealand on behalf of the overseas limited partnership:

*Clause 59*

*Paragraph (b)*: to add “or an overseas limited partnership” (line 15 on page 35).

*Paragraph (c)*: to insert after “limited partnership’s” (lines 16 and 17 on page 35) “or an overseas limited partnership’s”.

*Paragraph (ca)*: to add “or an overseas limited partnership” (line 19 on page 35).

*Clause 68(1)*

*Paragraph (b)*: to omit “general” (line 2 on page 39).

*Paragraph (d)*: to omit “limited partner” (lines 8 and 9 on page 39) and substitute “partner”.

*Clause 68A*

*First subclause (3)*: to omit “(3)” (line 18 on page 40) and substitute “(2A)”.

*Clause 69*

*Subclause (1)*: to omit “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” (lines 18 to 21 on page 41).

*Subclause (2)*: to add the following paragraph (after line 35 on page 41):

- (i) any other prescribed information.

*Clause 70(1)*

To omit *paragraph (c)* (line 1 on page 43) and substitute the following paragraphs:

- (c) a postal address of the limited partnership; or
- (d) an address of a partner of the limited partnership.

*Clause 74C(d)*

To omit “limited partners” (line 31 on page 47) and substitute “partners”.

*Clause 78(1)*

*Paragraph (ba)*: to omit this paragraph (lines 18 and 19 on page 50).

*Paragraph (c)*: to add “or placed in liquidation” (line 20 on page 50).

*Clause 80*

To insert after “268” (line 23 on page 52) “, 287”.

*Paragraph (c)*: to omit “limited” (line 32 on page 52).

*Clause 83(b)*

To omit “limited” (line 31 on page 53).

*Clause 84A(5)*

*Paragraph (c)*: to omit “limited” (line 10 on page 55).

To add the following paragraph (after line 12 on page 55):

- (e) a board were references to the general partners.

*Clause 84B*

To omit “and section 328 (except section 328(3)(a))” (line 15 on page 55).

*Paragraph (c)*: to omit “limited” (line 21 on page 55).

*Clause 84C(c)*

To omit “limited” (line 30 on page 55).

*Clause 84D(c)*

To omit “limited” (line 8 on page 56).

*Clause 86*

To omit this clause (lines 3 to 12 on page 57).

*Clause 87(3)*

To omit this subclause (lines 25 to 29 on page 57) and substitute the following subclause:

- (3) An overseas limited partnership that changes its name overseas must apply under **section 30** within 10 working days of the change to change the name with which it is registered in New Zealand to its overseas name.

*Clause 91(2)*

To omit this subclause (lines 25 to 29 on page 59) and substitute the following subclause:

- (2) This section is subject to **section 29**.

*Clause 93(1)*

To omit “of” in the second place where it appears (line 15 on page 60) and substitute “if there is a change in”.

*Paragraph (a)*: to omit “a change in” (line 16 on page 60).

*Paragraph (b)*: to omit “a change in” (line 19 on page 60).

*Paragraph (c)*: to omit “a change in” (line 22 on page 60).

*Clause 95(3)*

To insert before “limited partnership” in the second place where it appears (lines 20 and 21 on page 61) “overseas”.

*Clause 95(6)(a)*

To omit “limited” (line 30 on page 61) and substitute “overseas limited”.

*Clause 97(1)*

*Paragraph (a)*: to omit “a limited” (line 26 on page 62) and substitute “an overseas limited”.

*Paragraph (c)*: to omit “limited” (line 30 on page 62).

*Clause 97(2)*

To insert after “made” (line 34 on page 62) “to the Court”.

*Clause 97(3)*

To omit “limited overseas partnership” (line 10 on page 63) and substitute “overseas limited partnership”.

*Clause 97(4)(a)*

To insert before “limited” (line 18 on page 63) “overseas”.

*Clause 100(1)*

*Paragraph (c)*: to omit “register” (line 8 on page 65) and substitute “registers”.

*Paragraph (e)*: to omit “register” (line 13 on page 65) and substitute “registers”.

*New clause 103B*

To insert the following clause after *clause 103A* (after line 11 on page 66):

**103B Other consequential amendments**

- (1) The definition of **director** in section 2(1) of the Financial Reporting Act 1993 is amended by inserting “or limited partnership” after “special partnership” in each place where it appears.
- (2) The definition of **director** in section 2(1) of the Insurance Companies (Ratings and Inspections) Act 1994 is amended by inserting “or limited partnership” after “special partnership” in each place where it appears.
- (3) The definition of **director** in section 2(1) of the Securities Act 1978 is amended by inserting “or limited partnership” after “special partnership” in each place where it appears.
- (4) The definition of **director** in section 2(1) of the Securities Markets Act 1988 is amended by inserting “or limited partnership” after “special partnership” in each place where it appears.

*Clause 106*

To omit *subclause (2)* (lines 28 and 29 on page 91) and substitute the following subclause:

- (2) For a person who is not a limited partner of a limited partnership registered under the **Limited Partnerships Act 2008**,

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

*Clause 107*

To omit *subclause (2)* (lines 8 and 9 on page 92) and substitute the following subclause:

- (2) For a person who is not a limited partner of a limited partnership registered under the **Limited Partnerships Act 2008**, **subsection (1)** applies for income years starting on and after 1 April 2008.

*Clause 108*

To omit *subclause (2)* (lines 12 and 13 on page 92) and substitute the following subclause:

- (2) For a person who is not a limited partner of a limited partnership registered under the **Limited Partnerships Act 2008**, **subsection (1)** applies for income years starting on and after 1 April 2008.

*Clause 109*

To omit *subclause (2)* (lines 17 and 18 on page 92) and substitute the following subclause:

- (2) For a person who is not a limited partner of a limited partnership registered under the **Limited Partnerships Act 2008**, **subsection (1)** applies for income years starting on and after 1 April 2008.

*Clause 110*

To omit *subclause (2)* (lines 28 and 29 on page 92) and substitute the following subclause:

- (2) For a person who is not a limited partner of a limited partnership registered under the **Limited Partnerships Act 2008**, **subsection (1)** applies for income years starting on and after 1 April 2008.

*Clause 111*

To omit *subclause (2)* (lines 8 and 9 on page 93) and substitute the following subclause:

- (2) For a person who is not a limited partner of a limited partnership registered under the **Limited Partnerships Act 2008**, **subsection (1)** applies for income years starting on and after 1 April 2008.

*Clause 112*

To omit *subclause (2)* (lines 19 and 20 on page 93) and substitute the following subclause:

- (2) For a person who is not a limited partner of a limited partnership registered under the **Limited Partnerships Act 2008**, **subsection (1)** applies for income years starting on and after 1 April 2008.

*Clause 113*

To omit *subclause (2)* (lines 22 and 23 on page 94) and substitute the following subclause:

- (2) For a person who is not a limited partner of a limited partnership registered under the **Limited Partnerships Act 2008**, **subsection (1)** applies for income years starting on and after 1 April 2008.

*Clause 114*

To omit *subclause (2)* (lines 26 and 27 on page 94) and substitute the following subclause:

- (2) For a person who is not a limited partner of a limited partnership registered under the **Limited Partnerships Act 2008**, **subsection (1)** applies for income years starting on and after 1 April 2008.

*Clause 115*

To omit *subclause (2)* (lines 31 and 32 on page 94) and substitute the following subclause:

- (2) For a person who is not a limited partner of a limited partnership registered under the **Limited Partnerships Act 2008**, **subsection (1)** applies for income years starting on and after 1 April 2008.

*Clause 116*

To omit *subclause (2)* (lines 3 and 4 on page 95) and substitute the following subclause:

- (2) For a person who is not a limited partner of a limited partnership registered under the **Limited Partnerships Act 2008**, **subsection (1)** applies for income years starting on and after 1 April 2008.

*Clause 117*

To omit *subclause (2)* (lines 7 and 8 on page 95) and substitute the following subclause:

- (2) For a person who is not a limited partner of a limited partnership registered under the **Limited Partnerships Act 2008**, **subsection (1)** applies for income years starting on and after 1 April 2008.



*Clause 118*

To omit this clause (lines 9 to 13 on page 95) and substitute the following clause:

**118 Attribution rule: calculation**

- (1) In section GB 29(2)(b), “section HR 1 (Partnerships and joint ventures)” is replaced by “**section HG 2** (Partnerships are transparent)”.
- (2) For a person who is not a limited partner of a limited partnership registered under the **Limited Partnerships Act 2008**, **subsection (1)** applies for income years starting on and after 1 April 2008.

*Clause 119*

To omit *subclause (2)* (lines 1 and 2 on page 96) and substitute the following subclause:

- (2) For a person who is not a limited partner of a limited partnership registered under the **Limited Partnerships Act 2008**, **subsection (1)** applies for income years starting on and after 1 April 2008.

*Clause 120*

To omit *subclause (2)* (lines 26 and 27 on page 96) and substitute the following subclause:

- (2) For a person who is not a limited partner of a limited partnership registered under the **Limited Partnerships Act 2008**, **subsection (1)** applies for income years starting on and after 1 April 2008.

*Clause 121(1)*

*New section HG 2(4)*: to omit *paragraphs (b) to (e)* (line 33 on page 98 to line 3 on page 99) and substitute the following paragraphs:

- “(b) supplementary dividends, to the extent to which subpart LP (Tax credits for supplementary dividends) applies:
- “(c) CTR additional dividends, to the extent to which subpart LQ (Tax credits of conduit tax relief companies) applies:
- “(d) imputation credits, to the extent to which section LE 6 (Partners in partnerships) applies:
- “(e) FDP credits, to the extent to which section LF 4 (Partners in partnerships) applies.

*New section HG 11(2)*: to omit “limited partnership net deduction” (line 21 on page 108) and substitute “limited partnership deduction”.

*New section HG 11(8)(a)*: to omit “the income year and” (line 3 on page 110).

*New section HG 11(8)(b)*: to omit “not” (line 13 on page 110).

Definition of **limited partnership net deduction** in *new section HG 11(12)*: to omit “**net**” (line 19 on page 111).

Definition of **limited partnership net deduction** in *new section HG 11(12)* (as amended by this Supplementary Order Paper): to omit “net loss that would arise” (lines 20 and 21 on page 111) and substitute “deductions that the partner would be allowed”.

List of defined terms in *new section HG 11*: to omit “limited partnership net deduction” (line 30 on page 111) and substitute “limited partnership deduction”.

*Clause 121(2)*

To omit this subclause (lines 11 and 12 on page 112) and substitute the following subclause:

- (2) For a person who is not a limited partner of a limited partnership registered under the **Limited Partnerships Act 2008**, **subsection (1)** applies for income years starting on and after 1 April 2008.

*Clause 122*

To omit *subclause (2)* (lines 15 and 16 on page 112) and substitute the following subclause:

- (2) For a person who is not a limited partner of a limited partnership registered under the **Limited Partnerships Act 2008**, **subsection (1)** applies for income years starting on and after 1 April 2008.

*Clause 123(1)*

*New section HZ 4(2)(b)*: to omit “chose” (line 11 on page 114) and substitute “choose”.

*Clause 123(2)*

To omit this subclause (lines 21 and 22 on page 114) and substitute the following subclause:

- (2) For a person who is not a limited partner of a limited partnership registered under the **Limited Partnerships Act 2008**, **subsection (1)** applies for income years starting on and after 1 April 2008.

*Clause 124*

To add the following subclause as *subclause (2)* (after line 25 on page 114):

- (2) For a person who is not a limited partner in a limited partnership registered under the **Limited Partnerships Act 2008**, **subsection (1)** applies for income years starting on and after 1 April 2008.

*Clause 125*

*Subclause (2)*: to omit “**section HG 11(7)**” (line 29 on page 114) and substitute “**section HG 11(12)**”.

*Subclause (7)(b)*: to omit “Partnership” (lines 34 and 35 on page 115) and substitute “Partnerships”.

*Subclause (14)*: to omit *paragraph (d)* (lines 6 to 8 on page 118).

*Subclause (15)*: to omit this subclause (lines 9 and 10 on page 118) and substitute the following subclause:

- (15) For a person who is not a limited partner of a limited partnership registered under the **Limited Partnerships Act 2008**, **subsections (2) to (14)** apply for income years starting on and after 1 April 2008.

*Clause 126*

To omit *subclause (3)* (lines 22 and 23 on page 118) and substitute the following subclause:

- (3) For a person who is not a limited partner of a limited partnership registered under the **Limited Partnerships Act 2008**, **subsections (1) and (2)** apply for income years starting on and after 1 April 2008.

*Clause 127*

*Subclause (2)*: to omit this subclause (line 33 on page 118 to line 5 on page 119).

*Subclause (4)*: to omit this subclause (lines 9 and 10 on page 119) and substitute the following subclause:

- (4) For a person who is not a limited partner of a limited partnership registered under the **Limited Partnerships Act 2008**, **subsections (1) and (3)** apply for income years starting on and after 1 April 2008.

*Clause 128*

To omit *subclause (3)* (lines 22 and 23 on page 119) and substitute the following subclause:

- (3) For a person who is not a limited partner of a limited partnership registered under the **Limited Partnerships Act 2008**, **subsections (1) and (2)** apply for income years starting on and after 1 April 2008.

*Heading to Part 6*

To omit “**Tax Administration Act 1994**” (line 25 on page 119) and substitute “**other revenue Acts**”.

*Clause 129*

To omit this clause (lines 26 and 27 on page 119) and substitute the following heading and clause:

*Tax Administration Act 1994*

**129 Tax Administration Act 1994**

**Sections 130 and 131** amend the Tax Administration Act 1994.

*Clause 130*

To omit *subclause (2)* (lines 1 and 2 on page 120) and substitute the following subclause:

- (2) For a person who is not a limited partner of a limited partnership registered under the **Limited Partnerships Act 2008, subsection (1)** applies for income years starting on and after 1 April 2008.

*Clause 131*

To omit *subclause (2)* (lines 31 and 32 on page 120) and substitute the following subclause:

- (2) For a person who is not a limited partner of a limited partnership registered under the **Limited Partnerships Act 2008, subsection (1)** applies for income years starting on and after 1 April 2008.

*New heading and clause 132*

To add the following heading and clause after *clause 131* (after line 32 on page 120):

*Goods and Services Tax Act 1985***132 Interpretation**

In section 2(1) of the Goods and Services Tax Act 1985, in the definition of **company**, “elsewhere” is replaced by “elsewhere, and any limited partnership registered under the **Limited Partnerships Act 2008**”.

*Schedule*

To omit “of the business” (line 5 on page 121).

*Paragraph (c)*: to omit this paragraph (lines 15 to 17 on page 121) and substitute the following paragraph:

- (c) approving (including doing so as a member of an advisory committee of the limited partnership)—
  - (i) a change in the senior employees of a general partner or of the limited partnership; or
  - (ii) a change of contractors engaged by a general partner or the limited partnership:

*Paragraph (g)*: to omit “general or limited” (line 27 on page 121).

*Paragraph (m)*: to omit this paragraph (lines 13 to 16 on page 122) and substitute the following paragraph:

- (m) taking part in a decision to determine an actual or potential conflict of interest involving a partner (or partners) and the limited partnership:
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### Explanatory note

This Supplementary Order Paper makes a number of amendments to the Limited Partnerships Bill. The amendments to the non-tax clauses of the Bill are minor technical and grammatical corrections. There are no changes of substance. The Bill now has a split commencement clause—

- Parts 1 to 4 commence on a date to be specified by Order in Council:
- Parts 5 and 6 commence on 1 April 2008.

The amendments to the tax clauses of the Bill are all remedial drafting issues. The amendments have the following effects:

- amend, for all tax clauses, all application dates for income years starting on and after 1 April 2008, so that they do not apply to limited partners of limited partnerships that are registered under the proposed Limited Partnerships Act. Consequently, in conjunction with transitional provisions in the Income Tax 2007, limited partners of New Zealand registered limited partnerships are subject to the tax rules for limited partnerships from 1 April 2008 regardless of their balance dates:
  - correct cross-references in *clauses 118, 121, and 125* of the Bill, correct a spelling mistake in *clause 123*, and remove extraneous text from *clause 125*:
  - correct technical deficiencies in the calculations that limit deductions allowed to partners in limited partnerships:
  - ensure that *clause 127(2)* does not clash with provisions in the Taxation (Business Taxation and Remedial Matters) Act 2007:
  - consequentially clarify that limited partnerships are companies for GST purposes.
-