

# Partnership Act

CHAPTER 334 OF THE REVISED STATUTES, 1989

*as amended by*

2002, c. 37, s. 1, 2; 2007, c. 17, s. 20; 2008, c. 64; 2017, c. 4, s. 86



© 2018 Her Majesty the Queen in right of the Province of Nova Scotia  
Published by Authority of the Speaker of the House of Assembly  
Halifax

This page is intentionally blank.

CHAPTER 334 OF THE REVISED STATUTES, 1989  
 amended 2002, c. 37, s. 1, 2; 2007, c. 17, s. 20; 2008, c. 64;  
 2017, c. 4, s. 86

**An Act Respecting  
 the Law of Partnership**

**Table of Contents**

(The table of contents is not part of the statute)

	Section
Short title.....	1
Interpretation.....	2
PART I	
Rules of equity and common law.....	3
Nature of Partnership	
Definition of partnership.....	4
Rules to determine existence of partnership.....	5
Insolvent borrower or buyer of goodwill.....	6
“firm” defined.....	7
Relations of Partners to Persons Dealing with Them	
Acts of partner binding.....	8
Act or instrument in firm name binding.....	9
Pledge of credit for purpose unrelated to firm.....	10
Effect of agreement to restrict a partner.....	11
Liability of partner.....	12
Liability of firm.....	13
Liability for misapplied money or property.....	14
Liability of partner under Section 13 or 14.....	15
Liability for trust property.....	16
Fraudulent representation.....	17
Admission by partner as evidence.....	18
Notice to partner as notice to firm.....	19
Liability of incoming or retiring partner.....	20
Re-constitution revokes continuing guaranty.....	21
Relations of Partners to One Another	
Variation of mutual rights and duties.....	22
Partnership property.....	23
Property bought with partnership money.....	24
Land treated as personal property.....	25
Execution against partnership property.....	26
Rules to determine interests or duties of partner.....	27
Expulsion of partner.....	28
Notice to end partnership.....	29
Continuance of partnership.....	30
True accounts and information to partners.....	31
Partner to account for private benefit.....	32
Partner competing with firm.....	33
Rights of assignee.....	34

## Dissolution of Partnership and Its Consequences

Dissolution of partnership.....	35
Bankruptcy, death or insolvency or suffering share to be charged.....	36
Effect of event making business unlawful.....	37
Dissolution by court.....	38
Change in constitution of firm.....	39
Notification of dissolution.....	40
Authority after dissolution for winding-up purposes.....	41
Payment of debts and surplus.....	42
Repayment of premium.....	43
Rights of partner upon dissolution for fraud.....	44
Settlement of accounts with estate or outgoing partner.....	45
Debt due.....	46
Rules for distribution on dissolution.....	47

## PART II

Interpretation of Part.....	48
Application of Part.....	49
Effect on Part I.....	50
Nova Scotia LLP.....	51
Effect of registration as Nova Scotia LLP.....	52
Notice of registration as Nova Scotia LLP.....	53
Registered office of Nova Scotia LLP.....	54
List of partners of Nova Scotia LLP.....	55
Name of Nova Scotia LLP.....	56
Liability of partner for partnership and other partners.....	57
Personal liability.....	58
Extra-provincial LLP.....	59
Effective date of status as extra-provincial LLP.....	60
Where not registered as extra-provincial LLP.....	61
Notice of registration as extra-provincial LLP.....	62
Registered office of extra-provincial LLP.....	63
List of partners of extra-provincial LLP.....	64
Name of extra-provincial LLP.....	65
Law governing and liability of extra-provincial LLP and its partners.....	66
Distribution of property of Nova Scotia LLP.....	67
Liability respecting contravention of Section 67.....	68
Successor partnership.....	69
Dissolution of Nova Scotia LLP.....	70
Regulations.....	71

**Short title**

**1** This Act may be cited as the *Partnership Act*. R.S., c. 334, s. 1.

**Interpretation**

**2** In this Act,

(a) “business” includes every trade, occupation or profession;

(b) “court” includes every court and judge having jurisdiction in the case. R.S., c. 334, s. 2.

## PART I

**Rules of equity and common law**

**3** The rules of equity and of common law applicable to partnership shall continue in force, except so far as they are inconsistent with the express provisions of this Act. R.S., c. 334, s. 3.

## NATURE OF PARTNERSHIP

**Definition of partnership**

**4** Partnership is the relation which subsists between persons carrying on a business in common, with view of profit, but the relationship between members of any incorporated company or association is not a partnership within the meaning of this Act. R.S., c. 334, s. 4.

**Rules to determine existence of partnership**

**5** In determining whether a partnership does or does not exist, regard shall be had to the following rules:

(a) joint tenancy, tenancy in common, joint property, common property or part ownership does not of itself create a partnership as to anything so held or owned, whether the tenants or owners do or do not share any profits made by the use thereof;

(b) the sharing of gross returns does not of itself create a partnership, whether the persons sharing such returns have or have not a joint or common right or interest in any property from which, or from the use of which, the returns are derived;

(c) the receipt by a person of a share of the profits of a business is *prima facie* evidence that he is a partner in the business, but the receipt of such a share, or of a payment contingent on or varying with the profits of the business, does not of itself make him a partner in the business and, in particular,

(i) the receipt by a person of a debt or other liquidated amount by instalments or otherwise out of the accruing profits of a business does not of itself make him a partner in the business or liable as such,

(ii) a contract for the remuneration of a servant or agent of a person engaged in a business by a share of the profits of the business does not of itself make the servant or agent a partner in the business or liable as such,

(iii) a person being the surviving spouse or a child of a deceased partner, and receiving by way of annuity a portion of the profits made in the business in which the deceased person was a partner, is not by reason only of such receipt a partner in the business or liable as such,

(iv) the advance of money by way of loan to a person engaged or about to engage in any business on a contract with that person that the lender shall receive a rate of interest varying with the profits, or shall receive a share of the profits arising from carrying on the business, does not of itself make the lender a partner with the person or persons carrying on the business or liable as such, provided that the contract is in writing and signed by or on behalf of all the parties thereto,

(v) a person receiving by way of annuity or otherwise, a portion of the profits of a business in consideration of the sale by him of the goodwill of the business is not by reason only of such receipt a partner in the business or liable as such. R.S., c. 334, s. 5.

#### **Insolvent borrower or buyer of goodwill**

6 In the event of any person to whom money has been advanced by way of loan upon such a contract as is mentioned in Section 5, or of any buyer of goodwill in consideration of a share of the profits of the business, making an assignment for the benefit of creditors, being insolvent, entering into an arrangement to pay his creditors less than one hundred cents on the dollar or dying in insolvent circumstances, the lender of the loan shall not be entitled to recover anything in respect of his loan, and the seller of the goodwill shall not be entitled to recover anything in respect of the share of profits contracted for, until the claims of the other creditors of the borrower or buyer for valuable consideration in money or money's worth have been satisfied. R.S., c. 334, s. 6.

#### **“firm” defined**

7 Persons who have entered into partnership with one another are for the purposes of this Act called collectively a “firm”, and the name under which their business is carried on is called the “firm name”. R.S., c. 334, s. 7.

### RELATIONS OF PARTNERS TO PERSONS DEALING WITH THEM

#### **Acts of partner binding**

8 Every partner is an agent of the firm and his other partners for the purpose of the business of the partnership, and the acts of every partner who does any act for carrying on in the usual way business of the kind carried on by the firm of which he is a member bind the firm and his partners, unless the partner so acting has in fact no authority to act for the firm in the particular matter, and the person with whom he is dealing either knows that he has no authority or does not know or believe him to be a partner. R.S., c. 334, s. 8.

#### **Act or instrument in firm name binding**

9 An act or instrument relating to the business of the firm and done or executed in the firm name, or in any other manner showing an intention to bind the firm, by any person thereto authorized, whether a partner or not is binding on the

firm and all the partners, provided that this Section shall not affect any general rule of law relating to the execution of deeds or negotiable instruments. R.S., c. 334, s. 9.

**Pledge of credit for purpose unrelated to firm**

**10** Where one partner pledges the credit of the firm for a purpose apparently not connected with the firm's ordinary course of business, the firm is not bound, unless he is in fact specially authorized by the other partners, but this Section does not affect any personal liability incurred by an individual partner. R.S., c. 334, s. 10.

**Effect of agreement to restrict a partner**

**11** If it has been agreed between the partners that any restriction shall be placed on the power of any one or more of them to bind the firm, no act done in contravention of the agreement is binding on the firm with respect to persons having notice of the agreement. R.S., c. 334, s. 11.

**Liability of partner**

**12** Every partner in a firm is liable jointly with the other partners for all debts and obligations of the firm incurred while he is a partner, and after his death his estate is also severally liable in due course of administration for such debts and obligations, so far as they remain unsatisfied, but subject to the prior payment of his separate debts. R.S., c. 334, s. 12.

**Liability of firm**

**13** Where, by any wrongful act or omission of any partner acting in the ordinary course of the business of the firm, or with the authority of his co-partners, loss or injury is caused to any person not being a partner in the firm, or any penalty is incurred, the firm is liable therefor to the same extent as the partner so acting or omitting to act. R.S., c. 334, s. 13.

**Liability for misapplied money or property**

**14** In the following cases, namely:

(a) where one partner acting within the scope of his apparent authority receives money or property of a third person and misapplies it; and

(b) where a firm in the course of its business receives money or property of a third person and the money or property so received is misapplied by one or more of the partners while it is in the custody of the firm,

the firm is liable to make good the loss. R.S., c. 334, s. 14.

**Liability of partner under Section 13 or 14**

**15** Every partner is liable jointly with his co-partners and also severally, for everything for which the firm, while he is a partner thereof, becomes liable under either Section 13 or 14. R.S., c. 334, s. 15.

**Liability for trust property**

**16 (1)** If a partner, being a trustee, improperly employs trust property in the business or on the account of the partnership, no other partner is liable for the trust property to the persons beneficially interested therein.

**(2)** This Section shall not affect any liability incurred by any partner by reason of his having notice of a breach of trust.

**(3)** Nothing in this Section shall prevent trust money from being followed and recovered from the firm if still in its possession or under its control. R.S., c. 334, s. 16.

**Fraudulent representation**

**17** Everyone who by words, spoken or written, or by conduct, represents himself or who knowingly suffers himself to be represented, as a partner in a particular firm, is liable as a partner to anyone who has on the faith of any such representation given credit to the firm, whether the representation has or has not been made or communicated to the person so giving credit by or with the knowledge of the apparent partner making the representation or suffering it to be made, provided that where, after a partner's death, the partnership business is continued in the old firm name, the continued use of that name or of the deceased partner's name as part thereof shall not of itself make his executor's or administrator's estate or effects liable for any partnership debts contracted after his death. R.S., c. 334, s. 17.

**Admission by partner as evidence**

**18** An admission or representation made by any partner concerning the partnership affairs, and in the ordinary course of its business, is evidence against the firm. R.S., c. 334, s. 18.

**Notice to partner as notice to firm**

**19** Notice to any partner who habitually acts in the partnership business of any matter relating to partnership affairs operates as notice to the firm, except in the case of a fraud on the firm committed by or with the consent of that partner. R.S., c. 334, s. 19.

**Liability of incoming or retiring partner**

**20 (1)** A person who is admitted as a partner into an existing firm does not thereby become liable to the creditors of the firm for anything done before he became a partner.

**(2)** A partner who retires from a firm does not thereby cease to be liable for partnership debts or obligations incurred before his retirement.

**(3)** A retiring partner may be discharged from any existing liabilities by an agreement to that effect between himself and the members of the firm as newly constituted and the creditors, and this agreement may be either express or



inferred as a fact from the course of dealing between the creditors and the firm as newly constituted. R.S., c. 334, s. 20.

**Re-constitution revokes continuing guaranty**

**21** A continuing guaranty given either to a firm or to a third person in respect of the transactions of a firm is, in the absence of agreement to the contrary, revoked as to future transactions by any change in the constitution of the firm to which, or of the firm in respect of the transactions of which, the guaranty was given. R.S., c. 334, s. 21.

**RELATIONS OF PARTNERS TO ONE ANOTHER****Variation of mutual rights and duties**

**22** The mutual rights and duties of partners, whether ascertained by agreement or defined by this Act, may be varied by the consent of all the partners, and such consent may be either express or inferred from a course of dealing. R.S., c. 334, s. 22.

**Partnership property**

**23 (1)** Subject to subsection (2), all property and rights and interest in property originally brought into the partnership stock or acquired whether by purchase or otherwise, on account of the firm, or for the purposes and in the course of the partnership business, are called in this Act partnership property, and must be held and applied by the partners exclusively for the purposes of the partnership and in accordance with the partnership agreement.

**(2)** The legal estate or interest in any land which belongs to the partnership shall devolve according to the nature and tenure thereof and the general rules of law thereto applicable, but in trust, so far as necessary, for the persons beneficially interested in the land under this Section.

**(3)** Where co-owners of an estate or interest in any land not being itself partnership property, are partners as to profits made by the use of that land and purchase other land out of the profits to be used in like manner, the land so purchased belongs to them, in the absence of an agreement to the contrary, not as partners but as co-owners for the same respective estates and interests as are held by them in the land first mentioned at the date of the purchase. R.S., c. 334, s. 23.

**Property bought with partnership money**

**24** Unless the contrary intention appears, property bought with money belonging to the firm is deemed to have been bought on account of the firm. R.S., c. 334, s. 24.

**Land treated as personal property**

**25** Where land or any interest therein has become partnership property, it shall, unless the contrary intention appears, be treated as between the partners,

including the representative of a deceased partner, and also as between the heirs of a deceased partner and his executors or administrators, as personal or movable and not as real estate. R.S., c. 334, s. 25.

#### **Execution against partnership property**

**26 (1)** No execution order shall, on or after the seventeenth day of May, 1916, issue against any partnership property except on a judgment against the firm.

**(2)** The Supreme Court of Nova Scotia or a judge thereof may, on the application by summons of any judgment creditor of a partner, make an order charging the partner's interest in the partnership property and profits with payment of the amount of the judgment debt and interest thereon, and may by the same or a subsequent order appoint a receiver of that partner's share of profits, whether already declared or accruing, and of any other money which may be coming to him in respect of the partnership, and direct all accounts and inquiries and give all other orders and directions which might have been directed or given if the charge had been made in favour of the judgment creditor by the partner or which the circumstances of the case require.

**(3)** The other partner or partners shall be at liberty at any time to redeem the interest charged or, in case of a sale being directed, to purchase the same.

**(4)** Every summons by a separate judgment creditor of a partner for an order charging his interest in the partnership property and profits under this Section, and for such other orders as are hereby authorized to be made, shall be served on the judgment debtor and on his partners or such of them as are within the jurisdiction, and such service shall be good service on all the partners, and all orders made on such summons shall be similarly served.

**(5)** Every application which shall be made by any partner of the judgment debtor under this Section shall be made by summons, and such summons shall be served on the judgment creditor and on the judgment debtor, and on such of the other partners as shall not concur in the application, and as shall be within the jurisdiction, and such service shall be good service on all the partners, and all orders made on such summons shall be similarly served. R.S., c. 334, s. 26; R.S., c. 240, s. 10; 1992, c. 16, s. 39.

#### **Rules to determine interests or duties of partner**

**27** The interests of partners in the partnership property and their rights and duties in relation to the partnership shall be determined, subject to any agreement, express or implied, between the partners, by the following rules:

**(a)** all the partners are entitled to share equally in the capital and profits of the business, and must contribute equally towards the losses, whether of capital or otherwise, sustained by the firm;

- (b) the firm must indemnify every partner in respect of payments made and personal liabilities incurred by him
- (i) in the ordinary and proper conduct of the business of the firm, or
- (ii) in or about anything necessarily done for the preservation of the business or property of the firm;
- (c) a partner making, for the purpose of the partnership, any actual payment or advance beyond the amount of capital which he has agreed to subscribe, is entitled to interest at the rate of five per cent per annum from the date of the payment or advance;
- (d) a partner is not entitled, before the ascertainment of profits, to interest on the capital subscribed by him;
- (e) every partner may take part in the management of the partnership business;
- (f) no partner shall be entitled to remuneration for acting in the partnership business;
- (g) no person may be introduced as a partner without the consent of all existing partners;
- (h) any difference arising as to ordinary matters connected with the partnership business may be decided by a majority of the partners, but no change may be made in the nature of the partnership business without the consent of all existing partners;
- (i) the partnership books are to be kept at the place of business of the partnership, or the principal place, if there is more than one, and every partner may, when he thinks fit, have access to and inspect and copy any of them. R.S., c. 334, s. 27.

**Expulsion of partner**

**28** No majority of the partners can expel any partner unless a power to do so has been conferred by express agreement between the partners. R.S., c. 334, s. 28.

**Notice to end partnership**

**29 (1)** Where no fixed term has been agreed upon for the duration of the partnership, any partner may determine the partnership at any time on giving notice of his intention so to do to all other partners.

**(2)** Where the partnership has originally been constituted by deed, a notice in writing, signed by the partner giving it, shall be sufficient for this purpose. R.S., c. 334, s. 29.

**Continuance of partnership**

**30 (1)** Where a partnership entered into for a fixed term is continued after the term has expired, and without any express new agreement, the rights and duties of the partners remain the same as they were at the expiration of the term, so far as is consistent with the incidents of a partnership at will.

**(2)** A continuance of the business by the partners or such of them as habitually acted therein during the term, without any settlement or liquidation of the partnership affairs, is presumed to be a continuance of the partnership. R.S., c. 334, s. 30.

**True accounts and information to partners**

**31** Partners are bound to render true accounts and full information of all things affecting the partnership to any partner or his legal representatives. R.S., c. 334, s. 31.

**Partner to account for private benefit**

**32 (1)** Every partner must account to the firm for any benefit derived by him without the consent of the other partners from any transaction concerning the partnership, or from any use by him of the partnership property, name or business connection.

**(2)** This Section applies also to transactions undertaken after a partnership has been dissolved by the death of a partner, and before the affairs thereof have been completely wound up, either by any surviving partner or by the representatives of the deceased partner. R.S., c. 334, s. 32.

**Partner competing with firm**

**33** If a partner, without the consent of the other partners, carries on any business of the same nature as and competing with that of the firm, he must account for and pay over to the firm all profits made by him in that business. R.S., c. 334, s. 33.

**Rights of assignee**

**34 (1)** An assignment by any partner of his share in the partnership, either absolute or by way of mortgage or redeemable charge, does not, as against the other partners, entitle the assignee, during the continuance of the partnership, to interfere in the management or administration of the partnership business or affairs, or to acquire any accounts of the partnership transactions, or to inspect the partnership books, but entitles the assignee only to receive the share of profits to which the assigning partner would otherwise be entitled, and the assignee must accept the account of profits agreed to by the partners.

**(2)** In case of a dissolution of the partnership, whether as respects all the partners or as respects the assigning partner, the assignee is entitled to receive the share of the partnership assets to which the assigning partner is entitled as

between himself and the other partners and, for the purpose of ascertaining that share, to an account as from the date of the dissolution. R.S., c. 334, s. 34.

#### DISSOLUTION OF PARTNERSHIP AND ITS CONSEQUENCES

##### **Dissolution of partnership**

**35** Subject to any agreement between the partners, a partnership is dissolved

- (a) if entered into for a fixed term, by the expiration of that term;
- (b) if entered into for a single adventure or undertaking, by the termination of that adventure or undertaking;
- (c) if entered into for an undefined time, by any partner giving notice to the other or others of his intention to dissolve the partnership;
- (d) in the last mentioned case, the partnership is dissolved as from the date mentioned in the notice as the date of dissolution, or, if no date is mentioned, as from the date of the communication of the notice. R.S., c. 334, s. 35.

##### **Bankruptcy, death or insolvency or suffering share to be charged**

**36 (1)** Subject to any agreement between the partners, every partnership is dissolved as regards all the partners by the death or bankruptcy or insolvency of any partner.

**(2)** A partnership may, at the option of the other partners, be dissolved if any partner suffers his share of the partnership property to be charged under this Act for his separate debt. R.S., c. 334, s. 36.

##### **Effect of event making business unlawful**

**37** A partnership is in every case dissolved by the happening of any event which makes it unlawful for the business of the firm to be carried on or for the members of the firm to carry on in partnership. R.S., c. 334, s. 37.

##### **Dissolution by court**

**38** On application by a partner, the court may adjudge a dissolution of the partnership in any of the following cases:

- (a) when a partner is found to be an incompetent person, or is shown to the satisfaction of the court to be of permanently unsound mind, in either of which cases the application may be made as well on behalf of that partner by the partner's representative or other person having title to intervene as by any other partner;
- (b) when a partner, other than the partner suing, becomes in any other way permanently incapable of performing his part of the partnership contract;

(c) when a partner, other than the partner suing, has been guilty of such conduct as, in the opinion of the court, regard being had to the nature of the business, is calculated to prejudicially affect the carrying on of the business;

(d) when a partner, other than the partner suing, wilfully or persistently commits a breach of the partnership agreement, or otherwise so conducts himself in matters relating to the partnership business that it is not reasonably practicable for the other partner or partners to carry on business in partnership with him;

(e) when the business of the partnership can only be carried on at a loss;

(f) whenever in any case circumstances have arisen which, in the opinion of the court, render it just and equitable that the partnership be dissolved. R.S., c. 334, s. 38; 2007, c. 17, s. 20; 2017, c. 4, s. 86.

#### **Change in constitution of firm**

**39 (1)** Where a person deals with a firm after a change in its constitution, he is entitled to treat all apparent members of the old firm as still being members of the firm until he has notice of the change.

**(2)** An advertisement in the Royal Gazette shall be notice as to persons who had no dealings with the firm before the date of the dissolution or change so advertised.

**(3)** The estate of a partner who dies, or who becomes bankrupt, or of a partner who, not having been known to the person dealing with the firm to be a partner, retires from the firm, is not liable for partnership debts contracted after the date of the death, bankruptcy or retirement respectively. R.S., c. 334, s. 39.

#### **Notification of dissolution**

**40** On the dissolution of a partnership or retirement of a partner any partner may publicly notify the same, and may require the other partner or partners to concur for that purpose in all necessary or proper acts, if any, which cannot be done without his or their concurrence. R.S., c. 334, s. 40.

#### **Authority after dissolution for winding-up purposes**

**41** After the dissolution of a partnership, the authority of each partner to bind the firm and the other rights and obligations of the partners continue, notwithstanding the dissolution, so far as may be necessary to wind up the affairs of the partnership and to complete transactions begun but unfinished at the time of the dissolution, but not otherwise, provided that the firm is in no case bound by the acts of a partner who has become bankrupt, but this proviso does not affect the liability of any person who has, after the bankruptcy, represented himself or knowingly suffered himself to be represented as a partner of the bankrupt. R.S., c. 334, s. 41.

**Payment of debts and surplus**

**42** On the dissolution of a partnership, every partner is entitled as against the other partners in the firm, and all persons claiming through them in respect of their interests as partners, to have the property of the partnership applied in payment of the debts and liabilities of the firm, and to have the surplus assets after such payment applied in payment of what may be due to the partners respectively, after deducting what may be due from them as partners to the firm, and for that purpose any partner or his representatives may, on the termination of the partnership, apply to the court to wind up the business and affairs of the firm. R.S., c. 334, s. 42.

**Repayment of premium**

**43** Where one partner has paid a premium to another on entering into a partnership for a fixed term and the partnership is dissolved before the expiration of that term otherwise than by the death of a partner, the court may order the repayment of the premium or of such part thereof as it thinks just, having regard to the terms of the partnership contract and to the length of time during which the partnership has continued, unless

- (a) the dissolution is, in the judgment of the court, wholly or chiefly due to the misconduct of the partner who paid the premium; or
- (b) the partnership has been dissolved by an agreement containing no provision for a return of any part of the premium. R.S., c. 334, s. 43.

**Rights of partner upon dissolution for fraud**

**44** Where a partnership contract is rescinded on the ground of the fraud or misrepresentation of one of the parties thereto, the party entitled to rescind is, without prejudice to any other right, entitled

- (a) to a lien on, or right of retention of, the surplus of the partnership assets, after satisfying the partnership liabilities, for any sum of money paid by him for the purchase of a share in the partnership and for any capital contributed by him;
- (b) to stand in the place of the creditors of the firm for any payments made by him in respect of the partnership liabilities; and
- (c) to be indemnified by the person guilty of the fraud or making the representation, against all the debts and liabilities of the firm. R.S., c. 334, s. 44.

**Settlement of accounts with estate or outgoing partner**

**45 (1)** Where any member of a firm has died or otherwise ceased to be a partner, and the surviving or continuing partners carry on the business of the firm with its capital or assets without any final settlement of accounts as between the firm and the outgoing partner or his estate, then, in the absence of any agreement to the contrary, the outgoing partner or his estate is entitled, at the option of himself or his representatives, to such share of the profits made since the dissolution as the court may find to be attributable to the use of his share of the partnership assets, or

to interest at the rate of five per cent per annum on the amount of his share of the partnership assets.

(2) Where, by the partnership contract, an option is given to surviving or continuing partners to purchase the interest of a deceased or outgoing partner, and that option is duly exercised, the estate of the deceased partner, or the outgoing partner or his estate, as the case may be, is not entitled to any further or other share of profits, but if any partner, assuming to act in exercise of the option, does not in all material respects comply with the terms thereof, he is liable to account under the foregoing provisions of this Section. R.S., c. 334, s. 45.

#### **Debt due**

46 Subject to any agreement between the partners, the amount due from surviving or continuing partners to an outgoing partner or the representatives of a deceased partner, in respect of the outgoing or deceased partner's share, is a debt accruing at the date of the dissolution or death. R.S., c. 334, s. 46.

#### **Rules for distribution on dissolution**

47 In settling accounts between the partners after a dissolution of partnership, the following rules shall, subject to any agreement, be observed:

(a) losses, including losses and deficiencies of capital, shall be paid first out of profits, next out of capital and lastly, if necessary, by the partners individually in the proportion in which they were entitled to share profits;

(b) the assets of the firm, including the sums, if any, contributed by the partners to make up losses or deficiencies of capital, shall be applied in the following manner and order:

(i) in paying the debts and liabilities of the firm to persons who are not partners therein,

(ii) in paying to each partner rateably what is due from the firm to him for advances as distinguished from capital,

(iii) in paying to each partner rateably what is due from the firm to him in respect of capital,

(iv) the ultimate residue, if any, shall be divided among the partners in the proportion in which profits are divisible. R.S., c. 334, s. 47.

## **PART II**

#### **Interpretation of Part**

48 In this Part,

(a) "distribution" means, in relation to partnership property, a transfer of money or other partnership property by a partnership to a partner or an assignee of a partner's share in the partnership, whether as a share of



profits, return of contributions to capital, repayment of advances or otherwise;

(b) “extra-provincial LLP” means a partnership registered under Section 59 as an extra-provincial limited liability partnership;

(c) “governing jurisdiction” means, in relation to a partnership, the jurisdiction whose law governs the interpretation of the partnership agreement by operation of law or through a provision in the partnership agreement or another document created by the partnership;

(d) “liability insurance” means either or both of

(i) a policy of insurance that provides indemnity for professional liability claims, and

(ii) another method, required under the regulations or by a professional governing body referred to in Section 51, of ensuring the availability of funds to pay professional liability claims against members of the profession;

(e) “Nova Scotia LLP” means a partnership registered under Section 51 as a Nova Scotia limited liability partnership;

(f) “partnership obligation” means any debt, obligation or liability of a partnership, other than debts, obligations or liabilities of partners as between themselves or as between themselves and the partnership;

(g) “professional liability claim” means a claim against a partnership with respect to an act or omission of a partner occurring in the ordinary course of practising a profession in a Nova Scotia LLP or an extra-provincial LLP;

(h) “Registrar” means the Registrar of Joint Stock Companies and includes the Deputy Registrar of Joint Stock Companies. 2002, c. 37, s. 2; 2008, c. 64, s. 1.

#### **Application of Part**

**49** This Part applies only to Nova Scotia LLPs and extra-provincial LLPs. 2002, c. 37, s. 2.

#### **Effect on Part I**

**50** Part I is subject to this Part. 2002, c. 37, s. 2.

#### **Nova Scotia LLP**

**51 (1)** A partnership or two or more persons who have agreed to carry on business in a limited liability partnership may register as a Nova Scotia LLP under the *Partnerships and Business Names Registration Act* if

(a) they carry on business in the Province only for the purpose of practising a profession governed by an Act of the Legislature;

(b) the governing Act or a regulation under this Act permits the profession to be practised in a limited liability partnership; and

(c) the governing body of the profession or a regulation under this Act requires members who are partners in limited liability partnerships to maintain a minimum amount of liability insurance.

(2) The governing body of a profession that is permitted by regulation to practise in limited liability partnerships is authorized to require members who are partners in such partnerships to maintain a minimum amount of liability insurance, notwithstanding anything to the contrary or any lack of authority in the profession's governing Act.

(3) A limited partnership shall not be registered as a limited liability partnership.

(4) The status of a partnership or group of persons as a Nova Scotia LLP takes effect on the day on which the Registrar issues a certificate of registration under the *Partnerships and Business Names Registration Act* and continues so long as the registration is in force or deemed to be in force under that Act. 2002, c. 37, s. 2.

#### **Effect of registration as Nova Scotia LLP**

52 Subject to any agreement between the partners, the registration of a partnership as a Nova Scotia LLP does not cause the dissolution of the partnership, and the Nova Scotia LLP continues as the same partnership that existed before the registration. 2002, c. 37, s. 2.

#### **Notice of registration as Nova Scotia LLP**

53 Without delay after being registered as a Nova Scotia LLP, a partnership shall send to all of its existing clients a notice advising of the registration and explaining in general terms the potential changes in liability of the partners that result from the registration. 2002, c. 37, s. 2.

#### **Registered office of Nova Scotia LLP**

54 (1) A Nova Scotia LLP shall at all times have a registered office in the Province.

(2) The registered office must be the business premises of the Nova Scotia LLP or of a person or firm that has agreed to act as the partnership's registered office.

(3) A Nova Scotia LLP shall ensure that its registered office is accessible to the public during normal business hours. 2002, c. 37, s. 2.

**List of partners in Nova Scotia LLP**

**55** A Nova Scotia LLP shall keep at its registered office a list of the partners and shall, without delay, provide the following information without charge to any person who requests it:

- (a) a list of the partners;
- (b) a list of the persons who were partners in the Nova Scotia LLP on a date specified in the request. 2002, c. 37, s. 2.

**Name of Nova Scotia LLP**

**56 (1)** The name of a Nova Scotia LLP must end with the phrase “Limited Liability Partnership” or its abbreviation “LLP” or “L.L.P.”, or with the phrase “société à responsabilité limitée” or its abbreviation “srl” or “s.r.l.”.

**(2)** A Nova Scotia LLP shall not carry on business under a name other than its registered firm name. 2002, c. 37, s. 2.

**Liability of partner for partnership and other partners**

**57 (1)** Subject to subsections (2), (4) and (5), a partner in a Nova Scotia LLP is not individually liable, directly or indirectly, by means of indemnification, contribution, assessment or otherwise for

(a) debts, obligations or liabilities of the partnership or another partner that arise from the negligence, wrongful act or omission, malpractice or misconduct of

- (i) another partner, or
- (ii) an employee, agent or representative of the partnership,

occurring in the ordinary course of carrying on practice in a profession referred to in subsection 51(1) while the partnership is a Nova Scotia LLP; or

(b) any partnership obligation not referred to in clause (a).

**(2)** Subsection (1) does not operate to protect a partner from liability if

(a) the partner knew of the negligence, wrongful act or omission, malpractice or misconduct at the time it was committed and failed to take reasonable steps to prevent its commission; or

(b) the negligence, wrongful act or omission, malpractice or misconduct was committed by another partner or an employee, agent or representative of the partnership for whom the partner was responsible in a supervisory role.

(3) A partner in a Nova Scotia LLP is not a proper party to a proceeding by or against the partnership that claims relief in respect of negligence, wrongful acts or omissions, malpractice or misconduct described in subsection (1).

(4) The protection from liability given to a partner by subsection (1) does not protect the partner from claims against the partner's interest in the partnership property.

(5) The protection from liability given to a partner by subsection (1) does not protect the partner from liability for partnership obligations that arose before the partnership became a Nova Scotia LLP. 2002, c. 37, s. 2; 2008, c. 64, s. 2.

#### **Personal liability**

**58** (1) Partners in a Nova Scotia LLP are personally liable for any partnership obligation for which they would be liable if the partnership were a corporation of which they were the directors.

(2) Where a corporation is a partner in a Nova Scotia LLP, the directors of the corporation are jointly and severally liable for any liability incurred by the corporation under subsection (1). 2002, c. 37, s. 2.

#### **Extra-provincial LLP**

**59** A partnership formed under the laws of a jurisdiction outside the Province may register as an extra-provincial LLP under the *Partnerships and Business Names Registration Act* if it

- (a) has the status of a limited liability partnership under the laws of a jurisdiction outside the Province; and
- (b) consists of partners who practise a profession that partners in a Nova Scotia LLP may practise. 2002, c. 37, s. 2.

#### **Effective date of status as extra-provincial LLP**

**60** The status of a partnership as an extra-provincial LLP takes effect on the day on which the Registrar issues a certificate of registration under the *Partnerships and Business Names Registration Act* and continues so long as the registration is in force or deemed to be in force under that Act. 2002, c. 37, s. 2.

#### **Where not registered as extra-provincial LLP**

**61** A partnership that has the status of a limited liability partnership under the laws of a jurisdiction outside the Province shall be treated as an ordinary partnership with respect to rights and obligations that it acquires or incurs under Nova Scotia laws while carrying on business in the Province without being registered as an extra-provincial LLP under the *Partnerships and Business Names Registration Act*. 2002, c. 37, s. 2.

**Notice of registration as extra-provincial LLP**

**62 (1)** Without delay after being registered as an extra-provincial LLP, the partnership shall send all the existing clients of its Nova Scotia practice a notice advising of the registration and explaining in general terms the potential changes in liability of the partners that result from the registration.

**(2)** Where an extra-provincial LLP has sent a notice similar to the notice described in subsection (1) to all of its existing clients as a result of being registered as a limited liability partnership or an extra-jurisdictional limited liability partnership in another jurisdiction, the notice required by subsection (1) is only required to be sent to the partnership's existing clients in the Province. 2002, c. 37, s. 2.

**Registered office of extra-provincial LLP**

**63 (1)** An extra-provincial LLP shall at all times have a registered office in the Province.

**(2)** The registered office must be the business premises of the extra-provincial LLP or of a person or firm that has agreed to act as the partnership's registered office.

**(3)** An extra-provincial LLP shall ensure that its registered office is accessible to the public during normal business hours. 2002, c. 37, s. 2.

**List of partners of extra-provincial LLP**

**64** An extra-provincial LLP shall keep at its registered office a list of the Nova Scotia partners and shall, without delay, provide the following information without charge to any person who requests it:

- (a)** a list of the Nova Scotia partners;
- (b)** a list of the persons who were Nova Scotia partners in the partnership on a date specified in the request, which must be after it was registered under the *Partnerships and Business Names Registration Act*. 2002, c. 37, s. 2.

**Name of extra-provincial LLP**

**65 (1)** The name of an extra-provincial LLP must contain the words and abbreviations required under the laws of its governing jurisdiction.

**(2)** An extra-provincial LLP shall not carry on business under a name other than its registered firm name. 2002, c. 37, s. 2.

**Law governing and liability of extra-provincial LLP and its partners**

**66 (1)** Except as provided in another Act or in subsections (2) to (4), the law of the governing jurisdiction of an extra-provincial LLP applies to

- (a)** the organization and internal affairs of the partnership;
- and

(b) the liability of the partners for debts, obligations and liabilities of or chargeable to the partnership.

(2) A Nova Scotia partner of an extra-provincial LLP has the same individual liability as a partner of a Nova Scotia LLP does for debts, obligations or liabilities arising from the partner's own negligence, wrongful act or omission, malpractice or misconduct.

(3) A Nova Scotia partner of an extra-provincial LLP has no greater protection against individual liability for debts, obligations or liabilities of the partnership or another partner described in subsection (4) than a partner of a Nova Scotia LLP would have against individual liability for similar debts, obligations or liabilities of the Nova Scotia LLP or another partner.

(4) The debts, obligations or liabilities referred to in subsection (3) are those arising from

(a) the negligence, wrongful act or omission, malpractice or misconduct of another partner or an employee, agent or representative of the partnership about which the partner knew at the time of its commission and in respect of which the partner failed to take reasonable steps to prevent its commission; or

(b) the negligence, wrongful act or omission, malpractice or misconduct of another partner or an employee, agent or representative of the partnership for whom the partner was responsible in a supervisory role.

(5) For the purpose of this Section, the governing jurisdiction for an extra-provincial LLP is the jurisdiction under the laws of which the partnership was formed. 2002, c. 37, s. 2.

#### **Distribution of property of Nova Scotia LLP**

67 (1) A Nova Scotia LLP shall not make a distribution of partnership property in connection with the winding up of its affairs unless all partnership obligations have been paid or satisfactory provision for their payment has been made.

(2) In circumstances other than in connection with the winding up of its affairs, a Nova Scotia LLP shall not make a distribution of partnership property if there are reasonable grounds to believe that after the distribution

(a) the partnership would be unable to pay its partnership obligations as they come due; or

(b) the value of the partnership property would be less than the partnership obligations.

(3) Subsections (1) and (2) do not prohibit a payment made as reasonable compensation for current services provided by a partner to the Nova

Scotia LLP, to the extent that the payment would be reasonable if paid to an employee who was not a partner as compensation for similar services.

(4) A Nova Scotia LLP may base its determination of whether a distribution is prohibited by subsection (2)

(a) on financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances;

(b) on a fair valuation; or

(c) on another method that is reasonable in the circumstances. 2002, c. 37, s. 2.

#### **Liability respecting contravention of Section 67**

**68 (1)** A partner in a Nova Scotia LLP who receives a distribution contrary to Section 67 is liable to the partnership for

(a) the value of the property received by the partner; or

(b) the amount necessary to discharge partnership obligations that existed at the time of the distribution,

whichever is less.

(2) Any partners in a Nova Scotia LLP who authorize a distribution contrary to Section 67 are jointly and severally liable to the partnership for any amount for which a recipient is liable under subsection (1), to the extent that the amount is not recovered from the recipient.

(3) Proceedings to enforce a liability under this Section may be brought by the Nova Scotia LLP, any partner in the partnership or any person to whom the partnership was obligated at the time of the distribution to which the liability relates.

(4) No proceedings to enforce a liability under this Section may be commenced later than two years after the date of the distribution to which the liability relates. 2002, c. 37, s. 2.

#### **Successor partnership**

**69 (1)** For the purpose of this Part, a new partnership is the successor partnership of an original partnership where

(a) at a particular time, the original partnership is registered as a Nova Scotia LLP;

(b) immediately after that time, a new partnership with different partners is carrying on the business of the original partnership;

(c) one or more of the partners in the original partnership are members of the new partnership; and

(d) there is an express or implied agreement between the partners in the original partnership and new partnership that the new partnership will assume all partnership obligations of the original partnership.

(2) A successor partnership is deemed to be the same partnership as the original partnership for the purpose of this Part and, without limiting the generality of the foregoing, is subject to all the partnership obligations of the original partnership. 2002, c. 37, s. 2.

#### **Dissolution of Nova Scotia LLP**

70 (1) When a Nova Scotia LLP dissolves and its affairs are to be wound up, the partnership maintains its status as a Nova Scotia LLP while its affairs are being wound up.

(2) A Nova Scotia LLP is deemed, for the purpose of this Section and subsection 67(1), to have dissolved and to be winding up its affairs if

(a) the partnership ceases to carry on business; or

(b) there is any change in the membership of the partnership and there is not a successor partnership within the meaning of Section 69.

(3) When a Nova Scotia LLP has dissolved and its affairs are being wound up, the Supreme Court of Nova Scotia may, on the application of any interested person, make any order with respect to the partnership that could be made with respect to a corporation under Section 43 of the *Companies Winding Up Act*. 2002, c. 37, s. 2.

#### **Regulations**

71 (1) The Governor in Council may make regulations

(a) authorizing a profession that meets the requirements of clauses 51(1)(a) and (c) to be practised in limited liability partnerships;

(b) respecting the minimum amount of liability insurance that limited liability partnerships practising particular professions must maintain;

(c) respecting the content of notices required to be sent under Section 53 or 62;

(d) defining any word or expression used but not defined in this Act;



(e) respecting any matter the Governor in Council considers necessary or advisable to carry out effectively the intent and purpose of this Act.

(2) The Governor in Council shall not make a regulation under clause (1)(b) in relation to a profession unless

(a) the member of the Executive Council charged by the Governor in Council with the administration of this Act considers that the minimum amount of liability insurance required by the profession's governing body does not provide sufficient protection for clients of limited liability partnerships;

(b) the member of the Executive Council requests the governing body in writing to increase the minimum amount within a specified time; and

(c) the governing body does not increase the minimum amount.

(3) A regulation made under clause (1)(b) takes precedence over a rule, by-law or other requirement of a professional governing body respecting the minimum amount of liability insurance required for limited liability partnerships.

(4) The exercise by the Governor in Council of the authority contained in subsection (1) is regulations within the meaning of the *Regulations Act*, 2002, c. 37, s. 2.

---