

# LIMITED LIABILITY PARTNERSHIPS

## Survey Response Form

We encourage interested parties to provide their feedback by June 30, 2002.  
Comments can be sent to:

Service New Brunswick  
Corporate Affairs Branch  
Attention: Charles S. McAllister  
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1. Should New Brunswick enact LLP legislation?

Yes  No

Reason for response \_\_\_\_\_  
\_\_\_\_\_

Any qualifications to your response or other comments \_\_\_\_\_  
\_\_\_\_\_

2. If New Brunswick decides to enact LLP legislation, what type of priority should government put on the enactment?

High  Medium  Low

Reason for response \_\_\_\_\_  
\_\_\_\_\_

3. Should provisions limit the availability of LLPs to certain activities and professions?

Yes  No

Reason for response \_\_\_\_\_  
\_\_\_\_\_

If yes, what activities and professions should be able to use LLPs? \_\_\_\_\_  
\_\_\_\_\_

Reason for response \_\_\_\_\_  
\_\_\_\_\_

4. Do you favour one legislative approach over the other?

Yes  No

If so, indicate which approach and why? \_\_\_\_\_

If there is another approach you wish to suggest, please specify.

5. There is a trend for different professionals such as accountants and lawyers to join together in multi-disciplinary firms to provide services to clients. Are there particular issues that any LLP legislation would have to address for any multi-disciplinary LLP?

Yes  No

Reason for response \_\_\_\_\_

6. Should a partner's exclusion from liability for the actions of another partner be based on:

- the negligent act or omission of the other partner (Ontario approach)
- the negligence, wrongful act, malpractice or misconduct of the other partner (Alberta approach)

Reason for response \_\_\_\_\_

If there is a different approach you wish to suggest, please specify \_\_\_\_\_

7. Should there be a shield to a partner of a LLP so that the partner is not normally liable for the acts or omissions of employees and agents?

Yes (Alberta and Ontario approach)

No

Reason for response \_\_\_\_\_

\_\_\_\_\_

Other suggested approach or comment \_\_\_\_\_

\_\_\_\_\_

In most jurisdictions that provide a shield so that a partner is not liable for the acts or omissions of employees and agents, an exception is created to continue to make a partner liable where the partner is directly supervising the employee or agent. At least two variations on this exist.

Should the supervising partner be held liable for the acts and omissions of employees and agents

based strictly on the fact the partner has supervised the employee or agent (Ontario approach)

based on the fact the partner has supervised the employee or agent and has failed to provide such adequate and competent supervision as would normally be expected of a partner in those circumstances (Alberta approach)

Reason for response \_\_\_\_\_

\_\_\_\_\_

Other suggested approach or other comment \_\_\_\_\_

\_\_\_\_\_

8. Should the supervising partner's liability be in relation to

negligent acts or omissions of the employee

the negligence, wrongful act, malpractice or misconduct of the employee

Reason for response \_\_\_\_\_

Other suggested approach or comment \_\_\_\_\_

\_\_\_\_\_

9. Which approach should New Brunswick follow for LLP legislation?

partial shield approach  
 full shield approach

Reason for response \_\_\_\_\_  
\_\_\_\_\_

Other suggestions \_\_\_\_\_  
\_\_\_\_\_

10. If New Brunswick follows a full shield LLP approach, should all partners be liable for partnership obligations for which they would be liable if the partnership were a corporation of which they were directors?

Yes  No

Reason for response \_\_\_\_\_  
\_\_\_\_\_

Other suggestions \_\_\_\_\_  
\_\_\_\_\_

11. In relation to provisions to restrict the ability of a LLP to make distributions of its property to partners, should such provisions apply

- to a full shield LLP
- to a partial shield LLP
- to both types of LLPs
- to neither type of LLP

Reason for response \_\_\_\_\_  
\_\_\_\_\_

Other suggestions or comments \_\_\_\_\_  
\_\_\_\_\_

If there are to be restrictions on the ability of a LLP to make distributions of its property to partners, should there be an exception to permit a partner to be paid reasonable compensation for services rendered?

- Yes (Model Act and Saskatchewan approach)
- No

Reason for response \_\_\_\_\_  
\_\_\_\_\_

Other suggestions \_\_\_\_\_  
\_\_\_\_\_

12. Should LLPs or members within a LLP that practice a profession be required to have mandatory insurance?

- Yes
- No

Reason for response \_\_\_\_\_  
\_\_\_\_\_

Other suggestion or comment \_\_\_\_\_  
\_\_\_\_\_

13. Where a LLP is required to have mandatory insurance but does not, should the LLP be treated as an ordinary partnership with respect to rights and obligations acquired while it had no insurance in effect?

Yes  
 No

Reason for response \_\_\_\_\_

Other suggestion or comment \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

14. If you favour mandatory insurance for LLPs, please indicate which of the following professionals should be required to have mandatory insurance in order to practice as a LLP

accountants  
 chiropractors  
 dentists  
 doctors  
 engineers  
 lawyers  
 optometrists  
 Other. Please specify \_\_\_\_\_

Comments, if any \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

15. What benchmark should be used in determining which professionals should be required to have some form of mandatory insurance in order to be able to practice within a LLP? \_\_\_\_\_

\_\_\_\_\_

16. Who should set the mandatory minimum level of insurance for a particular profession?

the particular profession through its governing body

other mechanism. Please specify and set out reasons. \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

17. If LLP provisions are enacted in New Brunswick, do you favour one legislative approach over the other?

prefer approach similar to other jurisdictions of amending existing relevant Acts

prefer a separate statute

Reason for response \_\_\_\_\_

\_\_\_\_\_

18. Do you have any issue with the proposed registration and designation processes for LLPs?

Yes  No

If yes, please specify \_\_\_\_\_

\_\_\_\_\_

19. Do you have any issue with the effect that a cancellation of the registration of a LLP will have?

Yes  No

If yes, please specify. \_\_\_\_\_

\_\_\_\_\_

20. Do you have any issue with the proposed registration and designation processes for extra-provincial LLPs?

Yes       No

If yes, please specify \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

21. When an EPLLP is properly registered in New Brunswick, should New Brunswick defer to the laws of the EPLLP's home jurisdiction as it relates to the scope of a partner's personal liability for the debts and liabilities of the LLP

Yes       No

Reason for response \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Any qualifications to response or other suggestions \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

22. Where an extra-provincial LLP carries on business in New Brunswick but fails to properly register in New Brunswick, should provisions treat the LLP as an ordinary partnership in New Brunswick with respect to rights or obligations acquired pursuant to New Brunswick laws

yes       no

Reason for response \_\_\_\_\_  
\_\_\_\_\_  
Other suggestions \_\_\_\_\_  
\_\_\_\_\_



23. Should a New Brunswick partner of an extra-provincial LLP have any greater protection against personal liability in respect to his or her practice as a professional in New Brunswick than a partner in a New Brunswick LLP?

Yes  No (Alberta and Saskatchewan approach)

Reason for response \_\_\_\_\_

Other suggestion \_\_\_\_\_

24. Should New Brunswick LLPs be required to have the identifier "LLP" in their name?

Yes  No

Reason for response \_\_\_\_\_

Should a LLP be able to use a different operating name than its legal name

Yes  No

Reason for response \_\_\_\_\_

Any qualifications to your response \_\_\_\_\_

25. Do you agree that there should be a prohibition on the use of the words "LLP" for non-LLP entities?

Yes  No

Reason for response \_\_\_\_\_

26. Should an extra-provincial LLP whose name does not contain the “LLP” identifier in its name be required to add the “LLP” identifier to its name when used in New Brunswick?

Yes  No (Alberta, Ontario and Saskatchewan approach)

Reason for response \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

27. When a partnership converts to a LLP, should the approach be:

that the LLP be required to send out a notice

to clients

to clients and creditors

that there be no requirement to send out a notice to clients and creditors

Reason for response \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

28. Where a LLP fails to provide any statutory notice to clients and third parties, should the LLP be treated as an ordinary partnership (i.e. no shield) for those clients and third parties who should have, but did not get sent, the statutory notice?

Yes  No

Reason for response \_\_\_\_\_

\_\_\_\_\_

Other suggestion \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

29. Do you agree with the above suggestion to streamline the registration procedure where there are a large number of partners in a partnership?

Yes                       No

Reason for response \_\_\_\_\_

Other comments \_\_\_\_\_

\_\_\_\_\_

30. Please identify any other issues that should be considered in relation to LLPs

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**Please identify yourself so we may contact you for further information, if necessary.**

**Name** \_\_\_\_\_

**Name of organization** \_\_\_\_\_

**Address** \_\_\_\_\_

\_\_\_\_\_

**Phone #** \_\_\_\_\_

**e-mail address** \_\_\_\_\_