

## INCORPORATED PRIVATE PARTNERSHIPS ACT, 1962 (ACT 152)

As amended by

THE INCORPORATED PRIVATE PARTNERSHIPS (AMENDMENT) ACT, 1980 (ACT 423)1.

THE INCORPORATED PRIVATE PARTNERSHIPS (AMENDMENT) ACT, 1997 (ACT 532)2.

THE INCORPORATED PRIVATE PARTNERSHIPS (AMENDMENT) ACT, 2001 (ACT 605)3.

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#### THE HUNDRED AND FIFTY-SECOND

#### ACT

#### OF THE PARLIAMENT OF THE REPUBLIC OF GHANA

#### ENTITLED

#### THE INCORPORATED PRIVATE PARTNERSHIPS ACT, 1962

AN ACT to provide for the incorporation and registration of partnerships and, to declare and amend the law applicable thereto.

DATE OF ASSENT: 20th November, 1962

BE IT ENACTED by the President and the National Assembly in this present Parliament assembled as follows:—

#### Preliminary

##### Section 1—Commencement.

This Act shall come into operation on the first day of January, 1963.

##### Section 2—Interpretation.

In this Act, unless the context otherwise requires,

"business" includes every trade or profession;

"charge" includes a mortgage, legal or equitable;

"Court" means the High Court;

"firm" means a body corporate formed by registration of a partnership in accordance with this Act;

"partner" includes a sole surviving or continuing member of a firm;

"partnership" shall have the meaning assigned to it by section 3 of this Act;

"prescribed form" means a form prescribed by the Registrar for the purposes of this Act;

"Registrar" means the Registrar-General or other Registrar appointed for the purposes of this Act and includes any assistant or deputy registrar.

### Section 3—Meaning of Partnership.

(1) Partnership means the association of two or more individuals carrying on business jointly for the purpose of making profits:

Provided that the association of members of,

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(a) a company registered under the Companies Ordinance, (Cap. 193), or any statutory re-enactment thereof, unless it is re-registered hereunder in accordance with section 59 of this Act and the Second Schedule hereto;

(b) a company, body corporate, or unincorporated association formed under any other enactment;

(c) a body corporate formed in accordance with the law of any foreign country whether or not carrying on business in Ghana; or

(d) a joint venture without a firm name for one or more specific operations, shall not be a partnership within the meaning of this Act.

(2) Family ownership or co-ownership of property shall not of itself create a partnership whether or not the family or co-owners share any profits made by the use of that property.

(3) Subject as aforesaid, the sharing of the net profits of a business shall, prima facie, be evidence of a partnership, but,

(a) the remuneration of a servant or agent of a person engaged in business by a share of profits of the business shall not of itself make the servant or agent a partner; and

(b) a person shall not be deemed to be a partner if it is shown that he did not participate in the carrying on of the business and was not authorised so to do.

### Registration

#### Section 4—Registration of Partnership Firms.

(1) After the expiration of three months from the commencement of this Act, it shall not be lawful for a partnership to carry on business unless the firm shall have been duly registered in accordance with section 5 of this Act and not struck off the register under section 51, 52 or 53 of this Act.

(2) No partnership consisting of more than twenty persons or of which any body corporate is a member shall be registered under this Act.

#### Section 5—Method of Registration.

(1) Registration under this Act shall be effected in the manner following, that is to say, there shall be sent or delivered to the Registrar for registration a copy of the partnership agreement and a statement in the prescribed form signed by all the partners containing the following particulars, namely,

(a) the firm name of the partnership;

(b) the general nature of the business;

(c) the address and Post Office Box number of,

(i) the principal place of business of the partnership; and

(ii) all other places in Ghana at which the business is carried on;

(d) the names and any former names, residential addresses and business occupations of the partners;

(e) the date of commencement of the partnership, unless the partnership has commenced more than twelve months prior to the date of the statement;

(f) particulars of any charges requiring registration under section 25 of this Act or a statement that there are no such charges,

and where particulars of any charge require registration under section 25 of this Act, the statement shall be accompanied by the documents required by that section.

(2) Unless in the opinion of the Registrar,

(a) the partnership is not one which is registrable under this Act;

(b) any of the businesses which the partnership has been carrying on or is to carry on is unlawful;

(c) the name of the firm is misleading or undesirable;

(d) any of the partners is an infant or of unsound mind or a person who, within the preceding five years, has been guilty of fraud or dishonesty, whether convicted or not, in connection with any trade or business or is an undischarged bankrupt; or

(e) the statement is incomplete, illegible, inaccurate, irregular, or on paper insufficiently durable to be suitable for registration,

the Registrar shall, upon payment of the prescribed fee, register the said statement.

(3) For the purposes of forming an opinion in accordance with the immediately preceding subsection, the Registrar may call upon any partner or former partner to supply such information as he shall think fit; and may require the books and accounts of the partnership to be produced for his inspection.

(4) Where the Registrar refuses registration on any of the grounds specified in paragraph (a), (b) or (d) of subsection (2) of this section, any partner or person claiming to be a partner shall have a right of appeal to the Court against the decision of the Registrar in accordance with subsection (2) of section 55 of this Act.

(5) The provisions of the Registration of Business Names Act, 1962 (Act 151) shall not apply to any firm registered under this Act and not struck off the register under section 51, 52 or 53 of this Act.

#### Section 6—Issue and Effect of Certificate of Registration.

(1) Upon registration the Registrar shall certify under his seal that the firm has been registered and is incorporated and such certificate shall state the names of the partners and that their liability is unlimited.

(2) The Registrar shall insert a notice in the Gazette stating the issue of the certificate and the terms thereof.

(3) The certificate, or a copy thereof, certified as correct under the hand of the Registrar, or the Gazette containing the notice referred to in the immediately preceding subsection, shall be conclusive evidence that the firm has been duly incorporated under this Act.

#### Section 7—Registration of Changes.

(1) Wherever any change has been made or has occurred in any of the particulars registered in accordance with the foregoing sections, the existing partners shall, within twenty-eight days after the change, deliver to the Registrar for registration a statement in the prescribed form signed by all the partners or their agents authorised in writing, containing particulars of the change.

(2) Subsections (2), (3) and (4) of section 5 of this Act shall apply as if such statement were a statement delivered for registration under that section.

(3) Where the change is of the firm name or of the identity of the partners, the Registrar, upon registration of the statement, shall issue an amended certificate of registration and shall insert a notice in the Gazette stating the issue of such certificate and the terms thereof.

#### Section 8—Annual Renewal of Registration.

(1) Once in every year the partners shall deliver to the Registrar for registration a statement in the prescribed form renewing the registration.

(2) In the case of every partnership registered between the first day of January and the thirtieth day of June in any year the notice shall be delivered for registration within twenty-eight days after the first day of January each year: and in the case of every partnership registered between the first day of July and the thirty-first day of December in any year the notice shall be delivered for registration within twenty-eight days after the first day of July each year.

(3) The provisions of Subsections (2), (3) and (4) of section 5 of this Act shall apply as if such statement were a statement delivered for registration under that section.

#### Section 9—Penalties and Disabilities for Breach of Sections 4, 5, 7 or 8.

(1) In the event of default in complying with sections 4, 5, 7 or 8 of this Act,

(a) every partner shall be liable to a fine not exceeding five pounds for each day during which the default continues;

(b) the rights of the firm concerned and of the partners therein arising out of any contract made during such time as the default continues shall not be enforceable by action or other legal proceedings:

Provided that,

- (i) the firm may apply to the Court for relief against the disability imposed by this paragraph; and the Court, on being satisfied that it is just and equitable to grant relief, may grant such relief either generally or as respects any particular contract and on such conditions as the Court may impose;
- (ii) nothing herein contained shall prejudice the rights of any other parties as against the firm or the partners, or any other person, in respect of such contract;
- (iii) if any action or proceeding shall be commenced by any other party against the firm or the partners to enforce the rights of such party in respect of such contract, nothing herein contained shall preclude the firm or the partners from enforcing in that action or proceeding by way of counter-claim, set-off or otherwise, such rights as it or they may have against that party in respect of that contract.

(2) If there shall be any error or omission in any statement or notice delivered to the Registrar in accordance with sections 5, 7 or 8 of this Act every partner in the firm concerned shall be liable to a fine not exceeding fifty pounds.

Section 10—Maintenance of Register.

The Registrar shall maintain a register and an index of all firms registered under this Act, and of all statements and notices relating to each firm so registered.

Section 11—No Constructive Notice of Registered Documents.

Except as provided by section 31 of this Act, a person shall not be deemed to have knowledge of any particulars by reason only that such particulars are stated or referred to in any statement or notice registered in accordance with this Act.

Nature of the Firm

Section 12—Corporate Personality of the Firm.

(1) From the date of registration mentioned in the certificate of registration issued in accordance with section 6 of this Act, the firm shall be a body corporate under the firm name, distinct from the partners of whom it is composed, and capable forthwith of exercising all the powers of a natural person of full capacity in so far as such powers can be exercised by a body corporate.

(2) Notwithstanding any changes in the constitution of the partnership, the firm shall continue to exist as a corporate body until dissolved in accordance with section 51, 52 or 53 of this Act.

(3) Notwithstanding that the firm is a body corporate, each partner therein shall be liable, without limitation, for the debts and obligations of the firm in the manner referred to in section 16 of this Act; but shall be entitled to an indemnity from the firm and to contribution from his co-partners in accordance with his rights under the partnership agreement.

Publicity

Section 13—Publication of Firm Name and Partners' Names.

(1) Every firm shall,

(a) carry on business only under the registered firm name, and shall paint or affix, and keep painted or affixed, the registered firm name on the outside of every office or place in which its business is carried on, in a conspicuous position in letters easily legible;

(b) have the registered firm name and the present forenames or the initials thereof, and any former forenames or surnames of all the partners in the firm accurately mentioned in legible characters at the head of all trade circulars and business letters of the firm;

(c) keep exhibited in a conspicuous position at the principal place of business of the firm the firm's latest certificate of registration issued under section 6 or 7 of this Act.

(2) If default is made in complying with this section the firm shall be liable to a fine not exceeding fifty pounds.

Relations of Firm and Partners to Persons Dealing with Them

Section 14—Power of Partners to Bind the Firm.

(1) Every partner shall be an agent of the firm for the purpose of the business of the firm.