

The Partnership Act, 1932

(ACT NO. IX OF 1932)

¹♣An Act to define and amend the law relating to partnership.

WHEREAS it is expedient to define and amend the law relating to partnership:

It is hereby enacted as follows:-

CHAPTER I PRELIMINARY

Short title, extent and commencement

1. (1) This Act may be called the Partnership Act, 1932.

(2) It extends to the whole of Bangladesh.

(3) It shall come into force on the 1st day of October, 1932, except section 69, which shall come into force on the 1st day of October, 1933.

Definitions

2. In this Act, unless there is anything repugnant in the subject or context,-

(a) an "act of a firm" means any act or omission by all the partners, or by any partner or agent of the firm which gives rise to a right enforceable by or against the firm;

(b) "business" includes every trade, occupation and profession;

(c) "prescribed" means prescribed by rules made under this Act;

(d) "third party" used in relation to a firm or to a partner therein means any person who is not a partner in the firm; and

(e) expressions used but not defined in this Act and defined in the Contract Act, 1872, shall have the meanings assigned to them in that Act.

Application of provisions

3. The unrepealed provisions of the Contract Act, 1872, save in so far as they are inconsistent with the express provisions of this Act, shall continue to apply to firms.

CHAPTER II

THE NATURE OF PARTNERSHIP

**Definition
of
"partnership",
"partner",
"firm" and
"firm name"**

4. "Partnership" is the relation between persons who have agreed to share the profits of a business carried on by all or any of them acting for all.

Persons who have entered into partnership with one another are called individually "partners" and collectively "a firm", and the name under which their business is carried on is called the "firm name".

**Partnership
not created
by status**

5. The relation of partnership arises from contract and not from status; and, in particular, the members of a Hindu undivided family carrying on a family business as such, or a Burmese Buddhist husband and wife carrying on business as such are not partners in such business.

**Mode of
determining
existence of
partnership**

6. In determining whether a group of persons is or is not a firm, or whether a person is or is not a partner in a firm, regard shall be had to the real relation between the parties, as shown by all relevant facts taken together.

Explanation 1. The sharing of profits or of gross returns arising from property by persons holding a joint or common interest in that property does not of itself make such persons partners.

Explanation 2. The receipt by a person of a share of the profits of a business, or of a payment contingent upon the earning of profits or varying with the profits earned by a business, does not of itself make him a partner with the persons carrying on the business;

and, in particular, the receipt of such share or payment-

(a) by a lender of money to persons engaged or about to engage in any business,

(b) by a servant or agent as remuneration,

(c) by the widow or child of a deceased partner, as annuity, or

(d) by a previous owner or part owner of the business, as consideration for the sale of the goodwill or share thereof,

does not or itself make the receiver a partner with the persons carrying on the business.

Partnership at will

7. Where no provision is made by contract between the partners for the duration of their partnership, or for the determination of their partnership, the partnership is "partnership at will".

Particular partnership

8. A person may become a partner with another person in particular adventures or undertakings.

CHAPTER III

RELATIONS OF PARTNERS TO ONE ANOTHER

General duties of partners

9. Partners are bound to carry on the business of the firm to the greatest common advantage, to be just and faithful to each other, and to render true accounts and full information of all things affecting the firm to any partner or his legal representative.

Duty to indemnify for loss caused by fraud

10. Every partner shall indemnify the firm for any loss caused to it by his fraud in the conduct of the business of the firm.

Determination of rights and duties of partners by contract between the partners

11. (1) Subject to the provisions of this Act, the mutual rights and duties of the partners of a firm may be determined by contract between the partners, and such contract may be express or may be implied by a course of dealing.

Such contract may be varied by consent of all the partners, and such consent may be express or may be implied by a course of dealing.

Agreements in restraint of trade

(2) Notwithstanding anything contained in section 27 of the Contract Act, 1872, such contracts may provide that a partner shall not carry on any business other than that of the firm while he is a partner.

The conduct of the business

12. Subject to contract between the partners-

(a) every partner has a right to take part in the conduct of the business;

(b) every partner is bound to attend diligently to his duties in the conduct of the business;

(c) any difference arising as to ordinary matters connected with the business may be decided by a majority of the partners, and every partner shall have the right to express his opinion before the matter is decided, but no change may be made in the nature of the business without the consent of all the partners; and

(d) every partner has a right to have access to and to inspect and copy any of the books of the firm.

Mutual rights and liabilities

13. Subject to contract between the partners-

(a) a partner is not entitled to receive remuneration for taking part in the conduct of the business;

(b) the partners are entitled to share equally in the profits earned, and shall contribute equally to the losses sustained by the firm;

(c) where a partner is entitled to interest on the capital subscribed by him such interest shall be payable only out of profits;

(d) a partner making, for the purposes of the business, any payment or advance beyond the amount of capital he has agreed to subscribe, is entitled to interest thereon at the rate of six percent, per annum;

(e) the firm shall indemnify a partner in respect of payments made and liabilities incurred by him-

(i) in the ordinary and proper conduct of the business, and

(ii) in doing such act, in an emergency, for the purpose of protecting the firm from loss, as would be done by a person of ordinary prudence, in his own case, under similar circumstances; and

(f) a partner shall indemnify the firm for any loss caused to it by his wilful neglect in the conduct of the business of the firm.

The property of the firm

14. Subject to contract between the partners, the property of the firm includes all property and rights and interests in property originally brought into the stock of the firm, or acquired, by purchase or otherwise, by or for

the firm, or for the purposes and in the course of the business of the firm, and includes also the goodwill of the business.

Unless the contrary intention appears, property and rights and interests in property acquired with money belonging to the firm are deemed to have been acquired for the firm.

Application of the property of the firm

15. Subject to contract between the partners, the property of the firm shall be held and used by the partners exclusively for the purposes of the business.

Personal profits earned by partners

16. Subject to contract between the partners,-

(a) if a partner derives any profit for himself from any transaction of the firm, or from the use of the property or business connection of the firm or the firm name, he shall account for that profit and pay it to the firm;

(b) if a partner carries on any business of the same nature as and competing with that of the firm, he shall account for and pay to the firm all profits made by him in that business.

Rights and duties of partners after a change in the firm,

17. Subject to contract between the partners,-

(a) where a change occurs in the constitution of a firm, the mutual rights and duties of the partners in the reconstituted firm remain the same as they were immediately before the change, as far as may be;

after the expiry of the term of the firm, and

(b) where a firm constituted for a fixed term continues to carry on business after the expiry of that term, the mutual rights and duties of the partners remain the same as they were before the expiry, so far as they may be consistent with the incidents of partnership at will; and

where additional undertakings are carried out

(c) where a firm constituted to carry out one or more adventures or undertakings carries out other adventures or undertakings, the mutual rights and duties of the partners in respect of the other adventure or undertakings are the same as those in respect of the original adventures or undertakings.

CHAPTER IV