



# Partnership Act 1890

## 1890 CHAPTER 39

### *Relations of Partners to one another*

#### **19 Variation by consent of terms of partnership**

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.

#### **20 Partnership property**

- (1) All property and rights and interests 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) Provided that the legal estate or interest in any land, or in Scotland the title to and interest in any heritable estate, 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, or in Scotland of any heritable estate, not being itself partnership property, are partners as to profits made by the use of that land or estate, and purchase other land or estate out of the profits to be used in like manner, the land or estate 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 or estate first mentioned at the date of the purchase.

#### **21 Property bought with partnership money**

Unless the contrary intention appears, property bought with money belonging to the firm is deemed to have been bought on account of the firm.

**22 Conversion into personal estate of land held as partnership property**

Where land or any heritable interest therein has become partnership property, it shall, unless the contrary intention appears, be treated as between the partners (including the representatives of a deceased partner), and also as between the heirs of a deceased partner and his executors or administrators, as personal or moveable and not real or heritable estate.

**23 Procedure against partnership property for a partner's separate judgment debt**

- (1) After the commencement of this Act a writ of execution shall not issue against any partnership property except on a judgment against the firm.
- (2) The High Court, or a judge thereof, or the Chancery Court of the county palatine of Lancaster, or a county court, may, on the application by summons of any judgment creditor of a partner, make an order charging that 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 may 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) This section shall apply in the case of a cost-book company as if the company were a partnership within the meaning of this Act.
- (5) This section shall not apply to Scotland.

**24 Rules as to interests and duties of partners subject to special agreement**

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:

- (1) 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.
- (2) The firm must indemnify every partner in respect of payments made and personal liabilities incurred by him—
  - (a) In the ordinary and proper conduct of the business of the firm; or,
  - (b) In or about anything necessarily done for the preservation of the business or property of the firm.
- (3) 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.
- (4) A partner is not entitled, before the ascertainment of profits, to interest on the capital subscribed by him.

- (5) Every partner may take part in the management of the partnership business.
- (6) No partner shall be entitled to remuneration for acting in the partnership business.
- (7) No person may be introduced as a partner with out the consent of all existing partners.
- (8) 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.
- (9) 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.

## **25 Expulsion of partner**

No majority of the partners can expel any partner unless a power to do so has been conferred by express agreement between the partners.

## **26 Retirement from partnership at will**

- (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 the 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.

## **27 Where partnership for term is continued over, continuance on old terms presumed**

- (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.

## **28 Duty of partners to render accounts, &c**

Partners are bound to render true accounts and full information of all things affecting the partnership to any partner or his legal representatives.

## **29 Accountability of partners for private profits**

- (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 connexion.
- (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.

**30 Duty of partner not to compete with firm**

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.

**31 Rights of assignee of share in partnership**

- (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 require 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.