

INDIAN PARTNERSHIP ACT, 1932

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INTRODUCTION

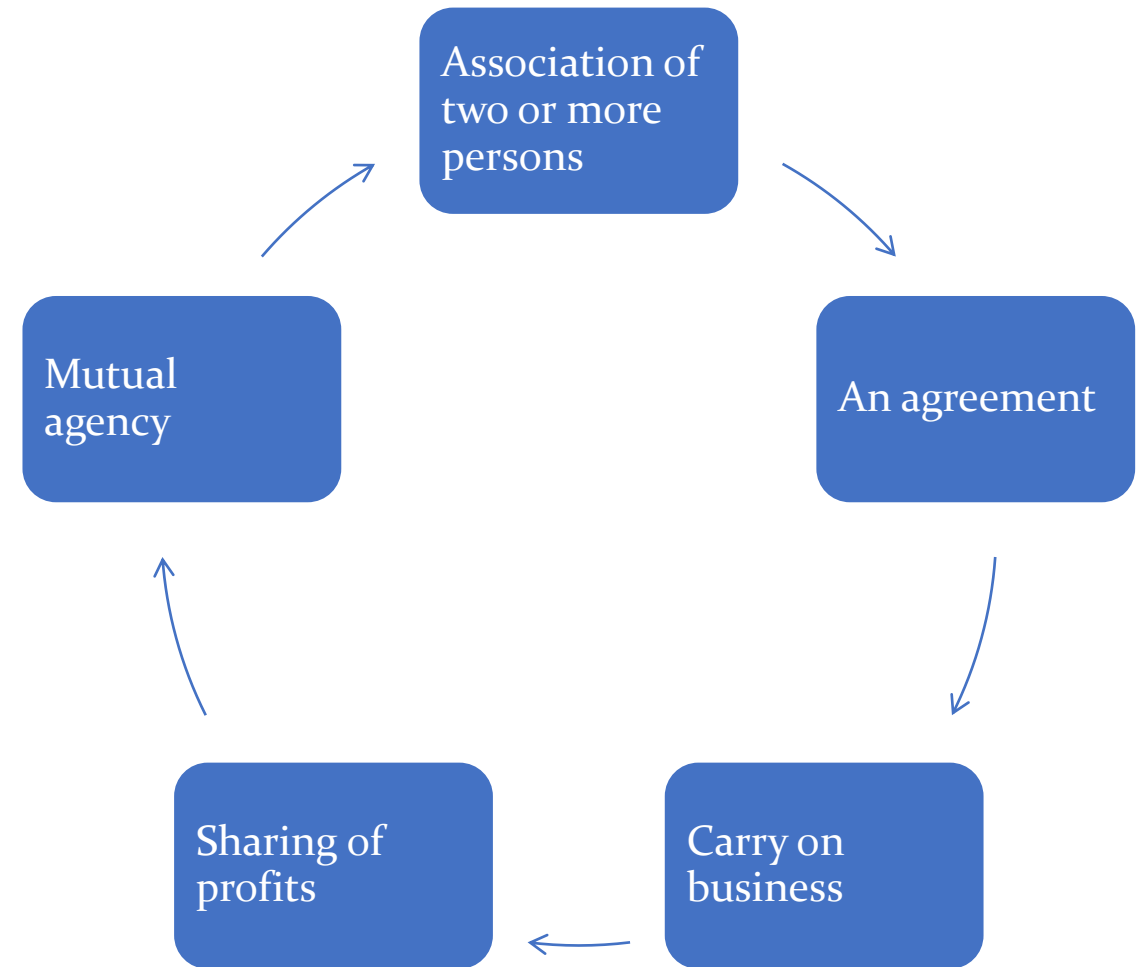
- Indian Partnership Act, 1932 is applicable to whole of India.
- Act was applicable from 1st October, 1932 except for Section 69 (effect of non- registration) which was applicable from 1st October, 1933.
- The Act is based on English Partnership Act, 1890.

CONCEPT OF PARTNERSHIP

A Partnership is a form of business where two or more people share ownership, as well as the responsibility for managing the company and the income or losses the business generates.

Section 4 of this act defines a partnership as the relationship between partners who have agreed to share the firm's profits carried on by all or any one of them acting for all.

Essential Elements of Partnership





Association of two or more persons- In order to constitute a partnership legally there must be an association of atleast two persons. Persons must be competent.



An agreement- A Partnership is contractual in nature. So, a partnership results from a contract or an agreement between two or more persons. It has to be a voluntary agreement between partners. A partnership agreement can be written or oral.



Carry on business -Parties must have agreed to carry on a business. The object of every partnership must be carrying on a business and sharing its profits. Here, business includes every trade, occupation and profession. The business to be carried out by the firm must be legal.



Sharing of profits- The agreement to carry on business must be with the object of sharing profits amongst all the partners. Thus, there would be no partnership where the business is carried on with a philanthropic motive and not for making profit. The partners may, however, agree to share profits in any ratio they like.



Mutual Agency- Every partner is both a principal as well as an agent for all the other partners of the firm. An act done by any of the partners is binding on all the partners and the firm as well. So every partner is bound by the acts of all the other partners.

DURATION OF PARTNERSHIP

Partnership
at will
(Section 7)

Period of
partnership
is not fixed

Can be
dissolved at
any time by
notice

Particular
Partnership
(Section 8)

Form for
specific
period

Get dissolved
after specific
period

REGISTRATION

- Under Section 58 of the Indian Partnership Act, 1932, a firm may be registered at any time (not merely at the time of its formation but subsequently also) by filing an application with the registrar of firms of the area in which any place of business of the firm is situated or proposed to be situated.
- However, the registration of the partnership firm is not compulsory under part vii of the Indian Partnership Act, 1932, though it is usually done as registration brings many advantages to the firm.



Effect of Non Registration (Section 69)

01

No partner can file a suit against other partner.

02

The firm cannot file a suit against any partner.

03

No partner can file a suit against the firm unless the firm is registered.

04

The firm cannot file a suit against a third party.

05

A third party can file a suit against the firm.

TYPES OF PARTNERS

- **Active/Managing Partners:** The partner who takes participation in the conduct of the business daily. This partner is also called an ostensible partner.
- **Sleeping/Dormant:** He does not participate in the conduct of the business but he is bound by the conduct of all the partners.
- **Nominal Partner:** He is a partner to the firm only by his name. In reality, he has no significant or real interest in the firm.
- **Partner in profit only:** The partner who agrees to share the profit but does not suffer losses. He is not liable for any liabilities in case of dealing with the third party.
- **Minor Partner:** A minor cannot be a partner according to the Indian Contract Act, but he can be admitted to get the benefit if all the partners give the consent. He will share the profit equally but his liability will be limited in case of loss of the firm.
- **Partner By Estoppel:** It means when the person is not a partner but he has represented himself by conduct, or words to another person to be the partner then he cannot deny afterwards. Even though he is not a partner but he becomes a partner by holding out or by estoppel.



RIGHTS OF THE PARTNERS

Right to take part in the conduct of the firm's business: Section 12(a) provides that every partner has the right to be involved in the conduct of the firm's business. All partners have the right to manage the firm's business.

Right to express opinion: Section 12(c) provides that all partners can freely express their opinion in matters concerning the firm's business. However, before a decision is made based on an opinion of a partner, the consent of other partners must be obtained.

Right to have access to books of the firm: Section 12(d) of the Act provides that every partner has the right to look into the books of the firm, whether the books concern the accounts of the firm or not.

Right to profit: As per Section 13(b), all partners must equally share profits earned through the business



- **Right to interest on capital:** Section 13(c) provides that on an agreement, the partners of a firm have the right to claim interest on the firm's profits from the capital.
- **Right to interest on advances made by partner:** In some cases the firm may need extra money apart from the capital, In such cases, a partner may make advances to the firm.
- **Right to not get expelled:** Section 33 provides that all partners have right to not get expelled except on certain grounds and they must be given reasonable warning and opportunity of explanation before the expulsion.
- **Right to retire:** Section 32 of the Act provides that a person has right to retire with the consent of other partners, unless the requirement of consent is waived by the agreement. The partners can retire by simply providing a notice to other partners in partnership at will.

DUTIES OF PARTNER

- **Duty of good faith:** As per Section 9, the partners must act just to each other. The relationship of partnership is on mutual trust and hence, there must be good faith between them. A partnership is of fiduciary nature and thus, at every stage of a partnership, the partners must act just and faithful to one another.
- **Duty to render true accounts:** Partners of a firm have a duty to render true accounts as per Section 9. A partner of a firm must keep and render true and complete accounts of the partnership firm's business. He must make it available to other partners or their representatives when required.
- **Duty to render full information:** As per Section 9, partners of a firm have a duty to provide true and full information regarding the business. Partners are agents of each other and hence, partners must communicate all information regarding the running of the business in a complete and truthful manner to each other.



- **Duty to not carry another business:** As per Section 11(2) of the Act, a partner must not conduct a business other than that of the firm. Partners can restrain one another from carrying on another business, provided that such restraint is reasonable.
- **Duty to perform without remuneration:** As per Section 13(a), every partner must perform and attend to the firm's business without expecting remuneration. There is a presumption that all partners are to work for the common advantage of the firm.
- **Duty to share losses:** As per Section 13(b) of the Act, partners must share losses in the proportions as provided by the partnership agreement. If the agreement does not provide it, it must be shared in the proportion that they share the profits.
- **Duty to indemnify for willful neglect:** As per Section 13(f), a partner shall indemnify his firm for any of the losses caused to it due to his willful neglect during the course of the business. Willful neglect refers to an act that is deliberate and intentional.

- **Duty to act within authority:** Every person has to act within the authority that he has conferred upon him as per the partnership agreement.
- **Duty to account private profits:** Section 16(a) provides that no partner can use the partnership firm's property for private use, or use any profits derived from the partnership business for his own advantage. If the property or profits of a firm is ever used for personal advantage, it must be accounted for.
- **Duty to properly use the firm's property:** Sections 14 and 15 of the Act provide that the property of the firm must be used solely for the purpose of the firm's business and not for private purposes. The term 'property of the firm' covers all properties and rights and interests in a property originally acquired by the firm for the purpose of running the business. The goodwill of the business is also a property of the firm.
- **Duty to act diligently:** As per Section 12(b), a firm's partner must act diligently in the business.

DISSOLUTION OF PARTNERSHIP AND FIRM

A cartoon illustration featuring three characters: a girl with blonde hair and glasses on the left, a brown bear in the center, and a boy on the right. They are all holding hands in a circle, suggesting a partnership or team. The background is a dark grey gradient.

- **DISSOLUTION OF PARTNERSHIP:-**When a partner of the firm breaks his relation with the other partners, and the other partners continue to operate the business of the firm, it is deemed to be a dissolution of partnership.
- **DISSOLUTION OF FIRM:-**A firm is deemed to be dissolved when the relations between all partners break down

MODES OF DISSOLUTION



Voluntary Dissolution



Compulsory Dissolution



Dissolution with the
order of the court

VOLUNTARY

By Agreement – Consent of all

By Notice – in case of partnership at will

Or on happening of certain contingencies – after specific period, completion of specific project.

COMPULSORY

When all partners or all the partner except one are declared as insolvent

If the firms business is declared as illegal or unlawful

DISSOLUTION BY ORDER OF COURT

Unsound mind of partner

Permanent Incapacity

Improper conduct

Willful breach or persistent breach of agreement

Transfer of interest

Continuous losses

THANK YOU

