

## **INCORPORATED PRIVATE PARTNERSHIPS ACT - 1962 (ACT 152)**

### **Section - 0 - Modes Of Winding Up**

The winding-up of a firm may be either,

(a) as a result of insolvency proceedings under the Insolvency Act, 1962 (Act 153) against all the partners jointly; or

(b) under an order of the Court; or

(c) by voluntary liquidation by the partners.

### **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.

### **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 - 4 - 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 - 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.

### **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.

### **Section - 15 - Acts On Behalf Of The Firm**

(1) An act or instrument relating to the business of a firm and done or executed in the firm name, or in any other manner showing an intention to bind the firm by any person thereto authorised, whether a partner or not, shall be binding on the firm.

(2) This section shall not affect any general rule of law relating to the execution of deeds or negotiable instruments.

### **Section - 16 - Nature Of Liability Of Firm And Partners**

Every partner in a firm shall be jointly and severally liable with the firm and the other partners for all debts and obligations of the firm incurred while he is a partner.

### **Section - 17 - Liabilities Of Incoming And Outgoing Partners**

(1) A person who is admitted as a partner into an existing firm shall not thereby become liable to the creditors of the firm for anything done before he became a partner.

(2) A partner who retires from a firm shall not thereby cease to be liable for the debts or obligations of the firm incurred before his retirement.

(3) A retiring partner may be discharged from any existing liability by an agreement to that effect between himself and the firm and the creditor, and this agreement may be either express or inferred as a fact from the course of dealing between the creditor and the firm as newly constituted.

(4) Where a person deals with a firm after the retirement of any partner whom he knew to be a partner in the firm, he shall be entitled to treat the retired partner as still being a partner until he has notice of the retirement and the retired partner shall be liable accordingly.

(5) If any such person had dealings with the firm prior to the retirement he shall not be deemed to have notice of the retirement unless he has actual knowledge thereof, but an advertisement in a daily newspaper circulating in the district in which is situated the principal place of business of the firm shall be notice to persons who have not had dealings with the firm prior to the retirement.

(6) The estate of a partner who dies or has an insolvency order made against him under the Insolvency Act, 1962 (Act 153) or, subject as provided by subsections (4) and (5) of this section, a partner who retires, shall not be liable for any debts or obligations of the firm contracted or incurred after the date of the death, insolvency order, or retirement respectively.

#### **Section - 19 - Revocation Of Continuing Guarantees**

(1) A continuing guarantee given to a third person in respect of the transactions of a firm shall, in the absence of any agreement to the contrary, be revoked as to future transactions by any change in the partners who are members of the firm.

(2) A continuing guarantee given to a firm in respect of the transactions of a third person shall not, in the absence of any agreement to the contrary, be revoked as to future transactions by any change in the partners who are members of the firm.

#### **Section - 22 - Registration Of Particulars Of Charges**

(1) Every charge, other than those specified in subsection (3) of this section, created after the date of registration of the firm pursuant to section 5 of this Act by a firm, or by any partner in the firm to secure any debt or obligation of the firm, shall be void so far as any security on the property of the firm or any partner therein is thereby conferred, unless the particulars hereinafter prescribed, together with the original or a certified copy of the instrument, if any, by which the charge is created or evidenced, are delivered in the prescribed form to the Registrar for registration within twenty-eight days after its creation.

(2) This section shall not prejudice any contract or obligation for repayment of the money thereby secured and when a charge becomes void under this section the money secured thereby shall immediately become payable notwithstanding any provision to the contrary in any contract.

(3) This section shall not apply to any pledge of, or possessory lien on, goods, or to any charge by way of pledge, deposit, letter of hypothecation or trust receipt, of bills of lading, dock



warrants or other documents of title to goods, or of bills of exchange, promissory notes or other negotiable securities for money.

(4) The particulars requiring delivery for registration under this section shall be,

(a) the date of creation of the charge;

(b) the nature of the charge;

(c) the amount secured by the charge, or the maximum sum deemed to be secured thereby in accordance with the provisions of section 23 of this Act;

(d) short particulars of the property charged;

(e) the grantor of the charge;

(f) the persons entitled to the charge; and

(g) in the case of a floating charge, the nature of any restriction on the power of the firm to grant further charges ranking in priority to, or *pari passu* with, the charge thereby created.

(5) For the purposes of this section a certified copy shall be a copy which has endorsed thereon a certificate to the effect that it is a true and complete copy of the original, signed by some person interested therein, otherwise than on behalf of the firm or the partners; and where the original is in a language other than English the copy shall also contain an English translation similarly certified to the effect that it is an accurate translation of the original.

(6) Nothing in this section contained shall affect the provisions of any other enactment relating to the registration of charges.

### **Section - 23 - Charges To Secure Fluctuating Amounts**

(1) Every charge, other than those specified in subsection (3) of this section, created after the date of registration of the firm pursuant to section 5 of this Act by a firm, or by any partner in the firm to secure any debt or obligation of the firm, shall be void so far as any security on the property of the firm or any partner therein is thereby conferred, unless the particulars hereinafter prescribed, together with the original or a certified copy of the instrument, if any, by which the charge is created or evidenced, are delivered in the prescribed form to the Registrar for registration within twenty-eight days after its creation.

(2) This section shall not prejudice any contract or obligation for repayment of the money thereby secured and when a charge becomes void under this section the money secured thereby shall immediately become payable notwithstanding any provision to the contrary in any contract.

(3) This section shall not apply to any pledge of, or possessory lien on, goods, or to any charge by way of pledge, deposit, letter of hypothecation or trust receipt, of bills of lading, dock

warrants or other documents of title to goods, or of bills of exchange, promissory notes or other negotiable securities for money.

(4) The particulars requiring delivery for registration under this section shall be,

(a) the date of creation of the charge;

(b) the nature of the charge;

(c) the amount secured by the charge, or the maximum sum deemed to be secured thereby in accordance with the provisions of section 23 of this Act;

(d) short particulars of the property charged;

(e) the grantor of the charge;

(f) the persons entitled to the charge; and

(g) in the case of a floating charge, the nature of any restriction on the power of the firm to grant further charges ranking in priority to, or *pari passu* with, the charge thereby created.

(5) For the purposes of this section a certified copy shall be a copy which has endorsed thereon a certificate to the effect that it is a true and complete copy of the original, signed by some person interested therein, otherwise than on behalf of the firm or the partners; and where the original is in a language other than English the copy shall also contain an English translation similarly certified to the effect that it is an accurate translation of the original.

(6) Nothing in this section contained shall affect the provisions of any other enactment relating to the registration of charges.

### **Section - 24 - Charges On Property Acquired**

(1) When a firm acquires any property which is subject to a charge of such kind that particulars of it would, if it had been created by the firm after the acquisition of the property, have been required to be registered under section 22 of this Act, the firm shall cause particulars of the charge together with the document, if any, by which the charge was created or evidenced or a copy thereof, certified as provided in subsection (5) of section 22 of this Act, to be delivered to the Registrar for registration within twenty-eight days after the date on which the acquisition is completed.

(2) The particulars requiring registration under this section shall be those specified in subsection (4) of section 22 of this Act with the addition of the date of the acquisition of the property by the firm.

(3) Failure to comply with this section shall not affect the validity of the charge.

## **Section - 25 - Existing Charges**

(1) Where, at the date of first registration of the firm in accordance with section 5 of this Act, the firm or any of the partners therein has property on which there is a charge particulars of which would require registration if it had been created after the date of registration of the firm, the firm shall cause particulars of the charge as required by section 22 of this Act, together with the document, if any, by which the charge was created or a copy thereof certified as required by that section, to be delivered to the Registrar for registration in accordance with section 5 of this Act.

(2) Failure to comply with this section shall not affect the validity of the charge.

## **Section - 26 - Duty To Send Particulars For Registration**

(1) It shall be the duty of the firm to send to the Registrar for registration the particulars required to be sent under sections 22 to 25 of this Act, but registration may be effected on the application of any person interested therein.

(2) If any firm makes default in sending to the Registrar any particulars requiring registration as aforesaid, then, unless the particulars have been duly delivered for registration by some other person, the firm shall be liable to a fine not exceeding fifty pounds.

- **Section - 27 - Register Of Particulars Of Charges**

(1) The Registrar shall keep, with respect to each firm, a register of the particulars duly delivered to him pursuant to

sections 22 to 25 of this Act and shall enter the particulars therein.

(2) The Registrar shall give a certificate under his hand of the registration of particulars of any charge registered in

pursuance of such sections and the certificate shall be conclusive evidence, except in favour of the firm or of any other

person who shall have delivered false or incomplete particulars or an incorrect copy of any document, that the

requirements of sections 22 to 25 of this Act have been complied with.

(3) In the case of a charge of the type referred to in section 23 of this Act the certificate shall state the maximum sum

deemed to be secured by such charge.

(4) The original or certified copy of the charge delivered with the particulars shall not be registered or retained by

the Registrar.

### **Section - 28 - Entry Of Satisfaction On Charges**

The Registrar shall, on application being made in the prescribed form and on evidence being given to his satisfaction with respect to any charge of which particulars have been registered,

- (a) that the debt for which the charge was given has been paid or satisfied in whole or in part; or
- (b) that the whole or part of the property has been released from the charge,

enter on the register a memorandum of satisfaction in whole or in part or of the fact that the whole or part of the property has been released from the charge, as the case may be.

### **Section - 29 - Rectification Of Register Of Particulars Of Charges**

(1) The Court, on being satisfied that the omission to register particulars of a charge within the time required by this

Act or that the omission or misstatement of any particulars with respect to any such charge was accidental, or due to

inadvertence or to some other sufficient cause, or is not of a nature to prejudice the position of creditors of the firm,

or that on other grounds it is just and equitable to grant relief, may, on the application of the firm or any person

interested, and on such terms as seem to the Court just and expedient, order that the time for registration shall be

extended, or as the case may be, that the omission or misstatement shall be corrected.

(2) When the Court grants an extension of time for registration, the charge shall not, unless the Court shall otherwise

order, adversely affect any person who, prior to the date of actual registration of the particulars of the charge, shall

have acquired any proprietary rights in, or a fixed or floating charge on, the property subject to the charge, and shall

be ineffective against the Official Trustee and any creditors of the firm if the winding up of the firm commences before

the date of actual registration.

### **Section - 30 - Registration Of Enforcement Of Security**

(1) If any person obtains an order for the appointment of a receiver of any of the property subject to a charge particulars of which require to be delivered for registration pursuant to sections 22 to 25 of this Act, or appoints such a receiver or enters into possession of such property under any powers contained in such charge, notice of the fact in the prescribed form shall, within ten days from the date of the order of appointment or entry into possession, be given to the Registrar who shall enter the fact in the register of the particulars of charges relating to such firm.

(2) If default is made in giving the notice required under subsection (1) of this section, the receiver, the person entering into possession, the firm, and any partner of the firm who is in default shall each be liable to a fine not exceeding five pounds for every day during which the default continues.

(3) Where any person appointed receiver of the property of the firm ceases to act as such receiver or where any person having entered into possession goes out of possession he shall, within ten days of so ceasing to act or to remain in possession, give notice to that effect in the prescribed form to the Registrar who shall enter the notice in the register of particulars of charges.

(4) If any person makes default in complying with the requirements of subsection (3) of this section he shall be liable to a fine not exceeding five pounds for every day during which the default continues.

(5) The Registrar shall cause a copy of any notice given under this section to be published in the Gazette.

### **Section - 31 - Registration Constituting Notice**

The registration of any particulars on the register of particulars of charges shall constitute actual notice of such particulars, but not of the contents of any document referred to therein or delivered therewith, to all persons and for all purposes as from the date of registration.

### **Section - 36 - Presumed Continuance Of Terms Of Partnership Agreement**

Where a partnership is expressed to be for a fixed term, and, after the expiration of that term, the partners or some of them expressly or impliedly agree to remain partners in the firm, the rights and duties of such partners, in the absence of agreement to the contrary, shall 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.

### **Section - 37 - Nature Of Interests Of Partners**

The interests of the partners in the firm shall be personal estate and shall not be in the nature of real or immovable property.

#### **Section - 40 - Withdrawal Of A Partner Not To Affect The Others**

The fact that a partner has ceased to be a partner in the firm shall not affect the existence of the firm or the mutual rights and duties of the other partners.

#### **Section - 41 - Action By Continuing Partners**

(1) If, on any partner ceasing to be a partner in the firm there is only one surviving or continuing partner of the firm the surviving or continuing partner shall, within six months of the cessation, either,

(a) admit another member or members into partnership in the firm; or

(b) commence to wind up the firm in accordance with section 47 or 48 of this Act.

(2) Subject to any express agreement relating to the passing or acquisition of the interest in the firm of a partner who ceases to be a partner and the admission in his place of any new partner, the provisions of subsections (3), (4) and (5) of this section shall apply when any partner ceases to be a partner and whether there is one or more than one, surviving or continuing partner of the firm.

(3) Within six months after a partner has ceased to be a partner in the firm the surviving or continuing partners shall either,

(a) admit into partnership in the firm the person or persons (in this section called the successors) who shall have acquired or agreed to acquire or succeeded to the interest in the firm of such former partner; or

(b) purchase the interest in the firm of the former partner at a price to be determined in default of agreement by a single arbitrator appointed by the parties or, if they cannot agree upon an appointment, nominated by the President for the time being of the Association of Accountants in Ghana; or

(c) commence to wind up the firm in accordance with section 47 or 48 of this Act.

(4) If the successors shall be admitted into partnership in the firm in accordance with paragraph (a) of the immediately preceding subsection they shall be deemed to have become partners in the firm in the place of the former partner as from the date when he ceased to be a partner.

(5) If the surviving or continuing partners elect to purchase the interest of the former partner or to wind up the firm, the amount payable to the former partner, or his successors, in respect of his interest shall, as between himself and the firm in the absence of agreement to the contrary, be

deemed to be a debt due from the firm as at the date of his ceasing to be a partner and shall carry interest therefrom at the rate of five per centum per annum.

### **Section - 42 - Apportionment Of Premium**

Where one partner has paid a premium to another on entering into a partnership agreement for a fixed term and the firm is wound up or the partner paying the premium ceases to be a partner of the partner to whom the premium was paid, the Court may order the return of the premium, or such part thereof as it thinks just, having regard to the terms of the partnership agreement, to the length of time during which the partnership has continued and to all the circumstances of the case, unless,

- (a) the winding up of the firm or the cessation of the partnership is, in the judgment of the Court, wholly or chiefly due to the misconduct of the partner who paid the premium; or
- (b) the firm is wound up or the partnership ceases as a result of an agreement which contained no provision for a return of any part of the premium.

### **Section - 44 - Modes Of Winding Up**

The winding-up of a firm may be either,

- (a) as a result of insolvency proceedings under the Insolvency Act, 1962 (Act 153) against all the partners jointly; or
- (b) under an order of the Court; or
- (c) by voluntary liquidation by the partners.

### **Section - 45 - Continuance Of Firm Until Dissolution**

The firm shall, from the commencement of the winding up, cease to carry on its business except so far as may be required for the beneficial winding up thereof but the corporate state and corporate powers of the firm shall continue until it is dissolved.

### **Section - 48 - Voluntary Winding Up**

- (1) A firm may be wound up by way of voluntary liquidation by the partners if all the partners therein so agree and send notification thereof in the prescribed form to the Registrar for registration.
- (2) The winding up shall be deemed to commence at the date of the registration by the Registrar of such notification and notice thereof shall be published by him in the Gazette.
- (3) The authority of each partner to bind the firm and the other rights and obligations of the partners shall continue, notwithstanding the winding up until the firm is dissolved or a protection

order under the Insolvency Act, 1962 (Act 153) is made against all the partners jointly or an order is made for the winding up of the firm under an order of the Court, so far as may be necessary to wind up the affairs of the firm and to complete transactions begun but unfinished at the time of the commencement of the winding up, but not otherwise.

(4) If at any time a partner is of the opinion that the firm shall not be able to pay its debts in full within six months from the commencement of the winding up, he shall forthwith give notice in the prescribed form to the Registrar who shall register such notice and cause a copy thereof to be published in the Gazette.

(5) Within twenty-one days from the expiration of six months from the commencement of the winding up, the partners shall send to the Registrar a statement in the prescribed form stating whether or not all the debts of the firm have been paid in full, and the Registrar shall register such statement and cause a copy thereof to be published in the Gazette.

(6) If any partner shall wilfully default in complying with subsection (4) or (5) of this section or shall wilfully make any misstatement in any statement sent thereunder he shall be liable on conviction to a term of imprisonment not exceeding six months.

#### **Section - 49 - Notification That Firm Is Being Wound Up**

When a firm is being wound up otherwise than voluntarily by the partners, every invoice, order, or business letter issued by or on behalf of the firm, being a document in or on which the name of the firm appears, shall contain a statement that the firm is being wound up and shall state the name or official title of the liquidator.

#### **Section - 51 - Dissolution After Winding Up**

(1) When the Registrar is satisfied that the winding up of the affairs of the firm is complete then, unless the undertaking of the firm has been disposed of as a going concern to another partnership and the change duly registered in accordance with section 7 of this Act, the Registrar shall strike the firm off the register and notify the same in the Gazette.

(2) The firm shall thereupon be deemed to be dissolved as at the date of the publication in the Gazette.

(3) If any property of the firm has not in fact been effectually disposed of in the winding up, it shall be deemed to be vested, in the case of a voluntary winding up, in the partners and, in any other case, in the Official Trustee upon trust to pay thereout any outstanding debts and liabilities of the firm and subject thereto for the former partners in accordance with their rights under the partnership agreement.

(4) Notwithstanding the dissolution of the firm the former partners shall remain jointly and severally liable to pay the debts and liabilities of the firm in so far as these have not been fully discharged in the winding up or otherwise.



### **Section - 54 - Appeals To The Court Against Dissolution**

(1) Any firm struck off the register under section 52 or 53 of this Act shall have a right to appeal to the Court against the decision of the Registrar in accordance with subsection (2) of section 55 of this Act.

(2) When the Court allows such appeal the firm shall, subject to compliance with any terms and conditions specified in the order, be restored to the register and be deemed never to have been dissolved and the Registrar shall publish notice thereof in the Gazette but, unless the Court otherwise orders, the partners shall, for the purposes of section 9 of this Act, be deemed to remain in default until the date of publication of the notice in the Gazette.

### **Section - 55 - Applications And Appeals To The Court**

(1) The Registrar may apply to the Court for directions in relation to any matter arising in connection with his functions under this Act, and on any such application the Court may give such directions or make such order as the Court thinks fit.

(2) Where any section of this Act provides that there shall be a right of appeal to the Court against a decision of the Registrar written notice of any appeal shall be given by the appellant to the Registrar at least twenty-eight days prior to the hearing and the Registrar may appear at the hearing and give evidence and call witnesses and draw the attention of the Court to any relevant matters.

(3) On such appeal the Court may make such order as it thinks fit either confirming or rescinding or varying such decision and on such terms and conditions as it thinks fit.

### **Section - 56 - Fees**

First Sch.

(1) In respect of the several matters set out in the first column of the Table in the First Schedule to this Act there shall be paid to the Registrar the fees specified in the second column of that Table but except as provided in the Schedule no fee shall be payable on the registration of any document under this Act.

(2) Where a fee is payable on the registration of any document the document shall not be deemed to have been delivered to the Registrar for registration until the appropriate fee has been paid to the Registrar.

### **Section - 57 - Inspection And Copies Of Registered Documents**

Any person may inspect the register of particulars of charges and any document registered by the Registrar upon payment of one shilling for each inspection of the register and documents relating

to one firm, and may require a copy of, or extract from, any document registered by the Registrar on payment of such fee as the Registrar may prescribe, not exceeding one pound for each page.

### **Section - 58 - Saving Of Rules Of Equity And Common Law**

The rules of equity and common law applicable to partnership shall continue in force except in so far as they are inconsistent with the express provisions of this Act.

### **Section - 59 - Conversion Of Existing Companies Into Partnerships**

Second Sch.

A company, limited or unlimited, registered under the Companies Ordinance (Cap. 193), may be re-registered under this Act in the manner set forth in the Second Schedule to this Act upon making application in accordance with the said Schedule within three months after the commencement of this Act.

### **Section - 60 - Rules**

The Minister responsible for Justice may, by legislative instrument, make Rules, other than rules of court, relating to procedure under this Act.