

1. Indian Partnership Act, 1992

Essentials/ Features/ Nature of Partnership Firm

1. Association of person
2. Agreement – Abdul VS Sanctuary Wood Industry (Partnership Firm Arise)
3. Business
4. Sharing of Profit
5. Mutual Agency

Rights of a Partner

1. To take part in the business - Sec 12(a)
2. To the profit - Sec 13(b)
3. To have Access to the Accounts - Sec 12(D)
4. To be indemnified
5. To be consulted
6. To interest on Loans & Capital - Sec 13(c)
7. Power in emergency - Sec 21 & 13
8. To retirement
9. To use of partnership property - Sec 15
10. To have business wound up after dissolution

Duties & Liabilities of a Partner

1. Carry on the Business for common Advantage
2. To indemnify
3. To be diligent
4. No remuneration
5. Account for Personal Profit name
6. Not to Carry on competing business
7. No share losses
8. Liable for acts of the firm
9. Not to assign the rights

Implied Authority

When the deed of partnership come force & authority on partners it is called as 'Expressed Authority'. If an expressed authority is absent & the partner carry out an act in the usual course & conduct of the business such an act is said to be done under the implied authority. Therefore it binds the firm & the partner.

1. a) In a usual way i.e. an act becomes necessary under the usual way of conducting business for eg. Placement of orders
b) It is the nature of business which ascertains as whether an act was in implied authority of business.
c) The act to be done under the name of the firm and the instrument should be signed by the partner otherwise it will not bind the firm.

2. However the implied authority does not empowered the partner to do the following unless trade or custom of business permits :-
 - a) To submit a dispute relating to business of the firm to arbitrator.
 - b) To open a Bank Account on behalf of the firm in his own name.
 - c) To compromise or relinquish any claim portion done by the firm.
 - d) To withdraw a suit on behalf of the firm.
 - e) To admit any liability on behalf of the firm.
 - f) To acquire any immovable or transfer of property on behalf of the firm.
3. By the virtue of Sec 20, Implied authorities can be extended or restricted with the help of contract between the partners.

Admission of Partner - Sec 31

Sec 31 - When a new partner enters into the existing partnership firm by the consent of all the existing partners, it is called as 'Admission of Partners'.

Liability of incoming partner

An incoming partner is not liable for any activities which has been done prior to his/her admission. Except in case where he/she agrees for past liabilities.

Retirement of Partner - Sec 32

When a partner of a partnership firm, exit from the partnership by the consent of all other partners or giving notice is called 'Retirement of Partner'.

Liability of Retiring Partner

A retiring partner is liable for all the activities conducted before the retirement unless it is discharged by him/his proportion.

Rights of Retired Partner

1. To carry on competing business.
2. To share subsequent profit.

Expulsion of Partner - Sec 33

A partner can be expelled from the partnership in the following situations:-

- The power given to a partner by the contract.
- The power should be exercised by the majority of partners.
- The power should be exercised for the interest of the firm.

Irregular Expulsion

When the expulsion does not satisfies the above situation is called irregular expulsion. In this case the partner can claim the re-instatement or refund of Capital.

Regular Expulsion

When the expulsion satisfies the above situations or conditions, it is called 'Regular Expulsion'.

Dissolution of Partnership firm

Sec 39 - The dissolution of partnership between all the partners of a firm is called 'Dissolution of the firm'.

Types of dissolution of firm

- i) Dissolution without the order of court (voluntary)
 - 1) Dissolution by Agreement - Sec 40
 - 2) Compulsory Dissolution - Sec 41
 - 3) Dissolution on the happening of certain contingency - Sec 42
 - 4) Dissolution by notice of partnership at will - Sec 43

- ii) Dissolution by the order of court
 - 1) Insanity
 - 2) Permanent Capacity
 - 3) Mis-conduct
 - 4) Persistent breach of agreement
 - 5) Transfer of Interest
 - 6) Business working at loss

Rights of a partner on dissolution

1. Right to an equitable lien
2. Continuing authority of partners for purpose of winding up
3. Right to have the debts of the firm settled from its property
4. Right to restrain firm name or firm property

2. Limited Liability Partnership Act, 2008

LLP shall be a body of corporate & a legal entity separate from its partner it will have perpetual succession. It gives the benefit of companies limited liability and flexibility of partnership. Its perpetual succession helps to its existence irrespective of changes in partners.

Advantages of LLP Act:-

1. It is organised and operates on the basis of agreement.
2. It provides flexibility without imposing detailed legal requirements.
3. It enables expertise to combine with financial risk taking capacity in a novel manner.

Features of LLP Act:-

1. Separate legal entity
2. Minimum no. of Partners
3. Agreement
4. Limited liability
5. Resident of India
6. Filling with Registrar
7. Winding up
8. Provisions of Co. Act
9. Amalgamation

Incorporation of LLP

The procedure for incorporation of LLP is similar to the procedure for incorporation of a company under the Companies Act, 2013.

Procedure for incorporation of LLP

Once the name applied it should be file for approval to ROC. It should satisfy the following conditions:-

1. Name of every LLP shall end with the words "Limited Liability Partnership" or "LLP".
2. The name which is prohibited or nearly resembles to that of any other partnership firm or LLP or any body corporate is not allowed.
3. Any entity which has name similar to the name of LLP which is newly incorporated may seek to change the name of such LLP within the 24 months of its incorporation.
4. No person is allowed to carry the business under LLP without its incorporation.

Extent & Limitations of Liability of LLP & its Partners

1. Sec 26, Partner as agent
2. Sec 27, Extent of liability of LLP
3. Sec 28, Extent of liability of Partners
4. Sec 29, Holding out
5. Sec 30, Unlimited Liability in case of fraud
6. Sec 31, Whistle Blowing

Contributions

1. Sec 32, Forms of contributions
2. Sec 33, Obligations to contribute as per LLP Agreement

Conversion into LLP

Sec 55 - A firm may convert into a LLP in accordance with the provisions of chapter 10 of the second schedule of this act.

Sec 56 - A conversion of Private Company into LLP - A Private company may convert into an LLP in accordance with the provision of chapter 10 & the 3rd schedule.

Sec 57 - Conversion of unlisted public company - An unlisted public company may convert into an LLP in accordance with the provision of chapter 10 and the 4th schedule.

Registration & Effect of conversion

The Registrar, on being satisfied that firm, private company, unlisted company has complied all the provisions applicable to it, can issue a certificate of registration. The Registrar, may determine stating that the LLP's register under the Act & the date of specified in certificate. Within the 15 days, the LLP has to inform the Registrar of companies or Registrar of Partnership with whom the company or the firm was registered for conversion.

Winding up & Dissolution

Sec 63 - The winding up of LLP may be either voluntary or by the Tribunal.

Sec 64 - Circumstances in which LLP may be wound up by Tribunal.

- a) If the LLP decides that LLP be wound up by the Tribunal.
- b) If, for a period of more than six months, the no. of partners of the LLP is reduced below two.
- c) If the LLP is unable to pay its debts.
- d) If the LLP has acted against the interests of the sovereignty and integrity of India, the security of the state or public order.

Sec 65 - Rules for winding up & Dissolution

The Central Govt. may make rules for the provisions in relation to winding up & Dissolution of LLP.

3. Factories Act, 1948

Meaning:-

Sec 2(m) defines factory means any premises including the precincts thereof: - where 10 or more workers are working at any time in the period of 12 last months which run with the help of power and 20 or more in non-power where manufacturing activity is carried out except mines, armed forces unit, railway running shed, hotel, restaurant, eating place.

Sec 2(k) "Manufacturing Process" means any process which involve conversion, transfer, changing the state of good like making altering, repairing, pumping oil, sewage, printing press, breaking up ship vessel, storing in cold storage.

Worker

Sec 2(1) Worker means any person employed directly or indirectly on remuneration or non-remuneration for working at a place where manufacturing activities conducted it is called as Worker except armed forces of union.

Health Sec 11 - 20

The act makes details provision in regards to various matters related to health, Safety & welfare of the workers. These provisions impose obligations on the employer to protect the workers. The following are the provisions for health. :-

- 1) **Sec 11** - Cleanliness :-
 - a) Effective means of drainage:-
 - i) Sweeping of floors.
 - ii) Use of disinfectants.
 - iii) Painting of all walls, rooms & staircases.
 - b) Prescription of measures by State Govt.
- 2) **Sec 12** - Disposal of Waste Effluent :-
 - a) Effective arrangement.
 - b) Rules by Govt.
- 3) **Sec 13** - Ventilation & Temperature
 - a) Effective & suitable provisions for ventilation & temperature control.

- b) Prescription by State Govt.
- c) Notice by Chief Inspector.
- 4) **Sec 14** - Dust & fumes
- 5) **Sec 15** - Artificial Humidification
 - a) State Govt. Provisions.
 - b) Water used for artificial humidification to be clean.
 - c) Inspectors order.
- 6) **Sec 16** - Overcrowding
- 7) **Sec 17** - Lighting
 - a) Glazed windows & skylights to be kept clean.
 - b) Measures for prevention of glare & formation of shadows.
 - c) Provisions by State Govt.
- 8) **Sec 18** - Drinking Water.
 - a) Away from urinal & latrines.
 - b) Cooling where more than 250 workers.
 - c) Prescription by Govt.
- 9) **Sec 19** - Latrines & Urinals
 - a) Sufficient Latrines & urinals.
 - b) Separate for male & female.
 - c) Lighted & ventilated.
 - d) Clean sanitary conditions.
 - e) State Govt. Provisions
- 10) **Sec 20** - Spittoons

Safety Sec 21 – 41

Provisions for safety of a worker are absolute & obligatory to occupier of every factory & they are bounded to follow them.

- 1) **Sec 21** - Fencing of Machinery.
- 2) **Sec 22** - Work on or near machinery in motion.
- 3) **Sec 23** - Employing young person on dangerous machine.
- 4) **Sec 24** - Striking gear or devices for cutting off power.
- 5) **Sec 25** - Self-acting Machine.
- 6) **Sec 26** - Casing of new Machinery.
- 7) **Sec 27** - Prohibition of employment of women & children near cotton opener.
- 8) **Sec 28** - Hoists & Lifts.
- 9) **Sec 29** - Lifting Machine, chain, rope.
- 10) **Sec 30** - Revolving machinery.
- 11) **Sec 31** - Pressure Plant.
- 12) **Sec 32** - Floors, Stairs & means of access.
- 13) **Sec 33** - Pits, sumps, opening in floors.
- 14) **Sec 34** - Excessive weight.
- 15) **Sec 35** - Protection of eyes.
- 16) **Sec 36** - Precaution against dangerous fumes, gases, etc.

- 17) **Sec 37** - Explosive or inflammable dust or gas.
- 18) **Sec 38** - Precaution in case of fire.
- 19) **Sec 39** - Power to require specification of defective parts or test of stability.
- 20) **Sec 40** - Safety of Building & Machinery.
- 21) **Sec 41** - Power to make supplement rules.