The Indian Partnership Act, 1932

Act 9 of 1932. 74 sections. Bare Act with the official footnotes.

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Every section online, with the old and new law side by side and exam questions:
https://www.lawmaker.in/bare-acts/indian-partnership-act-1932

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[8th April, 1932.]

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 ishereby enacted as follows:-

CHAPTER I PRELIMINARY

Section 1. Short title, extent and commencement

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

[1][(2) It extends to the whole of India [2][[3]***].]

(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.

[1] Subs. by the A. O. 1950, for sub-section (2).
[2] Subs. by Act 3 of 1951, s. 3 and the Schedule, for "except Part B States".
[3] The words "except the State of Jammu and Kashmir" omitted by Act 34 of 2019, s. 95 and the Fifth Schedule (w.e.f. 31-10- 2019).

Section 2. Definitions

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 Indian Contract Act, 1872 (9 of 1872), shall have the meanings assigned to them in that Act.

State Amendment

Maharashtra

Amendment of section 2 of Act IX of 1932.-In section 2 of the Indian Partnership Act, 1932 (IX of 1932), in its application to the State of Maharashtra (hereinafter referred to as "the principal Act"), after clause (c), the following clause shall be inserted, namely :-

"(c-1) "Registrar" means the Registrar of Firms appointed under sub-section (1) of section 57 and includes the Deputy Registrar of Firms and Assistant Registrar of Firms appointed under sub-section (2) of that section;"

[Vide Maharashtra Act 29 of 1984, s. 2]

Section 3. Application of provisions of Act 9 of 1872

Theunrepealed provisions of the Indian Contract Act, 1872 (9 of 1872), save in so far as they are inconsistent with the express provisions of this Act, shall continue to apply to firms.

State Amendment

Goa, Daman and Diu

In exercise of the powers conferred by sub-section (2) of Section 3 of the Goa, Daman and Diu (Laws) No. 2 Regulation, 1963, the Lieutenant Governor hereby appoints the 15th March 1964, as the date on which the provisions of the Acts mentioned in the Schedule below shall come into force in the Union Territory of Goa, Daman and Diu.

SCHEDULE

1. The Indian Partnership Act, 1932.

By order and in the name of the Lieutenant Governor of Goa, Daman and Diu.

[Published in the Official Gazette Series I No. 11 dated 12-3-1964] (w.e.f. 22nd January 1964)

CHAPTER II THE NATURE OF PARTNERSHIP

Section 4. Definition of "partnership", "partner", "firm" and "firm name"

"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".

Section 5. Partnership not created by status

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

Section 6. Mode of determining existence of partnership

In determining whether a group of personsisor 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 of itself make the receiver a partner with the persons carrying on the business.

Section 7. Partnership at will

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".

Section 8. Particular partnership

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

CHAPTER III RELATIONS OF PARTNERS TO ONE ANOTHER

Section 9. General duties of partners

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.

State Amendment

Amendment of section 9 of Act IX of 1932.-In section 9 of the principal Act for the words "or his legal representative" the words ", his heir or legal representative" shall be substituted.

[Vide Maharashtra Act 29 of 1984, s. 3]

Section 10. Duty to indemnify for loss caused by fraud

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

Section 11. Determination of rights and duties of partners by contract between the partners. Agreements in restraint of trade

(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 expressed 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 expressed or may be implied by a course of dealing.

(2) Notwithstanding anything contained in section 27 of the Indian Contract Act, 1872 (9 of 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.

Section 12. The conduct of the business

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.

State Amendment

Amendment of section 12 of Act IX of 1932.-In section 12 of the principal Act,-

(a) in clause (c), the word "and" appearing at the end shall be deleted ;

(b) in clause (d), for the words "books of the firm." The words "books of the firm; and" shall be substituted ;

(c) after clause (d), the following clause shall be added, namely :-

"(e) in the event of the death of a partner, his heirs or legal representatives or their duly authorised agents shall have a right of access to and to inspect and copy any of the books of the firm.".

Section 13. Mutual rights, and liabilities

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 per cent. 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.

Section 14. The property of the firm

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.

Section 15. Application of the property of the firm

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.

Section 16. Personal profits earned by partners

Subject to contract between the partners,-

(a) if a partner derives any profits 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.

Section 17. Rights and duties of partners

after a change in the firm, after the expiry of the term of the firm, and-where additional undertakings are carried out.-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;

(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

(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 adventures or undertakings are the same as those in respect of the original adventures or undertakings.

CHAPTER IV RELATIONS OF PARTNERS TO THIRD PARTIES

Section 18. Partner to be agent of the firm

Subject to the provisions of this Act, a partner is the agent of the firm for the purposes of the business of the firm.

Section 19. Implied authority of partner as agent of the firm

(1) Subject to the provisions of section 22, the act of a partner which is done to carry on, in the usual way, business of the kind carried on by the firm, binds the firm.

The authority of a partner to bind the firm conferred by this section is called his "implied authority".

(2) In the absence of any usage or custom of trade to the contrary, the implied authority of a partner does not empower him to-

(a) submit a dispute relating to the business of the firm to arbitration,

(b) open a banking account on behalf of the firm in his own name,

(c) compromise or relinquish any claim or portion of a claim by the firm,

(d) withdraw a suit or proceeding filed on behalf of the firm,

(e)admit any liability in a suit or proceeding against the firm,

(f) acquire immovable property on behalf of the firm,

(h) transfer immovable property belonging to the firm, or

(g) enter into partnership on behalf of the firm.

Section 20. Extension and restriction of partner's implied authority

The partners in a firm may, by contract between the partners, extend or restrict the implied authority of any partner.

Notwithstanding any such restriction, any act done by a partner on behalf of the firm which falls within his implied authority binds the firm, unless the person with whom he is dealing knows of the restriction or does not know or believe that partner to be a partner.

Section 21. Partner's authority in an emergency

A Partner has authority, in an emergency, to do all such acts for the purpose of protecting the firm from loss as would be done by a person of ordinary prudence, in his own case, acting under similar circumstances, and such acts bind the firm.

Section 22. Mode of doing act to bind firm

In order to bind a firm, an act or instrument done or executed by a partner or other person on behalf of the firm shall be done or executed in the firm name, or in any other manner expressing or implying an intention to bind the firm.

Section 23. Effect of admissions by a partner

An admission or representation made by a partner concerning the affairs of the firm is evidence against the firm, if it is made in the ordinary course of business.

Section 24. Effect of notice to acting partner

Notice to a partner who habitually acts in the business of the firm of any matter relating to the affairs of the firm operates as notice to the firm, except in the case of a fraud on the firm committed by or with the consent of that partner.

Section 25. Liability of a partner for acts of the firm

Every partner is liable, jointly with all the other partners and also severally, for all acts of the firm done while he is a partner.

Section 26. Liability of the firm for wrongful acts of a partner

Where, by the wrongful act or omission of a partner acting in the ordinary course of the business of a firm, or with the authority of his partners, loss or injury is caused to any third party, or any penalty is incurred, the firm is liable therefor to the same extent as the partner.

Section 27. Liability of firm for misapplication by partners

Where-

(a) a partner acting within his apparent authority receives money or property from a third party and misapplies it, or

(b) a firm in the course of its business receives money or property from a third party, and the money or property is misapplied by any of the partners while it is in the custody of the firm,

the firm is liable to make good the loss.

Section 28. Holding out

(1) Anyone who by words spoken or written or by conduct represents himself, or knowingly permits himself to be represented, to be a partner in a firm, is liable as a partner in that firm to anyone who has on the faith of any such representation given credit to the firm, whether the person representing himself or represented to be a partner does or does not know that the representation has reached the person so giving credit.

(2) Where after a partner's death the business is continued in the old firm name, the continued use of that name or of the deceased partner's name as a part thereof shall not itself make his legal representative or his estate liable for any act of the firm done after his death.

Section 29. Rights of transferee of a partner's interest

(1) A transfer by a partner of his interest in the firm, either absolute or by mortgage, or by the creation by him of a charge on such interest, does not entitle the transferee, during the continuance of the firm, to interfere in the conduct of the business, or to require accounts, or to inspect the books of the firm, but entitles the transferee only to receive the share of profits of the transferring partner, and the transferee shall accept the account of profits agreed to by the partners.

(2) If the firm is dissolved or if the transferring partner ceases to be a partner, the transferee is entitled as against the remaining partners to receive the share of the assets of the firm to which the transferring partner is entitled, and, for the purpose of ascertaining that share, to an account as from the date of the dissolution.

Section 30. Minors admitted to the benefits of partnership

(1) A person who is a minor according to the law to which he is subject may not be a partner in a firm, but, with the consent of all the partners for the time being, he may be admitted to the benefits of partnership.

(2) Such minor has a right to such share of the property and of the profits of the firm as may be agreed upon, and he may have access to and inspect and copy any of the accounts of the firm.

(3) Such minor's share is liable for the acts of the firm, but the minor is not personally liable for any such act.

(4) Such minor may not sue the partners for an account or payment of his share of the property or profits of the firm, save when severing his connection with the firm, and in such case the amount of his share shall be determined by a valuation made as far as possible in accordance with the rules contained in section 48:

Provided that all the partners acting together or any partner entitled to dissolve the firm upon notice to other partners may elect in such suit to dissolve the firm, and thereupon the Court shall proceed with the suit as one for dissolution and for settling accounts between the partners, and the amount of the share of the minor shall be determined along with the shares of the partners.

(5) At any time within six months of his attaining majority, or of his obtaining knowledge that he had been admitted to the benefits of partnership, whichever date is later, such person may give public notice that he has elected to become or that he has elected not to become a partner in the firm, and such notice shall determine his position as regards the firm:

Provided that, if he fails to give such notice, he shall become a partner in the firm on the expiry of the said six months.

(6) Where any person has been admitted as a minor to the benefits of partnership in a firm, the burden of proving the fact that such person had no knowledge of such admission until a particular date after the expiry of six months of his attaining majority shall lie on the persons asserting that fact.

(7) Where such person becomes a partner,-

(a) his rights and liabilities as a minor continue up to the date on which he becomes a partner, but he also becomes personally liable to third parties for all acts of the firm done since he was admitted to the benefits of partnership, and

(b) his share in the property and profits of the firm shall be the share to which he was entitled as a minor.

(8)Where such person elects not to become a partner,-

(a) his rights and liabilities shall continue to be those of a minor under this section up to the date on which he gives public notice,

(b) his share shall not be liable for any acts of the firm done after the date of the notice, and

(c) he shall be entitled to sue the partners for his share of the property and profits in accordance with sub-section (4).

(9) Nothing in sub-sections (7) and (8) shall affect the provisions of section 28.

CHAPTER V INCOMING AND OUTGOING PARTNERS

Section 31. Introduction of a partner

(1) Subject to contract between the partners and to the provisions of section 30, no person shall be introduced as a partner into a firm without the consent of all the existing partners.

(2) Subject to the provisions of section 30, a person who is introduced as a partner into a firm does not thereby become liable for any act of the firm done before he became a partner.

Section 32. Retirement of a partner

(1) A partner may retire-

(a) with the consent of all the other partners,

(b) in accordance with an express agreement by the partners, or

(c) where the partnership is at will, by giving notice in writing to all the other partners of his intention to retire.

(2) A retiring partner may be discharged from any liability to any third party for acts of the firm done before his retirement by an agreement made by him with such third party and the partners of the reconstituted firm, and such agreement may be implied by a course of dealing between such third party and the reconstituted firm after he had knowledge of the retirement.

(3) Notwithstanding the retirement of a partner from a firm, he and the partners continue to be liable as partners to third parties for any act done by any of them which would have been an act of the firm if done before the retirement, until public notice is given of the retirement:

Provided that a retired partner is not liable to any third party who deals with the firm without knowing that he was a partner.

(4) Notices under sub-section (3) may be given by the retired partner or by any partner of the reconstituted firm.

Section 33. Expulsion of a partner

(1) Apartner may not be expelled from a firm by any majority of the partners, save in the exercise in good faith of powers conferred by contract between the partners.

(2) The provisions of sub-sections (2), (3) and (4) of section 32 shall apply to an expelled partner as if he were a retired partner.

Section 34. Insolvency of a partner

(1) Where a partner in a firm is adjudicated an insolvent he ceases to be a partner on the date on which the order of adjudication is made, whether or not the firm is thereby dissolved.

(2) Where under a contract between the partners the firm is not dissolved by the adjudication ofa partner as an insolvent, the estate of a partner so adjudicated is not liable for any act of the firm and the firm is not liable for any act of the insolvent, done after the date on which the order of adjudication is made.

Section 35. Liability of estate of deceased partner

Where under a contract between the partners the firm is not dissolved by the death of a partner, the estate of a deceased partner is not liable for any act of the firm done after his death.

Section 36. Rights of outgoing partner to carry on competing business. Agreements in restraint of trade

(1) An outgoing partner may carry on a business competing with that of the firm and he may advertise such business, but, subject to contract to the contrary, he may not-

(a) use the firm name,

(b) represent himself as carrying on the business of the firm, or

(c) solicit the custom of persons who were dealing with the firm before he ceased to be a partner.

(2) A partner may make an agreement with his partners that on ceasing to be a partner he will not carry on any business similar to that of the firm within a specified period or within specified local limits; and, notwithstanding anything contained in section 27 of the Indian Contract Act, 1872 (9 of 1872), such agreement shall be valid if the restrictions imposed are reasonable.

Section 37. Right of outgoing partner in certain cases to share subsequent profits

Where any member of a firm has died or otherwise ceased to be a partner, and the surviving or continuing partners carry on the business of the firm with the property of the firm without any final settlement of accounts as between them and the outgoing partner or his estate, then, in the absence of a contract to the contrary, the outgoing partner or his estate is entitled at the option of himself or his representatives to such share of the profits made since he ceased to be a partner as may be attributable to the use of his share of the property of the firm or to interest at the rate of six per cent. per annum on the amount of his share in the property of the firm:

Provided that whereby contract between the partners an option is given to surviving or continuing partners to purchase the interest of a deceased or outgoing partner, and that option is duly exercised, the estate of the deceased partner, or the outgoing partner or his estate, as the case may be, is not entitled to any further or other share of profits; but if any partner assuming to act in exercise of the option does not in all material respects comply with the terms thereof, he is liable to account under the foregoing provisions of this section.

Section 38. Revocation of continuing guarantee by change in firm

A continuing guarantee given to a firm, or to a third party in respect of the transactions of a firm, is, in the absence of agreement to the contrary, revoked as to future transactions from the date of any change in the constitution of the firm.

CHAPTER VI DISSOLUTION OF A FIRM

Section 39. Dissolution of a firm

The dissolution of partnership between all the partners of a firm is called the "dissolution of the firm".

Section 40. Dissolution by agreement

A firm may be dissolved with the consent of all the partners or in accordance with a contract between the partners.

Section 41. Compulsory dissolution

A firm is dissolved-

(a) by the adjudication of all the partners or of all the partners but one as insolvent, or

(b) by the happening of any event which makes it unlawful for the business of the firm to be carried on or for the partners to carry it on in partnership :

Provided that, where more than one separate adventure or undertaking is carried on by the firm, the illegality of one or more shall not of itself cause the dissolution of the firm in respect of its lawful adventures and undertakings.

Section 42. Dissolution on the happening of certain contingencies

Subject to contract between the partners a firm is dissolved-

(a) if constituted for a fixed term, by the expiry of that term;

(b) if constituted to carry out one or more adventures or undertakings, by the completion thereof;

(c) by the death of a partner; and

(d) by the adjudication of a partner as an insolvent.

Section 43. Dissolution by notice of partnership at will

(1) Where the partnership is at will, the firm may be dissolved by any partner giving notice in writing to all the other partners of his intention to dissolve the firm.

(2) The firm is dissolved as from the date mentioned in the notice as the date of dissolution or, if no date is so mentioned, as from the date of the communication of the notice.

Section 44. Dissolution by the Court

At the suit of a partner, the Court may dissolve a firm on any of the following grounds, namely:-

(a) that a partner has become of unsound mind, in which case the suit may be brought as well by the next friend of the partner who has become of unsound mind as by any other partner;

(b) that a partner, other than the partner suing, has become in any way permanently incapable of performing his duties as partner;

(c) that a partner, other than the partner suing, is guilty of conduct which is likely to affect prejudicially the carrying on of the business, regard being had to the nature of the business;

(d) that a partner, other than the partner suing, wilfully or persistently commits breach of agreements relating to the management of the affairs of the firm or the conduct of its business, or otherwise so conducts himself in matters relating to the business that it is not reasonably practicable for the other partners to carry on the business in partnership with hint;

(e) that a partner, other than the partner suing, has in any way transferred the whole of his interest in the firm to a third party, or has allowed his share to be charged under the provisions of rule 49 of Order XXI of the First Schedule to the Code of Civil Procedure, 1908 (5 of 1908), or has allowed it to be sold in the recovery of arrears of land-revenue or of any dues recoverable as arrears of land-revenue due by the partner;

(f) that the business of the firm cannot be carried on save at a loss; or

(g) on any ground which renders it just and equitable that the firm should be dissolved.

Section 45. Liability for acts of partners done after dissolution

(1) Notwithstanding the dissolution of a firm, the partners continue to be liable as such to third parties for any act done by any of them which would have been an act of the firm if done before the dissolution, until public notice is given of the dissolution:

Provided that the estate of a partner who dies, or who is adjudicated an insolvent, or of a partner who, not having

been known to the person dealing with the firm to be a partner, retires from the firm, is not liable under this section for acts done after the date on which he ceases to be a partner.

(2) Notices under sub-section (1) may be given by any partner.

Section 46. Right of partners to have business wound up after dissolution

On the dissolution of a firm every partner or his representative is entitled, as against all the other partners or their representatives, to have the property of the firm applied in payment of the debts and liabilities of the

firm, and to have the surplus distributed among the partners or their representatives according to their rights.

Section 47. Continuing authority of partners for purposes of winding up

After the dissolution of a firm the authority of each partner to bind the firm, and the other mutual rights and obligations of the partners, continue notwithstanding the dissolution, 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 dissolution, but not otherwise:

Provided that the firm is in no case bound by the acts of a partner who has been adjudicated insolvent; but this proviso does not affect the liability of any person who has after the adjudication represented himself or knowingly permitted himself to be represented as a partner of the insolvent.

Section 48. Mode of settlement of accounts between partners

In settling the accounts of a firm after dissolution, the following rules shall, subject to agreement by the partners, be observed: -

(a) Losses, including deficiencies of capital, shall be paid first out of profits, next out of capital, and, lastly, if necessary, by the partners individually in the proportions in which they were entitled to share profits.

(b) The assets of the firm, including any sums contributed by the partners to make up deficiencies of capital, shall be applied in the following manner and order:-

(i) in paying the debts of the firm to third parties;

(ii) in paying to each partner rateably what is due to him from the firm for advances as distinguished from capital;

(iii) in paying to each partner rateably what is due to him on account of capital; and

(iv) the residue, if any, shall be divided among the partners in the proportions in which they were entitled to share profits.

Section 49. Payment of firm debts and of separate debts

Where there are joint debts due from the firm, and also separate debts due from any partner, the property of the firm shall be applied in the first instance in payment of the debts of the firm, and, if there is any surplus, then the share of each partner shall be applied in payment of his separate debts or paid to him. The separate property of any partner shall be applied first, in the payment of his separate debts, and the surplus (if any) in the payment of the debts of the firm.

Section 50. Personal profits earned after dissolution

Subject to contract between the partners, the provisions of clause (a) of section 16 shall apply to transactions by any surviving partner or by the representatives of a deceased partner, undertaken after the firm is dissolved on account of the death of a partner and before its affairs have been completely wound up:

Provided that where any partner or his representative has bought the goodwill of the firm, nothing in this section shall affect his right to use the firm name.

Section 51. Return of premium on premature dissolution

Where a partner has paid a premium on entering into partnership for a fixed term, and the firm is dissolved before the expiration of that term otherwise than by the death of a partner, he shall be entitled to repayment of the premium or of such part thereof as may be reasonable, regard being had to the terms upon which he became a partner and to the length of time during which he was a partner, unless-

(a) the dissolution is mainly due to his own misconduct, or

(b) the dissolution is in pursuance of an agreement containing no provision for the return of the premium or any part of it.

Section 52. Rights where partnership contract is rescinded for fraud or misrepresentation

Where a contract creating partnership is rescinded on the ground of the fraud or misrepresentation of any of the parties thereto, the party entitled to rescind is, without prejudice to any other right, entitled-

(a) to a lien on, or a right of retention of, the surplus or the assets of the firm remaining after the debts of the firm have been paid, for any sum paid by him for the purchase of a share in the firm and for any capital contributed by him;

(b) to rank as a creditor of the firm in respect of any payment made by him towards the debts of the firm; and

(c) to be indemnified by the partner or partners guilty of the fraud or misrepresentation against all the debts of the firm.

Section 53. Right to restrain from use of firm name or firm property

After a firm is dissolved, every partner or his representative may, in the absence of a contract between the partners to the contrary, restrain any other partner or his representative from carrying on a similar business in the firm name or from using any of the property of the firm for his own benefit, until the affairs of the firm have been completely wound up:

Provided that where any partner or his representative has bought the goodwill of the firm, nothing in this section shall affect his right to use the firm name.

Section 54. Agreements in restraint of trade

Partners may, upon or in anticipation of the dissolution of the firm, make an agreement that some or all of them will not carry on a business similar to that of the firm within a specified period or within specified local limits; and notwithstanding anything contained in section 27 of the Indian Contract Act, 1872 (9 of 1872), such agreement shall be valid if the restrictions imposed are reasonable.

Section 55. Sale of goodwill after dissolution. Rights of buyer and seller of goodwill. Agreements in restraint of trade

(1) In settling the accounts of a firm after dissolution, the goodwill shall, subject to contract between the partners, be included in the assets, and it may be sold either separately or along with other property of the firm.

(2) Where the goodwill of a firm is sold after dissolution, a partner may carry on a business competing with that of the buyer and he may advertise such business, but, subject to agreement between him and the buyer, he may not-

(a) use the firm name,

(c) represent himself as carrying on the business of the firm, or

(c) solicit the custom of persons who were dealing with the firm before its dissolution.

(3) Any partner may, upon the sale of the goodwill of a firm, make an agreement with the buyer that such partner will not carry on any business similar to that of the firm within a specified period or within specified local limits, and, notwithstanding anything contained in section 27 of the Indian Contract Act, 1872 (9 of 1872), such agreement shall be valid if the restrictions imposed are reasonable.

CHAPTER VII REGISTRATION OF FIRMS

Section 56. Power to exempt from application of this Chapter

The[1][State Government of any State] may, by notification in the Official Gazette, direct that the provisions of this Chapter shall not apply to [2][that State] or to any part thereof specified in the notification.

[1] Subs. by the A.O. 1937, for "G. G. in C.".

[2] Subs. ibid., for "any province".

Section 57. Appointment of Registrars

(1) The State Government may appoint Registrars of Firms for the purposes of this Act, and may define the areas within which they shall exercise their powers and perform their duties.

(2) Every Registrar shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (45 of 1860).

State Amendment

Goa, Daman and Diu

In exercise of power conferred under sub-section (1) of Section 57 of the Indian Partnership Act, 1932 (IX of 1932) (hereinafter

referred to as the Act), the Government of Goa, in supersession of all earlier Notifications which may have been issued in the context and which may render to be contradictory to present Notification hereby appoints the Officers shown in Column No. II of the table below as Registrar of Firms who shall exercise, perform and discharge the powers, functions and duties of the Registrar under the Act within the jurisdiction mentioned in Column No. III of the table below:-

Sr. No. I 1. 2. 3. 4. 5. 6. 7. 8. | Civil Registrar-cum-Sub-Registrar, Pernem Jt. Civil Registrar-cum-Sub-Registrar-I, Bardez Civil Registrar-cum-Sub-Registrar, Bicholim Civil Registrar-cum-Sub-Registrar, Sattari Jt. Civil Registrar-cum-Sub-Registrar-I, Tiswadi Jt. Civil Registrar-cum-Sub-Registrar-I, Ponda Civil Registrar-cum-Sub-Registrar, Dharbandora Jt. Civil Registrar-cum-Sub-Registrar-I, Mormugao | Designation of Officer | II | Pernem Taluka Bardez Taluka Bicholim Taluka Sattari Taluka Tiswadi Taluka Ponda Taluka Dharbandora Taluka Mormugao Taluka | Jurisdiction | III

9. 10. 11. 12. | Jt. Civil Registrar-cum-Sub-Registrar-I, Salcete Civil Registrar-cum-Sub-Registrar, Quepem Civil Registrar-cum-Sub-Registrar, Sanguem Civil Registrar-cum-Sub-Registrar, Canacona | | | Salcete Taluka Quepem Taluka Sanguem Taluka Canacona Taluka | |

This Notification shall come into force with immediate effect. | | | | | |

(Published in the Official Gazette Series I No. 49(Extraordinary) dated 7-3-2019) (w.e.f. 8/42/2018-LD(Estt)/469 dated 6-03-2019)

State Amendment

Maharashtra

Substitution of section 57 of Act IX of 1932.-For section 57 of the principal Act, the following section shall be substituted, namely:-

"57. Appointment of Registrar of Firms and Deputy and Assistant Registrars of Firms.-(1) The State Government may, by notification in the Official Gazette, appoint a Registrar of Firms who shall exercise, perform and discharge the powers, functions and duties of the Registrar under this Act throughout the State of Maharashtra.

(2) The State Government may likewise appoint one or more Deputy Registrars of Firms and Assistant Registrars of Firms who shall exercise, perform and discharge all or such of the powers, functions and duties of the Registrar and in such areas as the State Government may, by notification in the Official Gazette, specify.

(3) The officers appointed under sub-section (1) and sub-section (2) shall be deemed to be public servants within the meaning of section 21 of the Indian Penal code (XLV of 1860). "

[Vide Maharashtra Act 29 of 1984, s. 5]

Section 58. Application for registration

(1) The registration of a firm may be effected at any time by sending by post or delivering to the Registrar of the area in which any place of business of the firm is situated or proposed to be situated, a statement in the prescribed form and accompanied by the prescribed fee, stating-

(a) the firm name,

(b) the place or principal place of business of the firm,

(c) the names of any other places where the firm carries on business,

(d) the date when each partner joined the firm,

(e) the names in full and permanent addresses of the partners, and

(f) the duration of the firm. The statement shall be signed by all the partners, or by their agents specially authorised in this behalf. (2) Each person signing the statement shall also verify it in the manner prescribed. (3) A firm name shall not contain any of the following words, namely:-

"Crown", "Emperor", "Empress", "Empire", "Imperial", "King", "Queen", "Royal", orwords expressing or implying the sanction, approval or patronage of [1]*** Government [2]***,except [3][when the State Government] signifies [4][its] consent to the use of such words as part of the firm name by order in writing [5]***.

State Amendment

Goa, Daman and Diu

The Government of Goa is hereby pleased to levy a non-refundable processing fee of Rs. 1,000/- (Rupees one thousand only) for processing the documents for registration of Partnership Firm under the Indian Partnership Act, 1932 (Central Act 9 of 1932).

This Order shall come into force with effect from the 1st day of April, 2017.

(Published in the Official Gazette Series I No. 52 (Extraordinary-2) dated 31-3-2017) (w.e.f. 8-5-2017-

LD(Estt.) (C)/407 dated 31-3-2017)

Uttarakhand

Substitution of section 58.-In the Indian Partnership Act, 1932, (hereinafter referred to as the Principal Act) section 58 shall be substituted as follows, namely:-

Maharashtra

58. Application for registration.-(1) The registration of a firm may be effected at any time by uploading on the website following

statement in the prescribed online form and accompanied with prescribed fees to the Registrar of the area in which any place of business of the firm is situated or proposed to be situated, stating.-

(a) the firm name,

(b) the place or principal place of business of the firm,

(c) the names of any other places where the firm carries on business,

(d) the date when each partner joined the firm,

(e) the names in full and permanent addresses of the partners, and

(f) the duration of the film.

The statement shall be digitally signed by all the partners or by their agents specially authorized in this behalf.

(2) The applicant, signing the statement shall also upload to the website, verifying the statement recorded in the online format mentioned in sub-section (1), verifying it in the affidavit certified by the Notary on the non-judicial stamp paper of Rs. 10/.

(3) The desired enclosed shall also be uploaded on website, by the applicant.

(4) A firm name shall not contain the word Union, State, Land Mortgage, Land development, Cooperative, Gandhi, Reserve Bank or any of the words expressing or implying the sanction, approval or patronage of Government, except when the State Government signifies its consent to the use of such words as part of the firm name by order in writing.

(5) The prescribed fee of registration shall be submitted online after the online approval given by the Registrar.

(6) After submitting the prescribed registration fee the digitally signed registration certificate may be downloaded from the website by the applicant.

[Vide Uttarakhand Act 5 of 2019, s. 2]

Rajasthan

Amendment of section 58, Central Act IX of 1932.-For sub-section (3) of section 58 of the Indian Partnership Act, 1932 (Central Act IX of 1932), hereinafter referred to as the principal Act, the following sub-sections shall be substituted, namely :-

"(3) No firm shall be registered by a name which, in the opinion of the State Government, is undesirable.

(4) Except with the previous sanction in writing of the State Government, no firm shall be registered by a name which contains any of the following words, namely:-

(a) 'Union', 'State', 'President', 'Republic' or any word expressing or implying the sanction, approval or patronage of the Central or any State Government ; and

(b) 'Municipal', 'Chartered' or any word which suggests or is calculated to suggest connection with any municipality or other local authority:

Provided that nothing in this sub-section shall apply to any firm registered before the date of the commencement of the Indian Partnership (Rajasthan Amendment) Act, 1971."

[Vide Rajasthan Act 10 of 1971, s. 2]

Maharashtra

Amendment of section 58 of Act IX of 1932.-In section 58 of the principal Act,-

(a) in sub-section (1),-

(i) for the words "The registration of a firm" the words, brackets, figure and letter "Subject to the provisions of sub-section (1A), the registration of a firm" shall be substituted ;

(ii) the words "at any time" shall be deleted ;

(iii) after the words "prescribe fee" the words "and a true copy of the deed of partnership" shall be inserted ;

(iv) after clause (a), the following clause shall be inserted, namely :-

"(aa) the nature of business of the firm;";

(b) after sub-section (1), the following sub-section shall be inserted, namely :-

"(1A) The statement under sub-section (1) shall be sent or delivered to the Registrar within a period of one year from the date of constitution of the firm :

Provided that in the case of any firm carrying on business on or before the date of commencement of the Indian Partnership (Maharashtra Amendment) Act, 1984, (Mah. XXIX of 1984) such statement shall be sent or delivered to the Registrar within a period of one year from such date." ;

(c) for sub-section (3), the following sub-section shall be substituted, namely :-

"(3) A firm shall not have any of the names or emblems specified in the Schedule to the Emblems and Names (Prevention of Improper Use) Act, 1950, (XII of 1950) or any colourable imitation thereof, unless permitted so to do under that Act, or any name which is likely to be associated by the public with the name of any other firm on account of similarity, or any name which, in the opinion of the Registrar, for reasons to be recorded in writing, is undesirable :

Provided that nothing in this sub-section shall apply to any firm registered under any such name before the date of the commencement of the Indian Partnership (Maharashtra Amendment) Act, 1984.

(4) Any person aggrieved by an order of the Registrar under sub-section (3) may, within 30 days from the date of communication of such order, appeal to the officer not below the rank of Deputy Secretary to Government authorised by the State Government in

this behalf, in such manner, and on payment of such fee, as may be prescribed. On receipt of any such appeal, the authorised officer shall, after giving an opportunity of being heard to the appellant, decide the appeal, and his decision shall be final.".

[Vide Maharashtra Act 29 of 1984, s. 6]

[1] The words "the Crown or the Central Government or any Provincial" omitted by the A. O. 1950. The words "the CentralGovernment or any Provincial Government or the Crown Representative" were subs. by the A. O. 1937 for "the G. of I. or a L. G."

[2] The words "or the Crown Representative" omitted by the A.O. 1948.

[3] Subs. by the A.O. 1937, for "when the G.G. in C.".

[4] Subs.ibid. for "his"

[5] The words "under the hand of one of the Secretaries to the G. of I." omitted, ibid.

Section 59. Registration

Where the Registrar is satisfied that the provisions of section 58 have been duly complied with, he shall record an entry of the statement in a register called the Register of Firms, and shall file the statement.

State Amendments

Karnataka

Amendment of section 59A.-In section 59A of the Indian Partnership Act, 1932 (Central Act IX of 1932), in sub-section (1), for the words "by reason of the reorganization of States", the words, figures and brackets "by reason of the addition of the Bellary District to the State of Mysore under the Andhra State Act, 1953 (Central Act XXX of 1953), or of the reorganization of States under the States Reorganisation Act, 1956 (Central Act 37 of 1956)" shall be substituted.

[Vide Karnataka Act 19 of 1961, s. 2]

Maharashtra

Amendment of section 59A-1 of IX of 1932.-In section 59A-1 of the Indian Partnership Act, 1932 (IX of 1932), in its application to the State of Maharashtra (hereinafter referred to as "the principal Act"), for the words "one hundred rupees" the words "one thousand rupees" shall be substituted.

[Vide Maharashtra Act 16 of 2018, s. 2]

Goa, Daman and Diu

As required under the Ease of Doing Business, Government of Goa, Law (Establishment) Division and Registration Department hereby mandates "Registration of Partnership Firms" shall be accepted and processed Online only without requiring the applicant to submit a physical copy of the application or associated supporting documentation including executed deed of Partnership. The department staff (all Sub-Registrar Officers) are hereby instructed to process application through the online mode only.

Further, it is also mandated that all queries against applicants, applications (if any) should be submitted to the applicants only once and within 7 days of receipt of the application.

This Notification shall come into force with effect from 8th of March, 2019.

This issues in supersession to earlier Notification of even number dated 11-12-2018 and all the Partnership Firms registration initiated under Online Partnership Registration Web Application/Website (https://partnership.goa.gov.in).

(Published in the Official Gazette Series I No. 49(Extraordinary) dated 7-3-2019) (w.e.f. 8/8/2018-LD(Estt)/470 dated 7th March 2019.)

Maharashtra

Amendment of section 59 of Act IX of 1932.-Section 59 of the principal Act shall be renumbered as sub-section (1) of that section, and,-

(a) in sub-section (1) as so renumbered, after the words "file the statement." The words "On the date such entry is recorded and such statement is filed, the firm shall be deemed to be registered." Shall be added ;

(b) after sub-section (1) as so renumbered, the following sub-section shall be added, namely :- "(2) The firm, which is registered, shall use the brackets and words "(Registered)" immediately after its name.". [Vide Maharashtra Act 29 of 1984, s.7] Insertion of section 59A-1 in Act IX of 1932.-After section 59 of the principal Act, the following section shall be inserted, namely :- "59A-1. Late registration on payment of penalty.-If the statement in respect of any firm is not sent or delivered to the Registrar within the time specified in sub-section (1A) of section 58, then the firm may be registered on payment, to the Registrar, of a penalty of one hundred rupees per year of delay or a part thereof."

[Vide Maharashtra Act 29 of 1984, s.8]

Section 60. Recording of alterations in firm name and principal place of business

(1) When an alteration is made in the firm name or in the location of the principal place of business of a registered firm, a statement may be sent to the Registrar accompanied by the prescribed fee, specifying the alteration, and signed and verified in the manner required under section 58.

(2) When the Registrar is satisfied that the provisions of sub-section (1) have been duly complied with, he shall amend the entry relating to the firm in the Register of Firms in accordance with the statement, and shall file it along with the statement relating to the firm filed under section 59.

State Amendment

Amendment of section 60 of Act IX of 1932.-In section 60 of the principal Act,-

(a) for sub-section (1), the following sub-section shall be substituted, namely:-"(1) When an alteration is made in the firm name or in the nature of business of a firm or in the location of the principal place of business of a registered firm, a statement shall be sent to the Registrar, within a period of 90 days from the date of making such alteration, accompanied by the prescribed fee, specifying the alteration and signed and verified in the manner required under section 58.";

(b) in the marginal note for the words "firm name and" the words "firm name, nature of business and" shall be substituted.

[Vide Maharashtra Act 29 of 1984, s.9]

Section 61. Noting of closing and opening of branches

When a registered firm discontinues business at any place or begins to carry or business at any place, such place not being its principal place of business, any partner or agent of the firm may send intimation thereof to the Registrar, who shall make a note of such intimation in the entry relating to the firm in the Register of Firms, and shall file the intimation along with the statement relating to the firm filed under section 59.

State Amendment

Maharashtra

Amendment of section 61 of Act IX of 1932.-In section 61 of the principal Act, for the words "may send intimation thereof to the Registrar, who shall" the following shall be substituted, namely :-

"shall sent intimation thereof to the Registrar, within a period of 90 days from the date of such discontinuance or, as the case may be, from the date on which the firm begins to carry on business at such place. The Registrar shall then".

[Vide Maharashtra Act 29 of 1984, s.10]

Section 62. Noting of changes in names and addresses of partners

When anypartner in a registered firm alters his name or permanent address, an intimation of the alteration may be sent by any partner or agent of the firm to the Registrar, who shall deal with it in the manner provided in section 61.

STATE AMENDEMT

Maharashtra.

Amendment of section 61 of Act IX of 1932-In section 62 of the principal Act, for the words "may be sent" the words "shall be sent, within a period of 90 days from the date of making such alteration," shall be substituted.

[vide Maharashtra Act 29 of 1984, s. 11]

Section 63. Recording of changes in and dissolution of a firm. Recording of withdrawal of a minor

(1) When a change occurs in the constitution of a registered firm any incoming, continuing or outgoingpartner, and when a registered firm is dissolved any person who was a partner immediately before the dissolution, or the agent of any such partner or person specially authorised in this behalf, may give notice to the Registrar of such change or dissolution, specifying the date thereof; and the Registrar shall make a record of the notice in theentry relating to the firm in the Register of Firms, and shall file the notice along with the statement relating to the firm filed under section 59.

(2) When a minor who has been admitted to the benefits of partnership in a firm attains majority and elects to become or not to become a partner, and the firm is then a registered firm, he, or his agent specially authorised in this behalf, may give notice to the Registrar that he has or has not become a partner, and the Registrar shall deal with the notice in the manner provided in sub-section (1)

State Amendment

Maharashtra

Amendment of section 63 of Act IX of 1932.-(a) In sub-section (1),-

(i) for the word "any", where it occurs, the word "every" shall be substituted ;

(ii) for the words "may give notice to the Registrar of such change or dissolution, specifying the date thereof ;" the following shall be substituted, namely :-

"shall, within a period of 90 days from the date of such change or dissolution, give notice to the Registrar of such change or dissolution, specifying the date thereof;";

(b) after sub-section (1), the following sub-section shall be added, namely :-

"(1A) Where a change occurs in the constitution of a registered firm, all persons, who after such change are partners of the firm, shall jointly send an intimation of such change duly signed by them, to the Registrar, within a period of 90 days from the date of occurrence of such change and the Registrar shall deal with it in the manner provided by section 61." ;

(c) in sub-section (2), for the words "may give notice to the Registrar" the words "shall, within a period of 90 days from the date of his election, give notice to the Registrar" shall be substitutied.

[vide Maharashtra Act 29 of 1984, s. 12]

Section 64. Rectification of mistakes

(1) The Registrar shill have power at all times to rectify any mistake in order to bring the entry in the Register of Firms relating to any firm into conformity with the documents relating to that firm filed under this Chapter.

(2) On application made by all the parties who have signed any document relating to a firm filed under this Chapter, the Registrar may rectify any mistake in such document or in the record or note thereof made in the Register of Firms.

Section 65. Amendment of Register by order of Court

A Court deciding any matter relating to a registered firm may direct that the Registrar shall make any amendment in the entry in the Register of Firms relating to such firm which is consequential upon its decision; and the Registrar shall amend the entry accordingly.

Section 66. Inspection of Register and filed documents

(1) The Register of Firms shall be open to inspection by any person on payment of such fee as may be prescribed.

(2) All statements, notices and intimations filed under this Chapter shall be open to inspection, subject to such conditions and on payment of such fee as may be prescribed.

Section 67. Grant of copies

The Registrar shall on application furnish to any person, on payment of such fee as may be prescribed, a copy, certified under his hand, of any entry or portion thereof in the Register of Firms.

State Amendment

Uttarakhand

Substituted of section 67.-In Principal Act, section 67 shall be substituted as follow, namely:--

67. Grant of copies.-The Registrar shall on online application furnish to any person, on payment of such fee as may be prescribed , a copy digitally certified under his hand of any entry or portion thereof in the register of firms.

[Vide Uttarakhand Act 5 of 2019, s. 3]

Section 68. Rules of evidence

(1) Any statement, intimation or notice recorded or noted in the Register of Firms shall, as against any person by whom or on whose behalf such statement, intimation or notice was signed, be conclusive proof of any fact therein stated.

(2) A certified copy of an entry relating to a firm in the Register of Firms may be produced in proof of the fact of the registration of such firm, and of the contents of any statement, intimation or notice recorded or noted therein.

State Amendment

Uttarakhand

Amendment of section 68.-In Principal Act, sub-section (1) of section 68 shall be substituted as follows, namely:--

68. Rules of Evidence:--(1) Any statement, intimation or notice recorded or noted in the register of Firms shall, as against any person by whom or on whose behalf such statement, intimation or notice was digitally signed, be conclusive proof of any fact therein stated.

[Vide Uttarakhand Act 5 of 2019, s. 4]

Section 69. Effect of non-registration

(1) No suit to enforce a right arising from a contract or conferred by this Act shall be institutes in any Court by or on behalf of any person suing as a partner in a firm against the firm or any person alleged to be or to have been a partner in the firm unless the firm is registered and the person suing is or has been shown in the Register of Firms as a partner in the firm.

(2) No suit to enforce a tight arising from a contract shall be instituted in any Court by or on behalf of a firm against any third party unless the firm is registered and the persons suing are or have been shown in the Register of Firms as partners in the firm.

(3) The provisions of sub-sections (1) and (2) shall apply also to a claim of set-off or other proceeding to enforce a right arising from a contract, but shall not affect-

(a) the enforcement of any right to sue for the dissolution of a firm or for accounts of a dissolved firm, or a ay right or power to realise the property of a dissolved firm, or

(b) the powers of an official assignee, receiver or Court under the Presidency-towns Insolvency Act, 1909 (2 of 1909), or the Provincial Insolvency Act, 1920 (5 of 1920), to realise the property of an insolvent partner.

(4) This section shall not apply-

(a) to firms or to partners in firms which have no place of business in [1][the territories to which this Act extends], or whose places of business in [2][the said territories] are situated in areas to which, by notification under [3][section 56], this Chapter does not apply, or

(b) to any suit or claim of set-off not exceeding one hundred rupees in value which, in the Presidency-towns, is not of a kind specified in section 19 of the Presidency Small Cause Courts Act, 1882 (15 of 1882), or, outside the Presidency-towns, is not of a kind specified in the Second Schedule to the Provincial Small Cause Courts Act, 1887 (9 of 1887), or to any proceeding in execution or other proceeding incidental to or arising from any such suit or claim.

State Amendment

Maharashtra

Substitution of section 69A of IX of 1932.--For section 69A of the principal Act, the following section shall be substituted, namely:--

"69A. Charges for delay in compliance of section 60, 61, 62 or 63.--If any statement, intimation or notice under section 60, 61, 62 or as the case may be, 63, in respect of any registered firm is not sent or given to the Registrar, within the period specified in that section, the Registrar may, make suitable amendments in the records relating to the firm, upon payment of charges for delay in sending or giving the same, at the rate of rupees two thousand per year or part thereof in respect of the period between the date of expiry of the period specified in that section and the date of making the payment.".

[Vide Maharashtra Act 16 of 2018, s. 3]

Amendment of section 69 of Act IX of 1932.-In section 69 of the principal Act,-

(a) to sub-section (1), the following proviso shall be added, namely :-

"Provided that the requirement of registration of firm under this sub-section shall not apply to the suits or proceedings instituted by the heirs or legal representatives of the deceased partner of a firm for accounts of the firm or to realise the property of the firm.";

(b) after sub-section (2), the following sub-section shall be inserted, namely :-

"(2A) No suit to enforce any right for the dissolution of a firm or for accounts of a dissolved firm or any right or power to realise the property of a dissolved firm shall be instituted in any Court by or on behalf of any person suing as a partner in a firm against the firm or any person alleged to be or to have been a partner in the firm, unless the firm is registered and the person suing is or has been shown in the Register of Firm as a partner in the firm :

Provided that the requirement of registration of firm under this sub-section shall not apply to the suits or proceedings instituted by the heirs or legal representatives of the deceased partner of a firm for accounts of a dissolved firm or to realise the property of a dissolved firm.";

(c) in sub-section (3),-

(i) for the words, brackets and figures "sub-sections (1) and (2)" to words, brackets, figures and letter "sub-sections (1), (2) and (2A)" shall be substituted ;

(ii) for clause (a), the following clause shall be substituted, namely :-

"(a) the firms constituted for a duration upto six months or with a capital upto two thousand rupees ; or"

[Vide Maharashtra Act 29 of 1984, s. 13]

Insertion of section 69A in Act IX pf 1932.-After section 69 of the principal Act, the following section shall be inserted, namely :-

69A. Penalty for contravention of sections 60, 61, 62 or 63.-If any statement, intimation or notice under sections 60,61, 625 or 63 in respect of any registered firm is not sent or given to the Registrar, within the period specified in that section, the Registrar may, after giving notice to the partners of the firm and after giving them a reasonable opportunity of being heard, refuse to make the suitable amendments in the records relating to the firm, until the partners of the firm pay such penalty, not exceeding ten rupees per day, as the Registrar may determine in respect of the period between the date of expiry of the period specified 60, 61, 62, or as the case may be, 63 and the date of making the amendments in the entries relating to the firm.".

[1] Subs. by Act 3 of 1951, s. 3 and the Schedule, for "Part A States and Part C States".

[2] Subs. by s. 3 and the Schedule, ibid.,for "such States".

[3] Subs. by Act 24 of 1934, s. 2 and the First Schedule, for "section 55".

Section 70. Penalty for furnishing false particulars

Any person who signs any statement, amending statement, notice or intimation under this Chapter containing any particular which he knows to be false or does not believe to be true, or containing particulars which he knows to be incomplete or does not believe to be complete, shall be punishable with imprisonment which may extend to three months, or with fine, or with both.

State Amendment

Maharashtra

Amendment of section 70 of Act IX of 1932.-In section 70 of the principal Act, for the words "shall be punishable with imprisonment which may extend to three months, or with fine, or with both." The following shall be substituted, namely :-

"shall, on conviction, be punished with imprisonment for a term which may extend to one year, or with fine, or with both :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgement of the Court, the fine shall not be less than one thousand rupees.".

[vide Maharashtra Act 29 of 1984, s. 15]

Maharashtra

Insertion of section 70A in Act IX of 1932.-After section 70 of the principal Act, the following section shall be inserted, namely :-

70A. Maximum fees and power to amend Schedule I.-(1) The fees payable under this Act and rules made thereunder shall not exceed the maximum fees as specified in Schedule I.

(2) Subject to the provisions of this section, the State Government may, having regard to the expenditure incurred or to be incurred for carrying out the purposes of this Act, from time to time, by notification in the Official Gazette, vary and of the amount of maximum fees and other particulars specified in Schedule I, and, thereupon, the said Schedule shall be deemed to be amended accordingly.

(3) Every notification issued under sub-section (2) shall take effect from the date of its publication in the Official Gazette, unless some other date is specified therein for this purpose.

(4) Every notification issued by the State Government under sub-section (2) shall be laid, as soon as may be after it is issued, before each House of the State Legislature, while it is in session, for a total period of thirty days, which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the notification or both Houses agree that the notification should not be issued, and notify such decision in the Official Gazette, the notification shall, from the date of publication of such decisions, have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done in pursuance of that notification.".

[vide Maharashtra Act 29 of 1984, s. 16]

Section 71. Power to make roles

(1) The [1][State Government] [2][may by notification in the Official Gazette make rules] prescribing the fees which shall accompany documents sent to the Registrar of Firms, or which shall be payable for the inspection of documents in the custody of the Registrar of Firms, or for copies from the Register of Firms:

Provided that such fees shall not exceed the maximum fees specified in Schedule I.

(2) The State Government may [3][also] make rules-

(a) prescribing the form of statement submitted under section 58, and of the verification thereof;

(b) requiring statements, intimations and notices under sections 60, 61, 62 and 63 to be in prescribed form,and prescribing the form thereof;

(c) prescribing the form of the Register of Firms, and the mode in which entries relating to firms are to be made therein, and the mode in which such entries are to be amended or notes made therein;

(d) regulating the procedure of the Registrar when disputes arise;

(e) regulating the filing of documents received by the Registrar;

(f) prescribing conditions for the inspection of original documents;

(g) regulating the grant of copies;

(h) regulating the elimination of registers and documents;

(i) providing for the maintenance and form of an index to the Register of Firms; and

(j) generally, to carry out the purposes of this Chapter.

(3) All rules made under this section shall be subject to the condition of previous publication.

[4][(4) Every rule made by the State Government under this section shall be laid, as soon as it is made, before the State Legislature.]

State Amendment

Amendment of section 71 of Act IX of 1932.-(a) for sub-section (1), the following sub-section shall be substituted, namely :-

"(1) Subject to the provisions of section 70A, the State Government may, by notification in the Official Gazette, make rules prescribing the fees which shall accompany documents sent to the Registrar or which shall be paid in respect of any intimation, notice or application given to the Registrar or which shall be payable for the inspection of documents in the custody of the Registrar or for copies from the Register of Firms or which shall be paid for supply of any

prescribed | forms."

(b) in sub-section (2),-

(i) in clause (a), for the words and figures "under section 58" the words, brackets and figures "under sub-section (1) of section 58" shall be substituted ;

(ii) after clause (a), the following clause shall be inserted, namely :-

"(aa) for sub-section (4), the following sub-section shall be substituted namely :-

(c) for sub-section (4), the following sub-section shall be substituted namely :-

"(4) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature, while it is in session, for a total period of thirty days, which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any medication in the rule or both Houses agree that the rule should not be made, and notify such decision in the Official Gazette, the rule shall, from the date of publication of such decision, have effect only in such modified form or be of no effect, as the case ,may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done of omitted to be done in pursuance of that rule"

[Vide Maharashtra Act 296 of 1984, s. 17]

[1] Subs. by the A.O. 1937, for "G.G. in C.".

[2] Subs. by Act 20 of 1983, s. 2 and the Schedule, for "may make rules" (w.e.f. 15-3-1984).

[3] Ins. by the A.O. 1937.

[4] Ins. by Act 20 of 1983, s. 2 and Schedule (w.e.f. 15-3-1984).

CHAPTER VIII SUPPLEMENTAL

Section 72. Mode of giving public notice

A public notice under this Act is given-

(a) where it relates to the retirement or expulsion of a partner from a registered firm, or to the dissolution of a registered firm, or to the election to become or not to become a partner in a registered firm by a person attaining majority who was admitted as a minor to the benefits of partnership, by notice to the Registrar of Firms under section 63, and by publication in the Official Gazette and in at least one vernacular newspaper circulating in the district where the firm to which it relates has its place or principal place of business, and

(b) in any other case, by publication in the Official Gazette and in at least one vernacular newspaper circulating in the district where the firm to which it relates has its place or principal place of business.

Section 73. Repeals

[Repeals.] Rep. by the Repealing Act, 1938 (1 of 1938), s. 2 and Sch.

Section 74. Savings

Nothing in this Act or any repeal effected thereby shall affect or be deemed to affect-

(a) any right, title, interest, obligation or liability already acquired, accrued or incurred before the commencement of this Act, or

(b) any legal proceeding or remedy in respect of any such right, title, interest, obligation or liability, or anything done or suffered before the commencement of this Act, or

(c) anything done or suffered before the commencement of this Act, or

(d) any enactment relating to partnership not expressly repealed by this Act, or

(e) any rule of insolvency relating to partnership, or

(f) any rule of law not inconsistent with this Act.

Schedules

The Schedules are not reproduced in this PDF. Each is in the official file, at the page given:

SCHEDULE I MAXIMUM FEES (official file, page 28)

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