



Partnership Act 1890

1890 CHAPTER 39 53 and 54 Vict

Dissolution of Partnership, and its consequences

32 Dissolution by expiration or notice.

Subject to any agreement between the partners, a partnership is dissolved—

- (a) If entered into for a fixed term, by the expiration of that term:
- (b) If entered into for a single adventure or undertaking, by the termination of that adventure or undertaking:
- (c) If entered into for an undefined time, by any partner giving notice to the other or others of his intention to dissolve the partnership.

In the last-mentioned case the partnership 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.

33 Dissolution by bankruptcy, death, or charge.

- (1) Subject to any agreement between the partners, every partnership is dissolved as regards all the partners by the death or bankruptcy of any partner.
- (2) A partnership may, at the option of the other partners, be dissolved if any partner suffers his share of the partnership property to be charged under this Act for his separate debt.

34 Dissolution by illegality of partnership.

A partnership is in every case dissolved by the happening of any event which makes it unlawful for the business of the firm to be carried on or for the members of the firm to carry it on in partnership.

35 Dissolution by the Court.

On application by a partner the Court may decree a dissolution of the partnership in any of the following cases:

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- [^{F2}(a) When a partner has a mental disorder within the meaning of section 328 of the Mental Health (Care and Treatment) (Scotland) Act 2003 or section 305 of the Mental Capacity Act (Northern Ireland) 2016 (as the case may be):]
- (b) When a partner, other than the partner suing, becomes in any other way permanently incapable of performing his part of the partnership contract:
- (c) When a partner, other than the partner suing, has been guilty of such conduct as, in the opinion of the Court, regard being had to the nature of the business, is calculated to prejudicially affect the carrying on of the business:
- (d) When a partner, other than the partner suing, wilfully or persistently commits a breach of the partnership agreement, or otherwise so conducts himself in matters relating to the partnership business that it is not reasonably practicable for the other partner or partners to carry on the business in partnership with him:
- (e) When the business of the partnership can only be carried on at a loss:
- (f) Whenever in any case circumstances have arisen which, in the opinion of the Court, render it just and equitable that the partnership be dissolved.

Textual Amendments

- F1** S. 35(a) repealed (E.W.) by [Mental Health Act 1959 \(c. 72\)](#), **Sch. 8 Pt. I**
- F2** S. 35(a) substituted (26.10.2023 for specified purposes) by [Economic Crime and Corporate Transparency Act 2023 \(c. 56\)](#), **ss. 130(1), 219(1)(2)(b)**
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Modifications etc. (not altering text)

- C1** S. 35(f) amended by [National Health Service \(Amendment\) Act 1949 \(c. 93\)](#), **s. 7(4)**

36 Rights of persons dealing with firm against apparent members of firm.

- (1) Where a person deals with a firm after a change in its constitution he is entitled to treat all apparent members of the old firm as still being members of the firm until he has notice of the change.
- (2) An advertisement in the London Gazette as to a firm whose principal place of business is in England or Wales, in the Edinburgh Gazette as to a firm whose principal place of business is in Scotland, and in the [^{F3}Belfast Gazette] as to a firm whose principal place of business is in Ireland, shall be notice as to persons who had not dealings with the firm before the date of the dissolution or change so advertised.
- (3) The estate of a partner who dies, or who becomes bankrupt, 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 for partnership debts contracted after the date of the death, bankruptcy, or retirement respectively.

Textual Amendments

- F3** Words substituted by virtue of S.R. & O. 1921/1804 (Rev. XVI, p. 967: 1921, p. 422) art. 7(a)
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Modifications etc. (not altering text)

- C2** S. 36(1) excluded by 1907 c. 24, s. 6(6) (as inserted (6.4.2017) by [The Legislative Reform \(Private Fund Limited Partnerships\) Order 2017 \(S.I. 2017/514\)](#), arts. 1(2), **2(4)(e)**)

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- C3** Reference to Ireland to be construed as exclusive of Republic of Ireland: S.R. & O. 1923/405 (Rev. X, p. 298: 1923, p. 400), art. 2
- C4** S. 36(3) applied (E.W.) (25.1.2018) by Landfill Disposals Tax (Wales) Act 2017 (anaw 3), ss. 82(5), 97(2); S.I. 2018/35, art. 2(w)

37 Right of partners to notify dissolution.

On the dissolution of a partnership or retirement of a partner any partner may publicly notify the same, and may require the other partner or partners to concur for that purpose in all necessary or proper acts, if any, which cannot be done without his or their concurrence.

38 Continuing authority of partners for purposes of winding up.

After the dissolution of a partnership the authority of each partner to bind the firm, and the other rights and obligations of the partners, continue notwithstanding the dissolution so far as may be necessary to wind up the affairs of the partnership, and to complete transactions begun but unfinished at the time of the dissolution^{F4}, and in relation to any prosecution of the partnership by virtue of section 1 of the Partnerships (Prosecution) (Scotland) Act 2013], but not otherwise.

Provided that the firm is in no case bound by the acts of a partner who has become bankrupt; but this proviso does not affect the liability of any person who has after the bankruptcy represented himself or knowingly suffered himself to be represented as a partner of the bankrupt.

Textual Amendments

- F4** Words in s. 38 inserted (26.4.2013) by Partnerships (Prosecution) (Scotland) Act 2013 (c. 21), ss. 6(2), 8(2) (with s. 8(3)(4))

39 Rights of partners as to application of partnership property.

On the dissolution of a partnership every partner is entitled, as against the other partners in the firm, and all persons claiming through them in respect of their interests as partners, to have the property of the partnership applied in payment of the debts and liabilities of the firm, and to have the surplus assets after such payment applied in payment of what may be due to the partners respectively after deducting what may be due from them as partners to the firm; and for that purpose any partner or his representatives may on the termination of the partnership apply to the Court to wind up the business and affairs of the firm.

40 Apportionment of premium where partnership prematurely dissolved.

Where one partner has paid a premium to another on entering into a partnership for a fixed term, and the partnership is dissolved before the expiration of that term otherwise than by the death of a partner, the Court may order the repayment of the premium, or of such part thereof as it thinks just, having regard to the terms of the partnership contract and to the length of time during which the partnership has continued; unless

- (a) the dissolution is, in the judgment of the Court, wholly or chiefly due to the misconduct of the partner who paid the premium, or

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- (b) the partnership has been dissolved by an agreement containing no provision for a return of any part of the premium.

41 Rights where partnership dissolved for fraud or misrepresentation.

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

- (a) to a lien on, or right of retention of, the surplus of the partnership assets, after satisfying the partnership liabilities, for any sum of money paid by him for the purchase of a share in the partnership and for any capital contributed by him, and is
- (b) to stand in the place of the creditors of the firm for any payments made by him in respect of the partnership liabilities, and
- (c) to be indemnified by the person guilty of the fraud or making the representation against all the debts and liabilities of the firm.

42 Right of out-going partner in certain cases to share profits made after dissolution.

- (1) 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 its capital or assets without any final settlement of accounts as between the firm and the outgoing partner or his estate, then, in the absence of any agreement 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 the dissolution as the Court may find to be attributable to the use of his share of the partnership assets, or to interest at the rate of five per cent. per annum on the amount of his share of the partnership assets.
- (2) Provided that where by the partnership contract 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.

43 Retiring or deceased partner's share to be a debt.

Subject to any agreement between the partners, the amount due from surviving or continuing partners to an outgoing partner or the representatives of a deceased partner in respect of the outgoing or deceased partner's share is a debt accruing at the date of the dissolution or death.

44 Rule for distribution of assets on final settlement of accounts.

In settling accounts between the partners after a dissolution of partnership, the following rules shall, subject to any agreement, be observed:

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

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- (b) The assets of the firm including the sums, if any, contributed by the partners to make up losses or deficiencies of capital, shall be applied in the following manner and order:
- (1) In paying the debts and liabilities of the firm to persons who are not partners therein:
 - (2) In paying to each partner rateably what is due from the firm to him for advances as distinguished from capital:
 - (3) In paying to each partner rateably what is due from the firm to him in respect of capital:
 - (4) The ultimate residue, if any, shall be divided among the partners in the proportion in which profits are divisible.

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