

Unit 2

Section

Provision

9. **General Duties of Partner:**
Be just & faithful with each other should not suppress material information and render true accounts.
10. **Duty to Indemnify for losses caused by fraud:**
If due to fraud of a partner, firm bears any loss, it is duty of partner to indemnify loss.
11. **Rights and Duties of Partners:**
① Rights and Duties of partners are written in partnership deed as agreed by all partners of firm.
② Agreement to restraint from trade:
Sec 27 of Indian Contract Act explains No such agreement is valid. However, Partnership is exception to this.
12. **Conduct of business:**
1. It is Right of partner to participate in business.
 2. They will diligently perform duty.

3. Decision of business must be taken by majority
4. Right to check, copy & for books of accounts
5. In case of death of a partner legal representative of deceased partner can also inspect, copy books of accounts.

13. Rights of a partner Mutual Rights and Liabilities.

1. No remuneration is not compulsory
2. Profit sharing ratio is equal
3. Interest on capital is given only in case of profit.
4. Advance from partners shall be eligible for 6% interest.
5. If any amount paid by partner in case of emergency over and above capital, firm shall be liable to repay such amount.
6. If due to willful neglect of partner firm face loss, partner shall indemnify such loss.

14. Property of Firm :

→ Property of partnership firm shall be joint stock or common stock or is joint property of all partners of firm. To be used primarily for firm on

★ Property of partner shall not be property of firm

15 Application of partnership property of firm.

→ Property of firm shall be applied to firm unless specifically mentioned

16 Personal profit earned by Partners:

→ If any profit is earned by partners using property of firm or firm's name → loss by doing any transaction with firm shall be returned to firm & considered as profit of firm.

17. If in Partnership firm there is admission, retirement, expiry tenure, or change of business then rights and duties of partners remains same

18. Partners are agents of firm & every partner shall be liable for all other partners for the transaction entered by them & shall bind firm.

19 & 22 Implied authority & Binding Rule
Mode of Binding

(1) Partner must enter into transaction which their scope and authority

② Transaction must be of regular nature of routine business activity

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③ Document must be exact executed on behalf of firm.

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Act of partner not covered under implied authority:

(a) Submit any dispute under arbitration

(b) Opening bank a/c in own name.

(c) withdraw any claim

(d) filing case against firm

(e) Acquire immovable property on behalf of firm.

(f) Entering in partnership & in behalf of firm.

(g) Transfer of immovable property

20 Extension and restriction of partner's authority:

If third party aware about restriction while entering in contract, contract is not valid & third party is liable.

If not aware than partner shall be liable for that

21 Partner's Right in case of emergency;

In case of emergency if partner

has paid any amount on behalf of firm to reduce any loss such amount shall be repaid by firm to partner.

23 Effect of admission by partner

If a partner enters into any transaction, and such transaction is in normal course of activity then it shall bind firm.

24 Effect of Notice to Acting Partner

If a partner enters into any transaction that is within his scope and authority which later generates loss for firm, shall bind the firm, if entered in good faith.

25 Liability to third party of partners for act of firm:

Every partner shall be liable to third party for act of firm.

26 Liability of firm for act of partners:

Firm shall be liable to any wrongful act of partner towards third party if in case of loss, in ordinary course.

27. Liability of firm for misapplication

If partner misapply any money of firm or of third party which he have received in capacity of partners, shall be compensated by firm, to third party.

28. Partner by Estoppel: Refer unit -1

29. Right of transferee of partner's interest,

Share of partnership is transferable like any other asset either by absolute sale or by mortgage.

Rights of transferee: He is not entitled to:

- ① Interfering in conduct of business
- 2 Require acts
- 3 Inspect books of accounts

He is only entitled to receive profit from the business.

- On dissolution, he shall be entitled to receive share of assets of firm and can demand for books of accounts

30. Minor admitted for benefits of firm:

A minor partners may be admitted to firm for profits only with consent of all

other partners

Rights of Minor Partner:

1. Minor has right to his agreed share of profits
2. He can access to, inspect or copy accounts of firm.
3. He can sue partners for accounts or for payment of his share.
4. On attaining majority, he may within six months elect to become partner or not to become partner by giving public notice.

Liabilities of Minor Partner:

- Before Majority:
 - (a) Only to the extent of share of profit
 - (b) No personal liabilities
 - (c) If firm is insolvent, then share vests with official assignee
- After Majority:
 - If elects not to become partner:
 1. shall not be liable for any act of firm.
 2. Liable to give notice to registrar about not being partner.

→ If elect to be partner.

- ① He become personally liable to third party for the act of firm.
- ② His share in property & profit shall remain same.

31 Introduction of a partner.

- ① No person shall be introduced as partner without consent of all partners.
- ② Before a person becomes partner he shall not be liable for previous acts.

32 Retirement of partner.

→ A partner may retire:

1. with consent of all partners.
2. As per agreement.
3. By giving notice to acting partners.

→ Retiring partner shall be liable to third party until public notice is given.

33 Expulsion of Partner:

Partner can be expelled from firm if -

- a) Power of expulsion is given in partnership.
- b) Power is exercised by majority.
- c) Exercised in good faith.

Here Good Faith means:

- Expulsion in interest of partnership.
- Notice must be given
- Opportunity of being heard is given

34. Insolvency of a partner

Effect of insolvency:

- ① Insolvent partner cannot be continued as partner.
- ② Ceases to be partner of firm from date of dissolution.
- ③ Estate of insolvent partner shall not be liable for firm.
- ④ Firm shall also be not liable for insolvent partner's debt.
- ⑤ Generally insolvency of partner results in dissolution.

35. Death of a partner:

Estate of deceased partner shall not be liable for any act of firm

36. Right of outgoing partner to carry on competing business:

an outgoing partner may carry on business competing with that of firm & he may advertise his business but he may not use firm name, represent

himself as partner or solicit customers

36 (a): Partners may have restraintment clause in partnership deed.

37. Right of outgoing partner in case of sharing subsequent profit

If an outgoing partner does not get its share of profit or accrued profit or capital after leaving firm, he shall be entitled for sharing subsequent profits

38. Revocation of continuing guarantee by change in firm.

In case of any change in constitution of firm, continuing guarantee by any third party shall be revoked.