

## CHAPTER 13.

## COMPANIES AND PRIVATE PARTNERSHIP.

7 of 1922.  
41 of 1949.  
4 of 1950.  
10 of 1950.

## AN ORDINANCE TO PROVIDE FOR TRADING COMPANIES AND OTHER ASSOCIATIONS.

[20th November, 1922.]

Short title  
and  
application.

1. This Ordinance may be cited as the Companies and Private Partnership Ordinance.

## I. COMPANIES.

Companies  
Acts exten-  
ded to the  
Colony.  
4 of 1950.

2. Subject to the provisions of this Ordinance the following Act of the Imperial Parliament is declared to be in force in the Colony in so far as it is applicable: the Companies Act, 1948 (11 & 12 Geo. VI, c. 38).

Registration.  
41 of 1949.

3. A company formed in the Colony shall cause a copy of its memorandum and articles of association signed by the directors and its secretary to be filed with the Registrar-General who shall be the Registrar of Companies.

Rules and  
fees.

4. (1) The Governor in Council may make rules for the more effectual working of the said Act in the Colony.

(2) There shall be paid to the Registrar in respect of the several matters mentioned in Schedule A to this Ordinance the several fees therein specified or such smaller fees as the Governor may from time to time direct.

(3) All fees paid to the Registrar in pursuance of this Ordinance shall be paid into the Treasury.

Require-  
ments as to  
Companies  
established  
outside the  
Colony.

5. (1) A company incorporated outside the Colony may carry on business in the Colony by filing with the Registrar-General:

- (a) a certified copy of the charter, statutes, or memorandum and articles of the company, or other instrument constituting or defining the constitution of the company and, if the instrument is not written in the English language a certified translation in the English language thereof;

[Note. This Ordinance is declared to be in force in the Dependencies by the Application of Colony Laws Ordinance, Cap. 1 (D.S.).]

- (b) a list of the directors of the company;
- (c) the name of some one or more persons resident or stationed for the time being in the Colony authorised to accept on behalf of the company service of process and any notices required to be served on the company;

2. The Companies and Private Partnership Ordinance (hereinafter referred to as the principal Ordinance) is amended by adding after section 6 the following new sections —

Restriction of registration of companies by certain names.

6A. (1) Where, in the opinion of the Registrar of Companies, the name of a company applying for registration is calculated to mislead as to the actual nature of the business of the company or is otherwise undesirable, the Registrar may refuse to register such company.

(2) Except with the consent of the Governor no company shall be registered, or subject to the terms of section 6B hereafter, continue to be registered, when the name suggests any connection with the Crown or the Government of the Colony, or includes the words "bank", "banking", "investment", "trust", "co-operative", "insurance", "assurance" or any cognate expression.

by the Governor.

Provided always that paragraphs (a) and (b) of subsection

Change of name of existing companies.

6B. (1) A company which, on the date of the coming into force of this Ordinance, is registered under the provisions of this Ordinance and which has in its name any of the words or expressions stated in section 6A (2) above shall, before the expiration of the period of twelve months from the passing of this Ordinance, apply to the Registrar to have its name changed to one which does not contain any such word or expression as aforesaid, unless the company has obtained the permission of the Governor to retain the use of the word or expression concerned in its name.

power of companies incorporated outside the colony.

17/1974

(2) If any company which is required to make an application to the Registrar in pursuance of sub-section (1) of this section fails to make such application before the expiration of the prescribed period the Registrar shall treat such company as unregistered and the provisions of this Ordinance shall apply accordingly.

Nature of partnership.

6C. Any person aggrieved by a decision of the Registrar under sections 6A or 6B of this Ordinance may appeal to the Governor, whose decision shall be final.

Appeal

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## AN ORDINANCE

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Application

- (b) a list of the directors of the company;
- (c) the name of some one or more persons resident or stationed for the time being in the Colony authorised to accept on behalf of the company service of process and any notices required to be served on the company;

and in the event of any alteration being made in any such instrument, or in the directors, or in the names of any such person as aforesaid, the company shall file with the Registrar-General within six months a notice of the alteration.

(2) Any process or notice required to be served on the company shall be sufficiently served if addressed to any person whose name has been so filed as aforesaid and left at or sent to the address which has been so filed.

(3) If any company to which this section applies fails to comply with any of the requirements of this section the company, and every officer or agent of the company, shall be liable to a fine not exceeding fifty pounds, or in the case of a continuing offence five pounds for every day during which the failure continues.

(4) There shall be paid to the Registrar for registering any document required by this section to be filed with him a fee of five shillings or such smaller fee as may be prescribed by the Governor:

Provided always that paragraphs (a) and (b) of subsection (1) of this section shall not apply to any company incorporated outside the Colony which shall carry on business within the Colony solely through the medium of a *bona-fide* agent.

6. A company incorporated outside the Colony and duly registered in accordance with the provisions of the last foregoing section may sue and be sued in its incorporated name and enjoy all the privileges of a company projected formed and incorporated in the Colony.

Power of  
Companies  
incorporated  
outside the  
Colony.

17/1974

## II. GENERAL PRINCIPLES OF PARTNERSHIP.

7. Partnership is the relation which subsists between persons carrying on a business in common with a view of profit:

Nature of  
partnership.

Provided that any company or association which is:

- (a) Registered as a Company under this Ordinance or any other Ordinance for the time being in force relating to the registration of joint stock companies; or
- (b) Formed or incorporated by or in pursuance of any other Ordinance of the Colony or letters patent, or Royal Charter;

is not a partnership within the meaning of this Ordinance.

New  
partners.

8. A new partner cannot be introduced to the partnership without the consent of all the partners. The consent of the majority will not suffice.

Sub-  
partners.

9. One partner may take a sub-partner to participate in his share of the partnership but such sub-partner is not a partner in the partnership.

Fraud.

10. The contract is one of good faith among the partners and it can be set aside at any time on fraud being established.

Maximum  
number of  
partners.

11. The number of partners in a private partnership shall not exceed twenty.

Infant may  
become  
partner.

12. An infant may be a partner but he is not responsible for the debts of the partnership if he repudiates his liability on coming of age.

In case of  
lunacy.

13. (1) If a partner was a lunatic at the time of entering into the contract and the fact was concealed from any of the partners the fraud will be a sufficient ground for setting aside the contract.

(2) If the lunacy was known to the other partners they cannot afterwards set aside the contract on that ground but it may at any time be set aside by those acting for the lunatic.

(3) If the contract has been entered into by the lunatic in a lucid moment and is a transaction in good faith as regards the other partners any supervening lunacy will not invalidate the right of the lunatic to his share of the profits and his property will be subject to the debts of the partnership.

(4) If a partner sane at the time of entering into the contract shall become insane during the partnership it shall

be at the option of the remaining partners to continue the partnership according to the terms of the contract or to dissolve the partnership.

14. A married woman may enter into a contract of partnership and shall be entitled to act as a *feme sole* with regard to the partnership.

Married woman may become partner.  
7 of 1950.

15. The undertaking must be a lawful one and may be constituted for purposes of a general nature to speculate in any way which may appear to offer profit.

Undertaking must be lawful but may be of a general nature.

16. The partnership must be for the purpose of making profit in which each of the partners shall have a share.

Partner to share in profits.

17. Each partner shall have a fair chance of making profit but need not actually participate in the profits because a partner may validly stipulate on account of the greater share of the fund which he advances that one or more of the partners shall not receive anything unless a certain amount of profit has been made.

Participation in profits.

18. Partners shall bear any loss mutually: but a partner may stipulate as between himself and the other partners that he shall not be liable to contribute to the loss.

Losses.  
7 of 1950.

19. The shares in the profit and the proportion of responsibility for loss may be equal or unequal according to the agreement of the partners or *pro rata* according to the amount each has contributed to the common fund, but where no stipulation has been made and there is no guide to the intention of parties the shares in the profit and loss shall be taken to be equal.

Shares in profit and loss.

20. A mere participation in profits does not necessarily make the participator a partner. A manager or servant of a partnership may have a share in the profits as his wages and not be a partner.

Share in profits without being a partner.

21. The mere fact that a participator in the profits is the manager or servant of the partnership does not necessarily exclude him from being a partner. Whether he is a partner or not depends upon the intention of parties when he was admitted to share profits and depends upon the facts and circumstances of each case.

Proof of partnership.

Persons may participate in profits without being liable as partners.

22. The advance of money by way of loan upon a contract in writing to receive a rate of interest varying with the profits, or even a share of the profits, will not of itself make the lender a partner. A widow or child of a partner may receive a portion of profits by way of annuity without incurring liability for the debts of the partnership. The vendor of the goodwill of a business may receive a portion of the profits in consideration of the sale without being subject to the liabilities of a partner.

What may constitute capital.

23. The share which the partners contribute to the capital of the partnership need not necessarily consist of money. One may contribute his skill or his labour or goods or real estate or the goodwill of a business, and generally anything which the partners themselves consider to have value may be contributed to the common fund.

Where labour or skill is contributed.

24. Where the contribution of a partner is labour or skill, or something which bears no rateable proportion to the money supplied by others, it is necessary that the share of the profits to which each partner is entitled should be fixed at the time of making the contract. If no proportion is fixed the contributor of the skill or labour shall be entitled to receive profits in proportion to the smallest sum of money advanced by the other partners.

When articles of partnership necessary.

25. No partnership in which the capital exceeds the value of one hundred pounds sterling and the duration of the contract exceeds, or by the nature of the engagement must exceed, twelve months can be pleaded or proved in actions between the partners themselves unless the contract has been embodied in articles of partnership. If a partner has been admitted subsequent to the articles his admission may be proved by letters, writings or facts and circumstances.

As to existing partnerships.

26. Existing partnerships shall be subject to the rules of the law anterior to this Ordinance as regards the necessity of articles, but all future contracts of partnership shall with the exception aforesaid be embodied in articles of partnership.

Limited partners may be responsible as ordinary partners in certain cases.

27. If those who are not partners, or who may be limited partners only, hold themselves out to others as ordinary partners and in this manner cause them to enter into contracts, or make advances, or sell goods on credit, or in any other way to become creditors, the individuals who so represent themselves shall be held bound by their representations.

28. A person who enters into a partnership without notification and continues in it for the purpose of sharing in the profit as a dormant partner shall be liable to creditors during the time he remains a partner in the same manner as an ordinary partner.

Liability of dormant partners.

### III. PRIVATE PARTNERSHIP WHERE THE LIABILITY OF THE MEMBERS IS UNLIMITED.

29. The whole property real and personal original and acquired of the partners as a whole in connection with the partnership shall be held as belonging to the partnership under the firm name style title or designation, and the partnership to that effect shall be regarded as a juridical person and it shall be capable of suing and being sued as such, and each partner shall have a contingent right to his share of the property when the debts shall be paid and the property divided, but no right while the partnership lasts to dispose of the property except for partnership purposes, and each partner shall remain liable for the debts of the partnership.

Partnership property.

30. The partnership may be sued by entering as the name of the defendant the firm name style title or designation under which the partnership conducts its ordinary business, and a writ left at the ordinary place of business of such partnership or with a manager, clerk, shopman, operative or servant therein, or delivered personally to any one partner shall be a sufficient service upon the said partnership and upon the individual partners thereof, and judgment may be given thereon which shall be valid against the partnership as in the case of any ordinary defendant to an action.

Partnership may be sued in name of firm.

31. The partnership may sue under the firm name style title or designation by which it conducts its ordinary business without requiring to insert as a plaintiff the name of any individual partner, and a judgment obtained in any action in which the writ shall be so sued out shall be valid and may be enforced by all the remedies competent to an ordinary plaintiff.

Partnership may sue in name of firm.

32. Real estate may form part of the capital of a partnership although the title may be in name of one or more of the partners and be liable for the debts of the partnership or be treated as personalty on the death of a partner.

Real estate may form capital.



Real estate not necessarily partnership property.

**33.** Real estate may be contributed to the partnership fund not as a portion of the capital but simply for the purpose of cultivation or pasturage the property remaining in the individual partner and the use solely belonging to the partnership.

Titles to land may be taken and transferred in name of partnership.

**34.** Titles to land may be taken in the name of the partnership under its ordinary name style title or designation and a transfer of the same may be validly made under the firm name style title or designation when subscribed to the transfer by one of the partners. Mortgages and encumbrances may be granted and created in the same manner and the transfers mortgages or encumbrances shall when so subscribed be held to have been made with consent of all the partners.

Property to be applied to the payment of debts.

**35.** The partnership property must first be applied to the payment of partnership debts and each partner has a right to have the same so applied before any individual partner or his creditors or representatives can claim any right therein.

Where partners may claim individually, etc.

**36.** Each partner has a claim on the partnership property for all funds advanced by him and the partnership has also a claim for the repayment to the partnership of whatever has been taken by one partner beyond his share.

Claims against individual partners.

**37.** No creditor of an individual partner can acquire any right title or interest in the partnership property, even as the consequence of a judgment, except for so much as belongs to the partner after all claims on the partnership as a whole are deducted and satisfied, and the mode of putting any such judgment in force shall be by attachment of the partner's share of profit and property and not by seizure and sale.

Partner may bind partnership in relation to its ordinary business.

**38.** Each partner, while the stipulations in the articles of partnership bind the partners *inter se* in regard to the extent of their powers, as regards the public can bind the partnership by his acts in relation to the partnership business, subject to the limitation that they must be in relation to the partnership business as ordinarily conducted. No partner can bind his co-partners to obligations which both he and the persons with whom he deals must have known to be beyond the ordinary scope of the business and of the powers ordinarily exercised by partners.

39. In ordinary trading partnerships the buying and selling of goods, the drawing accepting and indorsing of bills, the granting of cheques upon the partnership bank account, the borrowing of money within ordinary limits for trade purposes, the granting of receipts, the ordering of insurances, the payment of debts, the granting of Custom House bonds, and the pledging of partnership property for partnership purposes are all within the scope of the agency entrusted to each partner.

Ordinary trading transactions may be entered into by any partner.

40. In partnerships where it is part of the ordinary business to grant warranties or guarantees the guarantee of one partner shall bind the whole, but where that is not the ordinary course of the business of the partnership the holder of the guarantee will require to prove that it was done with the consent of the firm.

With regard to the granting of warranties, etc.

41. One partner has no authority to refer a matter in dispute to arbitration in name of the partnership without the consent of the other partners.

Reference of dispute.

42. Contracts will not bind the partnership which have been made by one partner with a party who has knowledge or notice that the partner is acting beyond his powers or in fraud of the firm.

Contracts not binding in certain cases.

43. Where a partner gives a bill or acceptance or indorsement of the firm in payment of his private debt the firm will not be bound to the person accepting such a payment unless he can prove that the partner was authorised, or otherwise establishes the *bona fides* of the transaction. If the bill is in the hands of third holders the partnership shall be liable unless the circumstances show that the holder was aware of the nature of the transaction.

Acceptance of the firm given for a private debt.

44. Where money has been raised by one partner upon the faith of the partnership signature and such partner applies the money to his own private debt the firm will be bound when the party advancing the money had no knowledge of the object to which it was to be applied.

Application of partnership money to private use.

45. The same rules will apply to the application of the securities or property real or personal of the firm in payment of the private debt of a partner.

Application of partnership securities.

Where money has been advanced to individual partner.

**46.** Where money has been advanced to a partner upon his individual credit and responsibility, although the money be paid into the firm account and employed for partnership purposes, the person making the advance must go against the individual partner who obtained it upon his own credit.

Where a partner is accepted as debtor in place of firm.

**47.** Where a partnership has been originally liable for a debt and the creditor by arrangement accepts one of the partners as his debtor in place of the partnership such acceptance will extinguish the debt against the firm.

Liabilities of retiring and new partners respectively.  
41 of 1949.  
10 of 1950.

**48.** (1) Notice of the retirement of a partner shall be given publicly in the manner specified in section 102 hereof and privately to all creditors of the partnership.

(2) A person who is admitted as a partner into an existing partnership does not thereby become liable to the creditors of the partnership for debts or obligations incurred before he became a partner.

10 of 1950.

(3) A partner who retires from a partnership does not thereby cease to be liable for partnership debts or obligations incurred before his retirement.

10 of 1950.

(4) A retiring partner may be discharged from any debts or obligations of the partnership, existing at the time of his retirement, by an agreement to that effect between himself and the members of the partnership as newly constituted and the creditors, and such agreement may be either express or implied as a fact from the course of dealing between the creditors and the partnership as newly constituted.

Liability for torts.

10 of 1950.

**49.** (1) The partnership is liable for torts committed by the partners or the servants of the partnership within the scope of and in the course of carrying on partnership business, or if the act has been endorsed and accepted by the firm.

For frauds.

(2) The partnership is liable if one of the partners fraudulently disposes of property consigned to the custody and care of the partnership.

For injuries to persons or goods.

(3) The partnership is liable for injuries to persons or goods caused by the want of care or want of skill of the partners or servants of the firm in the carrying on of the ordinary business of the firm.

(4) A partnership of publishers shall be liable for the printing and publishing of a slander by the firm on the authority of one of the partners in the course of the business of the firm. For slander.

(5) The partnership will be liable for frauds committed on the revenue by one of the partners in conducting the business of the firm. For frauds on the revenue.

50. A partner is responsible to the partnership for any loss sustained by the partnership from his gross negligence, unskilfulness, fraud or misconduct. Responsibility for loss.

51. A partner is responsible to the partnership for intentional breaches of the articles of partnership. For breach of articles.

52. A partner who makes any false representations to his partners or conceals from them facts in connection with the business and thereby makes profit to himself must make good to the partnership the profit so obtained. For false representations.

53. A partner who makes any private stipulations with third persons for bonuses or premiums for himself in connection with the business of the partnership must account therefor to the partnership. Private bonuses, etc.

54. A partner cannot enter into any other business or engagement which will interfere with the proper performance of his partnership duties, nor make purchases or sales on his private account which would interfere with the bargains of the firm or lessen their profit, nor enter upon any other undertaking which would give him a direct interest contrary to that of the partnership, but the position must be one not merely of temptation to act in such a manner but an obvious antagonistic interest. Partner not to compete with the partnership.

55. The partners shall account faithfully to the partnership for all transactions and keep business books in which everything done by each shall appear and be accounted for. Books must be kept.

56. The withholding of accounts by one partner from the firm shall be of itself a presumption that fraud has been perpetrated or was intended. Withholding accounts a presumption of fraud.

Access to  
books.

57. All the partners are entitled to know the full extent of the partnership affairs and to have free access to the books on all occasions unless they have intentionally limited their powers by the articles.

Salaries and  
private ex-  
penditure of  
partners.

58. The articles shall state what sum each partner will be entitled to draw for his private expenditure and may stipulate that one or more shall receive a sum by way of salary before profits are estimated, but unless this stipulation be set forth the presumption will be against any salary being payable.

Stipulations  
to be inser-  
ted in  
articles.

59. Only such stipulations as would not be implied by law need be inserted in articles of partnership.

Agreements  
to form part-  
nership.

60. Agreements to form a partnership may be entered into, which are not the partnership articles, and such preliminary agreements cannot be enforced so as to compel persons who are unwilling to enter into partnership, but an action will lie for damages for breach of the agreement whenever any of the parties has proceeded in fulfilment of it to contract engagements, to realise funds, or do any other act which has involved pecuniary obligations or loss in virtue of the agreement.

Construction  
of articles.

61. Articles of partnership are construed like other contracts according to the intention of the parties and so as to defeat fraud and the taking by any partner of an unfair advantage over his co-partners.

Variation of  
articles.

62. When partners do not exactly observe the articles of partnership but permit a practice at variance with the articles, a partner cannot thereafter attempt to enforce the articles but the practice will be taken as a virtual alteration or repeal of the articles by consent of all. The articles may be varied during the partnership with consent of all the partners.

Where a  
specific busi-  
ness is  
carried on.

63. When the partnership is entered into for the carrying on of a specific business the Supreme Court in the event of dispute shall construe strictly the description of the business set forth in the articles so that the partnership be not turned from its legitimate ends.

64. If no date is specified for the commencement of the partnership it will be held to commence from the date of the articles.

Date of commencement.

65. The name or style by which the firm is to be known shall be defined by the articles and need not include that of any of the existing partners.

Name of firm to be defined.

66. The articles shall set forth the duration of the partnership but whatever time be stated the death of a partner brings the partnership to an end unless there are stipulations to the contrary.

Duration of partnership.

67. The articles may empower the representative of a deceased partner to carry on the business with the survivors for the benefit of the widow and children of the deceased partner and for the admission of one or more of the children as partners on their arrival at majority.

Death of partner need not terminate partnership.

68. If the interest in the partnership be given to the widow during her life and to the children after her death it is only the children who survive the mother who are entitled to a share.

Where interest is given to the widow.

69. The articles may empower any partner to provide by will or otherwise for the disposal of his share in the event of death. If the will leaves the executors the freedom of declining to continue the partnership, and they so decline, the death of the party puts an end to the partnership.

Disposition of share by will or otherwise.

70. The articles shall contain provisions for the manner in which the share of a deceased partner shall be valued and paid should the representatives not be admitted into business.

Share of deceased partner.

71. It may be stipulated that one or more of the partners shall have the direction of the business of the partnership and these provisions will be enforced by a competent Court.

One or more partners may conduct business.

72. Where a partnership is formed for working some manufacture which is a secret it will be competent for the partner who is in possession of the secret to make such stipulations as shall protect him in the working thereof.

As to secret manufactures.

Computation  
of capital.

**73.** The clauses in connection with the contribution of the capital shall bring to a money valuation such items as lands, buildings, book debts and other property which may be contributed in order that the capital account may be clearly set forth.

Profits.

**74.** Provision shall be made for balances and division of profits.

Accounts  
when agreed  
to be con-  
clusive.

**75.** It may be provided to prevent future disputes that the accounts as agreed to at any particular time shall be conclusive but no such provision will bar an inquiry into fraud.

Employees.

**76.** The mode of hiring and dismissing employees of the firm shall be provided for.

Retirement  
of partner.

**77.** The mode of permitting a partner to retire from the firm either with or without liberty to carry on the same trade and the purchase of his share by the firm or otherwise may be stipulated.

Dissolution  
and winding  
up.

**78.** The steps necessary to be taken upon dissolution, the mode of winding-up and the settlement of controversies shall be provided for, and the partners may provide that any of their number may be expelled from the partnership should his conduct or pecuniary entanglements be such as to compromise the credit of the firm.

Firms may  
sue and be  
sued.

**79.** (1) A partner may sue the partnership under the firm style name title or designation and the partnership may in like manner sue a partner for any matter or thing in relation to which a cause of action has arisen. Two firms may sue each other although some of the partners may be partners in both, or any member of either firm may sue either or both.

(2) Third parties may sue the partnership and the partnership may sue third parties in the same way as ordinary plaintiffs may sue, but when judgment has been given against the partnership the execution will not lie against the separate partners unless the firm has no effects. Where the judgment has to be enforced by imprisonment it will be competent to proceed against one or other of the partners at the choice of the judgment creditor.

80. Where judgment has been given against a partner for a private debt the share of profit and share of partnership property belonging to such partner in the hands of the firm may be attached, but it shall not be competent to proceed to seizure and sale of the property of the firm for the separate debt of a partner.

Private debts of partner.

81. The firm will be deemed to be in existence after the active operations of the partnership have ceased, or after the partners have entered into a new contract, for all purposes connected with the receiving and paying the debts of the firm and generally for the purpose of winding-up only.

Existence of firm.

82. One partner may sue another for all matters or things unconnected with the partnership and even for matters arising out of the partnership if the interests of the firm are not necessarily involved.

One partner may sue another.

83. Any partner who has been denied access to the books or papers of the firm, or who has reason to believe that one or more of the partners have made profit from the partnership without disclosing it, may sue the firm for an account and this right extends to the executors administrators or representatives of a deceased partner. Such action may be taken without asking for a dissolution of the partnership, but the Supreme Court may decree the dissolution should circumstances emerge during the inquiry which induce the belief that mutual concert and agreement between the parties is thenceforth impossible.

Partner may sue for account.

84. A partnership may be dissolved by the act or consent of the partners or of some of them, or by the judgment of a competent court, or by the mere operation of law, or by the extinction or completion of the thing in regard to which the partnership was formed, or by the lapse of time for which it was originally contracted, or by the death or bankruptcy of a partner.

Partnership may be dissolved.

85. All partnerships, whether a period has been fixed for the termination of the contract or the duration is merely dependent on the will of the partners, can be brought to an end by mutual consent, the whole existence of the contract depending upon the consent of the parties who made it. A partnership which has no fixed term may be dissolved at

Dissolution by consent.



the desire of the partners or by acts which are inconsistent with the continuance of the partnership.

Resolution  
to dissolve.

86. Where the original contract has been made by deed under seal a resolution to dissolve, publicly announced as afterwards provided for, will be sufficient to effect dissolution.

Dissolution  
by the Court.

87. A partnership for a stated period cannot be brought to an end by the mere will of one of the partners but any partner may apply to the Supreme Court for a dissolution on sufficient cause shown.

Partnerships  
at will.

88. When the term for which the partnership was originally formed has elapsed and no notice of dissolution has been given and no new articles of partnership entered into, but the partners have continued the business without any change, the association between them will be treated as a partnership at will on the same terms and conditions, so far as applicable, which are set forth in the original articles.

Court may  
end partner-  
ship on cause  
being shown.

89. (1) A partnership may be dissolved by the Court on the application of a partner, although the fixed term has not elapsed, for such misconduct fraud or violation of duty on the part of one or more of the partners as is calculated to injure the credit or interfere with the business of the partnership.

(2) Application may be made to the Supreme Court for a dissolution on the ground of the impracticability of carrying out the partnership owing to change of circumstances or failure of expectations.

Insanity a  
cause.

90. Insanity, to be a ground for dissolution of partnership, must be likely to be permanent and not a merely temporary malady.

Absence  
of partner.

91. The prolonged absence of a partner, his residence out of the Colony, his change of domicile or engaging in pursuits incompatible with his duty to the partnership may all be good grounds for the dissolution of the partnership by the Court where the term has not expired.

Question of  
dissolution  
may be  
referred.

92. The partners may refer to arbitration the question of dissolution before the agreed on term and an award decreeing dissolution shall be a competent award, and even where the

question of dissolution has not been expressly referred if the differences between the partners have been referred and the arbitrators have awarded a dissolution that shall be a competent award.

93. The conviction of a partner for treason or felony operates as a dissolution of the partnership.

Effect of  
conviction.  
10 of 1950.

94. A female partner marrying may continue as a partner and her husband shall have no right to interfere in the affairs of the firm but she shall act therein as a *feme sole*; nevertheless the marriage of a female partner during the term of the partnership may be a good ground for applying to the Supreme Court to decree a dissolution under the particular circumstances of the case.

Effect of  
female part-  
ner  
marrying.

95. The voluntary assignment by one or more of the partners of all their right title and interest in the partnership property dissolves the partnership.

Voluntary  
assignment.

96. The attachment of the profit and share of the property in the firm of one partner by a creditor may be a ground for applying to the Supreme Court for a dissolution of the partnership.

Attachment  
of profit and  
share of part-  
ner  
by  
creditor.

97. The bankruptcy of one of the partners shall dissolve the partnership.

Bankruptcy  
of partner.

98. The death of a partner dissolves the partnership between the survivors as from the date of the death unless the contrary has been provided in the articles of partnership.

Death of  
partner.

99. In all cases of dissolution the affairs of the firm must be wound up, and the debts may be collected and paid in the name of the firm by all or some or one of the partners nominated for that purpose, and the accounts adjusted.

Winding-up.

100. The dissolution of the partnership does not change the rights of third parties in regard to liabilities due by the firm and they are entitled to be paid out of the partnership assets and, where these are insufficient, by the partners or the estate of a deceased partner. Where the partnership assets are insufficient the action will continue to lie against the

Rights of  
third parties  
in regard to  
liabilities.

firm under its ordinary name style title or designation until the winding-up is finished and the judgment may be put in force against the individual partners.

Partnership  
in liquida-  
tion.

**101.** Where a partnership is subsisting solely for the purpose of winding-up the words "in liquidation" shall be added to the name of the firm in course of winding-up on its ordinary place of business and on the heading of all bills and demands made upon debtors and in all documents relating to the winding-up and in any legal proceedings instituted by or against the firm.

Notice in  
cases of  
dissolution.

**102.** On the dissolution of a partnership, in order to prevent partners being held liable as such for the acts of their co-partners after dissolution, a notice of the dissolution published in the *Gazette* and newspapers of the Colony shall be sufficient public notice within the Colony, but creditors of the partnership are entitled to separate private notice by writing.

Bankruptcy.

**103.** A trading partnership may apply to be adjudicated bankrupt on the same grounds as a sole trader or the partnership may be made bankrupt compulsorily by creditors in the same manner as a sole trader.

Firm adjudicated bankrupt.

**104.** A firm may apply to be adjudicated bankrupt without an adjudication being asked for against the individual partners and the creditors may apply for adjudication against a firm alone without seeking an adjudication against the individual partners.

Effect as  
against  
individual  
partners.

**105.** Where a firm applies to be adjudicated bankrupt without an adjudication against the individual partners any creditors of the requisite amount may apply for adjudication against the individual partners.

Partners  
may apply  
for adjudica-  
tion.

**106.** Where creditors have applied for adjudication of bankruptcy against a firm and not against the individual partners the partners may make an application to have themselves adjudicated bankrupt.

Special  
adjudication  
against  
partners.

**107.** Creditors applying for adjudication of bankruptcy against a firm may apply for adjudication against one or more of the individual partners without applying for adjudication against all, and one or more of the partners

may apply for adjudication against themselves when that is competent without all having so applied.

**108.** When adjudication of bankruptcy has been granted against a firm only, either on the voluntary application of the firm or compulsorily at the instance of creditors, without the individual partners being adjudged bankrupt, and the trustee shall find either in the course of his investigations or at the conclusion thereof that the contributions required from any of the individual partners to pay the debts of the firm are greater than they can pay or provide for, or if he has reason to believe that any individual partner is disposing of his separate property without awaiting the result of the investigation, or is preparing to leave the Colony, or in any way acting so as to prejudice the right of the creditors under the bankruptcy, the trustee may apply for an adjudication of bankruptcy against such partner or partners.

Power of trustee in certain cases.

**109.** Creditors cannot apply for an adjudication of bankruptcy against a firm for debts due by an individual partner, but they may apply for the bankruptcy of the separate partner, and if granted his bankruptcy operates as a dissolution of the partnership, which may then be wound up either by the firm in liquidation or by an adjudication of bankruptcy against the firm should that be applied for in a competent manner.

Bankruptcy of partner—effect of.

**110.** Where adjudication of bankruptcy against a firm is accompanied or followed by adjudication against the individual partners the Court may appoint the same trustee to wind up the different estates where such a course shall appear best for all concerned.

Court may appoint same trustee.

**111.** Where there is a concurrent winding-up of the estate of the partnership and the separate estates of the partners, it is not necessary for the trustee to await the completion of the winding-up of the partnership estate before he declares any dividend on the estates of the individual partners or vice versa, provided that he is satisfied that there are sufficient funds in either estate to pay the deficiency on the other, or that he makes sufficient allowance for the probable claims against either before declaring a dividend. The share of the surplus of the individual partner from the partnership estate will become an asset of his individual

Concurrent winding-up: duty of trustee.

estate, and where there is no surplus but a deficiency the deficiency in whole or in part according to the solvency of the other partners will rank as a debt upon the separate estate.

Partners  
may prove  
against  
partnership.

**112.** Partners, subject to their liability for any deficiency in the partnership assets, may prove against the partnership estate for any debts due to themselves personally and especially where the claim of the partner proving is founded upon a fraudulent appropriation of his separate property to the purposes of the partnership.

Where part-  
ners are  
members of  
another firm.

**113.** If one or more of the partners should be members of another partnership or carrying on another trade, such partnership or partner as trader may prove for such partnership or trade debts in the same manner as ordinary creditors against the partnership or the estates of individual partners.

Partnership  
may prove  
against  
bankrupt  
partner.

**114.** The partnership may prove as a creditor against the estate of a bankrupt partner for any sums owing by him and for sums fraudulently converted by him to his own estate.

#### IV. PARTNERSHIP WITH LIMITED LIABILITY OF CERTAIN PARTNERS.

Form of  
partnership  
with limited  
liability of  
certain  
partners.

**115.** A partnership may consist of two classes of partners, one class consisting of one or more partners being responsible for the debts of the partnership as ordinary partners, and another class which may also consist of one or more partners who are contributors to the capital solely and not active members of the partnership and whose liability for the debts of the concern shall be limited to the amount of capital contributed by them.

Designation.

**116.** The name of the partnership shall include one or more of the partners whose liability is unlimited together with the addition "and company" to cover the partners not named, and it shall not be necessary to add anything to such a designation to show that any of the partners are mere contributors to the capital and not active members of the partnership, but the insertion of the name of any contributory in the name style title or designation of the firm shall of itself make him an ordinary partner.

Terms and  
conditions to  
be stated in  
articles.

**117.** The terms and conditions of such partnerships must be set forth in the articles of partnership whatever the amount

of the capital or period of duration of the partnership, and these articles must disclose the partners whose liability is unlimited, and the names and the amount of contribution to the capital of those partners who are not to interfere in the active management of the partnership and not to be responsible beyond the amount contributed and their respective rights and interests in the partnership.

**118.** An abstract of the articles of such partnership prepared by the parties thereto and certified as correct by one of the partners whose liability is unlimited or by an attorney of the Supreme Court shall be filed in the office of the Registrar-General. Abstract of articles.

**119.** Such abstract shall set forth as nearly as may be in the form contained in Schedule B hereto annexed the date when the articles of partnership were entered into, the name of the company, the nature of the business, the date of the commencement of the partnership and its duration, the names of the partners whose liability is unlimited, the amount of capital of the company and the sums contributed by partners whose liability is limited. It shall not be necessary to disclose in such abstract the names of the partners who merely contribute to the capital. Abstract of articles must be registered.

**120.** There shall be charged for the registration of such abstract and the inspection thereof or for a certified copy of the same the sums set forth in Schedule C hereto annexed. Fees.

**121.** The exhibition of the articles of partnership and the disclosure of the names of the partners whose liability is unlimited can at any time be ordered by the Supreme Court in the course of proceedings against the partnership. Court may order exhibition of articles, etc.

**122.** Any partner or attorney who certifies to the correctness of an abstract which shall not truly disclose the facts required to be disclosed as the same are contained in such articles of partnership, or which shall falsely set forth any of such facts, shall commit an offence which shall be punishable on conviction by imprisonment for a term not exceeding two years. Certificate to false abstract: penalty.

**123.** If the partners who are set forth in the articles as contributing to the capital and not to be liable beyond the Liability of dormant partner.

amounts of their contribution afterwards take an active part in the administration of the partnership they shall be liable as ordinary partners.

Proof of active partnership defined.

**124.** Visiting occasionally the place of business for the purpose of inspecting the books and advising with the other partners upon business matters shall not be regarded as taking part in the administration in the sense of the preceding section, but any buying and selling or dealing with the cash, or presence in the place of business during business hours, or actively engaging in the business which would lead the public to believe that the partner so acting was an active partner in the concern shall make him subject to the liabilities of the firm as an ordinary partner.

Proof of true position of partner.

**125.** In the event of any question arising as to the true position of a partner the burden of proof will lie upon the partner who claims to be relieved from the ordinary obligations to show that he was only a contributor to the capital and not an ordinary partner.

Where partner shall be deemed an ordinary partner.

**126.** If any partner shall receive a portion of the profit of a partnership and is unable to prove that he has paid the sum stipulated in the articles of partnership to be payable by him as a partner contributing to the capital he will be taken to be an ordinary partner and liable for the debts of the partnership as such.

Restriction as to capital.

**127.** It shall not be lawful to divide or constitute the capital of a partnership of this description by shares.

All partners may inspect accounts.

**128.** Partners who do not take part in the administration of the business may at any time demand an inspection of the accounts of the partnership, and it shall be the duty of the partners who administer to keep the books of the partnership correctly and up to date.

Effect of refusal.

**129.** If accounts shall not be delivered or shown on demand the partner may apply to the Court for an account with or without praying for a dissolution of the partnership, and on such application the Court may not only order an account but may decree a dissolution.

130. If the partners who administer the affairs of the partnership or any of them knowingly give or exhibit to the partner or partners whose liability is limited a false account, they shall be deemed to have committed a fraud upon such partners, and shall be guilty of an offence punishable on conviction with imprisonment for a term not exceeding two years.

Penalty for exhibiting false accounts.

131. Any partner whose liability is limited who shall knowingly accept any sum purporting to be a dividend upon the amount of capital contributed by him, or in the name of profit made by the partnership when no such profit was made, shall be held liable for the debts of the partnership as an ordinary partner.

Liability of partner accepting dividend when no profit was made.

132. Any business which may be conducted under an ordinary partnership may be conducted under a partnership having partners whose liability is limited as hereinbefore defined including the holding of real property and the working of farms.

What business may be conducted in partnership.

133. The partner contributing to the capital solely shall not rank as a creditor in the bankruptcy of the partnership until all other creditors are satisfied and paid.

Where partner contributing capital is a creditor.

#### MISCELLANEOUS.

134. Benefit industrial and provident societies shall not come within the operation of this Ordinance.

Benefit and Provident Societies.

#### SCHEDULE A.

##### Table of Fees.

~~For the registration of a company whose nominal share capital does not exceed £5,000—£5, and 5s. for every £1,000 or part thereof of the nominal share capital after the first £5,000.~~ 41 of 1949.

For the registration of a company £250. al after the first registration if the increased capital had formed part of the original share capital.

~~Provided that no company shall be liable to pay a greater amount of fees than £30.~~

17/1974



amounts of their contribution afterwards take an active part in the administration of the partnership they shall be liable as ordinary partners.

Proof of active partnership defined.

**124.** Visiting occasionally the place of business for the purpose of inspecting the books and advising with the other partners upon business matters shall not be regarded as taking part in the administration in the sense of the preceding section, but any buying and selling or dealing with the cash, or presence in the place of business during business hours, or actively engaging in the business which would lead the public to believe that the partner so acting was an active partner in the concern shall make him subject to the liabilities of the firm as an ordinary partner.

Proof of true position of partner.

**125.** In the event of any question arising as to the true position of a partner the burden of proof will lie upon the partner who claims to be relieved from the ordinary obligations to show that he was only a contributor to the capital and not an ordinary partner.

Where partner shall be deemed an ordinary partner.

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134. Benefit industrial and provident societies shall not come within the operation of this Ordinance.

Benefit and Provident Societies.

#### SCHEDULE A.

##### Table of Fees.

~~For the registration of a company whose nominal share capital does not exceed £5,000—£5, and 5s. for every £1,000 or part thereof of the nominal share capital after the first £5,000.~~ 41 of 1949.

For registration of any increase of share capital after the first registration the same fees as would have been payable if the increased capital had formed part of the original share capital.

~~Provided that no company shall be liable to pay a greater amount of fees than £30.~~

17/1974

	£	s	d
For registering any document required or authorised to be registered by the first part of this Ordinance dealing with Companies or under the provisions of the Imperial Acts mentioned in the first part of this Ordinance .. ..	0	5	0
For certified copies of any documents where, by this Ordinance, no specific fee is provided, per folio .. ..	0	1	0
For certificate of registration of a company .. ..	1	0	0

**SCHEDULE B.****Form of Abstract of Articles of Partnership to be Registered.***(Sections 25 and 119.)*

TAKE notice that certain articles of partnership were entered into on the day of

That the name under which the partnership will carry on business is John Smith & Co. *(or as the case may be)*.

That the business to be carried on is that of

That the partnership commenced [*or commences*] on the day of and that its duration is for years.

That the following partners will administer the business of the partnership and be responsible as ordinary partners for the debts of the concern, viz.: *(here insert names)*.

That the amount of the capital of the partnership is £

That the following sums have been [*or are to be*] contributed by partners whose liability is limited to the amount of their contribution, viz.: £2,000, £500 and £500 [*or whatever the sums may be*].

All which I the undersigned partner [*or attorney as the case may be*] solemnly declare to be a correct representation of the facts above set forth as the same are contained in the articles of partnership.

In witness whereof I have hereunto set my hand this day of

*(Signature).***SCHEDULE C.****Fees to be Charged under Section 120.**

	£	s	d
Recording abstract of partnership .. ..	5	0	0
Inspection of register .. ..	1	0	0
Certified copy of an abstract .. ..	2	10	0