
CHAPTER 311**PARTNERSHIP LIMITED LIABILITY**

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CHAPTER 311
PARTNERSHIP LIMITED LIABILITY
An Act to authorise the formation of partnerships with limited liability.

*13 of 1861
5 of 1987
50 of 2011*

[Commencement 11th May, 1861]

1. This Act may be cited as the Partnership Limited Liability Act. Short title.

2. (1) Partnerships, with limited liability, for the transaction of any mercantile, mechanical or manufacturing business within The Bahamas, except banking or insurance, may be formed by two or more persons, upon the terms, with the rights and powers, hereinafter provided. Partnerships may be formed.

(2) The provisions of the Partnership Act shall apply to a partnership under this Act except in so far as they are inconsistent with express provisions of this Act. *50 of 2011, s.2.*
Ch. 310.

3. In any such partnership one or more of the members thereof shall be called the general partners, and shall be jointly and severally responsible, as partners now are by law; and the other members thereof shall be called the special partners, who shall each contribute a specific amount of capital, in cash, or other property, at cash value, to the common stock; and such special partners shall not be liable for the debts of the partnership beyond the amount of the fund so contributed by them respectively to the capital; except as hereinafter provided. General and special partners.

4. The persons desirous of forming such partnerships shall make, and severally sign, a memorandum of co-partnership, which shall be in the form in the Schedule to this Act, or as near thereto as circumstances will permit; and shall acknowledge the same before a notary public, who shall verify the same under his hand and seal of office which memorandum of co-partnership shall contain the following things, that is to say — Form of memorandum of co-partnership. Schedule.

- (a) the name of the firm under which the partnership business is to be conducted, and where the same is to be carried on;
- (b) the general nature of the business to be transacted;

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- (c) the names of all the general and special partners interested therein, distinguishing which are general partners, and which are special partners, and their respective places of residence;
 - (d) the amount of capital stock, in cash, or other property, which each special partner shall have contributed to common stock;
 - (e) the period at which the partnership is to commence, and the period when it will terminate.

Declaration of
general partners.

5. After such memorandum of co-partnership shall have been so made, acknowledged and certified as hereinbefore provided, the general partners named therein shall also make and sign a solemn declaration before such notary to the effect that such portions of the capital stock as have been contributed in cash by the special partners have been deposited in a bank at Nassau in the name of the firm, and shall produce to such notary, to be annexed to such declaration, a certificate to that effect from the manager of the said bank and shall also declare that the amount in money, or other property, at cash value, specified in such memorandum has been actually and in good faith contributed for the purpose of being applied as set forth in the memorandum.

Declaration to be
recorded and
filed.

6. Every memorandum so acknowledged and verified, and every declaration so made and signed as aforesaid, shall, with the certificate as aforesaid of the manager of the bank, be recorded in the Registry of Records; and the originals shall then be filed in the said Registry; and such originals, and the respective records thereof, shall be open to the inspection of all persons desiring to peruse the same, during the time such Registry is open for the discharge of public business; and every person requiring a copy thereof shall be entitled to have the same furnished him on payment of the usual fees.

No partnership
to be deemed
formed until
declaration and
other papers
filed.

7. No such partnership shall be deemed to have been formed until such memorandum, with the verification thereto, and the declaration of the general partners, and certificate of the manager of the bank, shall have been filed as above directed; and, if any false statement be made in such memorandum or declaration, such partnership shall not be deemed a partnership with limited liability under this Act.

8. The partners shall publish the terms of the partnership, when recorded, for at least six weeks immediately after the recording thereof in all the newspapers printed in The Bahamas, and until such publication is made, for the period aforesaid, the partnership shall not be deemed a partnership with limited liability under this Act.

Publication of terms of partnership.

9. Affidavits of the publication of such notices, by the printers of the newspapers in which the same have been published, or some one in their employ, knowing of such publication, may be filed in the Registry of Records and shall be evidence of the fact therein contained.

Evidence of publication.

10. In the memorandum of co-partnership, to be made and filed as hereinbefore provided, the name or names of the general partner or partners only shall be inserted in the name of the firm under which the business of the partnership is to be carried on, with the word “Limited” as the last word of such name, and the business of the partnership shall be carried on under no other name than that inserted in the memorandum of the co-partnership, and the general partners only shall be authorised to transact the business of the partnership and to sign for and bind the same; and if any special partner's name be inserted, with his privity or consent, in the name of the firm under which the business of the said co-partnership is carried on, or if any special partner, in any manner, transact business, or contract in the name of the partnership, he shall incur all the liability in respect thereof which he otherwise would have if this Act had not been passed.

Name of general partners only to be inserted in memorandum.

11. In all business transactions, of any such partnership, the name of such partnership, as recorded in the memorandum of co-partnership, with the word “Limited,” as the last word of such name, shall be the name used; and in all bills of exchange, promissory notes, endorsements, cheques and orders for money or goods, and all bills of parcels, invoices, receipts and letters, by, or on behalf of such partnership, such name with the word “Limited,” as the last word of such name, shall be written, printed or engraved, in legible characters, and if, any business transaction, or in any bill, note, endorsement, cheque, order, invoice, receipt or letter, any other name is used, or the word “Limited,” as the last word of such name, omitted, any person thereby induced to deal with such

Recorded name of partnership to be used.

partnership, or, who deals with the same, in any such transaction, or into whose possession any such bill, note, endorsement, cheque, order, invoice, receipt of letters, may be or come, in the ordinary course of mercantile dealings, shall have the same rights, and be entitled to the same remedies against all the partners, whether general or special, of the said partnership as he would have been entitled to, if the said partnership had not been formed under the provisions of this Act.

Name of partnership not to be identical with any other, or so nearly resembling as to deceive.

12. No partnership under this Act shall have a name identical with that inserted in the memorandum of co-partnership of a subsisting partnership, or, so nearly resembling the same as to be calculated to deceive, and it shall be the duty of the Registrar General to refuse and abstain from filing or recording any memorandum of co-partnership in which the name of the proposed partnership is identical with that of a subsisting partnership, under this Act, or which, in his opinion, so nearly resembles the same as to be calculated to deceive.

Memorandum declaration and certificate in renewal or continuance of partnership.

13. Upon the renewal or continuance of any partnership under this Act, beyond the time originally fixed for its duration, a memorandum of co-partnership shall be made, acknowledged and verified, with a declaration made, and the certificate of the manager of a bank obtained, and the said memorandum, declaration and certificate shall be filed in the Registry of Records in the same, and the like manner, as is hereinbefore provided for the formation of such partnership; and public notice of such continuance, or renewal, shall also be given in the same and the like manner, and for the same period, and subject to the same provisions, as is hereinbefore provided, upon the formation of such partnership.

No alteration to be made in number of partners during period mentioned in memorandum.

14. During the period mentioned in the memorandum of co-partnership, for the existence of the partnership, no alteration shall be made, in the number of the partners, whether general or special, or, in the name of the firm under which the partnership business is carried on, or the nature of the business carried on, or the capital in cash, or stock, or in any other matter specified, in the original memorandum of co-partnership; and any partnership which shall in any way be carried on, after any alteration in any of the above particulars shall have taken place, shall not be deemed a partnership, with limited liability, within the meaning of this Act.

15. During the continuance of the partnership, under the provisions of this Act, no part of the capital stock thereof shall be withdrawn, nor any division of interest or profits be made, so as to reduce the said capital stock below the sum stated in the memorandum above mentioned; and if, at any time, during the continuance, or, at the termination, of the partnership, the property or assets shall not be sufficient to pay the partnership debts, then the special partners shall, severally, be held responsible for all sums, by them received, withdrawn or divided, with interest thereon, from the time when such partnership is declared by the person authorised by the provisions of section 36 of this Act, to have become insolvent, such sums with interest thereon, to be over and above the amount which such special partners may have contributed, upon the formation of such partnership.

No capital stock to be withdrawn during continuance of partnership.

16. All suits respecting the business of such partnership shall be prosecuted by, and against, the general partnership only; except in those cases in which provision is made in this Act, that the partnership shall not be deemed a partnership; and excepting, also, those cases where special partners shall be held generally responsible, on account of any sums, by them received or withdrawn, from the common stock, as above provided.

Suits, except in certain cases, to be prosecuted by and against general partners.

17. No dissolution of a partnership, with limited liability, under this Act, shall take place, except by operation of law, before the time specified in the memorandum before-mentioned; unless a notice of such dissolution shall be recorded in the Registry of Records; and unless such notice shall also be published, twelve weeks, successively, in all the newspapers published in The Bahamas.

No dissolution, except by operation of law, to take place before the time specified unless with notice given.

18. A partnership may be wound up, by the court on its Bankruptcy Side, under the following circumstances, that is to say —

Provision for winding up partnership.

- (a) whenever the partners pass a special resolution requiring the partnership to be wound up, by the court;
- (b) upon the death of any of the partners;
- (c) whenever the partnership is unable to pay its debts;

- (d) whenever three-fourths of the capital of the partnership has been lost, or become unavailable;
- (e) whenever the special partners, or a majority of them, so require it.

When partnership shall be deemed unable to pay its debts.

5 of 1987, s. 2.

19. A partnership shall be deemed to be unable to pay its debts —

- (a) whenever a creditor to whom the partnership is indebted, in a sum exceeding two hundred dollars, then due, has served, on such partnership, by leaving the same, at the place of business thereof, a demand in writing, requiring the partnership to pay the sum so due, and the partnership have, for the space of one month, neglected to pay such sum, or secure or compound for the same to the satisfaction of the creditor;
- (b) whenever execution, issued on the judgment, decree or order obtained, in any court, in favour of any creditor, in any suit or other legal proceeding, instituted by such creditor against the partnership is returned unsatisfied in whole or in part.

Application for winding up shall be by petition.

20. Any application for the winding up of a partnership shall be by petition, and there shall be filed, or lodged at the time when such petition is presented, an affidavit verifying the same, and such petition may, in cases where the partnership is unable to pay its debts, be presented either by a creditor or general partner, but when any other ground is alleged for winding up the partnership, a partner alone is entitled to present the petition.

Court may dismiss petition with or without costs.

21. Upon the hearing of any petition presented by a creditor, the court may dismiss such petition with or without costs, to be paid by the petitioner, or it may make an order, or pronounce an interlocutor, directing such partnership, by a day to be named in the order, or interlocutor, to pay or secure payment to the creditor, of all moneys that may be found due to him, together with such costs as the court may direct, or the court may, if it so thinks fit, on the hearing of such petition, make an order or decree, for winding up the partnership in the first instance, or such other order as it deems just.

22. If at the expiration of the time named in such order or interlocutor such payment is not paid or security given, the court may thereupon make an order or decree for winding up the partnership.

Court may make order for winding up partnership if payment not made or security given.

23. Upon the hearing of a petition presented by a partner, the court may dismiss such petition with or without costs, to be paid by the petitioner, or it may make an order or decree for winding up the partnership, or such other order or decree as it deems just.

Power of court on hearing petition.

24. After the date of such order or decree for winding up the partnership, all suits against the partnership shall, if the court so orders, be stayed; no general partner or other person connected with the partnership shall, without the sanction of the court, dispose of any of the property, effects or things in action of the partnership.

After date of order or decree suits to be stayed, etc.

25. As soon as may be after making an order or decree for winding up the partnership, the court shall cause the assets of the partnership to be collected, and applied in discharge of its liabilities, in a due course of administration.

After order assets to be collected.

26. Any conveyance, mortgage, delivery of goods, payments, execution or other act relating to property, as would, if made or done, by or against any individual trader, be deemed, in the event of his bankruptcy, to have been made or done, by way of undue or fraudulent preference, of any creditor of such trader, shall, if made or done, by, or against any partnership formed under this Act, be deemed in the event of an order being made for winding up such partnership, to have been done, by way of undue or fraudulent preference, of such creditor of such partnership, and shall be invalid accordingly; and for the purposes of this section, the presentation of a petition for winding up a partnership shall be deemed to correspond with the filing of a petition, for adjudication of bankruptcy, in the case of an individual trader, and any conveyance or assignment, made by any partnership formed under this Act, of all its estate and effects, to trustees, for the benefit of all its creditors, shall be void to all intents and purposes.

Conveyance, mortgage, etc., by undue or fraudulent preference.

27. The court may, after it has made an order, or decree, for winding up the partnership, summon before it, any person known, or suspected to have in his possession,

Proceedings of court on winding up.

any of the estate or effects of the partnership, or supposed to be indebted to the partnership, or any person whom the court may deem capable of giving information concerning the trade, dealings, estate or effects of the partnership, and the court may require any such person to produce any books, papers, deeds, writings or other documents, in his custody or power, which may appear to the court requisite to the full disclosure of any of the matters which the court thinks necessary to be inquired into for the purpose of winding up the partnership; and if any person so summoned refuses to come before the court, at the time appointed, having no lawful impediment (made known to the court at the time of its sitting, and allowed by it) the court may, by warrant, authorise, and direct the persons therein named for that purpose to apprehend such person, and bring him before the court for examination.

Court may examine witnesses.

28. The court may examine, upon oath, either by word of mouth, or upon written interrogatories, any person appearing or brought before it in manner aforesaid, concerning the trade, dealings, estate or effects of the partnership, and may reduce into writing the answers of every such person, and require him to sign and subscribe the same.

Penalty on partner mutilating or altering books or papers.

29. If any partner of any partnership, for the winding up of which an order or decree has been made under this Act, destroys, mutilates, alters or falsifies any books, papers, writings or securities, or makes or is privy to the making of the false or fraudulent entry in any register, book of account or other document belonging to the partnership, with intent to defraud the creditors or partners of such partnership, or any of them, every person so offending shall be deemed to be guilty of a misdemeanour, and upon being convicted shall be liable to imprisonment for five years.

Books of partnership to be *prima facie* evidence.

30. All books, accounts and documents of the partnership, and of the liquidators hereinafter mentioned, shall, as between the partners of the partnership, be *prima facie* evidence of the truth of all matters therein contained, and purporting to be therein recorded.

Moneys received by court to be paid into bank.

31. All moneys received under the direction of the court on account of the sale, or conversion of any of the assets of the partnership, or of any other matters, shall be

paid into a bank at Nassau, to the credit of such account as the court may direct, and no money standing to such account shall be paid out of the bank, except upon cheques signed in such manner as the court directs.

32. The court may at any time after the presentation of a petition for winding up a partnership, and either before or after making an order for winding up the same, upon motion of any creditor or partner, appoint a receiver of the estate and effects of the partnership, and also, by notice or advertisement, require all creditors to present and prove their claims within a certain time, or be precluded from the benefits of any distribution which may be made before such claim is proved.

Court may appoint receiver of estate.

33. The court may, at any time after an order or decree has been made for winding up a partnership, upon the application by motion of any creditor or partner, and upon proof to the satisfaction of the court that all proceedings in relation to such winding up ought to be stayed, make an order staying the same, either altogether or for a limited time, upon such terms and subject to such conditions as it deems fit.

Power of court to stay proceedings.

34. As soon as the creditors are satisfied, the court shall proceed to adjust the rights of the partners among themselves, and to distribute the surplus that may remain amongst the parties entitled thereto.

When creditors satisfied, court to distribute surplus.

35. The court may make such order as to the priority of payment out of the estate of the partnership, of the costs, charges and expenses incurred in winding up any partnership, as it thinks just.

Order as to priority of payment.

36. For the purpose of conducting the proceedings in winding up a partnership, and assisting the court therein, the Registrar General shall be appointed by the court, and called “Official Liquidator” under the provisions of this Act, but it shall be lawful in cases where the winding up takes place at the suit of the creditor, for the major part in value of the creditors assembled at a meeting to be held for the purpose, and in cases where the winding up takes place at the suit of a partner, for the major part in value of the partners assembled at a meeting to be held for the purpose, to appoint another official liquidator to act concurrently with the official liquidator so named by the court.

Registrar General to be official liquidator.

Official liquidator to be described as such, and not by name.

37. The official liquidator shall be described by the style of the official liquidator of the particular partnership in respect of which he is appointed, and not by his individual name. He shall take into his custody all the property, effects and things in action of the partnership and shall perform such duties in reference to the winding up of the partnership as may be imposed by the court.

Powers of official liquidator.

38. The official liquidator shall have power, with the sanction of the court to do the following things —

- (a) to bring or defend any action, suit or prosecution, or other legal proceeding, civil or criminal, in the name, and on behalf of the partnership;
- (b) to carry on the business of the partnership so far as may be necessary for the beneficial winding up of the same;
- (c) to sell the real and personal property, effects and things in action of the partnership by public auction or private contract, with power, if he thinks fit, to transfer the whole thereof to any person or persons, or to sell the same in parcels;
- (d) to execute in the name, and on behalf of the partnership, all deeds, receipts and other documents he may think necessary;
- (e) to refer disputes to arbitration, and compromise any debts or claims;
- (f) to draw, accept, make and endorse any bill of exchange, or promissory note, and also to raise upon the security of the assets of the partnership from time to time any requisite sum, or sums of money, and the drawing, accepting, making or endorsing of every such bill of exchange or promissory note as aforesaid, on behalf of the partnership, shall have the same effect, with respect to the liability of such partnership, as if such bill or note had been drawn, accepted, made, or endorsed by such partnership, in the course of carrying on the business thereof;
- (g) to do and execute all such other things as may be necessary for winding up the affairs of the partnership, and distributing its assets.

May appoint a counsel and attorney.
5 of 1987, Sch.

39. The official liquidator may, with the approval of the court, appoint a counsel and attorney and such clerks or officers as may be necessary to assist him in the

performance of his duties. There shall be paid to such solicitor and such clerks and officers such remuneration by way of fees, or otherwise as may be allowed by the court.

40. There shall be paid to the official liquidator such salary, or remuneration, by way of percentage, or otherwise, as the court directs.

Payment of official liquidator.

41. When the affairs of the partnership have been completely wound up, the court shall make an order or decree, declaring the partnership to be dissolved from the date of such order or decree, and the partnership shall be dissolved accordingly.

When the affairs of partnership wound up, court to dissolve the same.

42. Any order or decree so made shall be reported by the official liquidator to the Registrar General, who shall make a minute of the dissolution of such partnership, or the memorandum of co-partnership, and the record thereof in his office.

Order so made to be reported to Registrar General.

43. Nothing in this Act contained shall be construed to affect the alien laws of The Bahamas.

Proviso as to alien laws.

44. In this Act —

Interpretation.

“court” means the Supreme Court.

SCHEDULE (Section 4)

5 of 1987, s. 2.

MEMORANDUM OF CO-PARTNERSHIP OF A. B. C. D. AND COMPANY, LIMITED

The name of the firm under which this partnership business is to be conducted is A. B. C. D. and Company, Limited, and such business is to be carried on in the city of Nassau, in the Island of New Providence. The objects for which this partnership is established are for carrying on a general mercantile and commission business.

The general partners interested in this business are —

A. B., of the city of Nassau, merchant, residing in the City of Nassau;

C. D., of the city of Nassau aforesaid, also residing in the city of Nassau.

The names of the special partners interested therein are —

E. F., at present of the city of Nassau, but residing in the city of London, in Great Britain;

G. H., also at present of the said Island of New Providence, but residing in Matthew Town, in the Island of Inagua.

The amount of capital stock which the above-named special partner E. F. has contributed to common stock in dry goods is of the value of \$2,000.

The amount of capital stock which the above named special partner G. H. has contributed to common stock in cash is \$4,000.

This partnership is to commence on Monday, the eighth day of April, A.D. 1961, and will terminate on Wednesday, the eighth day of April, A.D. 1971.

We, the several persons whose names and addresses are hereinbefore set forth, and hereto subscribed, are desirous of forming a co-partnership, with limited liability in pursuance of this memorandum of co-partnership, according to the provisions of the Partnership Limited Liability Act.

Witness our hands this day of
A.D. 19.
..... A. B.
..... C. D.
..... E. F.
..... G. H.

The above memorandum of co-partnership was duly acknowledged before me by the within-named A. B., C. D., E. F., and G. H., on this day of A.D. 19

In verification whereof I have hereunto set my hand and seal notarial the day and year last above written.

.....
(L.S.) S. M.
 Notary Public.