

# Partnership

Last updated on 17 Oct 2022

## Table of Contents

<b>1. Introduction</b>	<b>1</b>
<b>2. Partnership Agreement</b>	<b>2</b>
<b>3. Power to Bind the Partnership</b>	<b>3</b>
<b>4. Unlimited Liability of the Partners</b>	<b>3</b>
<b>5. Rights of the Partners</b>	<b>4</b>
<b>6. Obligations of the Partners</b>	<b>6</b>
<b>7. Advantages and Disadvantages of a Partnership</b>	<b>6</b>
<b>8. Setting Up a Partnership</b>	<b>7</b>
<b>9. Partnership Dissolution</b>	<b>8</b>

## 1. Introduction

A partnership in Hong Kong is a type of business entity. The following is a brief summary in relation to partnerships under the laws of Hong Kong.

The primary legislation governing partnerships in Hong Kong is the Partnership Ordinance (Cap. 38) (the “*Partnership Ordinance*”). Pursuant to section 3(1) of the Partnership Ordinance, “[a] partnership is the relation which subsists between persons carrying on a business in common with a view of profit”.<sup>1</sup> In other words, partnership describes a type of relationship. The persons coming together to form a partnership are called the partners and the collective business they form is the firm<sup>2</sup>. However, in general parlance and for purposes of this summary, the term firm and partnership are used loosely and interchangeably to refer to the business formed by the partners.

In Hong Kong, the partners can agree among themselves on the duration of the partnership. A partnership will end:<sup>3</sup>

- a) if entered into for a fixed term, at the expiration of that term;
- b) if entered into for a single undertaking, when the undertaking terminates; or

---

<sup>1</sup> Partnership Ordinance, (2019) Cap. 38, § 3(1) (H.K.).

<sup>2</sup> Partnership Ordinance, (2019) Cap. 38, § 6 (H.K.).

<sup>3</sup> Partnership Ordinance, (2019) Cap. 38, § 34(1)(H.K.).

- c) if entered into for an undefined term, when a partner notifies the other partners of his or her intention to dissolve the partnership.

Partnerships can generally exist in two forms:

- a) general partnership;<sup>4</sup> or
- b) limited partnerships.<sup>5</sup>

General partnerships are partnerships in which all the partners are jointly liable for all of the firm's liabilities.<sup>6</sup> Limited partnerships are partnerships in which there are distinct general partners, who have general unlimited liability like all partners in a general partnership<sup>7</sup>, and limited partners, who only have limited liability<sup>8</sup> so long as they do not take part in the management of the partnership business.<sup>9</sup> This difference between limited and unlimited liability is a key distinction between general partnerships and limited partnerships in Hong Kong. This summary focuses on general partnerships—please refer to the summary on limited partnerships for more information on limited partnerships.

## 2. Partnership Agreement

The Partnership Ordinance generally sets out the rules for managing a partnership, including the rights and obligations of the partners—however, this can be modified by agreement of the partners, such as (but not necessarily) through a partnership agreement.

A partnership agreement is an agreement between all the partners to supplement and modify the rights and obligations of the partners in a partnership (including overriding certain rules set out in the Partnership Ordinance)<sup>10</sup>. If the partnership agreement does not expressly address a certain aspect of the partnership, then the relevant Partnership Ordinance provision will generally apply. For example, the Partnership Ordinance states that all partners must contribute equally to the capital and losses of the firm and all partners are entitled to share equally in the capital and profits of the partnership; however, the manner in which profits are shared and the requirements to contribute capital may be modified by a partnership agreement entered into by all the partners. For example, one partner may hold a larger proportional stake in the firm, and correspondingly the partnership agreement may require that partner to contribute proportionally more capital than other partners (and receive a proportionally larger share of the profits).

The partnership agreement need not necessarily be in written form (it could be a verbal agreement), but it is generally advisable to have a written partnership agreement so that there is a definitive written instrument to memorialize what the partners have agreed to.

---

<sup>4</sup> Partnership Ordinance, (2019) Cap. 38 (H.K.).

<sup>5</sup> Limited Partnerships Ordinance, (2020) Cap. 37 (H.K.).

<sup>6</sup> Partnership Ordinance, (2019) Cap. 38, §§ 11, 14 (H.K.).

<sup>7</sup> Partnership Ordinance, (2019) Cap. 38, §§ 11, 14 (H.K.).

<sup>8</sup> Limited Partnerships Ordinance, (2020) Cap. 37, §3(2) (H.K.).

<sup>9</sup> Limited Partnerships Ordinance, (2020) Cap. 37, §5(2) (H.K.).

<sup>10</sup> Partnership Ordinance, (2019) Cap. 38, § 21 (H.K.).

### 3. Power to Bind the Partnership

Each partner is an agent of the firm (and of each other partner) and any partner can bind the firm (and each other partner) through his or her actions carried out in the usual course of the business of the partnership.<sup>11</sup> This means that a single partner can enter into contracts and transactions on behalf of the entire firm, and this will be binding on the entire firm and each other partner. However, a partner will not bind the firm (or any other partner) if (a) such partner has no authority to act on behalf of the firm in that particular matter<sup>12</sup> (e.g., if the partner pledges the credit of the firm for a purpose not connected with the firm's ordinary course of business<sup>13</sup>) and (2) the third party dealing with such partner either knew that such partner had no authority or did not know or believe such partner to be a partner of the firm.<sup>14</sup> The key element of this exception is whether the third party knew that such partner did not have authority to bind the firm.

Consequently, agreements or instruments binding on the firm and entered into in the firm's name by a partner will generally be binding on all partners of the firm.<sup>15</sup>

However, as discussed above in Section 2 (Partnership Agreement), the partners can agree to supplement and/or modify the powers of partners and persons who can bind the firm.<sup>16</sup> If the firm authorizes a non-partner to act on behalf of the firm in signing an agreement or instrument in the firm's name with the intention of binding the firm, a properly executed agreement or instrument signed by that authorized person will also be binding on the firm and all of the partners of the firm.<sup>17</sup> In addition, the partners can also agree to limit a partner's power to bind the firm, so that such partner cannot bind the partnership and the other partners with respect to persons that know such partner has limited power to bind the firm.<sup>18</sup>

### 4. Unlimited Liability of the Partners

Partnerships in Hong Kong are a form of business entity but are not considered to be separate legal entities.<sup>19</sup> Every partner is jointly liable with the other partners for the full debts and liabilities of the firm incurred while he or she is a partner.<sup>20</sup> In addition, if a single partner commits a wrongful act in the ordinary course of business of the firm, then the entire firm and all other partners are liable for any loss or injury caused by that single partner's wrongful act.<sup>21</sup> For

---

<sup>11</sup> Partnership Ordinance, (2019) Cap. 38, § 7 (H.K.).

<sup>12</sup> Partnership Ordinance, (2019) Cap. 38, § 7 (H.K.).

<sup>13</sup> Partnership Ordinance, (2019) Cap. 38, § 9 (H.K.).

<sup>14</sup> Partnership Ordinance, (2019) Cap. 38, § 7 (H.K.).

<sup>15</sup> Partnership Ordinance, (2019) Cap. 38, § 7 (H.K.).

<sup>16</sup> Partnership Ordinance, (2019) Cap. 38, § 21 (H.K.).

<sup>17</sup> Partnership Ordinance, (2019) Cap. 38, § 8 (H.K.).

<sup>18</sup> Partnership Ordinance, (2019) Cap. 38, § 10 (H.K.).

<sup>19</sup> <https://asiabc.co/guide-to-hk/types-of-hong-kong-business-entities/> (Introduction and Comparison of business entities in Hong Kong)

<sup>20</sup> Partnership Ordinance, (2019) Cap. 38, § 11 (H.K.).

<sup>21</sup> Partnership Ordinance, (2019) Cap. 38, § 12 (H.K.).

example, if the firm receives money in the course of business and a partner misapplies the money, then the entire firm and all other partners are liable to make up the loss.<sup>22</sup> For such wrongful acts by the firm or any partner, every partner is jointly and severally liable for any loss or injury arising therefrom.<sup>23</sup>

If a new partner joins an existing partnership (which generally requires the consent of all partners), the new partner is not liable to the creditors of the firm for anything done before they became a partner.<sup>24</sup> However, a retiring partner still remains liable for debts and obligations incurred before his or her retirement (though the partners and any relevant creditors may agree to discharge the retiring partner from any existing liabilities).<sup>25</sup>

If the partners prefer to use a business vehicle which limits the partners' liability for the partnership's debts and liabilities, the partnership will need to be established as a limited liability partnership (rather than a general partnership with unlimited liability). Please refer to the summary on limited partnerships for more information on limited partnerships and limited liability partnership structures.

## 5. Rights of the Partners

This section briefly summarizes the rights of a partner as provided for in the Partnership Ordinance. Keep in mind that the below items can be modified by agreement between all the partners in the partnership.

*Firm Management:* Every partner may take part in the management of the partnership business.<sup>26</sup>

*Profit Sharing:* All partners are entitled to share equally in the capital and profits of the business (unless agreed otherwise).<sup>27</sup>

*No Remuneration:* Partners are not entitled to remuneration for acting in the partnership business.<sup>28</sup> This can be contrasted with the sharing of profits, with the general idea being that partners are in business to share profits (as opposed to collecting a salary).

*New Partners:* No person may become a partner of the firm without the consent of all existing partners.<sup>29</sup>

---

<sup>22</sup> Partnership Ordinance, (2019) Cap. 38, § 13 (H.K.).

<sup>23</sup> Partnership Ordinance, (2019) Cap. 38, § 14 (H.K.).

<sup>24</sup> Partnership Ordinance, (2019) Cap. 38, § 19(1) (H.K.).

<sup>25</sup> Partnership Ordinance, (2019) Cap. 38, §§ 19(2)-(3) (H.K.).

<sup>26</sup> Partnership Ordinance, (2019) Cap. 38, § 26(e) (H.K.).

<sup>27</sup> Partnership Ordinance, (2019) Cap. 38, § 26(a) (H.K.).

<sup>28</sup> Partnership Ordinance, (2019) Cap. 38, § 26(f) (H.K.).

<sup>29</sup> Partnership Ordinance, (2019) Cap. 38, § 26(g) (H.K.).

*Expulsion of Partners:* An existing partner may not be expelled from the partnership by a majority of existing partners unless such power has been expressly agreed between the partners.<sup>30</sup> The Partnership Ordinance does not provide a specific voting threshold to expel an existing partner. If the partners anticipate needing to add or remove partners over the course of the partnership, it is advisable to enter into a partnership agreement to set out rules and procedures for such acts.

*Partner Indemnification:* The firm must indemnify every partner in respect of payments made and personal liabilities incurred (i) in the ordinary and proper conduct of the business of the firm or (ii) in or about anything necessarily done for the preservation of the business or property of the firm.<sup>31</sup>

*Interest on Capital:* A partner making any actual payment or advance to the partnership beyond the amount of capital which he or she has agreed to subscribe is entitled to interest at 8% p.a. from the date of the payment or advance.<sup>32</sup> A partner is not entitled, before the ascertainment of profits, to interest on the capital subscribed by such partner.<sup>33</sup>

*Changes to Firm Business:* Generally, a majority of partners can vote and decide on ordinary matters connected with the partnership business, but any change to the nature of the partnership business requires the consent of all existing partners.<sup>34</sup>

*Books and Records:* A partner has the right to access, inspect, and copy any books of the partnership (which must be kept at the firm's principal place of business).<sup>35</sup>

*Partnership Termination:* Where the partnership has no agreed fixed term, any partner may give notice at any time to all other partners of his or her intent to dissolve the partnership.<sup>36</sup> A written notice signed by the notifying partner is sufficient if the partnership was originally constituted by deed.<sup>37</sup> If there is an agreed fixed term, then the partnership will end at the end of the fixed term but the partners may nonetheless continue the business of the firm without any new agreement, in which case the terms and conditions of the partnership existing at the end of its fixed term will continue to apply.<sup>38</sup> Upon partnership dissolution, every partner is entitled to have the property of the partnership applied in payment of the debts and liabilities of the firm.<sup>39</sup>

---

<sup>30</sup> Partnership Ordinance, (2019) Cap. 38, § 27 (H.K.).

<sup>31</sup> Partnership Ordinance, (2019) Cap. 38, § 26(b) (H.K.).

<sup>32</sup> Partnership Ordinance, (2019) Cap. 38, § 26(c) (H.K.).

<sup>33</sup> Partnership Ordinance, (2019) Cap. 38, § 26(d) (H.K.).

<sup>34</sup> Partnership Ordinance, (2019) Cap. 38, § 26(h) (H.K.).

<sup>35</sup> Partnership Ordinance, (2019) Cap. 38, § 26(i) (H.K.).

<sup>36</sup> Partnership Ordinance, (2019) Cap. 38, §§ 28(1), 34(1)(c) (H.K.).

<sup>37</sup> Partnership Ordinance, (2019) Cap. 38, § 28(2) (H.K.).

<sup>38</sup> Partnership Ordinance, (2019) Cap. 38, § 29(1) (H.K.).

<sup>39</sup> Partnership Ordinance, (2019) Cap. 38, § 41 (H.K.).

## 6. Obligations of the Partners

This section briefly summarizes the obligations of a partner provided for in the Partnership Ordinance. Keep in mind that the below items can be modified by agreement between all the partners in the partnership agreement.

*Equal Capital Contributions:* All partners must contribute equally towards the losses of the business.<sup>40</sup>

*Duty not to Compete:* A partner must account for and pay to the firm all profits made by him or her from carrying on any business of the same nature as and competing with that of the firm—unless the other partners have consented otherwise.<sup>41</sup>

*Duty to Render Accounts:* Partners must render true accounts and full information of all things affecting the partnership to any partner or their legal representatives.<sup>42</sup>

*Accounting for Private Profits:* Every partner must account to the firm for any benefit derived by him or her, without the consent of the other partners, from any transaction concerning the partnership or from any use by him or her of the partnership property, name, or business connection<sup>43</sup>—including any transactions undertaken after the partnership is dissolved by the death of a partner and before partnership affairs have been completely wound up.<sup>44</sup>

## 7. Advantages and Disadvantages of a Partnership

This section briefly summarizes some advantages and disadvantages of using the partnership structure for conducting business in Hong Kong.

### *Advantages*

- Partnerships are administratively quicker and easier to form as compared to corporations.
- Partnerships can provide wide flexibility to tailor terms and obligations of the partners to fit the purpose of the business. For example, the partners can agree between themselves how they will fund the firm and how profits may be shared.
- Partnerships have no minimum capital requirements and it can be relatively straightforward to raise additional capital for a partnership.
- Partnerships enable persons to work together as equals in the business, with each partner having the same general rights as each other partner, subject to the partners' agreement

---

<sup>40</sup> Partnership Ordinance, (2019) Cap. 38, § 26(a) (H.K.).

<sup>41</sup> Partnership Ordinance, (2019) Cap. 38, § 32 (H.K.).

<sup>42</sup> Partnership Ordinance, (2019) Cap. 38, § 30 (H.K.).

<sup>43</sup> Partnership Ordinance, (2019) Cap. 38, § 31(1) (H.K.).

<sup>44</sup> Partnership Ordinance, (2019) Cap. 38, § 31(2) (H.K.).

on any special terms and conditions. Each partner is an owner in the partnership and can have a vote on all matters.

- Partnerships can exist in perpetuity or be formed with a fixed term or other condition to termination.
- Partnerships require relatively inexpensive maintenance and registration costs and have less statutory controls and reporting requirements than corporations.

### *Disadvantages*

- A partnership is not a separate legal entity and the partners generally have unlimited personal liability on a joint basis (though this issue can be largely addressed by registering the partnership as a limited partnership—please refer to the summary on limited partnerships for more information on limited partnerships).
- Partnerships do not naturally provide a hierarchical structure for management, this may be a disadvantage depending on how the partners wish to run the business.
- Partnership interests are generally more cumbersome to transfer, as compared to shares of a corporation which are relatively simpler to transfer. Unless agreed otherwise by all the partners, a partnership will be dissolved upon a change of any partner.
- Partnerships may require a detailed partnership agreement to set out how the business will be operated by supplementing or modifying the default rules under the Partnership Ordinance. A partnership agreement can become complicated depending on how the partners wish to operate the firm.

## **8. Setting Up a Partnership**

This section briefly summarizes the general steps required to establish a partnership in Hong Kong.

*Step 1 – Partnership Agreement:* Although not strictly required, the first step to creating a partnership should be for all partners to reach an agreement on how to manage and operate the firm and ideally memorialize these terms in a partnership agreement. It is advisable to have legal counsel draft or assist in preparing the partnership agreement.<sup>45</sup>

*Step 2 – Business Registration:* A business carried on by partnership is required to be registered with the Business Registration Office of the Hong Kong Inland Revenue Department within one month from the date of commencement of business.<sup>46</sup> This business registration should be submitted using Form 1(c)<sup>47</sup> and requires submission of copies of all partners' Hong Kong identity cards or, for non-Hong Kong residents, passports or identity cards issued by the

---

<sup>45</sup> <https://www.kaizencpa.com/Services/info/id/31.html> (Hong Kong Partnership Company Registration Costs and Registration Procedures)

<sup>46</sup> Business Registration Ordinance, (2022) Cap. 310, § 5 (H.K.).

<sup>47</sup> [https://www.ird.gov.hk/eng/pdf/br\\_form1c\\_e.pdf](https://www.ird.gov.hk/eng/pdf/br_form1c_e.pdf) (Application by partnership (other than limited partnership fund) or by other body unincorporate for registration of business carried on by such body in Hong Kong)

relevant government authority.<sup>48</sup> A representative may attend the Business Registration Office of the Inland Revenue Department to complete an application form for the business registration certificate, and submit the registration fee.<sup>49</sup>

Please see [https://www.ird.gov.hk/eng/tax/bre\\_abr.htm](https://www.ird.gov.hk/eng/tax/bre_abr.htm) for further details on business registration requirements and procedures.

## 9. Partnership Dissolution

This section briefly summarizes how a partnership in Hong Kong may be dissolved and terminated. Keep in mind that the below items can be modified by agreement between all the partners in the partnership agreement.

*Dissolution by Expiration or notice by a Partner:* A partnership is dissolved: (a) by the expiration of its fixed term (if any); (b) by termination of the adventure or undertaking in which the partnership was entered into; or (c) by any partner notifying the other partners of his or her intention to dissolve the partnership (in which case the partnership is dissolved as from the date mentioned in the notice as the date of dissolution, or, if no date is mentioned, as from the date of the communication of the notice).<sup>50</sup>

*Dissolution by Bankruptcy, Death, or Charge:* If any partner dies or becomes bankrupt, the partnership is dissolved.<sup>51</sup> If there is a charge on a partner's share of the partnership for such partner's separate debt, then the other partners may decide to dissolve the partnership.<sup>52</sup>

*Dissolution by Illegality:* A partnership is dissolved if any event 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.<sup>53</sup>

*Dissolution by Court:* A partner may apply to the court for a dissolution of the partnership if: (a) a partner is found lunatic by inquisition, or is shown to be of permanently unsound mind (as determined by the court); (b) a partner becomes permanently incapable of performing his or her part of the partnership contract; (c) a partner has been guilty of conduct that, in the opinion of the court, affects prejudicially the carrying on of the business; (d) a partner willfully or persistently commits a breach of the partnership agreement or otherwise conducts himself or herself in matters relating to the partnership business such that it is not reasonably practicable for the other partners to carry on the business in partnership with him or her; (e) the business of the partnership can only be carried on at a loss; or (f) circumstances render it just and equitable that the partnership be dissolved in the opinion of the court.<sup>54</sup>

---

<sup>48</sup> [https://www.ird.gov.hk/eng/tax/bre\\_abr.htm](https://www.ird.gov.hk/eng/tax/bre_abr.htm) (IRD: "Business" Required to be Registered and Application for Business Registration)

<sup>49</sup> <https://www.kaizencpa.com/Services/info/id/31.html> (Hong Kong Partnership Company Registration Costs and Registration Procedures)

<sup>50</sup> Partnership Ordinance, (2019) Cap. 38, § 34 (H.K.).

<sup>51</sup> Partnership Ordinance, (2019) Cap. 38, § 35(1) (H.K.).

<sup>52</sup> Partnership Ordinance, (2019) Cap. 38, § 35(2) (H.K.).

<sup>53</sup> Partnership Ordinance, (2019) Cap. 38, § 36 (H.K.).

<sup>54</sup> Partnership Ordinance, (2019) Cap. 38, § 37 (H.K.).

Upon partnership dissolution, every partner is entitled to have the property of the partnership applied in payment of the debts and liabilities of the firm.<sup>55</sup> Any surplus assets after payment of the debts and liabilities of the firm may be applied in payment of what may be due to the partners respectively and any partner may then apply to the court to wind up the business and affairs of the firm.<sup>56</sup>

After partnership dissolution, the accounts between partners shall be settled as follows (unless agreed otherwise by the partners):

- (a) losses shall be paid first out of profits, next out of capital, and lastly, if necessary, by the partners individually in their profit sharing proportions; and
- (b) the assets of the firm (including amounts contributed by partners to make up losses or deficiencies of capital) shall be applied in the following manner and order:
  - (i) first, to pay debts and liabilities of the firm to persons who are not partners;
  - (ii) secondly, to pay each partner ratably what is due from the firm for advances (as distinguished from capital);
  - (iii) thirdly, to pay each partner ratably what is due from the firm in respect of capital; and
  - (iv) lastly, to be divided among the partners in their profit sharing proportions.<sup>57</sup>

## **DISCLAIMER**

The information provided on this website should not be construed as legal advice or a legal opinion on any specific facts or circumstances. This guide is not intended to create, and receipt of it does not constitute, a lawyer-client relationship. The contents are limited to the laws of Hong Kong as at the date of writing and is intended for general informational purposes only. You are urged to consult your attorney concerning any particular situation and any specific legal question you may have. This website contains links to other third-party websites, and such links are only for the convenience of the reader, user or browser. These links to third-party websites or information are not intended as, and should not be interpreted by you as, constituting or implying our endorsement, sponsorship, or recommendation of the third party information, products, or services found there. The Foundation for Shared Impact appreciates the pro bono support of Ropes & Gray LLP in reviewing this guide.

---

<sup>55</sup> Partnership Ordinance, (2019) Cap. 38, § 41 (H.K.).

<sup>56</sup> Partnership Ordinance, (2019) Cap. 38, § 41 (H.K.).

<sup>57</sup> Partnership Ordinance, (2019) Cap. 38, § 46 (H.K.).