**Agreement in restraint of trade**

Section 11(2) gives the liberty partners to make a contract that a partner should not carry on any business other than that of the firm while he is a partner. Although according to Sec. 27 of the Indian Contract Act, agreement in restraint of trade is void, but such an agreement entered into between the partners as stated above will be valid.

The right of the partners to make any contract to regulate their mutual rights and duties is subject to the provisions of the Partnership Act. For instance, certain duties of the partners are incorporated in Sections 9 and 10, which have to be adhered to by all the partners and they are not subject to contract between the partners.

Thus, the disabilities suffered by the partners of an unregistered firm, as envisaged by Section 69, are binding on every partnership and the partners cannot agree contrary to those provisions. Similarly, the provision contained in Section 41 regarding compulsory dissolution of a firm on the happening of certain events is binding on every firm. In the same way, the right of the partners to file a suit for dissolution of a firm under Section 44, is not subject to contract between the partners. Section 11, which permits partners to make any contract for regulating their mutual relations, is subject to the provisions of the Act, and Section 44 is one such provision. Therefore, it was held in the case of **N. Satyanarayan v. M. Venkata Bala AIR 1989 A.P 167,** that a partner can always invoke the jurisdiction of under Section 44 for the dissolution of the firm.

As has been noted above, Sections 9 and 10 certain duties by which all the partners are bound and the duties cannot be negatived by a contract between the partners. Sections 12-17 contain various other mutual rights and duties of the partners one of those sections has been made 'subject to contract between partners'. It means that the rights and duties incorporated in Section 12 to 17 are to be applied to the partners, if they have not made any contract to the contrary. For instance, if the partners have agreed to the proportion in which they will be sharing profits and looses, then their agreement will prevail, but if the partners have not agreed to anything on the points, then according to Section 13(b) the partners are entitled to share equally in the profits earned, and shall contribute equally to the losses sustained by the firm.

**Various mutual rights and duties of the partners are as follows:**

**RIGHTS OF THE PARTNERS**

1. Right to take part in the conduct of the business[sec 12(a)].
2. Right to express opinion.[sec 12(c)].
3. Right to have access to books of the firm.[sec 12(d)].
4. Right to share profits.[sec 13(b)]
5. Right to interest on capital and advances[sec 13(c) and 13(d)].
6. Right to indemnity[sec 13 (e)].

**DUTIES OF THE PARTNERS(SEC 9 AND 10)**

1. Duty to carry on the business to the greatest common advantage.
2. Duty to be just and faithful to each other.
3. Duty to render true accounts.
4. Duty to render full information of all things affecting the firm.[section 9]
5. Duty to indemnify for fraud[Section 10]
6. Duty to be diligent.[sec 12(b) and 13(f)]
7. Duty to properly use the firm’s property[sec 14 and 15]
8. Duty not to earn personal profits or to compete[section 16]

**LIABILITIES OF PARTNERS**

i) **Joint & Several**: Every partner is liable jointly and severally for all the acts of the firm done while he was a partner. The liability of a partner is always unlimited.

ii) **Liability for Losses causes by HIM**:   Every partner shall be liable to make good any loss caused to the firm by his fraud or wilful neglect in the conduct of business. No partner can in any way exempt himself from such loss.

iii) **Liability for Secret Profits**: A partner is liable to account for and pay to the firm any private profits earned from the business of the firm or property or goodwill of the firm.

iv) **Liability for Profits from Competing Business**: If a partner carries on any business of the same nature and competing with that of the firm, he would be liable to account for and pay to the firm all profits made by him in that business.

v) **Liability to Render true Accounts**: A partner is liable to render true accounts to profit to other partners. He is liable to disclose any legal or illegal accounts which fall within the scope of business of the firm.

vi) **Liability for Losses of the firm**: As a partner has a right to share the profits of the firm so is he liable to share the losses equally unless otherwise agreed upon.