

Limited liability Partnership Act, 2008.

→ This Act has 81 sections & 4 schedules.

Need of LLP →

→ Due to some problem in partnership act, as well as in Companies Act, Entrepreneurs needed a new commercial entity, that has flexibility of partnership act & features of Company to Encourage business.

This entity is a hybrid of Company & partnership.

Meaning →

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→ LLP is a new form of legal business entity having features of Company as well as partnership which enables professional Entrepreneurs etc to do business Effectively & Efficiently.

New form of legal Entity

Liability of partners will be limited.

LLP itself will be liable for full extent of its assets.

LLPP

Alternate Corporate business vehicle.

Allow the partners the flexibility of organization their internal structure.

Body Corporate : [Section 2(d)]

It means Companies & include.

- LLP registered in India
- LLP registered outside India.
- Company registered outside India.

Excludes →

- Sole coporation
- Cooperative Society.
- Other body corporate notified by Govt.

→ Non applicability of Indian Partnership Act (Section 4)

→ Partners (Section 5)

Any individual or body corporate can be partner of LLP.

However, it Excludes →

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1. Unsound mind

2. Undischarged & Insolvent

3. Adjudicated as Insolvent.

Minimum no. of partners → (Section 6)

→ In LLP minimum partner cannot reduce below 2 at any point if it goes below 2 than, if within 6 months it cannot go back to normal, than liability will be unlimited.

Or the remaining partner shall be personally liable.

Designated Partner → (Section 7)

→ Atleast two designated partners, who are individual and one of them should be Indian resident

→ if all partners are body corporate, their nominee shall be designated partner.

→ Resident ⇒ Stay of 120 days in India.

Features of LLP →

1. Body Corporate
2. Perpetual Succession
3. Separate legal Entity
4. Mutual Agent
5. LLP Agreement
6. Artificial legal Person
7. Common Seal.
8. Liability (limited)
9. Management of business
10. Min - 2 partner
Max - No limit
11. Business for profit only.
12. Investigation
13. Compromise or Arrangement.
14. Conversion into LLP
15. E-filing of documents
16. foreign LLP.

Advantages of LLP form:

- Operates on basis of agreement.
- Provides flexibility
- Easy to form
- Partner for limited liability
- Flexible Capital Structure
- Easy to dissolve.

Incorporation of LLP :- (Section 11)

- 1) → Two or more person associated to perform lawful business to Earn profit subscribe to agreement.
 - Such document shall be submitted to registrar in prescribed form with prescribed fees.
 - Another statement needs to be filled which is made by advocate/ CA/CS/CMA who engaged in formation of LLP.
- 2) → Incorporation document shall be
 - in prescribed form
 - State LLP name
 - Proposed business of LLP
 - Address of registered office.
 - Name & Address of Each partner.
 - Name & Address of designated partner
 - Other information of proposed LLP
- 3) If a person makes a statement which is false or he believe its not true shall be punishable with imprisonment with which may extend to 2 yrs or fine min 10,000 to 1 lakh.

Incorporation by registration → (Section 12)

- If all above conditions are fulfilled & ROC is fulfilled satisfied. Therein 14 days he shall register documents & give Certificate of Incorporation to LLP.
- Such documents are conclusive Evidence of incorporation
- Certificate shall be signed by registrar & authenticated by official Seal.

Registered office of LLP : (Section 13)

- Every LLP must have a registered office to which communication or notices address.
- A document assumed to be delivered to Partners, LLP or designated partners if sent on registered office.
- Change of address is possible if application filed with prescribed fees in prescribed form.

Punishment →

Every partner shall be liable for fine from ₹ 2000 to ₹ 5,000.

Effect of registration : (Section 14)

- Suing & being sued. @beingcommerce
- having Common seal, if decides to have one.
- Acquire, hold, own, develop etc of immovable property ^{disg} in its own name.
- Any other thing that body corporate do

Name : (Section 15)

- Every LLP must use suffix "LLP" or "limited liability partnership" and cannot use any other name which is undesirable by Cent. govt.

Reservation of name : (Section 16)

- A person may apply in prescribed form and manner with accompanied fees to reserve name within 3 months from date of intimation.

→ Change of Name : (Section 17)

- If Central Govt. satisfies that name is undesirable or resembles too much to Existing body corporate than Cent. Govt. may order to change name giving 3 months notice.
- If LLP fails to comply then fine from 10,000 to 5 lakh may be charged.
- Designated Partners shall be punishable from 10,000 to 1 lakh.

Partner's and their relation →

Eligibility to be a partner: (Section 22)

→ On incorporation their name must be in incorporation document.

Relationship of Partner: (Section 23)

→ Mutual rights & duties amongst partners, partners toward LLP & LLP towards partners is governed by LP agreement.

→ Changes in LLP agreement shall be filed with Registrar in prescribed manner.

→ Agreement in writing must be subscribed by all partners.

→ If any point is absent in agreement, Schedule I is followed.

Cesation of Partnership Interest: (Section 24)

→ A partner may cease to be a partner of LLP in accordance of agreement with other partners by giving min 30 days notice to other partners.

→ A partner cease to be a partner of LLP:

→ On death

→ On dissolution

→ Adjudicated as Insolvent.

→ Declared to be of unsound mind.

→ Former partner shall be treated as partner unless:-

→ a person has notice of partner's resignation.

→ Notice is delivered to Registrar.

→ Cesation of Partner from LLP doesn't discharge Partner's obligation increased during tenure of partnership.

→ Even after cesation partner is eligible to receive "capital & Accumulated profit" back.

→ former partner is not entitled to interfere in management.

Part LLP →

25 % → Capital Contribution.

50 % → Turnover

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Registration of changes in firm: (Section 25)

1. Every partner shall inform LLP & any change in name or address.
2. LLP shall inform within 30 days to registrar change of name, address or cessation of partnership.
3. Notice shall be filled with prescribed fees in prescribed form by designated partner.
4. If LLP contravenes, LLP & designated partner shall be liable from 2000 to 25,000.
5. If contravention continues each partner shall be liable min 2000 to 25000 fine.
6. Even former partner can intimate registrar about leaving firm.

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Extent and limitation of liability of LLP & Partner →

Partner as an agent: - (Section 26)

Every partner is agent of LLP, not of other partner.

Extent of liability of LLP: - (Section 27)

1. LLP should not be liable if: -
 - Partner has no authority to act.
 - Person dealing with partner doesn't know he is dealing with partner of firm.
2. LLP shall be liable if partner does anything which part of Business & result to losses.
3. An obligation of LLP arises as per contract shall be LLP's liability only.
4. Liability of LLP shall be met by LLP's assets only.

Extent of liability of Partner: (Section 28)

1. Partners are not personally liable directly or indirectly to firm.
2. No partner shall be personally liable for wrongful act of other partner.

Holding Out: (Section 29)

- Any person who by spoken or written words represents himself or permits others to represent him as partner of LLP, is liable towards any person who on such faith given credit to firm.
- However, where such credit is received & used by LLP, than LLP shall be liable towards that third party.

* On death, even if firm continues with same name, deceased partner & his legal representative shall not be liable towards firm.

Unlimited liability in case of fraud: (Section 30)

→ In case of fraud:

→ If LLP is formed to defraud creditors than liability of ^{partner} firm shall be unlimited & they may get imprisonment upto 2 yrs and fine may extend to 50,000 to 5 lakhs.

→ Every partner or designated partner or Employee shall be liable towards affairs of LLP also shall be liable to compensate person suffering.

Whistle Blowing: (Section 31)

→ If a partner/Employee of LLP provides useful information during Investigation which lead to any other partner or Employee convicted for three unlawful acts, may get waiver or reduction in punishment by tribunal.

→ After giving such information, partner may not be discharged, suspended, harassed or demonstrate from LLP.

Financial Disclosures → @beingcommerce

Maintenance of Books of accounts: (Section 34)

→ LLP must maintain Books of A/c in prescribed form on cash or accrual basis at its registered office.

→ Also, LLP shall prepare a "statement of account & solvency" within 6 months of end of financial year. That needs to be submitted to registrar in prescribed form along with prescribed fees.

Penalty: LLP shall be liable to fine from 25,000 to 5 lakhs.

: Every designated Partner shall be liable for 10,000 to 1 lakh.

Annual Return: (Section 35)

Annual Return must be submitted within 6 days of closure of financial year along with prescribed fees.

Penalty: failure shall result LLP's penalty of 25,000 to 5 lakhs.

→ Every designated partner shall be liable from 10,000 to 1 lakh.

Conversion into LLP. →

Section 55 → Partnership to LLP → Schedule 2

Section 56 → Private Co. to LLP → Schedule 3

Section 57 → Public Co. to LLP → Schedule 4

Registration & Effect of Conversion: (Section 58)

Registration: -

- Registrar shall check all documents & information submitted by firm or Company, on satisfaction, ROC shall issue Certificate of Incorporation.
- Post receiving Certificate, LLP shall within 15 days inform old ROC or ROF about conversion.
- Upon Conversion, partner of firm are now partner of LLP & of Company shall now be partner of LLP.
- On the date of Conversion or Certificate of registration it is effective.

Effect of Registration: -

- On receipt of Certificate of Incorporation all assets of firm of Company are not assets of LLP.

Foreign LLP: - (Section 59)

Central govt. shall make all rules & provisions regarding foreign LLPs.

Winding UP & Dissolution: -

Winding up & Dissolution: - (Section 63)

This can be voluntarily or by court.

Circumstances in which LLP may be wound up by Court/Tribunal → (Section 64)

1. If LLP decides to wound up by court order.
2. If Partners reduces below 2 for more than 6 months.
3. Unable to pay Debt (LLP)
4. If LLP has done anything against Country.
5. If LLP fails to file returns eg. Annual return etc. (for 3 continuous years)
6. Just & Equitable ground

Rules for winding up & Dissolution:- (Section 65)

Central govt. makes rules & provisions relating to it.

MISCELLANEOUS → @beingcommerce

→ Business transaction of partner & LLP → (Section 66)

If a partner lent money to LLP, they shall enjoy rights of lender.

→ Electronic filling of documents → (Section 68)

All the documents of LLP shall be filled Electronically.

In case of delay above 300 days, ₹ 100 will be charged per day.