

# THE LIMITED LIABILITY PARTNERSHIP ACT, 2008

## Short Title, Extent and Commencement [Section 1]

- Short Title - Limited Liability Partnership Act, 2008
- Extent - Whole of India
- Commencement - Different Provisions may be notified on different dates by CG

## Characteristics of LLP

Body Corporate	Artificial Legal Person	Minimum -2 Partners	CG can Investigate
Perpetual Succession	Common Seal (Optional)	Maximum - No Limit	Compromise or Arrangement
Separate legal entity	Limited liability of partners	Business for profit only	Conversion into LLP
LLP Agreement	Management of business	CG can Investigate	E-filing of documents

## Important Definitions

**Body Corporate [(Section 2(1)(d))]:** It means a company as defined in Companies Act, 2013 and includes—

- a LLP registered under this Act;
- a LLP incorporated outside India; and
- a company incorporated outside India,

but does not include—

- a corporation sole;
- a co-operative society
- any other body corporate (not being a company under Companies Act, 2013 or a LLP as defined in this Act), which the CG may specify

**Financial Year [Section 2(1)(l)]:** “Financial year”, in relation to a LLP, means the period from the 1st April of a year to the 31st March of the following year.

However, in the case of a LLP incorporated after 30th September of a year, the financial year may end on the 31st March of the year next following that year.

**Foreign LLP [section 2(1)(m)]:** It means a LLP formed, incorporated or registered outside India which establishes a place of business within India.

**Limited Liability Partnership (LLP) [Section 2(1)(n)]:** LLP means a partnership formed and registered under this Act.

**LLP agreement [Section 2(1)(o)]:**

- It means any written agreement
- between the partners of LLP or
- between LLP and its partners
- which determines the mutual rights and duties of the partners and
- their rights and duties in relation to that LLP.

**Small LLP [Section 2(1)(ta)]:** It means a LLP with

Contribution	Up to ₹ 25Lakhs &
Turnover for immediately preceding F.Y	Up to ₹ 40 Lakhs

### Partners [Section 5]

Any individual or body corporate may be a partner in a LLP.

However, an individual shall not be capable of becoming a partner of a LLP, if—

- he is of **unsound mind** or
- he is an **undischarged insolvent**; or
- he has **applied to be adjudicated as insolvent** and his application is pending.

### Minimum number of Partners [Section 6]

- Every LLP shall have **at least 2 partners**.
- If at any time **no. of partners is reduced below 2** and LLP carries on business for more than 6 months, **only partner who has the knowledge** of the fact that LLP is carrying on business **shall be liable personally** for the obligations of LLP

### Designated Partners [Section 7]

- Every LLP shall have **at least 2 designated partners** who are individuals and **at least 1 of them shall be a resident in India**.
- If all the partners are bodies corporate or in which one or more partners are individuals and bodies corporate, **at least 2 individuals who are partners of such LLP or nominees of such bodies corporate** shall act as designated partners.
- Resident in India means a person who has stayed in India for a period of **not less than 120 days during the financial year**.
- Prior written consent** from Designated partner
- LLP shall **intimate registrar within 30 days** about appointment of designated partner

6. Every designated partner of LLP shall obtain a Designated Partner Identification Number (DPIN)
7. If the incorporation document
  - a. specifies who are to be designated partners, such persons shall be designated partners on incorporation; or
  - b. states every partner shall be a designated partner;
    - ii. any partner may become a designated partner by and in accordance with LLP Agreement and a partner may cease to be a designated partners in accordance with LLP agreement.

### Liabilities of Designated Partners [Section 8]

Designated partner shall be—

- a. responsible for the doing of all acts to be done by LLP in respect of compliance of this Act including filing of any document, return, statement etc. and
- b. liable to all penalties imposed on LLP for any contravention of those provisions.

### Changes in Designated Partners [Section 9]

A LLP may appoint designated partner within 30 days of vacancy and intimate registrar within 30 days of appointment

if no designated partner is appointed, or if at any time there is only one designated partner, each partner shall be deemed to be a designated partner.

### Punishment for contravention of sections 7 and 9 [Section 10]

Contravention	Liable	Penalty	Continuing contravention
LLP to have at least 2 designated partners who are individuals & at least 1 of them is resident in India	LLP & its every partner	Rs. 10,000	Rs.100 per day subject to maximum Rs. 1 lakhs for LLP and Rs.50,000 for every partner.
Non-filing of particulars of designated partner with registrar	LLP & its every designated partner	Rs. 5,000	Rs.100 per day subject to maximum of Rs.50,000 for LLP and Rs.25,000 for every designated partner
Where the designated partner is disqualified	LLP & its every partner	Rs. 10,000	Rs.100 per day subject to maximum Rs.1,00,000 for LLP and Rs.50,000 for every partner of such LLP.
Where there is vacancy in office of designated partner and not filled within time	LLP & its every partner	Rs. 10,000	Rs.100 per day subject to maximum Rs.1,00,000 for LLP and Rs.50,000 for every partner of such LLP.

### Incorporation Document [Section 11]

Document needed for registration is the incorporation document.

1. For a LLP to be incorporated:
  - (a) **2 or more persons** associated for carrying on a lawful business with a view to earn profit **shall subscribe their names to incorporation document;**
  - (b) the incorporation document shall be **filed with the Registrar** of the State in which the registered office of LLP is to be situated and
  - (c) **Statement by advocate/CS/ CA /Cost Accountant**, who is engaged in formation of LLP **and by any one subscriber**
    - that all the requirements of this Act and the rules made thereunder have been complied with,
    - in respect of incorporation and matters precedent and incidental thereto.
2. The incorporation document shall—
  - a. be in a form as may be prescribed;
  - b. state the **name of LLP;**
  - c. state the **proposed business** of LLP;
  - d. state the address of the **registered office** of LLP;
  - e. state the **name and address of each** of the persons who are to be **partners** of LLP on incorporation;
  - f. state the name and address of the persons who are to be **designated partners** of LLP on incorporation;
  - g. contain such **other information** concerning the proposed LLP as may be prescribed.
3. If a person **makes a statement** as discussed above which he—
  - a. **knows to be false;** or
  - b. does not believe to be true,  
shall be punishable (Penalty for false declaration)
    - with imprisonment for a term which may extend to 2 years and
    - with fine which shall not be less than Rs.10,000 but which may extend to Rs.5 Lakhs.

### Incorporation by Registration [Section 12]

1. **Registrar shall register** the incorporation document **within 14 days** and give a certificate that LLP is incorporated by the name specified therein.
2. The certificate shall be **conclusive evidence** that LLP is incorporated by the name specified therein.

### Registered Office of LLP and Change therein [Section 13]

1. Every LLP shall have a registered office to which all communications and notices may be addressed and where they shall be received.
2. A document may be served on LLP /partner/ designated partner by sending it by post or by registered post or any other manner as may be prescribed, at the registered office and other address specifically declared by LLP
3. A LLP may change the place of its registered office and file the notice of such change with the Registrar in manner as may be prescribed
4. If LLP contravenes any provisions of this section, LLP and its every partner shall be punishable with penalty of Rs. 500 per day subject to maximum Rs. 50,000.

### Effect of registration [Section 14]

On Registration, LLP by its name, shall be capable of -

- i. Suing and being sued;
- ii. Acquiring, owning, holding /developing / disposing of property
- iii. Having a common seal, if it decides to have one; and
- iv. Doing and suffering other acts and things as bodies corporate may lawfully do and suffer.

### Name [Section 15]

1. Every LLP shall have either the words “Limited Liability Partnership” or the acronym “LLP” as the last words of its name.
2. In the opinion of the CG, name shall not be—
  - a. undesirable; or
  - b. identical or too nearly resembles to other LLP or a company or a registered trademark

### Reservation of name [Section 16]

1. A person may apply to Registrar for the reservation of a name set out in the application as—
  - a. the name of a proposed LLP; or
  - b. the name to which a LLP proposes to change its name.
2. Upon receipt of application and on payment of the fee, Registrar reserve the name for a period of 3 months from the date of intimation by the Registrar.

### Rectification of name of LLP [Section 17]

1. If LLP is registered by a name which is identical with or too nearly resembles to-
  - a. that of any other LLP or a company; or a registered trade mark
  - b. then on application of such LLP or proprietor or company,  
CG may direct LLP to change its name within 3 months

Note:- Application of the proprietor of the registered trade marks shall be maintainable within a period of 3 years
2. Within 15 days of name change, LLP shall give notice to Registrar along with the order of the CG, & registrar shall issue fresh certificate of incorporation and within 30 days of change in the certificate of incorporation, LLP shall change its name in LLP agreement.
3. If LLP fails to change name within 3 months, CG shall allot a new name to LLP and the Registrar shall enter new name in the register of LLP and issue a fresh certificate of incorporation with new name.

### Eligibility to be partners [Section 22]

- On incorporation of LLP, persons who subscribed their names to the incorporation document shall be its partners
- Any other person may become a partner of LLP by and in accordance with LLP agreement.

### Relationship of partners [Section 23]

1. Mutual rights and duties of the partners of a LLP, and the mutual rights and duties of a LLP and its partners, shall be governed by LLP agreement
2. LLP agreement and any changes shall be filed with the Registrar within 30 days
3. Any written pre-incorporation agreement between the subscribers to incorporation document may impose obligations on LLP, provided such agreement is ratified by all the partners after incorporation of LLP.
4. In the absence of agreement, mutual rights are determined by the First Schedule.

### Cessation of partnership interest [Section 24]

1. A person may cease to be a partner of a LLP in accordance with an agreement with the other partners or,
2. In the absence of agreement, by giving a notice in writing of not less than 30 days to the other partners of his intention to resign as partner.

3. A person shall cease to be a partner of a LLP—
  - a. on his **death** or dissolution of LLP; or
  - b. if he is declared to be of **unsound mind** by a competent court; or
  - c. if he has applied to be **insolvent** or declared as an insolvent.
4. Former partner is to be regarded as partner of LLP unless—
  - a. the person has notice that the former partner has ceased to be a partner of LLP; or
  - b. notice that the former partner has ceased to be a partner of LLP has been delivered to the Registrar.
5. The cessation of a partner from LLP does not by itself discharge the partner from any obligation to LLP or to the other partners or to any other person which he incurred while being a partner.
6. Unless otherwise provided in LLP agreement, former partner or a person entitled to his share in consequence of the death or insolvency of the former partner, shall be entitled to receive from LLP—
  - a. an amount equal to the capital contribution of the former partner actually made to LLP; and
  - b. his right to share in the accumulated profits of LLP, after the deduction of accumulated losses of LLP, determined as at the date the former partner ceased to be a partner.
7. A former partner or a person entitled to his share shall not have any right to interfere in the management of LLP.

### Registration of changes in partners [Section 25]

Intimation by Partner to LLP	Inform LLP of change in name or address of partner in 15 days	Penalty for partner – Rs. 10,000
Notice by LLP to Registrar	File notice with registrar within 30 days - Admission of partner (with consent) - Cessation of Partner - Change in name or address of partner	Penalty for every designated partner – Rs. 10,000
Notice by former partner to Registrar	<ul style="list-style-type: none"> <li>Any partner who ceases to be partner</li> <li>Can file notice with registrar</li> <li>If he has reasonable believe</li> <li>LLP may not file notice with registrar</li> </ul>	Registrar shall obtain confirmation from LLP If no confirmation is given by LLP within 15 days, Registrar shall register the notice given by former partner

### Partner as agent [Section 26]

For the purpose of business of LLP, every partner of a LLP is the agent of LLP, but not of other partners of LLP.

### Extent of Liability of LLP [Section 27]

1. A LLP is not liable if—
  - a. the partner in fact has no authority to act for LLP in doing a particular act; and
  - b. the person knows that he has no authority or does not know or believe him to be a partner of LLP.
2. LLP is liable if
  - a. a partner of a LLP is liable to any person as a result of a wrongful act or omission on his part in the course of the business of LLP or
  - b. with its authority.
3. **Obligation of LLP shall be solely the obligation of LLP** and shall be met out of property of LLP.

### Extent of liability of partner [Section 28]

1. A partner is not personally liable for obligation of LLP.
2. This section shall not affect personal liability of a partner for his own wrongful act or omission
3. But a partner shall not be personally liable for wrongful act or omission of any other partner of LLP.

### Holding out [Section 29]

1. Any person,
  - who by words spoken or written or by conduct,
  - represents himself, or knowingly permits himself to be represented to be a partner in a LLP
  - is liable to any person
  - who has on the faith of any such representation
  - given credit to LLP, whether the person representing himself or represented to be a partner does or does not know that the representation has reached the person so giving credit.

However,

- where any credit is received by LLP as a result of such representation,
- LLP shall,
- without prejudice to the liability of the person so representing himself or represented to be a partner,
- be liable to the extent of credit received by it or any financial benefit derived thereon.



2. Where after a partner's death the business is continued in the same LLP name, the continued use of that name or of the deceased partner's name as a part thereof shall not by itself make his legal representative or his estate liable for any act of LLP done after his death.

### Unlimited liability in case of fraud [Section 30]

1. In the event of an act carried out by a LLP, or any of its partners,
  - with intent to defraud creditors of LLP or any other person, or for any fraudulent purpose,
  - their **Liability shall be unlimited**
  - But in case any such act is carried out by a partner
    - LLP is Liable to the same extent as partner
    - Unless it is established by LLP that such act was without the knowledge /authority of LLP
2. Where any business is carried on with fraudulent intent then
  - every person who was knowingly a party fraud shall be punishable with
  - imprisonment upto 5 years and
  - with fine = Rs. 50,000 to Rs. 5 Lakhs.
3. Where a LLP or any partner or designated partner or employee of such LLP has conducted the affairs of LLP in a fraudulent manner, they shall be liable to pay compensation to the person who suffered loss

### Whistle blowing [Section 31]

1. **Court or Tribunal may reduce or waive any penalty** of partner or employee of LLP, if it is satisfied that—
  - **He has provided useful information** during investigation of such LLP; or
  - **when any information given by him leads to LLP or any partner or employee of such LLP being convicted**
2. No partner or employee may be discharged, demoted, suspended, threatened, harassed or in any other manner discriminated merely because of providing information

### Form of contribution [Section 32]

1. A contribution of a partner may consist of
  - tangible, movable or immovable or intangible **property** or
  - other **benefit** to LLP,
  - including **money, promissory notes**, other agreements to contribute cash or property, and
  - **contracts for services** performed or to be performed.
2. The **monetary value of contribution of each partner** shall be accounted for and disclosed in the accounts of LLP

**Obligation to contribute [Section 33]**

- The obligation of a partner to contribute money or other property or other benefit or to perform services for a LLP shall be as per LLP agreement.
- A creditor of a LLP, which extends credit or otherwise acts in reliance on an obligation described in that agreement, without notice of any compromise between partners, may enforce the original obligation against such partner.

**Books of account [Section 34]**

1. Proper Books of account:
  - LLP shall maintain such proper books of account as may be prescribed relating to its affairs for each year of its existence
  - on cash basis or accrual basis and
  - according to double entry system of accounting and
  - shall maintain the same at its registered office
  - for 8 years
2. Statement of Account and Solvency:
  - Every LLP shall,
  - within a period of 6 months from the end of each financial year,
  - prepare a Statement of Account and Solvency
  - for the said financial year as at the last day of the said financial year
  - Signed by designated partners of LLP
3. Every LLP shall file Statement of Account and Solvency with the Registrar every year within 30 days from the end of 6 months of FY
4. The accounts of LLP shall be audited. However, the CG may exempt any class or classes of LLP from the requirements of this sub-section.
5. Penalty for non-compliance of provisions of sub-section 3- LLP – Rs.100 per day subject to maximum Rs.1,00,000 Every Designated Partners - Rs.100 per day subject to maximum Rs.50,000.
6. Penalty for non-compliance of provisions of sub-section 1, 2 & 4 - LLP – not less than Rs.25,000 which may extend to 5 Lakhs. Every designated partner –not less than Rs.10,000 which may extend to Rs.1 Lakh.

**Accounting and auditing standards [Section 34A]**

CG may, in consultation with NFRA—

- a. Prescribe the standards of accounting; and
- b. Prescribe the standards of auditing, as recommended by ICAI.

**Annual Return [Section 35]**

1. Every LLP shall file an annual return with the Registrar within 60 days of closure of its financial year.
2. Penalty for non-filing of annual return –
  - LLP – Rs.100 per day subject to maximum Rs.1,00,000
  - Every Designated Partners - Rs.100 per day subject to maximum Rs.50,000

**Inspection of Documents Kept by Registrar [Section 36]**

The incorporation document, name of partners and changes, if any, made therein, Statement of Account and Solvency and annual return filed by each LLP with the Registrar shall be available for inspection by any person on payment of such fee as may be prescribed.

**Penalty for False Statement [Section 37]**

If in any return, statement or other document, any person makes a statement—

- a. which is false in any material particular, knowing it to be false; or
  - b. which omits any material fact knowing it to be material,
- he shall be punishable with imprisonment up to 2 years, and fine = 1 lakh to 5 Lakhs

**Power of Registrar to Obtain Information [Section 38]**

1. In order to obtain such information as the Registrar may consider necessary
  - for the purposes of carrying out the provisions of this Act,
  - the Registrar may require any person including any present or former partner or designated partner or employee of a LLP
  - to answer any question or make any declaration or supply any details or particulars in writing to him within a reasonable period.
2. In case any person does not answer or make declaration or supply details asked or when Registrar is not satisfied with reply or declaration or details or particulars provided, Registrar shall have power to summon that person to appear before him or an inspector or any other public officer whom the Registrar may designate.
3. Without lawful excuse, if any person fails to comply with any summons or requisition shall be punishable with fine = Rs. 2000 to Rs 25000.

### Compounding of Offences [Section 39]

1. Offences which are punishable with fine only can be compounded by Regional Director or officer authorized by CG
2. No compounding can be done if the same offence is repeated within 3 years
3. Application for compounding is made to registrar who forwards it to regional director along with his comments
4. Once application of compounding is approved, intimation is given within 7 days
5. Where any offence is compounded before institution of any prosecution, no prosecution shall be instituted
6. Where the compounding of any offence is made after the institution of any prosecution, such compounding shall be brought to notice of the court by registrar & the offender in relation to which the offence is so compounded shall be discharged.
7. The Regional Director or officer authorised by the CG, may direct any partner, designated partner or other employee of LLP to file or register, or on payment of fee or additional fee as required to be paid under this Act
8. In case of failure to comply with the above order, twice the amount of maximum fine can be imposed

### Partner's Transferable Interest [Section 42]

1. The rights of a partner to a share of the profits and losses of LLP and to receive distributions in accordance with LLP agreement are transferable either wholly or in part.
2. The transfer of any right by any partner pursuant to sub-section (1) does not by itself cause the disassociation of the partner or a dissolution and winding up of LLP.
3. The transfer of right pursuant to this section does not, by itself, entitle the transferee or assignee to participate in the management or conduct of the activities of LLP, or access information concerning the transactions of LLP.

### Conversion INTO LLP

Section 55	Firm into LLP	Second Schedule
Section 56	Private Company into LLP	Third Schedule
Section 57	Unlisted Public Company into LLP	Fourth Schedule

### Registration and Effect of Conversion [Section 58]

1. Registrar shall register documents submitted under schedule and issue certificate of registration
2. LLP shall within 15 days to inform registrar of firm/company
3. Upon conversion, LLP & partners shall be bound by provisions of the schedule
4. Effect of Conversion –
  1. There shall be LLP with name specified in the certificate
  2. All property shall vest in LLP
  3. Firm or Company shall be deemed to dissolved

### Foreign LLPs [Section 59]

The CG may make rules for provisions in relation to establishment of place of business by foreign LLP within India and carrying on their business therein by applying or incorporating, with such modifications, as appear appropriate, the provisions of the Companies Act, 2013 or such regulatory mechanism with such composition as may be prescribed.

### Compromise, Arrangement OR Reconstruction of LLPS

#### Compromise or arrangement of LLPs [Section 60]

1. **Application with Tribunal** for compromise or arrangement
  - a. between a LLP and its creditors; or
  - b. between a LLP and its partners,  
can be **filed by LLP or any creditor or partner of LLP**, or, in the case of a LLP which is being wound up, by **the liquidator**,
2. Tribunal may **order a meeting of creditors or of partners**, as the case may be, to be called, held and conducted in manner prescribed or as Tribunal directs.
3. If a **majority in number representing three-fourths in value** of the creditors, or partners, at the meeting, agree to any compromise or arrangement, & if approved by the Tribunal by **order be binding on all the creditors or all the partners**, as the case may be, and also on LLP, or in the case of a LLP which is being wound up, on the liquidator and contributories of LLP:
4. All **material facts relating to LLP to be disclosed to Tribunal**, including the latest financial position of LLP and the pendency of any investigation proceedings in relation to LLP.
5. An order made by Tribunal shall be filed by LLP with the Registrar within 30 days after making such an order and shall have effect only after it is so filed.

**Power of Tribunal to enforce compromise or arrangement (Section 61)**

1. Tribunal
  - a. shall have **power to supervise** the carrying out of the compromise or an arrangement; and
  - b. May **give such directions or make such modifications** in the compromise or arrangement as **it may consider necessary** for the proper working of the compromise or arrangement.
2. If the Tribunal aforesaid is satisfied that a compromise or an arrangement sanctioned cannot be worked satisfactorily with or without modifications, **Tribunal may make an order for winding up of LLP**

**Provisions for facilitating reconstruction or amalgamation of LLPs [Section 62]**

1. Where an application is made to the Tribunal for sanctioning of a compromise or arrangement and it is shown to Tribunal that—
  - a. compromise or arrangement involves reconstruction of any LLP the amalgamation of any two or more LLPs; and
  - b. property or liabilities of any LLP is to be transferred to another LLP, then Tribunal may make provisions for all or any of the following matters, namely:—
    - i. the transfer to the transferee LLP of the whole or any part of the undertaking, property or liabilities of any transferor LLP;
    - ii. the continuation by or against the transferee LLP of any legal proceedings pending by or against any transferor LLP;
    - iii. the dissolution, without winding up, of any transferor LLP;
    - iv. the provision to be made for any person who, within such time and in such manner as the Tribunal directs, dissent from the compromise or arrangement; and
    - v. such incidental, consequential and supplemental matters as are necessary to secure that the reconstruction or amalgamation shall be fully and effectively carried out;
2. Within 30 days after order date, every LLP shall cause a certified copy of order to be filed with the Registrar for registration.

**Winding up and Dissolution**

**Winding up and dissolution [Section 63]:** The winding up of a LLP may be either voluntary or by the Tribunal and LLP, so wound up may be dissolved.

**Circumstances in which LLP may be wound up by Tribunal [Section 64]:** A LLP may be wound up by the Tribunal:

- a. if **LLP decides that LLP be wound up by the Tribunal**;
- b. if, for a period of more than six months, the **number of partners** of LLP is **reduced below two**;
- c. if LLP has acted **against the interests of the sovereignty and integrity** of India, the security

- of the State or public order;
- d. if LLP has made a **default in filing** with the Registrar the Statement of Account and Solvency or annual return for **any five consecutive financial years**; or
  - e. if the Tribunal is of the opinion that it is **just and equitable** that LLP be wound up.

**Rules for winding up and dissolution [Section 65]:** The CG may make rules for the provisions in relation to winding up and dissolution of LLP.

### **Business Transactions of Partner with LLP [Section 66]**

A partner may lend money to and transact other business with LLP and has the same rights and obligations with respect to the loan or other transactions as a person who is not a partner.

### **Application of the Provisions of the Companies Act [Section 67]**

1. The CG may direct that any of the provisions of the Companies Act, 2013 specified in the notification **shall apply to any LLP** with such exception, modification and adaptation, as may be specified, in the notification.
2. A copy of every notification proposed to be issued
  - ◆ shall be laid in draft before each House of Parliament, while it is in session,
  - ◆ for a total period of 30 days

### **Payment of Additional Fee [Section 69]**

Any document or return if not registered or filed in time may be registered or filed after that time, **on payment of such additional fee** as may be prescribed in addition to any fee as is payable for filing of such document or return

### **Enhanced Punishment [Section 70]**

Second or subsequent offence, be punishable with

- imprisonment as provided,
- fine which shall be **twice the amount of fine** for such offence.