

THE LIMITED LIABILITY PARTNERSHIP ACT, 2008

INTRODUCTION

The Ministry of Law and Justice on 9th January 2007 notified the Limited Liability Partnership Act, 2008.

The Parliament passed the Limited Liability Partnership Bill on 12th December 2008 and the President of India has assented the Bill on 7th January, 2009 and called as the Limited Liability Partnership Act, 2008..

The LLP Act, 2008 has 81 sections and 4 schedules.

The First Schedule deals with mutual rights and duties of partners, as well limited liability partnership and its partners where there is absence of a formal agreement with respect to them.

The Second Schedule deals with conversion of firm into LLP.

The Third Schedule deals with conversion of private company into LLP.

The Fourth Schedule deals with conversion of unlisted public company into LLP.

It is *also to be noted that the Indian Partnership Act, 1932 is not applicable to LLPs.*

LIMITED LIABILITY PARTNERSHIP- MEANING AND CONCEPT

Meaning: *A LLP is a new form of legal business entity with limited liability.* It is an alternative corporate business vehicle that not only gives the benefits of limited liability at low compliance cost but allows its partners the flexibility of organizing their internal structure as a traditional partnership. The LLP is a separate legal entity and, while the LLP itself will be liable for the full extent of its assets, the liability of the partner will be limited.

LLP is an alternative corporate business form that gives the benefits of limited liability of a company and the flexibility of a partnership.

Since LLP contains element of both 'a corporate structure' as well as 'a partnership firm structure' LLP is called a hybrid between a company and a partnership.

IMPORTANT DEFINITIONS

♣ **Body Corporate [section 2(d)]:** It means a company as defined in clause(20) of section 2 of the Companies Act, 2013 and **Includes-**

- (i) a LLP registered under this Act;
- (ii) a LLP incorporated outside India; and
- (iii) a company incorporated outside India,

but does not include-

- (i) **a corporation sole;**
- (ii) a **co-operative society** registered under any law for the time being in force; and
- (iii) any **other body corporate** (not being a company as defined in clause(20) of section 2 of the Companies Act, 2013 or a limited liability partnership as defined in this Act),

which the Central Government may, by notification in the official Gazette, specify in this behalf.

- ♣ **Business [Section 2(e)]:** "Business" includes every trade, profession, service and occupation **except any activity which the central government may, by notification, exclude** (amendment)
- ♣ **Designated Partner [Section 2(j)]:** "Designated Partner" means any partner designated as such pursuant section 7.
- ♣ **Entity [Section 2(k)]:** "Entity" means any body corporate and includes, for the purpose of section 18,46,47,48,49,50, 52 and 53, a firm setup under the Indian Partnership Act, 1932.
- ♣ **Financial Year [Section 2(l)]:** "Financial year", in relation to a LLP, means the period from the 1st day of April of a year to the 31st day of March of following year. However, in the case of a LLP incorporated after the 30th day of September of the year, the financial year may ended on 31st day of March of the next following year.
- ♣ **Foreign LLP [Section 2(m)]:** It means a LLP formed, incorporated or registered outside India which establishes a place of business within India.
- ♣ **Limited Liability Partnership [Section 2(n)]:** Limited Liability Partnership means a partnership formed and registered under this Act.
- ♣ **Limited Liability Partnership Agreement [Section 2(o)]:** It means any written agreement between the partner of the LLP or between the LLP and its partners which determines the mutual rights and duties of the partner and their rights and duties in relation to that LLP.
- ♣ **Partner [Section 2(q)]:** Partner, in relation to a LLP, means any person who becomes a partner in LLP in accordance with the LLP agreement.
- ♣ **"small limited liability partnership [section 2(ta)]:** it means a limited liability partnership – [amendment]
 - (i) **The contribution of which, does not exceed twenty-five lakh rupees or such higher amount, not exceeding five crore rupees, as may be prescribed; and**
 - (ii) **The turnover of which, as per the statement of account and solvency for the immediately preceding financial year, does not exceed forty lakh rupees or such higher amount not exceeding fifty crore rupees, as may be prescribed; or**
 - (iii) **Which meet such other requirements as may be prescribed, and fulfils such terms and conditions as may be prescribed;**

Non-applicability of the India Partnership Act, 1932(Section 4): **Save as otherwise provide, the provisions of the Indian Partnership Act, 1932 shall not apply to a LLP.**

Partners (Section5): **Any individual or body corporate may be a partner in a LLP.**

However, **an individual shall not be capable o becoming a partner of a LLP, if -**

- (a) He has been found to be of **unsound mind** by a Court of competent jurisdiction and the finding is in force;
- (b) He is an **undischarged insolvent**; or
- (c) He has **applied to be adjudicated as an insolvent and his application is pending.**

Minimum number of partners (Section 6):

- (i) Every LLP shall have **at least two partners.**

- (ii) *If at any time the number of partners of a LLP is reduced below two and the LLP carries on business for more than six months while the number is so reduced, the person, who is the only partner of the LLP during the time that it so carries on business after those six months and has the knowledge of the fact that it is carrying on business with him alone, shall be liable personally for the obligations of the LLP incurred during the period.*

Designated partner (Section 7): [amendment]

- (1) Every LLP shall have *at least two* designated partners *who are individuals and at least one of them shall be a resident in India.*

Provided that in case of LLP, all the partners are bodies corporate or in which one or more partners are individual and bodies corporate, at least two individuals who are partner of such LLP or nominees of such bodies corporate shall act as a designated partners.

Explanation: For the purposes of this section, the term “resident in India” means a person who has stayed in India for a period of not less than 120 days during the financial year.

- (2) Subject to the provision of sub-section(1)
- (i) If the incorporation document
 - (a) *Specifies who are to be designated partners, such persons shall be designated partners on incorporation; or*
 - (b) *States that each of the partners from time to time of LLP is to be designated partner, every partner shall be 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 partner in accordance with LLP agreement.
- (3) An individual shall not become a designated partner in any LLP unless he has given his prior consent to act as such to the LLP in such form and manner as may be prescribed.
- (4) Every LLP shall file with the registrar the particulars of every individual who has given his consent to act as designated partner in such form and manner as may be prescribed within 30 days of his appointment.
- (5) An individual eligible to be designated partner shall satisfy such conditions and requirement as may be prescribed.
- (6) Every designated partner of a LLP shall obtain a designated partners identification number (DPIN) from the central government and the provisions of section 153 to 159 (both inclusive) of the companies Act, 2013 shall apply mutatis mutandis for the said purpose.

CHARACTERSTICS/SALIENT FEATURES OF LLP:

- ♣ **LLP is a body corporate:** *LLP is a body corporate formed and incorporated under this Act and is a legal entity separate from that of its partners* and shall have perpetual succession. Therefore, any change in the partners of a LLP shall not affect the existence, rights or liabilities of the LLP.

Section of LLP Act provides that a LLP is a body corporate formed and incorporated under this Act and is a legal entity separate from that of its partners.

- ♣ **Perpetual Succession:** *It is capable of entering into contract and holding property in its own name.*

- ♠ **Separate Legal Entity:** The LLP is a separate legal entity, *LLP is liable to the full extent of its assets but liability of the partner is limited to their agreed contribution in the LLP*. In other words, creditors of LLP shall be the creditors LLP alone.
- ♠ **Mutual Agency:** Further, no partner is liable on account of the independent or unauthorized actions of other partners, thus individual partners are shielded from joint liability created by another partner's wrongful business decision or misconduct. In other words, *all the partners will be the agents of the LLP alone. No one partner can bind the other partner by this Act*.
- ♠ **LLP Agreement:** *Mutual right and duties of the partners within a LLP are governed by an agreement between the partners*. The LLP Act, 2008 provides flexibility to partner to devise the agreement as per their choice. In the absence of any such agreement, the mutual rights and duties shall be governed by the provisions of the LLP Act, 2008.
- ♠ **Artificial Legal Person:** *A LLP is an artificial legal person because it is created by a legal process and is clothed with rights of an individual*. It can do everything which any natural person can do, except of course that, *it cannot sent to jail, cannot take an oath, cannot marry or get divorce nor can it practice a learned profession like CA or Medicine*. A LLP is invisible, intangible, immortal (it can be dissolved by law alone) but not fictitious because it really exists.
- ♠ **Common Seal:** A LLP being an artificial person can act through its partners and designated partners. LLP may have a common seal, if they decided to have one [Section 14(c)]. Thus, *it is not mandatory for a LLP to have a common seal. It shall remain under the custody of some responsible official and it shall be affixed in the presence of at least two designated partners of the LLP*.
- ♠ **Limited Liability:** Every partner of a LLP is, for the purpose of business of LLP, the agent of the LLP, but not of other partners (Section 26). *The liability of the partners is limited to there agreed to their agreed contribution in the LLP*. Such contribution may be of tangible or intangible nature or both
- ♠ **Management of Business:** The partners in the LLP are entitled to manage the business of LLP. But *only the designated partners are responsible for legal compliances*.
- ♠ **Minimum and Maximum number of Partners:** Every LLP shall have least two partners and shall also have *at least 2 individuals as designated partners, of whom at least one shall be resident in India*. There is *no maximum limit* on the partner in LLP.
- ♠ **Business for Profit Only:** The essential requirement for forming LLP is carrying on a lawful business with a view to earn profit. *Thus LLP cannot be formed for charitable or non-economic purpose*.
- ♠ **Investigation:** The Central Government shall have powers to investigate the affairs of an LLP by appointment of competence authority for the purpose.
- ♠ **Compromise or Arrangement:** Any compromise or agreements including merger and amalgamation of LLPs shall be in accordance with the provisions of the LLP Act, 2008
- ♠ **Conversion into LLP:** A firm, private company or an unlisted public company would be allowed to be converted into LLP in accordance with the provisions of LLP Act, 2008.
- ♠ **E-Filing of Documents:** Every form or application of document required to be filed or delivered under the act and rules made there under, shall be filed in computer readable

electronic form on its website www.mca.gov.in and authenticated by a partner or designated partner LLP by the use of electronic and digital signature.

- ♠ **Foreign LLPs:** Section 2(1)(m) defines foreign limited liability partnership “*as a limited liability partnership formed, incorporated, or registered outside India which established as place of business within India*”. Foreign LLP can become a partner in India LLP.

INCORPORATION OF LLP

Incorporation document (Section 11):

♥ For a LLP to be incorporated:

- (a) *Two or more persons associated for carrying a lawful business* with a view to profit shall subscribe their name to an incorporation document;
- (b) *The incorporation document* shall be filed in such manner and with such fees, *as may be prescribed with the Register of the State in which the registered office of the LLP* is to be situated; and
- (c) *Statement to be filed:*
 - There shall be filed along with the *incorporation document, a statement in the prescribed form,*
 - Made either by an advocate, or a Company Secretary or a Chartered Accountant or a Cost Accountant, who is engaged in the formation of the LLP and
 - *By any one who subscribed his name to the incorporation document,*
 - 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

♥ The incorporation document shall—

- (a) Be in *a form as may be* prescribed;
- (b) State the *name* of the LLP;
- (c) State the *proposed business* of the LLP;
- (d) State *the address of the registered office* of the LLP;
- (e) State the *name and the address of each of the persons who are to be partners* of the LLP on incorporation;
- (f) State the *name and the address of each of the persons who are to be designated partners* of the LLP on incorporation;
- (g) *Contain such other information* concerning the proposed LLP as may be prescribed.

♥ 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
 - 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):

- ♦ When the requirements imposed by clauses (b) and (c) of sub section 11 have been complied with, the Register shall retain the incorporation document and, unless the

requirement imposed by clause (a) of that sub section has not been complied with, he shall, *within a period of 14 days—*

(a) Register the incorporation document; and

(b) Give a certificate that the LLP is incorporated by the name specified therein.

- ♦ The registrar may accept the statement delivered under clause (c) of sub section (1) of section 11 as sufficient evidence that the requirement imposed by clause (a) of that sub section has been complied with.
- ♦ *The certificate issued under clause (b) of sub section (1) shall be signed by the Registrar and authenticated by his office seal.*
- ♦ *The certificate shall be conclusive evidence that the LLP is incorporated by the name specified therein.*

Registered office of LLP and change therein (Section 13): [Amendment]

- ♣ *Every LLP shall have a registered office to which all communication and notices may be addressed and where they shall be received.*
- ♣ *A document may be served on a LLP or a partner or designated partner thereof by sending it by post under a certificate of posting or by registered post or by any other manner,* as may be prescribed, at the registered office and any other address specifically declared by the LLP for the purpose in such form and manner as may be prescribed.
- ♣ A LLP may change the place of its registered office and file the notice of such change with the Registrar in such form and manner and subject to such conditions as may be prescribed and any such change shall take effect only upon such filing.
- ♣ *If any default is made in complying with the requirement of this section, the LLP and its every partner shall be liable to a penalty of five hundred rupees for each day during which the default continues, subject to a maximum of fifty thousand rupees for the LLP and its partners*

Name (Section 15): [Amendment]

- ♠ *Every limited liability partnership shall have either the words “limited liability partnership” or the acronym “LLP” as the last words of its name.*
- ♠ *No LLP shall be registered by a name which, in the opinion of the Central Government—*
 - (a) Undesirable; or*
 - (b) Identical or too nearly resembles to that of and other or LLP or a registered trade mark of any other person under the Trade Mark Act, 1999.*

Reservation of name (Section 16):

- ♥ A person may apply in such form and manner and accompanied by such fee as may be prescribed to the 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.
- ♥ Upon receipt of an application under sub section (1) and on payment of the prescribed fee, the Registrar may, if he is satisfied, subject to the rules prescribed by the *Central Government in the matter, that the name to be reserved is not one which may be rejected*

on any ground referred to in sub section(2) of section 15, reserve the name for the period of 3 months from the date of intimation by the Registrar.

Change of name of LLP (section 17) [Amendment]

(1) Notwithstanding anything contained in sections 15 and 16, *if through inadvertence or otherwise, a LLP on its first registration or on its registration by a new body corporate, its registered name; is registered by a name which is identical with or too nearly resembles to—*

- (a) *That of any other limited liability partnership or a company; or*
- (b) *A registered trade mark of a proprietor under the trade marks Act, 1999, as is likely to be mistaken for it, then on an application of such LLP or proprietor referred to in clauses (a) and (b) respectively or a company, the central government may direct that such LLP to change its name or new name within a period of three months from the date of issue of such direction;*

Provided that an application of the proprietor of the registered trade marks shall be maintainable within a period of three years from the date of incorporation or registration or change of name of the LLP under this act.

(2) *Where a LLP changes its name or obtains a new name under sub-section(1), it shall within a period of fifteen days from the date of such change, give notice of the change to registrar along with the order of the central government, who shall carry out necessary changes in the certificate of incorporation and within thirty days of such change in certificate of incorporation, such LLP shall change its name in the LLP agreement.*

(3) *If the LLP is in default in complying with any direction given under sub-section(1), the central government shall allot a new name to the LLP in such manner as may be prescribed and the registrar shall enter the new name in the register of LLP in place of the old name and issue a fresh certificate of incorporation with new name, which the LLP shall use thereafter;*

Provided that nothing contained in this sub-section shall prevent a LLP from subsequently changing its name in accordance with the provisions of section 16.

PARTNERS AND THEIR RELATIONS

Eligibility to be partner (Section 22): On the incorporation of a LLP, the person who subscribed their names to the incorporation document shall be its partners and any other person may become a partner of the LLP by and in accordance with the LLP agreement.

Relationship of partners (Section 23):

- ♣ *Save as otherwise provided by this Act, the 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 the LLP agreement between the partners, or between the LLP and its partners.*
- ♣ *The LLP agreement and any changes, if any, made therein shall be filed with the Registrar in such form, manner and accompanied by such fees as may be prescribed.*
- ♣ *An agreement in writing made before the incorporation of a LLP between the persons who subscribed their name to the incorporation document may impose obligations on the LLP, provided such agreement is ratified by all the partners after the incorporation of the LLP.*

- ♣ In the absence of agreement as to any matter, the mutual rights and duties of the partners and the mutual right and duties of the LLP and the partners shall be determined by the provisions relating to that matter as are set out in the First Schedule.

Cessation of partnership interest (Section 24):

- ♣ A person may cease to be a partner of a LLP in accordance with an agreement with the other partners or, in the absence of agreement with the other partners as to cessation of being a partner, *by giving a notice in writing of not less than 30 days to the other partners of his intention to resign a partner.*
- ♣ *A person shall cease to be a partner* of a LLP—
 - (a) *On his death or dissolution* of the LLP; or
 - (b) If he is declared to be of *unsound mind by a competent court*; or
 - (c) If he has applied to be *adjudged as an insolvent or declared as an insolvent.*
- ♣ *Where a person has ceased to be a partner of a LLP* (hereinafter referred to as “former partner”), the former partner is to be regarded (in relation to any person dealing with the LLP) as still being a partner of the LLP unless—
 - (a) *The person has notice that the former partner has ceased to be a partner* of the LLP; or
 - (b) *Notice that the former partner* has ceased to be a partner of the LLP has been *delivered to the Registrar.*
- ♣ The cessation of a partner from the LLP does not by itself discharge the partner from any obligation to the LLP or to the other partners or to any other person which he incurred while being a partner.
- ♣ *Where a partner of a LLP ceases to be a partner, unless otherwise provided in the LLP agreement, the 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 the LLP—
 - (a) *An amount equal to the capital contribution* of the former partner actually made to the LLP; and
 - (b) *His right to share in the accumulated profits of the LLP, after the deduction of accumulated losses of the LLP*, determined as at the former partner ceased to be a partner.
- ♣ A former partner or a person entitled to his share in consequence of the death or insolvency of the former partner shall not have any right to interfere in the management of the LLP.

Registration of changes in partners (Section 25):[amendment]

- (1) *Every partner shall inform the LLP of any change in his name or address within a period of 15 days of such change.*
- (2) *A LLP shall—*
 - (a) Where a *person becomes or ceases to be a partner, file a notice with the Registrar within 30 days* from the date he becomes ceases to be a partner; and
 - (b) Where the *any change in the name or address of a partner, file a notice with the Registrar within 30 days* of such change.
- (3) *A notice filed with the Registrar under sub section (2)—*

- (a) Shall be in such form and accompanied by such fees as may be prescribed;
- (b) Shall be signed by the designated partner of the LLP and authenticated in a manner as may be prescribed; and
- (c) If it relates to an incoming partner, shall contain a statement by such partner that he consent to becoming a partner, signed by him and authenticated in the manner as may be prescribed.

(4) If the LLP contravenes the provisions of sub section (2), the LLP and every designated partner of the LLP shall be liable to a penalty of ten thousand rupees.

(5) If any contravenes referred to in sub section (2) is made by any partner of LLP, such partner shall be liable to a penalty of ten thousand rupees.

(6) Any person who ceases to be a partner of a LLP may himself file with the Registrar the notice referred in the sub section (3) if he has reasonable cause to believe that the LLP may not file the notice with the Registrar and in case of any such notice filed by a partner , the Registrar and in case any such notice filed by a partner, the Registrar shall obtain a conformation to this effect from the LLP unless the LLP has also filed such notice.

Provided that where no confirmation is given by the LLP within 15 days, the registrar shall register the notice made by the person ceasing to be a partner under this section.

EXTENT AND LIMITATION OF LIABILITY OF LLP AND PARTNER

Partner as agent (Section 26): *Every partner of a LLP is, for the purpose of the business of the LLP, the agent of the LLP, but not of other partners.*

Extent of liability of LLP (Section 27):

- ♦ **A LLP is not bound by anything done by a partner** in dealing with a person if—
 - (a) The partner in fact has no authority to act for the 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 the LLP
- ♦ **The LLP is liable if 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 the LLP or with its authority.**
- ♦ An obligation of the LLP whether arising in contract or otherwise, shall be solely the obligation of the LLP.
- ♦ The liabilities of the LLP shall be met out of the property of the LLP.

Extent of liability of partner (Section 28):

- ♣ **A partner is not personally liable, directly or indirectly** for an obligation referred to in sub section (3) of section 27 solely by reason of being a partner of the LLP.
- ♣ The provision of sub section (3) of section 27 and sub section (1) of this section shall not affect the personal liability of a partner for his own wrongful act or omission, but **a partner shall not be personally liable for the wrongful act or omission of any other partner of the LLP.**

Holding out (Section 29)

- ♣ Any person,
 - **Who by words spoken or written or by conduct,**
 - **Represent himself, or knowingly permits himself to be represented to be a partner,**
 - **Is liable to any person**

- Who has on the faith of any such representation
 - Given credit to the 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 the LLP as a result of such representation,
 - The 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.
- ♣ *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 of itself make his legal representative or his estate liable for any act of the LLP done after his death.*

Unlimited liability in case of fraud (Section 30):

♥ *In case of fraud:*

- In the event of an act carried out by a LLP, or any of its partners,
- With intent to defraud creditors of the LLP or any other person , or for any fraudulent purpose,
- The liability of the LLP and partners who acted with intent to defraud creditors or for any fraudulent purpose
- *Shall be unlimited for all or any of the debts or other liabilities of the LLP.*

However, in case any such act is carried out by the partner, the LLP is liable to the same extent as the partner unless it is established by the LLP that such act was without the knowledge or the authority of the LLP.

- ♥ Where any business is carried on with such intent or for such purpose as mentioned in sub section (1), every person who was knowingly apart to the carrying on of the business in the manner aforesaid shall be punishable with
 - Imprisonment for a term which may extend to 2 years and
 - With fine which shall not be less than Rs.50,000 but may extend to Rs. 5 lakhs.
- ♥ Where a LLP or an partner or designated partner or employee of such LLP has conducted the affairs of the LLP in as fraudulent manner, then without prejudice to any criminal proceeding which may arise under any law for the time being in force, the LLP and any such partner or designated partner or employee shall be liable to pay compensation to any person who has suffered any loss or damage by reason of such conduct.

However, such LLP shall not be liable if any such partner or designated partner or employee has acted fraudulently without knowledge of the LLP.

Whistle blowing (Section 31)

- ♦ The *Court or Tribunal may reduce or waive any penalty* leviable against any partner or employee of a LLP, if it is satisfied that –
 - *Such partner or employee of a LLP has provided useful information* during investigation of such LLP; or

- When any *information given by any partner or employee* (whether or not during investigation) *leads to LLP or any partner or employee of such LLP being convicted* under this Act or any other Act.
- ♦ *No partner or employee of any LLP may be discharged, demoted, suspended, threatened, harassed or in any other manner discriminated against the terms and conditions of his LLP or employment* merely because of his providing information or causing information to be provided pursuant to sub section (1).

FINANCIAL DISCLOSURES

Maintenance of books of account, other records and audit, etc. (Section 34): **[Amendment]**

- (1) The LLP shall maintain such proper books of account as may be prescribed Relating to its affairs for each of its existence On cash basis or accrual basis and According to double entry system of accounting and *Shall maintain the same as its registered office* For such period as may be prescribed.
- (2) *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 In such form as may be prescribed, and Such statement shall be signed by the designated partner of the LLP.
- (3) Every LLP shall file within the prescribed time, the Statement of Account and Solvency prepared pursuant to sub section (2) with the Registrar every year in such form and manner and accompanied by such fees as may be prescribed.
- (4) *The accounts of LLP shall be audited in accordance with such rules as may be prescribed.* Provided that the Central Government may, by notification in the Official Gazette, exempt any class or classes of LLP from the requirement of this sub section.
- (5) *Any LLP which fails to comply with the provisions of sub-section(3), such LLP and its designated partners shall be liable to a penalty of one hundred rupees for each day during which such failure continues, subject to a maximum of one lakh rupees for the LLP and fifty thousand rupees for every designated partner.*
- (6) *Any LLP which fails to comply with the provision of sub-section(1), sub-section(2) and sub-section(4), such LLP shall be punishable with fine which shall not be less than twenty-five thousand rupees, but may extend to five lakh rupees and every designated partner of such LLP shall be punishable with fine which shall not be less than ten thousand rupees, but may extend to one lakh rupees.*

ACCOUNTING AND AUDITING RECORDS (SECTION 34A): [Amendment]

The central government may, in consultation with the national financial reporting authority constituted under section 132 of the companies Act, 2013, -

- (a) Prescribe the standards of accounting; and
- (b) Prescribe the standard of auditing, as recommended by the ICAI constituted under section 3 of the Chartered Accountant Act, 1949, for a class or classes of LLP.

Annual return (Section 35): [Amendment]

- (1) Every LLP *shall file an annual return duly authenticated with the Registrar within 60 days of closure of its financial year* in such form and manner and accompanied by such fee as may be prescribed.

- (2) If any LLP fails to file its annual return under sub-section(1) before the expiry of the period specified therein, such LLP and its designated partners shall be liable to penalty of one hundred rupees for each day during such failure continues, subject to a maximum of one lakh rupees for the LLP and fifty thousand rupees for designated partners.

CONVERSION INTO LLP

Conversion from firm into LLP (Section 55): A firm may convert into a LLP in accordance with the provisions of this Chapter and the Second Schedule.

Conversion from private company into LLP (Section 56): A private company may convert into a LLP in accordance with the provision of this Chapter and the Third Schedule.

Conversion from unlisted public company into LLP (Section 57): An unlisted public company may convert into a LLP in accordance with the provisions of this Chapter and the Fourth Schedule.

Registration and effect of conversion (Section 58):

Registration:

- ♥ The Registrar on satisfying that a firm, private company or an unlisted public company, as the case may be, has complied with the provisions of the various Schedule, provision of this Act and the rule made there under, *register the documents issue a certificate of registration* in such form as the Register may determine stating that the LLP is on and from the date specified in the certificate, registered under this Act.
- ♥ The LLP shall, within 15 days of the date of registration, inform the concerned Registrar of Firms or Registrar of Companies, as the case may be, with which it was registered under the provision of Indian Partnership Act, 1932 or the Companies Act, 1956 (Now Companies Act, 2003) as the case may be, about the conversion and of the particulars of the LLP in such form and manner as may be prescribed.
- ♥ Upon such conversion, the partners of the firm, the shareholders of private company or unlisted public company, as the company may be, the LLP to which such firm or such company has converted, and the partners of the LLP shall be bound by the provision of the various Schedule, as the case may be applicable to them.
- ♥ Upon such conversion, on and from the date of certificate of registration, the effects of the conversion shall be such as specified in the various schedule, as the case may be.

Effect of Registration: Notwithstanding anything contained in any other law for the time being in force, on and from the date of registration specified in the certificate of registration issued under the various Schedule, as the case may be—

- ♦ There shall be *a LLP by the name specified in the certificate of registration registered under this Act;*
- ♦ All tangible (moveable or immovable) and intangible property vested in the firm or the company, as the case may be, *all assets, interests, rights, privileges, liabilities, obligation, relating to the firm or the company, as the case may be transferred to and shall vest in the limited liability partnership* without further assurance, act or deed; and
- ♦ *The firm of the company, as the case may be, shall be deemed to be dissolved and removed from the records of the Registrar of Firm or Registrar of companies* as the case may be.

FORIGN LLP

Foreign limited liability partnerships (Section 59): the Central Government 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 modification, as appear appropriate, the provision of the Companies Act, 1956 or such regulatory mechanism with such composition as may be prescribed.

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.

Circumstance in which LLP may be wound up by the Tribunal (Section 64): A LLP may be wound up by the Tribunal;

- ♣ If the LLP decides that LLP be *wound up by the Tribunal*;
- ♣ *If for a period of more than six months, the number of partner of the LLP is reduced below two*;
- ♣ If the LLP *unable to pay its debts*;
- ♣ If the LLP has *acted against the interests of the sovereignty and integrity of India*, the security of the State or public order;
- ♣ If the 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
- ♣ *If the Tribunal is of the opinion that it is just and equitable* that the LLP be wound up.

Rules for winding up and dissolution (Section 65): The Central Government may make rules for the provision in relation to winding up dissolution of LLP.

MISCELLANEOUS

Business transactions of partner with LLP (Section 66): *A partner may lend money to and transect other business with the LLP and has the same right 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)

- ♠ The Central Government may, by notification in the Official Gazette, direct that any of the provisions of the Companies Act, 1956 specified in the notification—
 - Shall apply to any LLP; or
 - Shall apply to any LLP with such exception, modification and adaptation, as may be specified, in the notification.
- ♠ A copy of every notification proposed to be issued under sub section (1)
 - Shall be laid in draft before each House of Parliament, while it is in session,
 - For a total period of 30 days which may be comprised in one session or in two or more successive sessions, and
 - If, before the expire of the session immediately following the session or the successive sessions aforesaid, both Houses agree in disapproving the issue of the notification or both House agree in making any modification in the notification,
 - The notification shall not be issued or, as the case may be,
 - Shall be issued only in such modified for us may be agreed upon by both the Houses,

ESTABLISHMENT OF SPECIAL COURT (Section 67A): [Newly Inserted]

- (1) The central government may for the purpose of providing speedy trial of offences under this act, by notification, establish or designate as may special courts as may be necessary for such area or areas, as may be specified in the notification.
- (2) The special court shall consist of –
 - (a) A single judge holding office as sessions judge or additional sessions judge,, in case of offences punishable under this act with imprisonment of three years or more; and
 - (b) A metropolitan magistrate or a judicial magistrate of the first class, in the case of other offences, who shall be appointed by the central government with the concurrence of the chief justice of the high court:

Provided that until special court are designated or established under sub-section (1), the court designated as special courts in terms of section 435 of the companies Act, 2013 shall be deemed to be special courts for the purpose of trial of offences punishable under this act:

Provided further that notwithstanding anything contained in the code of criminal procedure, 1973, any offence committed under this act, which is triable by a special court shall, until a special court is established under this act or the Companies Act, 2013, be tried by a court of sessions or the court of metropolitan magistrate or a judicial magistrate of the first class, as the case may be, exercising jurisdiction over the area.

PROCEDURE AND POWERS OF SPECIAL COURT [Section 67B] [Newly Inserted]

- (1) Notwithstanding anything contained in the code of criminal procedure, 1973, all offences specified under sub-section (1) of section 67A shall be triable only by the special court established or designated for the area in which the registered office of the limited liability partnership is situated in relation to which the offence is committed or where there are more than one special courts for such area, by such one of them as may be specified in this behalf by the high court concerned.
- (2) While trying an offence under this Act, a special court may also try an offence other than an offence under this Act with which the accused may, under the Code of Criminal Procedure, 1973 be charged at the same trial.
- (3) Notwithstanding anything contained in the code of criminal procedure, 1973, the special court may, if it thinks fit, try in a summary way any offence under this act which is punishable with imprisonment for a term not exceeding three years:

Provided that in the case of any conviction in a summary trial, no sentence of imprisonment for a term exceeding one shall be passed:

Provided further that, when at the commencement of or in the course of a summary trial, it appears to the special court that the nature of the case is such that the sentence of imprisonment for a term exceeding one year may have to be passed or that it is, for any reason, undesirable to try the case summarily, the special court shall after hearing the parties, record an order to that effect and thereafter recall any witnesses who may have been examined and proceed to hear or rehear the case in accordance with the procedure for the regular trial.

APPEAL AND REVISION (Section 67C) [Newly inserted]

The high court may exercise, so far as may be applicable, all the powers conferred by chapters XXIX and XXX of the code of criminal procedure, 1973 on a high court, as if a special court within local limits of the jurisdiction of the high court were a court of sessions trying cases within the local limits of the jurisdiction of the high court

Electronic filing of documents (Section 68):

- ♥ Any document required to be filed, recorded or registered under this Act may be filed, recorded or registered in such manner and subject to such conditions as may be prescribed.
- ♥ A copy of or on extract from any document electronically filed with or submitted to the Registrar which is supplied or issued by the Registrar and certified through affixing digital signature to be a true extract from any document filed with or submitted to the Registrar shall, in any proceeding, be admissible in evidence and be presumed, unless evidence to the contrary is adduced, to be a true extract from such document.

REGISTRATION OFFICES (Section 68A) [Newly inserted]

- (1) For the purpose of exercising such powers and discharging such functions as are conferred on the central government by or under this Act or under rules made thereunder and for the purpose of registration of limited liability partnerships under this Act, the central government shall, by notification, establish such number of registration offices at such places as it thinks fit, specifying their jurisdiction.
- (2) The central government may appoint such registrars, additional registrars, joint registrars, deputy registrars and assistant registrars as it considers necessary, for the registration of LLP and discharge of various functions under this Act.
- (3) The powers and duties of the registrar referred to in sub-section(2) and the terms and conditions of their service shall be such as may be prescribed.
- (4) The central government may direct the registrar to prepare a seal or seals for the authentication of documents required for, or connected with the registration of LLP.

Payment of additional fee (Section69): [Amendment]

Any document or return required to be filed or registered under this Act with Registrar, if, is not registered or filed in time provided therein, may be registered or filed after that time, on payment of such additional fees as may be prescribed in addition to any fees is payable for filing of such document or return:

Provided that such document or return shall be filed after the due date of filing, without prejudice to any other action or liability under this Act:

Provided further that a different fee or additional fee may be prescribed for different classes of LLP or for different documents or returns required to be filed under this Act or rules made thereunder.

LIMITED LIABILITY PARTNERSHIP SECTIONS LIST

SECTION NO.	TOPICS
2(d)	Body corporate
2(e)	Business
2(j)	Designated partner
2(k)	Entity
2(I)	Financial year
2(m)	Foreign LLP
2(n)	LLP
2(o)	LLP agreement
2(ta) [newly inserted]	Small limited liability partnership
4	Non-applicability of the IPA
5	Partners
6	Minimum numbers of partners
7	Designated partners
11	Incorporation
12	Incorporation by registration
13	Registered office of LLP and change therein
14	Effect of registration
15	Name
16	Reservation of name
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22	Eligibility of partners
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26	Partner as agent
27	Extent of liability of LLP
28	Extent of liability of partner
29	Holding out
30	Unlimited liability in case of fraud
31	Whistle blowing
34	Maintenance of books of account, other records and audit, etc.
34A [newly inserted]	Accounting and auditing records
35	Annual return
55	Conversion from firm into LLP
56	Conversion from private company into LLP
57	Conversion from unlisted public company into LLP
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59	Foreign limited liability partnerships
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66	Business transactions of partner with LLP
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67A [newly inserted]	Establishment of special court
67B[newly inserted]	Procedure and powers of special court
67C [newly inserted]	Appeals and revision
68	Electronic filing of documents
68A [newly inserted]	Registration offices
69	Payment of additional fee