

The Limited Liability Partnership Act, 2008

(No. 6 of 2009)

"That dream was planted in your heart for a reason."

Preamble

An Act to make provisions for the formation and regulation of limited liability partnerships and for matters connected therewith or incidental thereto.

STRUCTURE OF THE ACT		
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First Schedule	Provisions regarding matters relating to mutual rights and duties of partners and LLP and its partners applicable in the absence of any agreement on such matters
Second Schedule	Conversion from Firm into LLP
Third Schedule	Conversion from Private company into LLP
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Chapter I – Preliminary**SECTION 1 – SHORT TITLE, EXTENT AND COMMENCEMENT**

- (1) This Act may be called the **Limited Liability Partnership Act, 2008**.
- (2) It **extends to** the whole of **India**.
- (3) It shall **come into force on such date as** the **CG may**, by notification in the Official Gazette, appoint¹.

Provided that **different dates may be appointed for different provisions** of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision

SECTION 2 - DEFINITIONS

*RTP May 2023, MTP Sep 2024 & MTP Jan 2025 – Explain the Small Limited Liability Partnership under the LLP Act, 2008.
MTP Sep 2024 – Define the term ‘Body Corporate’ as per the provisions of the Limited Liability Partnership Act, 2008.
MTP Jan 2025 – Define the term ‘Financial Year’ as per the provisions of the Limited Liability Partnership Act, 2008.*

- (1) In this Act, unless the context otherwise requires -

CLAUSE	TERM	DEFINITION
(a)	Address	"Address", in relation to a partner of an LLP, means - (i) if an individual, his usual residential address; and (ii) if a body corporate, the address of its registered office;
(b)	Advocate	"Advocate" means an advocate as defined in section 2(1)(a) of the Advocates Act, 1961;
(c)	Appellate Tribunal	"Appellate Tribunal" means the National Company Law Appellate Tribunal (NCLAT) constituted under section 410 of the Companies Act, 2013;
(d)	Body Corporate	"Body corporate" means a COMPANY as defined in section 2(20) of the Companies Act, 2013 and INCLUDES - (i) an LLP registered under this Act ; (ii) an LLP incorporated outside India ² ; and (iii) a company incorporated outside India , but does NOT INCLUDE - (i) a corporation sole ³ ; (ii) a co-operative society registered under any law for the time being in force; and (iii)

¹ Many sections of the LLP Act were notified for the first time w.e.f. **31st March 2009** and then some more sections were notified w.e.f. **31st May 2009**.

² LLP incorporated outside India is a term wider than Foreign LLP.

³ **Corporation sole** means a public office (for example CAG) or an office owing the church land that has a separate and continuing legal existence and only one member (the sole officeholder). Contract made with a corporation-sole continues from one officeholder to his or her successor or, if made during a vacancy in office, to the appointee.

		<ul style="list-style-type: none"> → any other body corporate → (not being a company as defined in section 2(20) of the Companies Act, 2013 or an LLP as defined in this Act), → which the CG may, by notification in the Official Gazette, specify in this behalf;
(e)	Business	"Business" includes every trade, profession, service and occupation except any activity which the CG may, by notification, exclude;
(f)	Chartered Accountant	"Chartered Accountant" means a chartered accountant as defined in section 2(1)(a) of the Chartered Accountants Act, 1949 and who has obtained a certificate of practice under section 6(1) of that Act;
(g)	Company Secretary	"Company Secretary" means a company secretary as defined in section 2(1)(c) of the Company Secretaries Act, 1980 and who has obtained a certificate of practice under section 6(1) of that Act;
(h)	Cost Accountant	"Cost Accountant" means a cost accountant as defined in section 2(1)(b) of the Cost and Works Accountants Act, 1959 and who has obtained a certificate of practice under section 6(1) of that Act;
(i)	Court	"Court", with respect to any offence under this Act, means the Court having jurisdiction as per the provisions of section 77;
(j)	Designated Partner	"Designated Partner" means any partner designated as such pursuant to section 7;
(k)	Entity	"Entity" means any body corporate and includes, for the purposes of sections 18, 46, 47, 48, 49, 50, 52 and 53, a firm set-up under the Indian Partnership Act, 1932;
(l)	Financial Year	<p>"Financial Year", in relation to an LLP, means the period from the 1st day of April of a year to the 31st day of March of the following year</p> <p>Provided that</p> <ul style="list-style-type: none"> → in the case of an LLP incorporated after the 30th day of September of a year, → the financial year MAY end on the 31st day of March of the year next following that year; <p>Example - If LLP has been incorporated on 15th October, 2022, then its financial year may be from 15th October, 2022 to 31st March, 2024.</p>
(m)	Foreign LLP	<p>"Foreign LLP " means</p> <ul style="list-style-type: none"> → An LLP formed, incorporated or registered outside India → which establishes a place of business within India;
(n)	Limited Liability Partnership (LLP)	"Limited Liability Partnership" means a partnership formed and registered under this Act;
(o)	LLP Agreement	<p>"LLP agreement" means</p> <ul style="list-style-type: none"> → any written agreement → between the partners of the LLP or → between the LLP and its partners → which determines the mutual rights and duties of the partners and their rights and duties in relation to that LLP;
(p)	Name	<p>"Name", in relation to a partner of an LLP, means -</p> <ul style="list-style-type: none"> (i) if an individual, his forename, middle name and surname; and (ii) if a body corporate, its registered name;

(q)	Partner	"Partner", in relation to an LLP, means any person who becomes a partner in the LLP in accordance with the LLP agreement;
(r)	Prescribed	"Prescribed" means prescribed by rules made under this Act;
(ra)	Regional Director	"Regional Director" means a person appointed as such by the CG for the purposes of this Act or the Companies Act, 2013;
(s)	Registrar	"Registrar" means a person appointed by the CG as Registrar, an Additional Registrar, a Joint Registrar, a Deputy Registrar or an Assistant Registrar, for the purposes of this Act or the Companies Act, 2013, as the case may be;
(t)	Schedule	"Schedule" means a Schedule to this Act;
(ta)	Small Limited Liability Partnership	"Small LLP" means an LLP – (i) the contribution of which, does not exceed INR 25 lakh or such higher amount, not exceeding INR 5 crore, as may be prescribed; AND (ii) the turnover of which, as per the Statement of Accounts and Solvency for the immediately preceding financial year, does not exceed INR 40 lakh or such higher amount, not exceeding INR 50 crore, as may be prescribed; or (iii) which meets such other requirements as may be prescribed, and fulfils such terms and conditions as may be prescribed;
(u)	Tribunal	"Tribunal" means the National Company Law Tribunal (NCLT) constituted under section 408 of the Companies Act, 2013.

- (2) Words and expressions used and not defined in this Act but defined in the Companies Act, 2013 shall have the meanings respectively assigned to them in that Act.

Chapter II – Nature of LLP

SECTION 3 – LLP TO BE BODY CORPORATE

- (1) An **LLP** is a **body corporate** formed and incorporated under this Act and is a **legal entity separate from that of its partners**.
- (2) An LLP shall have **perpetual succession**.
- (3) **Any change in the partners** of an LLP **shall not affect** the existence, rights or liabilities of the **LLP**.

SECTION 4 – NON-APPLICABILITY OF THE INDIAN PARTNERSHIP ACT, 1932

Save as otherwise provided, the provisions of the Indian Partnership Act, 1932 shall not apply to an LLP.

SECTION 5 – PARTNERS

Any **INDIVIDUAL** or **BODY CORPORATE** may be a **PARTNER** in an LLP -

Disqualification of Partners

Provided that an **INDIVIDUAL** shall **NOT be capable** of becoming a partner of an 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.

The following persons can become partner in LLP -

- Individuals (Resident Indians including Non Resident Indians & Overseas Citizen of India as well as foreign nationals)
- LLPs
- Companies (including foreign companies)
- Foreign LLPs*
- LLPs incorporated outside India

Note - Co-operative society and corporation sole cannot become partner in an LLP because they are not body corporate.

Note - Vide Circular No. 2/2016 dated 15th January 2016, it has been clarified by MCA that a HUF or its Karta cannot become partner in LLP.

Study Mat - Mr. Ankit Sharma wants to form a LLP taking him, his wife Mrs. Archika Sharma and One HUF as partners for that. Whether this LLP can be incorporated under LLP Act, 2008? Explain.

Solution - Mention section 5 and the meaning of the term "Body corporate". Therefore, HUF is not covered in the definition of body corporate and cannot be partner in LLP.

SECTION 6 – MINIMUM NUMBER OF PARTNERS

May 2024 - A dispute among the partners of Limited Liability Partnership (the LLP) jeopardized the stability of the business. Out of two partners, one due to a quarrel, left the LLP. The other partner alone continued the business of the LLP. You are being expert in law is requested to explain the provisions governing the LLP being operated by a single partner and its winding up by the Tribunal as per the provisions of the Limited Liability Partnership Act, 2008.

- (1) Every LLP shall have **at least 2 PARTNERS**.

What if the Partners are reduced below 2?

- (2) If at any time
- the **number of partners** of an LLP is **reduced below 2**
 - **and the LLP carries on business for more than 6 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 6 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 that period.¹

SECTION 7 – DESIGNATED PARTNERS

Case Study - There is an LLP by the name Indian Helicopters LLP having 5 partners namely Mr. A (Non Resident), Mr. B (Non Resident) Ms. C (resident), Ms. D (resident) and Ms. E (resident). If Mr. A and Mr. B are designated then will it be valid?

(Hint - No)

RTP May 2021 - What do you mean by Designated partner? Whether it is mandatory to appoint designated partner in an LLP?

- (1) Every LLP shall have
- **at least 2 DESIGNATED PARTNERS** who are **INDIVIDUALS** and
 - **at least one** of them shall be a **RESIDENT in India**

Provided that in case of an LLP in which

<ul style="list-style-type: none"> → all the partners are bodies corporate or → in which one or more partners are individuals and bodies corporate, 	➔	<ul style="list-style-type: none"> at least two individuals who are • partners of such LLP or • nominees of such bodies corporate <p>shall act as designated partners.</p>
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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.**

Illustration

<u>Illustration</u>		
Case 1	LLP in which all the partners are Bodies corporate. Example - XYZ Advisors LLP having X Ltd., Y Ltd. and Z Ltd. as its partners	At least 2 individuals who are nominees of such bodies corporates shall act as designated partners And One of them shall be resident in India
Case 2	LLP in which one or more partners are individuals and bodies corporate Example - XYEF Advisors LLP having A Ltd., B Ltd., Mr. E and Mr. F as its partners	At least 2 individuals who are partners of such LLP or nominees of such bodies corporate shall act as designated partners And One of them shall be resident in India

¹ Also, as per section 64(b), if an LLP continues to carry on business for more than 6 months with less than 2 partners, it may be wound up by the Tribunal.

Procedure of Appointment

- (2) Subject to the provisions 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 such partner shall be a designated partner;
 - (ii) any partner may become a designated partner by and in accordance with the 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 prescribed¹.
- (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 appointment².

Disqualifications of a Designated Partner

- (5) An individual eligible to be a designated partner shall satisfy such conditions and requirements as may be prescribed.³

DPIN

- (6) Every designated partner of an LLP shall obtain a Designated Partner Identification Number (DPIN)⁴ from CG and the provisions of sections 153 to 159 (both inclusive) of the Companies Act, 2013 shall apply mutatis mutandis for the said purpose.

¹ Form 9 - Rule 7

² Form 4 or Form FiLLiP (in case of incorporation) - Rule 8

³ Vide Circular No. 2/2016 dated 15th January 2016, it has been clarified by MCA that a HUF or its Karta cannot become partner or designated partner in LLP.

⁴ Rule 10 deals with the provisions of DPIN (application for DPIN is filed in Form DIR-3)

Study Mat - There is an LLP by the name Ram Infra Development LLP which has 4 partners namely Mr. Ram, Mr. Raheem, Mr. Kartar and Mr. Albert. Mr. Ram and Mr. Raheem are non-resident while other two are residents. LLP wants to take Mr. Ram and Mr. Raheem as Designated Partner. Explain in the light of Limited Liability Partnership Act, 2008 whether LLP can do so?

Solution - According to Section 7 of LLP Act, 2008 every LLP shall have at least two designated partners who are individuals and at least one of them shall be a resident in India. Further, explanation to the section provides, the term "resident in India" means a person who has stayed in India for a period of not less than 120 during the financial year.

Hence, in the given problem, besides Mr. Ram and Mr. Raheem, Mr. Kartar or Mr. Albert should also be designated partners.

MTP May 2024 - Mr. Prateek (an individual) has started a Limited Liability Partnership firm along with Brown Limited and Picture Limited. As per the provisions of the Limited Liability Partnership Act, 2008, advise Limited Liability Partnership firm, about who can be the designated partners of the firm.

Solution - According to section 7 of the Limited Liability Partnership Act, 2008, every Limited Liability Partnership (LLP) shall have at least two designated partners who are individuals and at least one of them shall be a resident in India.

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

In the given question, at least Mr. Prateek and one nominee of any bodies corporate shall be designated partners.

(**Note** - As per the author, even both the nominees of the body corporates can become designated partner.)

MTP May 2024 - Mohan and Rakul are college friends and intend to do trading in musical instruments. They have met Mr. John and Ms. Kate who are non-resident Indian and they all have decided to form a Limited Liability Partnership (LLP) under the name and style of Mohan John LLP with an initial capital contribution of ₹ 1,00,000 each. The LLP was incorporated on October 15, 2020. The LLP intends to appoint Mr. John and Ms. Kate as designated partners and consults same with its Company Secretary. You as the Company Secretary advise the LLP on the appointment of Mr. John and Ms. Kate as the only designated partners of the LLP.

Solution - According to section 7 of the Limited Liability Partnership Act, 2008, every Limited Liability Partnership shall have at least two designated partners who are individuals and at least one of them shall be a resident in India.

In the given case, Mohan John LLP intends to appoint Mr. John and Ms. Kate (both are non-resident Indians) as the only designated partners. This is not in consonance with provisions of the Limited Liability Partnership Act, 2008, as at least one of the designated partners should be a resident in India.

SECTION 8 – LIABILITIES OF DESIGNATED PARTNERS

Unless expressly provided otherwise in this Act, a **designated partner shall be** –

- (a) **responsible for the**
 - **doing of all acts**, matters and things as are required to be done by the LLP **in respect of compliance of the provisions of this Act**
 - including filing of any document, return, statement and the like report pursuant to the provisions of this Act and as may be specified in the LLP agreement; and
- (b) **liable to all penalties** imposed on the LLP for any contravention of those provisions.

SECTION 9 – CHANGE IN DESIGNATED PARTNERS

An LLP may **appoint a designated partner**

- **within 30 days of a vacancy** arising for any reason and
- provisions of sub-section (4) and sub-section (5) of section 7 shall apply in respect of such new designated partner

Provided that

- **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.**

SECTION 10 – PUNISHMENT FOR CONTRAVENTION OF SECTION 7 AND 9

Contravention of		Who is liable	Liable to a Penalty of	in case of continuing contravention, with a further penalty of
Section 7(1)	LLP to have at least 2 designated partners who are individuals and at least 1 of them is resident in India	LLP and its every partner	₹ 10,000	₹ 100 for each day after the first during which such contravention continues, subject to a maximum of → ₹ 1 lakh for the LLP and → ₹ 50,000 for every partner of such LLP.
Section 7(4)	Non-filing of particulars of designated partner	LLP and its every designated partner	₹ 5,000	₹ 100 for each day after the first during which such contravention continues, subject to a maximum of → ₹ 50,000 for the LLP and → ₹ 25,000 for its every designated partner.
Section 7(5) or Section 9	Where the designated partner fails to satisfy prescribed conditions or vacancy in the office of the designated partner	LLP and its every partner	₹ 10,000	₹ 100 for each day after the first during which such contravention continues, subject to a maximum of → ₹ 1 lakh for the LLP and → ₹ 50,000 for its every partner.

Study Mat & RTP May 2024 - Mr. Mudit is the creditor of Devi Ram Food Circle LLP. He has a claim of ₹ 10,00,000 against the LLP but the worth of the assets of LLP are only ₹ 7,00,000. Now Mr. Mudit wants to make the partners of LLP personally liable for the deficiency of ₹ 3,00,000. Whether by virtue of provisions of Limited Liability Act, 2008, Mr. Mudit can claim the deficiency from the partners of Devi Ram Food Circle LLP?

Solution - A limited liability partnership is a body corporate formed and incorporated under this Act and is a legal entity separate from that of its partners. The LLP itself will be liable for the full extent of its assets but the liability of the partners will be limited. Creditors of LLP shall be the creditors of LLP alone. In other words, creditors of LLP cannot claim from partners. The liability of the partners will be limited to their agreed contribution in the LLP. Hence the creditors of Devi Ram Food Circle LLP are the creditors of Devi Ram Food Circle LLP only. Partners of LLP are not personally liable towards creditors. Mr. Mudit cannot claim his deficiency of ₹ 3,00,000 from the partners of Devi Ram Food Circle LLP.

Chapter III – Incorporation of LLP and matters incidental thereto**SECTION 11 – INCORPORATION DOCUMENT**

- (1) For an LLP to be incorporated, -
- (a) **2 OR MORE PERSONS** associated for carrying on a lawful business with a view to profit¹ shall **SUBSCRIBE** their names to an incorporation document;
 - (b) the **INCORPORATION DOCUMENT**² shall be filed in such manner and with such fees, as may be prescribed with the Registrar of the State in which the registered office of the limited liability partnership is to be situated; and
 - (c) there shall be filed along with the incorporation document,
 - a **STATEMENT** in the prescribed form²,
 - made by either 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.
- (2) The incorporation document shall -
- (a) be in a form as may be prescribed²;
 - (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 ADDRESS of each of the persons who are to be PARTNERS of the LLP on incorporation;
 - (f) state the NAME AND ADDRESS 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.

Punishment for false statement

- (3) If a person makes a statement under clause (c) of sub-section (1) which he –
- knows to be false; or
 - 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 INR 10,000 but which may extend to INR 5 lakh.

Form – FiLLiP (Form for incorporation of LLP)

This form has replaced erstwhile Form-2 for incorporation w.e.f. October 2, 2018 combining therein 3 services -

- i. Name reservation*
- ii. Allotment of DPIN of upto 5 individuals*
- iii. Incorporation of LLP*

¹ LLP cannot be incorporated to carry on a not-for-profit activity like a section 8 company

² Form **FiLLiP** is filed for incorporation of LLP – Rule 11 & Rule 13

SECTION 12 – INCORPORATION BY REGISTRATION

- (1) When
- the requirements imposed by clauses (b) and (c) of section 11(1) have been complied with,
 - the Registrar 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 certificate¹ that the LLP is incorporated by the name specified therein.
- (2) The Registrar may accept the statement delivered under section 11(1)(c) as sufficient evidence that the requirement imposed by clause (a) of that sub-section has been complied with.
- (3) The certificate issued shall be signed by the Registrar and authenticated by his official seal.
- (4) The certificate shall be conclusive evidence that the LLP is incorporated by the name specified therein.

May 2022 – Explain the incorporation by registration of a Limited Liability Partnership and its essential elements under the LLP Act, 2008.

Solution – Mention section 12

Essential elements to incorporate Limited Liability Partnership (LLP)

Under the LLP Act, 2008, the following elements are very essential to form an LLP in India –

1. To complete and submit incorporation document in the form prescribed with the Registrar electronically;
2. To have at least two partners for incorporation of LLP [Individual or body corporate];
3. To have registered office in India to which all communications will be made and received;
4. To appoint minimum two individuals as designated partners who will be responsible for number of duties including doing of all acts, matters and things as are required to be done by the LLP. At least one of them should be resident in India.
5. A person or nominee of body corporate intending to be appointed as designated partner of LLP should hold a Designated Partner Identification Number (DPIN) allotted by Ministry of Corporate Affairs.
6. To execute a partnership agreement between the partners, inter se or between the LLP and its partners. In the absence of any agreement the provisions as set out in First Schedule of LLP Act, 2008 will be applied.
7. LLP Name.

STEPS TO REGISTER LLP

Step 1	Reservation of Name
Step 2	Filing of incorporation documents
Step 3	Filing of LLP Agreement

¹ Certificate of Incorporation is in **Form 16** which also contains **LLP Identification Number (LLPIN)**

SECTION 13 – REGISTERED OFFICE OF LLP AND CHANGE THEREIN

Nov 2021 – State the rules regarding registered office of a Limited Liability Partnership (LLP) and change therein as per provisions of the Limited Liability Partnership Act, 2008.

- (1) Every LLP shall have a REGISTERED OFFICE to which all communications and notices may be addressed and where they shall be received.

Service of Document

- (2)
- A document may be served on an 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 prescribed¹,
 - 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.

Change of Registered office

- (3) An 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.

Punishment

- (4) If any default is made in complying with the requirements of this section,
- the LLP and its every partner shall be liable to
 - a penalty of INR 500 rupees for each day during which the default continues,
 - subject to a maximum of INR 50,000 for the LLP and its every partner.

SECTION 14 – EFFECT OF REGISTRATION

Case Study – What are the effects of registration of an LLP?

On registration, an LLP shall, by its name, be capable of –

- (a) suing and being sued;
- (b) acquiring, owning, holding and developing or disposing of property, whether movable or immovable, tangible or intangible;
- (c) having a common seal, if it decides to have one; and
- (d) doing and suffering such other acts and things as bodies corporate may lawfully do and suffer.

SECTION 15 – NAME

- (1) Every LLP shall have either the words "limited liability partnership" or the acronym "LLP" as the last words of its name.
- (2) No LLP shall be registered by a name which, in the opinion of CG is -
- (a) undesirable; or
 - (b) identical or too nearly resembles to that of any other LLP or a company or a registered trade mark of any other person under the Trade Marks Act, 1999.

¹ other prescribed modes are "courier" or "electronic transmission"