



CHAPTER 12 - THE LIMITED LIABILITY PARTNERSHIP ACT, 2008

Need of new form of Limited Liability Partnership

LIMITED LIABILITY PARTNERSHIP- MEANING AND CONCEPTs

Basic of LLP

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

Section 3. Limited liability partnership to be body corporate. —

- (1) 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**.
- (2) A limited liability partnership shall have **perpetual succession**.
- (3) Any **change in the partners** of a limited liability partnership **shall not affect the existence**, rights or liabilities of the limited liability partnership.

Non-Applicability of Indian Partnership Act [Sec.4]: The provisions of the Indian Partnership Act, 1932, shall not apply to a LLP.

Partners [Sec.5]:

- (a) Any Individual or Body Corporate may be a Partner in a LLP.
- (b) An individual shall not be capable of becoming a Partner of a LLP, if -
He has been found to be of **unsound mind** by a Court of competent jurisdiction and the finding is in force,
He is an **undischarged insolvent**, or
He has applied to be **adjudicated as an insolvent** and his application is pending.

Body Corporate [(Section 2(1)(d))]: Body Corporate means a **Company defined u/s 2(20)** of the Companies Act, 2013 and includes -

- A Limited Liability Partnership registered under this Act,
- A Limited Liability Partnership incorporated outside India, and
- A Company incorporated outside India.

It **does not include** -

- [i] A Corporation Sole,
- [ii] A Co-operative Society registered under any law for the time being force, and
- [iii] any other Body Corporate [not being a Company as defined in the Companies Act or LLP defined in this Act], which the Central Government may, by Notification in the Official Gazette, specify in this behalf.



Financial Year [Section 2(1)(i)]: “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 the following year.

However, in the case of a 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.

Example : If a LLP has been incorporated on 15th October, 2022, then its financial year may be from 15th October, 2022 to 31st March, 2024. However, the LLP can always maintain its first accounts from 15th October, 2022 to 31st March, 2023 i.e. for a period of less than 12 months. The period for which the first accounts of LLP are prepared shall not exceed 18 months.

The Income Tax department has prescribed uniform financial year from 1st April to 31st March of next year. In keeping with the Income tax law, the financial year for LLP should always be from 1st April to 31st March each 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.

Small limited liability partnership [Section 2(1)(ta)]: It means a limited liability partnership—

- (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 Accounts 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 meets such other requirements as may be prescribed, and fulfils such terms and conditions as may be prescribed;

Contribution	Up to Rs. 25L, &
Turnover for immediately preceding F.Y	Up to Rs. 40 L, or
Fulfills	Prescribed terms and conditions

Applicability of the Companies Act, 2013: 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. **[Section 2(2)]**

Advantages of LLP form- LLP form is a form of business model which:

- ⇒ is organized and operates on the basis of an agreement.
- ⇒ provides flexibility without imposing detailed legal and procedural requirements.
- ⇒ Easy to form
- ⇒ All partners enjoy limited liability



- Flexible capital structure
- Easy to dissolve

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 that period.

Designated Partners [Section 7]

Minimum no. of Designated Partners [Sec 7[1]]	(a) Every LLP shall have at least 2 Designated Partners who are Individuals and at least one of them shall be a Resident in India. (b) In case of a LLP in which all the Partners are Bodies Corporate or in which one or more Partners are Individuals and Bodies Corporate, atleast 2 individuals who are Partners of such LLP or Nominees of such Bodies Corporate shall act as Designated Partners. Note: Resident in India means a person who has stayed in India for a period of not less than 120 days during the Financial year.
Who can be Designated Partners? [Sec 7[2]]	(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 partners, every partner shall be a designated partners; (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 partners in accordance with LLP agreement.
Prior consent [Sec 7[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.
Registration [Sec 7[4]]	Every LLP shall file with the Registrar the particulars of every individual who has given his consent to act as designated partners in such form and manner as may be prescribed within 30 days of his appointment.
An individual eligible to be a designated partner shall satisfy such conditions and requirements as may be prescribed. [Sec 7[5]]	



Designated Partnership Identification Number (DPIN): [Sec 7[6]]	Every designated partner of the LLP shall obtain a Designated Partner Identification Number (DPIN) from the Central Government and the provisions of sections 153 to 159 of the Companies Act, 2013 shall apply mutatis mutandis for the said purpose.
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Liabilities of Designated Partners [Section 8]

- (a) Designated Partner is **responsible for 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.
- (b) It extends to **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.
- (c) He is **liable to all penalties imposed on the LLP** for any contravention of those provisions.

Changes in Designated Partners [Section 9]

- (a) A LLP may appoint a Designated Partner within **30 days of a vacancy** arising for any reason.
- (b) The provisions of Sec.7[4] and [5] shall apply in respect of such new Designated Partner.
- (c) If no Designated Partner is appointed, or if at any time there is only 1 Designated Partner, each Partner shall be deemed to be a Designated Partner.

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

Contravention of	LLP and its every Partner shall be punishable with
Sec.7[]	Penalty of ₹ 10,000 and in case of continuing contravention ₹ 100 per day, subject to a maximum limit of: (a) For LLP = ₹ 1 Lakh, (b) For every partner of such LLP = ₹ 50,000
Sec.7[4]	Penalty of ₹ 5,000 and in case of continuing contravention ₹ 100 per day, subject to a maximum limit of: (a) For LLP = Rs. 50,000, (b) For every designated partner of such LLP = ₹ 25,000
Sec.7[5] & [9]	Penalty of ₹ 10,000 and in case of continuing contravention ₹ 100 per day, subject to a maximum limit of: (a) For LLP = ₹ 1 Lakh, (b) For every partner of such LLP = ₹ 50,000



INCORPORATION OF LLP

Section 11 Incorporation document. —

(1) For a limited liability partnership to be incorporated, —

- (a) **two or more persons** associated for carrying on a **lawful business** with a **view to profit** shall **subscribe their names to an incorporation document**;
- (b) the **incorporation document shall be filed** 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 form, 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 limited liability partnership and by anyone 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 prescribed;
- (b) state the **name of the limited liability partnership**;
- (c) state the **proposed business** of the limited liability partnership;
- (d) state the **address of the registered office** of the limited liability partnership;
- (e) state the **name and address of each of the persons** who are to be partners of the limited liability partnership on incorporation;
- (f) state the **name and address of the persons who are to be designated partners** of the limited liability partnership on incorporation;
- (g) contain such other information concerning the proposed limited liability partnership as may be prescribed.

(3) If a person makes a **statement** under clause (c) of sub-section (1) 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 two years **and**
- with **fine min: 10k Max: 5Lakh**.



Incorporation by Registration [Section 12]

- (1) Once requirement of section 11 have been complied with, the **Registrar** shall retain the incorporation document, he shall, **within a period of fourteen days—**
 - (a) register the incorporation document; and
 - (b) give a certificate that the limited liability partnership is incorporated by the name specified therein.
- (2) 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.
- (3) The certificate issued under clause (b) of sub-section (1) shall be signed by the Registrar and authenticated by his official seal.
- (4) The certificate shall be **conclusive evidence** that the limited liability partnership is incorporated by the name specified therein.

Registered Office of LLP and Change therein [Section 13]

- (1) Every limited liability partnership 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 a limited liability partnership 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 limited liability partnership for the purpose in such form and manner as may be prescribed.
- (3) A limited liability partnership **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.**
- (4) Default of this section,
 - ⇒ the limited liability partnership and
 - ⇒ its every partner shall be liable to a penalty of
 - ⇒ Rs.500/day during which the default continues, Max: Rs.50,000 for the limited liability partnership and its every partner.



Effect of registration Section 14

Section 14. Effect of registration. —

On registration, a limited liability partnership 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.

Name [Section 15]

(1) Every limited liability partnership shall have either the words

- ⇒ "limited liability partnership" or
- ⇒ the acronym "LLP" as the last words of its name.

(2) No limited liability partnership shall be registered by a name which, in the opinion of the Central Government is—

- (a) undesirable; or
- (b) identical or too nearly resembles to that of any
 - ⇒ other limited liability partnership or
 - ⇒ a company or
 - ⇒ a registered trade mark of any other person under the Trade Marks Act, 1999.

Reservation of name [Section 16]

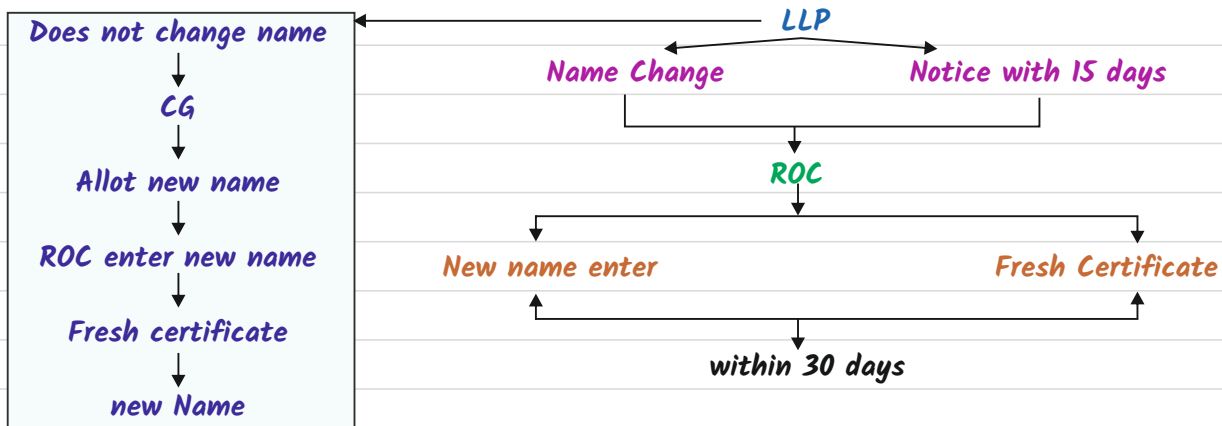
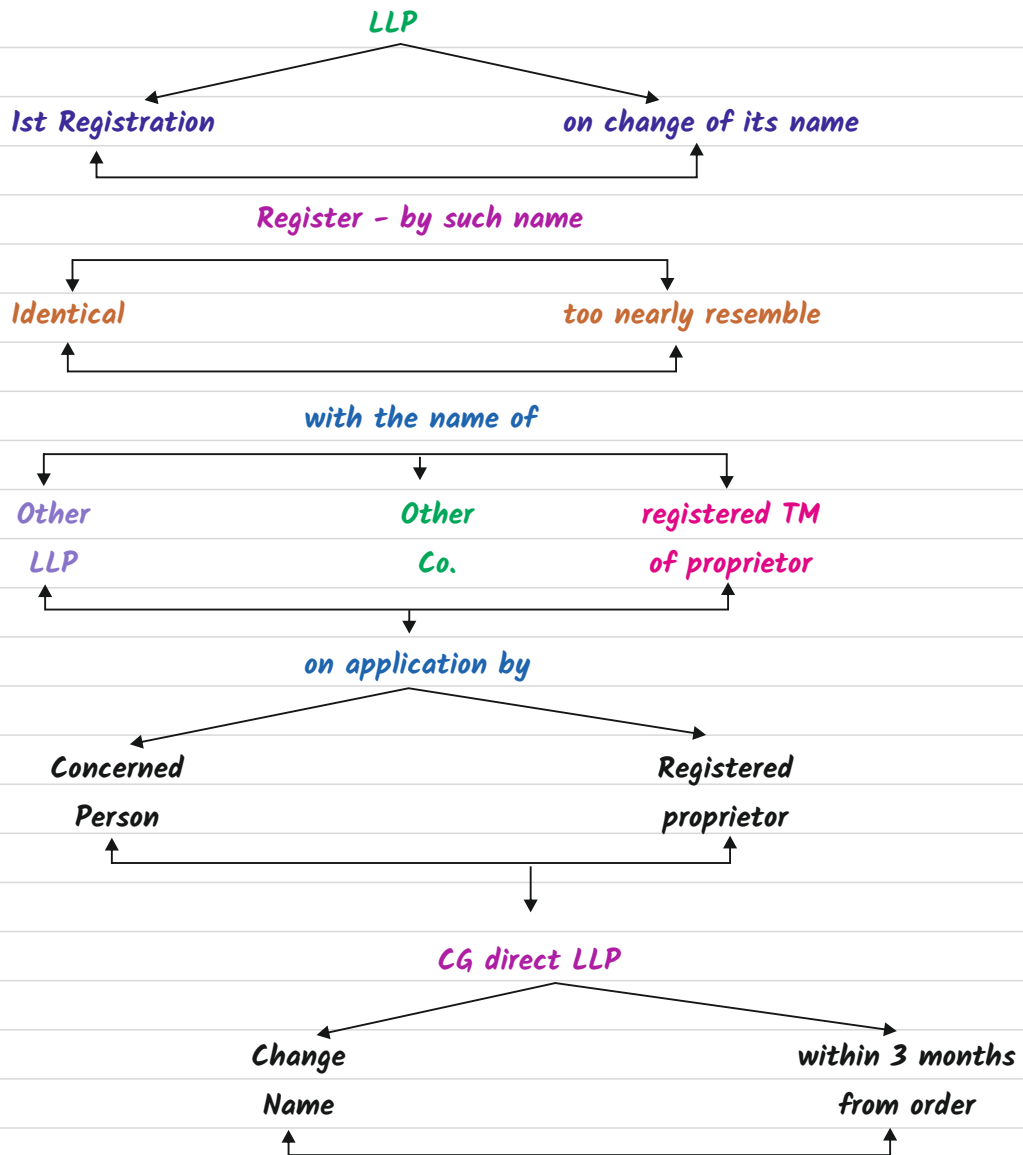
(1) A person may apply to the Registrar for the reservation of a name set out in the application as—

- (a) the name of a proposed LLP; or
- (b) the name to which a LLP proposes to change its name.

(2) Upon receipt of an application under sub-section (1) and on payment of the prescribed fee, the Registrar may, if he is satisfied, 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 a period of three months from the date of intimation by the Registrar.**



Rectification of name of LLP [Section 17]

Sec. 17 - Rectification of name by CG



(1) Notwithstanding anything contained in sections 15 and 16, if through inadvertence or otherwise, a limited liability partnership, on its first registration or on its registration by a new 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 limited liability partnership or proprietor referred to in clauses (a) and (b) respectively or a company,

the Central Government may direct that such limited liability partnership 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 limited liability partnership under this Act.**

(2) Where a limited liability partnership 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 the certificate of incorporation, such limited liability partnership shall change its name in the limited liability partnership agreement.**

(3) If the limited liability partnership is in default in complying with any direction given under sub-section (1), the Central Government shall

⇒ allot a new name to the limited liability partnership in such manner as may be prescribed and

⇒ the Registrar shall enter the new name in the register of limited liability partnerships in place of the old name and

⇒ issue a fresh certificate of incorporation with new name,

⇒ which the limited liability partnership shall use thereafter:

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



STEPS TO INCORPORATE LLP

Step 1	Reservation of name of LLP: Applicant has to file e-Form RUNLLP, for ascertaining availability and reservation of the name of a LLP.
Step 2	File e- Form 2 for incorporating a new LLP: contains the details of proposed LLP, details of partners/designated partners and their consent.
Step 3	Execution of LLP Agreement is mandatory as per Section 23 of Act. It will be filed in e-Form 3 within 30 days of incorporation of LLP.

PARTNERS AND THEIR RELATIONS

Eligibility to be partners [Section 22]

- (a) **During Incorporation:** On the Incorporation of a LLP, the persons who subscribed their names to the **Incorporation Document** shall be its Partners.
- (b) **Subsequent appointment:** Any other person may become a Partner of the LLP by and in accordance with the **LLP Agreement**.

Relationship of partners [Section 23]

- (a) **As per LLP Agreement:** 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.
- (b) **LLP Agreement to be registered:** 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.
- (c) **Agreement before Incorporation:** An Agreement in writing made before the Incorporation of a Limited Liability Partnership between the persons who subscribe their names to **the Incorporation Document** may impose obligations on the LLP, provided such agreement is **ratified** by all the Partners after the Incorporation of LLP.
- (d) **No Agreement:** In the absence of agreement as to any matter, the mutual rights and duties of the Partners and the mutual rights 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**.



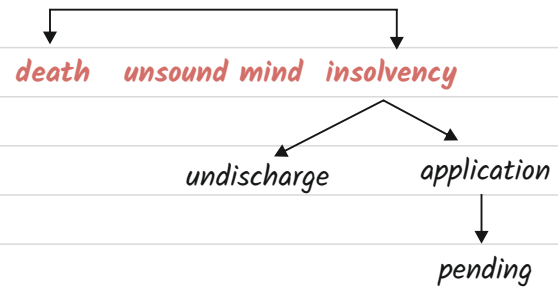
Section 24- Cessation of Partnership Int

(1)

Cessation of partnership
int. in accordance with
LLP agreement
or
by 30 days notice in
writing of intention

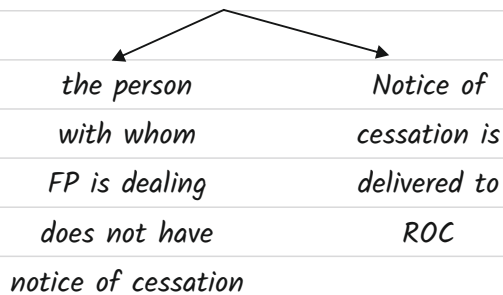
(2)

Cessation



(3)

Former partner shall
be treated as partner
unless

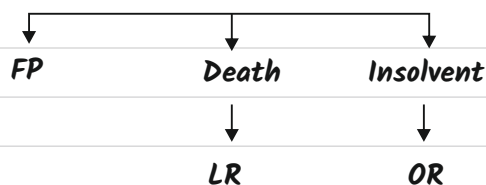


(4)

Former partner shall not be
discharged from his past
obligations

(5)

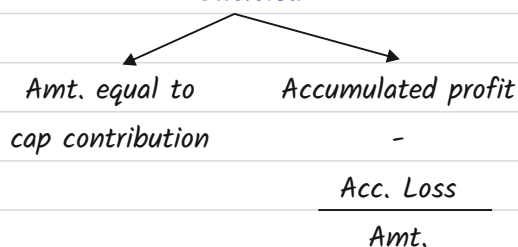
Former partner on
his cessation



(6)

FP or person entitled
to share shall have
no right to interfere
in management of LLP

Entitled

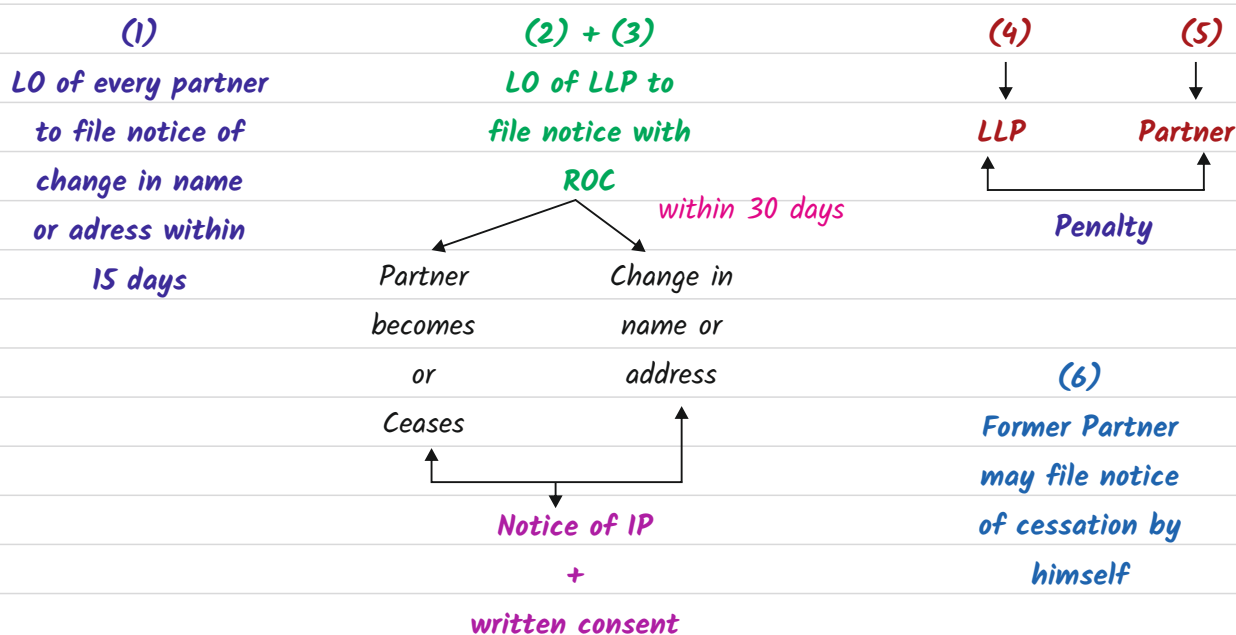




- (a) **Resignation by a Partner:** A Person may cease to be a Partner of a LLP -
- ⇒ in accordance with an **Agreement** with the other partners or,
 - ⇒ in the absence of agreement, by giving a **Notice** in writing of not less than 30 days to the other Partners of his intention to resign as Partner.
- (b) **Cessation by Law:** A Person shall cease to be a Partner of a LLP -
- ⇒ on his death, or dissolution of the LLP, or
 - ⇒ if he is declared to be of unsound mind by a competent court, or
 - ⇒ if he has applied to be adjudged as an insolvent or declared as an insolvent.
- (c) **Notice of Cessation:** A person who has ceased to be a Partner of a LLP is referred to as "Former Partner". The Former Partner shall be regarded as still being a Partner of the LLP in relation to any person dealing with the LLP unless -
- ⇒ such person has notice that the Former Partner has ceased to be a Partner of the LLP, or
 - ⇒ Notice that the Former Partner has ceased to be a Partner of the LLP has been delivered to the Registrar.
- (d) **Cessation does not discharge pending obligations:** 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.
- (e) **Rights of the Former Partner:** 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 - [i] an amount equal to the capital contribution of the Former Partner actually made to the LLP, and [ii] his right to share in the Accumulated Profits of the LLP, after the deduction of accumulated losses of the LLP, determined as at the date the Former Partner ceased to be a Partner.
- (f) **Former Partner cannot interfere in Management of affairs:** 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.



Sec 25 - Registration of changes in partners



- (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 or ceases to be a partner; and
 - (b) where there is 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 consents 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 penalty of Rs.10,000.
- (5)** If any partner contravenes the provisions of sub-section (1), such partner shall be liable to penalty of Rs.10,000.
- (6)** Any person who ceases to be a partner of a LLP may himself file with the Registrar the notice referred to in 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 shall obtain a confirmation to this effect from the LLP unless the LLP has also filed such notice.



However, where no confirmation is given by the LLP within 15 days, the registrar shall register the notice made by a 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]

- (1) 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.
- (2) 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.
- (3) An obligation of the LLP whether arising in contract or otherwise, shall be solely the obligation of the LLP.
- (4) The liabilities of the LLP shall be met out of the property of the LLP.

Extent of liability of partner [Section 28]

- (a) A Partner is not personally liable, directly or indirectly for an obligation solely by reason of being a Partner of the LLP, unless it was as a result of his own wrongful act or omission.
- (b) A Partner shall not be personally liable for the wrongful act or omission of any other Partner of the 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 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.



- (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 the LLP done after his death.

Unlimited liability in case of fraud [Section 30]

(1) 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 a 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.

- (2) Where any business is carried on with such intent or for such purpose as mentioned in sub-section (1), every person who was knowingly a party to the carrying on of the business in the manner aforesaid shall be punishable with

- imprisonment for a term which may extend to five years and
- with fine which shall not be less than Rs. 50,000 but which may extend to Rs. 5 Lakhs.

- (3) Where a LLP or any partner or designated partner or employee of such LLP has conducted the affairs of the LLP in a fraudulent manner, then without prejudice to any criminal proceedings 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]

- (1) 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 an 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.

- (2) 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).



CONTRIBUTIONS

Form of contribution [Section 32]

- (1) A Contribution of a Partner may consist of –
 - (i) Tangible, movable or immovable or intangible property, or other benefit to the LLP,
 - (ii) Money, promissory notes, other agreements to contribute cash or property, and
 - (iii) 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 the limited liability partnership in the manner as may be prescribed.

Obligation to contribute [Section 33]

- (1) The obligation of a partner to contribute money or other property or other benefit or to perform services for a limited liability partnership shall be as per the limited liability partnership agreement.
- (2) A creditor of a limited liability partnership, 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.



Sec. 34 - Maintenance of books of accounts, other records & audit, etc.

(1) Maintenance of proper books of a/c of LLP	(2) Preparation of statement of account & solvency by LLP	(3) filing of SOAS with ROC in Prescribed form, manner & Time
⇒ For every fin. year. ⇒ on Cash or accrual basis ⇒ Double entry system of accounting ⇒ within a period of 6 month from end of FY	⇒ within a period of 6 month from the end of each FY ↓ Signed by DP	
(4) Accounts shall be audited in accordance with rules prescribed by CG + Power of CG to exempt	(5) & (6) ↑ ↓ Penalty	

(1) Proper Books of account:

- ⇒ The 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 such period as may be prescribed.

(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
- ⇒ in such form as may be prescribed, and



⇒ such statement shall be **signed by the designated partners** 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. However, the Central Government may, by notification in the Official Gazette, 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 Rs.5 Lakhs.

Every designated partner –not less than Rs.10,000 which may extend to Rs.1 Lakh.

Accounting and auditing standards [Section 34A]

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 standards of auditing, as recommended by ICAI.

Annual Return [Section 35]

(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.

Example 6: Suppose, the financial year of a LLP closes on 31st March, 2022 then the LLP has to file an annual return with the Registrar latest by 30th May, 2022.

Note: The LLP contra-distinct from Partnership Act, 1932 has prescribed the filing of Annual Return in accordance with Companies Act, 2013. This is a new feature of the LLPs.

(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** in such manner and on payment of such fee as may be prescribed.



PENALTY FOR FALSE STATEMENT [SECTION 37]

If in any return, statement or other document required by or for the purposes of any of the provisions of this Act, 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 for a term which may extend to 2 years and shall also be liable to fine which may extend to ₹ 5,00,000 (Minimum Amount: ₹ 1,00,000)

POWER OF REGISTRAR TO OBTAIN INFORMATION [SECTION 38]

(a) **Call for Information:** In order to obtain such information as the registrar may consider necessary for, he 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.

(b) **Summon the Person-in-charge:**

- (i) In case any person does not answer such question or make such declaration or supply such details or particulars asked for by the Registrar within a reasonable time or time given by the Registrar, or
- (ii) when the Registrar is not satisfied with the reply or declaration or details or particulars provided by such person, he shall have power to summon that person to appear
 - ⇒ before him or
 - ⇒ an Inspector or
 - ⇒ any other Public Officer

whom the Registrar may designate, to answer any such question or make such declaration or supply such details, as the case may be.

(c) **Punishment:** Any person who, without lawful excuse, fails to comply with any summons or requisition of the Registrar shall be punishable with fine which shall not be less than ₹ 2,000 but which may extend to ₹ 25,000

COMPOUNDING OF OFFENCES [SECTION 39]

- ⇒ The Regional Director or any other officer not below the rank of Regional Director
- ⇒ authorised by the Central Government
- ⇒ may compound any offence under this Act
- ⇒ which is punishable with fine only,
- ⇒ by collecting from a person reasonably suspected of having committed the offence,



- ⇒ a sum which may extend to the amount of the maximum fine provided for the offence but shall not be lower than the minimum amount provided for the offence.

Notes:

- (a) This Provision shall not apply to an offence committed by a limited liability partnership or its partner or its designated partner within a period of **3 years** from the date on which similar offence committed by it or him was compounded under this section.
- (b) Any second or subsequent offence committed after the expiry of the said period of three years, shall be deemed to be the First Offence.
- (c) **Application for Compounding:** Every application for the compounding of an offence shall be made to the Registrar who shall forward the same, together with his comments, to the Regional Director or any other officer not below the rank of Regional Director authorised by the Central Government.
- (d) Where any offence is compounded u/s 39, whether before or after the institution of any prosecution, intimation thereof shall be given to the Registrar within a period of **7 days** from the date on which the offence is so compounded.
- (A) Where any offence is compounded **before** the institution of any prosecution, **no prosecution** shall be instituted in relation to such offence.
- (B) Where the compounding of any offence is made **after** the institution of any prosecution, such compounding shall be brought by the Registrar in writing, to the notice of the court in which prosecution is pending and on such notice of the compounding of the offence being given, the offender in relation to which the offence is so compounded **shall be discharged**.
- (e) **Direction to file returns:** The Regional Director or any other officer not below the rank of Regional Director authorised by the Central Government, while dealing with the proposal for compounding of an offence may, by an order, direct any partner, designated partner or other employee of the LLP to file or register (on payment of fee or additional fee as specified under this Act) such return, account or other document within such time as may be specified in the order.
- (f) **Penalty for Non-Compliance:** In case of failure of any Partner, or Designated Partner, or other employee of LLP, to comply with any order made under sub section (7), the maximum amount of fine shall be **twice** the amount of penalty provided under the corresponding section.

ASSIGNMENT AND TRANSFER OF PARTNERSHIP RIGHTS**PARTNER'S TRANSFERABLE INTEREST [SECTION 42]**

- (1) The **rights of a partner** to a share of the profits and losses of the limited liability partnership and to receive distributions in accordance with the limited liability partnership 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 the limited liability partnership.
- (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 the limited liability partnership, or access information concerning the transactions of the limited liability partnership.

CONVERSION INTO LLP

Conversion from firm into LLP [Section 55]: A firm may convert into an 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 an LLP in accordance with the provisions of this Chapter and the Third Schedule.

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

Registration and effect of conversion [Section 58]

(i) The Registrar, on satisfying that a firm, private company or an unlisted public company, as the case may be, has complied with the respective Schedules, provisions of this Act and the rules made thereunder.

Register the documents submitted under such schedules and issue a certificate of registration stating that the LLP is, on and from the date specified in the Certificate, registered under this Act.

(ii) The LLP shall, within 15 days of the date of registration, inform the concerned Registrar of Firms or Registrar of Companies, about the conversion and of the particulars of the LLP in such form and manner as may be prescribed.

(iii) Upon such conversion, the partners of the firm, the shareholders of private company or unlisted public company, the LLP to which such firm or such company has converted, and the partners of the LLP shall be bound by the respective Schedules, applicable to them.

Effect of Registration:

- (a) there shall be a LLP by the name specified in the certificate of registration registered under this Act;
- (b) All tangible [movable or immovable] and intangible Property vested in the firm or the company, all assets, interests, rights, privileges, liabilities, obligations relating to the firm or the company, as the case may be, and the whole of the undertaking of the firm or the company, shall be transferred to and shall vest in the LLP without further assurance, act or deed.
- (c) The Firm or the company shall be deemed to be dissolved and removed from the records of the registrar of firms or registrar of companies, as the case may be.

FOREIGN 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 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 LIMITED LIABILITY PARTNERSHIPS

Compromise or arrangement of limited liability partnerships [Section 60]

Compromise or Arrangement [Sec 60(1)]

Where a **compromise or arrangement is proposed** between

- ⇒ a LLP and its **creditors**; or
- ⇒ a LLP and its **partners**,

the **Tribunal** may, on the **application** of

- ⇒ the **LLP** or
- ⇒ any **creditor** or
- ⇒ **partner** of the LLP, or,
- ⇒ in the case of a LLP which is being wound up, of the **liquidator**,

order a meeting of

- ⇒ the **creditors** or
- ⇒ the partners, as the case may be,

to be **called, held and conducted** in such manner as may be prescribed or as the Tribunal directs.

Consent to the Compromise or Arrangement [Sec 60(2)]

- ⇒ If a **majority representing three-fourths in value** of the
 - **creditors**, or
 - **partners**, as the case may be,
- ⇒ at the meeting, **agree to any compromise or arrangement**,
- ⇒ the compromise or arrangement shall, **if sanctioned by the Tribunal**,
- ⇒ by order be **binding** on
 - all the **creditors** or
 - all the **partners**, as the case may be, and
 - also on the **LLP**, or
 - in the case of a **LLP** which is **being wound up**, on the **liquidator and contributories** of the LLP;

Prerequisite for grant of Order of Sanction

No order sanctioning any compromise or arrangement shall be made by the Tribunal unless

- the **Tribunal is satisfied** that the LLP or any other person by whom an application has been made under sub-section (1)
- has **disclosed** to the Tribunal, by **affidavit or otherwise**,
- **all material facts** relating to the LLP,
- **including the latest financial position** of the LLP and
- the **pendency of any investigation proceedings** in relation to the LLP.



Order to be filed with the Registrar [Sec 60(3)]

An order made by the Tribunal under sub-section (2) shall be filed by the limited liability partnership with the Registrar **within thirty days** after making such an order and shall have effect only after it is so filed.

Penalty [Sec 60(4)]

On default, the LLP and its every designated partner shall be liable to a penalty of **₹10,000**, and in case of continuing default, with a further penalty of **₹100** for each day after the first during which such default continues, subject to a maximum of, -

(a) ₹1 lakh for LLP, and

(b) ₹ 50,000 for every designated partners.

Powers of Tribunal [Sec 60(5)]

The Tribunal may, at any time after an application has been made to it under this section, **stay the commencement or continuation of any suit** or proceeding against the limited liability partnership on such terms as the Tribunal thinks fit, until the application is finally disposed of.

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

Supervise the Compromise or Arrangement

(1) Where the Tribunal makes an order under section 60 sanctioning a compromise or an arrangement in respect of a limited liability partnership, it—

(a) shall have **power to supervise** the carrying out of the compromise or an arrangement; and

(b) may, at the time of making such order or at any time thereafter, give such directions in regard to any matter or make such modifications in the compromise or arrangement as it may consider necessary for the proper working of the compromise or arrangement.

Order for Winding up

(2) If the **Tribunal aforesaid is satisfied** that a compromise or an arrangement sanctioned under section 60 **cannot be worked satisfactorily**

⇒ with or without modifications, it may,

⇒ either on its own motion or

⇒ on the application of any person interested in the affairs of the limited liability partnership,

⇒ make an order for

⇒ winding up the limited liability partnership, and such an order shall be deemed to be an order made under section 64 of this Act.



Provisions for facilitating reconstruction or amalgamation of limited liability partnerships [Section 62]

Order by the Tribunal [Sec 62(1)]

Where an application is made to the Tribunal under section 60 for sanctioning of a compromise or arrangement proposed between a LLP and any such persons, shows that –

- (a) Compromise or arrangement has been proposed for the purposes of, or in connection with, a scheme for the reconstruction of any LLP or LLPs, or the amalgamation of any two or more LLP, and
- (b) under the scheme the whole or any part of the undertaking, property or liabilities of any LLP concerned in the scheme [herein referred to as a "Transferor LLP"] is to be transferred to another LLP [herein referred to as the "Transferee Limited Liability LLP"].

the Tribunal may, either by the order sanctioning the compromise or arrangement or by a subsequent order, 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.

Report from the Registrar

Provided that **no compromise or arrangement proposed** for the purposes of, or in connection with, a scheme for the amalgamation of

- a limited liability partnership, which is being wound up,
- with any other limited liability partnership or limited liability partnership(s),

shall be sanctioned by the Tribunal unless the Tribunal has received a report from the Registrar that the affairs of the limited liability partnership have not been conducted in a manner prejudicial to the interests of its partners or to public interest:

Report from Official Liquidator

Provided further that **no order for the dissolution** of any transferor LLP under clause (iii) shall be made by the Tribunal unless the

- **Official Liquidator** has, on scrutiny of the books and papers of the LLP
- made a **report** to the Tribunal that the **affairs** of the limited liability partnership have **not** been conducted in a manner **prejudicial to the interests** of its partners or to public interest.



Effect of the Order [Sec 62(2)]

- (a) Where an order provides for the transfer of any property or liabilities, then, by virtue of the order, that property shall be transferred to and vest in, and those liabilities shall be transferred to and become the liabilities of, the transferee LLP.
- (b) In the case of any property, if the order so directs, freed from any charge which is, by virtue of the compromise or arrangement, to cease to have effect.

Registration of the Order [Sec 62(3)(4)]

- (a) Within 30 days of making an Order, every LLP in relation to which the Order is made shall cause a certified copy thereof to be filed with the Registrar for Registration.
- (b) If default is made in complying with the provisions of Registration, the LLP, and every Designated Partner of the LLP shall be liable to a penalty of ₹10,000, and in case of continuing default, with a further penalty of ₹100 for each day after the first during which such default continues, subject to a maximum of, -
- (i) ₹1 lakh for LLP, and
 - (ii) ₹ 50,000 for every designated partners

Notes:

- (A) An LLP shall not be amalgamated with a company
- (B) "Property" includes Property, Rights & Powers of every description "Liabilities" includes duties of every description.

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) If the LLP-
- Decides that LLP be wound up by the Tribunal,
 - Has less than 2 Partners for a period of more than 6 months,
 - Is unable to pay its debts,
 - Has acted against the Interests of the Sovereignty & Integrity of India, the Security of the State or Public Order,
 - Has made a default in filing with the Registrar the Statement of Account and Solvency or Annual Return for any 5 consecutive Financial Years, or
- (b) If the Tribunal is of the opinion that it is just and equitable that the limited liability partnership be wound up.

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



MISCELLANEOUS

Business Transactions of Partner with LLP [Section 66]: A partner may lend money to and transact other business with the 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 Central Government can notify those specific provisions of the Companies Act, 1956, apply to LLPs, with or without modifications.
2. Any such notification must be presented in draft form to both Houses of Parliament for 30 days.
3. If both Houses disapprove or suggest modifications within this period, the notification will not be issued or will be issued in the modified form agreed upon.

Payment of Additional Fee [Section 69]

Documents or returns required to be filed with the Registrar under this Act can be filed late with an additional prescribed fee, along with the regular filing fee.

Filing after the due date does not exempt the LLP from other penalties or actions under the Act.

Different fees may apply to different classes of LLPs or different documents.

Enhanced Punishment [Section 70]

In case a limited liability partnership or any partner or designated partner of such limited liability partnership commits any offence, the limited liability partnership or any partner or designated partner shall, for the second or subsequent offence, be punishable with imprisonment as provided, but in case of offences for which fine is prescribed either along with or exclusive of imprisonment, with fine which shall be twice the amount of fine for such offence.

In simple words, for a second or subsequent offence committed by an LLP or its partners, imprisonment may be imposed as per the Act. If the offence involves a fine, the fine will be double the prescribed amount.

An LLP fails to file its annual return on time, which is a punishable offence under the Act.

First Offence: The LLP is fined ₹10,000.

Second Offence: The LLP commits the same offence again the following year.

The punishment could include imprisonment for the responsible partners as specified by the Act.

The fine will be ₹20,000, which is twice the amount of the fine for the first offence.