LIMITED LIABILITY PARTNERSHIP ACT, 2008

Dates.

Act pass by parliament → 12/12/2008

consent/ Assent from president → 07/01/2009

Notified in official Gazette → 31/03/2009 → enforcibility of sections

section : 1

(1) Short Title : Limited liability partnership Act, 2008

(2) Extent : whole of India

(3) commencement : Mostly sections enforced in India from 31/03/2009

⇒ Total No. of sections = 81

⇒ Total No. of schedules = 4

↳ 1st schedule :- Mutual Rights & Duties of partners & Limited liability partnership

↳ 2nd schedule :- conversion firm into LLP

↳ 3rd schedule :- conversion of Pvt co. into LLP

↳ 4th schedule :- conversion of Unlisted public company into LLP

Imp point :- Firm → LLP → sch-2
Pvt. co. → LLP → sch-3
Unlisted pub. co. → LLP → sch-4

→ listed public company can not coverted into LLP.

→ Generally, Mutual Rights & Duties of partners & LLP will be Decided by LLP agreement But if LLP agreement is silent, then mutual Rights & Duties will be decided by Schedule 1.

→ LLP → Administer By → central govt.
↓
Ministry of corporate Affairs
↓
Registrar of companies

www.MCA.gov.in

→ CGI can amend provision of LLP
↓
Notification in official Gazzette

→ LLP rules can be formed by CGI by Notification in official Gazzette

→ LLP :- Definition under section 2 :-
A partnership formed & Registered under this Act (LLP Act, 2008)

→ LLP
→ promote entreprenuership
→ Hybrid (company + partnership)
→ LLP — Advantages of Both
- company → limited liability ⇒ upto the value of contribution
- partnership → Flexibility
↓
LLP agreement
↓
Mutual Rights & Duties

→ LLP Disregands the Disadvantages Of Both

company → higher cost of legal compliance

partnership → Unlimited liability

partner's of LLP → limited liability upto the value of contribution

characteristics :-

(1) seperate legal Entity :-

→ LLP's indentity is seperate from the identity of partness.

→ Partners are not liable for the acts of LLP & LLP is not liable for the acts of its partners.

→ creditors of LLP are the creditors of LLP only, not of its partners.

(2) Artificial Legal person :-

→ LLP is recognised by law

→ LLP can do any act which is human being can do.

→ LLP can have its own property, can sue or to be sued or can execute contract on his own name.

→ But LLP can not marry, can not take oath etc.
→ LLP is invisible, immoral only can be dissolve

(3) commman seal :-
→ The Acts of LLP can be Authenticated by
→ the LLP or its Designated partness.
→ So, LLP can Act, through its partners or Designated partners.
→ LLP may have a common seal or if LLP doesn't have common seal, then its Document can be Authenticated by atleast 2 Designated partness

(4) LLP Agreement :- • Mutual Rights & Duties of
→ Already covered :- partners of LLP

If LLP Agreement ✓ — LLP Agreement ✗

Decided by LLP Agreement — Schedule-I

(5) No Mutual Agency :-
→ The partners of LLP are not liable for the Acts of each other.
→ partners are not the agent of each other, they are agent of LLP only.

→ so, partners are not liable for any misconduct by another partner in business of firm.
→ so, theire is no mutual agency like partnership.

(6) Minimum no. of partners :- 2
→ maximum no. of partners :- Unlimited

	partnership	Individual	company	LLP
Min	2	1	→ Pvt → 2 → Pub → 7	2
Max	50	1	→ Pvt → 200 → Pub → No limit	No limit
owner	partners	sole properiatery	shareholders	partners
Management	Active partner	sole properiatery	BOD	Designated partners

(7) Limited liability :-
→ partners liability is limited upto the value of contribution held by partners in LLP.

(8) Profit from Business :-
→ Business includes
- Trade
- occupation
- Profession
- services

→ The business must have intention of profit earning.
→ NO Business → NO LLP

(9) conversion into LLP :- Already Discussed.

Firm	Pvt. co.	Unlisted pub. co.
↓	↓	↓
LLP	LLP	LLP
sch. 2	sch. 3	sch. 4

(10) LLP affairs can be investigated by CG or CG can appoint competent Authority.

(11) compromise / Amalgamation of LLP :-
→ Merger of LLP as per prescribed Rules in LLP rules.

(12) E-filling Documents :-
→ LLP can file its all Document electronically to ROC on the site www.MCA.gov.in & Digitally sign all the Documents through Digital signature.

Small LLP :-

Contribution / capital

Doesn't exceed more than 25 Lakh of all the partners

CG can Increase this limit upto 5 Cr.

Turnover

Doesn't exceed more than 40 lakh in P.F.Y. from statement of A/C & solvency

CG can Increase this limit upto 50 Cr.

Address :-

LLP

Register office of LLP

Partners

Residential address of partner

Body corporate

Indian Co. | Foreign Co. | Indian LLP | Foreign LLP

→ Body corporate means
A company which is incorporated under co. Act 2013 or any other previous co. Act. {main part}
(Indian co.)

→ It includes :-

- A company which is Incorporated outside India but having a place of Business in India. (Foreign co.)
- A partnership which is formed & Registered under LLP Act, 2008 (Indian LLP)
- A LLP which is Incorporated outside India But having place of B/S in India (Foreign LLP)

Inclusion part

→
- co-operative society
- co-operation sole
- Any other Body corporate prescribed by CG through Notification in offical Gazzette

Exclusion part

⇒

Body corporate

Main part → Indian co.

Inclusion → Foreign co. | Indian LLP | Foreign LLP

Exclusion → co-operative society | corporation sole | Oth co pre

Name :-

Partners	Body corporate
Name, surname, Middle name	Registred Name

chartered Accountant

Member of ICAI + having certificate of practice

section

- sec: 5 — who can become partner
- sec: 6 — NO. of partner
- sec: 7 — Designated partner

section: 5

who can become partner

Individual

- Rohan + Aman
  - unsound Mind ⊗
  - Insolvent ⊗
  - Disqualified by law ⊗

Body corporate

- Indian co.
- Foreign co.
- Indian LLP
- Foreign LLP

↳ Minor ✗

→ A person who applied to court for Declaring him as Insolvent ✗

↳ But his Application is pending ✓

exclusion → corporate society
→ corporate sole
→ Any other body corporate appointed by G

⇒ Rohan + Reliance Pvt. Ltd
↓ Individual ↓ Body corporate

section 5 (five)

⇒ Reliance Ind. Ltd + JKSC Pvt. Ltd.
↓ Body corporate ↓ Body corporate

section : 6 No: of partners

Min. of partners → 2

Max. No. of partners → NO Limit

→ If any point of time, } If Minimum no of partners are reduced below than 2
↓
Then, the Remaining partner can carry Business for 6 months but if carried

Business for more than 6 Months
↓
Then the Remaining will be personally liable for all the liabilities incurred during that period

Section : 7 Designated partner

→ 2 Types of partner
- Normal partner → Business manage
- Designated partner → Business manage

↓

Responsible for legal compliances

→ Every LLP must have at least 2 designated partner which should be Individual. #

↓

In which one of them must be Resident of India

↓

who stays in India for more than 120 Days in immediately preceeding F.Y.

→ If Body corporate are the partners, then Body corporate will appoint their nominee who can act as Designated partner:

How to become Designated partner :-

→ Incorporation Document :- states the name of partner who will act as Designated partner.

:- state the manner in which partners will act as Designated partner.

→ Any other person or partner can become Designated partner or can cease from post of DP: as per LLP agreement.

→ Every partner who acts as DP must given written consent before becoming DP to LLP.

→ LLP will also file with ROC, the particulars of partners who acts as DP within 30 days of his appointment.

→ If any vacancy arises in the office of Designated partner (casual vacancy) then LLP will appoint another person as Designated partner.

→ If No Appointment

↓

The every partners are to be treated as Designated partner

→ Provision of Indian Partnership Act, 1932 will not apply in the LLP

→ Financial year (In LLP) :-
If any LLP incorporate after 30/9 then its F.Y. will end on the 31st March of Next following year.

Example:- (i) LLP incorporate :- 1/7/24

⇓

1/7/24 ⟶ 31/3/25

(ii) LLP incorporate :- 10/10/24

⇓

10/10/24 ⟶ 31/3/26

Incorporation of LLP

↳ (E-form-1 :- Availibility & Reservation of Name of LLP sec: 11

↳ E-form-2 : Incorporation Document

who will be partners | who will be DP | Prior consent of partner | Prior consent of DP

↳ E-form-3 : LLP Agreement → schedule: 1

Name :- LLP must use after being Registered

sec: 15

LLP OR Limited Liability Partnership

XYZ LLP
OR
XYZ Limited Liability partnership

→ as suffix

→ Must not be undesirable in the opinion of CG.

→ Must not identical or ressembles of any other Body corporate name.

→ Must not be in violation of Trademark of any other person.

→ Every proposed LLP → Along with File → with ROC

prescribed form e-form-1 + prescribed fees

where Reg office of LLP is proposed to situated

Reserve the name for that LLP for 3 month from the date of intimation by ROC.

Then ROC after payment & Reciept of Appli. form within 7 Days

⇒ Incorporation Document :- E-form-2

→ At least 2 or more person carry lawful Business for profit → subscribe their Name in Incorporation Document

→ File E-form 2 Along with prescribed fees → ROC of the state in which Reg. office of prop. LLP is to be situated.
depends on capital contribution

1. E-form 2
2. Name of LLP
3. Reg. office of LLP or any other Business Address
4. Proposed Business of LLP
5. Name & Address of partners
6. Name & Address of Designated partner.

7. Any other prescribed Information:

→ A statement is also to be filed either by CA / CS / CMA / Advocate who is engaged in the formation of LLP as a professional

+

Any one of the subscriber

→ That All Rules & Regulations to Incorporate LLP has been duly complied.

→ If this statement is false or to be known to be false — Impriosment upto 2 years AND Fine
Min 10000, Max 5 Lakh

→ So, Now ROC will with in 14 Days from filling of Incorporation Documents & statement

Register the Incorporation Document & Issue a certificate of Incorporation by specifying the name of LLP.

⇓

If ROC found every Document true & correct

↓

ROC → sign & sealed

& LLP will be treated as Body corporate from the Date mentioned in certificate of Incorporation & with the name itself given in Incorporation Document.

→ The Incorporation certificate is a conclusive evidence of LLP Registration.

OR

Effects of Registration. (Sec: 14)

↓

→ LLP can do all acts which a Body corporate can lawfully DO.
→ LLP can sue or to be sued on its own name
→ LLP may have common seal.
→ LLP can acquire, dispose, purchase property whether intangible or tangible or movable or Immovable on its own name.

E-form 3 ⇒ LLP Aggreement

↓

Rights & Duties of partners of LLP

→ Now LLP can choose to have its LLP agreement.

→ If LLP Decides to have LLP Agreement, then it must be filed with ROC within 30 Days of incorporation in prescribed form along with prescribed fees.

→ If NO LLP Agreement, then schedule I will be applicable.

LLP wound up

(sec : 64)

Voluntary

↓

By partners as per mutual agreement between them

By Tribunal (NCLT)

↓

↳ CGI can prescrible Rules for the winding up of LLP.

↳ When LLP Decides that wound up to be by tribunal

↳ LLP unable to pay Debts.

↳ If no. of partner reduced below 2 & 6 Month has been expired.

↳ LLP acts against the integrity or sovergeinity of state.

↳ Tribunal found just &

Equitable pround for LLP wound up

↳ If LLP does not file

$\overbrace{\text{statement of Accountant \& solvency OR Annual Return}}$

$\underbrace{\text{for consecutive 5 years}}$

Financial Disclosures

① statement of Account & solvency ⇒ 6 Months

② Annual Return ⇒ 60 Days

⇒ Maintainance of Books of Accounts, & other Records

→ LLP shall maintain → proper BOA

↓

which shows true picture of the affairs of co. for every F.Y.

⇒ For preparing BOA, company must follow Accounting principles OR standards
→ Accural
→ Double entry system
→ True & fair

→ BOA must be maintained at Registered office of LLP.

⇓

BOA must be Audited by chartered Accountant as per the Rules prescribed & Auditing standards.

⇓

CG can exempt any class of LLP through notification in official gazette for non-applicability of this section.

- penalty for contravention
  - LLP
    - Min : 25000
    - Max :- 5,00,000
  - ⊕ Designated partner
    - Min :- 10,000
    - Max :- 1,00,000/-

⇒ statement of Account & solvency :-

→ Every LLP prepare → statement of A/C & solvency within 6 Months from end of F.Y.

statement of A/C & solvency → As per the Rules prescribed by CG → shall be signed by Designated partners

for every F.Y.

Has to be filed with ROC Along with Fees

contravention → penalty → ₹ 100 per Day
↓
Max → 1,00,000 (LLP)
→ 50,000 (DP)

→ CG can prescribe :-

Accounting & Auditing Standards — Recomonded BY → ICAI → In consultation with NFRA.

→ Annual Return

Every LLP shall file → ROC
within 60 days from end of F.Y. (+) Fees

penalty for contravention :- ₹ 100 per Day max to ₹ 1 lakh for LLP & ₹ 50000 for every D.P.

→ Registsed office of LLP :- Section : 13

(i) Every LLP must have registsed office
↓
to send all communications & Notices
↓
so, they can be recieved at Registsed office

(ii) If any Document / Notice which needs to be sent to LLP, Partner, DP
either of post (OR) Any other Mode
Must be sent at RO (Registered office) or any place mentioned in incorporation Document.

(iii) can LLP change this : YES → By filing Notice of Registsed office chang to ROC.

(iv) penalty for contravention :- Both on LLP & D.P
₹ 500 per Day ------ Max. to ₹ 50,000

→ change of the Name of LLP :-
↓

(i) If LLP has been Registred → But its Name either Negligently OR Not Resemble the name of other Body corporate OR It is in violation of Registred trade mark.

(ii) So, In such case :- If CG is satisfied
↓
Then CG can give order to LLP.
↓
To change its name with the New name within 3 months from Date of order.

(iii) CG After filling application ← either LLP OR Registred trade mark properitor

(iv) But If application is filed by Registred trade mark (properitor); Sec : 15
↓
This Application is maintainable only within 3 years from Date of Incorporation or registration.

(v) Now LLP obtains a New name → Then within 15 Days from such change
↓

Notice to ROC ⊕ order of CG
⊕ prescribed fees

(v) Now ROC with issue New certificate of Incorporation within 30 Days from such change

(vi) If LLP Doesn't change the Name } CG can allot the New name to such LLP.
↓
ROC will strike off the old Name & replace with new name in its Register.
↓
AND also issue certificate of Incorpora

(vii) The person who subscribed in Incorporation Document shall be called as partners after Incorporation of LLP.
↓
Any other person can also become partner. → According to LLP agreement

→ Eligibility For Partner :-

The person who subscribed their name in Incorporation Document. ⊕ Any other person who Become partner by LLP agreement.

* Every partner of LLP has a Interest in the LLP → share in LLP
↓
when the Interest in LLP will cease?

cessation of partnership Interest
OR
• when a partner is called as ceased from?
↓
(i) Voluntray By giving notice in writing for at least 30 Days.
(ii) on the Death.
(iii) Resigns as per LLP agreement
(iv) Unsound Mind Declare.
(v) Insolvent.
(vi) Dissolution of LLP.

→ The ceased partner shall still considered as partner :- $\boxed{\text{(sec: 24)}}$

Till the outsider doesn't know about ceastion of partner.
(i.e.) Partner has to give public Notice.

Till the notice that partner ceased has been Delivered to ROC.

The ceased partner Doesn't be Discharged from liabilities that he incurred while he is a partner.

→ ceased partner

Death → Legal Representative

Insolvent → Official Assignee

other cases → ceased partner

↳ HAS Right to recieve from LLP.
- capital contribution (+)
- share in accumulated profit & Reserve.

⟹ HAS NO Right to Interfare in management of LLP.

SEC: 25

⇒ partner of LLP — Name & Address } change — Inform to → LLP within 15 days from change

Now LLP Informs to ROC within 30 days from change — Name & Address } partner

Partner chane — Name, Address — Inform LLP → within 15 Days — LLP Next 15 days → ROC

⇒ LLP can Inform to ROC when a partner

ceases OR eligible

signed by :- DP — Also file his consent to become partner — within 30 Days

⇒ Any person who ceases to be partner. → can himself file the Notice to ROC about ceasention of partner

If he Believed that LLP has not filed Notice with ROC.

Now Registrar of companies shall obtain a confirmation from LLP about that partner has ceased.

Either LLP confirms OR If LLP Doesn't confirm within 15 Days

The Notice by ceased partner is

Deemed as Notice by LLP filed.

⇒ Examples of Financial year

	LLP Incorporated	Financial year
(1)	1/4/24	1/4/24 ----- 31/3/25
(2)	20/7/24	20/7/24 ----- 31/3/25
(3)	28/9/24	20/9/24 ----- 31/3/25
(4)	2/10/24	2/10/25 ---- 31/3/26
(5)	3/1/25	3/1/25 ----- 31/3/26

⇒ Example on sec: 7 :- ICAI

LLP → Ind. Helicopter LLP. → 5 partner

Individuals [A B C D E

N.R. N.R. R R R

sec:- 6 ⇒ Min. no. of partners = 2 ⇒ 5

sec:- 5 — Ind. → All are Individual / Body corporate

sec:- 7 - Atleast 2 → Individual
At least one → Resident of India

sec:- 4 provision of IPA, 1932 will not apply on LLP.

sec. 4 sec. 5 sec. 6 sec. 7

⇒ Advantages of LLP :-

(i) Easy to form
(ii) Easy to Disolve.
(iii) ~~Dt~~ flexibility to change the terms by mutual
~~(iv)~~ consent of partners. (LLP agreement)
(iv) Limited liability of partners.
(v) Easy to operate or manage.
(vi) less legal compliances.

⇒ Incorporation :-

1 → two or more subscribe their names for
person

Incorporation ~~person~~ Document who are carrying lawful Business for profit (E-form2)

→ Incorporation Document along with prescribed fees & statement to be filed with ROC of the state in which Reg. office of LLP is proposed to be situated.

→ Inc. Document :- Name of LLP
:- Address of LLP
:- Balance sheet (B/S)
:- Name & Address of partner
:- Name of ADDress of DP

Sign :- CA / CS / CMA / ADvocate
+
one of subscriber

2 year Imprisonment + 10000 to 5 lak

All Rules & Regulations to Incorporate LLP has been complied.

⇒ contract of Indemnity & Guarantee

contract of Indemnity — contract of Guarantee

Indemnity ↓ compensate ↓ To make good the loss.

- Indemnity contract :- Type of contract ↓

It must have all essentail elements of valid contract (sec. 10, ICA, 1872)

↓

A contract in which one party promises to other party to save him from the loss ceased to him

Due to conduct of promisor OR Due to conduct of any person.

A → B

A ↓ promisor — To save the loss due to — B ↓ promisee } contract of Indemnity

Promisor (A) OR Any other person

→ So, if any loss occurred to promisee, then that loss will be compensated by the promisor.

→ But contract of Indemnity Doesn't cover the loss which is due to :-

which is caused due to promisee (Due to his own conduct) | Loss Due to Act of god. ☒

↓

If any loss incurred to promisee Due to his own conduct, that loss will not be compensate by promisor.

Promisor	Promisee
↓	↓
Who compensate	To whom compensate
↓	↓
Indemnifier	Indemnified OR Indemnity Holder.

→ This type of contract covers the future loss. (i.e. anticipated loss)

ACT OF GOD

Life Insurance → ☒
↓
Contract of Indemnity

General Insurance
Fire Marine
contract of Indemnity

Valid
contingent contract

→ contract of Indemnity = contingent contract = Valid contract

→ When the liability of Indemnifier (promisor) arise
Ans:- so, on the happening of any contingency covenant?

Fund education

X —contract 5 years (Govt. of India)→ Govt. of India

Promisor — Promisee

If not return, X will compensate govt. of India, for the loss ceased to GOI due to conduct of X.

→ A —contract of Indemnity→ B —suit→ C

A: Indemnifier → compensate for any loss in suit against 'C'

B: Indemnity holder → court ask the B to pay money to 'C' → A will pay to B & B will pay to C.

If B fails to pay C ← A will pay to B & B will pay to C.
↓
A will pay → A —contract of Indemnity→ B

→ The liability of Indemnifier will commence once the liability of Indemnity holder will certain.

contract of Indemnity
- Express
  - oral
  - written
- Implied
  - ↳ By mutual conduct of parties
  - ↳ By circumstances
  - ↳ By Mutual Behaviour

Very IMP:- Rights of Indemnity Holder (promisee)

→ The Indemnity holder can recover following amount from Idemnifier :-

(1) All Damages which promisee is Bound to pay in a suit.
(2) All cost which he is Bound to bring suit.
(3) All sum of money which promisee will paid under the compromise of suit.

Example:-

Rohan $\xrightarrow[\text{share certificate (Physical)}]{\text{Reliance}}$ Reliance

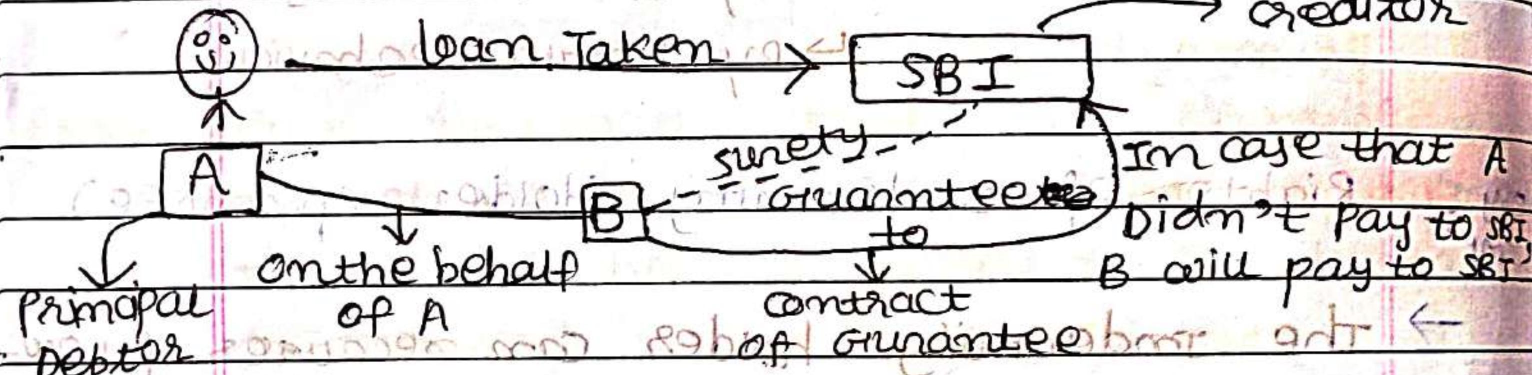
Rohan ↓ lost

Duplicate share certificate

Contract of Indemnity

* Def. of Indemnity contract
* Indemnifier & indemnity holder
* losses which does not cover contract of Indemnity
* when liability of Indemnifier commence?
* Rights of Indemnity Holder → Imp

- Contract of Guarantee



→ In contract of Indemnity
  ↳ Indemnifier has always primary liability

A → B → contract of Indemnity

Indemnifier → Primary liability

→ contract of Guarantee
- Primary liability : principal Debtor
- secondary liability :- The person who is giving guarantee known as surety.

A :- principal Debtors :- The person in whose Behalf or on whose Default a guarantee is given.

B :- surety :- The person who is giving guarantee

SBI :- creditor :- The person to whom guarantee is given.

→ Liability

primary → principal Debtors

secondary → surety

→ Contract ⇒ 3

- contract between principal Debtor & SBI
- contract Between principal Debtor & surety.
- A contract between surety & creditor

→ Elements of contract of Guarantee :-

(1) Existence of Debt.
(2) This contract can be oral or written.
(3) Past consideration is no consideration in contract of Guarantee. (exception of that General Rule:- Past cons. is also a consideration)

(4) consent of surety shall not be obtained fro[m] the facts which are misrepresented or due to fraud.

→ consideration for guarantee :-

[B] —— Goods Deliver ——→ [A] → A agre[es] but if C gives guarantee of A

B ↓ principal debtor

A ↓ creditor

[C] → surety