

SHORT NOTES

LIMITED LIABILITY PARTNERSHIP ACT 2008

Meaning and concept	<ul style="list-style-type: none"> • LLP is an alternative corporate business form that gives the benefits of limited liability of a company and the flexibility of a partnership. • It contains elements of both ‘a corporate structure’ as well as ‘a partnership firm structure’ LLP is called a hybrid between a company and a partnership. • It is a separate legal entity and while the LLP itself will be liable for the full extent of its assets, the liability of the partners will be limited.
Definitions	
Body Corporate (Sec 2(d))	It means a company as defined in section 2(20) of the Companies Act, 2013 and includes— (i) a LLP registered under this Act; (ii) a LLP incorporated outside India; and (iii) a company incorporated outside India, but does not include — (i) a corporation sole; (ii) a co-operative society registered under any law for the time being in force; and (iii) any other body corporate, which the Central Government may specify in this behalf.
Business Sec 2(e)	“Business” includes every trade, profession, service and occupation except any activity which the Central Government may, by notification, exclude.
Financial Year Sec 2(l)	“Financial year”, in relation to a LLP, means the period from the 1st day of April of a year to the 31st day of March of 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.
Foreign LLP sec 2(m) and Sec 58	It means a LLP formed, incorporated or registered outside India which establishes a place of business within India.
LLP Sec 2(n)	Limited Liability Partnership means a partnership formed and registered under this Act.
LLP agreement Sec 2(o)	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.
Small LLP Sec 2(ta)	It means a limited liability partnership— (i) the contribution of which, does not exceed 25 lakh rupees or such higher amount, not exceeding 5 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 40 lakh rupees or such

	higher amount, not exceeding 50 crore rupees, as may be prescribed; or (iii) which meets such other requirements and fulfils such terms and conditions as may be prescribed
Partners Sec 5	<ul style="list-style-type: none"> any person who becomes a partner in the LLP in accordance with the LLP agreement. Any individual or body corporate may be a partner in a LLP. However, an individual shall not be capable of becoming a partner of a LLP, if— <ul style="list-style-type: none"> (a) he has been found to be of unsound mind by a Court; (b) he is an undischarged insolvent; or (c) he has applied to be adjudicated as an insolvent and his application is pending.
Minimum Partners (Sec 6)	Every LLP shall have at least 2 partners.
Reduction in Membership	<ul style="list-style-type: none"> If at any time the number of partners of 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 and has the knowledge of the fact shall be liable personally for the obligations of the LLP incurred during that period.
Designated partners (Sec 7)	<ol style="list-style-type: none"> Every LLP shall have at least 2 designated partners <ul style="list-style-type: none"> who are individuals and at least 1 of them shall be a resident in India. If in LLP, all the partners are bodies corporate or in which 1 or more partners are individuals and bodies corporate, at least 2 individuals or nominees of such body's corporate shall act as DP. Explanation- the term resident in India means a person who has stayed in India for a period of not less than 120 days during the previous financial year. Incorporation document specifies <ul style="list-style-type: none"> who are to be DP, or every partner shall be a DP for time to time Any partner may become and cease to be a DP in accordance with LLP agreement. DP must give his prior consent to act to the LLP. LLP shall file with the Registrar the particulars of every DP within 30 days of his appointment. Every DP of LLP shall obtain a DPI from the Central Government.
Characteristic of LLP	<ul style="list-style-type: none"> LLP is a body corporate: Perpetual Succession, No effect of the death or retirement of partner on existence.

	<ul style="list-style-type: none"> • Separate Legal Entity. Members and LLP are different. • Mutual Agency, No one partner can bind the other partner by his acts. • Mutual rights and duties of the partners within al LLP are governed agreement. • LLP may have a common seal, if it decides to have one • The liability of the partners will be limited to their agreed contribution in the LLP. • The partners in the LLP are entitled to manage the business but only the designated partners are responsible for legal compliances. • Every LLP shall have least 2 partners. There is no maximum limit on the partners in LLP. • LLP cannot be formed for charitable or non – economic purpose.
INCORPORATION OF LLP	
Reservation of name Sec 16	<p>(1) A person may apply in prescribed form to the Registrar for the reservation of a name.</p> <p>(2) Upon receipt of an application and on payment of the prescribed fee, the Registrar may reserve the name for a period of 3 months from the date of intimation by the Registrar.</p>
Incorporation document Sec 11	<p>1. 2 or more persons shall fill incorporation document with the Registrar of the State in which the registered office of the LLP is to be situated, along with fees.</p> <p>2. Contents of incorporation Document</p> <ul style="list-style-type: none"> • name of the LLP; • proposed business of the LLP; • address of the registered office of the LLP; • name and address of partners of the LLP • name and address of designated partners <p>3. Statement to be filed</p> <ul style="list-style-type: none"> • Made by either an advocate, or a CS or a CA or a CMA, who is engaged in the formation of the LLP and by subscriber of incorporation document • that all the requirements of this Act related with incorporation of LLP have been complied. <p>4. If a person makes a false statement shall be punishable</p> <ul style="list-style-type: none"> • with imprisonment for a term up to 2 years and • with fine Rs.10,000 to Rs. 5 Lakhs
Incorporation by registration Sec 12	<p>1. After completion of requirements Registrar shall-</p> <ul style="list-style-type: none"> • register the incorporation document; and • give incorporation certificate within a period of 14 days.

	<p>2.Certificate issued shall be signed by the Registrar and authenticated by his official seal.</p> <p>3.Certificate shall be conclusive evidence about compliance and incorporation of LLP.</p>
Effect of Incorporation Sec 14	<p>LLP shall, by its name, be capable of-</p> <ul style="list-style-type: none"> • suing and being sued • having a common seal • acquiring, owning, holding, and developing or disposing of property • doing and suffering such other lawful acts.
Name and change of name of LLP Sec 15 and 17	
Name Sec 15	<p>1. Every limited liability partnership shall have either the words limited liability partnership or LLP as the last words of its name.</p> <p>2. Limited liability partnership shall not be registered by a name which, in the opinion of the Central Government is-</p> <ul style="list-style-type: none"> • undesirable; or • identical or too nearly resembles to that of <ul style="list-style-type: none"> ➤ any other LLP or ➤ a company or a ➤ registered trade mark
Change of name of LLP Sec 17	<p>1.LLP is registered by a name which is identical with or too nearly resembles to any other LLP or a company; or a registered trade mark.</p> <p>2.An application of such LLP or proprietor or a company to the Central Government.</p> <p>3.CG may direct, such LLP to change its name within a period of 3 months from the date of issue of such direction.</p> <p>4.In case of similarity of trade mark, an application of the proprietor of the registered trademark shall be maintainable within a period of 3 years from the date of incorporation of the LLP.</p> <p>5.LLP shall within a period of 15 days from the date of such change, give notice of the change to Registrar along with the order of the Central Government.</p> <p>6.Registrar shall carry out necessary changes in the certificate of incorporation and</p> <p>7.LLP shall change its name in the LLP agreement within 30 days of such change in the certificate of incorporation.</p> <p>8.If LLP is in default in complying with any direction, the CG shall allot a new name to LLP and the Registrar shall issue a fresh certificate of incorporation with new name.</p> <p>9.LLP can change its name subsequently in accordance with the provision of section 16.</p>

<p>Registered office and change therein Sec 13</p>	<p>1. Every limited liability partnership shall have a registered office for communication purpose.</p> <p>2. A document may be served on LLP or a partner or designated partner thereof by sending it –</p> <ul style="list-style-type: none"> • by post under a certificate of posting or • by registered post or • by any other manner, as may be prescribed <p>3. LLP may change the place of its registered office in accordance with the provision as may be prescribed.</p> <p>4. Penalty for default in complying of this section- LLP and its every partner shall be liable to a penalty of 500 rupees for each day during which the default continues, subject to a maximum of 50000 rupees.</p>
<p>PARTNERS AND THEIR RELATIONS</p>	
<p>Eligibility to be partners Sec 22</p>	<ul style="list-style-type: none"> • the persons who subscribed their names to the incorporation document, and • any other person accordance with the LLP agreement.
<p>Relationship of partners Sec 23</p>	<p>1. Mutual rights and duties of LLP and its partners, shall be governed by the LLP agreement.</p> <p>2. LLP agreement and any changes, if any, made therein shall be filed with the Registrar.</p> <p>3. An agreement in writing made before the incorporation of LLP is ratified by all the partners after the incorporation of the LLP.</p> <p>4. In the absence of agreement, the mutual rights and duties of LLP and its partners shall be determined by the 1st Schedule.</p>
<p>Cessation of partnership interest Sec 24</p>	<p>1. A person may cease to be a partner of a LLP</p> <ul style="list-style-type: none"> • in accordance with an agreement with the other partners or • by giving a notice in writing of not less than 30 days to the other partners of his intention to resign as partner. <p>2. A person shall cease to be a partner of LLP—</p> <ul style="list-style-type: none"> • 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. <p>3. Such a partner, however, continues to be liable to the third party after his retirement until public notice of his cessation has been given to 3rd parties or to the registrar.</p> <p>4. Former partner continues to be liable to third parties for the acts done before his cessation.</p> <p>5. Former partner or his legal representative shall be entitled to receive from the LLP—</p>

	<ul style="list-style-type: none"> • an amount equal to the capital contribution of the former partner; and • his right to share in the accumulated profits of the LLP <p>6. A former partner or his legal representative shall not have any right to interfere in the management of the LLP.</p>
Registration of changes in partners Sec 25	<ol style="list-style-type: none"> 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. LLP shall file a notice with the Registrar within 30 days of such change. 3. Where a person becomes or ceases to be a partner, LLP shall file a notice with the Registrar within 30 days 4. Above notice filed with the Registrar <ul style="list-style-type: none"> • shall be in prescribed form and fees • shall be signed by the designated partner • written consent of incoming partner <p>5. Punishment for contravention</p> <ol style="list-style-type: none"> a. Non filing of notice with Registrar- LLP and its every designated partner shall be liable to a penalty of 10000 rupees. b. Failure of partner to inform to LLP- such partner shall be liable to a penalty of 10000 rupees. <p>6. If the LLP does not file the notice with the Registrar- any person who ceases to be a partner may himself file the notice with the Registrar and the Registrar shall obtain a confirmation from the LLP.</p> <p>Provided that 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.</p>
EXTENT AND LIMITATION OF LIABILITY OF LLP AND PARTNER	
Partner as agent Sec 26	Every partner of a LLP is the agent of the LLP, but not of other partners.
Extent of liability of LLP Sec 27	<ol style="list-style-type: none"> 1. LLP is not bound towards 3rd party if— <ul style="list-style-type: none"> • partner has no authority to act and • the 3rd party knows that he has no authority. 2. The LLP is liable for a wrongful act or omission by a partner in the ordinary course of the business of the LLP or with its authority. 3. The liabilities of the LLP shall be met out of the property of the LLP.
Extent of liability of partner Sec 28	<ol style="list-style-type: none"> 1. A partner is not personally liable, directly or indirectly for an obligation of the LLP. 2. Partner is personally liable for his own wrongful act or omission.

	<p>3. A partner shall not be personally liable for the wrongful act or omission of any other partner of the LLP.</p>
Holding out Sec 29	<p>1. Any person, who by words spoken or written or by conduct,</p> <ul style="list-style-type: none"> • represents himself, or • knowingly permits himself to be represented to be a partner, <p>is liable to any person, who has on the faith of any such representation given credit to the LLP.</p> <p>2. Where after a partner's death the business is continued in the same LLP name, the continued use of the deceased partner's name shall not make his legal representative or his estate liable for any act of the LLP done after his death.</p>
Unlimited liability in case of fraud Sec 30	<p>1. An act carried out by LLP or any of its partners, with intent to defraud creditors - the liability of LLP and partners who acted with intent to defraud shall be unlimited.</p> <p>2. Punishment for fraud- every person who was knowingly a party of fraud shall be punishable with imprisonment up to 5 years and with fine 50000 rupees to 5 lakh rupees.</p> <p>3. LLP or any partner or designated partner or employee of such LLP shall also be liable to pay compensation to any person who has suffered any loss or damage by reason of such fraudulent conduct.</p>
Whistle blowing Sec 31	<p>1. The Court or Tribunal may reduce or waive any penalty leviable against any partner or employee of a LLP, if he has provided useful information during investigation of such LLP.</p> <p>2. Partner or employee of any LLP may not be discharged, demoted, suspended, threatened, harassed or in any other manner discriminated merely because of his providing information.</p>
FINANCIAL DISCLOSURES	
Maintenance of books of account, other records, and audit, etc. Sec 34	<ul style="list-style-type: none"> • LLP shall maintain such proper books of account <ul style="list-style-type: none"> ➤ on cash basis or accrual basis and ➤ according to double entry system and ➤ shall maintain the same at its registered office. • Every LLP shall, prepare a Statement of Account and Solvency within a period of 6 months from the end of each financial year • Such statement shall be signed by the designated partners. • such statement shall file with the Registrar within the prescribed time, form, manner, and fees.

	<ul style="list-style-type: none"> • The accounts of shall be audited. • For non-filing of this statement with registrar with in prescribed time, such LLP and its designated partners shall be liable to- <ul style="list-style-type: none"> ➤ a penalty of 100 rupees for each day during which such failure continues, ➤ subject to a maximum of 1 lakh rupees for the limited liability partnership and 50000 rupees for every designated partner. • For noncompliance of other provisions of this section <ul style="list-style-type: none"> ➤ such LLP shall be punishable with fine 25000 rupees to 5 lakh rupees and ➤ every designated partner shall be punishable with fine 10000 rupees, to 1lakh rupees.
Accounting and auditing standards Sec 34A	The Central Government may, in consultation with the National Financial Reporting Authority prescribe the standards of accounting and the standards of auditing, for a class or classes of limited liability partnerships.
Annual return Sec 35	<ul style="list-style-type: none"> • Every LLP shall file an annual return with the Registrar within 60 days of closure of its financial year. • Penalty for contravention – <ul style="list-style-type: none"> ➤ such LLP and its designated partners shall be liable to a penalty of 100 rupees for each day during which such failure continues, ➤ subject to a maximum of 1 lakh rupees for the limited liability partnership and 50000 rupees for designated partners.
CONVERSION INTO LLP	
Firm into LLP Sec 55	accordance with the provisions of this Chapter and the Second Schedule.
Private company into LLP Sec 56	in accordance with the provisions of this Chapter and the Third Schedule.
Unlisted public company into LLP Sec 57	accordance with the provisions of this Chapter and the Fourth Schedule.
Registration and effect of conversion Sec 58	<ul style="list-style-type: none"> • The Registrar on compliance of all requirements of conversion, issues a certificate of registration. • The LLP shall, within 15 days of the date of registration, inform the concerned Registrar of Firms or Registrar of Companies, as the case may be, about the conversion. • Upon such conversion, the partners of the firm, the shareholders of company, as the case may be, shall be bound by the provisions of the various Schedules, applicable to them.

Effect of Registration	<p>On and from the date of registration-</p> <ul style="list-style-type: none"> • there shall be LLP by the name specified in the certificate of registration registered under this Act; • all assets, interests, rights, privileges, liabilities, obligations relating to the firm or the company, shall be transferred to the LLP • the firm or the company, shall be deemed to be dissolved.
WINDING UP AND DISSOLUTION	
Winding up and dissolution Sec 63	may be either voluntary or by the Tribunal
By Tribunal Sec 64	<ul style="list-style-type: none"> • if the LLP decides that LLP be wound up by the Tribunal; • if, for a period of more than 6 months, the number of partners of the LLP is reduced below two; • if the LLP is unable to pay its debts; • if the LLP has acted against the interests of the sovereignty and integrity of India, the security of the State or public order; • if the LLP has made a default in filing with the Registrar the Statement of Account and Solvency or annual return for any 5 consecutive financial years; or • if the Tribunal is of the opinion that it is just and equitable that the LLP be wound up.
Rules Sec 65	The Central Government may make rules for the provisions in relation to winding up and dissolution of LLP.
MISCELLANEOUS	
Business transactions of partner with LLP Sec 66	A partner may lend money to and transact other business with the LLP.
Application of the provisions of the Companies Act Sec 67	<ul style="list-style-type: none"> • The Central Government may, by notification in the Official Gazette, direct that any of the provisions of the Companies Act, 2013 shall apply to any LLP or apply with modification • A copy of every notification shall be laid in draft before each House of Parliament, while it is in session, for a total period of 30 days of 1 session or in 2 or more successive sessions.
Establishment of Special Courts Sec 67A	<ol style="list-style-type: none"> 1. for the purpose of speedy trial many Special Courts may be established by CG. 2. The Special Court shall consist of— <ul style="list-style-type: none"> • Sessions Judge or Additional Sessions Judge, in case of offences punishable with imprisonment of 3 years or more; and

	<ul style="list-style-type: none"> • a Metropolitan Magistrate or a Judicial Magistrate of the first class, in the case of other offences <p>3. The Central Government has right to appoint with the concurrence of the Chief Justice of the High Court.</p>
Procedure and powers of Special Court Sec 67B	<ul style="list-style-type: none"> • All offences shall be triable only by the Special Court established for the area in which the registered office of the LLP is situated. • A Special Court may also try an offence other than an offence under this Act with which the accused may, under the Code of Criminal Procedure, 1973 be charged at the same trial. • The Special Court may, try in a summary way any offence under this Act which is punishable with imprisonment not exceeding 3 years: • In a summary trial, no sentence of imprisonment for a term exceeding 1 year shall be passed • when at the commencement of or during a summary trial, it appears to the Special Court that the sentence of imprisonment for a term exceeding 1 year may have to be passed or for any other reason, undesirable to try the case summarily, the Special Court shall, proceed the case in accordance with the procedure for the regular trial.
Appeal and revision Sec 67C	<ul style="list-style-type: none"> • Appeal and Revision powers shall vest in the High Court. • The High Court may exercise, the powers conferred by Chapters XXIX (29) and XXX (30) of the Code of Criminal Procedure, 1973.
Electronic filing of documents Sec 68	<ul style="list-style-type: none"> • Document may be filed, recorded, or registered in electronic form. • Copy or extracts of any document which is supplied or issued by the Registrar and certified through affixing digital signature shall, in any proceedings, be admissible in evidence as of equal validity with the original document.
Registration offices Sec 68A	<ul style="list-style-type: none"> • For the purpose of registration of LLP, the CG shall establish registration offices. • The CG may appoint such Registrars, Additional Registrars, Joint Registrars, Deputy Registrars and Assistant Registrars for the registration of LLP and discharge of various functions under this Act. • The powers and duties of the Registrars and the terms and conditions of their service shall be such as may be prescribed.

	<ul style="list-style-type: none"> The Central Government may direct the Registrar to prepare a seal or seals for the authentication of documents
Payment of additional fee Sec 69	Any document or return required to be registered or filed under this Act with Registrar, may be registered, or filed after specified time, on payment of such additional fee as may be prescribed.

Distinction between LLP and Partnership Firm:

S.no	Basis	LLP	Partnership firm
1.	Regulating Act	LLP 2008	Partnership Act, 1932
2.	Body corporate	It is a body corporate	It is not a body corporate
3.	Separate legal entity	It is a legal entity separate from its members.	no separate legal entity.
4.	Registration	mandatory	voluntary
5.	Perpetual Succession	Exist	Not exist
6.	Liability of partner	limited to the extent to agreed contribution except in case of willful fraud.	unlimited
7.	Mutual agency	Not existed between partners.	Existed between partners.
8.	Designated Partners	At least two designated partners.	No provision

Distinction between LLP and Company

S.no	Basis	LLP	COMPANY
1.	Regulation Act	LLP Act, 2008	Companies Act, 2013
2.	Person	There are partners.	There are members.
3.	Internal Governance	Governed by agreement between the partners.	regulated by Companies Act, 2013
4.	Name	Name of the LLP to contain the word "LLP" as suffix.	Name of the public company to contain the word "limited" "Private limited" as suffix.
5.	Numbers of Members	Minimum – 2 members Maximum – No such limit on the members in the Act.	Private company: Min 2 and Max 200 members Public company: Min 7 and Max No such limit on the members.
6.	Liability of partners/ members	Limited to the extent of agreed contribution	Limited to the amount unpaid on the shares.
7.	Management	Managed by the partners including the designated partners.	Managed by board of directors.
8	Min. no. of directors	Minimum 2 designated partners.	Private Co. – 2 directors Public Co. – 3 directors