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# AMENDMENTS MADE BY LIMITED LIABILITY PARTNERSHIP (AMENDMENT) ACT, 2021 AT A GLANCE

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<i>Section</i>	<i>Effective date of amendment</i>	<i>Nature of amendment</i>
<i>1</i>	<i>2</i>	<i>3</i>
2(1)(c)	<b><i>Yet to be notified</i></b>	Certain words shall be substituted
2(1)(d)	<b><i>Yet to be notified</i></b>	Certain words shall be substituted
2(1)(e)	<b><i>Yet to be notified</i></b>	Certain words shall be substituted
2(1)(ra)	<b><i>Yet to be notified</i></b>	Shall be inserted
2(1)(s)	<b><i>Yet to be notified</i></b>	Shall be substituted
2(1)(ta)	<b><i>Yet to be notified</i></b>	Shall be inserted
2(1)(u)	<b><i>Yet to be notified</i></b>	Certain words shall be substituted
7	<b><i>Yet to be notified</i></b>	Certain words shall be substituted in <i>Explanation</i> to sub-section (1); certain words shall be substituted in sub-section (6)
10	<b><i>Yet to be notified</i></b>	Certain figure omitted in marginal heading; certain words shall be substituted in sub-section (1); sub-sections (2) and (3) shall be substituted for sub-section (2)
13	<b><i>Yet to be notified</i></b>	Sub-section (4) shall be substituted
15	<b><i>Yet to be notified</i></b>	Clause (b) of sub-section (2) shall be substituted
17	<b><i>Yet to be notified</i></b>	Shall be substituted
18	<b><i>Yet to be notified</i></b>	Shall be omitted
21	<b><i>Yet to be notified</i></b>	Sub-section (2) shall be substituted
25	<b><i>Yet to be notified</i></b>	Sub-sections (4) and (5) shall be substituted

<i>Section</i>	<i>Effective date of amendment</i>	<i>Nature of amendment</i>
<i>1</i>	<i>2</i>	<i>3</i>
30	<b><i>Yet to be notified</i></b>	Certain words shall be substituted in sub-section (2)
34	<b><i>Yet to be notified</i></b>	Sub-sections (5) and (6) shall be substituted for sub-section (5)
34A	<b><i>Yet to be notified</i></b>	Shall be inserted
35	<b><i>Yet to be notified</i></b>	Sub-section (2) shall be substituted for sub-sections (2) and (3)
39	<b><i>Yet to be notified</i></b>	Shall be substituted
60	<b><i>Yet to be notified</i></b>	Sub-section (4) shall be substituted
62	<b><i>Yet to be notified</i></b>	Sub-section (4) and <i>Explanation</i> occurring after sub-section (4) shall be substituted
67A, 67B and 67C	<b><i>Yet to be notified</i></b>	Shall be inserted
68A	<b><i>Yet to be notified</i></b>	Shall be inserted
69	<b><i>Yet to be notified</i></b>	Shall be substituted
72	<b><i>Yet to be notified</i></b>	Sub-sections (2), (3), (4) and (5) shall be substituted for sub-section (2)
73	<b><i>Yet to be notified</i></b>	Shall be omitted
74	<b><i>Yet to be notified</i></b>	Shall be substituted
76A	<b><i>Yet to be notified</i></b>	Shall be inserted
77	<b><i>Yet to be notified</i></b>	Shall be substituted
77A	<b><i>Yet to be notified</i></b>	Shall be inserted
79	<b><i>Yet to be notified</i></b>	Clauses (a), (aa) and (ab) shall be substituted for clause (a) of sub-section (2); clauses (ka), (ta), (zfa), (zfb), (zfc), (zga) (zgb) and (zn) shall be inserted in sub-section (2); certain word shall be omitted in clause (zl) of sub-section (2);
80	<b><i>Yet to be notified</i></b>	Sub-section (1A) shall be inserted
81	<b><i>Yet to be notified</i></b>	Shall be omitted

# **GUIDE TO LIMITED LIABILITY PARTNERSHIP (AMENDMENT) ACT, 2021**

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LLP (Amendment) Act, 2021 has been passed by Parliament in August, 2021.

The major changes are as follows. These will be made effective from date to be notified. Many of the changes are made to align them with corresponding under Companies Act, 2013.

- ◆ Reference to Companies Act, 1956 has been replaced by Companies Act, 2013 [though corresponding changes in sections and Number of Act –(1 of 1956) have not been made at some places].
- ◆ Provision of ‘Small LLP’ has been made in line with ‘Small companies’ under Companies Act, to give some reliefs in penalties and procedures [section 2(1)(ta) of LLP Act].
- ◆ Requirement of person to be ‘resident of India’ has been reduced from 182 days to 120 days [section 7(1) of LLP Act].
- ◆ De-criminalisation of various contraventions of LLP Act, by replacing provision of fine with ‘penalty’ at various places. Penalty can be imposed under departmental adjudication.
- ◆ Provision relating to authority to order change of name in case of similar names have been modified [section 17 of LLP Act].
- ◆ Provision made relating accounting standards and auditing standards [section 34A of LLP Act].
- ◆ Provisions relating to compounding offences streamlined [section 39 of LLP Act].
- ◆ Provision for special court to try offenses under LLP Act [sections 67A, 67B, 67C, 77 and 77A of LLP Act].
- ◆ Proper provision made for appointment of Registrars, Regional Director etc. for administration of LLP Act [section 68A of LLP Act].
- ◆ Provision for appeal against order of NCLT [section 72(2) to 72(5) of LLP Act].

- ◆ Provision made for adjudication for penalties and appeal against adjudication order [section 76A of LLP Act].
- ◆ Enabling provision to issue order for removal of difficulties [section 80(1A) of LLP Act].

The provisions are explained below. These will be effective from date to be notified.

## **1. Government can exclude any activity from definition of business**

Section 2(1)(e) of LLP Act as proposed to be amended provides that the Central Government may, by notification, exclude any activity from the definition of 'business'.

As per section 11(1) of LLP Act, LLP can be constituted only for carrying on a lawful business with a view to profit. Thus, if any activity is excluded from the definition of 'business', LLP cannot be registered for that purpose.

## **2. Small Limited Liability Partnership**

“Small limited liability partnership” means a limited liability partnership— (i) the contribution of which, does not exceed Rs. 25 lakh or such higher amount, not exceeding Rs. five crore, as may be prescribed; and (ii) the turnover of which, as per the Statement of Accounts and Solvency for the immediately preceding financial year, does not exceed 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 – Section 2(1)(ta) of LLP Act, proposed to be inserted *vide* LLP Amendment Act, 2021.

The purpose is to provide relief in case of certain procedures. The penalty imposed on small LLP will be 50% of normal penalty under section 76A(3) (a) of LLP Act, proposed to be inserted *vide* LLP (Amendment) Act, 2021.

## **3. Name should not be identical with other name or in violation of Trade Marks Act**

Name should not be identical or too nearly resembling 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 – Section 15(2)(b) of LLP Act, proposed to be amended *vide* LLP (Amendment) Act, 2021.

#### **4. Rectification of name of LLP**

Provision relating to rectification of name, where the name of LLP is identical or too similar to name of other LLP or company or violates provisions of Trade Marks Act, are made in section 17 of LLP Act. If name of LLP is identical or too nearly resembling 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, Registrar can order change of name. Application from proprietor of trade mark should be made within three years. However, subsequently the company can again change the name, if it so desires.

#### **5. Accounting and Auditing standards**

The Central Government may, in consultation with the National Financial Reporting Authority (NFRA) prescribe the standards of accounting and prescribe the standards of auditing for a class or classes of limited liability partnerships – Section 34A of LLP Act, proposed to be inserted *vide* LLP (Amendment) Act, 2021.

#### **6. Compounding of Offenses**

Section 39 of LLP Act has been revamped and elaborate provisions have been made for compounding of offenses by Regional Director, where LLP Act provides for imposition of fine only. Compounding can be made before or after institution of any prosecution. After compounding, there will be no prosecution.

#### **7. Establishment of Special Courts to try offenses under LLP Act**

Provision of special courts has been made for speedy trial of offenses under LLP Act, by inserting section 67A to LLP Act. Till such Special Courts are constituted, Special Courts under Companies Act, 2013 shall be 'special courts' for purpose of LLP Act.

As per section 67B of LLP Act, Court which has jurisdiction over registered office of LLP will be the special court. Summary trial is permitted for small offenses.

Appeal and revision lies with High Court – Section 67C of LLP Act.

The Special Court can impose punishment under section 30 of LLP Act – Section 77(i) of LLP Act.

Cognizance of case can be taken by Special Court only on complaint filed by officer not below rank of Registrar in writing – Section 77A of LLP Act.

## **8. Establishment of Office of Registrar**

Central Government shall appoint Registrar, Additional Registrar, Joint Registrar, Assistant Registrar etc. for exercising powers and discharging functions under LLP Act – Section 68A of LLP Act.

## **9. Payment of Additional Fee (Late Fees)**

Section 69 of LLP Act has been inserted for imposing additional fees for late filing of documents. Earlier, the additional fees were prescribed under LLP Act itself, which were abnormally high. Now, additional fees will be prescribed under Rules, which are expected to be lower and reasonable. Additional fees are expected to be further lower for small LLP.

## **10. Appeal against order of NCLT**

Section 72(2) to 72(5) have been inserted in LLP Act to provide for appeal to NCLAT against order of NCLT.

## **11. Removal of Difficulties**

Central Government can issue order for removing difficulty in implementing provisions of LLP Amendment Act, 2021. Such order can be issued within three years from date of commencement of Amendment Act – Section 80(1A) of LLP Act.

## **12. Provision of fine converted into penalty**

In following cases, provision of fine has been converted into provision of penalty. Thus, in these cases, adjudication can be made and penalty can be imposed by adjudicating authority (Registrar) under section 76A(3) of LLP Act. Appeal against order of Registrar lies with Regional director under section 76A(5) of LLP Act.

<b><i>Section No.</i></b>	<b><i>Description (where provision changed from fine to penalty)</i></b>
Section 10(1), 10(2) and 10(3) of LLP Act	Contravention of sections 7 to 9 [which make provisions relating to appointment, liabilities and change of designated partners].
Section 13(4)	Contravention of provisions relating to registered office.
Section 21(2)	Provisions relating to Publication of name and limited liability in invoices and correspondence.



**I-13** GUIDE TO LIMITED LIABILITY PARTNERSHIP (AMENDMENT) ACT, 2021

<b>Section No.</b>	<b>Description (where provision changed from fine to penalty)</b>
Section 25(4) and 25(5)	Provisions relating to notice to Registrar in respect of change of partners.
Section 34(5)	Contravention of provisions relating to filing of Statement of Account and Solvency with Registrar.
Section 35(2)	Contravention of provisions relating to filing of Annual Return.
Section 60(4)	Non-filing of order of NCLT in respect of compromise or arrangement.
Section 62(4)	Non-filing of order of NCLT in respect of transfer of property under order for compromise or arrangement.
Section 74	General penalty for contravention of provisions of LLP Act.