

Limited Liability Partnership (Amendment) Act, 2021 – Key Highlights

The Limited Liability Partnership (Amendment) Act, 2021 (LLP Amendment Act) was passed by the Government to take effect from 13 August 2021. Various operative and ease-of-doing business provisions are incorporated in the existing LLP Act of 2008. Certain criminal liabilities are reduced by grouping them as penal provisions; with a view to relieve the law-abiding firms. Key highlights of the LLP Amendment Act are discussed below.

1. Small LLP: An LLP with the following criteria will be termed as Small LLP.

- i. Contribution not exceeding INR 25 lakh (Govt. may raise this limit to maximum INR 5 crore) and
- ii. Turnover as per the statement of accounts and solvency for the immediately preceding financial year not exceeding INR 40 lakh. (Govt. may raise this limit to maximum INR 50 crore.)

2. Residential Status of the Designated Partner: Every LLP shall have at least 2 designated partners who are individuals and at least 1 of them shall be a resident in India.

As per the amendment, the term resident in India means a person who has stayed in India for a period of not less than 120 days during the immediately preceding financial year instead of the earlier requirement of minimum 182 days.

3. Decriminalisation of offences: The LLP Amendment Act specifies the manner of operations of LLPs and provides that violating these requirements (some of them are mentioned below) will be punishable with a fine (ranging between INR 2,000 to INR 5 lakh).

- i. Changes in partners of the LLP,
- ii. Change of registered office,
- iii. Filing of statement of account & solvency, and annual return,
- iv. Arrangement between LLP and its creditors or partners, and reconstruction or amalgamation of the LLP.

The Act decriminalises these provisions and instead imposes a monetary penalty.

4. Change in the name of LLP: The Act states that the Central Government may direct an LLP to change its name on certain grounds (such as the name being undesirable or identical to a trademark pending registration) or pay a fine ranging from INR 10,000 to INR 5 lakh if it fails to comply with the directions. However, the amended Act now empowers the Central Government to allot a new name to such LLP instead of levying a fine.

5. Accounting and Auditing Standards: In order to align with the Companies (Accounting Standards) Rules, the Central Government may, in consultation with the National Financial Reporting Authority prescribe the standards of accounting for a class or classes of LLPs. It may prescribe the standards of auditing, as recommended by the ICAI.

6. Establishment of special courts: The Act empowers the Central Government to establish or designate special courts with a view to provide speedy trial of offences under the LLP Act.

Limited Liability Partnership (Amendment) Act, 2021 – Key Highlights

7. Establishment of the Appellate Tribunal: Under the Act, appeals against the orders of the NCLT lie with the National Company Law Appellate Tribunal (NCLAT). As per the amendment, appeals cannot be made against the orders that have been passed with the consent of the parties. Appeals must be filed within 60 days (extendable by another 60 days) of the order.

8. Punishment for fraud: The term of imprisonment has been increased from 2 years to 5 years where any person knowingly carries out the activities to defraud the creditors of the LLP or with any other fraudulent purposes.

9. Compounding of Offences: To compound means “to settle a matter by money payment, in lieu of other liability.” Under the Act, the Central Government may compound any offence which is punishable only with a fine. The amount imposed may be limited to the maximum fine prescribed for the offence. As per the amendment, a regional director (or any officer above his rank), appointed by the Central Government, may compound such offences. The amount imposed must be within the minimum and maximum fine limit for the offence. If an offence by an LLP or its partners is compounded, then a similar offence cannot be compounded within a three-year period.

Weblink <https://egazette.nic.in/WriteReadData/2021/228987.pdf>

Therefore

This is the only amendment made to the LLP Act after it was enacted in 2008. The LLP (Amendment) Act, 2021 seeks to boost start-ups in India and further ensure the ease of doing business. It seeks to decriminalise 12 offences under LLP Act and facilitates ease of operations to the compliant firms. The decriminalised cases will be shifted to an “in-house adjudication mechanism” thereby reducing the burden on criminal courts. Streamlining and providing clarity in various operational aspects of the Act will facilitate effective compliance under the law.