

INCORPORATION OF LIMITED LIABILITY PARTNERSHIP {LLP} LLP Second Amendment Rules

EFFECTIVE FROM 02.10.2018

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ASSOCIATES

In this Editorial the author shall deliberate the Provisions of LLP Act, 2008 02nd October, 2018 onwards in respect of Incorporation of Limited Liability Partnership (Including all the Notifications, Circulars). Author shall discuss followings (i) Provisions of the Act (ii) Step Wise Process of Incorporation of LLP (iii) FAQ's on Incorporation of LLP.

This Editorial includes the “RUN” “FiLLiP”.

- For Section 11 Limited Liability Partnership Act, 2008
- Limited Liability Partnership (Second Amendment) Rules, 2018.

INCORPORATION OF LLP

Moving from the LLP Rules, 2009 to the LLP (Second Amendment) Rules, 2018 is like shifting from your old house to a new one. All the provisions in relation to Incorporation of LLP has changed with Amendment Rules, 2018. This was step towards Ease of Doing Business.

Requirements for Incorporation of LLP:

❖ Partner:

- i. A minimum of two partners will be required for formation of an LLP. There will not be any limit to the maximum number of partners.
- ii. A body corporate can also be Partner of LLP.

❖ Designated Partner:

- i. Every LLP shall be required to have at least Two Designated Partners.
- ii. Designated Partners shall be individuals
- iii. At least one of the Designated Partner shall be a resident of India.
- iv. 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, {At least two individuals who are partners of such LLP or nominees of such bodies corporate shall act as designated partners}.

❖ Registered Office:

- i. Every LLP shall have a registered office to which all Communications and Notices may be addressed and where they shall be received. (Section- 13)

Process of Incorporation

STEP – I: Apply for Name Approval:

A. Login on MCA Website

Applicant have to login into their account on MCA Website. (Pro-existing users can use earlier account or new users have to create a new account.)

After Login use have to click on the icon “**RUN**” in MCA Service. An online form shall be open. Applicants have to fill the information online. (This form can’t be download)

Note* since 02nd October, 2018 e-form LLP-1 has been omitted from the LLP Act, 2008.

B. Details required to be mentioned in online form:

- (i) Entity type LLP
- (ii) LLPIN (LLPIN and it has to be entered only when an existing company wishes to change its name and is using RUN to reserve a new name)
- (iii) Proposed name (Auto Check Facility)
- (iv) Comment (Mention Objects of the proposed LLP and any other relevant information Like Trade Mark etc.)
- (v) Choose File (Any attachment)

C. Choose File:

This option is available to upload the PDF documents. If applicant want to attach any file, can be upload at this option.

D. Submission of Form on MCA Website:



After completion of above steps user shall submit the Form with MCA website.

E. Payment of Fees:

There is no option of pay later challan in RUN. Applicant has to pay fees immediately after submission of form. After payment challan shall be generated.

I. Validity of Reserved Name:

Reserved name shall be valid for 90 days from the date of approval of Name.

QUICK QUESTION – RUN

i. Whether DIN or DSC required for filing of Run form?

DSC & DIN not required for filing of RUN form for reservation of Name. Only account of MCA portal is mandatory.

ii. How many resubmission options are allowed in RUN?

Only one Resubmission of application is allowed in case of reservation of Name.

iii. What shall be the validity of the Name after approval?

Reserved name shall be valid for 90 days in case of allotment of name for New LLP.

iv. How many name can be apply through this form?

Two Names can be mentioned in RUN form.

v. What shall be the government fees for RUN?

As per Register office Fees Rules, Fees shall be Rs. 200/-

vi. Is it mandatory to attach documents while reserving name?

No.



It is mandatory to attach relevant documents and No Objection Certificates(NOCs) only when a name which requires the approval of a Sectoral Regulator or NoC etc.

Please note that only one file is allowed to be uploaded as an attachment and the size of the file should not exceed 6MB. In case of multiple attachments, please scan all documents into a single file not exceeding 6MB in size, and then upload the same.

vii. Whether there is any requirement to mention details of Designated Partner in the RUN?

No, there is no need to mention the name or number of proposed Designated Partner in RUN.

NOTE: * Approval of Name through “RUN” is an optional way. LLP can also directly apply for the Name in FiLLip form.

❖ Who can become a partner in a LLP

- a) An individual unless other disqualified
- b) A company incorporated under the Companies Act 1956 or Companies Act 2013
- c) A LLP incorporated under LLP Act 2008
- d) A LLP incorporated outside India
- e) A company incorporated outside India

❖ Who cannot become a partner in LLP?

- a) An individual, 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 applied to be adjudicated as an insolvent and his application is pending.
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- b) A minor
 - c) A HUF
 - d) A Partnership Firm
 - e) An Association of Persons (AOP) or Body of Individuals (BOI)
 - f) An Artificial Judicial Person
 - g) A Corporate Sole
 - h) A Co-operative Society registered under any law for the time being in force
 - i) A body corporate which the Central Government may, by notification in the Official Gazette, specify in this behalf;

STEP – II: Preparation of Documents for Incorporation of LLP:

After approval of name or for Incorporation of LLP applicant have to prepare the following below mentioned Documents;

- ▽ Proof of Office address (Conveyance/ Lease deed/ Rent Agreement etc. along with rent receipts);
- ▽ NOC from the owner of the property.
- ▽ Copy of the utility bills (not older than two months)
- ▽ Subscriber Sheet including Consent.
- ▽ In case of Designated Partner does not have a DIN, it is mandatory to attach: Proof of identity and residential address of the subscribers
- ▽ All the Designated Partners should have Digital Signature.
- ▽ Detail of LLP(s) and/ or company(s) in which partner/designated partner is a director/partner

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- ▽ Copy of approval in case the proposed name contains any word(s) or expression(s) which requires approval from central government;
 - ▽ Form-9 – Consent to Act as Designated Partners
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STEP – III: Fill the Information in Form: [FiLLiP]

Once all the above mentioned documents/ information are available. Applicant has to fill the information in the e-form “FiLLiP”.

Features of FiLLiP form:

- Person can apply the Name also in this form.
- Two DIN can be apply through FiLLiP.

SINGLE WINDOW FORM:

Earlier if a Person wants to incorporate LLP then it has to apply for the DIN, Approval of the Name Availability, Separate form for Registered office address, etc. But this form is a single window for Incorporation of LLP.

This form can be used for the following purposes:

- ▽ Application of DIN(Maximum 2)
- ▽ Application for Availability of Name
- ▽ No need to file separate form for address of registered office

QUICK QUESTION - FiLLiP

viii. Whether LLP Agreement shall be file in FiLLiP or required to file Separate LLP-3?

In case of Incorporation of LLP even through FiLLiP, it is required to file e-form LLP-3 along with attachment of LLP Agreement within 30 days of Incorporation of LLP.

Approval power of LLP-3 shall be with jurisdiction ROC not with CRC.

ix. How many Name can be apply through FiLLiP Form?

Single (1) Name can apply through FiLLiP form.

In case after filing of e-form, due to non Availability of name form came for resubmission. In such case applicant have to propose new name and have to alter the name on all the attachment of the Form.

STEP – IV: Submission of FiLLiP on MCA-:

Once FiLLiP form ready with the applicant, upload form on MCA website and make the payment of the same.

STEP – V: Certificate of Incorporation-:

Incorporation certificate shall be generating by LLPIN.

STEP – VI: Preparation of LLP Agreement-:

After Incorporation of LLP. Partners have to execute the LLP Agreement. LLP Agreement shall execute on Stamp Paper. (Amount of Stamp Paper 1% of Capital of LLP in Delhi). LLP Agreement shall be file in e-form LLP-3.

***Note:** Date of LLP Agreement shall be on or after date of Incorporation only.

NOTES: VALUE OF STAMP DUTY ON LLP AGREEMENT

1. IN MAHARASHTRA		
A.	Contribution in cash	
	a)	where share of contribution does not exceed Rs. 50,000
	b)	where it exceeds Rs. 50,000 for every Rs. 50,000 or part subject to a maximum of Rs. 5,000
B.	Contribution by way of property	
		Same duty as on conveyance under A.25 on the market value of property

1.	IN DELHI
A	1 % of Contribution Subject To Max 5000/-

CAUTION TO BE TAKEN BY PROFESSIONALS:

1. **Obtain engagement letter from Partners:** - As per certification in e-form FiLLiP, a professional declares that he has been engaged for the purpose of certification. Therefore it is advisable to obtain an engagement letter.
2. **Ensure all attachments are clear enough to read:** - As per certification in e-form FiLLiP, a professional declares that all attachments are completely and legibly attached.

Quick Bites:

1. What is limit of Maximum Number of Partners in LLP?

There are no express provisions regarding maximum limit of partners a LLP can have. Hence, a LLP can have any number of partners as it likes. There is no restriction on maximum number of partner a LLP can have.

2. Whether Body Corporate can be Partners in LLP?

All the Partner or one of the partners of LLP can be Body Corporate in LLP.

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