

# Ten Points on Limited Liability Partnership(LLP) Under the Commercial Code of Ethiopia

## Description

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The 1960 Commercial Code of the Empire of Ethiopia incorporated one form of limited partnership called Limited Partnership. However the limited partnership comprises of two types of partners. General partners in full liability personally, jointly and severally and limited partners who are only liable to the extent of their contribution. The name limited partnership does not describe it perfectly. It is a two type of liability partnership rather than a limited partnership. The correction in naming is made in the new Commercial Code of Ethiopia Proclamation No 1243/2013(the new CC Proclamation hereafter). It is now called a Two Type Liability Partnership rather than limited partnership.

On the other hand, the new CC proclamation introduces a new additional form of limited partnership. It is called Limited Liability Partnership (LLP). The LLP comprises of only limited partners who are only liable to the extent of their contribution. LLP does not have partners with full liability personally, jointly and severally.

The LLP can be **formed** by two or more partners. The partners need to have professional practice licences. The partners come together to exercise their profession and related professional services. Not only physical persons but also juridical persons with the necessary professional competencies can also be partners in the LLP. Nevertheless, the general manager of a LLP must be a natural person who has the professional licence that qualifies him to practice the profession.

LLP once registered will have its own **legal personality**. The LLP shall have a name. The name need not necessarily be the name of the partners, as in the case of Two Type Liability Partnership. The name has to be a legally acceptable name and the name shall have at the end 'Limited Liability Partnership'.

LLP shall be established by a **memorandum of association(MoA)** and shall contain particulars as stated in Article 185 of the new CC Proclamation. However, in addition to those particulars, licence copies and licence numbers of each partner should be attached to the formation document of the LLP. This requirement identifies LLP as a business model done by licensed practitioners of a certain duly recognized profession.

**Contributions** by partners is not limited to skill. Contributions can be in cash, movable or immovable property, trade mark, good will, patent, copy right, lease right, use right or any other form of contribution.

**Conflict of interest** between a partners and the LLP shall be governed by specific profession related laws. Such laws for example include the new Federal Advocates Licencing and Administration Proclamation 1249/2013. However, a partner seeking to do a similar job with the LLP by himself or to a third party can do so only when he obtains a unanimous vote in the LLP. The intention is to reduce

conflict of interest and if so happens with the full consent of its partners.

**Liability** of the LLP is broad. The LLP is jointly and severally liable with a partner that inflicts damage intentionally or through negligence, to third parties while doing his job. Nevertheless, the LLP shall be free from such liability only when the third party victim knows that the partner is acting beyond his powers. For this and similar incidents and compensations thereof, the LLP is required by law to have professional indemnity insurance.

**Withdrawal or expulsion** of a partner happens when the partner gives a three month written notice unless otherwise a different term is mentioned on the MoA, upon death or for a legal person partner upon dissolution, creditors of the partner take over his shares or sell of ALL his share contributions, insolvency of the partner, cancellation of the professional licence, barred from his profession for a long period of time unless a different agreement is there in the MoA, incapacity or ordered by court of law for good cause. The forms of withdrawal or expulsion of a partner have become more detailed and incorporate the professional licence cancellation or barring. The withdrawal or expulsion of a partner should be entered in the register where the LLP is formed, for the protection of third parties, the LLP itself and the knowledge of the licencing body.

**Shares** of a deceased, incapacitated or insolvent partner shall be given to the rightful successors in CASH. A request to be a substitute partner is not allowed. When calculating the amount to be dispersed to a successor, the contributions of the partner, debts of the LLP or accumulated dividends if any of the partner, possible profits on progressive cases the partner has been working on, shall be considered. This made it clear what to consider in assessing the amount devolving a partner leaving the LLP.

**Voting** for normal business affairs shall be majority of the members support. For amendment of the terms of the MoA, a 2/3 approval is required. And for change in nationality of the LLP or change of business field, 3/4 approval is required. It is unclear whether majority support, or 2/3 approval or 3/4 approval are in terms of number of partners or share values. The MoA has to clarify the voting system. For that matter, a different voting requirement can be included for normal business voting and amendment of the MoA.

**Dissolution** of the a LLP happens when the membership is reduced to one partner and the remaining partner cannot add a partner within six month period of time. The remaining partner can request an extension for three more month. In total a 9 month period is given for the remaining partner to raise the number of partners to more than one. A partner who continues to work the LLP without taking the necessary measures of adding a partner or partners beyond one, shall be jointly and severally liable with the LLP for creditors and debts of the LLP.

In conclusion, the new Commercial Code of Ethiopia introduces limited liability partnership for professional services, with limited liability enjoyed by the partners.

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