

LLP ADMINISTRATION AND AGREEMENTS

Post-formation Administration

The Registrar of LLP's is based in Companies House. Notice must be given to the Registrar, equivalent to the Companies Office, of any change of name or registered office. All the requisite stationery and names outside the business must be changed.

Notice of change of membership of an LLP must be given to the Registrar within 14 days. Members' names, addresses, dates of birth must be filed. Failure to make any requisite filings is an offence.

An annual return is required in much the same way as for a company. Each LLP has a return date which will normally be the anniversary of its formation. The return must give details of the registered office, names and addresses of members, the designated member and details of the office at which certain internal registers are kept, such as debenture holders and the registered members.

Direction and Control

An LLP does not require the equivalent of a company secretary. There are certain administrative or secretarial which must be performed in relation to the LLP.

The members of an LLP may design and arrange their affairs as they see fit. It is possible to rely on the default provisions in the legislation. It will often be more prudent to draft a limited liability partnership agreement. The legislation in effect allows the parties to draft a limited liability partnership agreement by which the designated members or members have functions equivalent to directors delegating a large range of powers to them subject to such control as the general management might wish.

The default provisions in relation to limited liability partnerships cover the following matters:-

- all members are entitled to share equally the capital and profits of the LLP's business equally;
- the partnership must indemnify each member in respect of payments made and personal liabilities incurred by him in the proper conduct of the business of the partnership or anything necessarily done for the preservation of the partnership and its assets;
- each member may take part in the management of the limited partnership;
- no member is entitled to remuneration for acting in the business or management of the partnership (in the absence of agreement to the contrary);
- no person may be introduced as a member or voluntarily assign an interest without the consent of all existing members;
- any differences arising as to the ordinary matters connected with the business may be decided by a majority;
- no change may be made in the nature of the business without the consent of all members;
- all members are to have access to the books of records of the partnership;
- each member is to render a true account and full information of all things affecting the limited liability partnership to any member or its representatives;
- if a member, with the consent of the limited partnership, carries out any business of the same nature competing with the LLP he must account for profits made;
- every member must account to the LLP for any benefit derived by him without the consent of the LLP partnership or from any use of property or name or business;
- no majority can expel any member unless the power to do so has been expressly granted.

LLPs are treated in the same general manner as partnerships from a taxation perspective. Profits and capital gains accrue to the individual members in their personal capacity. An LLP can be registered for VAT.

Accounting and Annual Returns

The LLP legislation makes certain company law provisions applicable in relation to accounting and audit requirements. LLPs must prepare and keep books of accounts. In addition, the LLP must prepare the usual financial accounts including, trading, profit and loss statement and balance sheet. They must give a true and fair view of the LLP's business.

The accounts must follow the format for company accounts. The members have responsibility for preparing and approving the accounts. LLP accounts may need to be audited in much the same manner as for a company. Accounts must be distributed between members and published in much the same way as for companies. Accounts must be filed with the Registrar in much the same fashion as for companies.

There are exceptions for filing of accounts for LLPs, which are the same as those available to companies. The definition of small and medium size LLPs and groups are based on a combination of turnover, balance sheet, size and number of employees in the same way as for companies. There is an exemption from the audit requirement under certain circumstances.

LPPs may grant charges in much the same manner as companies. They must be registered in the Companies Office within 21 days.

Winding-Up

There are provisions for winding up of an LLP which are broadly equivalent to those applicable for companies. A liquidator is appointed and much of the procedures are the same as for winding up a company. There is also provision for winding up by a Court. Many of the provisions applicable on the winding up of a company are also applicable to winding up of an LLP.

This Guide is intended as an overview and broad outline of the matters covered in it. Its purpose is to inform and raise awareness. We are happy to offer specific legal advice on particular circumstances.

This Guide should not be relied on as a substitute for comprehensive legal advice with reference to the particular circumstances.

While we have taken due care in the preparation of this publication, we do not accept legal liability as a result of any reliance placed on anything in this Guide. The reader should rely only on specific legal or taxation advice.

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