

# Limited Liability Partnership in Kenya

Many times, there is a failure to consider limited liability partnership when taking into account entities for the conduct of business. A limited liability partnership is a corporate entity that integrates the organizational flexibility of a partnership with the limited liability status attributable to a company.

Partners within a Limited Liability Partnership are classified into 2 classes. These are **general partners** who engage in full management and control of the partnership business and accept full personal responsibility for the partnership liabilities and **limited partners** who have no personal liability beyond their investment in the partnership. In Kenya, a limited liability partnership is required to have a manager who should be a natural person. The manager is responsible for lodging statements on changes effected to a limited liability partnership together with annual declarations as to the solvency or otherwise of the partnership.



## Similarities between the Limited Liability Partnership and a Limited Liability Company

A limited liability partnership is similar to a limited liability company in that it is an internationally renowned form of business just as the company. It is also recognized as a legal entity distinct from its partners which gives it the right to sue or be sued in its own name. A limited liability partnership also affords partners perpetual existence irrespective of changes in partners. Just as a limited liability company a limited

liability partnership can opt to execute documents by appending its common seal.

## Advantages a Limited Liability Partnership has over a company

- a) The Limited Liability Partnership affords the partners flexibility with regard to the internal structure adopted for the running of the partnership. For instance, persons providing finance for the venture can readily take on the role of limited partners. This offers to investors an easier way to benefit from the profits and losses of a business without getting actually involved in the business making it ideal for investment by venture capitalists
- b) A limited liability partnerships offers privacy to partners as there is no mandatory requirement for the production of the Partnership Agreements or other documents prepared by the partners to the Registrar of limited liability partnerships.
- c) A limited liability partnership requires less paperwork to establish and is also easy to dissolve or wind-up.



- d) A limited liability partnership does not require the maintenance of the numerous mandatory statutory records required of a company such as share certificates, debenture stock certificates, registers of members', annual company returns etc.
- e) A Limited Liability Partnership does not place on partners and its managers the onerous obligations placed on directors of limited liability companies such as:
  - i) The requirement that directors make written declarations of interest where interested in proposed transaction or arrangements that the company is entering into. In Kenya, conviction for a failure on the part of a director to make such declaration makes the director liable to account to the company for any gain the director makes from the transaction or any loss resulting from the transaction.
  - ii) The duty imposed on a director not to accept a benefit from a third party if the benefit is attributable to the fact that the person is a director of the company. In Kenya, conviction for the contravention of this requirement may lead to the forfeiture of such benefit to the company in addition to the payment a one million shilling fine.
  - iii) Directors' liability to a fine for failure to lodge with the Registrar of Companies, amendments to company articles and pertinent company matters.

Taking into account the foregoing advantages that limited liability partnerships offer even as they counter the statutory reporting drawbacks associated with companies it is high time entrepreneurs considered making greater use of limited liability partnerships in their operations.

