



## Companies Limited by Guarantee

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A company limited by guarantee is a company with the following features:

- I. It does not have a share capital.
- II. The liability of its members is limited by the company's articles to the amount that the members undertake, by those articles, to contribute to the assets of the company in the event of its liquidation.
- III. Its certificate of incorporation states that it is a company limited by guarantee.

Companies Limited by guarantee are mostly used for non-governmental organizations that require a legal personality.

Under the repealed Companies act Cap 486, there were two types of companies limited by guarantee i.e. companies limited solely by guarantee and companies with a share capital but limited by guarantee. The 2015 Act provides only for companies solely limited by guarantee but does not prohibit a company limited by guarantee from having a share capital if it was formed and registered before the commencement of Section 7, which relates to Companies limited by guarantee.

### 1 Formation

When applying for registration of a company limited by guarantee, the applicant must in addition to the Memorandum and Articles of Association present a statement of guarantee, which contains the name and address of each subscriber to the memorandum of association. The Statement also states that each person who is a member undertakes, to contribute to the assets of the company such amount as may be required for paying the debts and liabilities of the company if the company is liquidated.

### 2 Allotment of Shares

Just like a private company limited by shares, a company limited by guarantee cannot offer to the public any securities of the company; or allot or agree to allot any securities of the company with a view to their being offered to the public, unless this is done in good faith with the intention of converting the company into a public company.

### 3 Sharing of Profits

Companies limited by guarantee may not share their divisible profits with non-members. A provision in the articles of the company, or in a resolution purporting to give a person a right to participate in the divisible profits of the company otherwise than as a member is void. However, most companies limited by guarantee re-invest any profits into the cause for which they are formed as opposed to sharing out profits.

### 4 Liquidation

For this type of company, the members are only liable in the event the company goes into liquidation but have no liability for as long as the company remains in operation.