



CANARA BANK OFFICERS' ASSOCIATION PROMOTION STUDY MATERIAL - 2018

LEGAL ASPECTS

Reserve Bank of India Act, 1934: w.e.f 01-04-1935.

- Established as per recommendations of Hilton Young Commission
- Sec 31 of RBI Act: Prohibits drawing, accepting, making or issue of any bill of exchange, hundi, promissory note payable to Bearer on demand, except by Central Government or RBI.
- Sec 33 of RBI Act: Assets of issue department of RBI shall consist of gold coin, gold bullion, foreign securities, rupee coins and rupee securities. The aggregate value of gold coin, gold bullion and foreign securities held shall not any time be less than `200 crore of which gold coin and gold bullion not less than `115crores.
- Sec 42 of RBI Act: CRR: Banks are required to maintain certain percentage of Net Demand and Time Liabilities as CASH with RBI.
- No Floor or Ceiling rate for CRR wef 01-04-2007. RBI will fix CRR rate.
- Reverse repo is not announced separately, but is linked to Repo rate and it will always be 100 BPS below repo rate.
- RBI will not pay any interest to Banks on CRR balances wef 31-03-2007.
- Banks are required to maintain minimum daily CRR balances upto 95% of total CRR requirement on all days of the fortnight. If it is not maintained, penal interest @3% above bank rate for first day and second day onwards, Bank rate plus 5%. Banking Regulation Act, 1949: w.e.f 16-03-1949
- Not applicable for Co Op Banks, Land Mortgage Banks, Non Agricultural Primary credit societies.
- Sec 8 of BR Act Prohibits banks doing trading activities except in connection with realization of security given to or held by it.
- Sec 9 of BR Act: Bank cannot hold any immovable property howsoever acquired except for own use, for a period exceeding 7 years from acquisition thereof. It can be extended by RBI by another 5 years.
- Sec 13: Payment of exchange, brokerage on shares: Max.2.5% of paid up value of shares.
- Sec 17 of BR Act: Banking Company is required to transfer to Reserve Fund, 25% of profits before declaring dividend.
- Section 19(1): Forming subsidiary by Bank
- Sec 19(2) of BR Act: No Banking Company can hold shares in another company whether as pledge, mortgagee or absolute owner of an amount exceeding 30% of the paid up share capital of that company or 30% of its own paid up share capital and reserves, whichever is less.

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- Sec 20 of BR Act: NO Banking company shall grant loans or advances on the security of its own shares as it tantamount to reduction of capital.
- Sec 21A: Rate of Interest charged by Banks is not subject to scrutiny of courts.
- Sec 22 of BR Act: Obtaining a licence from RBI by a banking company



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- Sec 24: SLR: Maximum 40%. No Minimum prescribed now (earlier 25%). RBI fixes SLR rate periodically. Now it is 23% of NDTL.
- SLR can be kept in the form of Cash or in gold valued at a price not exceeding the current market price, or in unencumbered approved securities valued at a price specified by RBI from time to time.
- Following are excluded from DTL: Paid up capital & Reserves, surplus balance in P & L a/c, Refinance from RBI, Exim Bank, NABARD, NHB, SIDBI etc. Provision for Income Tax in excess of estimates, DICGC & ECGC claims received & not adjusted. Amount received from insurance companies pending judgment in courts, Amount received from court receiver. Interbank liabilities with maturity from 15 days to 1 year. DTL in Offshore Banking Units.
- As per Recent RBI instructions, Transactions in Collateralised Borrowing and lending Obligation (CBLO) with Clearing Corporation of India Ltd (CCIL) attracts SLR and CRR requirement. Now these liabilities are included for calculation of DTL for CRR, SLR purpose.
- Sec 26 of BR Act: Return on Unclaimed Deposits i.e. Not operated for last 10 years, as on 31st December every year. Banks to submit to RBI within One Month.
- Sec 35 of BR Act: Banking Ombudsman, Clean Note Policy, KYC guidelines and other customer service related matters.
- Sec 45Y of BR Act: Preservation of Records.
- Sec 45Z: Return of Paid Instruments to customers after a true copy of all relevant parts of such instruments and by taking undertaking letter from the party to preserve the instrument for 8 years.
- Sec 45ZA to ZF: Nomination in Deposits, Safe Custody and Locker Accounts.
- Sec 49A of BR Act: Restriction on acceptance of deposits withdrawable by cheque by anyone other than Banking Company.

Minors:

- Not attained the age of 18 years. (Indian Majority Act 1875 Sec 3)
- Sec 11 of Indian Contract Act: Minor is not competent for contract and contract with minor is void ab initio.
- Sec 183 of Indian Contract Act: A Minor cannot appoint an agent. A Minor cannot delegate powers to others. A Minor can be appointed as an agent and bind his principal.
- Sec 26 of NI Act: A minor can draw, endorse or negotiate a cheque or bill but he cannot be liable. Other parties to that instrument are liable.
- A Minor cannot appoint Nominee. A minor. Can be appointed as nominee.
- A Minor cannot become a partner but can be admitted to benefits of partnership firm. On attaining majority, within 6 months, he has to exercise his option to continue in partnership. If he is silent, he is liable ab initio. A minor cannot stop payment of cheque issued by partnership firm.
- Minor account operated by guardian: On minor attaining majority, we should not pay cheques signed by guardian, though the cheque is dated prior to attaining majority
- Mother as guardian of Minor: Permitted by Supreme Court: Even if father is alive, mother can open and operate all types of deposit accounts of minor.



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- A Minor can open and operate accounts on attaining 10 years age and he is literate. Joint accounts of 2 minors can be opened provided both are at least 10 years age and literates, belonging to same family and operation jointly
- Opening of SB in Minor Student Name (Cir 424/2010): In our Canara Bank, Minors of age 10 years age can now also open self-operated account in all our branches. The Bank will be implementing the provision of sending SMS alerts to the parents regarding all transactions in the account, as a precautionary measure.
- Minor cannot delegate authority in self-operated accounts.
- In case of Joint accounts with minor and guardian, we can accept either or survivor operation condition. It will be in dormant till minor attains majority and on attaining majority, he can also operate the account.
- A bearer cheque presented for cash payment by minor may be paid as a minor can give a valid discharge in the capacity of Payee.
- When a loan has been raised on a term deposit in the name of major person, his request for addition of the name of minor cannot be entertained.
- Minor cannot be declared as insolvent
- As per Sec 6 of the Hindu Minority and Guardianship Act, 1956, father is the natural guardian of a Hindu Minor boy or an unmarried girl and after him, the mother.
- In case of married Hindu minor girl, her husband is the natural guardian. If husband is minor or minor girl becomes widow, her father in law and after him the mother in law will be the guardians though they are not natural guardians.
- When a guardian of a Hindu minor ceases to be a Hindu or he becomes a hermit or sanyasi, he ceases to be natural guardian.
- Guardian appointed by father of a minor, is called as Testamentary Guardian and testamentary guardian will come into picture only after death of father.
- As per personal law applicable to Muslims, father is natural guardian. A muslim father can appoint a testamentary guardian and even mother of a muslim child can be testamentary guardian.
- If father appoints testamentary guardian, testamentary guardian will have priority.
- After death of paternal grandfather, testamentary guardian appointed by paternal grandfather will be guardian. If grandfather not appointed any testamentary guardian and dies, then court will appoint testamentary guardian.
- Declaration given by natural guardian is sufficient proof of date of birth. Joint accounts:
 - Either or Survivor : It means, anyone can operate the account till both are alive. After death of either of them, the bank can pay the balance to the survivor without any formality.
 - Payable Jointly: Payable jointly till both are alive, if one or the two expires, the bank would pay balance to survivor along with legal heirs of deceased person.
 - Any one of account holders can stop payment of cheque but revocation has to be done by all jointly.
 - In case of either or survivor, alteration of cheque can be confirmed by any of the account holders.
- All persons signatures are required for:
 - a) Opening the account
 - b) Closure of account
 - c) Making or alteration of nomination,



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- d) Raising loan against term deposit,
 - e) Premature payment of term deposit.
- Repayment of Term deposit (366/2011, 251/2012)

EITHER OR SURVIVOR:

- a) Repayment of the joint deposit on maturity²

Signatures of all the depositors need not be obtained for payment of the amount of the deposits, on maturity.

- b) Payment before maturity ±

The Surviving joint depositor may be permitted premature withdrawal of the term deposit, only if there is a joint mandate from the joint depositors to this effect.

Therefore all the branches/offices are advised not to insist on the signatures of all the depositors/legal heirs to allow premature repayment of term deposits on the death of the other, though the deposit account is opened with repayment instructions, "Either or survivor" or "Former or Survivor" or " No.1 or Survivor/s".(Cir251/2012)

Repayment of term deposits when the repayment clause is "Former or Survivor/s / No.1 or Survivor/s":

When both the depositors are alive, former alone can operate/withdraw the matured amount of the term deposit.

- If the Former/No.1 expires before the maturity of the term deposit, the 'Survivor/s' can withdraw the deposit on maturity.
- When both the depositors are alive, premature withdrawal of the deposit requires the consent of all the depositors.
- In case of death of one of the depositor/s, premature withdrawal may be permitted to surviving depositor/s.

Partnership account:

- Maximum number of partners for banking business is 10 and for other business is 20
- NBFC, HUF, Minor, Insolvent, Insane cannot become a partner in partnership
- NBFC no to be Partner in Partnership Firm(Cir 100/2011):NBFCs are prohibited from contributing capital to any partnership firm or to be partners in partnership firms and in case of existing partnership firms, NBFCs shall seek early retirement from the partnership firms.
- Each partner is an agent of the firm and also agent for other partners
- Partners are jointly and severally liable for all the acts
- One partner has the power to countermand (stop payment) the cheque given by other partner.
- Dissolution of the firm : Death, insolvency, retirement of a partner± causes dissolution



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- If account is having credit balance, the remaining partners can give a valid discharge to the bank.
- If the account is having debit balance, operations should be stopped to decide the liability of the deceased/insolvent/retired partner.
- A registered partnership firm can sue others to enforce its rights arising out of contractual obligations.
- An unregistered firm cannot sue others in its own name though others can sue it in its name.(sec 69 of Indian partnership Act 1932)
- Any partner including sleeping partner has authority to stop payment of a cheque issued by another partner of the firm. However, revocation of stop order requires signatures of all partners on revocation letter.
- A partner, being agent of partnership firm, cannot delegate his authority to an outsider without the written consent of all other partners.

Joint Stock Companies:

Private Limited Company:

- Number of members \pm maximum 200, min.2
- General public cannot contribute to the capital of the company
- Board of Directors: min.2 maximum \pm no ceiling

Public Limited company:

- Affairs of the Public limited company will be managed by min.3 Directors.
- Companies Limited by Shares: Minimum 7 members. No maximum ceiling. If number of Directors exceeds 15, permission from Central Government is required.
- At least one woman director should be on Board.

Memorandum of Association:

- Constitution of the Company and it establishes the relationship of the company with the rest of the world. Company cannot go beyond the memorandum. It contains: Name of the Company with Ltd as last word, Registered Office address or State in which the registered office of the company is situated,
- Object/objectives of the company
- Authorised Capital/Issued capital of the company
- Limited liability clause.
- Borrowing powers of the company
- For alteration of memorandum, special resolution with 3/4th majority in general body meeting will be passed and approval from Central Govt is required.



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- Any violation of memorandum is ultravires of the company and intravires of the directors ie company is not responsible for violation and directors are responsible.

Articles of Association

- These are by laws and internal rules and regulations of the company.
- Articles are indoor management of the company.
- Borrowing powers of directors, procedures for appointment and removal, retirement and rotation of directors.
- Articles can be amended by general body resolution. If the borrowing powers are silent, still the company can avail the loan because every trading company has the implied powers to borrow.

Certificate of Incorporation: Registrar issues this certificate. This is birth certificate of company
Certificate of Commencement of Business:

- This is issued by Registrar of companies after it is satisfied that certain minimum capital has been subscribed by the public.
- This certificate is not required in case of private limited companies.

Other matters relating to companies:

- Borrowing powers of company: Private ltd company ± Unlimited powers.
- Public Ltd Company: Borrowing powers - up to paid up capital plus free reserves of the company. If requires more than this, consent of shareholders in general body meeting is required.
- Introduction is not necessary for opening a company account.
- Death of a Director: does not affect the operations in the account.
- The Directors cannot delegate their authority to any other person
- Charge creation is required to be registered when charge created on by way of hypothecation of stocks, book debts, mortgage of immovable properties, ship, goodwill, uncalled share capital of the company.
- Non Filing of particulars/ non-registration renders the bank as unsecured creditor and loan becomes payables immediately.
- When charge in favour of two banks is registered, priority of charge is in favour of bank, in whose favour it is created first i.e. date of documents within 30 days.

HUF:

- Under Mitakshara School of Hindu Law, HUF can be formed by the Hindus, Sikhs, Jains and Buddhists.
- The eldest coparcener including Female is Karta. All male and female major members are coparceners.



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- The eldest member will be KARTHA even if he/she lives outside India. Kartacan appoint any other coparcener or third party to conduct business of HUF.Coparcener cannot stop payment of cheque unless he is authorized to operatethe account.
- Karta alone has the power to incur debts for family business and legal necessityof the family.
- “A HUF directlyor indirectly cannot becomepartner of a firm because the firm is an association of individuals. HUF is a floating body whose composition changes by births, deaths, marriages partnership

Account of trusts:

- Unless specifically provided for in the trust deed, No trustee or trustees can raiseloans against the security of the assets of trust.
- Death or insolvency of trustee does not affect the trust property and the bank canpay cheques issued by the trustee prior to his death.

Mandate and power of attorney:

- A mandate does not require witnessing or stamping.
- Power of Attorneyis stampedas per StampAct as applicablein concernedState. It must be registered or notarized.
- Any cheque signed by agent and presented for payment after cancellation ofauthority shall not be paid.
- Power of Attorney or Mandate is revoked by death, insanity, insolvency of thePrincipal.
- In case cheque issued by the agent is presented for payment after his death, thesame can be paid so long as the principal is alive, provided the same is datedprior to date of death of agent.

Nomination:

- Section 45ZA & 45ZB of BR Act ± Nomination in Deposit Accounts.
- Section 45ZC&D : Nomination of Safe Custody articles
- Section 45ZE&ZF: Safe Depositor Lockers Nomination facility
- Status of Nominee: trustee for legal heirs.
- Nomination can be for individual accounts and proprietorship accounts only andnot for partnership accounts, companies, trusts, societies, HUF
- Only an Individual can be nominee. He can be Resident or Non Resident, Minor or even insolvent person.
- Single nominee only. In case of Joint Lockers with joint Operations, there can be2nominees.
- A Minor cannot appoint nominee. On his behalfnomination facility can beexercised by the person legally competent to act on behalf of the minor.



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- In case of accounts in the name of single persons, nomination must be obtained. If the depositor does not want to nominate anybody, a written letter should be obtained from him in this regard.

Banking Ombudsman - BO:

- Established under - BO Scheme 1995 by RBI in exercise of powers vested in it under Section 35A of the BR Act. Applies to J & K.
- Complaints alleging deficiency in banking service. Non-payment / inordinate delay in payment or collection of cheques, bills drafts etc.
- Non acceptance of small denominations
- Non issuance of DDs, non-adherence to working hours, failure to honor guarantee, claims regarding fraudulent withdrawal of amounts, NRI remittances etc. Non opening of accounts without valid reasons for refusal. •

Loans:

Non observance of RBI directives regarding interest rates, delay in sanctions etc.

- Party has to first complain to Bank. Wait for 1 month for response. If no settlement or no response is there, it is cause of action and the party can file within 1 year from cause of action, his complaint with Ombudsman. (Total period available to customer for complaining to Banking Ombudsman is 13 months)
- After receiving complaint, Ombudsman calls for views of bank and waits for 1 month to settle the issue by concerned bank. If not settled in the above period, ombudsman shall announce award. Maximum award up to `10 lakhs only.
 - Acceptance within 30 days from the date of receipt of copy of award. If acceptance is not given within 30 days, the award shall not be binding on the bank.
 - Compliance of bank within 1 month of receipt of acceptance from customer.
 - If bank is aggrieved on the award, it can make application for review to appellate authority (Deputy Governor, RBI) within 30 days of the date of receipt of award.
 - For appeal, bank has to take permission from CMD or ED.
 - BO as an arbitrator: dispute between bank and customer or between bank and another bank, of both parties agree, if such claim is not exceeding `10 lakh. (But up to `1.00 lacs only for credit card matters)
 - RBI may appoint one or more of its officers in the rank of Chief General Manager or General Manager to be known as Banking Ombudsman. Period not exceeding 3 years.

Consumer Protection Act & Banking Business (not applicable to J & K)

- Consumer - A person who buys goods or hires services for consideration for his/her use.



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- A consumer can file complaint within 2 years from the date of action
- Jurisdiction -District Forum ± Upto `20 lacs, State Commission ± upto `100 lacs and National Commission Above `100 lacs
- Time limit for disposal of complaints ± 3 months for state and national commissions.
- Penalty for frivolous nature or for noncompliance of orders - Imprisonment for not less than one month and up to 3 years or fine not less than `2000 and upto `10000 or both.
- Limitation for appeal ± 30 days from date of order.
- Claims of compensation upto `20 lakhs : District Forum,
- Exceeding `20 lakhs to `1 crore: State Commission headed by HC Judge Status.
- Exceeding `1 crore: National Commission headed by status of Supreme Court Judge.
- Appeal against judgement of District forum: before state commission by depositor `25,000/- or 50% of claim whichever is less;
- Appeal against State Commission to National Commission by deposit of `35,000/- or 50% of the claim amount whichever is less
- Against National Commission to Supreme Court: `50,000/- or 50% of claim whichever is less. Appeal within 30 days.
- Noncompliance: Fine up to `2000 to `10,000/-, Imprisonment of 1 month to 3 months or both.
- Frivolous Complaint: Fine can be maximum up to `10,000/- and will be given to the opposite party.
- Admission of complaint: within 21 days from the date on which the complaint was received.
- Limitation period for lodging the complaint is 2 years from the date of cause of action arises.

Limitation Period

- Demand Loans: 3 years from the date of loan
- Demand promissory Note: 3 years from the date of Promissory note
- TOD : 3 years from the date of loan
- Term Loan : 3 years from the due date of each instalment
- Cash Credit ± Hypothecation: 3 years from the date of document
- Cash Credit ± Pledge: Not applicable
- Bills discounting: 3 years from the due date of respective bill
- Bills Purchasing: 3 years from the date of bill
- Loan secured by Mortgage: 12 years from the date of loan
- Recovery of Loss caused by Fraud: 3 years from the date of fraud detection
- Suit by State / Central Government: 30 years from the period when limitation begins



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- Right of foreclosure and Right of Redemption in case of mortgages: 30 years when money becomes due and when right to recover money accrues respectively
- Deposit accounts like SB, CA or Matured FDRs: 3 years from the date of demand
- Appeal to High Court against Lower Court: 90 days from the date of decree
- Appeal to other courts on the decree at Lower court: 30 days from the date of decree
- Execution of Decree: 12 years from the date of decree.

Kinds of charges over securities:

- Particular lien (sec 170 of Indian Contract Act) available for single loan.
- General Lien (sec 171 of Indian Contract Act) available for a series of loans.
- Banker's lien is general lien and also implied pledge. Right of set off is available.
- Law of limitation does not apply to lien.
- Lien is available: a) where possession is given by borrower to secure the loan b) loan is due and lawful c) reasonable notice is given d) the loan and security is in the same name and same capacity.
- Lien is not available: Where goods are held inconsistent with the right, held by bank in trust or as an agent, or for a specified purpose, owned by more than one person, held in safe custody or left in possession of the bank by mistake.

Negative lien:

An undertaking by the owner of assets for not selling certain assets and not creating any charge on these assets without permission from the creditor. It has no legal force and has moral value only.

Right of set off:

- Combining 2 or more accounts having debit and credit balance in same or different branches.
- It can be exercised if there is relationship of debtor and creditor, creditor and debtor simultaneously, in the same name and capacity.
- Law of limitation does not apply for this.
- Available on deposit of guarantor after serving reasonable notice. (recall notice)
- On FDRs, available on maturity only and not during tenancy.
- Can be exercised before meeting the garnishee order or attachment order.
- Right can be exercised before meeting the garnishee order or attachment order
- It cannot be exercised if the deposit is held as trustee, if held jointly
- Right of Redemption is available for all types of mortgages
- Right of foreclosure is available for Mortgage by Conditional Sale only



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- Personal liability of mortgagor is not available for Mortgage by conditional sale and usufructuary mortgage
- Right to sale is available in simple, English and Equitable Mortgages
- Right to sale without court intervention is available in English Mortgage
- Registration of Mortgage with Registrar of Assurances not required in case of Equitable Mortgage.

Other mortgages to be registered with in 4 months.

Additional 4 months can be allowed by RoA.

- Equitable Mortgage (EMT) can be created by deposit of title deeds (Preferably original title deeds) of the immovable property.
- Property located anywhere can be mortgaged anywhere, if the place is Statenotified one
- In case of Company, registration of mortgage is required within 30 days

Assignment:

- Transfer of actionable claim in favour of creditor to secure a loan. Actionable claim is an unsecured debt such as FDR, LIC Policy, NSC, Book Debt etc.
- Assignment is possible through writing only
- Acknowledgement required to be acknowledged by original debtor under section 131.
- Assignor cannot give to assignee, better title than what assignor has
- In case of default, the assignee can recover the actionable claim amount from the original debtor without reference to assignor.

Limited liability partnership Act-2008:

- The LLP Act 2008 has already come into force w.e.f 9.1.2009
- It shall have perpetual succession.
- An LLP can sue and be sued by others.
- It shall have a common seal and can do, own, acquire and sell properties like any corporate body.
- Provisions of Indian Partnership Act 1932 shall not apply to LLPs.
- Individuals & Corporates can become a partner in an LLP. Here, Corporate includes another LLP (Indian or foreign) also along with Indian or foreign company.
- Cooperative society cannot become a partner in LLP.
- Minimum partners - 2; Maximum- The act is silent. (Therefore no restriction on upper limit like traditional partnerships).
- There must be at least two designated partners who are individuals and at least one of them should be a resident in India. If a body corporate is a partner of LLP, then it can nominate an individual as designated partner.



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- Designated Partner Identification Number is to be obtained from Central Govt. They are responsible for all compliances as required under the LLP Act.
- The name should end with LLP.
- ROC would register the incorporation document and issue a certificate of incorporation within 14 days on completion of all formalities specified under the Act.
- Name of LLP, Registered Office, Regn Number must be mentioned in all invoices, official correspondence and publications.
- The rights and duties of partners would be governed by LLP agreement. In the absence of LLP agreement, Schedule I to the LLP Act would apply.
- Admission of new partner requires the permission of all partners.
- Every partner is an agent of LLP but not of other partners.
- Annual Accounts must be audited and filed with ROC within 60 days.
- The rights of partner can be transferred wholly or partly in favour of others.
- Existing firms / Public Company / Private Company can be converted into LLP.
- Winding up may be voluntary or by order of National Company Law Tribunal.
- Whether income is taxed in the hands of partners or in the hands of LLP is yet to be clarified by IT Authorities.
- LLP will be ideal for professionals, Service sector SME units.
- Budget Feb 2010 Announcement: To facilitate the conversion of small companies into Limited Liability Partnerships, transfer of assets as a result of such conversion not to be subject to capital gains tax.
- LLP is a hybrid corporate form entity, combining the features of existing partnership firms and limited liability companies.
- LLP is a body corporate & legal entity separate from its partners.
- It is liable to the full extent of its assets. The liability of the partners would be limited to their agreed contribution to the LLP.

•Formation:

- Two or more persons can form a LLP.
- No upper limit on the number of partners in an LLP
- A body corporate (including a LLP) can be a partner in LLP.
- Change of partners will not affect existence, rights or liability of LLP.
- Conversion of a partnership firm or a private limited company or an unlisted public company into LLP is allowed.
- HUF cannot become a partner in LLP.
- A minor cannot be a partner in LLP.
- NBFCs shall not be Partners in LLP and association of persons (284/2013)



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- NBFCs which has already contributed to the capital of a LLP / association of persons or was a partner of a LLP / association of persons are advised to seek early retirement from LLP/ association (284/2013)
- Registration: Needs registration with Registrar of Companies (ROC).
- Types of accounts: Current & Term Deposit accounts.
- Documents for opening LLP a/c
- Account opening form
- Certified copy of incorporation document/s filed with Registrar of Companies.
- Certificate issued by the Registrar of Companies.
- Copy of LLP Agreement signed by all the partners. In case there is no LLP Agreement, Schedule I of the LLP Act signed by all the partners will prevail.
- Authority Letter-B - Authorisation letter signed by all the partners, designating partner/s to open and operate the account together with specimen signature of the designated partner/s should be obtained.
- Where one or more partners are Body Corporate / Ltd Company, they should be represented by their authorized signatory backed by Resolution of respective companies, certified copy of which should be submitted to the Bank.
- KYC norms : To be complied with in respect of each and every partner
- Introduction: Introducer shall be a current account holder having satisfactory dealings with the branch for 1 year & above, other than partners of LLP.
- Photograph & address proof of all the partners to be obtained.
- As per LLP Act, no resolution is required.
- Debit Balance/TOD: LLP is bound by such debit, if it is carried out in terms of LLP Agreement.
- TDS is applicable: as applicable to other as Individuals.
- CREDIT FACILITIES:
- Can be extended with Due Diligence.
- Personal guarantee of partners shall be stipulated.
- Guarantee agreement shall contain a clause to the effect that guarantee will continue notwithstanding the number of partners falling below 2.
- The sanction shall contain a clause to the effect that in the event of number of partners of LLP falling below two, the Bank shall reserve its right to suspend the limits sanctioned to LLP.



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Change in constitution of LLP (Retirement/Death/ Insolvency /Insanity of partners): An LLP with more than two partners will continue to exist.

- **OTHER PROVISIONS:**
- LLP cannot be converted into a company or partnership firm.
- A Private Company and an Unlisted Public Company can be converted into an LLP as per the provisions of the LLP Act.
- A partnership firm may be converted into an LLP in accordance with the provisions of the Second schedule of the Act.
- There is no provision under LLP act for registration of charges with ROC.

THE LEGAL SERVICES AUTHORITIES ACT, 1987

The Legal Services Authorities Act 1987 (hereinafter called Act) is enacted with the object of constituting legal services authorities to provide free and competent legal services to the weaker sections of the society; to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities; and to organise Lok Adalats.

The Act provides for constitution of a National Legal Services Authority, State Legal Services Authority and District Legal Services Authority.

- Free Legal Aid:
- The Act confers on every person who has to file or defend a case, a right to legal services, if that person is coming under any of the following categories:
- a member of a Scheduled Caste or Scheduled Tribe;
- a victim of trafficking in human beings or beggar;
- a woman or a child;
- a person with disability as defined under the Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995;
- victim of a mass disaster, ethnic violence, caste atrocity, flood, drought, earthquake or industrial disaster;
- an industrial workman;
- in custody, including custody in a protective home or in a psychiatric hospital or psychiatric nursing home;
- in receipt of annual income less than rupees nine thousand or such other higher amount as may be prescribed by the State Government, if the case is before a court other than the Supreme Court, and less than rupees twelve thousand or such other higher amount as may be prescribed by the Central Government, if the case is before the Supreme Court.



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- Persons who satisfy all or any of the criteria specified above shall be entitled to receive legal services if the concerned Authority is satisfied that such person has a prima facie case to prosecute or to defend. It may be noted that an affidavit made by a person as to his income may be regarded as sufficient for making him eligible to the entitlement of legal services under this Act unless the concerned Authority has reason to disbelieve such affidavit.

Lok Adalat:

- Lok Adalat is a legal authority constituted to encourage settlement of disputes in a conciliatory manner without going to courts and arriving at a workable settlement amicably.
- Section 19 of the Act provides for organization of Lok Adalats.
- Every State Authority or District Authority or the Supreme Court legal Services Committee or every High Court Legal Services Committee or, as the case may be, Taluk Legal services Committee may organise Lok Adalats at such intervals and places and for exercising such jurisdiction and for such areas as it thinks fit.
- A Lok Adalat shall have jurisdiction to determine and to arrive at a compromise or settlement between the parties to a dispute in respect of any case pending before any Court or any matter which is falling within the jurisdiction of, and is not brought before, any court for which the Lok Adalat is organized.
- The Lok Adalat doesn't have any jurisdiction in respect of any case or matter relating to an offence not compoundable under any law.
- Every award of the Lok Adalat shall be deemed to be a decree of a civil court or, as the case may be, an order of any other court.
- Every award made by a Lok Adalat shall be final and binding on all the parties to the dispute, and no appeal shall lie to any court against the award.
- Wherever matter is referred to Lok Adalat, Bank can insist for a default clause in the award that if defendant fails to pay the amount in terms of the award, Bank is entitled to recover the entire original liability with contractual interest thereon.
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SECURITISATION & RECONSTRUCTION OF FINANCIAL ASSETS & ENFORCEMENT OF SECURITY INTEREST ACT, 2002 [SARFAESI ACT]

The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act) empowers the Banks/ FIs to enforce the securities against the borrowers and realize their dues without intervention of the Court. The provisions of the Act aim at improving the health of Banks and Financial Institutions by reducing NPAs.

The important features of the said Act are:

- a. Bank can take action under SARFAESI Act in respect of all NPA accounts except in the following cases:
 - Claim / liability below Rs.1.00 lac
 - Security interest (mortgage) created in agricultural land
 - Pledge of movables within the meaning of Section 172 of Indian Contract Act



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- In case where the amount due is less than twenty percent of the principal amount and interest thereon.
- b. The Bank, shall issue notice to the borrower through its authorized officer to discharge his dues to Bank within 60 days and also notify him that in the event of his failure to do so, it may exercise the following rights:
 - Take possession of the secured assets or
 - Takeover the management of secured assets or
 - Appoint any person to manage the secured assets, the possession of which has been taken over or
 - Demand the amount in writing from any person who has acquired any of the secured assets from the borrower and from whom the amount is due.
- c. On expiry of the notice period of 60 days, the authorized officer, may initiate the following steps for taking possession and sale of movable / immovable property:

Movable Property:

- Draw inventory
- Prepare panchanama duly witnessed by two persons
- Give a copy of the panchanama to the borrower or his representative
- Keep the assets in the safe custody duly insured
- Obtain valuation only from the valuer approved by the Bank
- Issue 30 days notice of sale to the borrower / guarantor (who has created security interest).
- Thereafter, the sale can be effected either by inviting tenders or by holding public auction or by obtaining quotations or by private treaty.
- The sale notice shall be published in 2 leading newspapers one of which should be in vernacular language.
- Certificate of sale shall be issued to the successful bidder on receipt of bid amount.

Immovable Property:

- Possession Notice should be given to the borrower.
- If the borrower refuses to accept the notice, then affix the Possession Notice on the outer door or at a conspicuous place of the property or where borrower resides.
- Possession notice should be published in 2 leading newspapers one of which should be in vernacular language.
- 30 day's notice for sale of immovable assets should be given to the borrower.
- Obtain valuation only from the valuer approved by the Bank.
- Fix reserve price of the property.
- Sell the property duly observing the prescribed guidelines.
- On receipt of sale proceeds, issue sale certificate duly complying with guidelines in force.
- Circles can permit CM / AGM working in VLB / ELB coming under their Circles to act as the Authorized Officers for the nearby branches also. (Refer to HO Circular 2/2007 dated 01.01.2007 for detailed guidelines on SARFAESI Act)



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- Any representation / compliant received against 60 days Demand Notice, should be replied within fifteen days.

Exemptions from proceeding under SARFAESI Act (Sec 31)

- a lien on any goods, money or security given by or under the Indian Contract Act, 1872 (9 of 1872) or the Sale of Goods Act, 1930 (3 of 1930) or any other law for the time being in force;
- a pledge of movables within the meaning of section 172 of Indian Contract, 1872 (9 of 1872)
- creation of any security in any aircraft as defined in clause (1) of section 2 of the Aircraft Act, 1934 (24 of 1934);
- creation of security interest in any vessel as defined in clause (55) of section 3 of the Merchant Shipping Act, 1958 (44 of 1958);
- any conditional sale, hire-purchase or lease or any other contract in which no security interest has been created;
- any rights of unpaid seller under section 47 of the Sale of Goods Act, 1930 (3 of 1930)
- any properties not liable to attachment (excluding the properties specifically charged with the debt recoverable under this Act) or sale under the first proviso to sub-section (1) of section 60 of the Code of Civil Procedure, 1908 (5 of 1908);
- any security interest for securing repayment of any financial asset not exceeding one lakh rupees;
- any security interest created in agricultural land;
- Any case in which the amount due is less than twenty percent of the principal amount and interest thereon.

RIGHT TO INFORMATION ACT

Objectives of RTI Act

- Transparency
- Accountability
- Contain corruption.
- Democracy requires informed citizenry which in turn is vital for its functioning.
- To hold govt. and their instrumentalities accountable to the governed.

Applicability

- Applicability excluding the state of J&K.
- To citizens only

Structure for implementation of Act

- Information
- Any material in any form
- Records, documents, memos, e-mail opinions, advices, press releases, circulars orders, logbooks, contracts, reports, papers, samples,



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- Models, data held in any electronic form, and
- Information relating to any private body which can be accessed by a public authority under any law

Mode of access

- Inspection of works ,documents,records
- Taking notes,extracts or certified copies of documents or records;
- Taking certified samples of materials;
- Obtaining information in the form of diskettes, floppies,tapes,video cassettes or any other electronic mode or through printouts

Public authority

- Any authority or body or institution of self –government established under or constituted (a) by or under the constitution. (b) by any law made by the Parliament/ state legislature (c) Established by notification by the appropriate govt. which include any Body owned, controlled or substantially financed
- NGO substantially financed-- directly or indirectly by funds provided by the appropriate govt.
- PIO
- In all administrative units;
- To provide information to persons requesting for the information under this act
- Concept of deemed PIO

Request for information

- In writing or through electronic means; in Hindi /English/in the official language of the area, accompanied by the prescribed fee;
- PIO to help the person seeking information to convert oral request for information into black and white.
- To give reasons for the requested information not mandatory
- Personal details only to the extent required for contacting the requestor
- Request
- The public authority, if requested for information, which is held by another public authority or the subject matter of which is more closely connected with the functions of another public authority, shall transfer the application or such part of it as may be appropriate to that other public authority under intimation to the applicant
- The transfer of the application must happen within five day's of the receipt of the request

Disposal of request

1. As expeditiously as possible within 30 days and 48 hours, if it is concerned with violations of human Rights and reject if comes under Secs. 8 or 9.
2. If not given within time – it is deemed to have been refused.(Deemed refusal)
3. Provide details of cost and inform about the review right on cost
4. Provide assistance to the sensorily disabled persons.



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5. If information sought is published /electronic format charge the fee prescribed. (No fee for BPL card holders)
6. PIO to consult third parties before providing information.
7. Public Information Authority may reject by giving reasons, appeal privileges and appellate authority particulars..
8. Information shall be provided in the format sought.

Information Exemptions

1. Disclosure would prejudicially affect the sovereignty and integrity of India.(e.g. interception directions)
2. Expressly forbidden to be published by any court. (Draft judgment cannot be given; Inspection of land on which there was pending suit)
3. Which would cause a breach of privilege of Parliament (Five privileges – speech, control over its affairs, publication, arrest and punish contempt eg, standing committee materials, budget proposals)
4. Commercial confidence, trade secrets or intellectual property
5. Information available to a person in his fiduciary relationship, (examiners, doctors, advocates - legal opinions Visitors registers of police stations are exempted.
6. Information received in confidence from Foreign Government
7. Which would endanger the life or physical safety of any person
8. Which would impede the process of investigation
9. Cabinet papers including records of deliberations.
10. Information of personal nature

Rejection

- Requests involving infringement of copyright subsisting in a person other than the state may be rejected.
- Severability
- the part of information not covered by the exemptions under section 8 may be disclosed.
- Third Party Cases

RTI ACT 2005 :- who is not covered.

- Intelligence Bureau, Research & Analysis Wing, Directorate of Revenue Intelligence, Central Economic Intelligence Bureau, Department of Enforcement, Narcotics Control Bureau, Aviation Research Centre, Special Frontier Force, BSF, CRPF, ITBP, CISF, NSG, Special Service Bureau, Assam Rifles, Special Branch (CID) Andaman & Nicobar, Crime Branch (CID) Dadra And Nagar Havelli, Special Branch Lakshawep Police.....list is expanding
- However no exemption –in matters relating to human rights violations and corruption, Information can be given only if concerned IC approves-Time limit 45 days
- Fees
- Application Fee Rs 10/- (for Central PAs)
- Material cost to be paid by applicant (photocopy, CD, sample etc.)
- No application Fee/cost of information for BPL applicants
- No cost of information if supplied after 30 days period



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- States have their own rates
- Information supply Time limits
 1. Information to be provided in 30 days from the date of application
 2. 48 hours for information concerning the life and liberty of a person
 3. 5 days shall be added to the above response time, in case the application for information is given to Assistant Public Information Officer.
 4. If the interests of a third party are involved then time limit will be 40 days (maximum period + time given to the party to make representation).
 - Failure to provide information within the specified period is a deemed refusal.

RTI ACT 2005 ---- Appeal

Appeal :

- Who can appeal?
 - Any person who does not receive a decision within the time specified
 - Who is aggrieved by the decision of the PIO
- First appeal with appellate authority in Public Authority
 - Apply within 30 days of PIOs order
 - Decision on appeals within 30-45 days

Second appeal to CIC or SIC

- Within ninety days of order of appellate authority or from the date on which order was due
- Penalty & Compensation
- CIC/SIC can impose penalty of Rs 250/- per day on PIOs found guilty for:
 - i. not accepting an application;
 - ii. Delaying information release without reasonable cause;
 - iii. Malafidely denying information;
 - iv. Knowingly giving incomplete, incorrect, misleading information;
 - v. destroying information that has been requested and
 - vi. obstructing furnishing of information in any manner.
- CIC/SIC can recommend disciplinary action against errant PIO
- Compensation to applicant
- Other sections