

**A Comparison Between Guarantee Limited Company(CLG) and
Private Limited Company under the Companies Act No 07 of 2007**

All references to sections are to sections of the Companies Act No. 07 of 2007

RGOC/Registrar refers to - the Registrar of Companies

No	Considerations	Private Limited Company	Guarantee Limited Company
1	Why preferred	<p>This is the most preferred company structure used where a party is engaged/ hopes to engage in a commercial venture with the intention of making profits and the shareholders are entitled to declare dividends on such profits based on their shareholding.</p> <p>Subject to the articles of association of the company and the Companies Act, shareholders are the beneficial owners of the company and may seek to divest its interests as and when he/she wishes to do so.</p>	<p>It is important to note that the main distinguishing factor of a company limited by guarantee is its intention of not taking the profits out of the company but to re-invest any such profits generated towards the fulfillment of the objectives of the company. However, this does not mean that the Guarantee Limited company will not engage in commercial/ or revenue generating ventures, only that such surplus earned shall not be distributed to the members.</p> <p>This company structure provides the legal recognition to the venture as separate from its members and limits the liability of its members to the amounts they agree to contribute towards the company in the event of a winding up.</p>

No	Considerations	Private Limited Company	Guarantee Limited Company
2	Profit making ability	A private limited company is a company which shares the profits among the shareholders of the company.	<p>A guarantee limited company is the company which reinvests its profits to fulfil the objectives of the company.</p> <p>Social Enterprises, Community projects, charities (non-profit entities), societies, clubs, and other similar organisations seek to register as companies limited by guarantee.</p> <p>As not-for-profit companies, companies limited by guarantee do not distribute the profits to their respective members but instead retain them in the company or utilize those for some other relevant purposes.</p>

No	Considerations	Private Limited Company	Guarantee Limited Company
3	The type of Company	<p>It is a company that issues shares, the holders of which have the liability to contribute to the assets of the company, as specified in the company's articles. (Vide Section 3 (1)(a))</p>	<p>It is a company that does not issue shares, the members of which undertake to contribute to the assets of the company in the event of it being put into liquidation, in an amount specified in the company's articles. (Vide Section 3 (1)(c))</p> <p>Unlike companies incorporated under column A, which may have shareholders holding different percentages of ownership in the company, Section 32 companies, do not have members holding different percentage of ownership, but may have different rights, and classes/categories of members as may be determined by the Board (if permitted under the Articles of Association)</p>

No	Considerations	Private Limited Company	Guarantee Limited Company
4	Incorporation	<p>Is provided for under Section 4</p> <p>Any person or persons may apply to incorporate a company, other than a company limited by guarantee, by making an application for the same to the Registrar in the prescribed form signed by each of the initial shareholders, together with the following documents: -</p> <p>Documents:-</p> <p>(a) the articles of association of the company;</p> <p>(b) a consent under section 203 from each of the initial directors, to act as a director of the company; and</p> <p>(c) a consent under section 221 from the initial secretary, to act as secretary of the company</p>	<p>Is provided for under Section 32</p> <p>Same as column A (except it is not submitted by shareholders but by the initial members)</p> <p>The initial members can be natural persons or legal persons, but there needs to be two or more persons in order to incorporate a company under this category.</p>

No	Considerations	Private Limited Company	Guarantee Limited Company
5	Requirements relating to Shareholders/Members	<p>A private limited company shall have a minimum of two shareholders provided it can have a single shareholder, is the secretary to the treasury on behalf of the government, or is an individual or a body corporate) and maximum 50 shareholders (not including shareholders who are employees or who were former employees who continued their shareholding post their employment in the company.</p> <p>Shareholders can be individuals or corporations (eg: an incorporated body)</p>	<p>There will be no shareholders in a guarantee limited company.</p> <p>Instead, it has two or more members who act like guarantors. Guarantors agree to pay a set amount of money towards the companies' debts. However, they do not have shares in the company. No maximum number of members specified under the Act.</p> <p>They will not use the profits for their own personal gain. But will use it to promote the company's' objectives.</p> <p>Members can be individuals or corporate members (eg: an incorporated body)</p>
6	Board of Directors	<p>A 'limited' company must have a minimum of one director in the company.</p> <p>Only natural persons can be directors.</p>	Similar to a Private Limited entity

No	Considerations	Private Limited Company	Guarantee Limited Company
7	Articles of Association	Company is free to provide for the clauses that are to be included in the Articles of Association and are also free to adopt the model articles provided for under the Act (First Schedule).	According to section 33 (1) of the Act, a company limited by guarantee shall have articles that sets out- (a) the objects of the company; and (b) the amount which each member of the company undertakes to contribute to the assets of the company
8	Permitted activities/ objects	Inclusion of objects is not mandatory unless there is foreign shareholders in the company, in which case inclusion of objects is required (This is to ensure that the company does not engage in any activities which are prohibited or restricted to foreigners under foreign exchange laws of the country)	Inclusion of the Object in the articles of Association is mandatory.
9	Capital requirements	Share capital can be decided by shareholders, no minimum capital requirements.	No minimum capital requirements, instead each member's liability as a guarantor has to be mentioned in the articles of association.

No	Considerations	Private Limited Company	Guarantee Limited Company
10	Distribution of Dividends	Can be declared as decided by the Board of directors.	Not possible. No dividends can be declared or paid out to members.
11	Financial records	<p>According to Section 131 of the Companies Act No. 7 of 2007, the annual returns should be filled by any 'limited' company.</p> <p>Form 15 should be handed over to officially file the annual returns after 18 months from registering the company after holding the Annual General Meeting. Thereafter, it should be filed every 12 months.</p> <p>Annual accounts not mandatory with RGOC</p>	<p>Annual returns in the form of 15A to be filed and in addition, annual financial records have to be filed with RGOC</p> <p>Annual accounts have to be filed with RGOC</p>
12	Appointment of Secretaries/ Auditors etc.	Required	Required

No	Considerations	Private Limited Company	Guarantee Limited Company
13	Approximate Costs associated with incorporation	Approximately for a three director company the statutory costs will be 26,000/- (excluding taxes)	Approximately for a three member company the statutory costs will be twice as much as a private limited entity.

JAAR Law