

## Forming a Partnership

Since the introduction of new CAP reform measures, there is a renewed interest in forming registered partnerships. These measures include schemes such as the Young Farmer Scheme, National Reserve and TAMS II. While these benefits for registered partnerships are attractive, it is important to complete the partnership agreement with care.

**Here are five steps to help you form and maintain a sound legal agreement.**

1. Your accountant will need to register the partnership with Revenue using the TR1 form and make an annual report to Revenue using the FIRMS 1 form. This is an important but relatively straightforward process. It is generally advised that partnership should begin in-line with the end of the previous tax year. That means if the previous tax year ended on the 31<sup>st</sup> of December, the partnership should begin on the following 1<sup>st</sup> of January.
2. The accountant must create a capital account for the partnership where the initial capital contribution (value of livestock, machinery and cash) of each partner is recorded and updated on a yearly basis. This is the mechanism that can be used to dissolve the partnership, if needs be. Without it, there may be no record of the capital invested first day or over time and this is when the problems start with poorly constructed partnerships.
3. While template agreements are available from Teagasc they are only templates. Legal advice must be sought from a solicitor to tailor the template agreement to suit the particular circumstances in any situation. This may include the addition of clauses in some situations and the removal of clauses in others.
4. Once the written agreement is completed and signed, it needs to be kept up to date. Any change to the original circumstances on which the agreement was signed requires an amendment in the written agreement. For example, in a partnership where the profit-share has been changed over the time. The written agreement must be amended each year to reflect this.
5. Ask yourself, what difference will the partnership make to the day to day work on the farm? To answer this, you should complete the template "On-farm Agreement" to cover the day to day practicalities. There are three key areas to this document.
  - a. Roles/Responsibilities/Record Keeping/Decision making
  - b. Structure the labour input/weekends off/holidays
  - c. Profit Share/Salaries/monthly drawings

## **Bottom Line**

Entering into a partnership is not a race; take the time to seek sound advice from legal and accountancy point of view. This will allow you to carefully construct a partnership that is tailor made to suit your circumstances.

Information and the template agreements for the various collaborative arrangements can be found at <http://www.teagasc.ie/collaborativearrangements/>

## **Benefits to forming a Registered Partnership**

There are many benefits to partnership and they can be divided into two main categories.

### **Structural Benefits**

These include: additional incentivised labour availability that leads on to a superior lifestyle where it is fairly structured between the partners. When two people come together, they have strengths and weaknesses. The greater mix of skills make the partnership more capable and can lead to better decision making. When two farms come together, there are more resources available. These may include land, buildings, machinery and livestock. The benefit in pooling the resources is that it reduces the capital investment required to operate at a larger scale. Any investments required can be shared to reduce the burden on the individual partners.

### **Succession Benefits**

A partnership is the ideal transition arrangement in family situations, to integrate the chosen successor into the farm business with the parents. When a son or daughter comes home to work on a farm with the parents, the partnership should be formed to give them responsibility and decision making powers on the farm. This is important in the development of the young person as a farmer. Because they are receiving a share in the profits in return for their hard work, it provides them with an incentive to really get involved and take responsibility on the farm.

### **Financial Incentives**

Financial incentives include taxation benefits and EU scheme benefits. These benefits provide the “carrot” for farmers to enter into partnership.

### **Taxation**

**Income Tax:** Profits are shared between the parties and each partner is treated separately for taxation purposes. Because of the sharing of profits, the low rate of tax is maximised. This means that a partnership with two sole trading partners can earn €67,600 at the 20 % tax rate.

**Stock relief:** Stock relief is an income tax relief on increasing number of animals on a farm. The relief is given on the increase in value of stock from the beginning of the tax year to the end of a tax year. A young trained farmer who forms partnership with their parents can avail of 100% stock relief on their share of the farm profits for a period of 4 years after joining the partnership.

Currently, there is an enhanced stock relief scheme available to registered partnerships. This means that the parent’s stock relief increases from the standard rate of 25% to 50% in a registered partnership. It also means that the son or daughter will be able to avail of 50% stock relief after the first four years of you trained farmer stock relief has expired.

## **CAP Incentives**

New measures were introduced in the last CAP reform to encourage farmers to participate in partnerships. They are as follows;

- **Young Farmer Scheme**
  - Where a son or daughter who qualifies as a young trained farmer and forms a partnership with the parents they could receive a Basic Payment Scheme top-up of €60 on up to 50 activated entitlements. This equates to a potential €3,000 per year for up to 5 years depending on the number of years that the young person is eligible for.
- **National Reserve Scheme**
  - A new national reserve scheme was introduced with the basic payment scheme and there are two key benefits that can be availed of.
    - New entitlements: where a young farmer owns, rents or leases in land that does not carry existing entitlements, he/she may apply to the national reserve for new entitlements at the national average payment of €260.
    - Low value entitlements: where a young farmer owns, rents or leases in land that has below average value entitlements, he/she may apply to the national reserve for to have the low value entitlements topped up to the national average of €260.
- **TAMS II**
  - A registered partnership qualifies for a doubling-up of the €80,000 investment ceiling to €160,000. A father and son/daughter (who is an eligible young farmer) in a registered partnership may qualify for 60% on the first €80,000 and 40% on the second €80,000. This equates to a potential grant of €80,000 on an investment of €160,000 or greater. In this situation, the grant is weighted towards the first €80,000 spent at 60%. So if they do not spend the full €160,000, they get 60% of the first €80,000 and 40% on the remaining balance of the total spend. This is subject to the total spending limit of €160,000.
- **Collaborative Farming Establishment Grant**
  - This grant is to help farmers with the costs of setting up a registered partnership. It is 50% grant on a maximum spend of €5,000. This equates to a maximum potential grant of €2,500.

## **Case Study**

John, Marie and David Browne have a 60 hectare dairy farm. They have increased cow numbers in 2015 from 90 to 100 milking cows and 55 followers including replacement heifers. They are stocked at 2.25 LU/ha. In February 2015, they formed a registered farm partnership. This involved a number of key steps.

- Marie & David were added to the herd number which is now John, Marie and David Browne.
- They created a partnership bank account in all three names.
- A farm partnership agreement was completed under advice from their solicitor and accountant. This was submitted with the required documentation to register the partnership on the DAFM register. A

profit sharing ratio was decided at 70% to John and Marie and 30% to David. The family are eligible to apply for the Collaborative Farming Establishment grant on the set-up costs.

- David applied for the Young Farmer Scheme in 2015 with a view to receiving a €60 top-up on up to 50 activated entitlements. This will yield a payment of €3,000 for the next 5 years to David as he is eligible for the full 5 years of the scheme.
- David also applied for the national reserve scheme as John & Marie's entitlements were previously worth €200 per hectare. He is anticipating a top-up on these entitlements of €60 on all 60 entitlements which will yield an annual increase in payment of €3,600.
- Stock Relief: Cows increased from 90 to 100 and they are valued at €1,350 per head. This is an increase in stock value of €13,500. Stock Relief on the profits is calculated as follows.
  - John and Marie: 70% (profit share) x €13,500 = €9,450 (Enhanced stock relief at 50% = €4,725).
  - David: 30% (profit share) x €13,500 = €4,050 (Young Farmer Stock Relief at 100% = €4,050).

○ <b>FARM PROFIT: €97,750</b>		
○	○ David	○ John & Marie
○	○ <b>€29,325 (30%)</b>	○ <b>€68,425 (70%)</b>
Young Farmer Scheme	○ €3,000	○
National Reserve	○ €3,600	○
<b>Total Income</b>	○ <b>€35,925</b>	○
Stock Relief	○ €4,050	○ €4,725
<b>Taxable Income before Capital Allowances/Credits</b>	○ <b>€31,875</b>	○ <b>€63,700</b>
	○	○
Collaborative Farming Grant	○ €1,250 (€2,500@50%)	○