Partners in business

Partnership agreements
In Western Australia, partnerships are governed by the Partnership Act 1895.

A partnership can be a satisfying, profitable and enduring form of business relationship. However, not all are successful and can result in a breakdown of relationships, and loss of personal assets if debts are incurred.

Before starting a business, potential partners need to agree on the terms and conditions that will apply to their partnership, to avoid future conflict and misunderstandings.

A formal agreement is important because:

• Personal liability is unlimited for each partner in the business.
• You will be held liable for any shortfall if the business fails and a partner can’t afford to pay their share of any debts incurred.
• You are jointly responsible for any debts your partner incurs, with or without your knowledge.

Where there is no agreement in place, each partner is deemed to own equal shares of each asset as prescribed by the Partnership Act 1895.

A legally binding agreement is advisable for all partnerships. A lawyer will be able to assist in documenting this agreement and providing a copy to all partners.

TIP: Don’t assume that friends and relatives will make good business partners. They may not have the necessary attributes to be a good business person.

Key considerations
Before meeting with a lawyer it is a good idea for potential partners to get together to discuss key considerations such as:

• Each partners contribution of their time, effort, money and assets.
• The share of profits and losses.
• Partnership salaries.
• Participation in the management of the business.
• The procedure for resolving disputes.
• The procedure for ending or resigning from the partnership.

Contributions of each partner

• How much money will each partner bring to the partnership?
• How will percentage of ownership be decided?
• How will the day-to-day operations of the business be managed?
• What happens if the business needs more money? Will the partners have to invest more, look for other investors or dissolve the partnership?
• Who can decide on whether to allow new partners to enter the business?
• What time period do partners need to remain in the business before they can voluntarily leave?
• How long is the partnership expected to operate? This could be indefinitely or for a defined time period.
• How will ownership rights of partnership property be assigned?

Salaries and share of profits and losses
• How will the profits be divided?
• What will the salaries be?
• How will partners access bank accounts and funds?
• Who is going to provide the financial reports?
• Will partners be repaid for their investment in the business? When will this occur?

Participation in the management of the business
• What will each partner do in the company – their roles and responsibilities?
• How often will management meetings occur?
• What business decisions will require either a majority or unanimous vote of the partners?
• Who can bind the partnership in a contractual agreement?
• How will partnership assets be managed? How will the sale of assets be decided?
• What level of financial liability (dollar amount) is acceptable before unanimous consent of all partners is required? Will liability under that amount only require the consent of a majority of partners?

Death or disability
• What will happen in the event of death or disability of a partner?
• What level of involvement should beneficiaries have in the partnership?

Procedure for resolving disputes
• How will disagreements be handled?
• Does the procedure allow for mediation or arbitration of disputes?

Procedure for ending or resigning from the partnership
• What will happen if a partner wants to leave or the business is to be sold?
• How much notice does a partner need to provide of their intention to leave?
• How will outstanding debts be paid in the event of the partnership being dissolved?
• In what circumstances may a partner be involuntarily removed from the partnership?
• What rights will departing partners have if they want to start a similar business?

More information
Seek assistance from a lawyer to write your partnership agreement. You can obtain referrals to lawyers through the Law Society of WA.

A full detail of the Partnership Act 1895 is available from the State Law Publisher.