

Question: As a sole trader what are the steps for establishing a partnership.



**Francine Howell-Bryce
Attorney-at-Law**

There are two main steps for forming a partnership:

1. Negotiation and execution of a Partnership Agreement
2. Registration under the Registration of Business Names Act.

Partnership Agreement

To function effectively, the partners should enter into a formal agreement which sets out the rules that will govern the partnership.

A few important points include:

- a. Contribution to the partnership - what each partner will contribute (i.e. skills, money, assets) and what percentage share each will have?
- b. Share of profits or losses – in what proportion will the profits or losses be shared?
- c. Management and decision making – will the partners be paid a salary? What is the process for making decisions?
- d. Partners authority
- e. Admission of partners
- f. Termination of the partnership

Before entering into the partnership, you should be mindful that:

1. all partners are liable for the debts and obligations of the business; and
2. any partner can bind the business to contract.

Registration

Registering a partnership requires the filing of an **Application for the Registration by Partnership (Form BN2)** with the Companies Office of Jamaica. If you were previously registered as a sole trader however, you should file a **Notice of Change in Particulars of Registered Business (Form BN5)** to register the partnership.

The relevant form should be submitted along with three certified photographs for each partner and the registration fee of \$2,000.00.

It is always advisable in forming any type of association that you consult an attorney.

Question: I am the sole shareholder of a stationery business and wish to have an investor become a co- shareholder in my company. How should I proceed?

Identify your company's needs which include determining the amount of money required and whether the company would benefit not only from an investor with financial resources but also one with skills relevant to the business.

Determine the proportion of the business you are willing to give up in exchange for the investment.

Identify appropriate persons with the required financing and skills who may be interested in investing in your business. It is important that you ensure that the person not only possesses the attributes necessary to assist your business to grow, but is someone with whom you can work and get along.

Attract investors and generate interest in your business by providing information on the company including the Articles of Incorporation, the current financial position of the company and its future prospects.

Negotiate and agree with the potential investor the terms of the relationship such as :

1. Share price. The price of the shares can be determined having regard to the value of the company, the amount of investment required, the contribution of the investor in terms of money and skills.
2. Control. How much control will the investor be given? You may want to ensure that in issuing the shares, you maintain majority shareholding and effectively control of the company.
3. Dividends. Will dividends be paid and if yes, what is the dividend pay out policy?
4. Restriction on transfer of shares in the event a shareholder wants to leave the business. For example, you may require that the shares must be offered to the remaining shareholder first before being offered to anyone else.
5. Roles and responsibilities of each shareholder. Whether the new shareholder will also serve as a director of the company (executive or non-executive) and whether to pay a salary for the skills contributed in the day to day operations of the company. Will directors be paid a fee?

Allot and issue shares the shares to the new shareholder which requires a resolution by the company for the issue of a certain number of shares. The share certificate(s) are given to the new shareholder and his or name entered into the company's register of members.