

Partnership Agreements

We recommend that every partnership has an agreement setting out the terms on which the parties have agreed to carry on the business.

You can rely on the Partnership Act 1890, but there is a risk that this will not achieve what you desire. The Act contains only 50 clauses and many of those are short definitions. There are very basic provisions which assume that everything will be divided equally amongst the members. In many cases this will not be the case, and you will want an agreement that records the correct ratio in which capital is owned, and in which profits will be distributed.

The agreement will normally cover a wide range of matters, most of which would be similar to those covered in an agreement between shareholders of a limited company.

Some of the key areas will be:

Banking arrangements – including signatories and any limits on authority

Amount of capital required from each member and how capital profits or losses will be divided

Division of revenue profits and losses. Under the Act there will be equal distribution unless an agreement specifies otherwise

Policy on drawings to be taken by members on account of the profits each year.

Admission of new members. Unlike a limited company all members are required to agree under the Act, unless an agreement specifies otherwise.

Meetings - how they are organised, and how members vote.

Holiday entitlements. There are no provisions in the Act, and this will need to be agreed between the members.

Whether members can be involved in other businesses, and how much time they must devote to the Partnership.

Detailed provisions on retirement, removal and death. The Act contains limited provisions, and they will not be sufficient to deal with a situation where the parties have fallen out, or where one member has stopped working diligently for the company. Remember, though, that the Equality provisions (sex, race, religion, age) will apply.