Farm Partnership Workshops

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Teagasc  
http://www.teagasc.ie/collaborativearrangements/
What is a Farm Partnership??

Business Structure: Profit Sharing

Minimum of 5 years

Farm operates as one unit
Two Farms amalgamating or a family farm

http://www.teagasc.ie/collaborativearrangements
Collaborative Options: Common Characteristics

- Skills / Interests
- Personality / Compatibility
- Resources Available
- Opportunities / Farm Goals
- Core Values
- Personal Circumstances
- Risks
What makes a successful Partnership??

“A business arrangement that is formed correctly, can operate effectively and can be dissolved without issue at the end of its life-time”
The Creation of a Partnership

Formation

Operation

Dissolution
Succession: What are we talking about?

“Succession”
The gradual transfer of MANAGEMENT from one generation to the next

“Farm Transfer” is succession and inheritance combined

“Inheritance”
The legal transfer of OWNERSHIP from one generation to the next

Source: Tomás Russell
Why is Succession Important?

- Continued operation of Family Farm Unit
- Key Decisions Taken rather than deferred
- Increased technical efficiency, Profitability
- Improve Industry Demographics: Age, Education
- Achieving Industry Targets: FH2020, FW2025
Lifecycles & Succession

Family Lifecycle

Farm Lifecycle

Succession & Farm Lifecycle

Time

Farm Development

The Irish Agriculture and Food Development Authority
Succession

Current Generation (Parents)

- No Successor Identified
- Successor Identified but no plan in place

Development of succession plan

Start of the succession process

Next Generation (Successor)

Transfer of Assets

Inheritance

Farm Partnerships

Source: Tomás Russell
The Role of Partnership in Succession

A Transition Structure

Role Reversal over time

New skills & ideas of successor

Parents Guiding hand

Operates before farm transfer

Parents & Successor Working together

Registered Farm Partnership

Opportunity for farmers with no successor

Teagasc
Agriculture and Food Development Authority

The Irish Agriculture and Food Development Authority
Farm Partnerships

Partnership Defined;

• “the relation which subsists between persons carrying on a business in common with a view to profit”

• Register maintained by DAFM, Kildare Street

• Legal Basis:
  • Partnership Act 1890
  • Section 667C of Finance Act for DAFM Registered Partnerships

• Written Legal Template Agreement Required

• Registered with Revenue on a TR1 form

• DAFM Checklist of information.

NOTE:

• Template Legal Agreement available from Teagasc
Structure of Partnership

Two Key Elements:

- **Built In Licence (page 15 of template agreement)**
  - Legal permission for use of asset by partnership
  - Permission is revoked on dissolution of agreement
  - Land, Buildings, Entitlements, Shares, Contracts for grain, seed etc.
  - Assets covered are listed on page 18 of agreement

- **Capital Account**
  - Value of:
    - Livestock,
    - Machinery,
    - Working Capital (cash in the bank)
  - Listed on pages 16 & 17 of agreement
  - Updated during partnership
  - Retained capital
  - Further capital invested

Other Elements:
- Incapacity/Death
- Dissolution Procedures
- Distribution of Assets
- Capital Investment
**Quick Example:**

<table>
<thead>
<tr>
<th>Partnership Capital on day 1 of partnership</th>
<th>Partner A</th>
<th>Partner B</th>
</tr>
</thead>
<tbody>
<tr>
<td>Livestock</td>
<td>€100,000</td>
<td>€120,000</td>
</tr>
<tr>
<td>Machinery</td>
<td>€60,000</td>
<td>€75,000</td>
</tr>
<tr>
<td>Working Capital (Current a/c Balance)</td>
<td>€15,000</td>
<td>€20,000</td>
</tr>
<tr>
<td><strong>Total Capital at start of Partnership</strong></td>
<td><strong>€175,000</strong></td>
<td><strong>€215,000</strong></td>
</tr>
<tr>
<td>Construction of New building (€100,000)</td>
<td>€50,000</td>
<td>€50,000</td>
</tr>
<tr>
<td>(Each Partner borrows €50,000 and makes it available to partnership)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>After tax profits retained as capital</td>
<td>€10,000</td>
<td>€5,000</td>
</tr>
<tr>
<td><strong>Closing Value at end of year 1 of partnership</strong></td>
<td><strong>€235,000</strong></td>
<td><strong>€270,000</strong></td>
</tr>
</tbody>
</table>
Partnership Formation: Key Areas

1. The On-Farm Agreement
2. The Legal Partnership Agreement
3. Interaction with DAFM Structures & Schemes
4. Accounting Structures

Key Learning!!
Forming a Partnership—"The Steps"

1. On-Farm Agreement
   - Responsibility/Work Structure
   - Time off/holidays
   - Salaries/Drawings

2. Consult with Teagasc Advisor

3. Consult with Accountant

4. Consult with Solicitor

5. Partnership Formation & Registration
The Role of the Teagasc Advisor

• Plan the future direction of the farm business:
• Support farm family to create a succession plan
• Examine the current viability
• Review the technical performance on the farm
• Support the learning of the farmers in new skills
• Completion of the On-farm Agreement.
• Help with setting up of the partnership with DAFM structures and CAP funded schemes.
• Liaise with Accountant/Solicitor
The Role of the Accountant

Forming the Partnership
- To promote the benefits of farm partnership for succession
- Register the Partnership with Revenue – TR1 form
- Apply Cessation/Commencement Rules
- Create Capital Accounts for each Partner
- Advise on start date of partnership
- Advise on Drawings, Salaries etc.
- Liaise with the Solicitor/Agri-Advisor

Annual Returns
- Calculate the Profit for the Partnership
- Apply the profit sharing ratio as per partnership agreement
- Make separate tax returns for each partner
- Complete a FIRMS 1 return form.
The Role of the Solicitor

Formation

• Explain the legal structure to the client
• Review the relevant template agreement
• Tailor the agreement to suit the client circumstances
  • Addition or deletion of clauses as required
  • Modify the document to include more than two partners.
• Provide expertise on other relevant legal matters
• Liaise with the Accountant/Agri-Advisor
Registering the Partnership

Register Maintained By:
Dept. of Agriculture, Food & the Marine

Legal basis
- 1890 Partnership Act
- 667C of the Finance Act 2015
1. Checklist for Registration of Farm Partnership

In completing your partnership application form it is necessary to forward the following documentation to the Farm Partnership Registration Office.

Please use the checklist below to ensure you have included all the required details.

1. Completed Checklist
2. Completed Application Form
3. Completed Bank Details Form
4. A signed copy of the Partnership Agreement
5. A completed On-farm Agreement
6. Copy Folios for all owned lands
7. Copy of leases for all lands leased in
8. Evidence of agricultural qualifications for Category II partners
9. RFP/COE form (only required if a co-owner of land wishes to remain outside the partnership)

Completed applications should be sent to the Farm Partnership Registration Office, Floor 3, Agriculture House, Kildare Street, Dublin 2.
Joint Herd Numbers

- Set up to apply for YFS and NR 2017
- Joint Herd Number Set Up;
  - Joint Herd Number
  - Joint Bank Account
  - Sworn Affidavit
  - Profit Share ??
  
  (the relation which subsists between persons carrying on a business in common with a view to profit)

- Joint herd numbers are not registered farm partnerships with DAFM but are deemed to be partnership under 1890 Partnership Act

- Written Legal Template agreement should be completed, otherwise 1890 Act becomes default agreement and assumes a 50:50 partnership.

- See https://www.teagasc.ie/

**NOTE:**
- Template Legal Agreement available from Teagasc
Partnership vs Joint Herd Numbers

Formation:
- Set-up process is the same for both
  - Herd Number Changes
  - Entitlement Transfers
  - Joint bank Account
  - Sworn Affidavit if applying for CAP schemes
  - Education Requirement
  - Written Agreement – Outlining Profit Share??
- Extras
  - DAFM application form
  - On-Farm Agreement
  - Copies of folios, leases

Promote Registered Farm Partnerships:
- For Farm Succession
- Farmers looking to amalgamate their farms
- Farmers with no farming successor
Partnership vs Joint Herd Numbers

Criteria used by Dept of Social and Family Affairs and Revenue for determining whether partnership exists:-

- there is a written partnership agreement;
- each partner writes cheques on the business accounts in his/her own right;
- there is a joint business account;
- it is apparent to those doing business that a partnership exists;
- business accounts/activities are in joint names of the partners;
- each partner makes a significant contribution to the running of the business;
- the business is owned jointly by the partnership, (note: the farm does not have to be jointly owned, although it is a positive factor where it is jointly owned);
- the profits and losses of the partnership are shared by each partner.
The Role of Partnership between Farm Families

- Business Opportunity
- Improved Technical Efficiency
- New skills, abilities & ideas
- Improved Work/Life Balance
- Farmers Working together
- Better Use of Resources
- Opportunity for farmers with no successor

Registered Farm Partnership
CAP Scheme Benefits

Young Farmer Scheme
- 25% of national average Basic Payment Scheme
  (~€60 top-up on up to 50 Activated Entitlements)

National Reserve (2017)
- Top-up low value BPS entitlements
- Apply for new BPS entitlements

Targeted Agricultural Modernisation Scheme (TAMS)
- Doubling of investment ceiling (€80,000 vs €160,000)
- 60% rate for young farmer

GLAS/ANC/Organic Payments
- Three applications where partners have been previously separate farmers.

Collaborative Farming Establishment Grant Scheme
- 50% grant on a max spend of €5,000
Income Tax Benefits

- Access to Stock Relief for young farmers – 100% for 4 years
- Enhanced Stock Relief for other partners - 50%
- Maximising low rate of tax –Sharing Profits
- €5,000 Tax Credit for 5 years
Key Reference Document
## Application of Stock Relief

<table>
<thead>
<tr>
<th>Calculated Farm Profit</th>
<th>€65,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Partner A</td>
<td></td>
</tr>
<tr>
<td>Partner B</td>
<td></td>
</tr>
<tr>
<td>% Profit Share (pre-tax)</td>
<td>80%</td>
</tr>
<tr>
<td>Actual Profit Share</td>
<td>€52,000</td>
</tr>
<tr>
<td>Stock Relief YTFR (100%)</td>
<td>-</td>
</tr>
<tr>
<td>Enhanced SR (50%)</td>
<td>€4,000</td>
</tr>
<tr>
<td>Net pre-tax profit</td>
<td>€48,000</td>
</tr>
<tr>
<td>Farm Transfer Tax Credit (€5,000)</td>
<td>€4,000</td>
</tr>
</tbody>
</table>

* Calculated Increase in stock value €10,000
** Stock relief and transfer credit is divided on the basis of partnership profit sharing ratio
Succession Farm Partnerships

Objective: To incentivise farm transfer to the next generation.

- Section 667D Finance Act 2015
- EU State Aid Approval Granted in Sept 2016
- Scheme documents and scheme requirements under preparation.
- Available for 2017 Tax Year.

NOTE: Farmers can register a partnership as normal without availing of the Farm Succession Tax Credit.
Succession Farm Partnerships

What is it?

- €5,000 tax credit for 5 years (€25,000)
- Divided on same ratio as profit sharing ratio
- Agreement to Transfer 80% of “farm assets” within 3-10 years from date of registration.
- Asset transfer cannot take place for three years
  - Will catch out some clients
- Successor cannot claim the tax credit in the year they turn 40 years of age.
- Tax Credit claimed to be repaid if farm assets do not transfer as specified in agreement.
- Ltd. Companies do not qualify for tax credit.
- Credit can be claimed after transfer (within 5 years)

“Farm Assets” Include:
- Land and Buildings,
- Basic Payment Entitlements
- Livestock
- Machinery
Scheme Requirements

Four key Requirements:

1. Partnership must be made up of:
   a) “Farmer” (farmed at least 3ha for two previous years)
   b) Cannot be a Ltd. Co.

2. “Successor”
   a) Cannot be a Ltd. Co.
   b) Farmer as in (1a) above
   c) Trained Farmer - 20% of profits

3. Complete the Teagasc My Farm My Plan Book certified by Teagasc

4. Complete a legally binding “Succession Agreement”
Succession Agreement:

1. Legally Binding Contract
2. Identify “Farmer” Transferor(s)
3. Identify “Successor(s)” Transferee(s)
4. List Assets Intended for Transfer
5. Nominate year of Transfer
6. Include any special conditions
   i. Rights of residence
   ii. Charge on land (Banks)
7. Consent of Spouse/Co-Owners

NOTE: A Will should be made/Updated to be consistent with Farm Succession Agreement:
“You want to drive on, I want to step back”
Patrick O’Flynn

Gerard Creedon & Patrick O’Flynn
Neighbours in Partnership

The Irish Agriculture and Food Development Authority
“Partnership was a key part in succession plan”
Christy Watson, Teagasc Advisor

Tom, Monica & Thomas O’Connor
Farming in Partnership since 2015
Enterprise: Beef, Sheep & Tillage
Summary

- **Collaborative Arrangements:**
  - Trust, flexibility and good communication are critical to success
  - Partnerships & Share Farming may suit where there is no successor

- **Registered Partnerships**
  - Family: Transition Arrangement until Farm Transfer
    - Financial Benefits
      - Taxation
      - DAFM Schemes
  - Non-Family – Better labour efficiency leads to Improved Lifestyle
    - Possible Expansion Opportunities
    - Improved Efficiency Levels
Questions ??

Thank you