

VUSSC/Content/Entrepreneurship/Planning for the Business/Legal requirements for your type of business

3. Legal requirements for your type of business



Objectives

After reading this subsection, you will

- discuss the rules and regulations to be followed in setting up a business,
- understand the required procedures for naming a business
- understand issues regarding trade marks and service marks

This section aims at informing you of the laws, rules and practices that apply when starting a business in your community. These may include, for example:

- requirements for registering a business
- local laws that govern businesses
- the tax code for small businesses
- professional codes of conduct relevant to specific occupations, etc.

The authorities may offer certain facilities and incentives to entrepreneurs starting a new business. These may take the form of:

- grants to set up a small business
- micro-finance
- tax relief
- legal aid
- recognition in the community, etc.

Government Regulations and your Business

The owner of a small business/enterprise must deal with government rules, regulations and laws. Taking the time to research the applicable regulations is as important as knowing your market.

Bear in mind that regulations vary by industry. If you're in the food service business, for example, you will have to deal with the health department. You must carefully investigate the regulations that affect your industry. Being out of compliance could leave you unprotected legally, lead to expensive penalties, and jeopardize your business.

Licenses - There are many types of licenses, however, they may not all be applicable to your type of business.

- Traders licence gives individuals permission to operate business in specific areas and permit trading in specific types of business.
 - Certificate of Occupancy/Permission from the Planning Division in your country/area of operation must be sought if you intend to put up a building/stall or if you intend to change the use of an existing building or stall.
 - Liquor Licence must be had if your business will be involved in the sale of alcoholic beverages.
 - VAT registration (where applicable) is a requirement by law. You must determine if this will apply to your business.
 - Tax requirements - In many countries, small businesses/enterprises sole proprietor and partnerships are exempt from direct taxes. However, the business owners become liable. Most companies/corporations are required to pay company taxes. In some countries, the company/corporation may tax-exempt for a specified period of time.
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You must consult with your tax department to get specific information as it relates to your specific type of business.

Legal Structure

To ensure survival, the small business person/entrepreneur must choose a legal structure that best suits the needs of the business.

There are three major forms of legal structures. These are sole proprietorship, the partnership and corporation. Each of these has its own advantages and disadvantages. Let us look at each form of business ownership.

The sole proprietorship generally is very easy to start. It requires the least amount of licences.

The partnership requires some discussion with the partners and your attorney. A Partnership Deed/Agreement must be drawn up and you may need some assistance from someone who is not to be involved in the business. Your business attorney, or advisor, or counsellor at the business centre all of these can offer assistance in the development of your Agreement.

The company/corporation requires a bit more in terms of time, planning and formal legal requirements. In some countries to start a company/corporation you were required to prepare Articles of Association and Memorandum of Associations. These documents require some assistance in the preparation. Here, your attorney, advisor or counsellor at a business centre can offer assistance. These documents must be submitted to the Registrar of Companies/Business in the country before you can begin operations. When these documents are approved you will be issued a Certificate of Incorporation. This gives you permission to begin operations.

However, in recent times many countries have removed these requirements. Only basic information on the business need to be supplied. You must check with your attorney and the Registrar of Companies/Business in your country to determine what the specific requirements are for your area of business.

Naming the Business

If you intend to trade using a name other than your own; in other words if you intend to create a name for your business you must seek permission to use that name and also to ensure that no other business has registered that name before you can put up that name on your building.

In starting a company, these checks are done before your business is registered. It is built into the registration process.

Protecting Your Idea

If applicable to your business, you may want to apply for trademarks, patents and copyright.

Trademarks: Trademarks are names or symbols used in trade that is subject to regulation by state government. Trademarks and service marks may be registered for a specified term.

Patent: A set of exclusive rights granted by a state to a person (the patentee, usually the inventor) for a fixed period of time in exchange for the regulated, public disclosure of certain details of a device, method, process or composition of matter (substance) (known as an invention) which is new, inventive, and useful or industrially applicable.

Copyright: A set of exclusive rights regulating the use of a particular expression of an idea or information. At its most general, it is literally "the right to copy" an original creation. In most cases, these rights are of limited duration. The symbol for copyright is ©, and in some jurisdictions may alternately be written (c). <http://en.wikipedia.org/wiki/Copyright>

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