

CHAPTER 15 BUSINESS ORGANISATIONS

After studying this chapter students should be able to:

IDENTIFY COMMON TYPES OF BUSINESS ORGANISATIONS, AND EXPLAIN THE DIFFERENCE BETWEEN UNINCORPORATED AND INCORPORATED BUSINESSES

- Sole trader: this is the simplest business to set up. There are no disclosure or public accountability requirements or rules governing the conduct of the business, other than those relating to choice of business name and the general law on issues such as employment and health and safety.
- There are three types of partnership: a general partnership, a limited partnership (LP), and a Limited Liability Partnership (LLP).
- A company may be a private or a public limited company. A private company may be limited, or unlimited (this is unusual). If a private company is limited then it may be limited by shares or by guarantee.
- An unincorporated business organization, such as a general partnership, has no separate legal identity and the owners of the business may have no financial protection if the business fails.
- An incorporated business organization, such as a limited company or an LLP, has a separate legal identity, its debts are its own, and the personal liabilities of its owners are limited to the amount invested in the business.

OUTLINE THE RULES RELATING TO PARTNERSHIPS

- A partnership is a relationship between two or more persons carrying on a business together with a view to profit.
- Each partner is self-employed and takes a share of the profits and usually participates in the decision-making.
- A general partnership has no legal existence distinct from the partners themselves, and the partners are personally responsible for any debts and liabilities that the business runs up.
- A partnership can be created by deed, in writing, orally, or arise from conduct.
- A partnership may be brought to an end either by agreement, automatically under the Partnership Act 1890, or by a court order.

EXPLAIN THE RELATIONSHIP BETWEEN PARTNERS

- A partnership is based on trust and good faith. Partners owe each other a general duty of care in relation to the conduct of partnership affairs.
- Duties are rights as set out in the Partnership Act 1890 but the partners can agree not to be bound by the rights set out in the Act and instead make their own arrangements.

EXPLAIN THE RELATIONSHIP BETWEEN PARTNERSHIPS AND OUTSIDERS

- Every partner is an agent of the firm and all the co-partners.
- Actions done in the usual course of the firm's business will bind the firm unless the partner had no authority to act and the third party knows this, or the third party does not know or believe him to be a partner.
- Partners are jointly and severally liable for the firm's contracts and tortious actions of the partners acting in the course of the business.

- A partner who retires from a firm is liable for partnership debts and obligations incurred before his retirement.

DEMONSTRATE AN UNDERSTANDING OF THE MAIN ASPECTS OF LIMITED LIABILITY PARTNERSHIPS

- An LLP, introduced by the Limited Liability Partnerships Act 2000, is a body corporate and has a legal personality separate from that of its members.
- An LLP has the organizational flexibility of a partnership and is taxed as a partnership.
- There must be at least two members of an LLP.
- The rights and duties of members to each other and between members and the LLP itself are governed by the limited liability partnership agreement and the law.

OUTLINE THE NATURE OF COMPANIES

- A company has its own distinct legal personality separate from its members. It can enter into contracts, be liable in tort and criminal law, and own assets and property.
- A company has perpetual succession.