

Sole trader or Limited Liability Company?

When setting up your own business/company, you need to think about your choice of legal structure.

Most entrepreneurs either a) register a business name and become a sole trader or b) register a Limited Liability Company.

Setting up as a sole trader is relatively straight forward and requires you to register your business name with the Registrar of Business Names in The Company Registration Office.

You can register online using a form called RBN1, for a fee of €20, and you will then be issued with a Certificate of Registration of Business Name. This allows you to open your business bank account and register for tax.

The advantages of setting up as a sole trader include the fact that it is a simple and low cost process and you own and run your business. There is no requirement for Directors or Shareholders. You are solely responsible for the running of your business and you, alone, are entitled to the profits.

Registering a business name/ setting up as a sole trader is ideal for smaller business, with low risks, no employees and/or small borrowings.

It is noteworthy that registered business names do not possess name protection, like Limited Liability Companies do. Furthermore, sole traders/ registered businesses do not have limited liability and, therefore, the sole trader's personal assets may be at risk if the business is sued.

Limited Liability Companies

Limited Liability Companies, while offering more protection in terms of limiting liability and name protection, are more complex in terms of set-up and structure.

A company is a separate legal entity and, therefore, is separate and distinct from those who run it. The company (and not the individual shareholders) is the appropriate entity to be sued in the event that unpaid debts are incurred by the company and/or in relation to any other legal proceedings.

The company is owned by its shareholders. If the company fails, the shareholders' liability is limited to the amount, if any, remaining unpaid on the shares held by them.

In order to incorporate a Limited Liability Company, an A1 Form is completed and submitted together with a company constitution.

Company incorporation can be completed online at www.core.ie. The Companies Act 2014 allows for a Private Limited Company to have a minimum of one Director.

The shareholders are the people who own the company and the Directors are the people who run the company. Limited Liability Companies are more appropriate for higher risk businesses, which have bigger loans and which have employees, as such businesses are more likely to be involved in legal proceedings.

Relevant reading:

'Don't get a job- build a business' – Joanne Hession and Joan Baker

'Business Law in Ireland' - Anthony Thuillier and Catherine MacDaid

'Nutshell Contract Law' – Fergus Ryan

More about Majella

Majella Twomey is a Barrister-at-Law, with over 15 years' experience. Majella has a general, Civil Law practice on the Dublin Circuit, with a particular focus on Family Law, Contract Law and Property Law.

Majella has lectured to undergraduate students at Dublin City University and she is an adjunct lecturer at Griffith College Dublin.

Majella's details can be found on the Law Library website at <https://www.lawlibrary.ie>