

# ENTERPRISE... YOUR TEN STEP GUIDE

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N	is for Niche
T	is for Technology
E	is for Expansion
R	is for Research
P	is for Planning
R	is for Regulation
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## Enterprise... your ten step guide

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## Foreword

In preparing this information booklet, our objective was to present you with all the basic information that you need to plan, set up and develop your business. We hope that you will find that we have achieved that objective and that this publication will act as an ongoing reference guide to you as you get your enterprise established and nurture it through the early years. We explore the many strands of enterprise development through the booklet and we encourage you to absorb the contents of each section. There are, however, a few key factors that are important to understand since they form the core ingredients to successful business start.

We encourage you to identify your market. No matter how small the business, it needs a strong market share. A small business cannot expect a large share of a large market, so it must narrow its focus to a segment of that market where it can become a big player. It is very hard to be profitable by trying to be all things to all people, across many different types of customers, products or services. The alternative means making hard choices. It means resisting the urge to go for short-term gains in areas which are a distraction to the business. It is much better to patiently build a strong position.

Make sure that you choose a market segment. Select segments which you can best serve with your capabilities and competencies and be single-minded about it. Research shows that businesses with a strong share of the markets they opt to serve are more profitable than those which hold marginal positions.

It is vitally important to develop human talent. Rather than be tempted by the wizardry of technology, always seek maximum productivity from the people who work with and for you. If you pay attention to building the quality and skills of staff, you will have a very valuable resource. There is significant emphasis placed nowadays in business strategy on the need to make better use of a workforce. People should be allowed to participate - they have imagination and ideas. They also have the solutions to your problems, if you care to ask them.

Rewards systems should be in line with business strategy. It's amazing how often they are not. Providing effective leadership is essential and it is also important to manage, evolve and foster a personalized business culture - a feel for 'how we do things around here'. [continued...]

## Foreword

Formal training and education is very important, not just in developing industrial and technological skills, but in nurturing management skills, as well. In the small company, the owner-manager needs to stand back and review the running of the business from time to time and an annual week or two spent on a management development course is an excellent way of achieving this.

Finally, always remember to provide a quality service. Quality, as perceived by the customer, is not just about meeting recognised industrial standards. It is much broader than that. The starting point in becoming a high quality business is to enter into the psyche of your customers and understand their perceptions and experiences of this type of product. Understand what parts of the product or service are really important to them.

You may have the Quality Mark and ISO 9001, but at the end of the day, it is the supplier which customers perceive to be the best that wins the strong share of the market. Increasing market share by cutting prices is often counter-productive, since your competitors can usually match your prices. Meeting or exceeding your customers' requirements will not be easy. Research shows that companies with a high quality reputation are rewarded in the marketplace. They do not necessarily have to lower prices to gain a larger market share.

High capital intensive businesses are often less profitable than those which have moderate capital needs, but which require a balance of experienced and well-trained employees. Going the route of intensive capital investment sometimes means that you have to cut your margins to keep the expensive machines fed.

If you can run your business effectively with less capital investment than your competitors, you're winning. If you get these things right - a strong market share, a reputation for quality, a control on capital expenditure and an emphasis on human resource development, your chances of success in business will be considerably enhanced.

*Ronan Denny*  
Chief Executive



# E is for ENVIRONMENT

## Step 1

### Home Environment

Young businesses flourish in the right environment. At a personal level, you need to know that family and friends are supportive of the venture. This is particularly true if you are personally committed to a partner or spouse. If you plan to work from home, you will need to consult with the local authority planning sections to determine whether or not you will need planning permission. You will also need to review whether public liability insurance will be required to give you and your business the appropriate protection.

### Local Environment

The local environment has an influence on the success of the business. Planning permission may be required to house the project in a particular location. If the business is to depend on a local market at the outset, the environment for the entrance of this new business must be carefully assessed.

### National/Global Environment

National and global trends need to be monitored. Spending patterns are a useful barometer of these trends. It would be folly to enter a business sector which is shrinking, unless the business has identified a particular niche in this market. By contrast, projects which offer solutions to the ever-growing number of environmental issues surrounding us may be the key to a successful business. The legislative environment needs to be reviewed and understood so that employee remuneration and protection provisions are in place. Similarly, the health and safety of employees and customers must be to the fore, and the business plan needs to address these issues prior to start-up. A good business does not develop and

grow in a vacuum. It is heavily reliant on the environment in which it operates and into which it proposes to trade.

### Environment Legislation

#### The Green Agenda

It is now globally accepted that one of the biggest threats to sustainable development is the increasing volume of waste generated in modern society. By signing up to the Kyoto Convention, Ireland is now effectively contracted to reduce its waste volumes.

To this end, many of the statutory regional waste plans demand a significant reduction in the volumes of waste going to landfill. In the case of the North East Region, it is hoped to reduce the landfill figure from 90% to 18% over a period of 15 years.

#### Packaging

Packaging is one of the many areas identified in the plan. This problem area has been specifically addressed in the Waste Management (Packaging) Regulations 1997-98. The measures provided for here are already common practice in most of our sister EU member states and place obligations on producers, manufacturers and retailers of packaging materials to undertake specific actions.

#### Waste Disposal

Commercial operations of all types will generally create waste. Business must therefore carefully consider a number of specific factors.

**Holding of Waste** | If a business holds and stores waste, it must ensure that it has a permit for this purpose. This permit is issued under the Waste Management Act, 1996 and details are available from Louth County Council.

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# E is for ENVIRONMENT

## Step 1

**Disposal of Waste** | Local authorities no longer have a clear service provision in relation to this area but have a specific role in ensuring that the disposal carried out complies with all requirements. Businesses should ensure that waste collectors hold a current waste collection permit, issued for the waste material in question.

**Hazardous Waste** | Society and legislation now insist that any waste that may be hazardous should be treated in a proper manner. Unfortunately the number of materials deemed hazardous is ever increasing and those concerned should consult with the Local Authority and refer to the Waste (Hazardous Waste) Regulations, 1998.

**Recycling**  
A network of over 18 Bring Bank Sites is being established in County Louth, which will provide for the basic glass and can products. Industry is encouraged, generally, to recycle as much as possible. Civic Amenity Centres in Dundalk and Drogheda support this objective.

**Discharges from Commercial Sector**  
Business should be aware of the requirements to be met when discharging to drains, sewers and the air from production processes and the need for effluent and integrated pollution control licenses.

### Business Location

#### Planning Permission

Development is defined in legislation and generally means the carrying out of any work on, in, over or under land, or the making of any material change in the use of land or buildings. Developments for which permission is required include new dwellings, major extensions to an existing dwelling,

the conversion of a house into apartments, the erection of a factory, warehouse, offices, shops, or any change in use. Certain minor developments are exempt in that there is no need to seek permission in respect of such works.

#### Planning Applications

You should apply to the relevant planning authority for the area where the development is being carried out. In County Louth there are three authorities:

- Louth County Council .....Rural Areas
- Dundalk Town Council .....Dundalk Town
- Drogheda Borough Council .....Drogheda Town

Staff will always be happy to assist you with any queries and, in some cases it may be possible to consult the relevant planner for your area before you submit your planning application.

# N is for NICHE

## Step 2

### Opening up a New Business

Opening up a new business in a sector which is already crowded, is challenging. Having said that, it is possible to successfully compete with existing businesses. Many new companies offer their products and services at a lower price than their competitors. Other new entrants may charge more, but offer superior customer service. If the new business proposes to fill a gap, or niche, in the market, the competitive pressures are not as intense. The business idea may be well established abroad, but does not have a presence, nationally. It may be established in some parts of the country, but not in your region.

Find out what people's spending patterns are today and seek information on what the predictions are on how those patterns are going to change in the future. The business idea may be brand new. It may be a technical innovation, like a new piece of software, or it may be a new solution to an age-old problem.

There are opportunities to buy into a franchise and become the sole supplier of a particular service in your county or region. It is also possible, of course, to be nominated as a sole agent for an established product. Every business has a competitor. However, operating in a gap, or niche, gives the business a head-start and presents it with the opportunity to gain a foothold in the market, before other businesses begin to copy or mimic the basic business idea.

### Niche Market Defined

A niche market can be viewed as a narrowly defined group of potential customers. A new business that focuses on a niche market is addressing a need for a product or service that is not being serviced by

mainstream providers. For instance, instead of offering general cleaning services, a business might establish a niche market by specialising in blind cleaning services only.

Why bother to establish a niche market? Because of the great advantage of being the sole provider to that market; because other small businesses may not be aware of this particular niche; because large businesses may not have any interest in it, or in its economic value. The challenge is to find or develop a market niche that has customers who are accessible, that is growing fast and that is not already dominated by one established vendor.

### Niche vs. Mass Marketing

By selling to a small market, costs can be kept low because of the savings made by specialisation. This type of marketing strategy is usually used by smaller businesses since they can concentrate on establishing a strong image and position in their niche. Also, niche markets are usually ignored by larger multinationals, who are not interested in the low sales volumes yielded by such a small segment. Consider, for example, Rolls Royce, who specialise in the luxury automobile niche.

By comparison, businesses committed to mass marketing try to capture as much of the market as possible. However, this approach means ignoring certain areas of the market. Mass marketing usually involves marketing different products to different groups of people or promoting the same product by different means. An example of the former is the manner in which banks now operate. They have separate accounts for students and teenagers, and offer different services for different purposes, to other segments. Effective mass marketing requires a lot of manpower and a large budget to capture the desired market.

# T is for TECHNOLOGY

## Step 3



There is no doubt that we live in a technological age and that, despite the occasional downturn, technological solutions will continue to be applied in all sectors of life and living. For those with specialist training, the opportunity is there to develop new products, which will be solution providers. There is considerable interest in innovative developments in this sector at the highest level in Government. The right project should be able to attract the appropriate support to allow prototypes to be developed and markets to be tested.

Those without specialized training are not necessarily excluded from this business sector. The internet, and the development of access points to it, is open to all those with an interest in the subject. The key factor for those entrepreneurs is an ability to identify a business opening, which has not been explored or exploited. Be aware of the variety in legislation across different countries in areas such as currency acceptance and taxation. The market is global - the rewards can be rich.

The use of technologies and the manner in which they are converging nowadays can introduce cost and time savings in the running of a business. A

computer in your business can enhance communications through the use of email and can also be used to computerize your accounts. The latter provides business information to you, information which is essential in the effective management of your company.

Use the internet to its fullest advantage. Establish a web presence for your business and develop it to a point which supports your trading needs and enhances your reputation with customers and suppliers, alike.

Technology in itself does not drive a business. Technology is no substitute for the identification of customers, the generation of income and the retention of profits. Rather, it is the imaginative use of both existing and emerging technologies that can form the cornerstone of a successful enterprise.

### A Growing Business

Many businesses had become sceptical about the Internet and the benefits of e-commerce, following the poor performance from the dot.com sector in the early 2000's. However, it is worth noting that more and more consumers are buying online nowadays. In May 2004, Joint National Internet Research figures showed that the number of Irish Internet users had increased by 5% in the previous year and that 1.2 million, or 38% of Irish adults, were using the Internet regularly.

Establishing a successful website can bring benefits to your business - increased sales, increased public awareness of your business, reduced marketing and communication costs and a perception among your suppliers, customers and potential employees that you are a progressive, professional company

# T is for TECHNOLOGY

## Step 3

### Site Planning

In order to reap these benefits, careful planning and management is required to effectively establish your online presence. Before taking the plunge, you should consider the following.

1. As a first step, spend time, online, familiarising yourself with the basic technology and how others, including your suppliers, customers and competitors, are using the Internet.
2. Specify what your business wants to gain from the Internet. Determine the objectives to be met in going online (e.g. improved public relations, assistance with recruitment, increased sales). Identify your target audience and detail the information to be included on the website, the timescale for site development and the budget available. This information will form the basis of your website development specification.
3. Draw up a shortlist of web design companies and give them a written specification of your requirements. The Enterprise Board can provide you with the contact details of local suppliers.
4. Choosing the correct website designer is fundamental to the success of your project. It is critical that you select a supplier that will communicate and work with you on your terms. He or she must be prepared to talk you through the jargon, provide ongoing support once your site is built and published on the web and make future additions or alterations to your site, without charging exorbitant fees. In short, you want a supplier who will deliver good value for money.

### Make it Real

The real work begins once your site is online. It is important to keep your online information up to date. Announcements of 'future events' that actually happened a year ago won't inspire confidence in your company. Your website can be built in a way that allows a staff member, with only limited IT knowledge, to update the content. You should consider making this a requirement in the initial website specification.

The next issue to consider is the marketing of your new site. Your online presence will only help your business if your target audience and market are aware of its existence, and visit it regularly. Marketing can be online and offline. Online marketing includes banner advertising and the optimisation of your site so that it obtains good search engine listings for relevant search terms. Offline marketing can be as simple as including your website address on company materials such as business cards, brochures and newspaper advertisements.



# E is for EXPANSION

## Step 4



Getting a business off the ground and surviving the first year or two is only the beginning. One of the key questions which then emerges relates to the growth rate and potential size of the business. Some promoters are quite content to limit their business to a certain maximum number of people. Others constrain growth by limiting the amount of money they are prepared to borrow.

Each business is different. These decisions are made by the owners, usually influenced, to a greater or lesser degree, by their business or personal partners.

Expansion usually means investment. This includes investment in facilities, equipment, product development, people and product or service promotion.

A company can seek to raise funds through a Business Expansion Scheme (BES). Other options include the investment in the company by Business Angels, who may wish to play an active role in the strategic development of the business. Venture

capital companies may also be interested in the project. Borrowing, of course, is always an option and in addition to the Banks and Credit Unions, there are special Loan Funds set up in the Border Counties in support of small-business development.

### Business Expansion Scheme

The Business Expansion Scheme (BES) allows individual investors to obtain income tax relief on investments in each tax year. There is no tax advantage for the company which is in receipt of the BES funds, but securing this funding may enhance its ability to attract other external funding.

The current scheme will continue until 31st December 2006, under Part 16, Section 488 - 508 of the Taxes Consolidation Act 1997.

Enterprise Ireland has responsibility for certifying companies as qualifiers for the Business Expansion Schemes. A qualifying company is one which:

- is an unquoted company (except in the case of companies listed on the Developing Companies Market)
- is engaged in a qualifying trade
- has its issued share capital fully paid up
- is not intending to wind up within 3 years of receiving BES investment unless it is for bona fide commercial reasons.

Internationally traded services, manufacturing and companies carrying out research and development with a view to carrying out a qualifying trade are eligible to apply

# E is for EXPANSION

## Step 4

### Venture Capital

Venture capital companies specialise in investing and incubating young companies with the hope that one day they will become major competitors within their respective industries. Companies specialising in venture capital investments purchase an equity stake in a company with the hope of getting multiple returns. Far from being a passive investor, the venture capital firm will use its resources to help the fledging company meet its business objectives and become a dominant industry player.

To find the right companies in which to invest, venture capital companies carefully scrutinise them to determine their future potential. A venture capital company looks for a business with a special product, service or technology, high profit and sales growth and a capable management team.



### Business Angels

Business angels are wealthy individuals who invest in start-up and growth companies in return for equity in the company. The investment can involve both time and money, depending upon the investor. Typically, business angels have already made their fortune through other business ventures. Most are men aged between 45 and 65. However, investors can be younger - particularly those in the technology sector. Business angels can operate independently or as a syndicate.

One of the greatest challenges the promoter will face, once the business has been firmly established, is the pacing and management of business growth.

# R is for RESEARCH

## Step 5



Understanding markets and customers is the bedrock on which business planning and strategy is built. Without knowing customers' needs or understanding demand, a business will be under constant threat from competitors and may be failing to gain maximum value from its market.

Unfortunately, many businesses do not conduct effective market research, prior to setting up. This fact contributes to the failure rate among young enterprises, right across Europe. The minimum requirement is to try, from desk research, to analyse a market's potential. Newspapers, magazines and the internet are the tools that are available to the researcher. Making contact with existing players in the sector by phone, fax or email adds to the information collected from print.

However, the acid test is in the field research. Critical information is gained by meeting potential customers and gauging their interest in the product or service on offer. Promoters of new businesses find it difficult to divulge their plans to potential customers, fearing their ideas will be

copied and the initiative lost to competitors. However, any potential investor in a business will be encouraged if would-be customers commit to the new business with letters of intent.

Market research, of course, is not a once-off activity. The progressive enterprise will always be in tune with the market, continually tweaking the business output to maximize sales and profit margins. Poor market research can often mean that the demand for the initial products or services is grossly over-estimated. The company, to survive, has often to make a 180 degree turn and produce output to meet the demands of the market. The inevitable delays place significant pressure on a company's cashflow, and indeed its credibility in the marketplace.

It is much better to put the time and effort into comprehensive market research, up front, thereby minimizing losses and wastage in the early months after set-up.



# P is for PLANNING

## Step 6

### Why Plan?

Statistics show that 90% of new businesses do not study the market during the pre-start phase. A related statistic records that 50% of businesses in the European Union fail within the first 5 years of operation.

Some people are assiduous planners - most are not. Many promoters are tempted to jump in, feet first, and get on with the business in hand. Many wish to try their hand at turning a hobby or a skill into a sustainable business. Some are forced into self-employment by a redundancy. Others are attracted by the freedom that self-employment offers. Regardless of the circumstances, the need to plan is critical... the list of questions to be answered endless.

- How will I produce my product?
- How will I present my service?
- Who will buy from me? If they don't, what's the fall-back position?
- How will I promote and sell my products and services?
- How much money do I need? How much money do I really need? Where will I get it? How much will I really get?
- How many people do I need? Where will I find them? How will I train them?

Most plans are over-optimistic about the proposed volume of sales and under-estimate the amount of cash the business will absorb, particularly in the first two years. Even those who develop business plans do not explore worst-case and best-case scenarios. Few plans add a percentage contingency to the financial projections.

A realistic approach to the planning process will mean that there will be less surprises in store for you, the owner, once the business begins to trade. Let the plan be your own version of what you want to do. Make it realistic. Do not decorate the facts for the benefit of the bank manager (or the Enterprise Board). Be cautious in the planning process, but bold in the execution of the plan.

### Planning and Funding Business Growth

#### Plan to Grow

The decisive factor that separates profitable growth companies from other, less successful businesses is how these businesses plan and manage the finance required for business growth. It is a fact that the success of many enterprises in dealing with financial issues stems, in the first instance, from their attitude to finance and the manner in which they think about money. Despite the fact that cash is a critical supply for all businesses, it is generally the case that the level of resources applied to the management of relationships with the suppliers of funds is less than that applied to the management of relationships with the suppliers of materials. This should not be the case.

#### Cash Flow

Business must avoid turnover growth at the expense of poor profitability or weak cashflow. The wrong sales/client mix, sales at the wrong price, poor profit margins or bad debts are all contributors to poor profitability. Contributing factors to weak cashflow are slow paying customers, working capital costs, collection costs and high bank interest. There are three core elements of cash management and the working capital cycle which absorb cash requirements. These are debtors (receivables), creditors (payables) and stock or work-in-progress.

# P is for PLANNING

## Step 6

### Debtor Payment Tips

- Agree terms of business including payment terms, in advance.
- Establish credit limits for each category of customer and never allow exposure to slip beyond these limits.
- Use credit agencies and bank references before actually engaging in business with a potential large new customer.
- Carefully consider sales credit insurance.
- Consider the option of invoice discounting.
- Consider charging interest on overdue accounts.

### Bad Debts

Some of the key indicators for bad debt problems include:

- Longer credit terms taken, without approval, followed by smaller orders.
- The issue of post-dated cheques by debtors who normally settle within terms.
- Evidence of regular switching to different suppliers for the same goods.
- New customers who are reluctant to give credit references.
- The receipt of round sum payments from debtors

### Credit Management

It is possible to introduce simple creditors' management control to improve the period of credit you get from suppliers. In respect of creditors' management control, you should establish who authorizes purchasing in your company. Is it shared among a number of people? Are you confident that you are only invoiced for goods or services received and that the invoice reflects exactly the terms and costs originally agreed? If not, you need to put procedures in place to address these issues.

### Stock Management

Stock management and, in the case of service business, work-in-progress control, needs to be considered in order to free up cash to fund the growth of the business. The principal factors that need to be considered in determining the optimum stock levels include:

- Projected sales levels.
- Availability of raw materials/stock.
- Lead-time required by suppliers.
- Length of production process.
- Efficiency of distribution.

It is very important that physical stock-takes are carried out at least every six months and that the number of times, annually, that each major item of stock turns, is known. Indeed, good work-in-progress management can be the key to the survival of a business.

### Banking

#### Bank on Relationships

Most banks realise that, when starting or developing a business, you need as much help as you can get. A good banking relationship is based on trust and communication. In order for a bank to provide you with the appropriate products and services, it will need a good understanding of your business and your business plan will be useful in this regard. The bank will also need regular updates and may even visit your workplace from time to time.

#### Debt and Equity

Banks provide short and medium term working capital facilities. Personally sourced capital in the business is essential as it gives your company a sound financial base. Your bank will advise on the best mix of debt and equity for your particular business.

# R is for REGULATION

## Step 7

Many people who consider setting up a new business are scared off by the legal and registration requirements. In brief, the following areas need to be considered.

### Company Registration

Before you register your company or business name, you need to decide on the business legal structure. The most common legal structures are sole trader, partnership, limited company and co-operative. The Enterprise Board, your accountant or your solicitor can advise you on the most appropriate structure. In addition, further information is available from the Companies Registration Office website at [www.cro.ie](http://www.cro.ie)

### Local Authorities

Before you build or make any physical changes (even minor ones) to your business premises, you should check with your local planning authority to ensure that you meet all of their requirements. This applies if you propose to use an existing premises for a different business purpose. It also applies if your business is to be based at your home.

### Revenue Commissioners

It is a legal requirement that all new businesses register with the Revenue Commissioners. Your local Tax Office will arrange an appointment with a Tax Inspector who will outline the registration and reporting requirements for your type of business. He or she will also advise on the type of taxation applicable to your business, such as VAT, employer's PRSI, PAYE and corporation tax.

### Intellectual Property

If your business has developed an innovative product, service, design or process or depends on recognition through a slogan, logo or business name, you should register the intellectual property to protect this valuable asset. Useful information can be obtained from The Patents Office website at [www.patentsoffice.ie](http://www.patentsoffice.ie) or from the Enterprise Board.

### Licences

Certain businesses require specific licenses or authorisations prior to trading. Examples include pharmacies, financial, health and professional services, pubs, off-licenses and employment agencies. You should check if this is relevant to your proposed business.

### Patents and Copyright

#### Protect to Survive

To survive in any sector, a business must be aware of social and technological changes and their relevance to its products and services. In the last ten years in Ireland, the market has seen the arrival of many new products and services, which are protected by patents. Sometimes enormous sums of money are spent on developing new products and a business has a right to win some of this money back before its competitors can copy its inventions. This is why there are laws to protect intellectual property - the knowledge developed by inventors and innovators.

#### Patent Protection

The Patents Act of 1992 provides for current legislation in Ireland. This brought Irish law into line with international practice. A product or process can be protected from being exploited by a rival business.

# R is for REGULATION

## Step 7

The invention must be novel and show an inventive step. Evidence for this must be filed at the date of the application. This will then be examined against 'state of the art' developments, worldwide, at the time of the application. The granting of a full patent in a country confers on the inventor the exclusive right to make, use or sell the invention in that country for a period of 20 years. It is not necessary to file separate applications in every country. In Europe, it is possible to file a single application in the European Patent Office in Munich and designate coverage in most Western European countries, including Ireland. If an application is successful, additional patents can be obtained in each of these countries. In Ireland, the Patents Act of 1922 introduced a short-term patent, which lasts for ten years and is easier and less expensive to obtain. This quick patent is very suitable for a minor innovation, which has a short life span and where most of its potential is in the local market. For any kind of patent, it is essential to consult a patent agent. The invention should not be made public beforehand. In fact, anyone who needs to be shown how the invention works should first sign a secrecy agreement.

### Copyright Protection

Another legal protection device is called 'copyright'. This applies to the creator's (or legal owner's) rights in creative works such as paintings, writings, photographs, drawings, advertising work, videotapes and TV commercials. Unlike patent protection, copyright needn't be registered in Ireland but arises automatically once a work has been made, under the terms of the Copyright Act, 1963. There is no mechanism for registering copyright in Ireland, although there is such a mechanism in some countries, such as the USA, where it is advisable to do so. To avoid the copying of your material by others, it is essential to be able to show proof of ownership and

proof of copying. Copyright exists in all works published, or unpublished. It is advisable for an author to ensure that his or her work is signed, dated and witnessed. This will act as an aid to proof of ownership, which may be required in court at a later date. The copyright symbol ©, accompanied by the name of the owner of the copyright and the year of first publication, is an internationally recognised convention. It is normally an essential aid to proof of ownership, if you are taking an action in another country. Copyright is infringed when a copy is made of any part of another person's work, without prior permission of the owner. Damages can be very high.

### Trademarks

Once a business has a product or a service to sell, it needs an identifier which distinguishes it from its business competitors. Trademarks are generally more valuable than any other form of intellectual property, because their function is to brand a product. They effectively last forever. Trademarks are protected in common law without any form of registration under the "first to use" right. In many countries, a trademark can be registered for a service as well as a product, though this is not yet the case in Ireland. Some European countries operate on a "first to register" basis, so it is very important to register early in any country, where exports are planned. Once a company's revenue exceeds €200,000, it should register its trademark, anyway. Registration is initially for seven years, renewable on payment of a fee every 14 years thereafter. The basic requirements for a registered mark include that it be distinctive, not deceptive, not descriptive and not among certain excluded items listed in the Act (Examples are national emblems and immoral or offensive language).

# R is for REGULATION

## Step 7

### Becoming an Employer

#### Taking on people

Taking on an employee is a significant step for any start-up business. The relationship between employers and their employees is a highly regulated area. It is important that legal advice is taken before recruiting an employee. It is even more important to take such advice in the event that you wish to dismiss an employee. In general, it is strongly recommended that employment contracts are in place with every employee so that you and your employee know exactly where you stand if difficulties arise. Set out below is a short summary of the more important pieces of legislation, of which every employer should be aware.

#### Contract of employment

Anyone who works for an employer for a regular wage or salary has a deemed contract of employment, whether it is written, or not. The Terms of Employment (Information) Act, 1994, provides that an employer must provide an employee with a written statement of certain particulars of the terms of employment. Employers are required by Section 14 (1) of the Unfair Dismissals Act, 1977 to give a notice in writing to each employee setting out the procedure which the employer will observe for the purpose of dismissing an employee. This must be given not later than 28 days after the employee commences work.

#### Organisation of Working Time Act, 1997

The Organisation of Working Time Act sets out statutory rights for employees in respect of rest, maximum working time and holidays. The new maximum average working week is 48 hours. This may be averaged according to certain rules in the Act. Every employee has a general entitlement to rest breaks and intervals.

### Minimum notice

The Minimum Notice and Terms of Employment Act 1973, as amended by the Worker Protection (Regular, Part-time Employees) Act 1991, provides that employees in continuous service with the same employer for at least 13 weeks and who are normally expected to work at least 8 hours a week, are entitled to a minimum period of notice, before the employer may dismiss them. This period varies according to length of service.

### Redundancy Payment Scheme

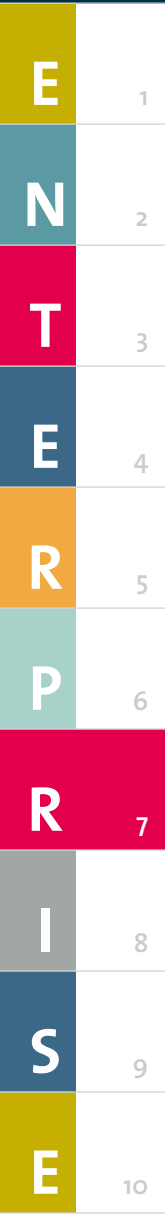
The Redundancy Payments Acts 1967 - 1991 impose a statutory obligation on employers to pay compensation to employees dismissed for reasons of redundancy. An employee with 104 weeks continuous service, aged between 16-66, who is normally expected to work not less than 8 hours per week and whose employment is terminated because of redundancy, is entitled to a redundancy lump sum payment. The amount of the lump sum depends on the age of the employee, the weekly pay and the number of years service. The lump sum must be paid directly by the employer to the employee.

### Dismissal

The Unfair Dismissals Acts 1977 to 1993 provide protection for employees from being unfairly dismissed from their jobs by laying down criteria by which dismissals are judged to be unfair and providing an adjudication system and redress for an employee whose dismissal has been found to be unjustified. Generally speaking, the Acts apply to employees who have one year's continuous service and who are normally expected to work 8 hours per week or more, with the same employer. Every dismissal of an employee will be presumed to have been unfair unless the employer can show

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## Step 7



substantial grounds which justify the dismissal. An employer who has dismissed an employee must, if requested, furnish in writing within 14 days, the reason for the dismissal. The redress for unfair dismissal is reinstatement, re-engagement or financial compensation.

### Employment Equality Act 1998

The Act prohibits discrimination in relation to access to employment, conditions of employment, training for or experience in relation to employment, promotion or re-grading and classification of posts. Discrimination on any of the following grounds is prohibited in recruitment and in employment generally - gender, marital status, family status, sexual orientation, religion, age disability, race/nationality/ethnic or national origins and membership of the traveling community.

### Maternity and parental leave

Any female employee working more than eighteen hours per week will be entitled, under the Employment Acts, to eighteen weeks paid maternity leave together with anti-natal and post-natal leave for the purposes of receiving care. Any female employee is entitled to financial relief in the form of pay-related Maternity Allowance from Social Welfare for eighteen weeks. Qualification for this leave is on the basis of four weeks notice to the employer.

Any male parent is entitled under the Parental Leave Act 1998 to fourteen weeks leave in respect of each child born or adopted after the 3rd June 1996. Qualification for leave by any parent is on the basis of one year continuous service to the employer and is applicable up till the child reaches five years of age.

### Business and the law

#### Business structure

The law should be seen as an aid to help each business identify the framework within which it can operate successfully. The most important decision to be made is to agree the legal structure within which the business will operate. Following are the principal forms of business structure.

#### Sole Trader

The simplest form of business structure in Ireland is that of a sole trader. This is where you trade on your own account as a self-employed person. The advantages are that you would remain in full control, owning the assets of the business and any profits generated. There are also very few legal formalities involved. The significant disadvantage, however, is that you would be fully personally responsible for all liabilities of the business, without any limit. This means that you could be sued in your personal name by creditors of the business to recover debts from any of your personal assets (including your family home).

#### Partnership

This is where two or more individuals enter into business for the purpose of achieving a profit. The principal advantages here will be the skills which the different partners can bring to the business and also the sharing of the responsibilities and liabilities of the business. You should be very careful in agreeing to a partnership. Each partner is individually responsible for all debts of the partnership and you could be very greatly exposed by a reckless partner. It is strongly advisable that a form of partnership agreement is drawn up by a solicitor to make clear the rights and obligations of each partner and to minimize any subsequent

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dispute. It is also important to consider at the very start, and reflect in a partnership agreement, what should happen if one of the partners becomes ill, wishes to retire or dies.

### Private Limited Liability Company

A company is, perhaps the most useful form of business structure. A company is a separate legal entity to the shareholders who own it. They form the company by joining together in a Memorandum of Association, which sets out the objects of the company and its capital structure. The shareholders also sign up to Articles of Association, prepared in accordance with the Companies Acts. The Articles form a contract between the shareholders which specifies how the company is to be governed and, in particular, details the division of responsibilities between the shareholders and the directors, who are elected by the shareholders, to manage the company from day to day. The company must be registered with the Registrar of Companies and receives a Certificate of Incorporation. This is essential for the purpose of opening bank accounts and registering with the Tax Authorities.

### Advantages and Disadvantages of Incorporation

The principal advantage of operating your business in the form of a private limited liability company is that it means that you, and anyone else who joins with you as a shareholder, would enjoy the privilege of limited liability. This would mean that your obligation to meet the debts of the Company would be restricted to the amount which you have agreed to pay for shares in the company.

The principal disadvantages of a company structure are that you must comply with clearly defined obligations in company law. These include the

maintenance of proper books and accounts, and making various filings in the Companies Registration Office. These include changes to the directors or share capital of the company. The company would also be obliged to make annual returns to the Companies Office and, depending on the size of the company, to file certain accounts. As indicated above, personal liability can also be imposed in certain circumstances. The directors may also be made personally liable in the event of offenses by the company under the Companies Acts and under a broad range of legislation including Health and Safety Legislation and Environmental Protection Legislation.

It is therefore essential to consult with a solicitor or an accountant to ensure that the documentation relating to the company complies with the relevant legislation and also reflects your practical requirements. It is also advisable, if there are a number of shareholders in the company, to consider entering into a shareholders agreement to deal with matters outside the Articles of Association. This agreement would define the amount of capital to be invested, how shares may be transferred in the event of illness, death or retirement and would clarify the rights and obligations of the various shareholders regarding the day to day operation of the company.

For example a shareholder with more than 50% of the voting rights could, unless restricted by a shareholders agreement, appoint or remove directors of the company, issue further shares in the company or declare dividends. A shareholder with 75% or more of the voting rights could even change the Memorandum and Articles of Association of the company or have the company wound up voluntarily.

# I is for INSURANCE

## Step 8

This requirement can be one of the cost issues for companies setting up in Ireland. One of the biggest threats for business, in general, is compensation claims. Public liability insurance provides protection for the business against such claims, but at an ever-increasing cost. Estimates put the cost of injury insurance in small businesses in excess of €2bn. per annum. Others estimate that 20% of all cases are fraudulent. In addition, the business must assess the various risks associated with its operation and decide what level of cover is appropriate.

Buildings and contents can be insured against fire damage, up to their full replacement value. It is also possible to insure against loss of profits linked with damage due to fire. You may also wish to insure your business against theft. Damage caused to your building as a result of the act of theft can also be covered. Product liability insurance is also available and it is possible to protect your business against the loss of a key employee.

It is also critical to consider the need for personal protection for you and your employees. Options include protection against accident, sickness or critical illness. Life insurance and pension arrangements should also be discussed. In the case of a partnership, the death or illness of one or other partner could have a serious effect on the sustainability of the business.

As with all business matters, it is wise to seek advice on the level of cover appropriate to your business and shop around for the best deal. It is often more cost effective to secure a combined policy for all your insurance needs, from one company.

### Insure for the Future

It is important when starting a business to ensure, as far as possible, that your assets and liabilities are

covered by insurance. An uninsured loss could have a very detrimental effect on your enterprise and could possibly put you out of business. It is strongly advised that you take out a combined policy, which would cover the following.

### Fire

This should cover the perils of lightning, aircraft, explosion, storm, flood, burst pipes impact, riot, civil commotion and malicious damage. The building and contents should be insured for the full replacement cost as should any resulting loss of profits.

### Employer's and public liability

This should cover your liability at law for damages (including costs and expenses) in respect of bodily injury or disease sustained by any person under a contract of service or apprenticeship with you. Public liability will cover your liability at law for damages caused (including claimant's costs and expenses) during the period of insurance and arising out of, and in the course of, your business. It covers accidental bodily injury or disease and accidental damage to property.

### Theft and personal protection

This protects your contents and stock against theft or damage in the event of a burglary. Damage to the building resulting from burglary would also be covered. Normally a person starting his or her own business would not have income from any other source and should therefore insure him/herself against accident or sickness and serious illness. Life insurance and a pension plan should also be considered. In the case of a partnership, the death or illness of either partner could have a very serious effect on the progress of the business and consideration should be given to arranging partnership insurance.

# S is for SALES

## Step 9



Regardless of how wonderful your product or service may be, your business has to generate income through sales. Prospective customers have to be identified, contacted and persuaded to buy your offerings, despite the presence of other competitors in the market. Selling is all about relationship building with your customers. It's all about trust and mutual respect.

The value of the use of your product or service must be quite clear to the customer. Sell the benefits, not the product. Business can be lost by confusing the customer - by proposing that your company can meet more of the customer's needs than is the case, in reality. Always recognize the boundaries of your offerings.

Pitching your price right is always a challenge. Price pressure is upwards to optimize profits, downwards to ward off the competition. It's important to plan your pricing strategy in advance, leaving scope for adjustments, when needed.

The customer can be contacted in a variety of ways, depending on the nature of the business. Many small businesses have direct contact with their customer. Others communicate through agents, or distributors. Remember that some statistics show that it costs 6 times more to sell to a new customer, than it does to retain an existing one. In either case, it is important that the customer can access the company's goods and services in an effective manner and that after-sales service and customer care is at the heart of all business transactions.

Finally, the business has to engage with the market. They say that perception is the reality. This is particularly true in today's crowded marketplace where image is king. Plan your marketing and promotional campaign carefully, ensuring maximum, positive exposure, to the right people, for your business and its products and services.



# E is for €URO

## Step 10

Funding, and cash, in particular, is the lifeblood of any business. Plan your financial projections carefully, anticipating problems and adding in contingency factors to your forecasts. Most businesses need to borrow to get started. The banks and credit unions are obvious points of contact. However, organizations such as Louth County Enterprise Fund and First Step were set up to provide loan funding to small business. Louth County Enterprise Board offers financial aid in a variety of ways to selected projects:

**Ordinary Shares** | The Board can invest in a company, providing funding of up to €75,000 for an agreed percentage share in the business.

**Redeemable Preference Shares** | The Board can invest, through a preference share arrangement, whereby the company pays back the original investment, including interest, over a 5 year period.

**Capital Grant** | The Board can support a company's capital investment programme, up to a maximum grant of €75,000. The grant aid can not exceed 40% of the total capital investment by the business. Grant aid can be awarded in repayable or non-repayable form. If repayable, repayments must be complete within 4 years of investment.

**Employment Grant** | Financial support for the establishment of new, full-time jobs is available. The upper limit per job is €7,500. This type of financial aid is paid in two tranches, six months apart.

**Feasibility Study Grant** | The Board can assist in feasibility study costs, up to a financial limit of €6,350 and also limited to a maximum of 60% of the total eligible costs of the project.

It is important to contact the Enterprise Board in advance to fully explore the project's eligibility for grant aid. Assume nothing, until you have a letter of offer.



### The Enterprise Board's priorities

Priority is given to manufacturing and traded services which, over time, can develop into strong export entities. As these projects grow beyond 10 employees and annual revenues in excess of €1.27m, they will be transferred to, and become clients of Enterprise Ireland. Tourism projects which attract overseas visitors will also be considered for support as will locally provided services which are led by promoters who have been unemployed, or made redundant in the recent past.

Project promoters should demonstrate that:

- A market for the proposed product or service exists.
- Adequate finance is available to fund the project.
- Sufficient management and technical capacity exists to implement the proposed project.

Projects, seeking assistance, should add value to generate income (or supplement income) for those involved and should have the capacity to create new

# E is for €URO

## Step 10

direct employment. They should, at a minimum, contribute to the maintenance of employment in existing enterprises.

### Feasibility Study grants

A Feasibility Study Grant may be used to assess the viability of a business proposal and to ascertain whether a new product or service should be brought to the market. It may include research and development, prototype manufacture, test marketing, consultancy, preparation of a business plan and financial projections. Grant assistance is payable on the production of a completed feasibility study or report. A maximum of 60% of the cost of agreed work, subject to an overall limit of €6,350 in the case of any single study, is payable to eligible projects.

### Capital grants

A Capital Grant may be payable to purchase new equipment, to refurbish or outfit an existing building or to construct a new premises. A maximum of 40% of the cost of capital and other investment or €75,000, whichever is the lesser, is payable to eligible projects. Grant assistance is not allowable for the purchase of a building, land or mobile assets. Louth County Enterprise Board may award a repayable grant with a one year payment moratorium followed by a three year payment period with low interest rates.

### Employment grant

An Employment Grant to a maximum of €7,500 for each newly created full-time job is payable in two equal installments. The first half is payable when the employee is taken on and registered for PRSI. The second half is payable six months later. Employers will be required to show that the

employee has been registered for tax purposes. A promoter may avail of the Back to Work/ Area Allowance in addition to an Employment Grant. Part-time jobs may be funded, provided that satisfactory evidence of hours worked and statutory deductions are received.

### Applications

A grant application may be made by filling in the appropriate application form and other details as required and forwarding these to the Enterprise Board. The application forms can be downloaded from the Board's website. In assessing projects for eligibility for financial support, the following factors are taken into account:

- Is it a fresh idea which will convert into a viable, sustainable business?
- Does the project need grant aid?
- Is the promoter capable of managing the enterprise?
- Is there competition in the marketplace?
- Is there a market niche, supported by market research?
- Is the promoter making a financial contribution?
- Are there realistic financial projections?
- Does the project concur with legislation?
- Does the product or service have the potential to be exported?
- Does the promoter have a "can do" attitude?

Projects may be considered to be ineligible for a number of reasons, mainly where the project represents a duplication or possible displacement of an existing product or service. Projects in the retail, professional services and primary agricultural sectors normally fall outside the grant assistance capacity of the Board. However, application from

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these sectors may be considered for non-financial assistance. Existing businesses, which already have an established relationship with other agencies, may also be ineligible for grant assistance. Grants cannot be paid retrospectively.

### Documentation

If a capital grant has been approved, the promoter will be paid the grant as soon as the Enterprise Board receives evidence of invoiced expenditure, vouched as paid. An Auditor's Certificate is required together with a Tax Clearance Certificate in respect of the promoter and a C2 certificate or equivalent for any third party contracted to conduct work on behalf of the promoter. Guidelines on tax clearance are provided to all promoters.

Feasibility study grant approvals will require an Auditor's Certificate in respect of any wages, mileage, subsistence and other eligible expenses incurred. Capital and feasibility study grants are payable net of VAT.

Capital and employment grants must be fully drawn down within 9 months following the date of approval. Feasibility study grants must be drawn down within 6 months following the date of approval.

### Investments

There are two mechanisms by which the Board can take equity in enterprises. The first is through an ordinary share agreement with the company. The board can invest up to €75,000 in qualifying companies and is entitled to a directorship as a result. The percentage stake in the company is usually limited to a maximum of 10%, although in certain circumstances, this percentage can be as high as 19%.

The second mechanism is through the Board's redeemable preference share scheme. Rather than take ordinary shares, the board invests through preference shares, which the company can redeem (or buy back) at a later date. If the company chooses not to redeem the shares, they are automatically converted to ordinary shares, represented a pre-agreed percentage in the company. Up to €75,000 can be invested by the Board through this scheme.

Normally, a moratorium of one year is agreed and the company begins its repayment cycle at the end of this period. An interest rate is agreed on the capital invested and it is expected that the company will have repaid the capital invested, including interest, 5 years from the date of agreement.

In both cases, the board is primarily interested in recycling the grant aid, so that this funding can be made available to other enterprises in years to come.

Any discussion that Louth County Enterprise Board has with project promoters is treated in the strictest confidence. Louth County Enterprise Board is registered with the Data Protection Agency of Ireland.

## Contacts

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City and County Enterprise Boards are funded by the Irish Government and part-funded by the European Union under the National Development Plan, 2000-2006.