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**Submission by the Irish Farmers' Association  
To the consultation on the Rules for Farm Partnership  
From the Department of Agriculture Food and the Marine**

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November 2013

## Introduction

In the context of the targets for agricultural production set out in Food Harvest 2020, the development of partnerships has an important role to play in maximising the utilisation of capital, and labour to increase the scale of production, while maintaining family based businesses.

A “farm partnership” is a formal agreement between two or more people to farm together and share the profit generated each year. This farm business structure, particularly new entrant parent partnerships, has now established a foothold in the dairy sector with almost 500 Milk Production Partnerships in operation.

Farming in partnership has the potential to provide a more attractive work environment, and greater efficiency through shared workload and joint decision-making, which could encourage new entrants into the sector. In addition the partnership model can be used to help restructuring in agriculture and encourage farm succession.

However, many of the benefits that can be achieved through entering into a partnership, are largely undermined in Ireland by the loss of individual rights and entitlements under many of the various agricultural schemes and through the taxation code.

The focus to date has been primarily on milk production partnerships with a number of concessions been made to facilitate partnerships under the various schemes, e.g. REPs 4 and TAMS. However, other farmers (non-dairy) who wish to enter into a partnership arrangement are treated differently and currently would lose their individual rights or entitlements under the various farm schemes (e.g. SFP, REPS, DAS, TAMS).

The process of consultation with a view to developing detailed rules for partnerships across all enterprises is a welcome development. This process must ensure that farmers in partnership arrangements, across all enterprise types, must not be discriminated against in their entitlement to farm schemes or in taxation code relative to the treatment of individual farmers operating as sole traders.

## Recommendations for the operation of the Register of Farm Partnership

### Removing of Barriers to Partnership

1. All farmers who wish to enter into a partnership arrangement, must be treated fairly and must not lose any of their individual rights or entitlements or be at a disadvantage as a result of the establishment of a partnership under the various farm schemes;
  - Single Farm Payment (SFP)
  - Disadvantaged Areas Scheme (DAS)
  - Environmental Schemes (REPS, AEOS and equivalent)
  - Targeted/Coupled supports (Suckler cow, Sheep, Beef data programme)
  - Other schemes

All future farm schemes must be designed to ensure that the terms and conditions are consistent across all farmers, whether the farmer is operating as a sole-trader or in partnership and do not discriminate against farm partnerships.

2. There should be no loss of taxation reliefs and exemptions for farmers who enter into farm partnerships.
3. Taxation reliefs and exemptions that apply for existing Milk Production Partnerships must be applied to farm partnerships across all enterprises. CGT reliefs on the dissolution of a farm partnership that were available up to 31<sup>st</sup> of December 2012 must be restored and applied to all partnerships across all enterprises.

The required legislative changes for this should be contained in the Finance Bill. The IFA has made a submission to the Finance Bill no.2 2013 seeking such amendments.

4. There should be no unreasonable restrictions governing the rules for farm partnerships.

### Promotion, awareness and participation

5. A promotional and educational campaign should be undertaken to inform farmers of the costs and benefits of farming in a partnership, the implications under the farm scheme and entitlements, and the taxation implications.

This should include the identification and participation of farmers who are currently involved in different partnership structures (parent/son/daughter, milk-production, and other enterprises)

Young farmers and farmers in existing non-formal partnerships should be specifically targeted in this campaign.

6. Teagasc should produce an updated version of the *Partnerships and Farming* guidebook to reflect any new arrangements and changes.

7. Where there are herd registration changes in the formation of a partnership, it is essential that all parties complete the necessary transfer of entitlements in respect of schemes, in particular SFP, DAS, environmental schemes.

There is an onus on the Department of Agriculture and professional advisory services (Teagasc, Agriculture Consultants, Solicitor) to be fully aware of all the issues concerning transfer of entitlements in the formation of a partnership and to inform the farmer of these.

It must be pointed out to the farmer that, if this documentation is not completed prior to submission of SFP applications in May, the farmers concerned may be denied their payments at the end of the year.

8. Farm business which already operate as partnerships should be allowed register without incurring any additional legal fees.

There should be no condition whereby such businesses are required to produce an additional legally binding written Partnership Agreement. Farmers already operating as partnerships are currently legally recognised by Revenue through the “1890 Partnership Act” and through the filing of Partnership Tax Returns through the Form 1 (Firms). The Precedent partner is required by Section 951 of the Taxes Consolidation Act, to prepare and deliver a Return of partnership income and gains for the tax year. The precedent Partner should be the “Lead Partner”.

9. The conditions for Registration must remain concise and straightforward. There should be no open ended conditions which allows for the request of additional documentation and information by the Department other than those contained in the final rules.

## **Resolution**

10. A robust arbitration mechanism is necessary and must be established to deal with situations where conflict arises between members of a partnership. All disputes must be processed through a dedicated resolution authority whose judgements are legally binding.

A dissolution procedure must be a compulsory component of all written, legally binding partnership agreements.

## **Review**

11. The broadening of the partnership arrangements should be kept under constant review to take account of and accommodate the variable circumstances that exist and may emerge in the development and expansion of farming and production across all enterprises with a view to meeting the targets set out under Food Harvest 2020.