

Forming a new company

Preliminary considerations

Before deciding to form a company, you should obtain tax advice. There will be various tax implications of operating your venture through a company.

You should also consider the administrative burdens and costs of running a company (for example, the preparation of annual returns and annual accounts which must be filed at Companies House). Your accountant will be able to discuss these costs with you.

In addition, you should be aware that directors of companies owe specific duties to the company and, in times of insolvency, to its creditors. Please speak with us if you need further details about the duties and obligations of company directors.

Type of company

The two most common types of company are:

- 1 private companies limited by shares; and
- 2 private companies limited by guarantee.

You should speak with us to discuss the purpose of the new company and your specific requirements. We will help you determine the most appropriate type of company.

Information needed to form the company

You will need to provide us with the following information to incorporate the company:

- 1 full company name, ending with 'Limited' or 'Ltd'. You can check the availability of your proposed company name at: <http://www.companieshouse.gov.uk/>
- 2 registered office address;
- 3 details of share capital (if you are forming a company limited by shares). You should discuss with us whether there should be more than one share class. We will also help you to decide what the nominal value of each share should be. Typically, companies are incorporated with ordinary shares of £1.00 each;
- 4 director details. Your company must have at least one director who is a natural person over 16 years of age. For each individual director you will need to provide: (i) full forename(s); (ii) surname; (iii) any former name(s) used for business purposes; (iv) full service address; (v) usual residential address (if different to service address); (vi) country/state of residence; (vii) date of birth; (ix) nationality; and (x) occupation;
- 5 company secretary details. You do not have to appoint a company secretary, but if you choose to do so you will need to provide: (i) full forename(s); (ii) surname; (iii) any former name(s) used for business purposes; and (iv) full service address;
- 6 shareholder details. In relation to each shareholder, you will need to decide how many shares that shareholder is to hold in the company. You will also need to provide the shareholders' full name and full address.

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Process, documents required and timetable

Using the information provided by you, we will prepare the following company incorporation documents within two working days of receiving the required information from you:

- 1 Companies House Form IN01 (application to register a company). This is a long document (at least 18 pages) which sets out all the information which you will have provided to us. It must be signed by each of the proposed directors, company secretary and subscribers/shareholders;
- 2 Memorandum of Association. This is a short document which must be signed by each of the proposed subscribers/shareholders to confirm that they agree to form the company;
- 3 Articles of Association. This document is the internal rule book of the company which governs how it will be run. The Articles of Association will contain important rules relating to the transfer of shares and appointment of directors amongst other things. We will tailor the Articles of Association to your specific legal requirements. This document does not need to be signed.

Please be aware that Companies House requires original signatures on the Companies House Form IN01 and Memorandum of Association. Plus, it is not possible for the documents to be signed in counterpart (i.e. the original signatures must all be on the same document).

After the documents have been signed, the original signed documents will be sent to

Companies House together with the incorporation fee of either £100 (same day service) or £40 (standard service). Companies House's standard service takes up to 10 working days for the company to be incorporated. Companies House will then issue a Certificate of Incorporation.

Statutory books and share certificates

Once formed, the company will be required to maintain up-to-date statutory books (i.e. registers of shareholders and other corporate information). Many people prefer to prepare and update the statutory books themselves, or to liaise with their accountants in this regard. If it would be helpful for us to provide and complete the statutory books, please let us know.

Where the company is limited by shares, the directors will need to issue share certificates to each of the shareholders. Please speak with us if you need any assistance in preparing the share certificates.

For further information, please refer to your usual contact at Thomson Snell & Passmore. Alternatively, please contact the author, Fiona Jewell, a solicitor in our Corporate and Commercial team, on 01892 701338 or email at:

fiona.jewell@ts-p.co.uk

This information sheet is not intended to be comprehensive or to provide legal advice, which should be sought on particular matters.