



Private Limited Company in the United Kingdom

By Armstrong Teasdale

Establishing a company in a foreign country can be challenging in terms of designing the legal structure and organising a streamlined and efficient incorporation process. Alliuris member firms provide corporate legal services, in particular for the formation of companies in their home country.

This article provides a brief overview of the legal form of a limited company the United Kingdom.

The Private Limited Company

Private companies limited by shares are by far the most common form of company in the UK, making up on average approximately 95% of all companies registered with Companies House.

It is popular among small and medium-sized businesses as well as bigger companies and its main advantages include:

- It is an independent legal entity which is able to sue and be sued and own assets separate from that of the company's owners.
- The liability of its shareholders is limited. The financial liability of the shareholders of such companies is limited to the number of shares they hold in the company. Therefore, if a private limited company is in financial trouble and had to wind up, shareholders would not risk losing their personal assets.
- It is the easiest type of company to form as there is no minimum capital required. A company can be started with a small initial investment of as little as £1.

Choice of Seat and place of incorporation

The place of incorporation should be chosen carefully because there are three separate legal jurisdictions within the UK, namely (i) Scotland, (ii) Northern Ireland and (iii) England and Wales. Each jurisdiction requires a company to maintain a registered office address. A company cannot move its registered office address from one jurisdiction to another jurisdiction at a later time.

Shareholder

A private company limited by shares can be founded as a one-person company as well as a multi-person company and is a company whose shares are not for sale to the general public.

Shareholders can be a natural person or a legal entity and foreigners can also be shareholders of a private company limited by shares.

The liability of a shareholder is limited to the amount unpaid on their shares. In other words, if a shareholder holds 1 share with a nominal value of £1 their financial liability would be £1. If the share taken is unpaid or partly paid, the shareholder would be obligated to pay the outstanding nominal value of their shares when a demand for payment is made by the company.

There is no statutory requirement to hold periodical shareholder meetings. However, key decisions such as the payment of dividends or the appointment of directors usually require the approval of the shareholders however reference should be made to the constitutional documents of the company in this regard.

Shareholders representing 5% of the paid-up share capital and who are entitled to vote at general meetings of the company have the ability to demand a general meeting.

Management

Management and representation of private limited companies are handled by a board of directors.

The appointment of the first directors is a decision of the shareholders of the company. Thereafter the two main ways to appoint a director of a company are appointment by the board of directors and appointment by an ordinary resolution of the shareholders. The decision to appoint a director should be based on the belief that the chosen individual has the ability to run the company well.

Both UK residents and non-residents can become a company director in the United Kingdom. At the same time, undischarged bankrupts or people who have been disqualified as the director of a company cannot become a UK director. It is at the moment possible for a legal entity to become a corporate director; however, current legislation requires at least one individual to be a company director and that individual must be at least 16 years old. The government has consulted on the idea of banning corporate directors in the UK.

Formation

The required time for the formation of a private limited company is subject to the workload of the UK's Companies House but in general, the formation of a company occurs within 48 hours of an application being sent. It is possible to pay an additional fee to Companies House to register a company on the 'same day' as the application.

The application for registration (IN01 form) must be accompanied by the company's proposed constitutional documents known as a Memorandum of Association and Articles of Association, both of which are public documents.

The Memorandum of Association must be in a prescribed form and must be authenticated by each subscriber (i.e. the proposed shareholders).

The Articles of Association contain information on the amount of the capital, the shares, and the rights to the shares, as well as the structure of the shareholders' meeting, the management of the company and the provisions on the general administration. A company can adopt pro forma Articles of Association known as Model Articles of Association or it can adopt bespoke Articles of Association.

Only when the certificate of incorporation has been issued by Companies House does the private limited company acquire its legal capacity and can commence business. Before its registration in the company register, the private limited company does not exist as a pre-company like in other countries. Therefore, a person who conducts business in the name of a private limited company that does not yet exist is in principle personally liable pursuant to sec. 51(1) CA 2006, if they have not excluded their personal liability. In order to avoid delays in the initial registration of a private limited company and thus an increased liability risk, we offer our clients the service of acquiring a pre-established company.

Share Capital

There is no prescribed minimum or maximum capital, so a private limited company can theoretically be founded with a minimum contribution of one pound. Moreover, there is no obligation to increase the capital by new contributions. Nevertheless, consideration should be given as to how the company will be financed going forward, whether it is from bank loans, shareholder loans or further equity investments by shareholders.

Registration with Other Authorities

Depending on the type of business, a license may be needed. If the private limited company hires employees for example, the employer PAYE reference number must be obtained. If your business plans to undertake any sort of regulated financial activities, including offering customer credit, your company will need to apply for Financial Conduct Authority authorization.

Tax Registration

Most companies can be registered for corporation tax and PAYE as an employer at the same time as registering with Companies House. Otherwise, a registration with HM Revenue and Customs is necessary.

Businesses with a turnover of more than £85,000 must apply for VAT registration.

Anti-money laundering measures

UK based private limited companies are required to keep a register of “people with significant control” (PSC) and to provide and update this information publicly by filing it at Companies House.

Foreign Investment Control

In general, there are no restrictions to foreign ownership and investment in the UK. However, the notification of transactions affecting several sensitive sectors, such as communications, artificial intelligence, and transport, is mandatory.

Customs (Export / Import)

Companies operating in the field of import and export must apply to HM Revenue and Customs for a custom number (EORI). There is a simplified declaration procedure that may be applied for by a company which offers multiple benefits including faster release of goods from Customs. The simplified procedure requires the authorization of the HM Revenue and Customs.

Bank Account

A UK bank account is not required to form or run a UK based company however your company is entirely separate in the eyes of the law and for this reason it makes sense to record your business income and expenditure in a separate business bank account.

A registered office address alone may not be sufficient for overseas directors to open a bank account in the UK. It is often required that at least one director is UK based, but the policies are different from bank to bank.

Opening a bank account with traditional high street can take a number of weeks but bank accounts can be obtained within days or even hours with online banks.

Accounting

The directors are responsible for formal tasks such as signing the directors' report in the financial statements, preparing, and signing the confirmation statements, and is also in charge of the company's accounting.

A company's annual accounts for a financial year must be audited unless it is exempt by meeting specific financial thresholds. A company is assessed as small if it meets two of a number of conditions including the annual turnover being less than £10.2 million, the gross assets of the company being less than £5.1 million or the average number of employees being less than 50.

Formation Expenses

The formation costs for a private company limited by shares adopting pro forma constitutional documents is approximately £500 + VAT.

Companies formed with bespoke constitutional documents are priced on a case-by-case basis however once we understand what you are looking to achieve, we would provide a fee estimate.

Corporate Tax

The corporate income tax rate for limited companies in the UK amounts currently to 19%. However, the rate will be increased to 25% in the financial year 2023-2024. Businesses with profits of £50,000 or less will continue to be taxed at 19%.

Local Taxes and VAT

As previously mentioned, businesses in the UK are subject to a wide array of taxes such as Corporation Tax, VAT, National Insurance Contributions (NIC's) and Pay As You Earn (PAYE).

Companies may also be subject to business rates which are basically taxes paid on non-residential properties, like shops, offices, and factories. Even if you only occupy part of a building for non-domestic purposes, you may still need to pay business rates. Business rates are figured out by the local councils.

The regular VAT rate in the UK is currently 20%.

Staff

If you are starting up a UK business that employs staff, there are a number of things you need to do, including registering as an employer with the UK Revenue Commissioners and getting employers liability insurance.

You can employ foreign staff in your UK business as long as they have the legal right to work in the UK. We can assist with any immigration issues that may arise.

When employing staff, there are minimum wage rules that apply and you must make national insurance and pension contributions in line with UK law.

Registered Office and Service Address Service

All UK registered companies are required to have a registered office address which is a full UK postal address.

All officers of a company are required to provide their residential address to Companies House but if they do not want to make this information publicly available, they can also use a service address. The service address will often be the same as the company's registered office address.

If your new company does not yet have its own registered address in the start-up phase, we can provide a registered office address and a service address for up to 5 directors for a fee of £1,000 per annum + VAT.

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