

Forming a new company limited by guarantee

Preliminary considerations

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

There are administrative burdens and costs of running a company (for example, the preparation of confirmation statements 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:

- private companies limited by shares.
- private companies limited by guarantee.

We will help you determine the most appropriate type of company once we have discussed with you the purpose of the new company and your specific requirements. This information sheet deals with companies limited by guarantee. If you would like to know about companies limited by shares please let us know.

Information needed to form a company by guarantee

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

- Proposed full company name, ending with 'Limited' or 'Ltd'. No two companies may have the same name. You can check the availability of your proposed company name at: <http://www.companieshouse.gov.uk/>
- Registered office address. This is the official address for the company to which all correspondence for the company will be sent.
- Director details. Your company must have at least one director who is an individual and not another company who is over 16 years old. 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 address for official documents; (v) usual residential address (if different to official address); (vi) country/place of residence; (vii) date of birth; (ix) nationality; and (x) occupation.
- 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.
- First member/subscriber details. In relation to each you will need to provide the amount(s) guaranteed. We will discuss this with you. You will also need to provide the members' full name and full address.

Process, documents required and timetable

Using the information provided by you, we will prepare the following company incorporation documents:

Head Office
Heathervale House
2-4 Vale Avenue
Tunbridge Wells
Kent TN1 1DJ
T 01892 510000
F 01892 540170

Thames Gateway
Corinthian House
Galleon Boulevard
Crossways Business Park
Dartford
Kent DA2 6QE
T 01322 623700
F 01322 623701

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- 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 members.
- Memorandum of Association. This is a short document which must be signed by each of the proposed members to confirm that they agree to form the company.
- 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 convening of meetings 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 and these must all be on the same document.

After the documents have been signed, they 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

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

For further information, please refer to your usual contact at Thomson Snell & Passmore. Alternatively, please contact the author, Joseph Hartland, a solicitor in our Corporate and Commercial team, on 01892 510000 or email at:

joseph.hartland@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. It is based on the law applicable at March 2019.

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