



## Legal Issues of Setting up a Limited Company

There are many steps to take in setting up a limited company. This help sheet is not exhaustive but sets out areas to cover and consider.



### Is a Company Required?

Before setting up a company, consideration needs to be given to whether partnership or sole trade status might be more appropriate. Chief factors in this are taxation, limited liability, formation and annual maintenance costs, protection of name and other commercial matters. For more guidance on this please refer to the separate help sheet "Incorporation".

### Naming the Company

As company names cannot be duplicated you must check the availability of your desired name with the Registrar of Companies. It is possible to have some variations on existing names but they must not infringe on any trademark or restriction under the Insolvency Act. You cannot pass off as the other company however.

Other restrictions on names include certain terms such as International; National; Countries; Authority; Board; Council; Association; Society; Institute Chartered; Registered; Assurance; Charity and many more terms implying specific objects or functions.

### Memorandum of Association

Each company must have one of these in the relevant statutory format. The memorandum sets out the company's objects, country of origin, whether the members liability is limited and the amount of share capital to be registered and its division. The Memorandum must be signed by at least two subscribers. Their addresses and shareholding must be detailed. The signatures must be witnessed and the witnesses names and addresses given.



### Registered Office



A decision must be made as to the initial registered office. This must be in the country where the company is registered.

## Articles of Association

These set out the rules and regulations governing the company and its shareholders. They must be in a standard form as prescribed by regulation. It is usual for a private company to adopt the standard form with specific amendments to suit the company. On occasions special Articles to provide for pre-emption rights on share transfers, powers of directors and other matters, will be appropriate. As an alternative to special articles, powers binding the shareholders can be conferred by a Shareholders' Agreement. This is a separate legal document. Please refer to the Monahans help sheet "Shareholders' Agreements" for further assistance.

The same signatures to the Memorandum must sign the Articles and be witnessed as such.

## Submission of Documentation to the Registrar of Companies

To register and form the company



You must submit:

- The Memorandum of Association
- Articles of Association
- Form IN01- detailing first director(s) and secretary with their consent to act and declaration of registration compliance with Companies Act 2006.
- A £20 cheque to meet the registration fee.

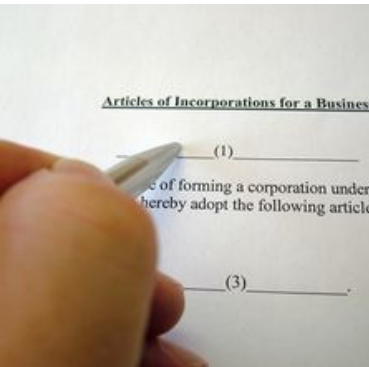
It is possible to buy a company package that will cover these requirements. Costs vary depending on the package selected. They can also include statutory books and company seals.

## Forms to be Filed with the Registrar of Companies

To activate the company

- Forms AP01 and TM01 – notifying of directors appointments and resignations.
- Form SH01 – detailing number and class of shares allotted and allottee details.
- Form AA01 – to be completed to change the accounting reference date ("year end") from the anniversary of incorporation.

## Certificate of Incorporation



This is conclusive proof that the requirements of the Company's Act 2006 have been complied with. Business can commence on issue of this. It must be kept in a safe place for future legal transactions. Your bank will want to see this.

## Company Seal

A decision must be made to adopt the company seal or not. If it is adopted, the first board minutes should reflect this.



## Statutory Books

Arrangements should be made for the maintenance of the statutory books and registers. This will involve registering transfers, directors, secretaries' interests, debentures, mortgages and charges. Directors' and shareholders' minutes will also be recorded and filed.

## Board Meeting

After incorporation a board meeting should take place. This will record, where relevant, new directors, secretaries, registered office, auditors, share allotments or transfers, accounting reference dates and disclosure of directors' interests. Adoption of a bank account and VAT registration may also be recorded.

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## Company Stationery

All business letters, notices and other publications of the company, including cheques, orders and invoices must state the company name. Business letters and orders must state the company's place of registration, company number and registered office. The names of directors need not be shown but if they are, then all directors must be listed.

It should also be noted that external e-mails are business letters for these purposes so require the same information to be displayed.

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## Auditors

If the company exceeds the audit threshold, consideration should be given to the appointment of auditors.

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## VAT and PAYE

If the company is to make sales over £73,000 per annum you will need to register for VAT. You can also register voluntarily if you do not reach this threshold but make sales. Before registration you will need to have a company bank account in place.

PAYE registration will be required if the company employs anybody, even if only the directors are employed.

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## Insurance

Employer's Liability Insurance is a statutory requirement if the company has employees. Consideration should be given to what other insurance is required.

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## Employees

If any employees are working more than eight hours a week they must be given details of their employment terms within two months of starting.

If more than four people are employed a statement as to the policy on health and safety matters is required.

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## Other

Applications for trademarks and patents should be considered as should whether registration under the Consumer Credit Act 1974

For further advice and assistance

Please call your normal contact at Monahans for further information or help on this matter.

[www.monahans.co.uk](http://www.monahans.co.uk)