

## Forming a Limited Company

**Although you can set up a company using your own resources, it is normally advisable to use a specialist formation agent. You first need to decide on the following:**

- Whether the company is to be a private or public company limited by shares, or a private company limited by guarantee
- The purpose of the company and its capital requirements
- Whether the proposed company name is available and acceptable

### Incorporation procedures

The Companies Act 2006 sets out exactly what documentation is required for forming a company, and it is very different from that which was previously needed.

An application to form a company is made on Form IN01. This has to be accompanied by a Memorandum of Association (see below), the Articles and the correct registration fee.

The Memorandum of Association is a short document, serving the limited purpose of evidencing the intention of each subscriber to form a company and become a member of that company. Companies are no longer required to specify their objects, and the concept of authorised share capital has been abolished.

New Model Articles have been introduced. There are three types, as follows:

- Private company limited by shares
- Private company limited by guarantee
- Public limited company

They are written in plain English and are shorter and simpler than 'Table A' (which has been around in various forms for the last 150 years). In practice, companies can be formed using either Model Articles, Model Articles with amended provisions, or bespoke Articles.

Companies incorporating as limited by shares (whether private or public) must complete a *statement of capital and initial shareholdings* as part of the formation documentation. The statement of capital is a new document. It is a 'snapshot' of a limited company's issued share capital at a given time. It also needs to be provided in various other circumstances, including as part of the application to incorporate and with each annual return.

### Directors

A company must have at least one director who is a natural person aged 16 years or over. For each director who is an individual, the following information must be provided:

- full forename and surname

- any former name(s) used for business purposes, including maiden name(s) and previous married name(s)
- full service address including town, county and postcode (for the public record)
- usual residential address (protected information)
- country/state of residence
- date of birth
- nationality
- occupation
- the number of shares, if any, the director is to have in the company
- security items from the criteria required by Companies House (if the company is formed electronically)

## Shareholders

The following information must be provided in relation to each shareholder:

- full forename(s)
- surname
- full address including town, county and postcode
- the number of shares the shareholder is to have in the company

## Directors' Service Addresses

Directors (and company secretaries where applicable) of both existing and new companies now have the right to set out a service address rather than their usual residential address. The service address may be the company's registered office.

Individual companies have to maintain two registers of directors – one containing, amongst other things, a service address for each director, and a further register containing the residential address of each director (protected information).

Home addresses are no longer put on public record by the Registrar of companies. Companies House still hold a register of residential addresses, but access will be very strictly limited (eg liquidators, the police, HMRC and credit reference agencies). If no action is taken, the residential address will automatically become the service address until the information is provided in the next annual return.

If formation agents have been involved, they will normally provide copies of the relevant documents, together with suggested minutes for the directors' meeting, a form AA01 (change of accounting reference date) and forms SH01. They usually also supply the *Statutory Book* - a combined register, and minute book (in loose leaf or bound form), and some blank share certificates.

## Post incorporation matters

### *First meeting of directors*

Once you receive the Certificate of Incorporation, you should hold a first meeting of directors to deal with the following matters:

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- appointment (if appropriate) of a chairperson, managing director, and any additional directors, and approval of any employment contracts
- appointment (if appropriate) of auditors
- issue of share certificates and, if appropriate, allotment of further shares
- approval of banking arrangements, including agreeing authorised signatories in respect of the Company's bank account and passing the resolutions required by the bank
- approval of any business contracts
- disclosure by directors of their interests in any contracts made with the Company
- adoption of an accounting reference date
- convening of a general meeting (if required)

### *First general meeting*

A first general meeting of the company is required:

- to approve any substantial property transaction between the Company and any of its directors
- to approve any directors' service contracts to be entered into for terms exceeding five years

### *Returns*

After the first board and general meeting, you should make the following returns to the Registrar of Companies:

- Form SH01 (Return of allotments of shares)
- If necessary Form AA01 (change of accounting reference date). Failure to notify a change will result in the Company's accounting reference date becoming the anniversary of the end of the month of incorporation

### **Other matters**

- Minutes of the first board and general meeting should be prepared
- The Company should issue share certificates
- The Company's statutory books should be written up
- Shareholders should pay their share capital into the Company's bank account
- Don't forget to register for PAYE and VAT, if appropriate.

Please contact us if you would like us to help with the setting up of a company.