

## **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 or an accountant (Garbetts can do this for you). 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

You will need to complete the following forms:

- Statement of first directors, secretary, and registered office (Form 10)
- Memorandum of Association, including details of the subscriber(s)
- Articles of Association, including relevant rights and restrictions on shares of each class (if more than one), and conditions relating to directors
- Statutory Declaration (Form 12), which has to be signed in the presence of a Notary Public, Commissioner for Oaths, or Justice of the Peace

Send the completed forms to Companies House with a cheque for the necessary fee, and the Certificate of Incorporation should be issued. A private company may begin trading activities from the date of issue of this certificate.

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 225 (change of accounting reference date) and forms 88(2). 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:

- 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
- disclosure in writing by the directors of their interests in shares or debentures of the Company and associated companies
- adoption of an accounting reference date
- convening of a general meeting (if required)

#### *First general meeting*

A first general meeting of the company will be 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 88(2) (Return of allotments of shares)
- If necessary Form 225 (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.

In special circumstances you might have to make the following returns:

- Form 123 (Notice of increase in nominal capital) and a copy of the resolution authorising the increase
- A copy of any new or altered Memorandum or Articles, and special resolutions passed
- Form 318 (Notice of place where copies of directors' service contracts or memoranda thereof are kept)
- Form 325 (Notice of place where register of directors' interests in shares etc. is kept) where appropriate

## 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.
- Consider proposing elective resolutions to dispense with the need for annual general meetings and the laying of accounts and reports before a general meeting.
- Consider using written resolutions in place of general meetings

If this all looks daunting, we can help you through it – see [www.garbetts.com/companyformations](http://www.garbetts.com/companyformations)

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