



Forming a company?



Starting out on your own

Setting up a business to own, manage and develop yourself has many attractions. Independence, challenges and excitement; meeting new people and new situations; financial rewards if your business takes off...

But running your own business also means hard work, determination and new responsibilities. Setting it up alone requires research, judgement and some important decisions...

A company of your own

Should I run my business as a 'company'? How do I go about it? Finding the answers to these questions can be time-consuming and confusing. This guide will help you understand the benefits and obligations of owning a company, and show how you can set one up.

Why have a company?

There is one big difference between a company and a sole trader business or a partnership. It concerns the role of the owner.

In a sole trader or partnership structure, you and the business are 'one' – in one common 'pot'. You own the goods you supply; your customers owe money to you. You personally make a profit and you are taxed personally on it. You are liable for business debts and losses, and in a partnership you're liable for your partner's debts and actions too.

A limited company is different – it's a separate corporate body. Your company provides goods and services (not you directly) and your company is owed for them. Your company takes on debts and owns or leases property. If it makes a profit, the company pays corporation tax.

When you form a company, you become its owner. It is an asset – like property – which you can dispose of as you wish. As a director, you become an employee of your company, creating its success and value, and taking a salary and profit after tax. But if things go wrong, you are not responsible for its losses.

This protection from loss – called limited liability – is the most significant advantage of trading as a company. But it brings responsibilities which you are legally obliged to fulfil, and penalties if you don't.



The advantages and disadvantages of owning a company

Limited liability

If your business fails, limited liability can protect you from personal loss or even bankruptcy – which a sole trader could not avoid. Unless you have given a personal guarantee for a particular transaction, or acted illegally, the debts are the company's and not yours.

Commitments and liabilities for raw materials, wages, premises or leases are better covered under limited liability.

A unique trading name

When you register your company name, it must be unique. For as long as your company exists, the name can never be copied by another company.

Prestige and status

There is something about owning a 'company' which owning a 'business' doesn't quite have. A company is seen as more prestigious. This may be just a perception, but it can affect the behaviour of clients, customers, suppliers and employees.

Ownership and continuity

A company is easier to value, buy and sell because its ownership is known precisely. A company's owners are listed officially, alongside information about the proportion of the company (or shareholding) they own. As a result, the relationships between joint company owners are less complex than those in partnership agreements.

A company share can be sold or given away in a will.

Setting-up costs

Forming a company is not expensive – a small sum compared with the investment you'll need to establish your business.

Published information

Companies only need to have their accounts audited by a chartered or certified accountant if they have a turnover of more than £1m and gross assets of more than £104m. Below those levels, companies need only file limited information called 'Modified Accounts'. They can request an audit, but it is not required.

Many suppliers prefer to deal with a limited company rather than a sole trader. This is because they can check up on the financial standing of a company.

Assets and income

A sole trader owns the business assets personally and can make cash 'drawings' as required. In contrast, company assets belonging to the company must be used for company business. 'Drawings' are now taken as 'salary' – plus dividends, after tax.

Taxation and National Insurance

Company directors are normally counted as employees of the company and will pay tax through PAYE.

Forming a company

There are several types of company: limited companies, public limited companies (PLCs), guarantee and charity companies, limited liability partnerships (LLPs), offshore companies, and more. The information that follows concerns the most usual form: the private limited company (LTD).

The creation and running of a company is governed by various laws. For formation, every company must have:

1. A unique name

2. The right people

Owners: A company need only have one owner, but there are usually at least two. Owners are called 'shareholders' or 'members'. All shareholders are listed in the company's Register of Shareholders.

Directors: Officers must be appointed to manage the business. These are 'directors'. In most companies, the directors are also the shareholders.

A company secretary: Although not compulsory, this is the officer responsible for maintaining all statutory information about the company.

The Companies Act 2006 now allows just one person in business alone to operate and own a limited company as its sole director and shareholder. This gives an individual in business considerable protection and control.

3. A specific location

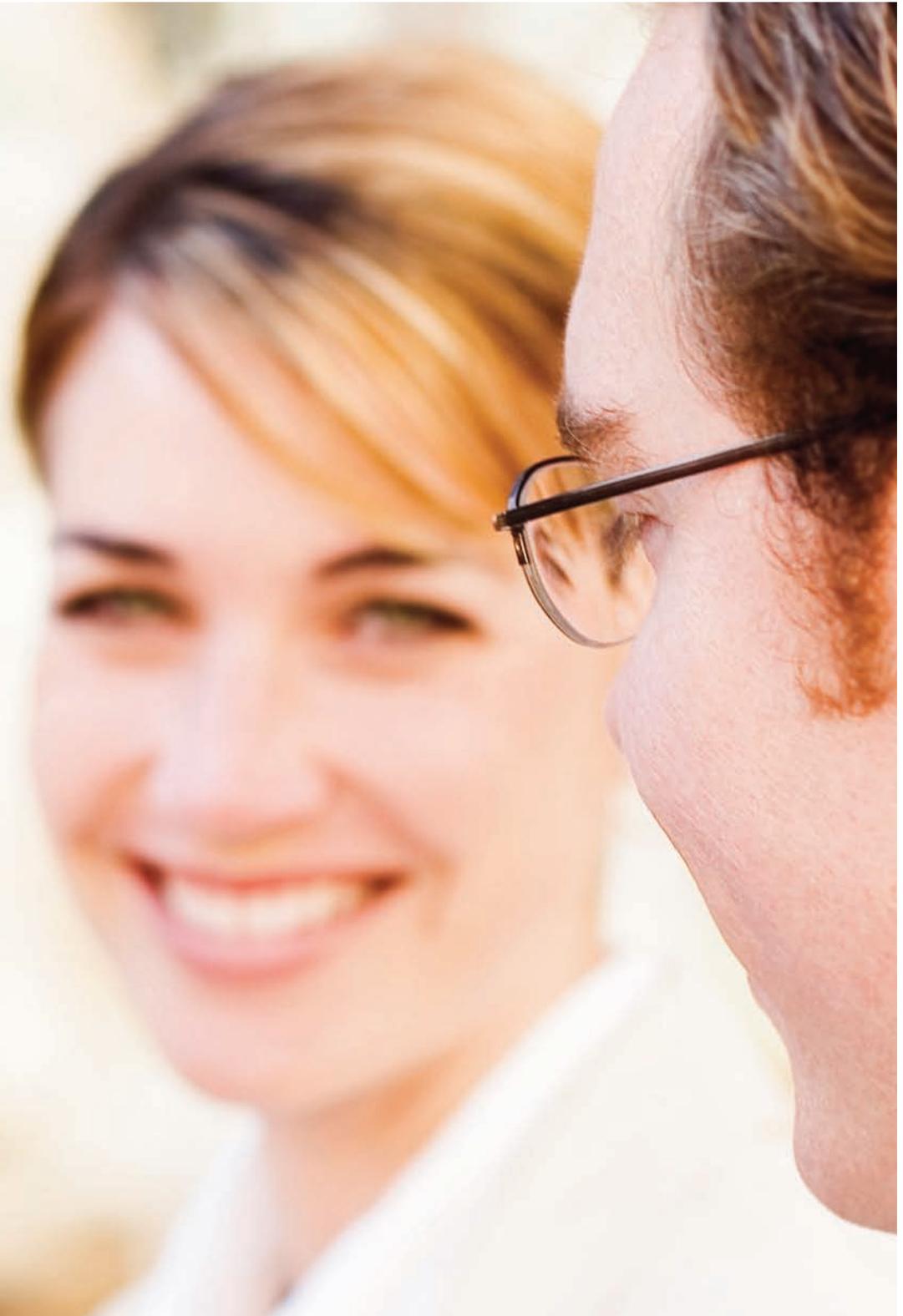
The 'registered office' is the legal address of the company (not necessarily its trading address) to which Companies House, HMRC, customers, suppliers and the public can send documents and assume they have been received by the company directors. At this address, details of shareholders and officers must also be available.

4. Service address

If you wish to keep your private address off the public record you can use our 'service address'.

5. Governing Documents

The regulations governing the management and the capital of the company must be clearly defined in documents called the Memorandum and Articles of Association.



How to form your company

I. Gather your details

You will need:

- the company name
- the people
 - names of the shareholders
 - names of the directors
 - name of the company secretary
 - dates of birth
 - colour of eyes
 - town of birth
 - mother's maiden name
- a registered office address
- Memorandum and Articles of Association
 - objectives
 - shareholding details i.e. number of shares.

These details can be completed easily using our application form.

2. Choose your unique company name

You are free to choose almost any name you want for your company, as long as it:

- is not the same as another name on the register. You can check this by carrying out a name search
- is not offensive
- does not constitute a criminal offence
- does not give the impression that your business is connected with the government or a local authority.

What to watch out for

There are certain words and expressions – such as ‘international’, ‘royal’, ‘architect’ and so on – for which special permission must be obtained from the Secretary of State or other institutions. This is to stop companies implying they are bigger than they actually are, or pretending that they offer services which they don't. If unsure of your choice of name, you can check with National Business Register: www.start.biz.

Beware of creating a name which is similar to another company's. An existing company has 12 months in which to complain to the Secretary of State that a new name is ‘too like’ theirs. Many new companies have had to change their name when this happened, which is often an expensive experience.

Names can be considered ‘too like’ others if they are phonetically identical, use similar spelling or have a similar distinctive element. Companies House will not check for ‘similar’ names, only ‘identical’ names. So choose carefully and be sure to make use of National Business Register's specialist free search facilities.

Beware of ‘passing off’. This is when any business – a company or otherwise – copies another, even in ignorance. Passing off any business name, trade mark or brand can cause customer confusion or damage to an existing business, and its owner may sue. That's why it's good to make use of National Business Register's comprehensive search services before you form your company.

If your business is likely to require a licence under the Consumer Credit Act (see page 10), its name must be different to all other licences registered with the Office of Fair Trading. We can check this register before you make your final choice of name.

If you plan to trade under a name other than your registered company name, you must comply with the Business Names Act 1985 by disclosing your company details (name, number and registered office address) at each of the premises you occupy, and on all your letterheads, invoices, receipts, orders and websites.

Once you have chosen a name, check with National Business Register that it is available, and that it won't cause you any legal problems.

3. Add your people to the forms

Once you have decided on the members, directors and secretary of your company, their details can be added to the necessary forms.

What to watch out for:

Anyone over the age of 16 can be a director, unless they are an undischarged bankrupt or are subject to a disqualification order. If you are not familiar with your directors' backgrounds, it's a good idea to check them out.

The duties of a company secretary include completing various annual reports - see page 8. For an annual fee, we can take on this role for you. Please note that failing to provide certain information on time is an offence. Late filing of annual accounts, for example, will result in a fixed fine.

4. Decide on your registered office

Your registered office need not be your trading address. For an annual fee, companies often use the address of their accountant, solicitor or National Business Register as their registered office.

5. Service address

If you want to keep your private address off the public registers, you can use our address as your legal address, this is called a service address.

What to watch out for:

If you opt for a 'hired' address, be sure to check the annual fee. Also check that the premises will meet the legal requirements in displaying your company details.

6. Complete your Memorandum and Articles of Association

The Memorandum and Articles of Association set out the objects and rules for your company. To save time and money for you, National Business Register uses a standard general objects clause which allows your company to take on any nature of business it wishes to take on.

Capital and shares

You need to decide on the amounts of both capital and shareholdings in your company. Share capital means how many shares could be available to issue and not its actual liability.

Most companies are formed with £1000-worth of capital, which equates to 1000 shares divided into £1 allocations. You can choose a higher figure if you wish and this does not affect the liability or cost of setting up your company.

The 'liability' is how many shares you choose to issue out of the share capital. An issue of 100 shares is often a very good figure to work with: when someone has 20 shares they know they have 20 per cent of the company.

The way shares are divided out represents the division of company ownership. If one member needed to ensure control of the company, they would have to own 51 per cent or more of the shares issued.

Registration

Once you have completed the previous steps, and assuming that your proposed name is acceptable, National Business Register will register your company. We will get you a registration number, add you to the official company register and give you a Certificate of Incorporation to be displayed at your registered office. Your bank will also need a copy of this certificate.

Requirements after registration

Once your company is registered, you must set up the following:

Nameplate

You must display a company nameplate at your registered office address.

Statutory books

Your company must obtain statutory books in which to keep your Register of Shareholders, and later the minutes of your annual general meetings, and so on.

PAYE registration

HMRC will contact you to register for PAYE purposes. As a director you are also an employee, so you must register for PAYE even if you do not employ anyone else.

VAT registration

Unless your company turnover will be below the minimum rate, you must register for VAT. This can be done by us.

Business stationery

Your company name, registration number and registered office address must be shown on all stationery and on your website. If applicable, your VAT registration number should be included on all invoices and statements.

If you are trading under a different name from your registered company name, more details are needed in order to comply with the Business Names Act. Directors can lose their limited rights if they get this wrong, so check that everything is done correctly.

Accounting date

The company secretary or your accountant should inform Companies House of your 'accounting date' – that means the end of your company's first financial year.

Share certificates

National Business Register will issue share certificates and detail these in the Shareholders Register for you.

Regular and annual requirements

Once your company is fully established, you must meet a number of statutory requirements on an ongoing or annual basis. Your company secretary is responsible for ensuring these are carried out.

1. Change of company details

Companies House must be notified of any changes to your company ownership, officers or registered office address and service address.

2. Registers

The register of Shareholders and Register of Directors must be kept up to date at the registered office, and share certificates issued as appropriate.

3. Company meetings

The minutes of your annual and general meetings must be kept in your company's statutory books.

4. Accounts - book keeping

Books must be kept up to date, reflecting the current financial position of your company. It's good to talk to your accountant early on to make sure you are recording everything correctly.

5. Annual accounts

Annual accounts must be prepared, for Companies House and HMRC. These must be signed by a director and (if applicable) your company's auditor. Companies House must have a copy of your company's accounts within ten months of the end of its financial year. Late filing penalties apply.

6. Annual return

The annual return confirms the current details of your company. You can either file this online or by paper form together with the current fee.

7. Service address

If you are using our service address make sure all details are kept up-to-date.



Forming or purchasing a company

Most companies are formed or purchased through a company formation agent, such as National Business Register.

The advantage of using National Business Register is that we can advise on company names as well as carrying out company searches, ensuring forms are completed correctly, providing objects, Memorandum and Articles, nameplates, statutory declarations and so on.

We can create companies in two ways for you: 'ready made' (sometimes called 'off the shelf') and 'tailor made'.

Ready-made companies

The advantage of buying a ready-made company is speed. It will be brand new and registered with a fixed-share capital (usually £1,000) and a general objects clause. 'Nominees' will already have been listed as members and directors, and we simply replace their names with yours.

We have comprehensive name lists of ready-made companies for you to choose from. You can trade with your ready-made company as soon as you've purchased it, which takes just a few hours.

The disadvantage of ready-made companies is that you may not find a name specific to your business. You can trade under a different name if you wish, but you must meet the requirements of the Business Names Act. Or, for an additional charge, you can change the company name to the name you want.

Tailor-made companies

Your tailor-made company is produced exactly to your requirements, with your choice of name, shareholdings and directorships recorded and registered at the outset. Our sophisticated systems allow us to transmit all your data straight into Companies House.

We also offer an 'Express Service', emailing your new Certificate of Incorporation and Memorandum and Articles of Association to your desktop.

All instructions received in the morning are completed in a couple of hours. This super-fast service gets your company up and running immediately.

Nominees

If you are unsure about directors and shareholdings, we can act as your nominees to get your company formed immediately for you.

Service address

You can use our address as your own thus keeping your private address completely private. As it is not on the public record it also prevents conflict with any mortgage, or county court judgements being registered at your home address.

Company Kit

The 'Company Kit' we give you is unique and neatly packs every document you need in a smart attaché case.

We provide originals of the following documents:

- Certificate of Incorporation
- Memorandum and Articles of Association (six sets)
- statutory books and company register, completed and bound
- share forms
- annual accounting notification
- share certificates, completed with your details
- first minutes of your company meeting
- copies of company appointments
- any other resolutions or notices.

Our services

As the leading UK company formation agent, National Business Register offers the most comprehensive service available. We can supply either a tailor-made company or a ready-made company to suit your needs.

Company formation

Our company formation services include a free company-name search, the completion of all registration requirements, and your Company Kit – an attractively packed attaché case with every document you need to start trading.

Registered office address facilities

We can provide you with a registered office.

Company secretary service

The role of a company secretary is vital, but the responsibilities can seem daunting. We can give you an efficient company secretary service and advise Companies House of any change in your company details.

Service address

We can provide service addresses to keep your own residential address private.

VAT registration

We can organise VAT registration for you.

Company nameplate

Our services to you as a new company owner cover even the tiny details, such as providing you with a company nameplate. You may choose from a wide range of nameplate styles.

Internet services

We can register domain names on your behalf, set up email facilities and design websites – just ask for our ‘Need a website?’ brochure.

Business name and trade mark search and registration

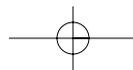
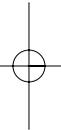
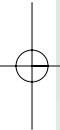
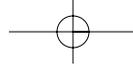
A simple name check will not guarantee you absolute ‘ownership’ of a name, nor will it protect you from possible ‘passing off’ claims against your chosen name.

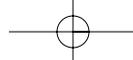
That’s why we offer a thorough check of all business names, company names and registered trade marks. We can also arrange to register your trading name or any product name as a trade mark on your behalf, and we strongly recommend carrying out trade mark searches.

Consumer Credit Act search and registration

If your company is in any way connected with transactions where customers are given time to pay (for example, if it sells on credit, hires or leases out goods, lends money, issues trading checks or credit cards, arranges credit for third parties, offers HP terms, collects debts, helps others with debt problems or advises on the credit standing of individuals) you may need a Consumer Credit Act (CCA) licence from the Office of Fair Trading.

Every trading name licensed by the Office of Fair Trading must be different – and over 500,000 licences have already been issued! So if your company is likely to need a CCA licence, we can check the register for you and apply for a licence on your behalf.





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