Establishment of a business in the United Kingdom by a foreign corporation

Contents

Scope of this note

This note describes in outline the laws and taxes which currently apply to a foreign corporation establishing a business operation in the United Kingdom and the administrative requirements which need to be observed once the business is established. It reflects the law as at 9 December 2025.

The Companies Act 2006 (the "CA 2006") provides for a single company law regime applying to the whole of the UK. The Channel Islands and the Isle of Man have separate legal systems and this note should not be used as a guide to the establishment of business in those jurisdictions.

The three methods of establishment considered in this note are:

- the incorporation of a subsidiary company;
- the establishment of a "branch" office either of the foreign corporation itself or of a subsidiary or affiliated company resident outside the UK; and
- the appointment of a person or corporation which is resident in the UK to act as an agent.

An additional alternative is to acquire an existing UK business or company. Although detailed consideration of this alternative is beyond the scope of this note, some brief comments are contained in Appendix I.

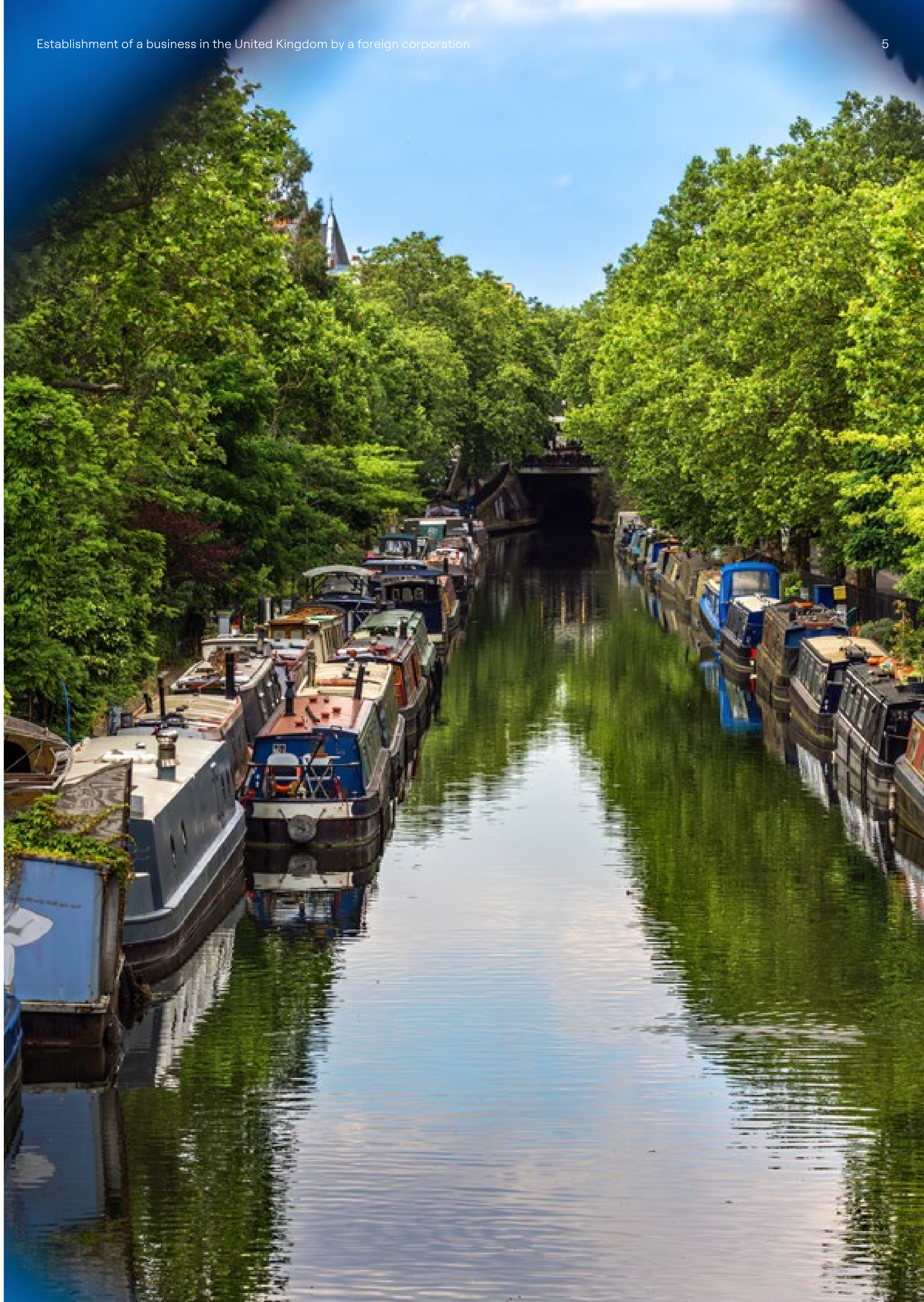
Where this note discusses the incorporation of a subsidiary company, it deals only with the establishment of a trading company limited by shares. Special requirements apply to certain types of company (for instance investment companies, insurance companies, banking companies, unlimited companies and companies limited by guarantee), and these are generally not considered.

Grants and financial assistance

Certain grants and other financial assistance are available under schemes established or supported by the British Government to encourage the establishment of new business ventures in certain areas of the UK. This note does not attempt to deal with these issues but such factors can play a large part in determining the location of any new venture. Further information can be found in the "Finance and support for your business" section at https://www.gov.uk/business-finance-support

Exchange controls

There are currently no exchange control restrictions on inward direct or indirect investment in or on the repatriation of funds from the UK by foreign individuals or corporations or on repatriation of funds by dividend, loan repayment, or any other means.



Establishing a subsidiary company

Legal formalities

Types of company

The vast majority of companies will be registered as limited companies of which there are two types: public limited companies (“PLCs”) and private limited companies. The liability of a limited company’s shareholders (or members) will be limited to the amount they agree to put into the company as capital (for example, when they subscribe for shares). This money can only be returned to the shareholders when the company is wound up and all other creditors have been paid. In contrast, the liability of the members of an unlimited company is not limited. Therefore, in the event of insolvency, the members will have to contribute such funds as are necessary to clear the debts of the company.

Before registering a company and issuing a certificate of incorporation, the Registrar of Companies must be satisfied that all the requirements of the CA 2006 in respect of registration have been dealt with. Issues which may hold up the process at this stage include the use of a sensitive company name or the allotment of initial shares in a PLC for consideration other than cash (such as on the acquisition of shares in another company or for an existing business) or the identity verification of new directors or persons of significant control of companies (as discussed later in this note). It is therefore important to assess carefully any such issues beforehand and ensure that the documentation is properly prepared. For example, checks can be made on the proposed company name prior to submission to the Registrar and, in the case of a PLC issuing shares for consideration other than cash, an expert’s report valuing the consideration should be arranged. Furthermore, as discussed later in this note, the minimum issued share capital requirement of £50,000 (of which £12,500 must be paid-up) for a PLC often poses practical problems. A company cannot trade until the appropriate documentation has been filed at Companies House and a certificate of incorporation has been issued.

Private company

Companies are usually incorporated, at least in the first instance, as private limited companies. Such companies are generally limited by shares, but may be limited by guarantee. The company name must end in the word “limited” (or the abbreviated form “Ltd”).

Generally, the form and structure of a private limited company is the same as that of a PLC, however the obligations under English company law tend to be less stringent than those imposed on a PLC. It is normal practice to incorporate a wholly-owned subsidiary company as a private company.

The main operational difference between private companies and PLCs is that private companies cannot offer their shares to the public. Therefore, a company must assess the advantages of potentially being able to raise a greater amount of capital against the disadvantages of increased administrative burdens and disclosure obligations.

Private companies can re-register as PLCs further down the line provided certain requirements are met, and PLCs can also re-register as private companies.

Public company

A PLC must state in its memorandum that it is to be a public company and must include the words “public limited company” (or the abbreviated form “PLC”) at the end of its company name.

The principal advantage of a PLC is that it is able to offer its shares and debentures to the public and to have them admitted to trading on a market operated by the London Stock Exchange or other securities’ markets. It is only if the company wants to take advantage of these measures that it will be incorporated initially as a PLC, and even then there may be advantages in incorporating the company as a private company and converting it into a PLC at a later date.

However, to register as a PLC, the company must have a minimum issued share capital of £50,000 and at least one quarter of the nominal value of each share (and the whole of any premium) must have been paid to the company. Therefore, a PLC must have a paid-up share capital of at least £12,500 from the outset. This minimum amount must be issued in pounds sterling (or Euros), but shares issued above this threshold may be denominated in different currencies at the option of the PLC. PLCs are not entitled to do business, or exercise any borrowing powers, until the Registrar of Companies has issued an additional certificate confirming that they are satisfied the company complies with these minimum capital requirements, but this will normally be issued at or very shortly after registration.

In contrast to private companies (for which the company secretary requirement is optional) PLCs are required to have a company secretary, who must be a suitably qualified person such as a solicitor, accountant or qualified company secretary.

For the remainder of this note, references to a company are references to a private company limited by shares, unless stated otherwise.

Registration and Government control

The register of companies incorporated in England and Wales is kept by the Registrar of Companies, a public official based at the Companies Registration Office in Cardiff ("Companies House"). Registers of companies incorporated in Scotland and Northern Ireland are kept in Edinburgh and Belfast respectively.

Documents relating to any company incorporated in the UK are filed with the appropriate Registrar and are available for public inspection. Copies of recent documents relating to English companies are stored as electronically scanned images and are available from Companies House.

Under the Economic Crime and Corporate Transparency Act 2023 ("ECCTA"), which received Royal Assent on October 2023 and is being implemented in tranches, the statutory role of Companies House has shifted from a passive recipient of information to a more active gatekeeper over company formation and as a custodian of more reliable data. ECCTA empowers Companies House to improve the accuracy and integrity of information on the register.

Company law and administration is for the most part under the supervision of the Department for Business and Trade ("DBT").

A company's constitution

The way in which a company is run is mainly dictated by the company's constitution, which sets out the powers delegated to the directors and those reserved for the shareholders. A company's constitution includes its articles of association and any resolutions or agreements affecting its constitution. There are standard "Model Articles" that will apply (discussed further below) if a company so chooses or fails to cover a particular matter, but usually a company will adopt its own tailored constitution. Usually the constitution will not be altered very frequently, but it is possible for the shareholders to do so by passing resolutions (discussed in detail on page 19).

Memorandum of association

Companies are required to file a prescribed form memorandum which consists of a statement by the subscribers that they wish to form a company under CA 2006, agree to become members and agree to take at least one share each.

Articles of association

A company must adopt articles of association ("articles") on its incorporation which will set out detailed rules regulating procedures for its internal management.

The articles will generally cover such matters as:

- the alteration of share capital;
- the powers and duties of directors;
- proceedings at meetings of the board of directors;
- the declaration of dividends;
- the issue and transfer of shares;
- procedures to be followed when calling general meetings and voting at them; and
- the appointment and removal of directors.

Model forms of articles (known as "Model Articles") are prescribed by legislation and taken to be adopted if no other articles are registered on incorporation at Companies House. There are three sets of Model Articles – for private companies limited by shares, private companies limited by guarantee and PLCs. Model Articles can be adopted in full or they can be adopted in part so that a company's articles incorporate most of the provisions of the Model Articles by reference, but which include specific provisions that make certain adaptations, dependent on each company's particular requirements. In the case of subsidiaries, there are a number of standard changes that are normally adopted such as arranging for the appointment (or removal) of directors to be by written notice from the holding company without the need for company meetings. In most cases, however, it may be more appropriate to adopt a full set of bespoke articles and to exclude specifically the application of the Model Articles. This is because the private company Model Articles are drafted for a simple company with few shareholders. The Model Articles must be excluded in this case because they will apply by default if they cover something not in the bespoke articles.

Incorporation of a new company

A company is incorporated under UK law by registration with the relevant Registrar of Companies for England and Wales, Scotland or Northern Ireland.

Notaries play no part in the incorporation of companies in the UK, nor do they have any responsibility for keeping or authenticating documents.

Incorporation procedure

Appendix II sets out the basic information required to incorporate a company.

The incorporation procedure may be summarised as follows:

- Adoption of a company name

  The Registrar will accept for registration any name which is not the same as one already on the Register and which does not contain any of a list of prescribed words and expressions. In addition, certain other words (which include, for example, 'international', 'association' and 'United Kingdom' (but not 'UK')) may only be used with the prior consent of the Secretary of State or some other designated authority. Such consent must be filed with the papers for registration. On 4 March 2024, the ECCTA introduced further changes to the company and business names regime, expanding the circumstances in which company names can be prohibited. These now include, amongst others, company names that are intended to facilitate a criminal purpose, names suggesting connections with foreign governments, and names containing computer code.

- Subscription of the memorandum and articles

  The memorandum and articles of the company must be signed by the person or persons who are to be the first member or members of the company. This is known as 'subscription'. In the case of a private company (or, although less common, PLCs), such subscription is frequently carried out by solicitors or registration agents who form the company with the intention of transferring the shares before the company commences business. In this situation, it is usual to incorporate the company with a single subscriber who will agree to take up one share.

  Companies limited by shares are not required to submit bespoke articles signed by the subscribers. If no articles are filed, the company will be deemed to have adopted the Model Articles by default. Most companies, however, prefer to make at least some modifications to these standard articles.

- Filing of documents with the Registrar of Companies

  The signed memorandum and articles must be filed with the Registrar together with an application to register (Companies House Form IN01), which for incorporation contains the required information and statements. This includes a statement of capital and initial shareholdings which provides information on the company's share capital including total number of shares and their aggregate nominal value. It also includes details of the proposed officers of the company, a compliance statement that the CA 2006 requirements for registration have been met, and a statement confirming that the subscribers wish to form the company for lawful purposes.

  An incorporation fee of £124 is required for paper submissions. Electronic incorporation is also possible at a standard fee of £100 or £156 for same day incorporation. Incorporation using the Companies House web-filing service is available for private limited companies using Model Articles at a cost of £50 using the www.companieshouse.gov.uk website. Same day incorporation is not currently available for paper submissions or through Companies House web-filing. *https://changestoukcompanylaw.campaign.gov.uk/changes-to-companies-house-fees/*

- Certificate of incorporation

  After the Registrar has examined the papers and is satisfied that the formalities have been properly carried out, a certificate of incorporation will be issued. This is conclusive evidence of the due incorporation and establishment of the company and (except in the case of a PLC) entitles the company to commence business immediately.

- Trading certificate

  If the company is a PLC, a certificate must also be issued by the Registrar confirming that they are satisfied as to compliance with the minimum capital requirements, on receipt of which the PLC may commence business.

Additional incorporation requirements

- Shareholders (or 'members')

A company (private or PLC) must have at least one shareholder.

- Directors

A PLC must have at least two directors, and a private company must have at least one director. Given the fiduciary responsibilities of directors, it will often be preferable to have a number of directors. There is no restriction upon the nationality or residence of directors. Directors can be either individuals or corporations, although every company is required to have at least one director that is a 'natural' person of at least 16 years of age.

From 18 November 2025, all individual directors, (including those of overseas companies with UK branches or establishments) have to have their identities verified in accordance with ECCTA before the company can be formed. Directors and other individuals subject to identity verification are only required to have their identity verified once. Once verified they are issued with a unique identifier number which, when presented, will satisfy the Companies House identity verification requirements for all companies or other firms in relation to which the director or other individual is required to verify their identity. An individual can have their identity verified using one of the following pathways:

- Direct, free of charge, Companies House service, through either on-line verification, or in-person verification at a Post Office; or
- Indirect, using a private service from an "Authorised Corporate Service Provider" (ACSPs), being a person registered as such with Companies House, who is authorised to conduct identity verification under ECCTA.

Guidance on the application procedure for identity verification and the pathway to the application can be found at *Verify your identity at Companies House: Use this service to verify your identity for Companies House.*

Additionally, under ECCTA, when the relevant provisions are brought into force, a corporate entity will only be able to serve as a corporate director if it is a UK corporate entity with a separate legal personality, and if all of its directors are natural persons, each of whom will also be subject to identity verification.

- Company secretary

A PLC must have a secretary who meets certain qualification requirements and who may be either an individual or a corporation. Private companies are not obliged to appoint a company secretary. It is however, in our experience, still common for one to be appointed as someone still needs to discharge the administration obligations of the company.

- Auditors

Each company must appoint an auditor (or auditors) that is a member of a body of accountants established in the UK and recognised by the Secretary of State. There is an exception for certain categories of inactive companies, which qualify as 'dormant', and small private companies, permitting them not to appoint an auditor. A company's auditor may not be a director, secretary or employee of that company, or be a partner or employee of such a person or associated body corporate. The auditors must be formally re- appointed (or replaced) each year at the general meeting of the shareholders at which the statutory accounts are laid before the members of the company. If a private company does not appoint an auditor within the 28 day period following distribution of, the annual accounts, the auditor in office will be automatically deemed to be re-appointed (subject to certain conditions). If the company is a Public Interest Entity (PIE), for financial years beginning on or after 17 June 2016, if it has not put its audit out to tender in the previous ten years it must enter into a selection process to do so.

- Registered office

The company must have an appropriate registered office address which is situated in the UK and will be the address at which documents delivered would be expected to come to the attention of a person acting on behalf of the company and at which an acknowledgement of delivery can be obtained. A company may change its registered office by filing the appropriate form of notice with Companies House.

- Email address

Since 4 March 2024, all companies are required to maintain an appropriate email address where in the ordinary course of events, emails sent to it by the Registrar would be expected to come to the attention of a person acting on behalf of the company.

- Statutory books

Since 18 November 2025, there is no longer a requirement for companies to hold registers of:

- directors (or the equivalent of directors);
- directors' (or equivalent) residential addresses;
- secretaries; or
- persons with significant control' (PSCs)

This information will still need to be registered with Companies House and kept up to date.

Additionally, companies are no longer able to elect to hold information about the company's officers on the central register at Companies House, which has since been removed.

Companies must maintain a register of members either at the company's registered office address, or single alternative inspection location (SAIL). The obligation is placed on the members to provide the necessary information within two months of becoming a member.

If a company previously held its register of members at Companies House, it will need to:

- create and maintain a full register of members;
- hold the register of members at its registered office address or SAIL address; and
- make this register available for the public to view.

Any information held on the public record can be inspected by anyone through the Companies House website whereas the normal inspection rules will continue to apply to registers that remain at a company's registered office or its SAIL. Records of shareholder and board resolutions, decisions and meetings must be kept for ten years from the date of the resolution, decision or meeting (as the case may be), although we recommend they be kept indefinitely.

- Persons with significant control

UK companies are also required to inform Companies House of persons with significant control over them (a "PSC register"). This requirement is intended to increase the transparency of corporate ownership by making public who the ultimate beneficial owners of companies are. A company must identify the persons with significant control ("PSCs") over it and inform Companies House.

An individual or legal entity is a PSC in relation to a company, broadly, if they:

- hold, directly or indirectly, more than 25% of its shares;
- hold, directly or indirectly, more than 25% of its voting rights;
- hold, directly or indirectly, the right to appoint or remove a majority of the directors of the company who together hold a majority of the voting rights at meetings of the board on all or substantially all matters;
- have the right to exercise, or actually exercise, significant influence or control over the company; or
- have the right to exercise, or actually exercise, significant influence or control over the activities of a trust or firm which is not a legal entity and whose trustees or members meet any of the above conditions or would do so if they were individuals.

Each PSC must be registered at Companies House and must also have their identity verified.

A company may have a company seal which may be used for the execution of certain documents. Its use is optional and becoming increasingly rare.

The costs of incorporating a company will vary according to the amount of work involved.

No tax or duty is payable on the creation or issue of share capital by a UK company. Contrary to onerous initial share capital subscription requirements in some EU states, there is no minimum amount of share capital which must be subscribed for on incorporation of a private company in the UK, provided that at least one share is issued. As stated above, a PLC must have a minimum issued share capital of £50,000 and at least one quarter of the nominal value of each share (and the whole of any premium) must have been paid to the company.

Time required for incorporation

Typically, it takes about eight to ten working days from the paper filing of the incorporation documents until the issue of the certificate of incorporation. However, using software or web filing incorporation usually takes one to two days.

If consent is required from a designated public authority for the proposed name, the time before documents can be filed may be considerable.

Functioning before incorporation

A company does not exist under English law, and therefore cannot function, before the certificate of incorporation is issued by the Registrar. A contract which purports to be made by the company before incorporation has effect as a contract of the person who purported to act on the company's behalf and they will be personally liable under that contract. Such a contract cannot be later adopted by the company simply by ratification but can only be transferred to the company by novation. This requires a new agreement which replaces the original whereby the other contracting party agrees to deal with the company in substitution for the individual who originally purported to contract. Clearly, this requires the co-operation of the other contracting party, which may not always be forthcoming.

Failure to comply with ECCTA identity verification requirements

Any individual is prohibited from acting as a director without having had their identity verified when required in accordance with ECCTA. The company will be obliged to ensure that an individual does not act as a director unless their identity has been verified. Failure to comply, by the individual or the company, is a criminal offence. In the case of non-compliance by the company, both the company and each officer of the company commits an offence. However, non-compliance does not affect the validity of the individual's acts as a director.

Shelf companies

An alternative to incorporating a new company is to use a 'shelf company' (that is a company which is already incorporated in a standard form). Shelf companies can be purchased from company registration agents.

However, given the ease and speed with which a company can be incorporated electronically, in recent times, it is relatively uncommon for shelf companies to be used.

Basic rules for the operation of the company

The directors

Under the articles, the power to conduct the daily affairs of the company is vested in the directors acting as a board. The directors are usually allowed to delegate their powers to one or more managing or executive directors and, in practice, frequently exercise this power of delegation to a substantial extent. The directors remain collectively responsible for the conduct of the company's affairs.

The board of directors takes more important decisions (those not related to the normal daily activities of the company) at board meetings (through board resolutions), where they will resolve to take a particular course of action and this will be recorded in writing (board minutes). In some circumstances, and if the articles permit, the directors may take such decisions by written board resolution (rather than holding a board meeting). Board meetings may be held either inside or outside the UK. However, holding board meetings in another jurisdiction may result in a company becoming resident in that other jurisdiction for tax purposes or may result in its becoming dual resident. It is, in practice, convenient for at least two directors (or, where there is only one director, that director) to be resident in the UK (for the purpose of holding board meetings, executing documents etc). It is possible for any non-resident director to appoint an 'alternate' who is resident in the UK to act on their behalf. The scope of the authority of an alternate can be determined both by the articles (note that the Model Articles for a private company do not provide for alternates, hence specific provision will need to be made in tailored articles) and the form of their appointment.

Powers of the company and the directors

The powers of a company were traditionally set out as the company's objects in the memorandum of association. Under CA 2006, a company no longer has any restrictions on its objects although companies are still able to restrict their objects by including an appropriate statement in the articles, and indeed some companies, for example charitable companies, must include some restrictions.

Restrictions or limitations in a company's constitutional documents are fully effective, however, as between the directors on the one hand and the company and its shareholders on the other. It remains the directors' duty to observe any limitations on the company's capacity or their own powers - an obligation which can be enforced by a member of the company obtaining a court injunction. The directors may also be held personally liable for any breach, unless steps are taken for the company to ratify the transaction and relieve the directors of liability.

First meeting of directors

The persons who are named as the first directors and company secretary (if there is one) in the forms filed before incorporation are deemed to be appointed upon incorporation of the company. It is usual for a company to have the first meeting of the board of directors shortly after incorporation at which the board will normally deal with matters such as the adoption of statutory books; the adoption of a seal (if there is one); the allotment and, if applicable, transfer of the subscribers' shares; the allotment of any further shares to be issued at the outset; the appointment of auditors; the appointment of bankers and passing of resolutions relating to the functioning of the bank account; the determination of an accounting reference date; and the appointment of a chairman of the board.

Duties of directors

The proper management of a company's business is the directors' responsibility, and they will be liable to the company for a failure to carry out that responsibility.

It is outside the scope of this note to analyse in detail the extensive and diverse duties of a director of a company incorporated in the UK. A summary of the more important considerations is, however, set out below. The CA 2006 codified directors' duties, which replaced and modified many of the common law rules. It is of paramount importance that directors familiarise themselves with, and regularly refresh their understanding of, the precise scope of their powers and obligations as set out in a company's articles and imposed by law.

Statutory duties

These laws are to be interpreted and applied in the same way as under the common law regime so that existing case law principles continue to apply. Below is a short summary of the legislation in this area.

- **Duty to promote the success of the company**

  Directors are obliged to promote the success of the company. In this respect, directors must have regard to the longer term interests of the company and not just the immediate financial returns. The underlying concept of this duty is "enlightened shareholder value", whereby the company is still managed in the interests of the shareholders, but it is assumed that the shareholders are enlightened – they are taken to believe, for example, that corporate social responsibility is generally good for profit.

  Therefore, CA 2006 s. 172(1) states that when taking decisions, directors must consider various factors including:

  - the likely consequences of the decision in the long term;
  - the interests of the company's employees;
  - the need to foster business relationships with suppliers, customers and others;
  - the impact of the company's operations on the community and the environment;
  - the desirability of the company maintaining a reputation of high standards of business conduct; and
  - the need to act fairly as between the company's shareholders.

- **Duty to act within powers**

  Directors must exercise their powers in accordance with the terms on which they were granted and for a proper purpose. The precise requirements of this duty will depend on the individual constitutions of each company and the powers invested in their directors.

- **Duty to exercise independent judgment**

  Directors must exercise their powers without being unduly influenced by others and must not fetter the exercise of their discretion. This does not prevent directors from relying on professional advice, as long as they exercise their own judgement when deciding whether to follow such advice.

- **Duty to exercise reasonable care, skill and diligence**

  When assessing whether a director has fulfilled this duty, reference will be made to: (a) the general knowledge, skill and experience reasonably expected of a person carrying out the functions carried out by a director in relation to the company; and (b) the actual general knowledge, skill and experience of the director in question.

- **Duty to avoid conflicts of interest**

  Generally, directors should avoid conflicts between their personal interests and the best interests of the company. The board of directors may authorise such conflicts if this is not prohibited by the articles (in the case of a private company) or if it is expressly permitted by the articles (in the case of a public company). A director with such a conflict may not vote or count in the quorum requirement when the board decision is taken.

- **Duty not to accept benefits from third parties**

  Directors are prohibited from exploiting their position for personal benefit and are not able to accept any benefits from third parties conferred by reason of their position unless acceptance of the benefit would not reasonably give rise to a conflict of interest.

- **Duty to declare an interest in a proposed transaction or arrangement with the company**

  A director must disclose interests of which they are aware or "ought reasonably to be aware". To discharge this duty, a director may give a general notice of their interest in a particular company or of a connection with certain people, or specific notice of a particular matter concerning the company. Such notice may be given in writing, at a board meeting or generally to the directors.

Share capital

It is up to each individual company to decide how many shares to issue and at what price. Shares must have a fixed 'par' or 'nominal' value (for example, £1) and a share cannot be issued for anything less than this amount (although shares are often issued at a premium far higher than this nominal amount). This value is most frequently stated in sterling but it may be in any other currency (provided that the minimum capital requirement for a PLC is met in sterling or Euros (i.e. £50,000 or the equivalent)). Companies can alter the currency of the nominal value of their shares by ordinary resolution.

New companies are not required to include details relating to share capital in their constitutions (although they may do so) but must submit a statement of capital and initial shareholdings on incorporation detailing the nominal value of shares. A company may issue as many shares as it sees fit, subject to any authorised limits or contrary provisions in place.

Issued share capital relates to the number and amount of shares actually subscribed for by individuals or corporations (the shareholders) and should correspond with the amount of money kept in the company's share capital account (whether paid-up or not). Once paid-up, this money must be kept within the company and cannot generally be paid out to shareholders, such as in the form of dividends. Any money paid as a premium for the shares must also be maintained within the company.

Advice is often sought as to the appropriate amount of issued share capital. There is no statutory minimum share capital for a private company, nor is there any minimum amount which must be subscribed for on incorporation provided that at least one share is issued. In the case of a PLC and as mentioned above, the minimum amount of issued share capital is £50,000 (of which £12,500 must be paid-up).

Shares may be issued either as ordinary shares or with preferred, deferred or other special rights as regards dividends, voting and capital. Shares with limited, extended or no voting rights are permissible. Where shares are divided into different classes it is sensible to make provision for the variation of any special rights attaching to each class, as in the absence of a specific provision, the statutory requirement is for 75% of the holders of shares of the class affected to consent to the variation.

Irrespective of legal requirements, as an indication of financial soundness it may be appropriate for the company to have a substantial issued and paid-up share capital. This consideration may be less significant where the parent company or the group to which it belongs is well-known in the UK as an organisation of stature. In other cases, a substantial paid-up capital gives an indication of financial solidity which may have considerable commercial value, particularly where a parent company wishes to avoid giving guarantees.

It should, however, be borne in mind that paid-up share capital cannot be returned to members except on liquidation, by a reduction of capital, or, in certain limited circumstances only, by a redemption or purchase by the company of its own shares.

Shareholders' meetings

Only public companies are required to hold annual general meetings ("AGMs") and they must do so within six months of the end of each financial year. Although private companies may hold AGMs if they wish, they are not obliged to.

Business usually transacted at an AGM includes:

- consideration of the annual accounts;
- declarations of any dividends;
- election or re-election of the directors;
- appointment or reappointment of the auditors; and
- authorisation for the directors to fix the remuneration of the auditors.

Other business, such as amending the articles, can also be dealt with at an AGM provided the necessary formalities are complied with.

Aside from AGMs, ad hoc shareholders' meetings may be convened at any time throughout the year by the directors (on request of the shareholders or by their own decision) following the appropriate procedure (which, amongst other things, involves serving written notice of the meeting on each shareholder). Such ad hoc meetings are known as general meetings and are generally used (in the case of a PLC) to transact business which cannot wait until the next scheduled AGM (e.g. if the directors want to change the company name) or to deal with an unusual scenario which requires immediate shareholder action (e.g. if the directors have breached the articles and require the shareholders to ratify their actions).

If a shareholder is unable to attend a meeting, they may appoint a proxy who is entitled to vote in their place.

Shareholder resolutions

When the shareholders take a decision on any matter, they do so by passing a resolution. Currently, there are three main types of shareholder resolution. Which one to use will depend on the issue under debate, the legislative provisions and the company's constitution.

- **Ordinary resolution**

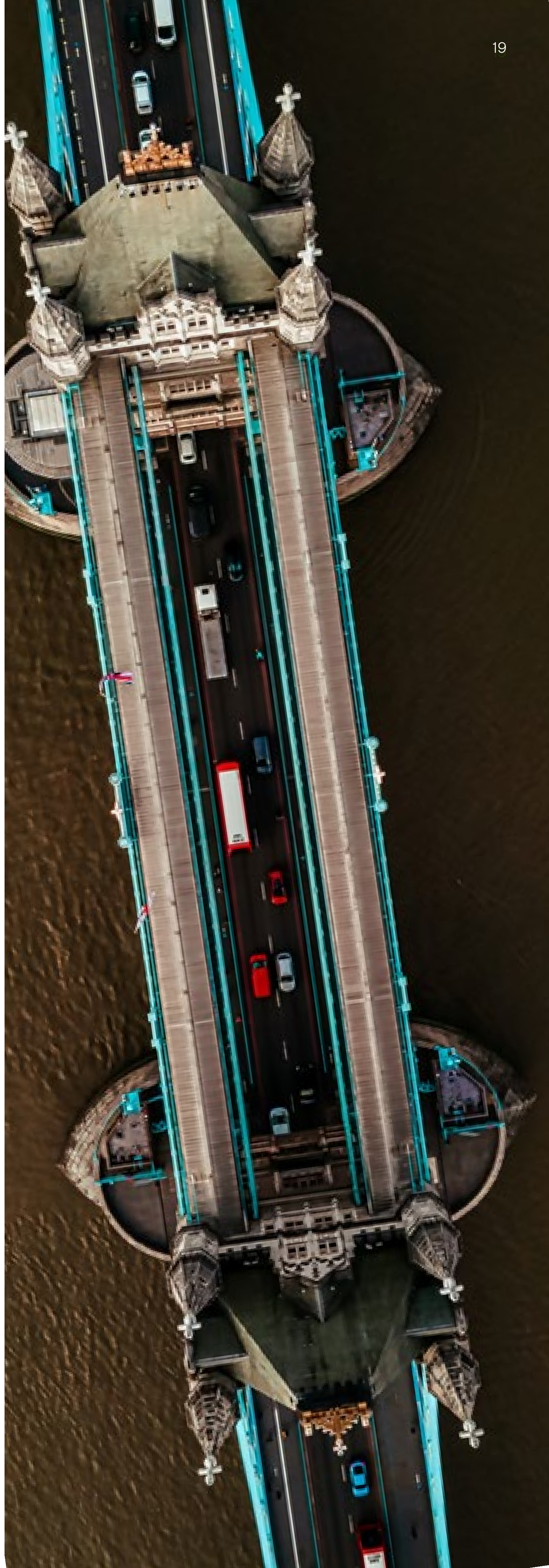
  To pass an ordinary resolution more than 50% of the shareholders present at a meeting must agree to the decision. Where the matter is routine or not of particular importance, an ordinary resolution will suffice. Only certain ordinary resolutions need to be filed at Companies House (for example, a resolution affecting a company's constitution must be filed at Companies House within 15 days).

- **Special resolution**

  Special resolutions are passed if 75% of the shareholders present at the meeting vote in favour of the decision. Such resolutions are used for more sensitive matters such as amending the articles or reducing share capital. Once passed, all special resolutions must be filed at Companies House within 15 days.

- **Written resolution**

  Private companies are able to take advantage of the statutory written resolution procedure (for which a specific process is set out in CA 2006). Except for the removal of a director or auditor before the expiration of their period of office, anything which may be done by resolution of the company in a general meeting (or at a meeting of any class of members) may instead be done by resolution in



writing signed by a simple majority of more than 50% (as an ordinary resolution) or a majority of 75% (as a special resolution). Under CA 2006 it is intended that the written resolution procedure becomes the default decision-making process for private companies – indeed the Model Articles are drafted on this basis. However, public companies cannot use the written resolution procedure.

Notice of meetings

All shareholder meetings require 14 clear days' notice (other than AGMs of public companies, which require 21 clear days' notice) unless a provision in the articles states otherwise.

Notice of meetings must be sent to the registered address of each shareholder entitled to attend and vote at the meeting, unless the company's articles stipulate otherwise. If the shareholder agrees, notice of a meeting may also be sent electronically (such as by email) or posted on a website (in which case the company must notify the shareholder that the notice has been published there). Notice of all shareholder meetings must also be given to the company's auditors.

Depending on the nature of the business to be transacted at the meeting, additional documents may need to be sent with the notice, for example, copies of the annual accounts and the wording of proposed resolutions. The statutory notice period can be shortened by the consent of a majority shareholding, provided that it is the majority of shareholders of the overall nominal value of shares who confirm the right to attend and vote. In most instances, the threshold of the legal requirement regarding which the minimum period can be dispensed with is as follows:

- for a private limited company, a majority of shareholders in this instance, is one which holds at least 90% of the voting rights (unless the articles require a higher percentage subject to a maximum of 95%); and
- for a PLC, it is 95% for general meetings and 100% for AGMs.

However, given the availability of the written resolution procedure for private companies, most business need not be conducted by holding a meeting, particularly in the case of wholly-owned subsidiaries and single member companies.

Issue of new shares

A company may restrict the number of shares that it can issue by including a suitable provision in the articles on the number of shares that may be allotted. There are two key restrictions on the issue of new shares by a company:

- Authority to allot

  Before the directors can issue new shares, they must be authorised either by the shareholders of the company in general meeting or by the articles. The authorisation may be for a specific allotment (for example, in accordance with the terms of an acquisition contract) or may be a general power, but in either case it must state the maximum number of shares which may be allotted and the date on which the authority will expire. Generally, the authority can only be granted for a maximum of five years. Directors of private companies with just one class of share have automatic authority to allot shares unless the articles state otherwise.

- Pre-emption rights

  Any new shares to be issued for cash must be offered in the first instance to the existing shareholders on a pro rata basis to their existing holdings, unless contrary provisions are contained in the company's constitution or if the allotment authority provides that the directors may allot the shares in a different way. The pre-emption procedure will delay the issue of shares if it must be followed, as shareholders must be given at least 14 days to accept the offer.

  It is sensible to consider policy on these matters at the outset so that the requisite provisions can be incorporated into the company's articles.

  Shares may not be issued for less than their nominal value, but they may be issued as nil or partly paid. As previously mentioned, shares of a PLC can only be issued on the basis that not less than one quarter of their nominal value and the whole of any premium is paid up.

  Shares may be issued at a premium above their nominal value, in which event the premium must be credited to a share premium account in the company's books which, like the share capital, may not be returned to shareholders except in limited circumstances.

Redemption and purchase of own shares

Companies are only able to purchase their own shares or redeem shares in issue if not prohibited by their articles and the shareholders authorise the purchase or redemption. Such a purchase or redemption must be paid for out of distributable profits or the proceeds of a fresh issue of shares. Private companies may fund the purchase or redemption out of capital if the proper procedure is followed. Purchased or redeemed shares must be cancelled or, in certain circumstances, may be kept for resale, transfer or cancellation. The amount by which a company's share capital is reduced on a purchase or redemption must be transferred to an account called "the capital redemption reserve" and that money is effectively locked in the company.

Transfer of shares

A company will issue registered shares (where ownership is determined by reference to the register of members). The method for transferring registered shares depends upon how the relevant shares are held. Registered shares held in certificated form (that is, with a share certificate) are transferable by the execution of a written instrument of transfer such as a stock transfer form, but legal ownership does not pass until the name of the transferee is entered in the company's register of members. Subject to any restrictions on transfer imposed by a company's articles, a transferee is entitled to have this entry made on producing the transferor's share certificate, together with the stock transfer form signed by the transferor and duly stamped. The current rate of stamp duty is 0.5% of the value of the consideration rounded up to the nearest £5 (unless an exemption applies). Note that no stamp duty is generally payable on share transfers for no consideration or for consideration valued at £1,000 or less. A new certificate will be issued to the transferee, but this is merely evidence of an entry in the register of members and is not a document of title.

Shares traded on the London Stock Exchange and certain other securities markets may be held and transferred (if the company so chooses) using the CREST system. This is a paperless computerised system whereby share transfers are effected electronically, enabling shareholders to own shares in an uncertificated form.

The shareholdings are held as electronic records and CREST maintains a register of the company's shares held in this manner. The company must also keep a register of these entries. Legal title to the shares is transferred at the same time as the transaction is completed and is not delayed by the requirement to update the company's statutory books. Subject to certain exemptions, stamp duty reserve tax applies to share transfers effected through the CREST system at a rate of 0.5%.

Financial assistance

It is prohibited for a PLC (or any of its subsidiaries) to give financial assistance for the purpose of an acquisition of that company's own shares, unless certain limited exceptions apply. The prohibition covers any attempt to reduce or discharge a liability incurred by the company or a third party in connection with the acquisition.

The prohibition on giving financial assistance no longer applies to private companies except in the following circumstances:

- a private company that is a subsidiary of a PLC is prohibited from giving financial assistance for the acquisition of shares in its PLC holding company; and
- a PLC that is a subsidiary of a private company is prohibited from giving financial assistance for the purpose of the acquisition of shares in the private holding company.

Statutory accounts

Each company has an obligation to file annual accounts with the Registrar (although there are exemptions available for certain companies such as those which do not trade). These accounts become a matter of public record and can be accessed free of charge from the Companies House online service.

When a company is formed the Registrar of Companies will designate its "accounting reference date" ("ARD") as the last day of the month in which the company is incorporated (for example, 30 September for a company incorporated in September of any year). A company must draw up accounts for its "accounting reference period" ("ARP"), also known as its "financial year", which ends on the ARD. The company's first ARP cannot be more than 18 months or less than six months and every ARP thereafter should be 12 months commencing from the end of the last ARP and ending with the ARD. For example, a company incorporated on 6 May 2020 would be given an ARD of 31 May. Therefore, the first ARP would be from 6 May 2020 to 31 May 2021. Each ARP thereafter would run from 1 June to 31 May. The ARD may be changed by notice to the Registrar, but a change which has the effect of extending the then current ARP may not normally be made more than once in five years (except in certain limited circumstances).

The statutory accounts must comprise:

- a profit and loss account;
- a balance sheet;
- an auditor's report;
- a directors' report; and
- a strategic report (unless a small company).

The accounts must be prepared in accordance with the requirements set out in statute and various accounting standards, and must give a true and fair view of the state of affairs of the company. The precise requirements for each of these documents will largely depend on the form of the company, its size and its industry sector. For example, large companies must produce a cash-flow statement and quoted companies are required to publish a directors' remuneration report. A parent company at the top of a UK or EU group of companies will normally also be required to produce consolidated accounts for the entire group. PLCs must, once the accounts have been prepared, lay them before a general meeting (usually, the AGM).

The period allowed for filing accounts is nine months (for a private company) and six months (for a public company) after the end of the ARP. If the accounts are the company's first and the period covered is longer than 12 months, the time limit for filing is 21 months after the date of incorporation (or 18 months from the date of incorporation for a public company) or three months from the end of the ARP (whichever is later). Therefore, following on from the example above, a private company incorporated on 6 May 2020 would have to file its annual accounts for the period 6 May 2020 to 31 May 2021 by 6 February 2022 (as the ARP covers more than 12 months and the later time period for filing is 21 months from the date of incorporation). Thereafter, the company would need to file its annual accounts by the end of February each year. It is worth noting that listed companies are required to make public their accounts within four months of the end of the ARP.

Directors' report

The directors' report is the document over which the directors will have most control. This report must provide a fair review of the company's performance over the year and detail any particular successes or failures. Again, the precise content of the document will depend on the form of the company and its type of business (e.g. there are additional requirements for listed companies and large private UK-incorporated companies) but would include:

- business development of the company and its subsidiaries;
- the company's position at the end of the financial year;
- proposed dividends;
- employment policies;
- directors' interests in the shares or debentures of group companies; and
- political and charitable contributions.

Strategic report

All companies, other than those entitled to the small companies exemption, must prepare a standalone strategic report, although there are proposals to exempt more companies from this requirement including most medium-sized private companies and wholly owned subsidiaries where they are covered by the reporting of a UK parent company.

The idea of the strategic report is that it includes the information necessary to understand what the directors consider to be of strategic importance to the company and to give an understanding of its development, performance and future prospects. Indeed, the CA 2006 gives the strategic report a statutory purpose to inform the company's members and help them assess how the directors have performed their duty to promote the success of the company.

Auditors

Generally, companies must appoint independent auditors who will review the annual accounts and pass comment prior to the accounts being filed at Companies House. The auditors must be appointed annually by the shareholders or, in certain circumstances, the directors. Auditors of private companies are generally deemed to be re-appointed provided that no appointment is made within a 28 day period following circulation of the accounts, unless, for example, there is a contrary provision in the articles. Auditors of public-interest entities (PIEs), such as banks, insurance companies and listed companies, must be rotated every ten years following a public tender process.

Accounting records

A company must keep accounting records sufficient to show and explain its transactions and enable the annual accounts to be prepared. It must be possible to disclose, with reasonable accuracy, the financial position of the company at any given time.

Dividends

Shareholders may get a return on their investment in the company in the form of shareholder dividends. The directors may recommend that a dividend is paid and then it is for the shareholders in general meeting to declare dividends up to such recommended amount. Dividends are usually paid out at the year end, but a company's articles will often stipulate that directors may also declare interim dividends. Dividends can only be paid out of realised profits available for distribution.

Company filings

Under the CA 2006, certain company information must be filed with the Registrar at Companies House.

These include:

- changes of directors or secretary;
- change to the ARD;
- issue of shares;
- changes to the registered office;
- creation of most types of mortgage or charge over assets of the company;
- special resolutions and certain ordinary resolutions of the company; and
- reprints of amended constitutional documents.

An offence is committed both by the company and every director or secretary in default for failing to comply with their filing requirements. Such persons will be subject to fines and, indeed, directors are at risk of being disqualified for persistent breaches of filing obligations.

ECCTA will introduce restrictions on who can file on behalf of a company. Any individual delivering documents to Companies House on their own behalf will have to have their identity verified (unless exempt) and the document they are delivering will have to be accompanied by a statement confirming their verified status.

Under the new 'Authorised Corporate Service Provider' (ACSP) regime introduced by the ECCTA, intermediaries such as accountants, legal advisers, and company formation agents—registered with a supervisory body for anti-money laundering—will be required to be authorised to make filings with Companies House and conduct identity verification checks on behalf of their clients.

By spring 2026, Companies House expects to make the identity verification of persons filing documents compulsory and further, require third parties filing on behalf of companies to be registered as an ACSP.

A company must also deliver a confirmation statement to the Registrar at Companies House at least once a year. A confirmation statement is a statement confirming that all the information to be delivered by the company to the Registrar in relation to the relevant confirmation period either has been delivered or is being delivered at the same time as the confirmation statement. Such information relates to certain events and duties, including information regarding changes to the company's registered office address, where the company records are kept (if not at its registered office), its members, directors or any persons with significant control and information relating to capital and the company's principal business activities.

Company name and stationery

A company must exhibit its full registered name outside its registered office (unless dormant), inspection place, and every office and place in which its business is carried on, except:

- where a liquidator, administrator or administrative receiver is appointed, and the registered office, inspection place or place of business of the company is also the place of business of that liquidator, administrator or administrative receiver; or
- where the registrar of companies is prohibited from disclosing the home address of every individual director of the company to a credit reference agency (although this will not exempt a company from its obligation to display its registered name at its registered office and any place at which it makes its company records available for inspection).

In addition, a company's name, registered office, registered number and place of registration (e.g. "England") must be mentioned in legible characters on all business letters whether in hard copy, electronic or any other form, order forms (including those in electronic form e.g. e-mails) and websites. If the company chooses to refer to its amount of share capital, such reference must be to paid-up share capital (although it is unusual for a company to refer to such information). There are a number of statutory requirements which apply to companies as well as other business entities, which provide that particular types of stationery must contain certain other information. For example, an invoice must show the entity's registered VAT number. It is also worth noting that if a company's cheque does not bear the proper name of the company, the signatory can be personally liable.

Business names

A company may trade under a business name, meaning a name other than its full corporate name. If it does so, in addition to complying with the preceding paragraph it must satisfy the following requirements:

- the name may not include any of a list of prohibited words or words which imply connection with governmental authority and it may only use certain others after consent has been obtained from the appropriate authority, in the same way as is applicable to the use of such words in the name of a company;
- in addition to the company's full corporate name, the business name must also be displayed on all correspondence;
- the business name must be displayed in a prominent place at each set of premises from which the business is carried on; and
- the company must supply such information in writing on request from any person dealing with the business.

Trade marks and service marks

Use of words, letters, devices or logos as trade marks or service marks is a separate question governed by trade mark law and is not covered in this note. It should be noted, however, that the name of a company or a business name may infringe an existing registered trade mark or service mark and in appropriate circumstances a trade mark or service mark search should be conducted before incorporation.

UK tax

Tax residence

An important factor in determining the liability of a company to UK tax is its place of residence. The basic rule is that all companies incorporated in the UK, and all companies (whether or not incorporated in the UK) whose central management and control is exercised in the UK, are resident in the UK for tax purposes. For the purposes of this rule, the place where central management and control of a company is exercised is not necessarily the same as the place where the day to day running of the company is carried out and is wholly a question of fact. It is normally the place where the directors' meetings are held, but in cases where the directors do not genuinely exercise central management and control of the company, HM Revenue & Customs ("HMRC") then look to establish where and by whom it is in fact exercised.

The basic rule is overridden in a case where the company is resident in a foreign country under the terms of a double tax treaty between that country and the UK.

Under UK tax law, a company can be resident in more than one country, although most of the UK's double tax treaties contain a "tie-breaker" provision to eliminate dual residence. There are generally tax disadvantages where a company is dual resident.

This is a requirement to report to HMRC the details of certain transactions involving international movements of capital whose value exceeds £100 million. This requirement is subject to a number of exclusions, for instance, where the transaction is carried out in the ordinary course of a trade. A report of the relevant transaction must be made to HMRC within six months of the transaction.

Care should be taken to ensure that a UK resident subsidiary is, as far as possible, managed independently from its foreign parent. There may be a risk in some cases that a UK subsidiary could be regarded by HMRC as a "permanent establishment" of its parent, with the result that a proportion of the parent company's income and capital gains could be charged to UK corporation tax.

Subject to double tax relief, a non-resident company will be liable to UK income tax on all its income from UK sources, although in practice the tax on interest and dividend income is generally limited to the amount of any UK withholding tax imposed at source.

A non-resident company which is not trading in the UK through a permanent establishment there is not generally subject to UK tax on capital gains apart from in respect of UK land or other assets which derive 75% or more of their value from UK land.

Special rules apply to companies engaged in oil exploration activities in the UK continental shelf.

Transfer pricing

For accounting and tax purposes, decisions will also have to be made about how and on what basis a new company established in the UK will interact with its parent company or other related party entities. In particular, this concerns the transfer pricing model that will be adopted – i.e. the determination of how and what the new UK company will be paid for the role it plays in the business, or what it will pay for use of group IP, or goods, services or financial support provided by others. This is necessary for every company that enters into commercial arrangements with related parties.

Like most countries, the UK has legislation that governs how transfer pricing works in the country. This legislation enshrines the arm's length principle in domestic rules on transfer pricing, and follows the OECD's Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations.

These guidelines concern how prices are set for commercial interactions between related parties, and effectively apply also to permanent establishments and branches. They also apply to UK-UK interactions. All transactions are covered, whether relating to goods and services, use of intangibles, or intragroup finance. Secondments need to be considered too. There are various documentation requirements, but also exclusions depending on factors such as size.

In the 2025 Budget it was confirmed that new measures requiring taxpayers to submit an International Controlled Transactions Schedule (ICTS) will be introduced for accounting periods commencing on or after 1 January 2027. The ICTS will be a schedule, in a prescribed format, filed annually alongside the corporation tax return, in which in-scope entities would summarise their reportable cross-border transactions.

Corporation tax

Tax on profits

A company resident in the UK (whether or not that company is also resident elsewhere) is liable to corporation tax on all its profits, wherever arising, and upon its net realised capital gains which have accrued since 31 March 1982 – that is, gains less allowable losses arising on the disposal of most capital assets.

Corporation tax is charged by reference to financial years, which run from 1 April to 31 March. The main rate of corporation tax chargeable on profits and capital gains is 25%.

Different corporation tax rates apply for companies that make profits from oil extraction or oil rights in the UK or the UK continental shelf.

As is the case in most systems, profits for tax purposes and accounting purposes are not necessarily the same. Differences may arise, for example, on the depreciation of expenditure on capital assets, and certain types of expenditure may be deductible only against certain types of income or, indeed, not at all. There are also a number of anti-avoidance provisions which may be relevant. For instance, transactions between a subsidiary and parent or between two subsidiaries could be reviewed if they are not on an arm's length basis under the UK's transfer pricing rules mentioned above. It is outside the scope of this note to discuss this in detail but references to profits (or losses) for tax purposes should be read with this qualification in mind.

Interest is generally deductible from a UK resident company's profits for tax purposes on an accruals basis. However, the amount of profits that can be offset by interest expense for UK corporation tax purposes is restricted. Relief for net interest expense will generally be capped at 30% of UK taxable earnings (subject to a potentially higher limit under a group ratio test).
To ensure the rules are appropriately targeted, a de minimis threshold and public infrastructure exemption have been introduced. The potential impact of volatility in earnings is also addressed. This is in line with recommendations made in the OECD's Base Erosion and Profit Shifting project.

Loans also fall within the ambit of the UK's transfer pricing regime – it is not possible to discuss the detail in this note.

Special tax rules apply to "close companies", broadly, UK resident companies controlled by five or fewer persons and their associates, or UK subsidiaries of overseas parents which would themselves have been 'close' if resident here.

Tax on capital gains

As indicated above, companies' net realised gains are chargeable to corporation tax.

An important exemption from the charge for corporate sales of shareholdings in trading companies, where the seller holds at least 10% of the ordinary share capital of the company whose shares are sold, is available (the Substantial Shareholding Exemption or SSE).

Certain types of institutional investors may qualify for SSE in respect of holdings of at least £20m, regardless of whether the 10% threshold is met.

Partial SSE may also be available for sales of trading or non-trading companies at least 25% owned by such institutional investors.

The charge on capital gains is subject to relief (commonly known as "roll-over relief") by way of postponement of liability where a gain arises on the disposal of certain categories of capital assets (including most tangible property and goodwill, but not other intangible property) used solely for the purposes of a business and all the proceeds of disposal are used to purchase other qualifying assets to be used in the same way. The normal time limit for entering into an unconditional contract for the replacement purchase is 12 months before or three years after the date of disposal of the old asset, but HMRC may agree to an extension. There is also relief, by way of an indexation allowance, for the effects of inflation from March 1982 until December 2017 on the value of assets disposed of.

Subject to exceptions designed to prevent tax avoidance, transfers of assets between two companies in the same UK tax group do not attract tax on any resulting capital gain provided that the recipient of the asset does not leave the group within six years after the transfer. If this is the case, there may be a deemed increase in the gain (or reduction of the loss) arising on the sale of the shares that result in the transferee leaving the group, equal to the amount of the gain that would have arisen on the intra-group asset transfer had it taken place at market

value. However, the SSE will often apply to exempt the gain arising on the sale of the shares. These rules apply even where the ultimate parent company of the group is resident outside the UK, and as between UK resident companies and UK corporation tax-paying branches of non-resident companies in the same group.

Capital allowances

Certain capital expenditure is deductible for tax purposes in order to encourage the use of capital for modernisation and re-equipment. There are a number of allowances available for plant and machinery.

An Annual Investment Allowance ("AIA") is available for expenditure on most plant and machinery. The AIA is currently £1 million.

An annual writing down allowance equal to 18% of qualifying expenditure (i.e. cost less allowances already given) is available on a reducing balance basis in respect of plant and machinery. The writing down allowance is available from the time the expenditure is incurred. Special rules apply with regard to leasing. On certain types of assets (which includes, integral features and assets with a useful economic life of over 25 years), allowances are given at only 6% instead of 18%. The 18% main rate writing down allowance will be reduced to 14% from April 2026.

For expenditure incurred since 1 April 2023, companies can claim 100% first-year capital allowances on qualifying plant and machinery otherwise eligible for main rate writing down allowances, with a 50% first-year allowance for qualifying assets where allowances would otherwise be at 6%. A 40% first year allowance will be introduced for expenditure incurred from 1 January 2026 which does not qualify for the 100% allowance.

There are certain other allowances available for certain kinds of expenditure.

If an asset in respect of which capital allowances have been claimed is sold for a price which is in excess of its tax written down value, the excess is generally subject to corporation tax by way of a "balancing charge".

In contrast, a "balancing allowance" is available if the sale price is lower than the tax written down value.

There is also a 3% per year allowance for structures and buildings where the construction contracts were signed on or after 29 October 2018.

Tax losses

Subject to exceptions designed to prevent tax avoidance on a change of ownership of a company, trading losses of a company may be carried back and set off against the general profits (including capital gains) of the previous accounting period provided that the company carried on the same trade in that period, or set off against the other profits (including capital gains) of the company for the same accounting period.

For accounting periods ending in the period 1 April 2020 to 31 March 2022 this carry back of losses was extended by two years, subject to a limit of £2 million of losses carried back from a given period.

Losses incurred prior to 1 April 2017 can be carried forward indefinitely and set against profits of the same trade in later years. Alternatively, in the case of groups or sub-groups where a 75% relationship exists between the two companies, and subject to the satisfaction of certain detailed conditions, a trading loss of one group company may, by election, be set off against the profits for the corresponding accounting period of another.

The rules on carried forward losses have been relaxed from 1 April 2017. Losses can now be set against profits from different types of income and of other group companies in later periods. Companies' use of carried forward losses is restricted, however, so they cannot reduce their profits arising on or after 1 April 2017 by more than 50% in a given year. This restriction applies to a company's or group's profits above £5m. A similar restriction now applies to capital losses as well as income losses. For banking companies, losses that are within the separate bank loss restriction continue to be subject to separate rules. Profits and losses subject to the oil and gas ring-fence regime are also excluded from the loss reforms.

Taxes on interest and royalties

In principle, a company resident in the UK that makes payments of yearly interest, or royalty payments in respect of intellectual property rights, to a foreign recipient must withhold income tax. The rate of withholding is currently 20%.

In cases where payments are made to companies or persons resident in countries which have double tax treaties with the UK exempting such payments from UK tax, or limiting the rate at which UK tax may be charged, a direction can be obtained from the tax authorities permitting these payments to be paid free of withholding tax, or under deduction of withholding tax at a reduced rate. However, treaty relief is generally not available where the principal purpose or one of the principal purposes of the arrangement is to obtain treaty benefits.

HMRC has also introduced a 'passport' scheme to simplify the treaty relief process in respect of interest.

Taxes on dividends

General
Dividends paid by normal UK resident companies are not subject to withholding tax.

Effect on a UK resident shareholder
An annual dividend allowance is available to an individual UK resident shareholder such that no income tax is payable on the first £500 of dividend income. This income will however still count towards an individual's basic or higher rate limits. Dividends received over the £500 allowance will be taxed at 8.75% for income in the basic rate band, 33.75% for income in the higher rate band and 39.35% for income in the additional rate band. From 6 April 2026 the basic rate will be increased to 10.75% and the higher rate will be increased to 35.75%.

Subject to anti-avoidance rules, all UK and overseas dividends received by corporate shareholders are exempt from corporation tax.

Effect on a shareholder resident outside the UK
Non-resident individuals and companies are treated as receiving income on which tax at the dividend ordinary rate has been paid. This will generally 'frank' their liability to UK income tax on such dividends.

Tax consequences of liquidation
Upon the liquidation of a UK subsidiary, its foreign parent does not incur any charge to UK tax on amounts distributed to it in the course of the liquidation (even if these amounts exceed its original investment in the subsidiary) unless the foreign parent is resident for tax purposes in the UK or has a permanent establishment in the UK for which the shares in the subsidiary are used or held, or the subsidiary is engaged in oil exploration or extraction activities or is UK land-rich. Corporation tax is, however, payable by the subsidiary in respect of any non-exempt capital gains arising out of the realisation of its assets in the course of the liquidation.

Value added tax

On establishment of a business in the UK, the impact of value added tax ("VAT") and the possible need to register with HMRC require consideration at the earliest possible stage.

VAT is chargeable on the supply by "taxable persons" within the UK of a wide range of goods and services ("taxable supplies"), and on the import of goods into the UK. The standard rate of VAT is 20%. There is currently a zero rate on certain supplies, principally food, books, transport and certain exports, while some categories are exempt, including insurance, finance and land.

A "taxable person" is widely defined to include anyone carrying on a business in the UK, including foreign concerns and overseas residents who supply goods and services in the course of carrying on a business in the UK. Anyone who falls within this category and whose turnover in the previous 12 months exceeded the relevant limit must register with HMRC. This limit is currently £90,000. Anyone who at any time expects to exceed this figure in the next 30 days is required to register at that time.

A UK-established business which buys services worth more than £90,000 in any year from other jurisdictions is similarly liable to register and account to HMRC for VAT on the services as if it had been the supplier of them.

A person will generally be charged VAT by the supplier when goods and services which are taxable supplies are supplied to them by a taxable person in the UK. VAT is similarly payable to HMRC on the importation of goods into the UK, in addition to any custom duties which may apply. VAT incurred on purchases or imports is described as 'input VAT'. Complex rules apply to imports and supplies of goods involving Northern Ireland, including movements of goods between Great Britain and Northern Ireland.

A taxable person must submit regular VAT returns to HMRC (usually each quarter). It must charge VAT to its customers on the taxable supplies it makes, and must issue the customer with a "VAT invoice". On submitting its quarterly VAT return, it must pay over to HMRC all VAT due on supplies or deemed supplies made by it during the quarter ("output VAT"), less its allowable input VAT for the quarter (see below).

Subject to detailed rules, a taxable person who is registered for VAT is entitled to deduct the input VAT it incurs from its output VAT and account to HMRC for the difference. If the allowable input VAT it has incurred in the quarter exceeds its output VAT for that quarter, it is entitled to a repayment from HMRC.

The ability to recover excess input VAT in this way may render it advantageous for a business to register voluntarily for VAT even though the value of the supplies it makes falls below the compulsory registration threshold. However, it is also necessary to bear in mind the administrative burden and expense of ongoing compliance with the VAT regulations. Under the regulations, in addition to filing regular returns and issuing VAT invoices, a business which is registered for VAT must keep its VAT records for a minimum of six years.

Taxable persons are required to keep their VAT records, and provide VAT return information to HMRC, digitally.

Establishing a branch office

Legal formalities

Absent a UK subsidiary, when a foreign corporation establishes a business presence in the UK (meaning it has some degree of physical presence in the UK, such as a place of business or branch where it carries on business) certain formalities must be observed. These involve it registering with the Registrar of Companies and complying with certain initial and ongoing filing requirements. These requirements may mean that a foreign corporation will decide to establish a business presence in the UK through a selected non-UK subsidiary company, as the details to be filed relate to the specific foreign company which establishes a business presence in the UK.

A foreign entity with an established business presence in the UK is referred to under the legislation (and are referred to in this chapter) as an "overseas company".

The framework for the regime relating to overseas companies is contained in Part 34 of the CA 2006 itself, but the substance is set out primarily in three sets of regulations:

- the Overseas Companies Regulations 2009 (SI 2009/1801);
- the Overseas Companies (Execution of Documents and Registration of Charges) Regulations 2009 (SI 2009/1917);
- the Overseas Companies (Execution of Documents and Registration of Charges) (Amendment) Regulations 2011 (SI 2011/2194); and
- the Company, Limited Liability Partnership and Business (Names and Trading Disclosures) Regulations 2015 (SI 2015/17).

The rules govern "establishments" in the UK, and the term "establishment" is defined to mean either a branch or a place of business which is not a branch. The main features of the regime are as follows:

Initial registration

Within a month of opening a UK establishment, an overseas company must deliver a return to the Registrar of Companies setting out information about itself (including details of its directors and the extent of their power to represent it) and about the establishment (including details of the permanent representatives of the company in relation to the establishment). A copy of the company's constitution and, where required to be prepared and disclosed under the overseas company's parent jurisdiction, a copy of the overseas company's latest accounts, must also be filed. There is also a registration fee of £71.

Following initial registration, overseas companies will need to ensure they inform the Registrar of any changes to the information filed. As is the case with UK registered companies, any documents filed under this regime are open to public inspection.

Accounts

Most overseas companies need to send accounts to the Registrar of Companies on an annual basis. There are two sets of relevant provisions – one for companies required to disclose their accounts under the law of the country in which it is incorporated (its "parent law") and one for those who are not required to disclose accounts under their parent law. For companies required to disclose accounts under their parent law, the requirement is to deliver copies of all accounting documents that it is required to disclose by its parent law to the Registrar.

For companies that are not required to disclose accounting documents under their parent law, accounts must still be prepared and filed, but companies have three options when choosing an accounting framework:

- overseas accounts in accordance with the Companies Act 2006;
- parent law accounts; or
- International Accounting Standards.

The choice of accounting framework often depends on factors such as whether the company has a presence in several countries, any benefits of choosing parent law and whether the company has any plans to apply for listing in the future. There are also special provisions for credit and financial institutions.

Disclosure of company details

In addition to the filing of accounts, the regime also requires overseas companies with a UK presence to disclose certain details, such as its name and country of incorporation, (a) at every location at which they carry on business in the UK; and (b) on stationery, emails and websites used in connection with their activities in the UK. A breach of the requirements without reasonable excuse amounts to a criminal offence on the part of the company and any directors who are in default.

Company name

The regime imposes restrictions on the name with which an overseas company can be registered in the UK. These mirror those outlined above in relation to UK companies (as updated by the ECCTA). In some cases, a company is able to register the name with which it is registered in its home jurisdiction. In other cases – for example, where the name contains characters from an alphabet other than the English alphabet – the company will have to register an alternative name of its choosing.

Register of overseas entities

In addition to the regime outlined above where a foreign corporation establishes a business presence in the UK , the Economic Crime (Transparency and Enforcement) Act 2022 requires foreign entities who want to buy, sell or transfer qualifying property or land in the UK to register with the Registrar of Companies and disclose details of their beneficial owners or managing officers. This is a separate regime to the one discussed, but one foreign entities should be mindful of when considering real estate opportunities in the UK.

UK tax implications of establishing a branch or agency

A non-resident company will not be subject to UK corporation tax unless it carries on a trade in the UK through a "permanent establishment" situated here. The definition of "permanent establishment" for this purpose is based on the OECD model definition. It includes, subject to some exceptions, a place of management, a branch, an office and a factory. Establishments carrying on activities which are confined to those of a preparatory or auxiliary character are excluded. Although the UK now adopts a "permanent establishment" test based on the OECD model to impose a corporation tax charge on non-resident companies, the definition for domestic tax purposes will not always coincide with that in an applicable double tax treaty. As a result, it is still possible that the UK corporation tax charge imposed by the domestic provisions will be excluded by an applicable treaty. The Finance Bill 2025-26 contains legislation bringing the domestic provision in like with the OECD definition; it is expected that these changes will take effect for accounting periods commencing on or after 1 January 2026.

Even if there is no permanent establishment subject to UK corporation tax, income derived from UK sources may be assessable to UK income tax, subject to relief under an applicable double tax treaty.

It is also worth noting that the UK has introduced a diverted profits tax, which combats multinational businesses using aggressive tax planning techniques to divert profits from the UK. In very general terms, if a foreign company makes substantial sales in the UK but its business is structured to avoid establishing a UK permanent establishment, it is likely to incur a liability to tax at a rate of 31% of taxable diverted profits (with certain exceptions). The Finance Bill 2025-26 contains provisions to bring the diverted profits tax charge within the charge to corporation tax and abolish the avoided permanent establishment limb. It is expected that these changes will take effect for accounting periods commencing on or after 1 January 2026.

Tax on profits

A company not resident in the UK but carrying on a trade here through a permanent establishment is chargeable to corporation tax on:

- trading profits arising directly or indirectly through or from the establishment; and
- income from property or rights used by or held by or for the establishment.

Computation of the profits or income attributable to the permanent establishment is based on OECD guidelines, incorporated into UK law with special provisions for banks and other financial institutions.

Tax on chargeable gains

A non-resident company is chargeable to corporation tax on capital gains arising on the disposal of any asset situated in the UK which is used for the purposes of the permanent establishment or its trade. The reliefs applicable to a UK company will apply.

In addition, all non-UK residents are liable to UK tax on chargeable gains on the disposal of UK land or other assets which derive 75% or more of their value from UK land.

Capital allowances

A branch is entitled to allowances on plant and machinery in the same way as a UK company.

Tax losses

There is an ability to carry forward tax losses of a branch, similar to those applying to a UK company.

Taxes on interest

A non-resident company which pays interest is not normally obliged to withhold tax on paying interest even if the borrowing is for the purposes of its UK branch. Any levy of "interest" or other charge made by the foreign corporation to its UK branch for internal accounting purposes will be ignored for UK withholding tax purposes.

Taxes on dividends

Since a permanent establishment is not treated (except for limited purposes) as a separate legal entity from the foreign parent corporation the permanent establishment will never pay a "dividend" to the parent. There are no UK withholding taxes on the repatriated profits of a permanent establishment.

Tax consequences of liquidation

No UK tax will be charged on the liquidation of the foreign company, except for corporation tax in respect of any capital gains arising out of the realisation of any asset of the permanent establishment or its closure or on disposals of UK land or interests in UK land-rich entities.

Value added tax

The rules relating to registration of permanent establishments for VAT are the same as those which apply to a UK company.

Establishing a UK agency

Appointment

Note: Parts of the law on appointment and operation of an agency described in this chapter do not apply in Scotland.

Generally, a person or company resident in the UK can, under English law, be appointed an agent of a foreign corporation and conduct business in the UK on its behalf without formality, by written or oral contract. However, the Commercial Agents (Council Directive) Regulations 1993 (the "Regulations"), which have direct effect on certain types of agency agreement, require a greater degree of formality and, in contrast to the common law on agency, provide more protection for agents falling within their ambit.

The Regulations

The Regulations can be difficult to interpret, but broadly they apply to the activities of "Commercial Agents" in Great Britain (there are similar provisions in Northern Ireland). A Commercial Agent is a self-employed intermediary, that is a person, partnership or company, who has continuing authority to negotiate the sale or purchase of goods on behalf of a principal (e.g. the foreign corporation) or to negotiate and conclude such transactions on behalf of and in the name of that principal, subject to various exceptions. The Regulations can apply to both sales and marketing agencies, depending upon the agent's authority. The Regulations do not apply to purely service agencies, where an agent carries out services for, and on behalf of, another.

If the Regulations do apply, the main consequences in favour of the agent are:

- the agent has certain rights in relation to which transactions may attract commission;
- commission payments dates are regulated;
- the agent has rights to information concerning calculation of commission;
- the agent is entitled to a written statement of the terms of the agency, signed by the principal;
- minimum notice periods are required to terminate the agency relationship; and
- generally, the agent is entitled to indemnification or compensation upon termination.

Some parts of the Regulations are mandatory where as some are not and it is common and often desirable to contractually qualify or even disapply those parts of the Regulations which are not mandatory.

Contract

Whether the agency agreement is subject to the Regulations or not, a written contract between the agent and principal is preferable, as a safeguard against misunderstanding and to address and limit certain English law principles. For example, under English law, a person who is "held out" as the agent of another is deemed to have authority to enter into binding commitments on behalf of his principal and to act on its behalf in all matters consistent with the apparent scope of the agency. It is, therefore, advisable to define precisely the scope of the agent's actual authority by way of written agreement. Whilst such limitations on the agent are not binding on third parties who do not have notice of them as a result of the doctrine of "apparent authority", the agent is liable to his principal if he exceeds his actual authority.

Further, where an agent is remunerated by commission, it is particularly important to specify by way of contractual agreement when commission is earned and payable, especially where more than one agent may claim commission on the same transaction and where the expected interval between the obtaining and fulfilment of orders is substantial.

Advice should be sought if it is intended to appoint an "exclusive" agent or if restrictions are imposed on an agent from dealing with competing products, selling products outside his territory or similar, as such terms may have restraint of trade or competition law implications.

Operation of the agency

Where the Regulations apply, some aspects of the way the agency operates will be prescribed by law, as identified above. Principals are particularly concerned about the compensation/ indemnification that is required after termination which cannot be excluded under the Regulations.

Where the agency does not fall within the ambit of the Regulations, the operation of the agency depends on the terms, express or implied, of the contract between the parties. For example, unlike under the Regulations and in the absence of an express agreement to the contrary, under common law an agent is not entitled to any fixed notice period for termination of the agency and, if the contract is silent, it is usually terminable on "reasonable" notice. Note however, there is no set formula in common law for determining reasonable notice so it is advisable to have contractual provisions dealing with termination and the notice that must be given. If the principal terminates the agency contract without giving the agent a reasonable period of notice then, unless the termination is in response to the agent's serious breach of contract, the agent may be entitled to damages. If the agent is an employee, the rules mentioned in the following section 'Employment and labour law' will also apply.

Potential reform

On 16 May 2024, the Department of Business and Trade (DBT) published a consultation proposing to simplify the law relating to commercial agents in Great Britain. The consultation sought opinions on whether the Regulations, which are EU derived, should be abolished. This is with a view to simplifying the existing framework such that domestic rules on agency and contract law would be all that would apply.

On 13 February 2025, the DBT published their response to the consultation. In summary, the DBT decided that the Regulations will stay in force without amendment. This decision was based on consultation feedback showing the Regulations generally work well, are well understood, and provide important protections for commercial agents when negotiating with larger principals. The DBT also felt that there is insufficient evidence to show that the Regulations limit contractual freedom.

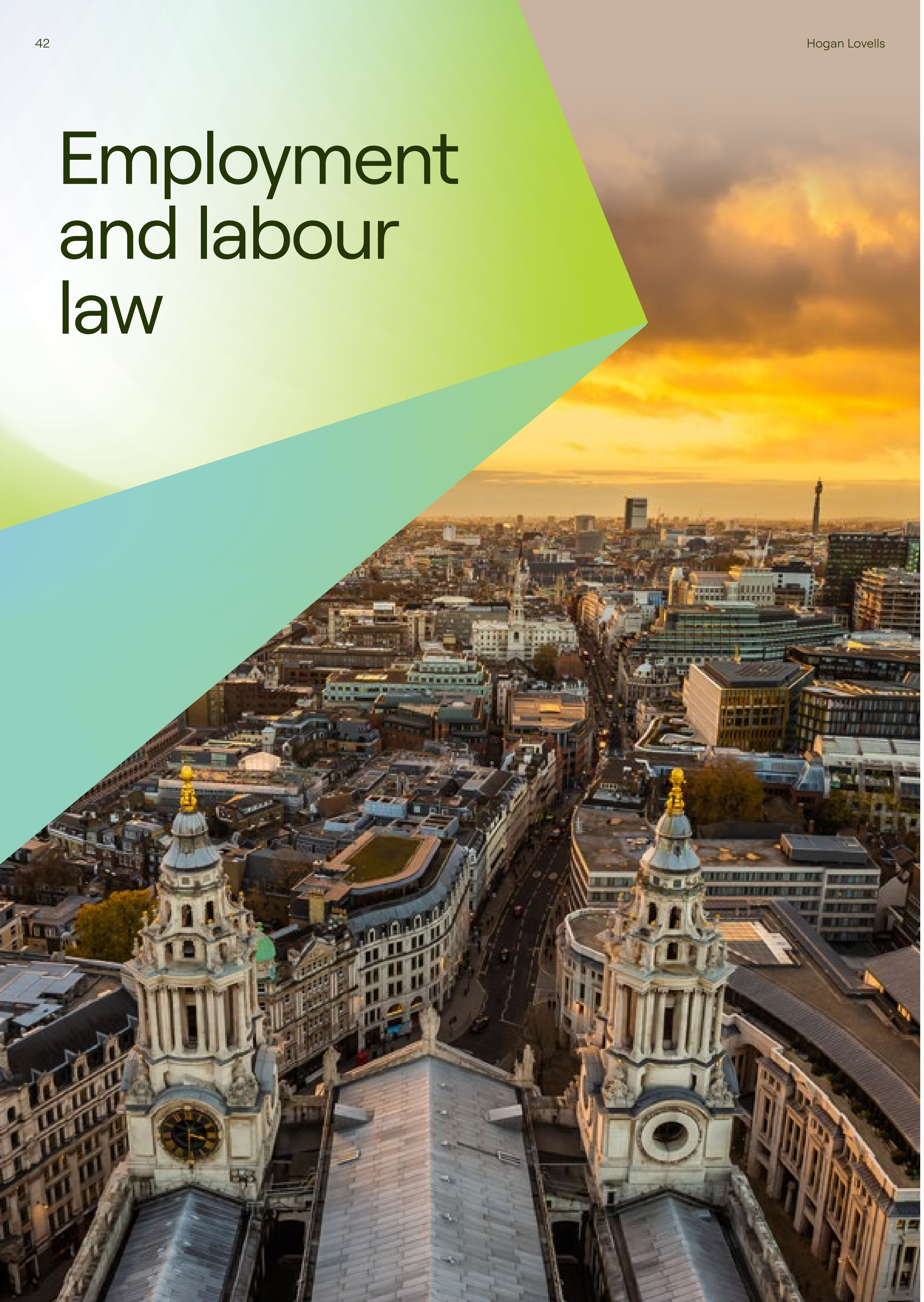
Tax

If a foreign corporation trades in the UK through an agent who has, and habitually exercises, authority to do business on behalf of the company (other than an agent of independent status acting in the ordinary course of its business) the profits and capital gains of the foreign corporation attributable to the UK trade are in principle taxable in the same manner as those of a permanent establishment.

The question whether a foreign corporation trades "in" or merely "with" the UK is a matter of fact and depends upon (among other things) whether contracts are made in the UK.

An agent may be required to register for, and charge, VAT. For accounting periods commencing on or after 1 January 2026, the domestic law permanent establishment test is expected to be revised, focusing instead on whether an agent acting on behalf of the company either habitually concludes or habitually plays the principal role in the conclusion of certain contracts.

Employment and labour law



General matters

In English law, no formalities are necessary for the creation of an employment contract and every employee, as a matter of law, has a “contract” (even if it is not in writing). By statute, an employer must give each employee and worker written particulars of certain material terms of their contract of employment before employment commences.

There is an important distinction between an employment relationship (commonly called a contract of service) and the relationship between someone who hires another (usually called an independent contractor), which is usually described as a contract for services. The distinction is not always easy to draw, but it has far-reaching consequences as employees and some other workers enjoy a variety of rights under statute some of which are not extended to independent contractors. The distinction is also important in connection with tax and National Insurance and other matters such as pensions.

Common law

Unless expressly overridden by the terms of the parties’ agreement, the common law implies certain terms into the employment contract. We mention below some of the more important implied terms.

At common law, in the absence of any express agreement, a term will be implied that the contract can be terminated by either party on reasonable notice. What is reasonable notice will depend on the employee’s status, their length of service, the way in which they are paid and other factors. Statute imposes minimum periods of notice, but these are not necessarily a guide to what is reasonable. Normally, a written contract will provide for specific notice and the written particulars referred to above must do so.

An employee whose contract is terminated other than by being given notice of the required length, or if it was a fixed-term contract, before the end of that term, will, unless the termination was justified by misconduct, have a claim for wrongful dismissal. Generally, the claim is for the value of remuneration and benefits that would have been received over the period of notice or during the remainder of the fixed term, usually subject to the employee’s obligation to mitigate their loss by obtaining other employment. This is a separate remedy from the statutory claim for unfair dismissal referred to below. As a general rule, the English courts will not order the specific performance of an employment contract.

The common law imposes on employees duties of loyalty and good faith during employment. These implied terms have two important consequences. First, an employee must keep as confidential their employer’s trade secrets. Secondly, an employee may not normally work for a competitor while employed by an employer. Many employment contracts include specific restraints on the employee that continue after the employment is ended (for example, restrictions on the disclosure of confidential information or solicitation of customers or other employees). Under common law, clauses which are an unreasonable restraint of trade will be unenforceable and this rule may apply to this sort of provision in an employment contract. The terms of the restraints that are sought to be placed on an employee must be assessed bearing in mind what is reasonable. A court will determine reasonableness by considering the scope of the restraint, the period for which it is imposed and its geographical application. The onus is on the employer to show that the restraint is reasonable and necessary to protect its legitimate business interests, for example confidentiality or trade connections.

Statute law

Under English law there are a wide variety of statutes and regulations affecting employment matters. There are detailed statutory provisions governing working conditions and prohibiting discrimination. These include matters such as health and safety at work, discrimination on grounds of race, sex, disability, religion or belief, sexual orientation and equal pay for work of equal value. Discrimination on grounds of age (both young and old) is also outlawed. A number of codes of practice have also been published with which any employer in the UK should be familiar.

Unfair dismissal

An employee with two years' service who is dismissed "unfairly" has a right to compensation. They are entitled to a basic award based on length of service and their weekly pay and age, the maximum amount of which is £21,570 for 2025/26, and a compensatory award which is discretionary and subject to a maximum of £118,223 (or one year's pay if less) for 2025/26. The employment tribunal has power, in addition to making an award, to order reinstatement but an employer may choose to disregard the order for reinstatement and pay additional compensation.

The tribunal has power to order specially increased awards in a number of limited cases, for example where dismissal arises for raising health and safety concerns. The statutory compensation limits and the service requirement do not apply in discrimination cases or when the employee has suffered a detriment after 'blowing the whistle' on their employer's wrongdoing.

If the employer can show that they had a substantive reason for dismissal (such as poor performance or serious misconduct) and that they acted in all the circumstances fairly and properly and in accordance with relevant codes of practice, the claim can be defeated.

The Government plans to reduce the existing service requirement for bringing an unfair dismissal claim to six months and remove some of the limits on the compensatory award. The changes will not come into force until 2026 at the earliest.

Redundancy

An employee with two years' service will be entitled to a redundancy payment if they are dismissed for redundancy which, in this connection, is narrowly and specifically defined. The statutory redundancy payment is based on the employee's weekly pay, length of service and age and the maximum amount is £21,570 (for 2025/26).

Under the legislation, an employer may be required to consult with recognised trade unions or employee representatives and in certain circumstances to give notice to the Secretary of State for Business and Trade prior to making employees redundant. Failure to comply with these procedures can give rise to special awards being made to the employees by an employment tribunal or to a fine, or in exceptional cases to directors being prosecuted for a failure to notify DBT. It is quite common for employers to have their own redundancy schemes which are more generous than those available under the statutory scheme. If the redundancy is unfairly carried out (whether in relation to the selection for redundancy itself or the procedures followed) the employee will be entitled to make a claim for unfair dismissal.

Other statutory matters

All women have a right to take maternity leave and may be entitled to statutory maternity pay. There are also rights to adoption leave, paternity leave, shared parental leave, neonatal care leave and parental bereavement leave. Both male and female employees have a right to take parental leave and a reasonable amount of (unpaid) time off to take necessary action for dependants. Those caring for someone with a long-term health condition are entitled to up to a week's unpaid leave per year to provide care. All employees have the right to request flexible working arrangements. As mentioned above, legislation provides minimum periods of notice for the termination of employment. There is also a statutory scheme for protection of employees from victimisation for trade union activities or acting as employee representatives. Under statute, there are restrictions on the sums which can be deducted from employees' wages. There are statutory limits on the number of hours and the length of shifts which an employee can be required to work, along with minimum entitlements to paid holiday. Additionally, there is a statutory right to a minimum wage. Special protection exists for part-time workers, for those employed on fixed term contracts and for agency workers. There are also strict rules governing how an employer can use personal information relating to those who work for them. Employees have various rights in relation to information held about them (including a right to access their personnel files) under the generally applicable data protection law.

Transfer of undertakings

The Transfer of Undertakings (Protection of Employment) Regulations 2006 apply where a business, or part of it, is outsourced or transferred as a going concern. The employment contracts of the transferor's employees employed in that business are automatically transferred to the transferee, who takes on nearly all the rights and obligations under those contracts. The Regulations impose duties to consult and to provide information to recognised trade unions or employee representatives prior to the transfer taking place. The Regulations have no application in the context of sales of company shares.

Labour law and collective agreements

An employer can be required to recognise a trade union where the majority of the workforce is in favour of this. Once recognised, the employer must collectively bargain with the union on behalf of the workforce in relation to pay, hours and holidays. The union is entitled to certain information to facilitate these negotiations. Trade union representatives are entitled to certain rights under statute such as time off to attend meetings and not to suffer any detriment due to their position.

Organisations with 50 or more employees have to agree a consultative body with employees if at least two percent of the workforce (subject to a minimum of 15 and a maximum of 2,500 employees) demand it, unless they have pre-existing agreements in place.

There are a number of statutes dealing with industrial action, including strike action. This is a complicated topic and, in general, is beyond the scope of this note, but the following points may be of interest:

- In the UK, there is as such no right to strike, but within certain statutory limits, where industrial action is taken in furtherance of a trade dispute, the trade unions involved will enjoy immunity from legal action.
- Before taking industrial action (including strike action) trade unions must obtain support from their members in a ballot, provide the employer with specified information and give notice of the action. Failing to do so can result in a loss of immunity.

  There are strict restrictions on the rights of trade unions to picket and to take secondary industrial action.
- Where action is taken or threatened in a situation where the union does not enjoy immunity, employers may be able to obtain injunctions against the trade union. Failure by the trade union to comply can result in severe consequences for the union, including sequestration, fines for contempt of court and awards of damages to the employer.
- The dismissal of an employee for taking part in official action (i.e. one which complies with the ballot and notice requirements) will generally be automatically unfair. Dismissals of employees resulting from unofficial strikes are only unfair if the employer acts selectively e.g. by only dismissing some of the strikers.

Employment of foreign nationals

Most foreign nationals require a work permit before they can work in the UK. Employers seeking to employ foreign nationals should check the applicable immigration requirements.

It is a criminal offence for any officer, manager or senior employee in an organisation to employ a worker if they know or have reasonable grounds to believe that the worker does not have the right to work. A civil penalty of up to £60,000 may also apply, if an employer fails to check an employee's right to work in the UK.

Pensions and national insurance

Overview

- UK employers are required to make specified minimum pension provision for their UK "workers" (please see "Auto-enrolment" below for more details).
- Employers may choose how they provide pension benefits for their workers. The options currently are to:
  - establish an occupational pension scheme (or use an existing occupational pension scheme); or
  - contribute to a "master trust" arrangement set up by a third-party provider; or
  - contribute to a personal pension scheme - in practice, often provided by a single insurance company for all or some of the employer's employees and known as a "group personal pension".
- Benefits from an occupational pension scheme may be "defined benefit" ("DB"), or "defined contribution" ("DC") – please see below for an explanation of these terms. Personal pension schemes can only provide DC benefits. Benefits from master trusts are usually DC.
- Employers can choose to provide pension benefits above the statutory minimum. In general, the level of benefits provided will depend on market practice in the employer's particular industry, as well as the corporate group's wider remuneration policy.

The basics

At retirement, individuals who have worked in the UK will usually be entitled to a state pension, plus benefits from one or more workplace pension arrangements.

They may also have made their own private provision through a personal pension scheme.

Key terms

Defined contribution (DC): pension scheme benefits are based on a commitment by the employer to make contributions at a specified rate (for example, 5% of salary) to a fund that is invested on the member's behalf. The member is usually required to contribute, also as a percentage of salary.

At retirement, the member can choose how to take the accrued fund (including investment returns) - as one or more lump sums, by "drawing down" the fund through regular or one-off payments, or by purchasing a pension (or annuity) from an insurance company. The employer does not bear any risk relating to the level of benefits that can be provided from the accrued fund – this will depend on the amount of contributions paid, investment performance before (and, in some cases, after) retirement and the retirement choices made by the member.

Defined benefit (DB): the pension payable to the member is defined by a formula (commonly 1/60 of the member's final salary for each year of pensionable service). Members often contribute a percentage of their pensionable salary, with the "sponsoring employer" being liable for ensuring the defined benefits can be funded by the scheme when they fall due.

DB pension schemes must have an "actuarial valuation" at least every three years. This compares the value of the scheme assets with the value of the liabilities. Various factors, in particular longevity and yields on gilts, impact on the cost of providing the benefits payable.

Other types of DB schemes exist, such as "career average" arrangements providing pensions based on the member's lifetime earnings rather than final salary; and "cash balance" schemes which guarantee a minimum investment return on a member's fund.

Occupational pension schemes

Traditionally, occupational pension schemes were set up by employers who wanted to provide their own pension arrangement for their employees. Occupational schemes are almost always established under trust, with the scheme assets held and benefits administered by a board of trustees. Using a company as trustee (a "corporate trustee") is increasingly common, although boards of individual trustees still exist. The trustees (or directors of a corporate trustee) are usually employees and managers, or retired employees, of the employer, although the use of professional trustees is increasing. One third of the board of trustees must be nominated by members of the pension scheme.

Occupational pension schemes may provide DB or DC benefits, or both. Many occupational schemes have more than one section, with different benefits provided to members of different sections. Outside the public sector, it is increasingly rare for active (current) members to be building up DB benefits.

Master trust schemes

Master trust schemes are occupational schemes which provide DC benefits for the employees of employers who are not in the same corporate group.

Several commercial providers have set up master trusts targeted at employers who need to comply with the auto-enrolment requirements – discussed further below.

Collective money purchase schemes

A collective money purchase scheme (“CMP”) (also referred to as ‘Collective Defined Contribution’ or CDC) is a new form of pension scheme. This offers targeted, as opposed to a fixed, level of benefits and is seen by some as a hybrid of DC and DB. The benefits payable are adjusted periodically to balance the assets and the amount expected to be required to provide the targeted benefits. There is no obligation on employers to meet any shortfall – the risk lies with the members.

It is expected that, with effect from 31 July 2026, it will be possible to establish CMP schemes for unconnected employers. This will allow, for example, an existing master trust to open a CMP section.

A CMP scheme must be authorised by the Pensions Regulator and satisfy specified criteria.

Personal pension schemes

Personal pension schemes must be established and run by providers authorised by the Financial Conduct Authority (or an equivalent European regulator).

Personal pension arrangements can only provide DC benefits.

Personal pension policies are “personal”: a member will have an individual arrangement with the provider and may continue contributing under the policy after ceasing work for the particular employer who set up the arrangement.

Historically, employers wishing to provide a workplace pension, and who did not want the responsibility and expense of running an occupational scheme, would often opt for a “group personal pension” (GPP) arrangement with a provider. With a GPP, the employer contributes to its employees’ personal pension arrangements which are held with a single provider – i.e. on a ‘grouped’ basis.

Typically, a GPP will have lower charges than personal pensions available on the open, retail market.

Self-invested personal pensions (SIPPs) can be attractive to higher earners, especially those with their own business. SIPPs can be used to invest more widely than mainstream personal pensions, including in land and buildings used by the member’s business – although restrictions apply.

State pensions

A single-tier state pension is payable to individuals who reach state pension age on or after 6 April 2016.

The single-tier pension is set just above the threshold for state means-tested support. For 2025/26, the full weekly rate is £230.25. To obtain the full rate, an individual must usually have paid 35 qualifying years of National Insurance contributions (“NICs”) during their working life. A minimum of ten qualifying years is normally required to obtain the single-tier pension in part.

The single-tier pension is paid from state pension age, currently 66. The Government intends that state pension age will be raised for all, in stages, to age 68 between 2044 and 2046 for those born on or after April 1977.

Different state pension arrangements exist for individuals who reached state pension age before 6 April 2016.

National Insurance contributions (NICs)

NICs are paid by both employers and employees, based on the employee’s gross weekly earnings. The rates are revised each year.

For 2025/26, employees’ NICs are 8% of weekly earnings between £242 to £967 and 2% on weekly earnings above £967 (for most categories). Employers’ NICs for most categories are 15% of all weekly earnings in excess of £96 (£5,000 annually, without upper limit),

Regulation

There are two key regulators for pension schemes in the UK: the Pensions Regulator (“tPR”) and the Financial Conduct Authority (“FCA”). Broadly, tPR is responsible for overseeing occupational pension schemes; master trust schemes; CMPs; compliance with the auto-enrolment requirements; and arrangements under which employers pay contributions direct to personal pension plans. The FCA regulates the operation of personal pension plans and also the provision of investment services to occupational pension schemes.

In addition, DB occupational pension schemes must pay an annual levy and supply certain information to the Pension Protection Fund “PPF” (although the PPF has not charged a levy for the 2025/2026 financial year). The PPF provides compensation to members of DB schemes whose sponsoring employers become insolvent and whose pension schemes are insufficiently funded to pay a minimum level of benefits. For many members, PPF compensation is less than the benefits which would have been due to them under their scheme rules.

Auto-enrolment

All UK employers, regardless of size, must automatically enrol their “eligible jobholders” into a pension scheme which meets minimum quality standards. Broadly, an eligible jobholder will be any UK worker:

- whose rate of pay in the tax year 2025/2026 is equivalent to £10,000 per year or more;
- who is aged between 22 and state pension age; and
- who does not fall within a limited number of exceptions.

The employer must pay contributions of at least a minimum rate to the scheme – please see below. Employers must also enrol workers who are not eligible jobholders into a pension scheme if the jobholder asks to be enrolled. In some cases, the employer must pay contributions in respect of these workers.

To meet the auto-enrolment requirements, employers can use an existing pension scheme or may set up a new arrangement. In practice, many new employers choose to contribute to a master trust or group personal pension, operated for profit by a commercial provider.

The contribution rate is 8% of a jobholder’s “qualifying earnings” (annual earnings between £6,240 and

£50,270 for the 2025/26 tax year). Of this, employers must contribute at least 3% and job holders must contribute the balance (which is 5% unless the employer chooses to pay contributions at a higher rate).

Jobholders have a right to opt-out of their pension scheme but offering inducements to them to do so is prohibited. Employers must conduct a re-enrolment exercise every three years, so that eligible jobholders who have opted-out are re-enrolled at this point. On 19 September 2023, the Pensions (Extension of Automatic Enrolment) Act was passed. It makes provisions about the extension of automatic enrolment to jobholders under the age of 22 and removing earnings thresholds. Regulations will be required to implement such measures.

Pension dashboards

A pension dashboard is a digital platform that would allow individuals to view information about all their pension savings in one place.

Large and medium-sized pension schemes will be required to connect to pension dashboards by 31 October 2026. The exact deadline depends on the type of scheme and the number of members. Pension providers are currently undertaking work to ensure they can connect to pension dashboards, from a technical perspective, and provide accurate information about pension savings.

Tax treatment of pension schemes

Most workplace pension schemes in the UK are registered with HMRC. Registration confers important tax advantages, but limits the ways in which benefits may be paid. Members of tax-registered pension schemes cannot usually take benefits from their scheme below age 55, except in cases of ill health and other limited circumstances. The minimum pension age will rise to age 57 in April 2028. Whilst the vast majority of workplace pension schemes in the UK are registered with HMRC, some are not (mainly top-up schemes for high-earners who have already built up benefits an excess of HMRC limits).

Tax treatment of contributions

Tax relief is available for both employee and employer contributions to a registered pension scheme. NICs, however, remain payable on employee contributions. Salary sacrifice arrangements, under which the employee agrees to a reduced salary in exchange for an increased pension contribution from their employer, are widely used at present to reduce the level of NICs payable. However, in November 2025, the Government announced that, with effect from 2029, NICs will be levied on salary sacrifice employee contributions of over £2,000 per year.

An employee who is UK resident, or who has relevant earnings chargeable to UK tax, will receive tax relief on contributions up to the higher of £3,600 a year or 100% of all UK chargeable earnings. However, the total of all tax-relieved contributions and accruals attributable to an individual (from any source) in a tax year is capped at the “annual allowance”. For individuals with incomes of up to £260,000, the standard annual allowance for 2025/26 is £60,000. A gradual taper applies to individuals with incomes of £260,000 or more, resulting in an annual allowance of £10,000 for those whose incomes are £360,000 or more.

Tax treatment of investments

A registered scheme’s return on its investments is mostly exempt from income tax and capital gains tax. There are some restrictions on investments. For example, occupational pension schemes are limited as to the extent they can hold employer-related investments. Restrictions on personal pension scheme investment are designed to prevent members from evading inheritance tax or purchasing pensions assets that the member then uses, such as artwork or holiday homes.

Tax treatment of benefits

Broadly, 25% of the value of a pension benefit may be taken as a tax-free lump sum (up to a limit), with the remainder of the benefit subject to income tax (but not NICs). For most people, the limit on tax-free lump sums, known as the lump sum allowance, is set at £268,275 for the 2025/26 tax year.

Benefits from a DB scheme must usually be taken as a pension (apart from the initial tax-free lump sum). If an individual has used up their lump sum allowance, any excess benefits can alternatively be taken as a lump sum, subject to income tax (but not on NICs). The whole of the benefit may be taken as a lump sum in certain circumstances, such as if the pension is very small or the member is in serious ill health.

Since 2015, benefits from a DC arrangement may be: taken as one or more lump sums; put in a “draw-down” fund and withdrawn over an extended period; used to buy an annuity (a guaranteed income from an insurer); or (rarely) to buy a pension from an occupational pension scheme. Schemes are not required to offer the full range of possible benefits.

Members of DB schemes may choose to transfer their benefits to a DC scheme to access the wider range of permitted benefits. Where the DB benefits are valued at £30,000 or more, the individual must take financial advice before a transfer can be made. In addition, pension transfers have become increasingly regulated, the intention of which is to reduce the risk of members being “scammed”.

Tax treatment of death benefits

Pension schemes commonly pay benefits to survivors (usually the member’s spouse or partner, plus any dependent children) after a member’s death. In general, survivors’ benefits taken as income are subject to income tax. Lump sums can be payable in certain circumstances and are often paid free of income tax or inheritance tax.

However the Government intends that, from April 2027, certain lump sums paid by pension schemes after a member’s death (but not including lump sums paid by registered pension schemes on deaths in service) will be subject to inheritance tax.

Equal treatment

Occupational pension schemes must treat men and women equally. All schemes should have equal retirement ages, benefits, and entry conditions for men and women. Many older schemes were set up with different retirement ages and unequal death (or other) benefits for male and female employees and have subsequently had to amend their scheme rules to ensure equal treatment.

It is also unlawful to exclude part-time or fixed-term employees from membership of a pension scheme or to provide less favourable benefits, unless different treatment is justified on objective grounds.

Cross-border occupational schemes

Following Brexit, the legislative regime that governs occupational pension schemes operating cross-border within the European Economic Area no longer applies to UK pension schemes.

Personal Tax

Residence

An individual's tax position will depend on whether they are resident in the UK for tax purposes. This is a matter on which the individual will need separate detailed advice. However, a broad summary of the position is set out below.

It should be noted that an individual's residence status need not be the same as that of their spouse or civil partner.

Residence

An individual's UK residence is determined by reference to a statutory test (the "Statutory Residence Test" or "SRT").

Under the SRT, an individual ("P") is resident in the UK for a tax year (i.e. from 6 April to 5 April) ("year X") if **either** of the following two tests is met:

- automatic residence test; or
- sufficient ties test.

Automatic residence test

This test is satisfied for year X if P meets at least one of the four automatic UK tests and none of the five automatic overseas tests.

Automatic UK tests

First test – P spends at least 183 days in the UK in year X.

Second test – P has a home in the UK during all or part of year X and is present in that home for at least 30 days in year X, and there is a period of 91 consecutive days (at least 30 of which fall within year X) when P either has: (a) no home overseas; or (b) one or more homes overseas but is present in each home on fewer than 30 days in year X.

Third test – P works sufficient hours (broadly, full-time) in the UK over a period of 365 days (all or part of which falls within year X) without significant break from UK work (broadly, 31 days or more), more than 75% of P's working days in that 365-day period are UK working days and at least one day which falls in both that 365-day period and year X is a UK working day.

Fourth test – P dies in year X, was UK resident for each of the three previous tax years, had a home in the UK at the time of their death and, if P had an overseas home during all or part of year X, did not spend a sufficient amount of time there in year X (broadly, 30 days or more).

Automatic overseas tests

First test – P was resident in the UK for one or more of the three tax years preceding year X, spends fewer than 16 days in the UK in year X and does not die in year X.

Second test – P was resident in the UK for none of the three tax years preceding year X and spends fewer than 46 days in the UK in year X.

Third test – P works full-time overseas for year X without significant break from overseas work (broadly, 31 days or more), works fewer than 31 days in the UK in year X and spends fewer than 91 days in the UK in year X.

Fourth test – P dies in year X, spends fewer than 46 days in the UK in year X and was either: (a) UK resident for neither of the two tax years preceding year X; or (b) not UK resident for the tax year preceding year X and the year before that was a split year under certain specified cases.

Fifth test – P dies in year X, they would have met the third automatic overseas test (full-time work overseas) had this been assessed from the start of year X up to the day before P's death, and P was UK resident for neither of the two previous tax years because: (a) they worked full-time overseas for each of those years; or (b) they worked full-time overseas for the tax year preceding year X and the year before that was a split year under certain specified cases.

Sufficient ties test

Even if P meets none of the automatic UK tests and none of the automatic overseas tests, they will still be UK resident in year X provided they have sufficient UK ties for that year. Whether UK ties are "sufficient" will depend on whether P was resident in the UK for any of the previous three tax years, and the number of days that P spends in the UK in year X. The position is set out in the tables below.

Where P was resident in the UK in one or more of the three tax years preceding year X:

Days spent by P in the UK in year X	Number of ties that are sufficient	UK ties
More than 15 but not more than 45	At least 4	A family tie An accommodation tie A work tie A 90-day tie A country tie
More than 45 but not more than 90	At least 3	
More than 90 but not more than 120	At least 2	
More than 120	At least 1	

Where P was resident in the UK for none of the three tax years preceding year X:

Days spent by P in the UK in year X	Number of ties that are sufficient	UK ties
More than 45 but not more than 90	All 4	A family tie An accommodation tie A work tie A 90-day tie
More than 90 but not more than 120	At least 3	
More than 120	At least 2	

Broadly, these UK ties are defined as follows:

Family tie – P has a family tie for year X if they have a "relevant relationship" with another person who is UK resident for year X (i.e. spouse or civil partner from whom P is not separated, unmarried partner, child under the age of 18);

Accommodation tie – P has an accommodation tie for year X if they have a place to live in the UK which is available to P for a continuous period of at least 91 days and P spends at least one night at that place in that year;

Work tie – P has a work tie for year X if they work in the UK for at least 40 days (continuously or intermittently);

90-day tie – P has a 90-day tie for year X if they have spent more than 90 days in the UK in the tax year preceding year X, the tax year preceding that tax year, or in each of those tax years; and

Country tie – P has a country tie for year X if the UK is the country in which they are present for the greatest number of days.

Split year treatment

Where P comes from overseas to live or work in the UK (or leaves the UK to live or work overseas) in year X, and certain conditions are met, year X will be split into a resident and non-resident part.

UK income tax

Separate taxation of husband and wife

Husbands and wives are taxed separately and must submit their own tax returns. Each enjoys a personal allowance, i.e. an amount of tax-free income (£12,570 for the tax year 2024/25, reducing once the income limit of £100,000 is exceeded).

A husband and wife have their own exemptions and sets of rate bands. There are detailed rules to determine how income from jointly owned assets should be treated.

Scotland and Wales have powers to set their own income tax rates which are not discussed here.

Rates

The basic rate of income tax for 2025/26 is 20% on taxable income up to £50,270 (assuming a full personal allowance). For 2025/26 the higher rate of 40% is payable on taxable income of between £50,270 and £125,140, with an additional rate of 45% payable on taxable income over £125,140. Savings income and dividend income are dealt with separately.

A taxpayer is also entitled to a personal savings allowance on their savings income, which is tax-free. The amount of the allowance depends on the taxpayer's income tax bracket. For basic rate taxpayers it is £1,000, for higher rate taxpayers it is £500, and there is no personal savings allowance for additional rate taxpayers. Amounts of personal savings income over the allowance are taxed at the taxpayer's usual rate of income tax.

UK resident shareholders pay no income tax on the first £500 of taxable dividend income. This income will still count towards an individual's basic or higher rate limits. Dividends received over the £500 allowance will be taxed at 8.75% for income in the basic rate band, 33.75% for income in the higher rate band and 39.35% for income in the additional rate band.

In calculating their taxable income, an individual can deduct certain allowances, including personal allowances (see above). There is no tax relief for mortgage interest, or most other interest costs.

Income subject to tax

All income from UK sources is subject to UK income tax. This includes dividends from UK companies, interest from UK bank and building society deposits, income from UK properties and from trades and employments carried on in the UK.

Normally, someone who is resident in the UK will be taxable on their worldwide income and gains on an "arising basis". The "remittance basis of taxation" which allowed an individual who was resident but non-domiciled in the UK (broadly, someone who was not born in the UK and has not chosen to make the UK their permanent home) to elect to pay UK tax on only such foreign income and gains that were brought into the UK has been repealed for income and gains arising after 6 April 2025. A temporary repatriation facility is available for individuals who had previously claimed the remittance basis; this facility allows such individuals to bring income and gains which arose before 6 April 2025 into the UK and pay tax at lower rates. The temporary repatriation facility is available for tax years 2025-26, 2026-27 and 2027-28.

Instead, a residence-based regime applies from 6 April 2025. Under this regime, individuals who are UK resident for up to four tax years (and have not previously been UK tax resident in any of the ten tax years prior to their arrival) broadly will not pay UK tax on their foreign income and gains arising in this period, provided a claim is made ("FIG relief"). It is not possible to claim FIG relief on foreign employment income or earnings, but this income may qualify for overseas workday relief. UK resident individuals not qualifying for FIG relief are subject to UK income tax and CGT on their worldwide income and gains arising from 6 April 2025.

A temporary repatriation facility allows individuals who previously claimed the remittance basis to remit foreign income which arose prior to the new regime at a reduced rate (12% for tax years 2025-26 and 2026-27 and 15% for 2027-28). As a transitional measure, current and past remittance basis users, who do not benefit from the FIG relief, will be able to rebate foreign assets they held on 5 April 2017 to their value at that date when they dispose of them from 6 April 2025.

Treaty relief

An individual who is resident outside the UK may, if their employment is structured appropriately, be entitled under an applicable double tax treaty to exemption from UK tax on all their employment income, even in relation to UK duties. Normally, to benefit from this exemption, they must be employed and paid by a non-UK resident employer and must not be present in the UK for more than 183 days in any twelve month period commencing or ending in the tax year. In addition, their remuneration should not be borne by a UK permanent establishment of the non-resident employer.

Even where treaty relief is available, there may still be PAYE obligations in respect of such an individual.

The 'Pay As You Earn' system ('PAYE') and National Insurance Contributions ('NICs')

The UK operates a system, known as PAYE, for the deduction of income tax and also mandates deduction of UK employee social security contributions, known as employee NICs from an individual's salary or wages. The individual is then paid the net amount.

It is the responsibility of an employer to deduct income tax and employee NICs from the pay of every employee working in the UK, in accordance with tables issued by HMRC (and, in the case of income tax, each employee's tax code), and to account to HMRC each month or quarter for the tax deducted and the employer's and employee NICs.

UK law defines taxable pay very widely. Many expenses payments and benefits in kind are subject to income tax under PAYE and NICs.

Employers will broadly be subject to PAYE obligations where they have a UK presence (essentially a UK address to which correspondence can be sent) and NICs obligations where they either have a UK presence or an EU place of business.

The PAYE and NICs rules are, however, complex and special rules may apply depending on the circumstances, including in relation to employees seconded to UK subsidiaries, non-UK resident employees and employees working in more than one jurisdiction. It is, therefore, important to seek advice tailored to your individual circumstances.

Secondment of employees to UK subsidiaries

If an employee is seconded from a parent company to its UK subsidiary, it should be noted that:

- the foreign parent may become taxable in the UK if the employee constitutes its permanent establishment, or if the employee exercises the central management and control of the foreign parent in the UK;
- the UK subsidiary may have PAYE and NICs obligations in respect of the employee under what are known as the "host employer" rules;
- the employee will still have the benefit of UK employment protection legislation; and
- the employee will still need a work permit or other entry clearance.

An exemption from NICs may be available for:

- the first 52 weeks after the seconded employee arrives in the UK subject to the satisfaction of certain conditions; or
- longer where employees are seconded to the UK from a country with which the UK has an agreement or convention in relation to social security (including the US and EU member states) or work both in the UK and in another jurisdiction(s) covered by such an agreement or convention (in which case the employer would be required to obtain (on the employee's behalf) the appropriate form demonstrating to the UK authorities that contributions are still being paid in the other jurisdiction).

UK capital gains tax

An individual resident in the UK in a tax year may be subject to capital gains tax ("CGT") on gains arising when they dispose of, or realise a capital sum from, assets situated anywhere in the world. Newly UK resident individuals may be able to claim FIG relief on foreign capital gains (see above).

CGT is generally charged at 18% or 24% depending upon the individual's total amount of taxable income. Gains in respect of UK residential property which are not eligible for Principal Private Residence relief are also taxed at 24%. Gains from carried interest are taxed at 32%. It is expected that carried interest arising from April 2026 will be brought within the UK income tax code, and taxed as deemed trading income (at combined income tax and NI rates of up to 47%), however, a discount mechanism will exempt 27.5% of "qualifying carried interest". Spouses each enjoy an annual exemption from CGT (£3,000 for tax year 2025/26). Transfers between spouses are not subject to CGT, being treated instead as being done on a no gain-no loss basis.

Business asset disposal relief may apply a reduced rate of 14% to gains arising on disposals of business assets as part of the disposal of a trading business carried on by an individual. The rate of business asset disposal relief is due to increase to 18% from 6 April 2026.

UK inheritance tax

Inheritance tax ("IHT") is chargeable on certain transfers of assets during an individual's lifetime by way of gift, or at an undervalue where the individual intends to confer a benefit on the recipient. There are numerous exemptions from the charge and in particular tax will not generally be chargeable if the individual survives seven years and has not retained any benefit from or interest in the property concerned.

IHT is also chargeable on transfers of assets on an individual's death including assets under which they have an interest under certain trusts. Transfers to spouses are exempt (subject to a limit of £325,000 where the transferor spouse is a long-term UK resident but the transferee spouse is not).

An individual has an annual IHT exemption (currently £3,000) for lifetime transfers, which can be carried forward for one year if it is not utilised.

The previous IHT rules drew a distinction based on domicile, whereby IHT applied to individuals domiciled and deemed domiciled in the United Kingdom in respect of their worldwide assets and to individuals domiciled abroad in respect of their UK assets. These rules have been repealed and replaced with a new residence-based system from 6 April 2025. Individuals who are "long-term UK residents" are subject to IHT on their worldwide assets whereas individuals who are not long-term residents are only subject to IHT on their UK assets. An individual will be a "long-term UK resident" if they have been a UK resident for at least ten out of the last twenty tax years, and they remain in scope of UK IHT in relation to their worldwide assets for between three and ten years (depending on how long they were UK resident prior to leaving the UK).

IHT is payable at the applicable rate on the value of the property transferred. The tax is not payable until a threshold, which is currently £325,000, is reached. This can be increased to up to £500,000 where the individual's main residence is left to a direct descendant on death.

Thereafter, the tax is chargeable at a flat rate of 40% or, in the few cases where tax on lifetime transfers is immediately payable, 20%. A rate of 36% applies where 10% or more of the net estate is left to charity. In determining whether the threshold has been reached, the total value of chargeable transfers made in the previous seven years is added to the value transferred by the current transfer.

It is now possible to transfer any unused IHT nil rate band that has not been utilised on a person's death to the estate of the surviving spouse.

Appendix I

Acquisition of an existing UK business

General

A company wishing to set up a commercial operation in the UK may sometimes do so by acquiring an existing business. The two most usual methods are by the acquisition of the shares in a UK company or by purchasing a UK company's business. In the latter case, it is possible to select which assets of the business are acquired and the extent to which liabilities of the business are taken over (if at all).

In the UK, the City Code on Takeovers and Mergers (the "Code") governs the public takeovers of certain UK companies (including those publicly trading on UK markets and certain other in-scope public and private companies registered in the UK). The Code sets out various rules in relation to takeovers of public companies and dictates the time limits and procedures to be observed.

Outside the scope of the Code, the acquisition of a private limited company or the assets of a business is less regulated. There are certain regulations protecting buyers of shares from misrepresentations as well as rules on financial promotions to consider. Otherwise, English law allows the parties considerable freedom to agree the terms of the acquisition in the contractual documentation.

Asset purchase

The acquisition of the business of a UK company is normally dealt with by way of an asset purchase agreement. There are various reasons why it may be advantageous to acquire assets rather than shares, for example, all or certain liabilities can be left behind with the seller, the buyer can choose to take only part of a company's business and it may be preferable from a tax perspective. Employment contracts should be carefully considered on a business sale, as employment legislation provides an exception to the general rule that the buyer can choose which part of the business to take control of – in most cases, the employees will automatically transfer with the business.

Share acquisition

With a share acquisition, the acquiring company may make an offer for the whole of the issued share capital of the company or for a proportion of the issued share capital sufficient to give it voting control. On a share sale, the actual structure and substance of the company stays exactly the same and it is only the ownership which will change.

Competition law

Certain corporate activities involving the purchase of an existing business or company (or even the acquisition of a minority non-controlling shareholding) may be categorised as 'mergers', in which case they may have to be cleared by the competition authorities in one or more countries (and/or by a transnational authority like the European Commission) if certain jurisdiction thresholds are met. Clearance may be required even where the transaction does not give rise to any competition concerns. In many countries, the parties to a qualifying merger are not allowed to complete the transaction until the transaction has been formally cleared.

If clearance is required, (and, in particular, where a transaction is subject to more detailed investigation on account of potential competition concerns – which potentially results in prohibition or approval being conditional on the parties agreeing binding commitments/remedies), the process could end up being timely and costly. This, in turn, may well have implications for the overall value (or rationale) of the acquisition. Such issues should therefore be considered from an early stage in the deal – factored into the transaction timetable and, where necessary, contractual arrangements/protections agreed between the parties.

On 4 January 2022, the National Security and Investment Act 2021 (NSIA) came into force, ushering in a new era of investment control in the UK (noting that the NSIA does not, unlike many other FDI regimes, distinguish between foreign and domestic-based investors). The NSI is an exceptionally expansive regime - moving the UK from something of an investment screening outlier to one of the more robust and demanding systems globally. Most notably, it includes a mandatory notification regime for transactions in certain sensitive sectors and which involves significant financial and criminal sanctions (as well as commercial consequences) for non-compliance. The NSIA is separate from the UK competition law regime and consequently requires very specific advice and analysis. The Chancellor of the Duchy of Lancaster and Secretary of State in the Cabinet Office is the key decision maker, with day-to-day operation of the regime conducted by a new specialist body: the Investment Security Unit (ISU).

Tax

Early consideration should be given to the tax consequences of the proposals.

Pensions

Specialist advice is needed if the target business has ever participated in a defined benefit pension (DB) scheme (that is, one in which members are promised a defined level of benefit and the “sponsoring employers” are liable to make good any shortfall in the scheme assets to ensure this benefit can be paid). The Pensions Regulator has extensive powers to require additional contributions or other support to be put in place where a DB scheme is underfunded, in particular where the scheme’s financial position is worsened as a result of corporate activity. The Regulator’s powers extend not only to sponsoring employers but also to persons who are associated or connected with the sponsors – including individuals.

In addition, the Regulator has powers to pursue criminal prosecutions, again including where the scheme’s financial position is worsened as a result of corporate activity. These powers extend widely – only persons acting as insolvency practitioners are excluded from their scope.

Situations in which the Regulator may intervene include: a sale of a sponsoring employer or part of its business; refinancing arrangements which give higher priority to creditors other than the pension scheme trustees; the payment of dividends which are large compared to any deficit repair contributions to the pension scheme; and intra-group restructurings which weaken the strength of a sponsoring employer.

Appendix II

Information needed to incorporate a company

This Appendix sets out some of the basic information required by Hogan Lovells in order to incorporate a new company (as at the date of this note):

Directors

In respect of each new director of the company (of whom it is recommended there should be at least two):

- full name (for an individual, their first names, surname and any former names and for a corporate director, its company name and number);
- nationality;
- usual residential address (or for a corporate director, its registered address or principal place of business) and service address;
- business occupation;
- the country, state or part of the UK in which the director is usually resident; and
- date of birth; and
- their unique identifier number (confirming that they have verified their identity).

Share capital

The share capital of the company (together with other details in order to complete the "statement of capital").

Shareholders

In respect of each shareholder:

- full name;
- address; and
- instructions as to any allotment of further shares in the company.

PSCs

In respect of each individual PSC:

- full name;
- service address;
- the country or state (or part of the United Kingdom) in which the individual is usually resident;
- usual residential address;
- nationality;
- date of birth;
- their unique identifier number (confirming that they have verified their identity);
- the date on which the person became a registrable person in relation to the company;
- nature of control (and extent); and
- confirmation of consent or knowledge.

In respect of each corporate PSC (or "registrable relevant legal entity" as defined in CA 2006):

- corporate or firm name;
- registered or principal office;
- legal form of entity and law under which it is governed;
- register of companies in which entity is registered (and registered number);
- the date on which the entity became a registrable person in relation to the company; and
- nature of control (and extent); and
- the name and specified security information of an authorised signatory acting on behalf of the company.

PSCs that are corporations sole, governments, local authorities, government departments or international organisations are subject to slightly different requirements.

Name

The proposed new name of the company with, if possible, alternative suggestions in case the first choice name is not available.

Management and procedure

Any special requirements for the operation of the company so as to enable an assessment to be made about changes that may be needed to the standard articles.

Auditors

The name and address of the firm.

Registered office

The full postal address of the proposed registered office.

Email address

An appropriate email address for the company.

Bankers

The name and branch of the bank which is to act as banker to the company, the identity of the signatories and any limits on the authority of the signatories.

Further information

If you would like further information on any aspect of this note, please contact a person mentioned below or the person with whom you usually deal.

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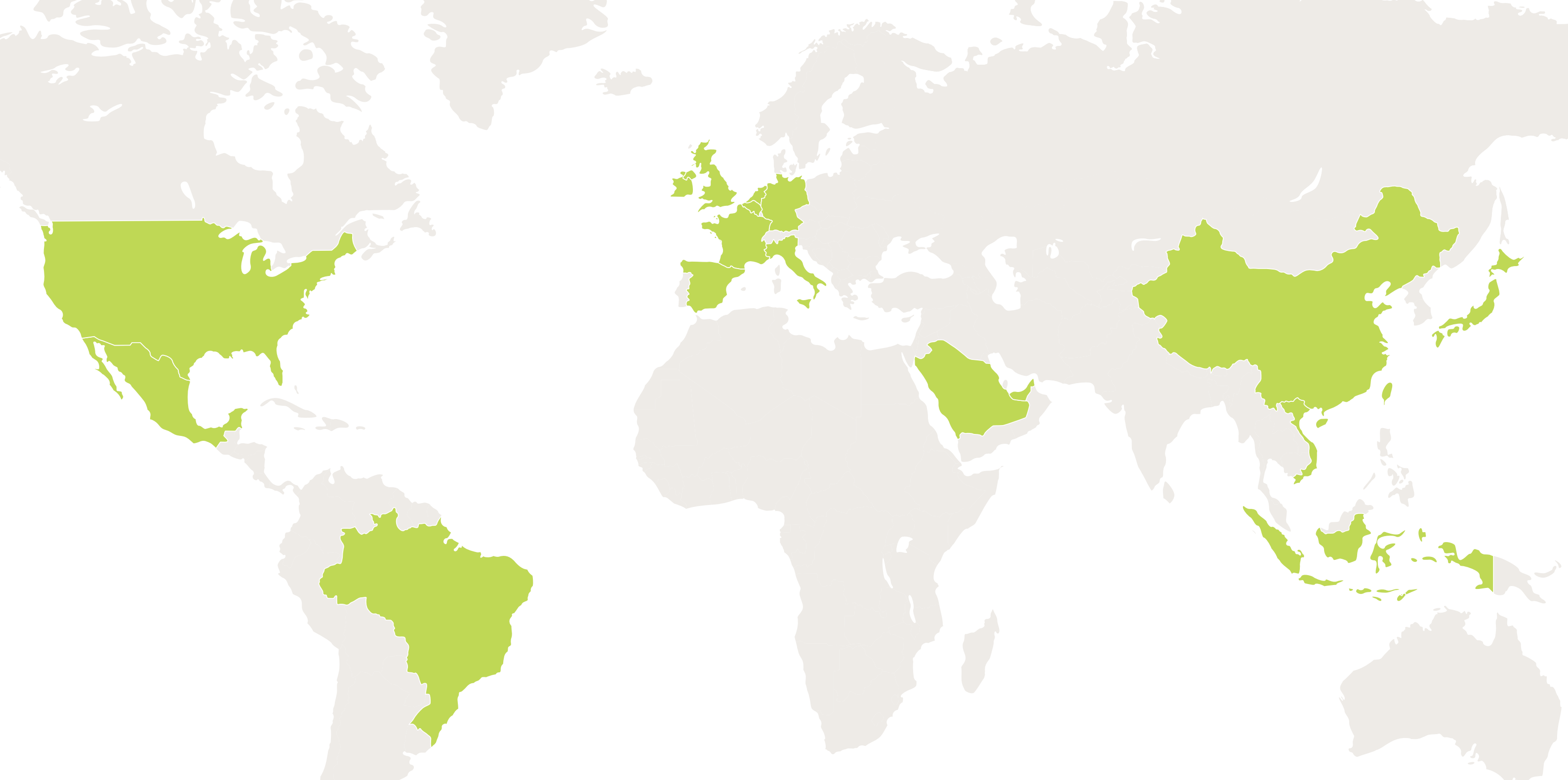
This note is written as a general guide only and reflects the law as at 9 December 2025. It should not be relied upon as a substitute for specific legal advice.



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- **Denver**
- **Greater Washington, D.C.**
  - Baltimore
  - Washington, D.C. and Northern Virginia
- **Houston**
- **Los Angeles**
- **Miami**
- **Minneapolis**
- **New York**
- **Philadelphia**
- **Northern California**
  - San Francisco
  - Silicon Valley
- **Latin America**
  - Brazil
  - Mexico

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