



OPENING UP SHOP IN THE UNITED KINGDOM

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In the UK*, there are three categories of employment status: employees, workers, and the self-employed, and the rights and protections an individual is afforded will depend on their status. Employees enjoy the highest level of rights and protections which are governed by their employment contract as well as a wide range of domestic and European laws.

Clyde & Co has one of the largest market-leading employment teams in London, as well as teams in Scotland and Manchester, providing high quality, commercial and pragmatic advice when needed. We provide the full range of assistance in relation to employment issues and we are also one of the few London based employment groups that have dedicated pensions

and immigration teams sitting alongside us which enables us to provide a complete service to HR teams.

I. LABOUR AND EMPLOYMENT REQUIREMENTS

A. EMPLOYER POLICY REQUIREMENTS

Businesses that employ staff in the UK must implement the following written employment policies:

- disciplinary and grievance procedures: all employers must follow the ACAS Code of Practice on disciplinary and grievance procedures and must provide details of the procedures they have in place
- businesses employing five or more people must have a health and safety policy

Businesses operating in regulated sectors may be required to have additional policies in place.

A business may decide to introduce other policies as well, either at the outset or as the business grows, but whether it does so and what these policies are will depend on the nature and scale of the business. These additional policies may help employees understand what is expected of them, as well as creating a culture where issues are dealt with fairly and consistently, thereby mitigating the risk of legal liability. This may include the following policies, amongst others:

- equal opportunities and discrimination policy, setting out a commitment to equal opportunities and diversity
- harassment and bullying policies, covering minimum standards of behaviour

- whistleblowing policy
- data protection and data security policy
- anti-bribery and corruption policy to help demonstrate compliance with bribery legislation
- sickness absence policy, dealing with sickness reporting, long-term absence and sick pay
- holiday policy, covering sickness absence during periods of leave
- policies on communications and use of company equipment, to cover employees' use of work computers and telephones, and the internet, social media, etc
- policies on pregnancy and family friendly leave entitlements as well as a flexible working
- expenses policy, to cover the reimbursement of travel and other business expenses
- businesses with fewer than five

This guide is intended as general information only. For legal advice and assistance with your business needs, please contact our UK firm, Clyde & Co.



employees should consider having a health and safety policy

B) EMPLOYEE TRAINING REQUIREMENTS

Employers must provide any health and safety training necessary to ensure, as far as reasonably practicable, the health and safety of their employees at work. This training is particularly important when employees start work, if they are exposed to new or increased risks, and if their existing skills need updating.

C) EMPLOYMENT AGREEMENTS

Employers are required by law to provide employees with a written statement containing particulars of employment not later than two months after their employment begins. The statement must include the terms and conditions of employment relating to pay (in relation to which there are minimum wage

requirements), hours of work, holiday entitlement, notice period, pension and the disciplinary and grievance procedures in place, amongst other matters.

Employers have to ensure that workers in the UK, between the ages of 22 and state pension age, and earning over the income tax threshold in place at the relevant time, are automatically enrolled into a qualifying pension scheme to which the employer must contribute. The duty is being phased in according to the size of the employer and will not be fully in force until 2018.

Employers are required to have in place employer's liability insurance against liability for bodily injury or disease sustained by employees and arising out of and in the course of their employment.

Employers have a duty to prevent illegal working in the UK by carrying out prescribed document checks

on candidates before employing them to ensure they have the right to work in the UK. The checks should then be repeated in respect of those individuals who have time-limited permission to work in the UK prior to the expiry of their permission. Employers must keep a record of the checks they have carried out. There may be other employment checks that employers are required to carry out in some circumstances.

Clyde & Co can prepare bespoke employment contracts, policies and training materials tailored to your business. We can also provide advice about employers' obligations in relation to auto-enrolment, employer's liability insurance and preventing illegal working in the UK and other matters which should be considered when employing people in the UK.





II. CORPORATE LAW REQUIREMENTS

A. COMPLIANCES FOR INCORPORATION

When setting up a business in the UK there are a number of options potentially available, including working as a sole trader (i.e. running the business as an individual with full responsibility for the legal and financial affairs of the company), engaging an agent, forming a partnership, establishing a branch office of a foreign corporation or incorporating a company in the UK.

If a company is to be incorporated, there are various types of company that can be formed – this note looks at the formation of a private limited company under the Companies Act 2006, which is the most common type of company used in the UK.

To incorporate a private limited company, it is necessary to:

- Prepare articles of association – these are the rules that govern the running of the company and set the powers of the directors, alongside statutory requirements; either standard (or model) forms of articles that can be used, or bespoke articles drafted
- Determine the capital structure of the company and prepare a memorandum of association – it is necessary to determine how many shares the company will issue and give these a nominal (or per) value, which can be in any currency. The first shareholders will sign the

memorandum of association to subscribe for their shares

- Appoint a board of directors – a private limited company must have at least one director, and a company secretary may also be appointed (but this is not required)
- Choose a company name – the name cannot be the same as any name on the register of companies. The use of certain words is prohibited and certain words (such as ‘international’, ‘UK’, ‘association’) can only be used with the prior approval of the Secretary of State or other designated authority
- Determine a registered office – this need not necessarily be where the company operates in the UK but must be an address where legal and other notices can be served on the company. Many auditors, service companies and law firms (including Clyde & Co through its dedicated Company Secretary unit) provide registered office services
- Appoint auditors – they must be members of a recognised supervisory body of accountants established in the UK
- Prepare details of persons with significant control (PSCs) and relevant legal entities (RLEs) in relation to the company – these PSCs and RLEs must be disclosed at the time of incorporation and updated in accordance with the Small Business Enterprise and Employment Act 2015

Once these items are prepared, incorporation takes place by filing

an IN01 form at Companies House together with a fee (currently £12 for web-filing, £40 for the standard paper service and £100 for same day service using paper forms). Incorporation is complete when Companies House issues a certificate of incorporation - this can be completed within 24 hours when using the same day service, and usually for web-filing too.

B. POST INCORPORATION REGISTRATIONS

Promptly following incorporation, a company is automatically contacted by Her Majesty’s Revenue and Customs (HMRC) in order to register for Corporation Tax purposes. Companies also need to check whether they must register for Value Added Tax (VAT), which is paid on the supply of goods and services in the UK – this should be attended to promptly and exemptions are available only for the smallest companies.

After incorporation, private limited companies have ongoing obligations to make filings with Companies House if changes are made to their registered details and following certain corporate actions. Web-filing is well established for such notifications and is quick, easy and relatively cheap.



III. PAYROLL AND BENEFITS PROVIDERS

In the UK, most small and medium-sized employers outsource payroll and benefit responsibilities to third party companies. We would be happy to recommend payroll and benefits providers to suit your business needs.

If you have any questions or would like advice in relation to employing people in the UK, please contact

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* This guide relates to the law in England & Wales. Much of the relevant legislation also applies in Scotland. Northern Ireland has a separate statutory code although much of its employment law is coordinated with that of England, Wales and Scotland. This guide is therefore not to be used as authority for the law in Scotland or Northern Ireland.

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