



A brief guide to forming a company



1. Incorporating a Company

Types of Company

The most common forms of business organisations operating in Ireland are:

- A Limited Company
- An Unlimited Company
- Investment Funds

Irish registered companies can be formed having public or private status and with limited or unlimited liability.

Irish company law also provides for the use of the Societas Europaea or “SE’s” which is a European public limited company.

Limited Companies

In a limited company, the liability of the shareholder is limited to the amount(s) agreed to be paid on the issue of share(s) or the nominal value of the share, whichever is greater and/or is limited to the amount guaranteed by the shareholder.

A limited company may be either a ‘public limited company’ (“PLC”) or a ‘private company’. A PLC may seek subscriptions from the public and can apply to have its shares quoted on any stock exchange. A private company is one which restricts the right to transfer its shares, limits the number of shareholders to 149 and prohibits any invitation to the public to subscribe for any shares or debentures of the company.

All companies must have at least one shareholder. The majority of Irish companies are private companies limited by shares.

There are numerous types of limited company including:

- **A Private Company Limited by Shares (“LTD”):** A simplified entity, a LTD has the capacity of a natural person, can have one director and must have a separate secretary.
- **A Designated Activity Company (“DAC”):** A private company, a DAC’s activities are limited to its objects as set out in its memorandum of association and it must have at least two directors. Suitable for joint ventures and special purposes vehicles or where there is a corporate governance requirement for a restriction on its activities.
- **A Company Limited by Guarantee having a Share Capital (“DAC limited by guarantee”):** A private company, whereby the shareholders have liability under two headings; firstly, the amount, if any, that is unpaid on the shares they hold, and secondly, the amount they have undertaken to contribute to the assets of the company, in the event that it is wound up, being not less than €1. Its activities are limited to its objects as set out in its memorandum of association and it must have at least two directors.
- **A Company Limited by Guarantee not having a Share Capital (“CLG”):** A public company, whereby the shareholders’ liability is limited to the amount they have undertaken to contribute to the assets of the company, in the event it is wound up, not exceeding a specified amount and subject to a minimum of €1. Suitable for charitable and professional bodies who wish to secure the benefits of separate legal personality and of limited liability but do not require funds from the shareholders. Its activities are limited to its objects as set out in its memorandum of association. A CLG must have at least two directors.
- **A Public Limited Company (“PLC”):** Permitted to have shares listed on a stock exchange and offered to the public. Its activities are limited to its objects as set out in its memorandum of association. A PLC must have at least two directors. A PLC must have the statutory minimum share capital of €25,000 of which at least 25% must be paid on issue.

Unlimited Companies

Unlimited companies are similar to limited companies except that the shareholders' liability is unlimited.

There are three types of unlimited companies:

- A private unlimited company with a share capital ("ULC");
- A public unlimited company with a share capital ("PUC"); and
- A public unlimited company not having a share capital ("PULC").

2. Constitutional Documents

A Constitution is required for the formation of a company. It consists, in all cases other than a LTD, of a memorandum of association, which sets out the company's objectives, and the articles of association which regulates the manner in which the affairs of the company are to be conducted.

In the case of a LTD, as it has the capacity of a natural person, it does not need a memorandum of association and its Constitution sets out its governance provisions.

In all cases, it is possible for the Constitution to provide that the governance provisions of the Companies Act 2014 apply, thereby avoiding the need for a detailed Constitution. It is also possible for the Constitution to disapply or amend certain governance provisions of the Companies Act 2014.

3. Shareholders

Irish companies must have at least one shareholder, which may be a natural person or a corporate entity. Unless required by the company's Constitution, a director need not be a shareholder.

4. Officers

Every Irish registered company must have a minimum of two directors (one in the case of a LTD) and a company secretary (who may also be a director but not the sole director). It is the responsibility of the directors to manage the affairs of the company.

At least one of the directors must be resident in the European Economic Area, except where there is a bond in place to the value of €25,395 (the "Bond").

The Bond shall provide that in the event of any fine or penalty being imposed on the company pursuant to either the Companies Acts or tax legislation, there shall become payable, under the Bond, a sum of money in discharge of the company's liability in respect of such fine or penalty.

The outlay cost of a two year bond is currently in the region of €1,620 and KPMG can assist clients with obtaining a Bond from an insurance broker.



5. Addresses

As part of the company formation process there is a requirement to provide the following addresses:

- **Registered Office Address:**
This is the official address to which all official correspondence will be sent. This address must be in Ireland (KPMG can provide this address).
- **Place(s) where the proposed activity of the company will be carried on:**
This must be in Ireland.
- **Place(s) where the central administration of the company will be carried on:**
This may be outside Ireland.

6. Company Name

The Companies Registration Office ("CRO") will not permit the formation of a company if the proposed name is considered objectionable or if it is too similar to a company name already on the Register of Companies.

7. Declaration

As part of the company formation process, a declaration of compliance must be sworn by a person named as a director or the secretary declaring that:

- All requirements of the Companies Act 2014 in respect to the registration of the company have been complied with;
- One of the purposes for which the company is being formed is the carrying on by it of an activity in Ireland;
- The place or places in Ireland where it is proposed to carry on the activity of the company; and
- The place of the central administration of the company.

8. Methods of Incorporating a Company

There are three ways of incorporating a company.

▪ Ordinary Scheme

The first way is by lodging all necessary statutory forms on the “ordinary list” in the CRO. Incorporation in this way can take approximately three weeks. The main advantage of forming a company in this manner is that it permits the formation of a company with completely bespoke constitutional documents.

▪ Fé Phrainn Scheme

The second and shorter way is through a streamlined incorporation scheme called Fé Phrainn, which the CRO operate for companies which are required for immediate commercial use. Under this scheme the CRO guarantees to issue to participants of the scheme, a Certificate of Incorporation within 10 working days of lodgement of the relevant hardcopy documents, correctly completed, at the CRO. KPMG are a participant of this scheme. In order to avail of it, the company must be incorporated using a standardised Constitution, modified only in respect of the company’s principal objects clause (if any) and share capital clause.

▪ Online Incorporation

The third and fastest way of incorporating a company is through the online filing facility, via dedicated company secretarial software. This scheme operates in conjunction with the Fé Phrainn scheme and therefore the company must be incorporated using a standardised Constitution. Again, KPMG are a participant of this scheme. Under this scheme, the CRO guarantees to issue a Certificate of Incorporation within 5 working days of lodgement of the relevant hardcopy documents, correctly completed, at the CRO.

The documents to be delivered to the Registrar in order to incorporate a new company are as follows:

- Memorandum of Association (if applicable)
- Articles of Association
- Subscriber Page (to be signed by the shareholder(s))
- Statutory Form A1 (to be signed by the director(s) and secretary)
- Letter of Association (if applicable)

9. Formation

A company is deemed to be formed when the Registrar of Companies issues a Certificate of Incorporation.

10. Opening of Bank Account

When incorporated, a bank account should be opened for the Company to enable the payment by the shareholder(s) of subscription monies due to the Company in respect of the issued shares.

Over the years, KPMG Legal Services have developed relationships with many of the Irish retail banks and are fully aware of their account opening requirements. We can therefore assist our clients with the opening of bank accounts in a streamlined and professional manner.

11. Post Incorporation

Newly formed companies are required to file their first annual return in the CRO six months after incorporation.

Thereafter, an annual return is required to be filed in the CRO on an annual basis, together with appropriate financial statements (which may have to be audited).

Certain companies with unlimited liability may not be required to file financial statements on public record but there is still a requirement to prepare financial statements.

Additionally, certain events will trigger a filing requirement in the CRO (e.g. change of officers or their particulars, change of registered office address, changes to the Constitution, share capital changes etc).

KPMG provide a range of post-incorporation services to help ease the administrative burden and to assist companies comply with their company law obligations, to include:

- Preparation of Annual General Meeting documentation
- Preparation and filing of annual returns
- Acting as Electronic Filing Agent
- Maintenance of Statutory Registers and Minute Books
- Provision of support services to the Company Secretary
- Registration of business names
- Acting as meeting secretary

Companies are also required to keep adequate accounting records which must contain the information necessary to give a ‘true and fair view’ of the company’s affairs and to explain its transactions. Financial statements of all companies must be audited by independent accountants, except for small companies and groups with a turnover not exceeding €8,800,000 and which fulfil a number of other conditions.

Contact us

To find out more about forming a company or reserving a company name, opening a bank account or our post incorporation services, please contact:



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