

# Setting up Business in the UK -

Tips and Traps for Foreign Business Investors

*Expert knowledge means success*

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## Introduction

When people start a business in the UK, there are several things they need to do and think about. Whilst the UK has favourable tax rates for both individuals as well as for companies, the tax rules are complex. As a member of the EC, the UK has adopted a wide range of legislation, particularly in the employment sector, which is both onerous and far-reaching.

This publication will be particularly useful for an overseas corporation or a foreign national thinking about setting up a business in the UK - advice and help will be needed on a whole range of issues which can include:

- VAT and PAYE
- Payroll procedures and employment laws and regulations
- Where to go for assistance – on grants, incentives, low-cost loans etc
- Reviewing tax options
- Business format and structures
- Vision of future company status
- Raising bank and asset financing
- Raising venture capital
- Pension planning
- Intellectual Property protection
- Insurance arrangements
- Asset protection

- Management structures
- Profitability
- Financial reporting
- Recruitment of key personnel, writing job descriptions and drafting employment contracts

After new enterprises have been launched, a period of foundation building takes place followed by, what we call, “mid-life state”. Here, the business in a state of maturity faces new challenges and will need help from us on:

- Minimising taxation liabilities
- Maximising profitability
- Re-assessing the corporate structure
- Reviewing corporate strategy
- Reviewing marketing strategies and looking for creative solutions and business opportunities
- Reviewing Internet and IT options
- Re-considering pension arrangements
- Re-appraising personal (directors and shareholders) and corporate goals
- Looking at exit options – management buy-out, trade sale or flotation or retention of the business as an investment under new management

Feature	Country Data
Local time	GMT
Population	62.2 million (2010 est.)
Major cities	Greater London (7.4m). Other major cities are Birmingham, Manchester, Liverpool, Glasgow and Leeds – for latest population figures see <a href="http://en.wikipedia.org/wiki/List_of_largest_United_Kingdom_settlements_by_population">http://en.wikipedia.org/wiki/List_of_largest_United_Kingdom_settlements_by_population</a>
Language/Religion	English, Welsh (about 26% of the population of Wales), Scottish form of Gaelic (about 60,000 in Scotland) Christian (Anglican, Roman Catholic, Presbyterian, Methodist) 71.6%, Muslim 2.7%, Hindu 1%, other 1.6%, unspecified or none 23.1% (2001 census)
Area	Total: 244,820 sq km, land: 241,590 sq km, water: 3,230 sq km
Climate	Temperate; moderated by prevailing southwest winds over the North Atlantic Current.
Public / Statutory holidays	See <a href="http://www.direct.gov.uk/en/Employment/Employees/Timeoffandholidays/DG_073741">www.direct.gov.uk/en/Employment/Employees/Timeoffandholidays/DG_073741</a> for details of all public and bank holidays in England, Wales and Northern Ireland
International dialling code to UK	01144 + area code
Local currency	£ sterling. 100 pence = £1
Weights and measures	In common with other European countries, the UK uses the metric system and temperature is measured in degrees Celsius.

## Business Format

Whilst most companies operating in the UK have been incorporated in England and Wales, Scotland or Northern Ireland, there are other companies that trade here or have a branch here but which were incorporated in another country. These are called "Overseas Companies".

The limited liability business corporation is the predominant form of business undertaking in the UK. There are two basic types of company:

- Limited liability private company (usually having the suffix "Limited")
- Public limited company (with the usual suffix "PLC") - this called a "public" company even though it is often used for businesses without a stock exchange quotation.

The principal difference between the two types of company is the level of prescribed minimum share capital. This can be as low as £1 for a limited company and £50,000 for a public limited company (of which at least £12,500 must be paid up).

Many EC company law harmonisation rules currently only apply to "public" companies.

The limited liability corporation is by no means the exclusive form of business entity in the UK. Many businesses operate through various types of unlimited company, general partnership or limited partnership. There is now (since 6 April 2001) the option of incorporating a business as a limited liability partnership<sup>1</sup> – please check with us for further details. We have a number of other publications on business formats – check with us for further information. Other information can be obtained from the Registrar of Companies. For limited liability companies, this will include the minimum information specified in the EC Directives, including copies of constitutional documents, details of share capital and particulars of the directors or managers. The UK Companies Registry also provides information on mortgages, pledges and other security granted by the company to banks and other financiers.

Since the most usual format for a business undertaking in the UK is a limited company (or a PLC), the remainder of this publication deals with UK company requirements - whether as a branch or as a UK subsidiary.

## Branch Office or UK Subsidiary?

A business established in a jurisdiction outside the UK and now wishing to set up some operations in the UK, can establish either:

- A new wholly owned subsidiary company; or
- A branch office in the UK (requiring registration as an "overseas company" – see below).

Whether as a subsidiary or as a branch office, both formats require registration in the UK with the Registrar of Companies. New company formation or branch registrations are fairly simple and inexpensive procedures.

### Do all Overseas Companies have to be registered?

The fact that an overseas company is carrying on business in Great Britain does not automatically mean that the company has to register. However, the Companies Act 1985 requires every overseas company that establishes some type of place of business in Great Britain to deliver certain documents to Companies House.

### What is a place of business?

A place of business means "premises where there is a physical or visible indication that the company may be contacted there". An overseas company also has to register if it habitually conducts business from a particular location in Great Britain even if there is no physical sign of the company's connection with it.

### What companies do not have to register?

Registration is not required if there is no physical location in Great Britain. For example, an independent agent who conducts business on behalf of the company is not treated as a place of business of an overseas company; neither is an occasional location such as a hotel where a director may conduct business during periodic visits to this country. Other types of commercial enterprises (for instance partnerships, limited partnerships, unincorporated bodies or government agencies) cannot register in Great Britain as an overseas company.

## Company Law Reform Bill cuts red-tape

The Company Law Reform Bill published on 4 November 2005 proposes sweeping changes to company law. Various red-tape cutting provisions which aim to simplify company law are expected to save UK companies up to £250 million a year and include:

- Simplifying the rules for forming a private company
- Removing the requirement for a company secretary in private companies
- Removing the requirement for private companies to hold an AGM
- Greater acceptance of electronic communications for resolutions/decisions
- Moving the Annual filing deadline from 10 months to 9 months

Auditor related provisions include:

- Empowering shareholders to question auditors and identify the individual lead auditor
- Empowering shareholders to agree to limit auditors' financial liability
- Inclusion of the new offence of "recklessly or knowingly including misleading, false or deceptive matters in an audit report".

Other provisions include

- Clarifying director's duties
- Allowing directors to file a service address rather than a home address
- Removing the rules on providing financial assistance to potential/actual shareholders

To download or view the complete bill visit [www.publications.parliament.uk/pa/ld200506/ldbills/034/2006034.htm](http://www.publications.parliament.uk/pa/ld200506/ldbills/034/2006034.htm). A summary of the bill is available at [www.dti.gov.uk/cld/sbsummary.doc](http://www.dti.gov.uk/cld/sbsummary.doc)

## What different regimes are there for registration?

There are two regimes for registration by an overseas company in Great Britain:

- Branch
- Place of Business

A "branch" is part of an overseas limited company organised to conduct business through local representatives in Great Britain rather than referring it abroad.

A "place of business" is for companies who cannot register as a branch because:

- They are from within the UK (Northern Ireland or Gibraltar) or,
- Are not limited companies or,
- Their activities in Great Britain are not sufficient to define it as a branch. Such activities might include internal computer processing, warehousing, or simply a representative office.

## How is a branch registered?

Within one month of establishing a branch in Great Britain you need to deliver to the Registrar of Companies:

- Completed Form BR1
- A certified copy of the company's constitutional documents (Charter, statute, operating agreement, etc)
- A copy of the latest set of audited accounts required to be published by parent law
- The current registration fee.

## How is a place of business registered?

Within one month of establishing a place of business in Great Britain you need to deliver to the Registrar of Companies the current registration fee and :

- Completed Form 691
- A certified copy of the company's constitutional documents (Charter, statute operating agreement, etc)

## What are certified copies of documents?

Constitutional documents and accounts must be in their original language but documents not in English must be accompanied by a certified translation into English. You should note that the certification of the constitution must be made in the country of incorporation. Details of the methods of certification are given in the notes to the forms. (Form 691 and BR1)

## What about the name of the company?

You must initially register the company in its corporate name, but afterwards the company becomes subject to the same restrictions on company names as British companies.

Briefly this means that a name is unacceptable if it is the "same as" a name already on the Register or contains certain sensitive words or expressions which cannot be justified.

If a company name is unacceptable, the Secretary of State will order the company to adopt an acceptable business name for use in Great Britain. The order will specify a period during which the company must register the change of name. The company will be unable to conduct business in Great Britain in its corporate name once the period stated in the notice has expired.

## Official Filings

The Overseas Companies Regulations 2009/1801, which were implemented on 1 October 2009, replaced the dual regime of registering branches and places of business with a single regime of registering a UK establishment. After 1 October 2009, you will only be able to register a UK establishment.

After registration, several other documents have to be sent to Companies House. The company is required to notify Companies House on the prescribed form of any changes to the original information filed as and when it occurs.

For further information, visit:  
[www.companieshouse.gov.uk](http://www.companieshouse.gov.uk),  
[www.companieshouse.gov.uk/about/guidance.shtml](http://www.companieshouse.gov.uk/about/guidance.shtml) and  
[www.companieshouse.gov.uk/about/pdf/gb01.pdf](http://www.companieshouse.gov.uk/about/pdf/gb01.pdf)

Under the Companies Act 2006, where the law in the parent entity's home jurisdiction requires the preparation, audit (if the home jurisdiction is outside the EEA) and publication of its own accounts then the parent's own accounts (with translation if not in English) should be filed. But where there is no such requirement, the company must prepare and file individual (or if applicable consolidated) financial statements in accordance with the overseas regulations. (SI 2009/1901).

The documents will include the accounts of the company for a financial period; any annual report of the directors; any auditor's report on those accounts and director's report. The documents must also state whether they have been prepared in accordance with either its home country GAAP, IFRS or UK GAAP.

They must be filed within three months of the filing in the parent jurisdiction or if the overseas company does not have to publish accounts in its home jurisdiction then within 13 months of the end of its accounting period.

## What details need to be shown on company stationery?

A company which registers a place of business in the UK must state on all letter paper, bill heads, invoices and other official publications of the company:

- The company's name and country of incorporation and
- That the liability of the members is limited if this is the case.

A company which registers a branch must, in addition to the above, show:

- The place of registration and registration number of the branch.

Additionally, every company which is from outside the EC must also show:

- The place of registration and registration number in its parent state, if applicable
- The legal form of the company
- The location of its head office.

## What if the company's activities increase or decrease?

If the activities of a limited company that registers a place of business change to the extent that it now qualifies as a branch, it must register as such by delivering the completed BR1 to Companies House with

the registration fee. In such cases copies of the constitutional documents and directors' details are not required if the information previously filed at Companies House is up to date.

Similarly, if a branch of an overseas company changes to the extent that it only qualifies as a place of business then it must re-register as such by delivering the completed Form 691 together with the registration fee to the Registrar. Copies of the constitutional documents and directors' details are not required if the information previously filed at Companies House is up to date.

On conversion of a branch to a place of business, any establishment in another part of the United Kingdom, for example, Northern Ireland, included under the original branch registration must be registered as a place of business.

A company cannot have both a place of business registration and a branch registration in the UK at the same time. A branch registration will take precedence over a place of business registration(s), which must be closed. (This will happen automatically when a single place of business re-registers as a branch at Companies House).

## What if the company closes its activities?

If a company closes a place of business or a branch in Great Britain, it must give notice to this effect by delivering a letter signed by an officer or authorised person of the company to Companies House. All obligations of the company to deliver documents to Companies House cease from the date of receipt of the notice.

If a company closes its only branch in Great Britain then the company record will be closed. If it is not the only branch, but was originally the principal branch, then Form BR7 must be delivered to notify Companies House of the branch at which the constitutional documents are kept.

## Establishing a new subsidiary company

To set up a new subsidiary company in England, a foreign business can form a new company or purchase a ready-made (or “off the shelf”) private limited company. The formation cost which including filing fees, printing and professional, is usually in the region of £120 to £350 plus VAT – but can be more (or less), depending on the degree of professional services involved. The capital requirements are minimal - the issued share capital can be low (says £2 divided into two £1 shares). If the company is seeking working capital from a bank or other lender, a larger capital subscription may be appropriate.

The financing of a UK company can be through:

- An issue of share capital to the foreign company;
- Loans from the foreign company;
- Loans from an external lender (a bank, factor etc);
- A combination of the above.

It's important to note that when the amount of loans from the overseas parent company exceed its UK subsidiary's share capital by an excessive amount, the UK HM Revenue & Customs (HMRC) may treat the repayment of the inter-company loan as a taxable distribution of profits. For this reason, it is generally considered that total debt should not exceed total equity (i.e. a loan to equity ratio of 1:1).

A UK company must have at least one director (either a company or an individual) and another person (or another company) as the Company Secretary. There are no restrictions on the nationality of the directors although their nationality details will have to be included on certain documents filed at Companies House.

UK companies have to file returns with Companies House in respect of the names and addresses of the directors and secretary of the company and the issue of shares. Annually, UK companies file their accounts and an annual return at Companies House. The Annual Return sets out details of directors and shareholders of the company. The company is required by UK law to prepare annual accounts and have them audited although there are now audit

exemptions for certain companies - check with us for the latest position.

Many overseas parent companies usually require an audit in respect of their UK subsidiaries as this assists in monitoring their activities and provides a more reliable source of financial data for consolidation in their home territory.

A UK company can adopt elective shareholders' resolutions if it wishes to dispense with the necessity for holding Annual General Meetings.

The company's rule book - called the Memorandum and Articles of Association will be printed at the time of incorporation. The foreign parent company will enjoy as much control as it wants to impose, particularly in respect of the appointment and removal of directors and the amendments if necessary, to its constitution.

## An explanation of the share capital of a UK company

From incorporation, every company limited by shares has share capital. The amount is stated in its Memorandum and is known as the "nominal" or "authorised" capital. Later it will have an "allotted" or "issued" capital, a "paid-up" share capital and perhaps a "reserve" share capital.

### What is authorised capital?

The "authorised" or "nominal" capital of a company, set by the company's first subscribers, is the amount in money up to which it may issue shares. The Memorandum of the company must state how the share capital is divided into equal monetary units or groups of equal monetary units. The shares are then issued on the basis of these monetary units.

### What is issued capital?

"Issued" capital is the nominal value of the company's shares (the value printed on the share certificate) actually issued to subscribers. The acquisition of issued capital makes a subscriber a member of the company. The amount of issued capital cannot exceed the amount of the authorised capital of a company.



A company need not issue all its capital at once - it can issue only one or two shares. For a public limited company, before it can commence business, it must have at least £50,000 of allotted share capital, of which 25% must be paid up in cash.

## What is allotted capital?

"Allotted" capital is a specific number of shares that subscribers to a company's Memorandum agree to take on incorporation. The shares are deemed to be issued on incorporation and "allotted" to each member by due process of law. Later, people wishing to become members of the company would be offered shares.

The offer should specify the number and type of shares, the price to be paid, how it is to be paid and any conditions attached to the shares. If the offer is accepted the directors can then authorise the allotment so that the person responsible for maintaining the company's register of members can make the necessary entries and issue the share certificates.

## What is paid-up, uncalled and reserve capital and a share premium?

These terms are used to describe the make-up of a company's share capital:

- "paid-up" capital is the issued capital which has been fully or partly paid up by the shareholders;
- "uncalled" capital is that part of the issued capital on which the company has not requested payment;
- "reserve" capital is that part of the share capital that the company has decided will only be called up in the event of and for the purposes of the company being wound up;
- "share premium" is the excess paid above a share's nominal value. This excess must be recorded separately in the company books in a "share premium account" and used for the purposes specified in the Companies Act 2006.

### Example

As an example, if a company issues 1,000 shares @ £1 each, paid up as to 20% of their value with a 10% reserve and a share premium of £0.50p, the shares are defined as follows:

Paid-up capital = £200 (1,000 x £0.20p)  
 Uncalled capital = £700 (1,000 x £0.70p)  
 Reserve capital = £100 (1,000 x £0.10p)  
 Share premium = £500 (1,000 x £0.50p)

## Must payment for shares be in cash?

No. The payment may be in the form of goods, property, or even shares in another company. The latter is often used when one company takes over another. However, in the case of public companies a non-cash consideration must be valued before shares are allotted.

In all cases a return of allotments must be sent to Companies House within one month, together with a certified copy of any agreement concerning the allotment if payment has not been made in cash. If the agreement is not in writing,

## What is the maximum and minimum value of a company's capital?

There is no maximum or minimum to a company's authorised share capital. However, a public limited company must have an authorised capital of at least £50,000 and, before it can commence business, an allotted capital of at least £50,000. Each share must be paid up to at least one quarter of its nominal value, plus the whole of any premium on it.

## Can the shares be issued in any currency?

Yes. Shares can be in any currency with different types of shares in different currencies. However, a public limited company must have at least £50,000 of its issued capital in sterling before it can commence business.

## Directors' Responsibilities

When Directors are appointed, someone they know usually tells them that there are important duties and responsibilities that go with the office. Unfortunately though, most Directors don't know what their duties and responsibilities are – the most important obligation is probably the basic duty to act in good faith at all times in what they consider to be the company's best interests. As such, duties and responsibilities of Directors aren't set out in statute and most Directors will rely on either external advice from their lawyers or accountants, or in-house from the Company Secretary, to advise them as to what they need to do to stay on the straight and narrow.

The office of director carries with it stringent common law and statutory duties and responsibilities in terms of his relationship both with his company and with the company's shareholders.

Given the important nature of these duties and responsibilities and the consequential risk of financial penalties and, in some cases imprisonment, any director who is unsure of his position should take professional advice immediately. Please ask for our publication on this subject.

## Corporation Tax

The establishment of a UK resident subsidiary company will mean that the subsidiary company will be liable to UK corporation tax on its worldwide profits. A company is resident in the UK if it is registered in the UK or its central management and control is in the UK.

If a trade is carried on in the UK through a branch or agency, corporation tax is payable by the non-resident company on the profits or gains of that branch or agency.

Other information about corporation tax in the UK is available at:  
[www.hmrc.gov.uk/ct/getting-started/intro.htm#8](http://www.hmrc.gov.uk/ct/getting-started/intro.htm#8)

### Rates of Corporation Tax

Corporation tax rates in the UK can be found on the HMRC website at:  
[www.hmrc.gov.uk/rates/corp.htm](http://www.hmrc.gov.uk/rates/corp.htm)

Corporation tax is payable within 9 months and 1 day from the end of an accounting period - a company with a 31 December 2011 year end, will pay its corporation tax on 1 October 2012.

Large companies with taxable profits in excess of £1.5million pay their tax earlier by instalments during the year.

### Corporation Tax Self Assessment

To provide information to the HMRC a company has to complete corporation tax return form CT600. This must be sent to the HMRC with the following documents:

- The company's financial statements.
- The director's and auditor's reports.
- Computations showing how the figures in the return have been computed from the figures in the financial statements.

### Choice of structure from a tax viewpoint

Whether a branch/agency or a subsidiary is preferable from a taxation point of view will depend on a number of factors, such as:

- If a branch or agency of an overseas company has a trading loss, it may be possible to gain relief for the UK loss against other profits of the overseas company in its country of residence.
- If a UK resident subsidiary company incurs a trading loss, it would be rare for that loss to be surrendered to its non-UK resident overseas parent company. The loss can, however, be carried forward and set off against the first available trading profits earned from the same trade.

### Transfer Pricing

The UK's 1998 Finance Act introduced a new regime and modernisation of the UK transfer pricing rules. It places transfer pricing squarely within the framework of the legislation that governs self-assessment for companies.

Transfer pricing is the setting of prices at which a company undertakes cross border transactions in goods, services or intangibles (including loan interest payable or receivable) with its associated enterprises. It has become the single most important tax issue that companies operating in a multinational environment face today since prices set will affect a group's worldwide tax position, deciding how much profit falls in each territory, how much tax it pays, and in which country.

HMRC's website has useful information on transfer pricing at:  
[www.hmrc.gov.uk/international/transfer-pricing.htm](http://www.hmrc.gov.uk/international/transfer-pricing.htm)

Please ask for our publication on Transfer Pricing.

## Employment Matters

Business owners in the UK quickly discover that there are more laws and more potential legal pitfalls concerning employment than almost any other area of commercial life. Please ask for details of our various publications on employment-related issues. Some of these issues are covered below.



## The PAYE and National Insurance Rules

Operating the Pay As You Earn (PAYE) system has become increasingly complicated in recent years and employers' responsibilities have increased with the introduction of statutory sick pay (SSP) and statutory maternity pay (SMP) and with the ever-increasing complexity of the benefit-in-kind rules. Employers' obligations under the self-assessment regime require employers to meet formal deadlines and to provide all employees with forms P60 and with details of the taxable amount of their benefits in kind.

Employers also need to be aware of the rules and regulations of National Insurance (NI). The basic principle of charging National Insurance is that both the employer and employee pay a share, according to the level of the employee's earnings:

Useful information on NI for employers is available on the HMRC website at: [www.hmrc.gov.uk/payee/intro/ni-basics.htm](http://www.hmrc.gov.uk/payee/intro/ni-basics.htm)

## Written Statements of Employment

Employers are legally required to give employees a written statement of certain particulars of their employment within two months of the employee starting work. Although this statement covers what would normally be in a Contract of Employment, it is not actually a contract between the employer and employee.

An employer doesn't have to provide a written contract to its employees - even if it does so, the contract may not necessarily cover all the details of the employment. Most employees in the UK do not have written contracts.

So far as written statements are concerned, employers are obliged to give one to employees in all cases except the following:

- Where continuous employment is less than one month.
- Mariners, being persons employed as masters or seamen on seagoing British ships having gross registered tonnage of 80 tons or more, or skippers or seamen of fishing boats.
- Where an employee is engaged in work wholly or mainly outside Great Britain unless the employee ordinarily works in Great Britain and the work outside Great Britain is for the same employer.

Alternatives to a written statement of particulars can take the form of:

- A written contract of employment, which contains all the terms and conditions legally required.
- Notice given to an employee referring him/her to a document, which is accessible during working hours and which contains all the terms and conditions legally required.

Employees will often call the written statement of terms and conditions their "contract of employment" and it may be the only form of written terms that they hold. Although its status is not that of a contract, the terms will be construed as strong evidence of the terms of the contract. There have been legal cases, however, where terms contained in a written statement were not conclusively found to be terms of the contract and of course these may be overruled by the implication of the parties' conduct in the matter.

The employer must include the following terms in an employment statement:

1. Names of the Employer and Employee - who the parties to the contract are and the employer's address, the place of work, or if the employee must or is allowed to work at different places, a statement to this effect.
2. Date of commencement of continuous employment.
3. Pay, including what scale of pay the employee is on and how it is calculated.
4. Payment frequency dates - weekly, fortnightly or monthly.
5. Hours of work and terms related to hours worked (for example if the employee works shifts or overtime).
6. Holidays and holiday pay.
7. Sickness procedure and entitlements.
8. Pension Scheme details.
9. Notice period.
10. The title of the job or brief description of the job.
11. Place at which the employee is expected to work.
12. Details of work abroad (if longer than 1 month).
13. The length of the contract (if employment provides for a fixed term contract).

14. Disciplinary Rules and Complaints Procedure (the person to whom the employee can apply if they wish to raise a grievance or dissatisfaction with disciplinary decisions). The employee must be given details explaining the steps consequent upon such appeal. Requirements for discipline do not apply if the employer has fewer than 20 staff.

If the employer decides to change the employment statement, the employee must be notified of any changes as soon as possible (by law, this must be within 1 month of the change).

The contract of employment or letter of employment can provide for a probationary period, say for three or six months, during which a shorter period of notice for termination of the employment may apply if the performance is unsatisfactory.

### Working Time Directive

The Working Time Regulations came into force on 1 October 1998 - their objective is to ensure a better level of protection for the health and safety of UK workers.

The Regulations impose minimum basic requirements on the organisation of working time and have an impact on all employers.

As an employer you should know how the Working Time Regulations affect you - employers who don't heed the Regulations could face claims for substantial compensation from aggrieved employees before an Employment Tribunal.

The Regulations provide detailed and complex rules on working time and holiday provision. The problem is that they leave unanswered a number of difficult questions about their practical application and are riddled with ambiguities and uncertainties. It means that the Courts and Employment Tribunals are busy making decisions on what is right and what is not.

### Unfair Dismissal Rules

New rules reduce the qualifying period for claiming unfair dismissal from two years to one. By reducing the qualifying period from two years to one, employees now have greater protection from being arbitrarily sacked. Employers are free to dismiss employees - but they must do so reasonably and have good cause.

The Government, which is committed to making sure all employers achieve the same high standard, says that it is not fair that employees have to wait two years before having any kind of job security. One year is more than enough time for employers to judge the suitability of an employee. Most employers already have proper recruitment practices to monitor and deal fairly with their staff, including during a probationary period.

The rules<sup>2</sup> allow for employees to request written reasons for dismissal. It is important that an employee knows why they have been dismissed before deciding whether to make a claim for unfair dismissal.

Protection from dismissal for some specified reasons has no qualifying period. This includes dismissal on the grounds of discrimination (race, sex and disability), for some trade union or health and safety related reasons, on grounds of pregnancy, for asserting a statutory employment right, in connection with Sunday working for betting or shop workers and for carrying out duties as a pension trustee. The National Minimum Wage and Public Interest Disclosure Acts contain unqualified protection against dismissal.

### Compensatory Awards

Employment tribunals are able to make awards of compensation to employees who have been unfairly dismissed. There is a limit on the amount of compensation which may vary from year to year.

The compensation limit is one of the provisions of the Employment Relations Act 1999, which aims to promote best practice in employment by providing minimum standards for employees, helping parents to combine their work and family responsibilities and promoting partnerships between workers and employers. There is no limit on the compensation awarded to an employee who has been unfairly dismissed or selected for redundancy for health and safety or public interest disclosure ('whistleblowing') reasons.

Useful information on compensatory awards is available at:

[www.direct.gov.uk/en/Employment/ResolvingWorkplaceDisputes/Employmenttribunals/DG\\_173242](http://www.direct.gov.uk/en/Employment/ResolvingWorkplaceDisputes/Employmenttribunals/DG_173242)

## National Minimum Wage

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The National Minimum Wage Act and the Low Pay Commission set the principles and framework for the minimum wage. These Regulations contain the practical details that will make it a reality for two million people. The Government's approach aims to balance the protection of workers against the need to avoid over-burdening businesses.

A person qualifies for the National Minimum Wage if he is an individual who:

- (a) is a worker,
- (b) is working, or ordinarily works, in the United Kingdom under his contract, and
- (c) has ceased to be of compulsory school age.

For details of the Minimum Wage regulations, please ask for our publication dealing with that subject.

## Stakeholder Pensions

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UK employers with 5 or more employees must offer a low cost pension scheme to its employees. The employer is not obliged to make any contribution but may do so by choice. If an employer offers all its employees membership of a Group Personal Pension Plan or occupational scheme, it is exempt from the stakeholder rules. For further details, please ask for our publication on this topic.

## Value Added Tax (VAT)

VAT is an indirect tax on consumer expenditure. It was introduced into the UK on 1 April 1973 as a part of the UK's commitment to entry into the European Community (EC). It's very easy for the unwary to stumble into a VAT pitfall. VAT rules are not found conveniently together in one place because UK legislation is found in Statutes, Acts of Parliament and Statutory Instruments. In addition, there are Notices published by Customs and Excise and case law. Because of this, it's very difficult for business people to gain a total grasp of each part of VAT law that applies to them.

The introduction of penalties for late registration, late returns and misdeclarations has meant that it is expensive to make a mistake when dealing with VAT. The burden is increased by the addition of interest on most misdeclarations.

Generally speaking, the standard rate of VAT (currently at 15%<sup>3</sup>) is chargeable in respect of services provided to individuals and businesses in the UK and EC.

Goods and services provided to customers outside the EC are charged at the rate of zero (and are known as "zero-rated").

The VAT registration threshold is set each year – please check with us for the latest registration and de-registration limits. Businesses must register if the value of their taxable turnover in the previous 12 months has exceeded or if their expected turnover in the 30 days then beginning is likely to exceed the threshold limit. In some cases, voluntary registration may be beneficial. Businesses can apply for deregistration if their annual taxable turnover falls below the de-registration limit.

## Further Information

UK Trade & Investment is the lead UK Government organisation which helps businesses locate in the UK and grow internationally. Details can be found at [www.uktradeinvest.gov.uk](http://www.uktradeinvest.gov.uk)

Business Link is an agency of the UK Government which provides smaller businesses with quick and simple answers to everyday problems. Its website is [www.businesslink.gov.uk](http://www.businesslink.gov.uk)

This publication is for general interest - it is always essential to take advice on specific issues. We believe that the facts are correct as at the date of publication, but there may be certain errors and omissions for which we cannot be responsible.

If you would like to receive further information about this subject or other publications, please call us – see our contact details on the next page.

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### References:

<sup>1</sup> Under the Limited Liability Partnership Act 2001

<sup>2</sup> The Order was brought under the Employment Rights Act 1996.

<sup>3</sup> In his Pre-Budget Report on 24 November 2008 the Chancellor announced that the standard rate of VAT will be reduced to 15% on 1 December 2008. This means that for any sales of standard-rated goods or services that take place on or after 1 December 2008 providers should charge VAT at the new rate of 15%. The 15% rate will remain until 31st December 2009, and from 1 January 2010 it will revert to 17.5%. For more information on the changes to VAT see our publication 21 – VAT briefly.

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