



The Carbon Accountancy Guide to forming a company and Company Secretarial requirements

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This guide sets out some of the considerations when forming a company and doing the company secretarial work. This guide sets out the general rules and is not intended to be a substitute for proper professional advice from your accountant or tax adviser.

Company formation

Forming a company is relatively easy and straight forward but you need to consider what kind of legal entity you want to be:

- Limited liability company – the basic type of company that applies to most businesses.
- Public limited company – a PLC is usually only appropriate for larger businesses – if you register as a PLC you must have a share capital of £50,000 and your company will be subject to an annual audit – so this type of company is significantly more expensive to operate.
- Limited liability partnership – an LLP is usually appropriate for solicitors and professionals – there are significant tax consequences of being an LLP – effectively the partners are treated as self employed.
- Limited by guarantee – typically suitable for charities.

A limited company can be formed with just one director and there is no requirement for a company secretary (although the director will be responsible for ensuring company secretarial matters are dealt with).

You can form a company online – either using Companies House directly or using a formation agent.

We can form your company for you. In order to form a company you need to think about the name of the company. The following are a few guidelines:

- Think about what business the company is going to be in – you may want to include something that gives people an idea of the business – including words such as Consultants, Builders etc can help.
- You can include the word “Holdings” in the name if you can demonstrate that the company owns at least one other company.
- You can include the word “Group” if you can demonstrate that the company owns at least two other companies.
- You can include “International” in your name if you can demonstrate that the company operates internationally.
- You will not be allowed to use certain sensitive words in your company name – including offensive words, words that give the impression you are a government agency or associated with another organisation such as the Olympics.

Once you have formed your company you need to register for corporation tax, VAT (if your turnover is going to exceed the VAT thresholds) and PAYE/NI (if you are going to be an employer).



Ongoing Company Secretarial

Once you have formed a company you have certain legal obligations in terms of filing documents at Companies House correctly and on time.

Annual return – AR01

An annual return is a record of company information which must be provided to Companies House each year at the company's legal return date (usually the anniversary of the date of incorporation). You can change the legal return date to an earlier date but not a later date. If you choose an earlier legal return date, then the annual return must be received at Companies House within 28 days of that date.

A company must provide a full list of shareholders on its first annual return following incorporation and every third annual return thereafter.

The intervening two annual returns need only report any changes to shareholder information that have taken place in that year, shares transferred and the details of people who have become or ceased to be shareholders.

The annual return is sent to Companies House where it is filed and made publicly available, so that anyone can verify the details and legitimacy of any UK company.

The annual return must contain the following information:

- name of the company
- registered number
- legal return date
- principle business activity of the company
- type of company it is – e.g. private or public
- registered office address
- details of company secretary if applicable
- details of all the directors
- a statement of capital
- list of shareholders (required every three years but you can include it annually if you wish)

Who needs to file an annual return

If you are a limited company or a limited liability partnership (LLP) you are obliged to file an annual return at least once every 12 months.

Unincorporated businesses are exempt from the legal obligation of filing an annual return at Companies House – this includes self-employed sole traders and ordinary partnerships.

If you do not deliver your company's annual return, the Registrar might presume that the company is no longer carrying on business and may take steps to strike it from the



register. The company's directors/company secretaries are responsible for filing the annual return. Failing to do this can result in criminal prosecution.

Changing the details of an annual return:

The details on the annual return should confirm the information already held at Companies House and provide an update of changes since the previous return.

The annual return must include details of any transfers of shares which have taken place during the year. You can also update the company's principle business activities.

You cannot use the annual return to change any details on the public record. To notify Companies House of any changes to this information, certain statutory forms must be filled in and submitted to Companies House when the change takes place.

The main forms for changes are:

- AD01 and AD02 – change of registered office address and change of address where the company records are kept available for inspection if not at the registered office address
- AD03 and AD04 – notification of company records held at an alternative or returning to the registered office address
- AP01, AP02, AP03 and AP04 – appointment of company director or secretary
- CH01, CH02, CH03 and CH04 – change of details for director/secretary, for example, change of address or name change
- TM01 and TM02 – termination of appointment of director/secretary
- SH01 – allotment of new shares

There are no fees for submitting any of the above forms.

To change the details for limited liability partnerships (LLPs) use the forms as above with the prefix LL, for example LL AD01

Companies House will reject your annual return if it does not include the required information. However, where the information is included but does not match the Companies House records, they may choose to accept the annual return but mark it as inconsistent with the public register.

How to file an annual return:

The annual return fee is £14 if you file online and £40 if you file a paper return. You can either file your annual return on line at:

<https://ewf.companieshouse.gov.uk/>



If you file your annual return online, you can protect your corporate identity by using the Companies House **Protected Online Filing Scheme** (PROOF Scheme). Once you have registered for the PROOF Scheme, paper documents will no longer be accepted.

You can download the annual return form at
<http://www.companieshouse.gov.uk/forms/formsOnline.shtml>

Alternatively you can order by calling 0303 1234 500.

Completed paper forms should be sent to:

The Registrar of Companies
Companies House
Crown Way
Cardiff CF14 3UZ
(for companies registered in England and Wales)

The Registrar of Companies
Companies House
4th Floor, Edinburgh Quay 2
139 Fountainbridge
Edinburgh EH3 9FF
(for companies registered in Scotland)

The Registrar of Companies
Companies House
Second Floor, The Linenhall
32-38 Linenhall Street
Belfast BT2 8BG
(for companies registered in Northern Ireland)

Return of Allotment

You can allot shares for a limited company using form SH01. The SH01 form does not request information about individual shareholders, this information is declared on the company's annual return. To complete form SH01 you will be asked to provide the following information:

- Company Number
- Company Name
- Date of share allotment
- Type of shares being issued e.g. ordinary/preference
- Currency of shares allotted
- Number of shares allotted
- Nominal value of shares



- Amount paid for shares if applicable
- Amount unpaid for shares
- Description of consideration if other than cash
- Revised statement of capital
- Authorising signature

There is no charge for filing an SH01.

Changing a Company's Name

You can change the registered name of a private limited company directly with Companies House by filing the correct notice and a Special Resolution. To change a company name you will need to complete form NM01. To complete the form you will be asked to provide the following information:

- Company number
- Original company name
- New company name
- Special Resolution
- Authorising signature(s)

There is a charge of £10.00 for filing a NM01.

Striking Off a Limited Company

You can issue a notice to remove a private limited company directly with Companies House if you no longer need the company and it has no creditors. To strike off a company you will need to complete **form DS01**. To complete form DS01 you will be asked to provide the following information:

- Company Number
- Company Name
- The signature of the authorising officers for the company

A private company can apply to be struck off if, *in the previous three months*, it has not:

- traded or otherwise carried on business;
- changed its name;
- for value, disposed of property or rights that, immediately before it ceased to be in business or trade, it held for disposal or gain in the normal course of its business or trade (for example, a company in business to sell apples could not continue selling apples during that three-month period but it could sell the truck it once used to deliver the apples or the warehouse where they were stored); or



- engaged in any other activity except one necessary or expedient for making a striking-off application, settling the company's affairs or meeting a statutory requirement (for example, a company may seek professional advice on the application, pay the costs of copying the Form DS01, etc). However, a company can apply for striking off if it has settled trading or business debts in the previous three months.

A company cannot apply to be struck off if it is the subject, or proposed subject, of:

- any insolvency proceedings (such as liquidation, including where a petition has been presented but has not yet been dealt with); or
- a Section 425 scheme (that is a compromise or arrangement between a company and its creditors or members).

There is a fee of £10 payable to Companies House in order to file form DS01. You can obtain this form using the link below.

Any creditor can object to a company being struck off if they are owed money by the company – this will halt the strike off process. Any creditor can also request a company be re-instated if it was struck off and they are owed money.

<http://www.companieshouse.gov.uk/forms/formsOnline.shtml>