

Starting up a company

If you're thinking of starting a company, it pays to sort out a few things in advance.

Company Name

The first step to incorporating a company is to reserve a company name.

You can check whether the proposed name of your company is available on the Companies Office website.

It is also a good idea to check whether there is a trademark using the proposed name of your company (or words very similar) and to find out what domain names are available using the words of your name.

This will give you an idea of whether others are using similar names or whether you may be breaching intellectual property laws by using the proposed name of your company.

Directors

Each company must have at least one director. The Companies Act sets out who can be a director, including:

- Being over 18 years of age.
- Not having been convicted of a crime of dishonesty in the last five years.
- Not being an undischarged bankrupt.

Directors manage the company's day-to-day business and owe duties to the company, to its shareholders, and to others dealing with the company.

There are harsh penalties for breaching director's duties, so make sure you are fully aware of your duties as a director.

Shareholders

Again, each company must have at least one shareholder, who can be (but does not have to be) one of the directors.

Shareholders are the owners of a company.

Shareholders have voting rights and have the right to a share in any dividend.

Generally, they have no right to par-



ticipate in the management of a company's day-to-day business.

Shares

A company can have any number of shares.

When choosing the number of shares for your company, make sure it's an easily divisible number.

Think about whether you will have more shareholders in the future and how many shares each shareholder will have.

Constitution

A constitution governs how your company is run. It is not compulsory to have a constitution, and if you don't, the terms of the Companies Act apply.

If there are some parts of the Companies Act that you don't want to apply, or that you want to amend, get a constitution.

You can adopt a constitution at the time of incorporation or at any time afterwards.

IRD and GST registration

At the time of incorporating your new company, you can choose to apply for an IRD and GST number. This is a good idea if you will be trading immediately.

You should obtain accounting advice before establishing a company to ensure you are choosing the most appropriate structure for your business.

Share register

All companies are required to keep a share register recording the details of current and past shareholders. Therefore, you should make sure you have a share register as soon as you incorporate the company.

Opening minutes

After incorporation, the company should hold a meeting of the board of directors and take "opening minutes".

Alternatively, the necessary resolutions could be passed by directors in writing, rather than at a meeting.

The main matters to attend to include:

- Resolving who will chair the board, and the auditor, lawyer, managing director and secretary (as applicable).
- Confirming that all matters in connection with the registration of the company have been attended to, including the date of incorporation, and tabling of a copy of the certificate of incorporation, together with (if applicable) the constitution.

■ Recording who has consented to act as directors and shareholders and resolving that the shares were issued for the agreed price and that the details have been recorded in the share register.

■ Recording the registered office and address of the company.

■ Resolving to establish a bank account, and who is authorised to sign cheques or make on line payments.

■ Resolving (if applicable) to ratify any pre-incorporation contracts.

Getting these steps right first can save a lot of time, trouble and expense in fixing them up later.

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