

Collas Crill explains... Incorporating a Guernsey company

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This is part of a series of guides in which we examine areas of Guernsey law that frequently arise in practice. Further guides will be released weekly; [click here](#) to subscribe to receive these by email.

This guide looks at the key things you need to know about incorporating a Guernsey company.

Words in bold text are defined at the end of this guide.

Types of company

The following types of company can be incorporated in Guernsey:

- Limited liability company;
- Unlimited liability company;
- Mixed liability company;
- Guarantee company
- Protected cell company; and
- Incorporated cell company.

Incorporation

Guernsey companies can only be incorporated by a corporate service provider (CSP) who holds a full fiduciary licence from the Guernsey Financial Services Commission.

The **Registry** maintains a directory of CSPs that can be found [here](#).

Name

The Registry imposes certain restrictions on the name under which a company may wish to be incorporated. There are compulsory components of a company name which are primarily in relation to the use of words such as 'limited', 'ltd', 'protected cell' etc. as well as the use of 'bank', 'fund', 'insurance' etc. A company cannot use a name that is, in the opinion of the **Registrar**, likely to be confused with another company in Guernsey and an applicant may not choose a name of a company that has existed in Guernsey within the last

ten years. An informal indication of whether a name will be accepted can be given by the **Registrar**. The **Registrar** will also allow names to be reserved for up to three months.

There are exemptions from the above requirements for charitable companies limited by guarantee with no share capital.

Registered office

All companies must have a registered office address in Guernsey.

Resident agent

A resident agent who is either a Guernsey-resident director of the company or a CSP must be appointed. However, companies which meet one of the following criteria are not required to have a resident agent and can, therefore, elect to be 'resident agent exempt':

- Companies (or any subsidiary of) listed on a stock exchange recognised by the **Registrar**;
- Open-ended investment companies (or any subsidiary of);
- Closed-ended investment companies (or any subsidiary of);
- Supervised companies (within the meaning of section 530 of the Companies (Guernsey) Law, 2008; and
- States trading companies (within the meaning of section 540 of the Companies (Guernsey) Law, 2008.

Directors and secretaries

All companies must have at least one director and a failure to appoint a director can lead to the company being struck from the register of companies. A Guernsey company can appoint a corporate director or directors. There is no requirement under the **Law** for the directors to be resident in Guernsey, however if there are no resident directors, the company will need to appoint a CSP as resident agent.

The directors of a company may appoint a company secretary however this is not required by Law. If a company secretary is appointed, their duties are assigned by the company's Articles of Incorporation (Articles) of the company and if no secretary is appointed, these duties are undertaken by the directors.

Memorandum and Articles of Incorporation (M&A)

Every company must have M&A that form their constitution. The Memorandum of Incorporation (Memorandum) must state the name of the company and will state, amongst other things:

- the type of company and the company's liability;
- the names and addresses of the founding members of the company and the number of shares that they have subscribed for on the date of incorporation; and
- whether there are any restrictions on the company's objects.

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Under the Law, companies are deemed to have unlimited objects in the absence of express restrictions in the Memorandum and typically the Memorandum will state that the objects of the company are unlimited. The Articles set out the internal regulations for the conduct of a company.

The M&A are filled with the **Registry** upon incorporation.

Beneficial ownership and publicly available information

The resident agent of the company is required to submit the details of the beneficial ownership of a company to the **Registry**. The beneficial ownership details are not available to the public.

The information that is publicly available from the **Registry** are:

- the M&A;
- the certificate of incorporation;
- the status of the company and whether it has been dissolved, put into liquidation or listed for strike off;
- the details of the registered office and resident agent;
- the names of directors and any changes made to the directors;
- all special, waiver and unanimous resolutions of the company; and
- the annual validations filed by a company.

Incorporation costs

The incorporation fees payable to the **Registry** depend on the timeframe in which a company needs or wants to be incorporated. The fees are as follows:

- Standard incorporation (within 24 hours) - £100;
- Rapid incorporation (within 2 hours) - £350;
- Special incorporation (within 15 minutes, certain restrictions apply)- £750; and
- Incorporated cell registration (within 24 hours) - £100.

Company names can be reserved for £25 per company name for up to three months.

Ongoing considerations

Following incorporation of a company there are a number of statutory requirements that must be addressed and monitored:

- the annual validation of the company must be filed with the **Registry** every year in January;

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- companies may wish to waive the requirement to hold an annual general meeting (AGM) by filing an AGM waiver with the **Registry**;
- certain companies can benefit from the audit exemption rules and submit an annual audit waiver;
- companies are also required to keep and maintain registers of their directors and shareholders and notify the **Registry** of changes to the directors and structure of the company; and
- as mentioned above, certain resolutions must be filed with the **Registry**.

Terms used

AGM means an annual general meeting

Law means the Companies (Guernsey) Law 2008

Registry means the Guernsey Registry

Registrar means the registrar for companies, foundations, LLPs and intellectual property at the Guernsey Registry

About Collas Crill

We are a leading offshore law firm. We are easy to do business with and give practical advice to overcome tough challenges. Through our network of offices, we practise British Virgin Islands, Cayman Islands, Guernsey and Jersey law.

About this guide

This guide gives a general overview of this topic. It is not legal advice and you may not rely on it. If you would like legal advice on this topic, please get in touch with one of the authors or your usual Collas Crill contacts.

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