Establishing and Managing a Business in the UK

2026 Edition

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Foreword

The United Kingdom remains one of the world's most attractive and stable destinations for foreign investment. Supported by a transparent and well-established legal system, strong robust regulatory institutions, a competitive and evolving tax environment, and strong connectivity to global markets, the UK continues to offer a compelling platform for international businesses seeking growth, innovation, and long-term success.

This brochure is designed as a practical legal guide for those looking to establish and operate a business in the UK. It provides clear and accessible insights into the key legal, regulatory, and commercial considerations relevant to market entry and expansion.

Whether you are an overseas investor, an emerging startup, or an established company entering the UK market, a thorough understanding of the legal landscape is critical to achieving your strategic objectives.

For foreign investors, however, navigating the UK's legal and regulatory framework can present distinct challenges—ranging from company formation and corporate governance to employment law, immigration considerations, data protection, and sector-specific regulations.

Whether you are setting up a UK branch, forming a subsidiary, acquiring assets, or entering into a joint venture, this guide highlights the key legal considerations and strategic decisions that can shape your investment journey.

In addition to foundational legal guidance, we highlight key recent and forthcoming legislative developments and government-backed incentives that are particularly relevant to foreign investors, including:

- UK Corporate Re-Domiciliation Regime (Expected 2026–2027) – The UK government continues to progress proposals to allow certain foreign-incorporated companies to re-domicile to the UK without requiring liquidation and re-incorporation, offering increased flexibility for multinational group structuring (subject to final legislation and implementation timeline).
- Investment Zones (Ongoing Rollout and Expansion) – A continued government initiative across England, focused on driving growth in priority sectors such as advanced manufacturing, clean energy, life sciences, and technology through a combination of tax reliefs, planning liberalisation, and targeted public funding.
- Full Expensing (Permanent Regime with 2026 Updates) – The permanent full expensing regime remains a central feature of the UK's corporate tax landscape, allowing 100% first-year relief on qualifying plant and machinery investments, with further refinements and administrative clarifications continuing to develop.
- Digital Markets, Competition and Consumers Act 2024 (Implementation Phase) – The UK's new digital competition regime is now entering its operational phase, introducing enhanced powers for the Digital Markets Unit (DMU), updated merger control considerations, and strengthened consumer protection enforcement.
- Reformed R&D Tax Relief Regime (Post-April 2024 Implementation) – The merged R&D scheme is now in force, with a continued policy focus on simplifying claims while targeting relief more effectively, including enhanced provisions for R&D-intensive SMEs and ongoing HMRC scrutiny of claims.
- UK Sustainability Disclosure Requirements and ISSB alignment (Phased Implementation) – The UK's Environmental, Social and Governance (ESG) reporting framework continues to evolve, with increasing alignment to ISSB standards, the rollout of sustainability-related disclosures, and heightened expectations around governance, transparency, and anti-greenwashing compliance.

With this guide, our aim is to help you navigate the UK business environment with greater clarity and confidence. By understanding both established legal principles and emerging regulatory trends, companies and investors can seize opportunities, manage risk, and build lasting value in one of the world's most open economies.

Each section has been prepared by the respective specialist attorney from our Pillsbury London office. Our attorneys will endeavour to update this publication on an ongoing basis, and we recommend that our readers visit the Pillsbury website to download the most current

version of this guide. We hope this guide will encourage you to consider the opportunities that the UK offers businesses and to reach out to your appropriate Pillsbury partner for an introduction to our services.

If we can be of assistance, please contact us directly – London Law Firm | Pillsbury Law

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1. Introduction to Establishing and Managing a Business in the UK

The UK welcomes international investors.

Investing in an Existing UK Business or Asset

Other than the requirements set out in the National Security and Investment Act 2021 (NSIA) as discussed below, there are no laws directly restricting foreign investment in the UK, nor are there any business requirements for UK participation in the ownership or management of any UK business established by a foreign investor.

Establishing Business Operations

A person residing outside the UK who wishes to establish a business operation in the UK must first decide the structure that such operation should take. The next section will consider some of the legal factors involved when establishing the two most common forms of UK businesses, which are:

1. UK Registered Company – Companies incorporated in the UK have a separate legal identity from its shareholder(s) or members and can be wholly owned or partly owned. There are a variety of corporate vehicles available, such as private limited companies (limited by guarantee or shares), limited partnerships, limited liability partnerships and public limited companies (PLC). Please note this publication only covers private companies limited by shares.

2. UK Establishment – An establishment is considered an extension of a non-UK company and does not have a separate legal personality. The ability to register a UK establishment does not extend to overseas partnerships or other unincorporated bodies.

3. UK Representative Office – A representative office does not have a separate legal personality. It is governed by the law and regulations of where the parent company is located. The branch is registered at Companies House by the overseas company. A representative office will not usually create a corporation tax presence in the UK.

Alternatively, it may be appropriate to do business 'with' the UK rather than to establish a business 'in' the UK. This may involve one or more of the following agreements:

- Franchise agreement to appoint a franchisee in the UK
- Agency or distribution agreement
- Contract of employment or a consultancy agreement for the direct employment or engagement as a consultant of personnel as appropriate
- Licence of intellectual property rights to a UK licensee

2. Investing in a UK Business or Asset

When to Consider the UK's Investment Screening Regime

The UK's investment screening regime is governed by the NSIA and enables the UK government to assess and intervene in investments in businesses with activities in the UK, or assets which originate from, are located in or have a connection to the UK, in the interests of UK national security.

An investor should assess the applicability of the NSIA to determine whether the transaction: (i) triggers a mandatory notification requirement (non-compliance renders the transaction legally void and may result in criminal and civil penalties); or (ii) carries a heightened risk of being called in for review on national security grounds. If no voluntary notification is made, the UK government may call in the transaction for review for up to five years post-closing, subject generally to a six-month period from the date on which it becomes aware of the transaction, and, following such review, may impose conditions, block the transaction or require it to be unwound.

Having been in operation for a few years now, the administration of the UK's investment screening regime has proven to be reliable and business-friendly: The Government has adhered to statutory review periods, providing certainty of the impact of the NSIA on transaction timelines, and statistics indicate that only a small handful of notified transactions are called in for detailed review each year (4.5% between April 2024 and March 2025), and very few non-notified transactions are typically called in each year (only seven were called-in between April 2024 and March 2025).

Whether a transaction is subject to a mandatory notification requirement under the NSIA, or whether it may serve a strategic purpose for a transaction to be voluntarily notified under the NSIA, should be considered if a transaction will result in the direct or indirect acquisition of:

- shares, voting rights or control of a target entity that has a nexus to the UK (a 'Target Entity')—even a mere presence in the UK with insubstantial activities and minimal revenue can suffice in terms of a nexus to the UK, and there is no requirement for the Target Entity to have a UK-incorporated entity; or
- ownership or control rights relating to an asset from, in, or with a connection to, the UK (such assets include land, tangible moveable property, ideas, information or technique with industrial, commercial or other economic value) (a 'Target Asset').

The scope of the UK's investment screening regime is very broad: It applies to a variety of transactions (share purchases and mergers, certain minority investments, asset and licensing deals, joint ventures, internal corporate reorganisations and debt for equity swaps); and covers various, broadly defined sectors, e.g., advanced materials and robotics, artificial intelligence, communications, semiconductors, defence and quantum technologies, amongst others.

In July 2025, the UK government announced that it would be introducing an exemption to the mandatory notification requirement in relation to certain types of internal reorganisations and the appointment of liquidators. This change is contingent on legislative action and is expected to be implemented during the course of 2026.

Mandatory Notification Requirement

Under the NSIA, a mandatory notification requirement applies where:

- an investor's interest in a Target Entity exceeds or crosses certain share and voting right thresholds; and
- the Target Entity's business has activities in one or more of 17 key sectors.

Key Strategic Sectors

Under the NSIA, a mandatory notification requirement applies where:

- Advanced and Digital Technologies – Advanced Materials; Advanced Robotics; Artificial Intelligence; Computing Hardware; Data Infrastructure; Quantum Technologies
- Security, Defence and Government – Defence; Military and Dual-Use; Critical Suppliers to Government; Suppliers to the Emergency Services; Cryptographic Authentication
- Energy, Infrastructure and Transport – Energy; Communications; Transport; Satellite and Space Technologies
- Life Sciences and Emerging Fields – Synthetic Biology; Civil Nuclear

Failure to comply with such a requirement renders a transaction legally void and carries criminal and civil penalties.

In March 2026, following its 2025 consultation, the UK government published its response, setting out proposed changes to the mandatory notification sectors. These include introducing Water as a new sector, creating standalone sectors for Semiconductors and Critical Minerals, and refining existing sector definitions, including AI and Energy. The Government has indicated that it intends to lay secondary legislation later in 2026 to implement these changes.

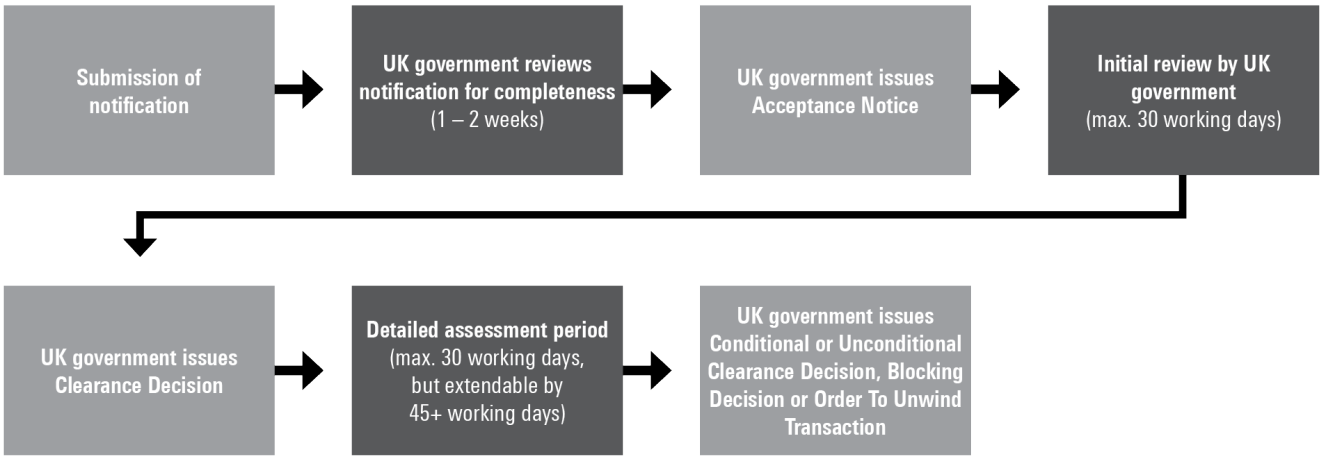
When Might It Be Strategic to Voluntarily Notify?

An investor may wish to submit a voluntary notification to the UK government in respect of an investment that:

- constitutes an investment in a Target Entity that does not fall within scope of the criteria for the mandatory notification requirement to apply (i.e. the investor's interest does not cross the relevant thresholds, or the Target Entity's activities do not fall within scope of the list of key sectors),
- involves a Target Asset; asset deals are carved out of the mandatory notification requirement; or
- where there is a risk that the UK government may find the investment to be of interest from a national security perspective (e.g. due to the nature of the target, the identity of the acquirer or the level of control being acquired) or where a transaction is attracting significant public attention. A voluntary notification mitigates the risk of an investment being called in for review by the UK government post-closing as the UK government has the power to call a transaction in for review for up to five years post-closing.

The Notification and Review Process

The timeline and review process is the same following a mandatory notification or a voluntary notification and is depicted in the diagram below.



A detailed assessment of a transaction following the issuance of a call-in notice by the UK government can result in the UK government: (i) imposing conditions on a transaction to mitigate national security risks (e.g. restrictions regarding transfers of information or technology outside of the UK, requiring new or enhanced security measures to be implemented, or imposing reporting requirements regarding contracts, activities or asset transfers, amongst others), (ii) blocking the transaction, if it has not yet completed, or (iii) issuing an order to unwind a transaction that has completed.

Simple transactions that do not raise national security concerns can be expected to take approximately three months from when a notification is submitted to clearance. Borderline cases or cases that are clearly expected to generate UK national security concerns may take four to more than six months.

3. Factors in Making the Choice Between a UK Company and a UK Establishment

UK Companies	UK Establishments
Corporation Tax Charged on the worldwide profits of a UK company at a main rate of 25% with a small profits rate of 19% applicable to most companies with profits not exceeding £50,000, and with marginal relief for companies with profits between £50,000 and £250,000. Note that the £50,000 and £250,000 thresholds are reduced proportionately where the company has 'associated companies' (for example, other companies under common control). The calculation of taxable profits is based upon a company's trading profits and as adjusted for tax purposes. Trading losses made by a UK company can be set off against its total profits. Legislation has been introduced to replace the existing diverted profits tax with a corporation tax-based Unassessed Transfer Pricing Profits (UTPP) regime for accounting periods beginning on or after 1 January 2026 (subject to enactment). Under UTPP, HMRC may assess profits where it considers that arm's length profits have not been reflected in a company's corporation tax return and specified gateway conditions are met, with affected profits charged at a rate 6% above the applicable corporation tax rate. Unlike diverted profits tax, UTPP sits within corporation tax, so companies can generally access double tax treaty protections, including the mutual agreement procedure. A residential property developer tax applies at 4% to the UK residential property development profits of groups in excess of a £25 million groupwide annual allowance, with only profits from residential property development activities above this amount being subject to the tax. For relevant companies, this brings the effective corporation tax rate up to 29%. A digital services tax at the rate of 2% applies to the UK digital services revenues of businesses that provide social media services, internet search engines or online marketplaces, where certain revenue thresholds are met (i.e. £500 million in global digital services revenues and £25 million in UK digital services revenues). A temporary 45% charge on exceptional receipts realised from the sale of wholesale electricity by nuclear, renewable, biomass and energy from waste sources has been introduced. Exceptional receipts are those in excess of a benchmark price of £75 per megawatt hour (adjusted in line with consumer price index (CPI)). The levy is limited to companies or corporate groups whose relevant electricity output exceeds 50 gigawatt hours across a year and applies only to exceptional receipts exceeding £10 million per annum. The levy will apply to exceptional receipts from electricity generation during accounting periods between 1 January 2023 and 31 March 2028.	**Corporation Tax** Taxed in the UK only on profits which are attributable to the UK establishment. Rules on calculation of profits, use of losses, filing of returns and transfer pricing apply in the same way as UK companies.
Financing Interest paid on loan financing may be deductible from a UK company's taxable profits, subject to the application of the Corporate Interest Restriction rules. These rules limit interest deductions to the higher of (a) a £2 million de minimis; (b) 30% of earnings before interest, tax,	**Financing** Internal 'dealings' between a head office and its UK branch are not generally recognised as legal debt for UK tax purposes, so interest charged to the branch by the head office is not normally deductible. However, interest on genuine third-party debt (or third-party debt properly

depreciation and amortisation (EBITDA). If the taxpayer elects, a higher percentage can be used where the worldwide group's interest ratio exceeds the 30% limit.	attributable to the UK permanent establishment) may be deductible, subject to the application of the Corporate Interest Restriction rules and the usual attribution/transfer pricing principles.
Startup Costs Startup losses can generally be carried forward and deducted from future profits.	**Startup Costs** Not applicable.
Repatriation of Profit Profits can be repatriated by declaring a dividend. Dividends paid will not reduce the company's taxable profits. No withholding tax on dividends Interest or royalty payments are other ways a UK company's profits may be made available to a parent. Withholding tax may apply but may be reduced or eliminated by a double tax treaty.	**Repatriation of Profit** No profits tax for establishments of overseas companies, other than the corporation tax
Filing Obligations Filings for the following matters must be provided to the Registrar of Companies and kept up to date: - Company name - Directors - Company secretary (if any) - Registered office address - Allotments of shares and statement of capital - Mortgage or charge on the company's property - Accounting reference date - Person(s) with significant control over the company - Articles of association (the document governing how the company is run) Any special or extraordinary shareholder resolutions (requiring a majority vote of at least 75% or 95% respectively) must also be filed with the Registrar of Companies within 15 days of being passed. A confirmation statement must be filed annually confirming that publicly held information is up to date and correct. Traditionally, filings were submitted as hard copies; however, most filings can now be made online through the WebFiling service or software filings. It should be noted that companies can elect to be part of the Protected Online Filings Scheme (PROOF) to protect against false filings. If a company is part of PROOF, paper filings for forms covered by the scheme will be rejected. All minutes of meetings of shareholders, directors and statutory registers must also be retained by the company (although not publicly). Accounting records must be kept, and annual accounts prepared. Annual accounts must also be submitted to the Registrar of Companies annually, meaning they are available for public inspection. In addition, the Economic Crime and Corporate Transparency Act came into effect in 2023. The Act introduces new requirements regarding the way in which companies registered in England and Wales interact with,	**Filing Obligations** Within a month of being operational, filings must be made to register the UK establishment. Registration requirements include: - the name of the overseas company and any alternative name used in the UK; - the legal form, country of incorporation, registration number, governing law, company officers and accounting requirements of the overseas company; - the name, address, nature of business of the UK establishment, details of authorised permanent representatives and the extent of their authority, and the names and addresses of any UK resident person authorised to receive documents on behalf of the overseas company; and - certified copies of the overseas company's constitutional documents, as well as its latest set of accounts. (Where an overseas company already has a registered UK establishment, it does not need to resubmit these documents.) All details (other than directors' residential addresses) are available for public inspection. Establishments are not required to file a confirmation statement each year, but they must notify the Registrar of Companies of any changes to its details on the public record. Accounting and reporting requirements for a UK establishment depend upon the company's filing requirements in its country or state of origin.

and submit information to, Companies House. The new requirements include identity verification requirements for directors, persons with significant control and members of a limited liability partnership, restrictions on who can file documents at Companies House on behalf of companies, restrictions on the use of corporate directors, changes to company record keeping requirements, and new powers for Companies House to check, remove or decline information submitted to, or already on, the companies register.	
Liability of Shareholders and Directors Companies are recognised as having a separate legal personality from the person(s) who form the company, the directors and shareholders. Shareholder liability in a company limited by shares is restricted to paying in full the agreed price for their shares in that company, although there are some exceptions. Directors owe statutory and fiduciary duties to the company and can be found personally liable in certain circumstances, including but not limited to: - failure to meet filing obligations or for filing a misleading statement; - breach of director duties under the Companies Act 2006; - wrongful trading in the event the company has gone insolvent - environmental breaches; and - serious data protection breaches.	Liability of Shareholders and Directors The UK establishment is not a separate legal entity but rather the same legal entity as the overseas company it is derived from. The liability of directors and shareholders is therefore determined by the constitution and jurisdiction of the non-UK company personality.
Persons of Significant Control Register All companies are required to keep their Register of Persons with Significant Control (PSC Register) up to date. Legal entities may be noted on another company's PSC Register if they are both relevant and registrable in relation to the company in operation. This will generally be where they are a UK company or their shares are trading on regulated markets (such as the LSE, AIM, the NYSE and Nasdaq).	Persons with Significant Control Register Non-UK companies operating in the UK might be subject to similar requirements in their home country but are not subject to the requirements to hold and maintain a PSC Register. On 1 August 2022, the UK's Economic Crime (Transparency and Enforcement) Act 2022 (ECA 2022) came into effect. The ECA 2022 requires overseas companies to declare the beneficial owners of property or land held by overseas individuals or companies. Failure to comply with this requirement may result in criminal penalties. In addition, from 5 September 2022, overseas entities must demonstrate they are registered on the Register of Overseas Entities to register the land title at the UK Land Registry. The ECA 2022 is subject to ongoing regulatory review.
	Requirement to Follow UK Law Although the UK establishment will not be subject to UK company law, it will still need to ensure it complies with various other laws, including (for example) in relation to anti-bribery and anti-money laundering, data protection, modern slavery, and health and safety laws.

Tax

UK tax is levied on income and capital gains—with income tax and capital gains tax payable by individuals and corporation tax by companies. The potential exposure of both UK registered companies and UK establishments to taxation upon profits is summarised below.

Taxes that equally apply to UK companies and UK establishments:

Corporation Tax
Corporation tax is payable at a small profits rate of 19% for companies with profits of £50,000 or less, and at the main rate of 25% for companies with profits over £250,000, with marginal relief available between those limits. Note that the £50,000 and £250,000 thresholds are reduced proportionately where the company has 'associated companies' (for example, other companies under common control).

Capital Gains
This tax must be paid at a company's or establishment's corporation tax rate on any capital gains made on the disposal of chargeable assets.

Value Added Tax (VAT)
The standard rate of VAT in the UK is currently 20% and is chargeable on the supply of most goods and services. UK businesses register and charge VAT when the value of their chargeable supplies reaches a threshold, currently £90,000. It is possible to voluntarily register before the threshold is reached in order to reclaim VAT paid on purchases. A business may apply to deregister if its taxable turnover is expected to fall below £88,000.

VAT is largely neutral for most businesses. VAT charged to customers and collected by the business is paid to HMRC. Businesses that have registered for VAT can reclaim or set off any VAT that they themselves are charged on purchases of goods and services. Where VAT incurred on purchases exceeds VAT charged on supplies, the business will receive a repayment from HMRC.

Import Duties
Import duties will be applied to any goods imported into the UK from countries outside the UK unless, (i) the country being imported from has a trade agreement with the UK, (ii) an exception applies, such as a relief or tariff suspension, or (iii) the goods come from developing countries covered by the Developing Countries Trading Scheme. The rate at which duty is charged varies according to how HMRC classifies the goods concerned. Different rules may apply for Northern Ireland.

Excise Duties
Excise duties will be imposed on the supply of certain products (e.g. tobacco, liquor and petroleum products).

Stamp Duty Land Tax (SDLT)
This is a tax on transactions relating to the transfer of real estate or interests in real estate, details of which are set out in Chapter 7: Acquiring or Leasing Business and Residential Premises.

4. Formalities Required to Set up a Company and Register a UK Establishment

There are two main types of UK limited company: private limited companies (LTD) and public limited companies (PLC).

PLC may, but need not, effect a listing of their shares for trading on an exchange, such as the LSE or AIM. There are strict regulatory standards that apply to public companies relating to matters such as disclosure of information and prohibiting certain transactions. LTD are not allowed to make such listings. This guide concentrates on issues relating to private limited companies.

Share Capital
At least one share must be issued in a PLC on its incorporation to one 'subscriber'. This can be increased after incorporation as the company requires in accordance with the company's articles of association. Shares (including different classes of shares) may be denominated in any currency.

Certificate of Incorporation
A company is not deemed to exist until the Registrar of Companies (AKA Companies House) has issued a certificate of incorporation. The Registrar will issue this when it has received the company's articles of association, together with certain incorporation forms and a fee.

Memorandum of Association
The memorandum is provided by the Registrar of Companies on incorporation and sets out the names of the subscribing shareholders and their shareholdings in the company; simply put, it is a snapshot of information about the company on incorporation. The memorandum cannot be amended and is not generally required after incorporation. A copy of the memorandum must be kept with the statutory registers of the company.

Articles of Association
This is the constitution of the company which set out the basic management and administrative structure of the company. The articles form a contract between the company and all of the shareholders (also known as members) and detail certain rights and entitlements which the company binds itself to grant its shareholders. These entitlements might include the right to vote, the right to attend general meetings and the right to a dividend, if one is declared. The articles of association may be updated, or new ones adopted, with shareholder approval. Articles of association must be registered with the Registrar of Companies and can be viewed by the public. Where rights relating to a company are not appropriate for a public forum, they can be agreed between the company and its shareholders in a shareholders' agreement; shareholders' agreements are not registered with the Registrar of Companies.

Statutory Forms
In order to incorporate a new company, certain documents must be completed and lodged with the Registrar of Companies. Incorporation occurs when the Registrar of Companies issues the certificate of incorporation, which usually takes about one week. Incorporation can be done either via hard copy submissions or online, with a same-day service available. Various company incorporation agents will have 'off-the-shelf' companies that are already incorporated. Filings can then be made and paid for to change the company's shareholders, directors, registered address, and other corporate details when the off-the-shelf company is transferred to the new shareholder. There are also small charges for other filings that the company may have to make during the course of its existence.

Shareholder
Any individual, firm or corporation may be appointed as a shareholder (or member) whether they are a resident in the UK or otherwise. Every UK company must have at least one shareholder. A register of the names, addresses and number of shares held by each of the company's shareholders must be maintained by the company (but not publicly, although it must be available for inspection on request). UK company law reserves certain company decisions for shareholders, e.g. amending the articles of association of the company and, in certain circumstances, removing a director. Shareholders exercise their powers by passing resolutions in general meetings or, in some circumstances, passing a written resolution signed by the requisite shareholder majority.

Director
The company must have one or more directors, and at least one director must be an individual. The company's articles of association may set out details of the maximum and minimum number of directors and will also vest the power to run the company in the directors. The directors will generally make the day-to-day decisions of the company.

Company Secretary
Either an individual or a company may act as the company secretary, although it is not mandatory for a private company to appoint a company secretary. The secretary may also be a director of the company. If a secretary is appointed, they are responsible for the administrative requirements to which the company is subject and should therefore ideally be present in the UK.

PSC Register
Since 6 April 2016, UK companies have been required to keep a register of individuals or legal entities that have control over them (which is publicly available at Companies House). The PSC Register is part of a wider movement to increase transparency around the ultimate ownership and control of companies incorporated in the UK. The UK provisions are similar to those introduced by the EU and its respective member states.

Choice of Company Name

The Registrar of Companies will not incorporate a new company which proposes to use the same or a materially similar name to one which is already in use by an existing company. It is necessary to search the index of names at Companies House to establish whether a desired name is available for use. A private company limited by shares must have 'Ltd' or 'Limited' at the end of its name.

Before selecting a name, it is also sensible to conduct a trade mark search and domain name search against the desired name, and potentially registering such trade mark(s) and domain name(s) in tandem with incorporating the company.

The Registrar will not accept applications for incorporation if a company name is offensive or suggests a criminal activity or attempts to use certain restricted words. Furthermore, if a company wishes to include a 'sensitive' word in the name, it must obtain prior approval. The grant of a certificate of incorporation registering a particular name does not guarantee that there will be no issues in the future, e.g. if a company's name is deemed to provide a misleading indication of its business activities, then the Registrar can order the company to change its name.

Although a company must always have a registered name, it may decide to trade under a different business name. The directors of a company have the power to decide on the use of a business name. The business name need not contain the word 'limited'. If a different business name is used, then the company's incorporated name must also appear on all its stationery.

After incorporation, a company can change its name (subject to the above) at any time if 75% of the shareholders approve the name change by a special resolution or if such permission is granted in the company's articles of association. A small fee is payable to the Registrar, depending on the speed of the service and whether the application is made by paper or electronically. Please note that there are continuing obligations, with regards to how and when the company's name must be displayed. (See below.)

Immediate Actions of the Company upon Incorporation

Any or all of the following may be necessary:

- The company must write up and update as appropriate its statutory books.
- Where appropriate, the company should be registered for VAT and Corporation Tax with HMRC.
- The directors must ensure that all company stationery, publicity and the company's website bear the following information:
  - The company name and business trading name, if different to the company name
  - Its place of registration (England and Wales, Scotland or Northern Ireland)
  - Its registered number (which is granted on incorporation)
  - The address of the registered office
  - The names of either all the directors or none of them
  - The fact that the company is a LTD. This is normally shown by spelling out the company's full name including 'Limited' or 'Ltd'.

If the company is to have employees working for it, HMRC should be contacted to arrange for the necessary income tax and national insurance contributions and (if applicable) apprenticeship levy to be accounted for or paid.

All UK employees must be provided with a written statement of their terms and conditions of employment within two months of the commencement of their employment.

The company may wish to open a bank account and arrange for appropriate bank mandates to be established.

The company may have to change its financial year and date (known as the 'accounting reference date') to fit with the wider corporate group. Newly formed companies are automatically given an accounting reference date of the last day of the month of incorporation.

Standard terms and conditions of trade or other contracts to be used by the company which are enforceable under English law will be required.

Continuing Obligations for UK Companies

Continuing obligations for UK companies include filing annual confirmation statements (confirming any changes to the share capital, PSCs or directors), filing annual accounts, maintaining the public PSC Register and making event-driven filings, e.g. to reflect changes in share capital, registered office details or directors.

Formalities Required to Establish a UK Establishment

To register a UK establishment, a detailed form must be completed and filed with the Registrar of Companies, along with a small filing fee. In the form, the applicant overseas company must set out the following details:

- The overseas entity's name
- A certified copy of the overseas company's constitution or, if it is written in any language other than English, a certified translation thereof
- The country of incorporation, the name of the register on which it is registered within the country of incorporation, the legal form of the overseas company and its registration number
- The governing law and accounting requirements
- If it is required to prepare, disclose and deliver accounts under local law, a copy of the company's latest set of accounts; and if it is not required to prepare accounts under local law, the company will be allocated an accounting reference date and must prepare and deliver signed accounts. Please note there are different accounting rules for credit or financial institutions
- A list of officers and the secretary and certain information about each of them (including name, address, date of birth and the extent of their powers to represent the overseas company, along with a statement as to whether they may act alone or must act jointly)
- Any persons authorised to represent the company and/or, persons authorised to receive documents on behalf of the company and whether particulars have been delivered previously in respect of another UK establishment, together with the registration number
- Regarding the UK establishment, any alternative name which it proposes to carry on business under in the UK must be provided. Please note the same restrictions apply to overseas companies registering in the UK. (See 'Choice of Company Name'.)
- The following particulars of the UK establishment must be stated on all business letters, order forms and websites used in the United Kingdom:
  - Where the establishment is registered
  - Registered number of the establishment
  - Country of incorporation, identity of registry if applicable, company number, legal form, whether liability of members is limited
  - The location of head office

5. Finance

Once a company has been established and is operational there will generally be a need for some form of outside finance to acquire working capital or assets. In the initial stages of a company's life, funds for activities such as these will often be provided by the shareholders in the form of equity or from initial debt investors in the form of loan notes. As the business develops, bank finance often becomes necessary.

Types of Finance

Typical forms of finance provided by banks include overdrafts and loans. A bank that is approached for any form of finance will undertake credit checks and 'know your customer' (KYC) checks. Depending upon the amount of finance required and the financial standing of the company, a bank may require personal guarantees and security from the company, its shareholders or its parent company.

Overdrafts

These provide a short-term form of revolving finance for companies for general working capital purposes and are made available via the company's current account. An arrangement fee will usually be charged by the bank offering the overdraft, and interest on the overdraft will generally be linked to the bank's base rate. (A margin in addition to the base rate will be charged by the bank.) As this is short-term finance, the company will be able to borrow up to the agreed overdraft limit, and any receipts in the company's current account will reduce the overdraft outstanding automatically. At the end of the agreed overdraft period, unless the overdraft is extended, the company will be required to repay any outstanding borrowing. Typically, overdrafts are repayable on demand.

Loans – Term and Revolving Credit Facilities

Longer-term finance is required by companies not only to fund working capital but also so that the company can fund its expansion and the acquisition of assets, such as premises, plant and machinery, and other fixed assets. Banks are willing, subject to the usual credit and KYC checks, to provide loans pursuant to which an agreed amount will be lent to the companies. These loans typically have a longer repayment period than would be available under an overdraft. Loans can be made available either on a term- or revolving-credit basis.

Term loans, where the loan is made for a given period, may have an amortised repayment profile whereby a certain amount of the loan principal is repaid at regular intervals (monthly, quarterly, etc.), or where the whole principal amount advanced is repayable at the end of the term of the loan in one amount (a bullet repayment). These two mechanisms can also be combined to allow for a repayment profile that suits all parties. Interest will comprise of either a floating rate (often by reference to the Sterling Overnight Index Average (SONIA) for loans in GBP or the Secured Overnight Funding Rate (SOFR) for loans in USD) or fixed-base rate and a margin (as agreed with the bank); it will normally be paid at regular intervals (monthly, quarterly, etc.) throughout the term of the loan. Alternatively, interest can be capitalised and paid at the end of the term. The bank will charge an arrangement fee for setting up the loan for the company and may charge a commitment or ticking fee until the loan is drawn down by the company.

Revolving-credit facilities provide the company with a committed finance line for a given period as the need arises for items such as working capital. The company can access funds (within the agreed amount of the loan) as and when required (subject to minimum drawdowns and drawdown periods), but, unlike a term loan, the company is able to repay the loan whenever it wants and redraw the loan again later (hence the revolving nature of the loan). Interest will accrue on the loan in the same way as a term loan but will only be charged when the revolving-loan facility is being utilised; a commitment fee will be charged by the bank to the extent that the loan is available to be drawn but is not utilised. The bank will also charge an arrangement fee for setting up the loan for the company.

More Complex Financing Solutions

Banks can provide more complex financing solutions to companies depending on the needs of the company. For example, the company may need to import goods from overseas and thereby set up documentary letters of credit with the foreign exporter. In order to do this, the company's bank (the issuing bank) will require proof that the company has adequate funding in place to make payment to the exporter; this may be undertaken by a loan provided by the bank, which will enable the importing company to settle any liabilities which arise under the documentary letter of credit (the issuing bank will require a counter indemnity from the company in order to issue the documentary letter of credit) which can be repaid by the company upon its subsequent sale of the goods.

In larger loan transactions, banks will often use market-standard documentation drafted by the Loan Market Association (LMA). This will aid a syndicate or club of lenders by providing administrative mechanics to manage the loan as between such lenders, including, for instance by the appointment of an agent who will act on instructions of the lenders or a majority of the lenders.

Common Documentary Requirements

- **Constitutional Documents** – The lender will require copies of all constitutional documents (articles of association, memorandum, certificate of incorporation and certificate(s) of change of name) to check that the company is properly established and to ensure that the internal regulations of the company are complied with when the loan is made.
- **Board Minutes** – It is important from a lender's perspective to ensure that the company has properly approved the loan in accordance with the company's constitutional documents, to ensure that the company is empowered to enter into the loan agreement (and other related documents such as guarantees and security) and is therefore fully liable for the obligations created thereunder.
- **Parent Company Board Minutes or Shareholder Resolutions** – These will sometimes be required (especially in the case of a loan being made to a special purpose vehicle that has been established solely for the purposes of the transaction) to ensure that the company's parent is fully aware of the terms of the transaction and supportive of the transaction as the shareholder of the borrowing company.
- **Officers' Certificates** – These will provide the lender with specimen signatures of the officers of the company that are signing the loan documentation and will certify any board minutes, constitutional documents and other documents that are delivered to the lender as being complete and up to date. They may also contain certain market standard declarations to provide additional comfort to the lender.
- **Legal Opinions** – These will be required by lenders in larger value loans. Legal counsel confirms that the company (and any other obligor companies) is properly empowered to enter into the loan documentation and that the loan documentation (such as the loan agreement and any guarantees and security) is legally binding and enforceable. Other matters, such as registrations, filings and tax may also be covered by legal opinions, giving the lender confirmation of the legal position regarding the status of the loan and reducing the legal risk.
- **Financial Statements** – These will be required by the lenders prior to drawdown of the loan facility (where historic audited profit and loss accounts, balance sheets, etc. are available) and throughout the term of the loan. (These may include audited accounts and monthly, quarterly, and semi-annual financial statements and management accounts.) These form the basis of the credit analysis undertaken by the bank to make the loan available to the company and may prove a vital tool to monitor the company's financial performance, both on a historic basis and looking forward. During the term of the loan, a compliance certificate may also be required, by which the directors of the company will certify compliance with any financial covenants set by the lenders in the loan documentation.
- **KYC** – In order to combat fraud and money laundering, all lenders are required to seek information on the ultimate beneficial owners of the company with whom they are seeking to do business.

Guaranteed Security

Guarantees

Guarantees are required by lenders to support overdrafts and loans which they provide, particularly where the company has a limited history, assets or track record or where the company is part of a larger corporate group. In the case of a startup business, where the sole-owner shareholder or director is often the main person running the business, the financial standing of the company is significantly dependent upon that individual. It is common in such circumstances for the lender to require the owner of the company to provide a guarantee. In this instance, the owner will need to seek independent legal advice.

A guarantee is a third-party obligation which provides the lender with recourse against the guarantor when the overdraft or loan goes into default or, in other words, where the company fails to pay or perform other obligations. Where multiple facilities (such as overdrafts and loans) are granted to the company, the lender may require the owner to provide an all monies guarantee in respect of all the liabilities of

the company. Instead of guaranteeing a specific amount, the guarantee would be in relation to all monies lent by the relevant lender from time to time.

In cases where the company forms subsidiaries or is part of a corporate group of companies, guarantees are also helpful in that they allow one company to provide financial support to other members of the group. Where one member of the group seeks finance, the lender will

often seek a guarantee from other members of the group. In all cases where guarantees are provided by parent companies, sister companies or subsidiary companies, it is important that each guarantor company receives a corporate benefit for doing so. This may take the form of a monetary payment. More usually, it is evidenced by the board of the guaranteeing company acknowledging, in the board minutes approving the guarantee, the benefit of such guarantee to the company and the group as a whole.

Where a guarantee is provided by a company, the lender will undertake a thorough credit analysis of the guarantor company in the same way as if it were a borrower. Similarly, the lender will require many of the deliverables it would require if the guarantor company was the borrower (i.e. board minutes, financial statements, etc.) and may require additional security to be provided by the guarantor to support the guaranteed obligations.

Security

Lenders will often require security to be provided not only by the borrower company, but often in the case of small companies, by the shareholders/owners. The type of security taken will depend upon what assets the company or guarantor is able to provide, and the lender will need to assess the value of such security. Common types of security include:

- **Mortgages of Land** – A form of security which will allow the lender to foreclose over the land in the event of a default. This form of security must be registered at the Land Registry and elsewhere.
- **Charges** – Charges can be taken in respect of a wide variety of assets, including land, bank accounts, company shares, etc. Charges may be fixed or floating.
- **Assignment of Rights** – A form of security over contractual rights, e.g. over receivables (financial benefits under contracts including monies owing to the security provider),bank accounts or contracts, such as material contracts or insurance for example. To perfect the assignment, it will be necessary for notice to be given to the counterparty of the debtor under the contract.

Documentation

A share charge would usually be a document that only includes a charge over shares, while a debenture is a document that would ordinarily include fixed and floating charges over all or several classes of assets of a company. A debenture may also include mortgages and assignments. Where a debenture contains a floating charge, such floating charge creates a security interest over those assets which, until a crystallisation event occurs, will allow the company to deal and dispose of those assets. Once a crystallisation event occurs (such as the insolvency of the company or receipt of notice from the lender that it wants to take action to protect the assets), the floating charge is converted into a fixed charge thereby freezing the assets and preventing the company from dealing with or disposing of the assets thereafter.

Registration

Under the Companies Act 2006, security created by a UK-registered company is generally registrable at Companies House within 21 days of creation. Failure to deliver particulars to the Registrar will mean that the security will be void against a liquidator, administrator or creditor of the company, and it is likely the money secured by the charge will become immediately payable.

6. Employment

Business leaders, in-house counsel and HR professionals rightly expect risk-based analysis and practical and proportionate employment law solutions. That is what we aim to provide by maximising our cross-disciplinary approach.

The UK economy continues to emerge from the experiences of COVID-19 with the practices of employers and employees having been influenced by the challenges of prolonged remote working. Many individuals have heightened expectations for a more flexible working environment within a more competitive, and potentially more litigious, labour market. Similarly, many employers wish to encourage and mandate an increase in the number of working days physically in the office, with many large employers expecting a minimum of three days per week in the office. However, enhanced scope to request flexible working arrangements also must be managed. (See below.) Strikes and other forms of industrial action directed at above-inflation pay settlements are much more prevalent in the public sector where trade union membership is concentrated—but this influences remuneration expectations within the market.

Flexible working requests and formal workplace grievances continue to be regular challenges in the daily workplace. Discrimination and whistleblowing claims can lead to uncapped compensation. In the most significant proposed change to UK employment law for two decades, employers will also face the prospect of uncapped award of compensation for unfair dismissal claims, which will fundamentally change the risk assessments to apply in relation to negotiated/managed exits and dismissals across all levels of seniority within the workforce including board-level.

Diversity and inclusion considerations remain important, particularly so within regulated financial services. The potential for third- party harassment claims and the requirement to show that 'all reasonable steps' have been taken in order to rely upon a statutory defence requires careful and thorough risk assessments by employers. There are increasing expectations for positive engagement with neurodiverse candidates and employees, and the consideration of reasonable adjustments with the workplace is likely to increase in order to attract and retain candidates more broadly.

2026 will be a period of significant change as the Labour government implements reforms to enhance employee and worker rights under the Employment Rights Act 2025, in line with its phased implementation timetable. The Government confirms phased implementation through 2026 and 2027. For example, the reforms and restrictions for 'fire and re-hire' restrictions will be pushed back to 2027. The Fair Work Agency is expected to be established during 2026. There are multiple consultation exercises taking place, ranging from framing improved protections for pregnant workers in the context of redundancy and providing for statutory leave in the event of miscarriage to conduct of balloting for industrial action.

The qualifying period for the right to bring an unfair dismissal claim will not be shortened until 2027, but employers will likely need to plan and prepare for its impact during 2026. Not least because as from 2027 the statutory cap on ordinary unfair dismissal claims will be removed in 2027, which will have ramifications for shop-floor redundancies to board-level exits. This is a radical and profound change that has to be managed carefully by employers given the potential financial impact, which will inevitably influence the dynamics of dismissals and the negotiation of termination arrangements.

Collective consultation requirements in relation to dismissals of 20 or more employees will become more challenging as the focus will be on an employer's UK-wide operations rather than at a specific establishment/location. We continue to help businesses adapt and manage operational risk effectively and efficiently, drawing on our long experience of supporting U.S.-based businesses making their first hires in the UK, often with home-office structures. We help clients anticipate and manage their risks proactively.

Post-termination restrictive covenants are more prevalent in the UK than in many U.S. states but are subject to Government review in 2026. We can help you assess your needs and tailor your protections.

The UK has identified the EU-driven legislation and case law that will be treated as 'assimilated law', which remains enforceable in the UK even though the principle of supremacy of EU law no longer applies. Further uncertainty is likely though, as there will be challenges that seek to justify departure from such assimilated law. This too will place a premium on clear, pragmatic risk management of employment matters, and we are eager to partner and bring to bear our experience to help our clients achieve their goals and priorities.

Where a business employs staff who work in or are based out of the UK, the employer will have obligations under the law applicable in the relevant part of the UK. It will need to consider employment law, immigration issues and tax issues.

These issues arise irrespective of whether the employer is a UK entity or not—the key issue is where the employee actually works. Specific advice should be sought as to the applicability of the UK employment and tax laws where the employee is peripatetic, an expatriate or otherwise works out of a number of jurisdictions. These factors are relevant to the mandatory local law rights, as well as the potential to enforce post-termination restrictions.

All employees have an employment contract with their employer, even if it is not set out in writing. Minimum statutory particulars of employment must be provided in writing. It is always preferable to set out terms expressly in writing to avoid ambiguity and the possible relevance of more beneficial implied arrangements.

Employees and workers in the UK have a number of protections set out in the applicable legislation covering, amongst other things, working time and paid leave, minimum wage, pension contributions, discrimination, 'whistleblowing' and protection against unfair dismissal. Key points include:

- Paid holiday entitlement is 28 days per annum (pro-rated for part-time workers). However, care needs to be taken if overtime, commission or bonus arrangements might apply and the particular arrangements assessed to determine whether holiday pay needs to expressly include such elements
- Under the auto-enrollment regime, employers may need to make provision for, and contribute to, a pension benefit for their employees. Although opt-out arrangements can be applicable, employers should seek specific advice as to their obligations in this respect
- There is no employment-at-will in the UK. All employees are entitled to be given, and are required to give, notice of termination of employment of at least the statutory minimum (basically, one week per year of service from an employer, up to the statutory limit of 12 weeks, and a minimum of one week from an employee). Market arrangements for more senior hires will commonly involve negotiation which seek longer periods.

Employer's Liability Insurance

Employers must take out insurance against disease or injury sustained by an employee during his or her employment and against damage caused by its employees to third parties.

Immigration Issues

If an employer wishes to employ a worker in the UK who comes from outside the UK, including those from the EEA or Switzerland, permission for that individual to work in the UK is likely to be required and specific advice should be sought.

UK legislation requires all employers to check whether all employees who start work with them in the UK are entitled to work in the UK. Employers need to check the appropriate original documents of each employee and keep a record to show that they have carried out the appropriate right-to-work checks. Where an employer employs an illegal migrant worker, it could face a civil penalty of up to £60,000 per illegal worker, unless it can establish that it carried out the appropriate right-to-work checks. Employing an illegal migrant knowingly, or where an employer reasonably believes that the migrant does not have the right to work, are criminal offences which could render an employer liable for an unlimited fine and/or a prison sentence of up to five years. We have strong relationships with UK immigration experts to help you get this right.

Employment Tax

- Taxation, Social Security Contributions (National Insurance) and Apprenticeship Levy – Employers are likely to need to withhold income tax from their employees' pay in accordance with the PAYE system. Employers must also pay National Insurance contributions in respect of every employee, dependent on the employee's earnings and National Insurance category. Apprenticeship levy may also be payable (at the rate of 0.5%) by the employer if the employer/group is within its scope (which normally means an annual pay bill of more than £3 million).
- PEOs – We are seeing an increasing interest in the potential use of Professional Employer Organisation (PEO) structures and have experience in advising on the pros and cons of direct employment versus PEO arrangements. This is a particular issue to bear in mind if share options are to feature as part of a remuneration package.
- IR35 – Employers must be alert to the risks and practical impact of contracting with individuals who utilise their own Personal Service Companies.

Startup ventures will likely consider the appropriateness of using PEO/EORs to engage and supply personnel to work under the direction of the startup rather than a startup immediately assuming direct employment obligations/responsibilities. Such arrangements can be helpful but will require careful consideration as to their timescale and associated tax considerations/implications, particularly if deferred remuneration arrangements are contemplated. UK tax and employment law considerations need to be taken into account when balancing the compliance-related risks and advantages of direct employment versus such supply arrangements.

7. Property – Acquiring or Leasing Business and Residential Premises

Finding Suitable Business Premises

This is normally undertaken by commercial property agents, usually chartered surveyors whose knowledge of the market for the area you wish to locate to will be important. In England and Wales, chartered surveyors deal with the buying, selling and leasing of property together with connected professional matters, such as building surveying, planning issues and business rating. In advising on buying, selling or leasing property, they will assist with the following:

- Give advice on levels of purchase price and rent
- Negotiate the main terms of the deal to ensure it reflects the local market at the time
- If asked to do so, advise on the state and condition of the premises and/or the building. In this regard, we recommend your commercial property agent takes account of UK government policy on reducing emissions and improving building energy efficiency (including likely required capital investment). An energy performance certificate (EPC) should be requested from (and must be provided by) the landlord. At present, the minimum EPC rating for lettings of most non-domestic private rented property in England and Wales remains 'E', but the Government has consulted on tightening the minimum standard (including proposals that would move towards higher minimum ratings over time). You should therefore factor in (i) the current EPC position, (ii) the cost, timing and practicalities of retrofit works, and (iii) who bears those costs under the lease. Where a lease term is short, care should be taken to avoid contributing (via the service charge regime) towards significant capital expenditure, including expenditure associated with energy-efficiency improvement works. Given recent volatility, an indication of likely energy supply costs may also be sought. If car parking spaces are available, you may also wish to check the availability of EV charging points and seek to exclude the future installation of EV charging point infrastructure by the landlord from your service-charge obligations, particularly if the lease is for a relatively short term. If a lease of a longer duration is being taken, you should perhaps expect to take a more collaborative approach with the landlord. The aim of establishing the 'green building' credentials of any proposed business premises may also tie in with your ESG-driven business strategy.
- You should also consider whether the lease is to be renewable at the end of the initial contractual term or (as is generally standard practice with office leases) whether it is to be excluded from the 'security of tenure' rights of renewal that are otherwise afforded to business tenants occupying commercial premises under the Landlord and Tenant Act 1954. Where significant capital expenditure is being made by a tenant to fit out commercial premises and/or significant goodwill is associated with the location of the premises, then you are advised to seek a 'renewable' lease and/or a contractual option within the lease to acquire a new lease following expiry of the term of the existing lease.
- Where your commercial property agent can negotiate a break clause, we advise that the break clause pre-conditions should not be so onerous as to risk frustrating the effective operation of the break clause. The inclusion of a break clause may be a valuable tool as the concept of hybrid-working is now established practice, and longer-term space requirements may be subject to ongoing review. The inclusion of a tenant break clause may also provide leverage on rent review discussions or renegotiating other lease terms, but it should be borne in mind that the landlord may offer reduced initial incentives (e.g. rent-free period and/or contribution to tenant fit-out costs) if a break clause is included in the lease, or a landlord may seek a break fee from the tenant if the break option is exercised. A tenant could also seek to negotiate an additional rent-free period if it does not exercise a break option.
- We further advise that where a lease is being taken, the lease rent suspension clause should apply equally to cases where there is damage or destruction to the premises, whether caused by an insured or uninsured risk. You should also carefully consider the scope of any business interruption insurance, where trading from the premises is not possible.
- For retail premises, instead of an open-market rent applying, the annual rental may be agreed based on a lower base rent plus further rent linked to turnover. Your commercial property agent will likely advise.
- Also, depending on the nature and extent of the premises to be acquired/leased and any proposed capital expenditure by you, tax advice is recommended on the availability of, for example, capital allowances and other reliefs on expenditure that may be set against taxable profits. The UK introduced 'full expensing' from 1 April 2023, giving companies a 100% first-year allowance for

qualifying new main rate plant and machinery, and a 50% first-year allowance for qualifying new special rate assets (with writing down allowances thereafter). Full expensing has been made permanent.

In addition, changes applying from 2026 include (among other measures) a reduction in the main pool writing-down allowance from 18% to 14% (from 1 April 2026 for corporation tax purposes and from 6 April 2026 for income tax purposes) and a new 40% first-year allowance for certain qualifying expenditure incurred on or after 1 January 2026. The detailed rules should be checked for the relevant accounting period and asset profile.

Once the main terms are agreed, the parties' lawyers will discuss the legal documentation to give effect to the agreement. Any issues arising from the documentation and the legal due diligence exercise in respect of the property, including land use restrictions, planning issues, the terms of an existing lease (that is being acquired) that may affect whether the company can lawfully use the premises for its business or not, and any other questions will be discussed and dealt with. Information about the property generally will be sought from the relevant authorities and the seller or landlord. Environmental (as well as sometimes structural) surveys and local authority and other relevant property searches are also a wise precaution.

Structuring the Investment in UK Business Premises

There are no legal restrictions in the UK on overseas investors owning, selling or leasing property in England and Wales. When considering the investment vehicle, there is considerable flexibility, with investment permissible via a domestic or foreign vehicle. As tax considerations will determine the most appropriate investment vehicle to use, advice should be sought under UK tax laws and the laws of the investor's own jurisdiction. However, if an overseas entity (including any trust or nominee arrangements) is being considered as the investment vehicle for UK property, compliance obligations under domestic 'economic crime' legislation should be factored in.

The Economic Crime (Transparency and Enforcement) Act 2022 (ECTEA) introduced the Register of Overseas Entities (ROE), maintained by Companies House. Overseas entities that are (or wish to become) the registered proprietor of a 'qualifying estate' (i.e. a freehold interest in land or a lease granted for more than seven years) must register at Companies House and provide (and keep up to date by way of an annual update statement) prescribed information about the entity and its registrable beneficial owner(s) and/or managing officer(s).

The information provided must be independently verified prior to registration. Failure to comply with registration and updating requirements expose the overseas entity and its officers to criminal sanctions and also impact dealings with the relevant land registry.

The UK Land Registry places restrictions on titles to UK properties held by overseas entities to prevent the registration of certain dispositions (including transfers, leases granted for more than seven years and legal charges), unless the overseas entity is exempt or has complied with (i) the registration requirement and (ii) the updating requirements. In addition, following amendments introduced by the Economic Crime and Corporate Transparency Act 2023 (ECCTA), an additional requirement applies: Overseas entities must comply with any notice from Companies House requiring the provision of further information. (These provisions came into force in March 2024.) The ECCTA also strengthens and expands the ROE regime in various respects (including the treatment of nominee arrangements and enhanced reporting where trusts sit within the beneficial ownership chain). Many of these changes are being commenced in stages, and the position continues to evolve, so specific advice should be taken on which provisions are in force at the relevant time and on how the reporting requirements apply to the particular ownership structure.

From 31 August 2025, Companies House is able (on application and subject to the statutory framework) to disclose certain trust information held on the ROE. Persons whose details could be disclosed may be able to apply (in advance and on limited grounds) for protection from disclosure. Overseas entities of registrable land in the UK therefore not only need to be aware of their ongoing registration obligations on the Register of Overseas Entities, but also should be aware of the new and extended obligations introduced by the ECCTA, and, where UK real estate is holding UK land through offshore corporate structures or offshore trusts, the implications of ECCTA and/or trusts should therefore be aware of (i) their ongoing ROE registration and updating obligations and (ii) the increased transparency of land trust arrangements risk for trust-related information.

Likely Costs When Obtaining Business Premises (in England and Wales)

Businesses should budget for more than the headline rent or purchase price. Typical costs include agent's fees (for searches and negotiation), legal fees (including title investigations, planning/highways searches, drafting and negotiating the lease or purchase contract), survey and valuation fees, and lender's fees, where finance is used.

Tax and ongoing occupation costs can be material. For acquisitions this may include SDLT (and, for leaseholds, SDLT may arise on the net present value of rent, as well as any premium). Non-domestic rates are also a significant ongoing cost, and the 2026 revaluation (effective 1 April 2026) may change liabilities; tenants should verify the current rateable value and factor in the impact of any reliefs and transitional arrangements.

Other common recurring charges include service charge (for multi-let buildings), insurance rent, utilities, cleaning and security, and, where applicable, VAT on rent and service charge if the landlord has opted to tax its interest in the property. Landlords frequently require a rent deposit, guarantor and/or parent company guarantee for newer businesses.

Serviced offices (and many co-working arrangements) are usually provided under a licence to occupy rather than a lease. They can offer speed and flexibility (shorter commitment, inclusive services and simplified set-up), which may suit startups or businesses testing a new location.

However, occupiers should check the small print carefully: whether the arrangement is genuinely a licence or could be treated as a lease; what is included in the 'all-inclusive' price (for example, meeting rooms, printing, IT, business rates, utilities and cleaning); how price increases are applied; the notice period and termination rights; and any restrictions on hours of access, guests, signage, data/security and permitted use. Where a deposit is required, confirm the circumstances in which deductions may be made.

Fit-out and compliance costs are often underestimated. Depending on the sector and premises, these may include planning/building control costs, health and safety compliance, fire risk assessments and works, accessibility adjustments, and costs associated with energy efficiency (for example, EPC/MEES 'Minimum Energy Efficiency Standards') compliance. At lease end, tenants should also plan for dilapidations exposure under any full repairing obligations they may have assumed.

In addition to the purchase price or rent and the chartered surveyor's, building surveyor's and legal fees, a buyer or tenant should budget for the following common costs when acquiring new business premises:

SDLT

Freehold and lease premium/transfer value (non-residential or mixed-use): SDLT is payable to HMRC on consideration of £150,000 or more at the following banded rates:

Property or lease premium or transfer value SDLT rate:

- Up to £150,000: 0%
- £150,001 to £250,000: 2%
- Over £250,000: 5%

New leases (rent element): SDLT may also be payable on the net present value (NPV) of rent under a new non-residential lease. The NPV element is charged at:

- 0% on the first £150,000 of NPV
- 1% on the next £4,850,000 (i.e. £150,001 to £5,000,000)
- 2% on NPV over £5,000,000

SDLT on the premium (if any) and SDLT on the NPV of rent are calculated separately and then added together.

(Where rent is uncertain or stepped, special rules and HMRC's calculator approach apply.)

VAT
VAT may be chargeable on rent, premiums and/or the purchase price where the landlord/seller has opted to tax a property for VAT. Whether the VAT paid over is recoverable will depend on the company's VAT position and intended use of the premises.

HM Land Registry Fees
Registration fees are payable on many property applications (including purchases and the grant of certain registrable leases). Fees depend on the application type and, for Scale 1 transactions, often the value/consideration. The applicable fee scales are published by HM Land Registry.

Rent and Rent-Related Payments
Rent is commonly payable quarterly in advance (though monthly payments are increasingly seen), and is typically exclusive of:

- utilities and telecoms;
- service charges;
- insurance rent (where the landlord insures); and
- statutory outgoings (including non-domestic/business rates).

Landlords may also require rent deposits, guarantors or advance rent (particularly for new UK entrants or Special Purposes Vehicles (SPVs)).

Service Charge (Where Applicable)
If the premises form part of a larger building or estate, a service charge may be payable for items such as repair/maintenance, cleaning, common parts, security and reception services. Consider negotiating:

- a cap (particularly on shorter leases);
- exclusions for capital expenditure (or clear rules on amortisation); and
- transparency on budgeting, reconciliation and audit rights.

Business Rates
Business rates are charged on occupation of commercial property and are generally calculated using the property's rateable value and the relevant multiplier, subject to applicable reliefs (and potentially transitional arrangements following revaluation). GOV.UK sets out the calculation approach and publishes the current multipliers. From April 2026, occupiers of commercial property will see changes to their business rates bills following revaluation and the introduction of new multipliers.

Other Key Cost Considerations
Depending on the property and transaction, additional material costs often include:

- fit-out and dilapidations (including reinstatement of alterations at lease end);
- building works (and related consents, e.g. landlord's consent, planning/building control, listed building, party wall);
- environmental and compliance items (e.g. asbestos, fire risk and other Health and Safety (H&S) compliance, EPC and MEES-related works);
- insurance for tenant's fixtures/fittings/equipment and public/product liability; and
- IT and connectivity—including ensuring the lease grants sufficient rights to install and operate cabling/equipment and access risers/ducts, and to enter into wayleave arrangements where needed.

Serviced Office Accommodation

When initially setting up a business, a company may not have a large staff and may not wish to spend time looking for offices. A suitable alternative may be serviced office accommodation, which is widely available.

Leasehold Premises

The acquisition of commercial leasehold premises usually takes longer to finalise than the acquisition of a freehold, due to the relative complexity of the transaction. Prospective tenants will be required to furnish references, which will include the provision of annual reports and company accounts.

Once in new premises there are a number of considerations that tenants should be aware of:

Rent Review

Commercial leases that are for longer than five years will almost always contain provisions allowing the landlord to increase the rent in line with current market rates at different intervals in the life of the lease (or, alternatively, may specify pre-agreed stepped increases which may provide the tenant with greater budgeting certainty). The rent review cycles are usually at the end of every fifth year of the lease. If the parties are unable to agree on a reviewed rent in line with the open market at any stage, they can refer the matter to an independent third party to decide on the reviewed rent. Alternatively, the rent may also be increased by reference to increases in inflation using the RPI or CPI indices. It should also be noted that a rent review will be 'upwards only'.

Note: The UK government proposes to introduce legislation to prohibit upwards-only rent reviews in new and renewal commercial leases. This could become law in 2026/2027, though it is not known if the proposals will come into force immediately. If enacted, we could see the market move towards fixed rental increases or other alternative rent structures.

Subletting and Selling

A commercial lease will usually allow a tenant to rent out the whole (and sometimes a part) of its space to another company, subject to obtaining the landlord's prior consent. Sharing space with 'group companies' is often permitted without the need for the landlord's consent. If a move to alternative premises is subsequently required during the term of an existing lease and the tenant does not have the ability to exercise a break option, the lease will also usually allow the tenant to transfer (assign) its lease to a third party. The landlord's consent will usually be required before an assignment can take place. An outgoing tenant may remain liable for payment of rent and other sums under the lease if the new tenant defaults on payments, but this will depend on the provisions in the commercial lease.

Most businesses occupy premises under a lease. Key commercial terms include the length of the term, rent and rent review mechanism, break rights (and any conditions), repair and reinstatement obligations, service charge provisions, insurance arrangements and rights to make alterations.

Tenants should also consider 'alienation' provisions (assignment, underletting and sharing occupation), any requirements for landlord consent, and whether the lease includes obligations to provide financial information or comply with building management policies (which may be increasingly important in larger or mixed-use developments).

A central issue is whether the lease benefits from security of tenure under the Landlord and Tenant Act 1954. If security of tenure is excluded ('contracted out'), the tenant will have no automatic right to a renewal at the end of the term. Tenants should understand the practical implications before agreeing to contract out, especially where they will invest heavily in fit-out of the premises to be leased.

Energy and sustainability provisions are becoming more common. Parties should check the EPC position and any MEES-related covenants, including who bears the cost of energy efficiency works, how improvements are recovered through service charge, and whether the lease contains restrictions on alterations that could affect EPC performance. Such 'green lease' clauses are expected to continue to evolve with clauses mandating data sharing, obligations to cooperate on asset upgrades, operational performance targets and cost-sharing frameworks for energy efficiency improvement works expected to become the norm.

Finally, check tax points early: whether the rent is subject to VAT (option to tax), whether SDLT is payable on any premium and/or the rent, and whether any incentives (rent-free periods or contributions) are documented clearly and treated correctly for tax and accounting purposes.

Residential Premises

Corporate Letting

Where a company is relocating staff to England and Wales to establish or expand a UK business, it may take residential accommodation in its own name for staff, rather than individuals purchasing freehold houses or long leases of flats.

If the company enters into a short-term letting arrangement (whether directly with a landlord or via an agent), it should ensure that the documentation clearly sets out: (i) who is entitled to occupy the property, (ii) whether occupation is intended to be exclusive, and (iii) what happens at the end of the agreed term (including handover and dilapidations). Companies should also be mindful that the company's contractual rights in the property will be determined by the terms agreed with the landlord and, unless a further agreement is reached, the landlord is not obliged to grant a new tenancy.

From 1 May 2026, the Renters' Rights Act 2025 is expected to implement the first phase of reforms to the private rented sector, including:

- the abolition of section 21 ('no-fault') evictions; and
- the move to periodic assured tenancies as the default for most private residential lettings (i.e. tenancies continuing unless validly terminated).

Under the new regime, tenants will generally be able to end the tenancy by giving notice (commonly referenced as two months' written notice), and landlords will be able to recover possession only on prescribed grounds (for example, where the landlord intends to sell or move back in or where there has been tenant breach such as rent arrears).

Companies should note that the application of statutory residential security of tenure can be fact-sensitive, including where a company is the contracting tenant but occupation is by an employee, so specific advice should be taken for the proposed structure. But in general, the Renters' Rights Act 2025 will not apply to corporate tenants, nor will it apply if an individual is the tenant but the rent exceeds £100,000 per annum.

Residential Purchases

Changes to UK tax rules have made holding UK residential property through overseas corporate structures less attractive, including through increased compliance and disclosure requirements. Consideration may therefore be given to 'de-enveloping' a residential property held by an overseas entity so it is held directly by the beneficial owner. Depending on the circumstances, this may be achievable without adverse SDLT consequences; however, corporation tax (or other taxes) may be payable by the overseas entity on any gain accrued during its period of ownership.

Following the Building Safety Act 2022, care should be taken before taking or acquiring an interest in a flat in an apartment block to ensure that relevant building safety compliance obligations have been met and that any remediation and cost-allocation issues have been properly addressed. Leaseholder protections under the Act apply only to a 'relevant building', which (in summary) is a self-contained building (or part) in England with at least two dwellings and which is at least 11 metres high or has at least five storeys.

Enhanced duties also apply to 'higher-risk buildings' (broadly, 18 metres or seven storeys with at least two residential units). Where a building falls within this category, compliance with the regime for assessing, managing and mitigating building safety risks should be confirmed as part of due diligence.

8. Environmental, Social and Governance

ESG in the UK refers to the framework through which businesses address environmental impact, social responsibility and governance standards.

ESG obligations vary depending on size, listing status and sector, but even privately held mid-sized businesses should expect increasing disclosure, supply chain due diligence and board-level oversight requirements.

ESG is now embedded within corporate governance, financial reporting and risk management frameworks, driven by the UK's net zero commitments, regulatory scrutiny of sustainability claims and growing investor expectations.

Below we outline the principal ESG regulations, frameworks and practical considerations for businesses operating in the UK in 2026.

Environmental Regulations

Climate Change Act and Net Zero Framework

The Climate Change Act 2008 (as amended in 2019) commits the UK to achieving net zero greenhouse gas (GHG) emissions by 2050, with interim carbon budgets including a 78% emissions reduction target by 2035 (against 1990 levels).

Successive carbon budgets and sectoral decarbonisation pathways continue to shape Government policy, affecting industries including energy, transport, construction and manufacturing. Businesses in high-emission sectors face increasing regulatory and transition risks, including carbon pricing exposure under the UK Emissions Trading Scheme (UK ETS).

While universal mandatory ESG reporting has not yet been introduced for all UK companies, climate-related disclosure obligations have expanded significantly (see below), and further alignment with international standards remains under review.

Environment Act 2021

The Environment Act 2021 remains central to the UK's environmental framework. Key elements include:

- 10% biodiversity net gain (BNG) mandatory for most new developments in England (now operational in practice); and
- legally binding long-term environmental targets covering air quality, water quality and resource management, biodiversity, and waste reduction and resource efficiency.

For developers and infrastructure sponsors, biodiversity and nature-related compliance has become a material transactional and planning consideration.

UK Sustainability Disclosure Standards

The UK has continued its process of aligning domestic reporting standards with the International Sustainability Standards Board (ISSB) frameworks (IFRS S1 and S2). The UK government has endorsed the UK Sustainability Reporting Standards (UK SRS S1 and S2), which were finalised for voluntary use on 25 February 2026. Mandatory application remains subject to FCA and Government implementation processes.

At present, ISSB-aligned reporting primarily affects listed companies and certain large entities; smaller private companies are not yet subject to mandatory UK SRS reporting, but may face indirect pressure through lenders, investors or supply chain counterparties.

Looking at this in more detail:

- listed companies and certain large in-scope entities are moving from TCFD-aligned reporting toward ISSB-aligned reporting as the UK progresses implementation.
- climate-related disclosures are increasingly integrated into annual reports and strategic reports; and
- the definition of 'large' entities for reporting purposes follows Companies Act thresholds unless otherwise specified in sector-specific rules.

The direction of travel is toward consolidated, globally aligned sustainability reporting, with a focus on financially material disclosures rather than purely narrative ESG statements.

Social Regulations

Modern Slavery Act 2015
The Modern Slavery Act 2015 continues to require organisations with annual turnover exceeding £36 million to publish annual modern slavery statements outlining steps taken to prevent forced labour and human trafficking in operations and supply chains.

Regulatory and political pressure to strengthen supply chain due diligence has continued, particularly in light of developments in the EU (including the Corporate Sustainability Due Diligence Directive). While the UK has not replicated the EU regime, businesses with cross-border operations increasingly adopt enhanced due diligence frameworks to manage legal and reputational risk.

Enforcement and stakeholder scrutiny have intensified, particularly in high-risk sectors such as construction, apparel and technology supply chains.

Equality and Diversity Reporting
Under the Equality Act 2010 (Gender Pay Gap Information) Regulations 2017, employers with 250 or more employees must report annually on gender pay gap metrics.

In addition:

- FCA-listed companies remain subject to diversity and inclusion disclosure requirements; and
- broader diversity, equity and inclusion (DEI) reporting expectations continue to evolve.

Public disclosures are closely examined by investors and proxy advisers as part of governance assessments.

Governance and Anti-Greenwashing Regulation

UK Corporate Governance Code (2024 Edition)
The updated UK Corporate Governance Code (effective for accounting periods beginning on or after 1 January 2025 and with the key internal controls declaration applying to accounting periods from 1 January 2026) strengthens board accountability for internal controls and risk management. The Code applies primarily to UK premium listed companies on a 'comply or explain' basis.

While not ESG-specific, the Code reinforces:

- board oversight of material risks, including climate and sustainability risks;
- enhanced reporting on internal control effectiveness; and
- clearer articulation of risk management frameworks.

Companies must demonstrate how ESG risks are integrated into enterprise risk management and strategic planning.

FCA Sustainability Disclosure Requirements (SDR) and Anti-Greenwashing Rule
The FCA's anti-greenwashing rule, in force since May 2024, requires all FCA-authorised firms to ensure sustainability-related claims are clear, fair and not misleading.

The FCA's SDR) regime, including sustainability labels for investment products, is now operational for those in scope. Asset managers and financial services firms must ensure marketing materials and disclosures accurately reflect sustainability characteristics.

Enforcement risk in this area is material, with increasing FCA supervisory focus and public interventions.

Financial Disclosure Frameworks

Transition from Task Force on Climate-Related Financial Disclosures (TCFD) to ISSB

The UK was an early adopter of the TCFD, which became mandatory for listed companies and certain large private companies.

In 2026, the regulatory trajectory is toward ISSB-aligned reporting (IFRS S1 and S2), which builds on and effectively supersedes TCFD principles. Companies must ensure that:

- climate risks and opportunities are financially quantified where possible;
- transition plans are credible and internally consistent; and
- scenario analysis and governance disclosures are robust.

Climate disclosures are increasingly treated as financial reporting obligations rather than voluntary sustainability statements.

Private Sector ESG Trends

Sustainable Finance

Green bonds, sustainability-linked bonds (SLBs) and transition finance instruments remain widely used. However:

- Greater scrutiny is being applied to KPI calibration in sustainability-linked products.
- Investors increasingly require credible transition plans and science-based targets.
- 'Transition finance' for high-emitting sectors is gaining prominence.

The UK Green Finance Strategy continues to support private capital mobilisation, though market discipline has tightened following concerns about greenwashing.

Investor Expectations

Institutional investors and lenders routinely integrate ESG metrics into credit assessments, M&A due diligence, covenant packages and pricing mechanisms.

Failure to demonstrate robust ESG governance can directly impact access to capital and cost of financing.

Emerging Focus Areas

AI and ESG

Businesses deploying AI in ESG monitoring must also ensure compliance with UK data protection law and sector-specific regulation.

Litigation and Enforcement Risks

The UK remains a significant jurisdiction for climate and ESG-related litigation.

While the UK has an active litigation environment, companies with robust governance and accurate disclosures can manage these risks effectively.

Regulatory Enforcement

Enforcement actions are also on the rise. The FCA and the Competition and Markets Authority (CMA) are intensifying their scrutiny of greenwashing and inaccuracies in ESG disclosures. Companies must ensure the accuracy and transparency of their sustainability claims to mitigate enforcement risks.

Practical Considerations for Businesses in 2026

ESG obligations are more likely to apply if:

- you are listed in the UK;
- you meet the Companies Act 'large' thresholds;
- you operate in regulated financial services;
- you develop real estate or infrastructure in England; or
- you operate in high-risk supply chains (e.g. construction, apparel, technology hardware).

ESG compliance in the UK increasingly requires structured governance, reliable data and, depending on size and sector, board-level oversight and formal reporting.

9. Intellectual Property Rights

The term Intellectual Property Rights (IPRs) may cover a wide range of registered and unregistered proprietary rights, such as patents, trade marks, service marks, design rights, topography rights, semi-conductor rights, moral rights, rights of confidentiality, utility models, copyrights, database rights or rights in domain names, and includes any rights granted by any existing registrations of or applications for the above.

Most IPRs are territorial, and whilst international treaties can provide some cross-border protection, not all rights and protection afforded in one country will necessarily extend to other countries. Many aspects of the UK intellectual property regime will be familiar to non-UK businesses, particularly those with experience in jurisdictions which are co-signatories to relevant international conventions on IPRs.

After establishing a UK operation, the non-UK entity (whether parent company or head office) should ensure that it has protected its own IPRs in respect of use in the UK and that it is not infringing or about to infringe a third party's IPRs. All licences needed to use any IPRs which the company does not exclusively own should also be obtained.

It is advisable for the non-UK company to carry out an audit of the IPRs it uses in its home territory. It should establish whether it owns or licences the rights it uses and whether these rights are transferable to the UK business without additional licences.

Registration of IPRs

The non-UK company should ensure that all necessary steps are taken to obtain or establish its ownership of its IPRs in the UK. Some IPRs (e.g. patents) must be registered to be enforceable, some (e.g. copyright) subsist without any registration and some (e.g. trade marks and design rights) can be registered or unregistered, although registration makes enforcement easier. The company should therefore assess whether it is able to register such protection and, if it is, make the relevant application(s) at the earliest opportunity.

The registers applicable to a company's IPRs should be searched prior to use/registration in the UK to establish (i) whether the company's IPRs are likely to infringe those of a third party and/or (ii) the likelihood of obtaining registration. In relation to patent and registered design rights, an application should be made before the subject matter of the application becomes available to the public anywhere in the world.

The UK is a member of the Madrid Protocol, which means it can be designated for the purposes of an application to register an international trade mark. Under the Madrid Protocol, the 'international registration' is not a unified registration, however. Instead, it provides for a series of national registrations in the countries designated. This is in contrast to an EU-wide trade mark (EUTM), which is a single unitary right covering the 27 member states of the EU. Following the UK's exit from the EU, an EUTM will no longer cover the UK. Companies looking to protect their trade marks in the UK and EU must therefore file both a UK trade mark and an EUTM (or individual trade mark registrations in the national registers of those EU countries where it operates, e.g. Germany, Italy, France, etc.).

In addition, businesses should be aware that comparable UK trade mark rights were created automatically for existing EU trade marks at the time of Brexit; however, separate UK filings are required for new protection going forward.

Unregistered IPRs

With regard to unregistered IPRs (which includes IPRs that cannot be registered in the UK, such as copyright and confidential information and IPRs that can be registered or unregistered, such as design rights and trade marks), steps should be taken with regard to each IPR to strengthen the company's evidence that it owns that right (and, where applicable, the company should consider registering any unregistered IPRs that are capable of registration).

In practice, maintaining clear records of creation, ownership and use (including audit trails and contractual documentation) is critical for enforcement of unregistered rights

Licence Limitations

The terms of the licences which grant the company use of IPRs should be inspected to ensure that they do not contain any restrictions that will prevent the UK company's use of those IPRs. It may also be necessary to establish whether the licensor has granted or is able to grant licences to third parties for use in the UK of the IPR in question.

Particular attention should be paid to territorial scope, sublicensing rights and restrictions relating to digital or cloud-based use of licenced IP.

Domain Names

If the company wishes to have a UK website, it might want to register and use the company name as its domain name. The company cannot register a domain name if that name has already been registered by a third party. It can find out if the relevant domain name is available by performing a 'whois' search. This search reveals whether anyone owns the name rather than whether there is a website at the domain name address.

A domain name must be registered with the relevant domain name registrar (In the UK this is Nominet UK.) There are various restrictions regarding the length and format of the domain name. The company should register a domain name online through an accredited registration agent who will deal with the registrar and the registration requirements on behalf of the company.

Traditionally, domain names are registered on a 'first-come, first-served' basis. However, this has meant that some companies have discovered that they have been too late to register their own name as a domain name. While there are 45 classes for use of trade marks, there is no such restriction over domain names. Therefore, where a domain name has been registered and is being used in good faith, a business is generally unlikely to be able to force a transfer of that name. The company may be able to buy the name from the prior registrant. Alternatively, if the company has enforceable trade mark rights which pre-date the registration of a domain name similar or identical to the company's trade mark, it may be able to compel the prior registrant to transfer the domain.

Disputes may also be addressed through domain name dispute resolution procedures (such as Nominet's Dispute Resolution Service in the UK).

UK Patent Box

The UK Patent Box allows companies to elect to apply a 10% rate of corporation tax to profits attributable to qualifying patents, whether received as a royalty or embedded in the sales price of products. The regime also applies to other qualifying IPRs such as regulatory data protection (also called 'data exclusivity'), supplementary protection certificates and plant variety rights. Other non-qualifying profits in these companies will continue to be taxed at the main rate.

The aim of the Patent Box is to provide an additional incentive for companies to retain and commercialise existing patents and to develop new innovative patented products. It encourages companies to locate the high-value jobs associated with the development, manufacture and exploitation of patents in the UK and maintain the UK's position as a world leader in patented technologies.

UK Research and Development (R&D) Tax Credits

R&D Expenditure Credit (RDEC)

For accounting periods beginning on or after 1 April 2024, companies claim R&D relief under the merged R&D scheme (an RDEC-style, above-the-line credit). The credit is calculated by applying the specified percentage (currently 20%) to qualifying R&D expenditure. As the credit is taxable, it is also sometimes called an above-the-line credit. The RDEC therefore increases a company's taxable profits and corresponding tax charge. However, the RDEC is also credited against the resulting tax liability. This means that the RDEC is worth up to 15% for a large company subject to the 25% corporation tax rate (i.e. the 20% credit itself less the fact that it is taxed at 25%, so the net benefit is 75% x 20%).

R&D Intensive Subject Matter Expert (SME) Relief

Loss-making SMEs which meet an R&D intensity condition can claim a more generous SME relief. This is sometimes referred to as the 'SME intensive scheme' or 'ERIS' (enhanced R&D intensive support). A company is treated as R&D-intensive if its qualifying R&D expenditure is at least 30% of total expenditure for the period (conditions apply). An eligible company incurring qualifying R&D expenditure can claim a deduction equal to 186% of the relevant costs incurred in calculating its taxable trading profits or loss. The deduction is given by allowing a further 86% of the qualifying R&D expenditure, in addition to the usual 100% deduction for such qualifying expenditure, in arriving at the adjusted profits for tax purposes. An SME with a trading loss that has incurred qualifying R&D expenditure can then surrender all or part of the loss for a tax credit. The amount of the credit is 14.5% of the surrenderable amount limited to a PAYE cap equal to £20,000 plus 300% of the certain PAYE and NIC liabilities.

Intellectual Property and AI

The UK government wants the UK to be at the forefront of the AI revolution and is committed to developing a pro-innovation national position on governing and regulating AI. The significance of IPRs in rewarding people for inventiveness and creativity was acknowledged in the UK's National AI Strategy. The UK Intellectual Property Office has previously undertaken consultations to understand how to provide the best environment to develop and use AI, including most recently a consultation which launched on 17 December 2024, and closed on 25 February 2025.

As of 2026, the UK continues to develop its approach to AI and intellectual property, with a focus on balancing innovation with the protection of right holders.

Following this consultation, the UK government may implement proposals designed to:
(i) boost trust and transparency by ensuring AI developers provide right holders with clarity about how material protected by IPRs are used; (ii) enhance IPR holders' control over whether or not their works are used to train AI models (and their ability to monetise such use); and (iii) ensure AI developers have access to high-quality material to train leading AI models in the UK and support innovation.

Businesses deploying or developing AI should monitor ongoing regulatory developments closely, particularly in relation to data use, copyright and licensing frameworks.

10. Data Protection

The law governing the collection and use of personal data in the UK was significantly updated by the EU General Data Protection Regulation (EU GDPR). Although the UK left the EU on 31 January 2020, the EU GDPR continues to apply in the UK (UK GDPR), subject to minor amendments made by the Data Protection, Privacy and Electronic Communications (Amendments etc.) (EU Exit) Regulations 2019. The UK GDPR is supplemented by the Data Protection Act 2018 and was recently amended by the Data (Use and Access) Act 2025 (DUAA). While the DUAA introduces a number of changes, it does not represent a material departure from the regime under the UK GDPR. Most data protection and privacy provisions came into force on 5 February 2026, with the complaints procedure requirement due 19 June 2026.

The Information Commissioner's Office (ICO)

The ICO is the UK's supervisory authority set up to uphold information rights in the public interest, promoting openness by public bodies and data privacy for individuals. The ICO is due to be replaced by a new body under the DUAA (the Information Commission), although this change is largely related to governance.

Under the Data Protection (Charges and Information) Regulations 2018, any business which processes personal data as a 'data controller', meaning they decide the purpose and means of processing, must pay a 'data protection fee' to the ICO. The fee will vary depending on the size of the company and turnover. Failure to pay the fee is a criminal offence.

The UK GDPR

The UK GDPR applies to the processing of personal data by organisations established in the UK. It also applies to non-UK organisations that offer goods and services to the UK market or who monitor activities of individuals based in the UK, as far as their behaviour takes place within the UK.

Those conducting business in the UK and/or the EU should look closely at the requirements of the UK GDPR and EU GDPR to ensure their systems, policies and contractual arrangements are compliant. UK data protection law sets out principles that govern the processing of personal data as follows:

- Personal data shall be processed fairly and lawfully;
- Personal data shall be obtained only for a specified and lawful purpose and shall not be further processed in a manner that is incompatible with the original purpose;
- Personal data shall be adequate, relevant and not excessive in relation to the purpose for which it is being processed;
- Personal data shall be accurate and, where necessary, kept up to date;
- Personal data processed for any purpose shall not be kept for longer than is necessary for that particular purpose;
- Personal data shall be processed in accordance with the rights of data subjects;
- Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of the personal data; and
- Personal data shall not be transferred to a country or territory outside the UK unless an adequate level of protection for the rights and freedoms of the data subject is in place in relation to the processing of that personal data.

What Are the Obligations of the UK GDPR

Key requirements under the UK GDPR include the following:

- **Data Protection Officers (DPOs)** – In many circumstances, those caught by the UK GDPR will need to appoint a DPO, and so thought will need to be given as to whether this applies and, if so, who that person or persons might be.
- **Appointment of Representatives** – Where UK data protection law applies to a business established outside the UK, it may need to appoint a representative in the UK. This does not apply in certain circumstances. Also, where the EU GDPR applies to a business established outside of the EU (including in the UK), it may need to appoint a representative in the EU, as well.
- **Accountability** – Those caught by the UK GDPR are required to demonstrate compliance through certain internal documents, maintaining written records of all data-handling activities and by carrying out data protection impact assessments, where required.
- **Legal Basis for Processing** – Personal data can only be processed where the data controller has a legal basis for that processing (e.g., consent, legitimate interests, contractual necessity, etc.).
- **Privacy Notices** – Businesses are required to provide certain information to data subjects where personal data is received from the data subjects or a third party, which is often contained in a privacy notice (i.e. the identity of the 'data controller', how the personal data is used, etc.). Documented assessments of lawful basis may be recommended.
- **Data Subject Rights** – Businesses must comply (in most circumstances) with data subject rights (e.g. right of access, right of rectification, right to be forgotten, right to restrict processing, right to data portability, right to object and right not to be subject to automated processing, etc.). The UK GDPR gives data subjects control over their personal data and how it is handled.
- **Data Protection 'By Design' and 'By Default'** – Businesses must ensure that, in the planning phase of processing activities and implementation phase of any new product or service, data protection principles and appropriate safeguards are addressed/implemented.
- **Breach Notification** – Businesses must report a data breach to the ICO within 72 hours of their becoming aware of that breach, except where the data breach is unlikely to result in any harm to data subjects. Where there is a high degree of risk to data subjects, the business must notify the affected data subjects without undue delay.

Appointment of Data Processors

Where a business that is acting as a data controller appoints a vendor to provide services which will require that vendor to process or otherwise have access to UK personal data, the vendor must be appointed under a binding written agreement, which states that the vendor must:

- only act on the data controller's documented instructions;
- impose confidentiality obligations on all personnel who process the relevant data;
- ensure the security of the personal data that it processes;
- abide by the rules regarding appointment of sub-processors;
- implement measures to assist the data controller in complying with the rights of data subjects;
- assist the data controller in obtaining approval from data protection authorities, where required;
- at the data controller's election, either return or destroy the personal data at the end of the relationship; and
- provide the data controller with all information necessary to demonstrate compliance with the UK GDPR.

Compliance Checklists

The following checklists will be helpful for assessing your compliance with UK/EU data protection law.

Lawfulness, Fairness and Transparency

- ☐ Your business has conducted an information audit to map data flows.
- ☐ Your business has documented what personal data you hold, where it came from, who you share it with and what you do with it.
- ☐ Your business has identified your lawful bases for processing personal data and documented them.
- ☐ Your business has reviewed how you ask for and record consent.
- ☐ Your business has systems to record and manage ongoing consent.
- ☐ If your business relies on consent to offer online services directly to children, you have systems in place to manage it.
- ☐ Your business is currently registered with the ICO.

Individual Rights

- ☐ Your business has provided privacy notices to individuals.
- ☐ If your business offers online services directly to children, you communicate privacy information in a way that a child will understand.
- ☐ Your business has a process to recognise and respond to individuals' requests (e.g. to access their personal data).
- ☐ Your business has processes to ensure that the personal data you hold remains accurate and up to date.
- ☐ Your business has a process to securely dispose of personal data that is no longer required or where an individual has asked you to erase it.
- ☐ Your business has procedures to respond to an individual's request to restrict the processing of their personal data.
- ☐ Your business has processes to allow individuals to move, copy or transfer their personal data from one IT environment to another in a safe and secure way, without hindrance to usability.
- ☐ Your business has procedures to handle an individual's objection to the processing of their personal data.
- ☐ Your business has identified whether any of your processing operations constitute automated decision making and have procedures in place to deal with the requirements.

Accountability and Governance

- ☐ Your business has an appropriate data protection policy.
- ☐ Your business monitors your own compliance with data protection policies and regularly reviews the effectiveness of data handling and security controls.
- ☐ Your business provides data protection awareness training for all staff.
- ☐ Your business has a written contract with any data processors you use.
- ☐ Your business manages information risks in a structured way so that management understands the business impact of personal data-related risks and manages them effectively.
- ☐ Your business has implemented appropriate technical and organisational measures to integrate data protection into your processing activities.
- ☐ Your business understands when you must conduct DPIA and has processes in place to action this.
- ☐ Your business has a DPIA framework which links to your existing risk management and project management processes.
- ☐ Your business has nominated a data protection lead or DPO.
- ☐ Decision makers and key people in your business demonstrate support for data protection legislation and promote a positive culture of data protection compliance across the business.

Data Security, International Transfers and Breaches

- ☐ Your business has an information security policy supported by appropriate security measures.
- ☐ Your business ensures an adequate level of protection for any personal data processed by others on your behalf that is transferred outside the UK.
- ☐ Your business has effective processes to identify, report, manage and resolve any personal data breaches.

Processing Checklist

- ☐ Your business has reviewed the purposes of its processing activities and selected the most appropriate lawful basis for each activity.
- ☐ Your business has checked that the processing is necessary for the relevant purpose and is satisfied that there is no other reasonable way to achieve that purpose.
- ☐ Your business has documented its decision on which lawful basis applies to help you demonstrate compliance.
- ☐ Your business has included information about both the purposes of the processing and the lawful basis for the processing in your privacy notice.
- ☐ Where your business processes special category data, you have also identified a condition for processing special category data and have documented this.
- ☐ Where your business processes criminal offence data, you have also identified a condition for processing this data and have documented this.

Transfers of Personal Data from the UK to a Third Country

Transfers of personal data from the UK to other countries are subject to transfer rules under the UK GDPR (mirroring the EU GDPR rules). Care must be taken to ensure transfers are 'adequately safeguarded' and only done if necessary. Some countries are deemed 'adequate' (e.g. the EEA, Canada, Japan, etc.), while for others, data exporters must consider alternative safeguarding mechanisms.

On 10 July 2023, the EU Commission adopted an adequacy decision for the EU-U.S. Data Privacy Framework (DPF). This was followed by adequacy regulations in the UK for the UK extension to the DPF which came into force on 12 October 2023. Companies in the EU and UK can transfer personal data to organisations in the United States that have self-certified under the DPF. In order to self- certify under the DPF, an organisation must: (i) be subject to the jurisdiction of the Federal Trade Commission or Department of Transportation; (ii) comply with the DPF Principles (which includes, among other things, establishing an independent recourse mechanism for affected data subjects); and (iii) update its privacy notice to reflect the DPF Principles (which will then constitute a public commitment that is enforceable under United States law). The DPF is currently a valid mechanism for data transfers, but is kept under review.

Data exporters in the UK can also transfer personal data from the UK to a third country if the exporter and data importer in that third country have entered into a contract incorporating standard data protection clauses recognised or issued in accordance with the UK data protection regime. These are known as standard contractual clauses (SCCs). The SCCs contain contractual obligations on the data exporter and the data importer and rights for the individuals whose personal data is transferred. Individuals can directly enforce those rights against the data importer and the data exporter. The European Commission issued new EU SCCs on 4 June 2021, and the ICO has issued a new International Data Transfer Agreement (IDTA) and an International Data Transfer Addendum to the new European Commission SCCs (Addendum).

When undertaking a transfer on the basis of the IDTA or the Addendum, data exporters in the UK must carry out a risk assessment to make sure that the protection provided by the IDTA or Addendum, given the actual circumstances of the transfer, is sufficiently similar to the principles underpinning UK data protection laws

Transfers of Personal Data Between the UK and EU

On 28 June 2021, the European Commission adopted decisions on the UK's adequacy under the EU GDPR, finding the UK to be adequate. This means that data can continue to flow from the EU and the EEA to the UK without the need for additional safeguards. This adequacy decision was renewed in 2025 and is currently due to last until 27 December 2031.

Breaches of the UK GDPR

The consequences of breaching data protection laws in the UK can be serious. For example, UK GDPR fines are up to £17.5 million or 4% of a company's total annual worldwide turnover, whichever is higher.

If a company experiences a security breach, it may also face additional costs associated with investigating, addressing and responding to the breach, including (i) the preparation and mailing or other transmission of notifications or other communications to consumers, employees or others as required by the UK GDPR, (ii) the establishment of a call centere or other communications procedures, (iii) legal or consulting fees and expenses associated with the investigation of and response to the breach, and (iv) credit reporting and monitoring services offered to individuals impacted by the breach. Also, there will, of course, be potential reputational damage associated with a regulatory breach of the UK GDPR and/or a security breach leading to the loss of personal data.

Conclusion

In summary, data protection is an important consideration for any business looking to establish itself in the UK (or Europe, for that matter), and those establishing themselves here should look to implement practices, processes and policies which are compliant with recent changes. If this area is not taken seriously then it could expose the company to fines comparable to those levied in antitrust cases.

11. UK Export Controls and Sanctions

Overview

To understand a company's exposure to UK export controls and sanctions, it is important to assess a company's geographical footprint, in particular focusing on the jurisdictions to which the company sends or transfers strategic goods, software or technology (collectively, 'items'); the jurisdictions in which the end-users of the company's exported items are based; and the jurisdictions in which all parties that the company transacts with are based. Export control rules regulate the movement of items over UK borders— exports of controlled items require authorisation from the UK government, and there are also certain rules restricting the end use of certain items (requiring companies to have a clear idea of what an item is intended to ultimately be used for). For the purposes of a company, sanctions rules broadly impact who a company can transact with (i.e. provide funds, services, goods, etc. to).

The UK has continued to expand and actively enforce its autonomous sanctions regime in recent years, particularly in response to geopolitical developments, making sanctions compliance an increasingly significant area of regulatory risk for international businesses.

Export Control Laws

The UK's export control regime encompasses a comprehensive set of laws and regulations governing the export items and certain related services. Relevant items include strategic military and dual-use items, goods that could be used for capital punishment or torture, non-military firearms and radioactive sources. The UK export control regime is designed to ensure that exports from the UK are made in alignment with national security and foreign policy objectives and requires businesses to obtain licences for restricted exports and services.

The scope of export controls continues to evolve, particularly in areas such as advanced technologies (including artificial intelligence, quantum technologies and semiconductors), reflecting national security priorities.

Key Legislation

The primary legislation governing export controls in the UK is the Export Control Act 2002 and the Export Control Order 2008. Additionally, the UK has retained certain EU regulations post-Brexit, such as the UK Dual-Use Regulation, UK Anti-Torture Regulation and UK Firearms Regulation, which continue to apply subject to certain amendments to fit the UK context. These regulations provide the legal framework for the UK's export control regime and outline the responsibilities of exporters and the authorities.

Scope and Applicability

Export controls in the UK apply to various activities, including the physical export of goods, the physical export and intangible transfer of software or technology, and the provision of related technical assistance or brokering services. The regime covers a wide range of items which broadly includes:

- items specifically designed or modified for military use and their components;
- dual-use items that can be used for civil or military purposes;
- associated technology and software;
- goods that might be used for torture; and
- radioactive sources.

The UK Strategic Export Control List (known as the consolidated list) is a compilation of seven separate lists sourced from various legislative instruments and details all strategic military and dual-use items that require export authorisation if exported from the UK. Businesses involved in exporting these items must be aware of the specific controls and licensing requirements applicable to their products and services.

Even if an item does not appear on the consolidated list, it may still require an export licence if there are concerns about its end use. End-use controls aim to prevent the proliferation of weapons of mass destruction and their delivery systems and component parts, or the supply of items intended for a military end use in a destination subject to an arms embargo.

In practice, increased regulatory focus is being placed on 'intangible transfers' (including via cloud, remote access and intra-group sharing of technology), requiring enhanced internal compliance controls.

Licensing and Enforcement

The Export Control Joint Unit (ECJU), sitting within the Department for Business and Trade, is responsible for administering the export control licensing regime in the UK. Businesses must obtain a licence from the ECJU if their activities fall within scope of the UK's export control restrictions. The ECJU offers several types of export licences:

- Open General Export Licences (OGELs): These are 'off-the-shelf' licences for exporters who regularly send controlled items overseas to a range of consignees or end users. OGELs cover specific controlled activities and specify which items may be exported to which destinations. They generally cover low-risk items and third countries.
- Standard Individual Export Licences (SIELs): SIELs permit the export of specific quantities of specified items to named consignees or end users. These licences are usually valid for two years and are tailored to individual export transactions.
- Open Individual Export Licences (OIELs): OIELs are more flexible than SIELs and cover multiple shipments of specific controlled goods in undefined quantities to named destinations. OIELs are typically valid for three or five years.

The ECJU maintains an online checker tool which can be used to establish: (i) if items are controlled; (ii) the appropriate control entry reference in the consolidated list; and (iii) if an appropriate OGEL exists.

Failure to comply with export control regulations can result in severe consequences, including criminal prosecution, civil penalties and reputational damage. Therefore, UK businesses must ensure they have the appropriate licences for their export activities.

Regulatory enforcement activity and coordination between UK authorities has increased, with a greater emphasis on proactive compliance, internal controls and audit readiness.

Record Keeping Requirements

Exporters are required to maintain accurate records of their export transactions, including details of the goods exported, the recipients and the end use of the items. These records must be kept for a specified period and must be available for inspection by the ECJU or other regulatory authorities.

Compliance Checks

The ECJU conducts compliance checks to ensure that UK businesses that have obtained licences adhere to the applicable terms and conditions and the broader export control regulations. These checks may include site visits, audits of export records and reviews of internal compliance procedures. Businesses will also be required to demonstrate that they have adequate policies in place to inform staff about changes to export control guidance and regulations and to train personnel on how to comply with export controls. Such policies should apply to staff who export goods, can export technology via electronic means, or are involved in arranging the movement of goods between foreign countries.

Businesses found to be non-compliant following an audit may face enforcement actions, such as licence revocation, penalties or prosecution.

Sanctions Laws

Sanctions are a foreign policy tool used to achieve national security objectives, promote international peace and security, and uphold human rights. Sanctions can take various forms, including asset freeze and other financial restrictions, trade restrictions, travel bans and transport restrictions.

Legal Framework

The UK's sanctions regime is governed by the Sanctions and Anti-Money Laundering Act 2018 (SAMLA), which provides the primary legal basis for implementing and enforcing sanctions in the UK. SAMLA allows the UK to implement both UN-mandated sanctions and

autonomous UK sanctions. In addition to SAMLA, other legislation relevant to sanctions includes the Counter-Terrorism Act 2008, the Anti-terrorism Crime and Security Act 2001, and the Policing and Crime Act 2017.

Since 2022, the UK has made extensive use of its autonomous sanctions powers, particularly in relation to Russia, and has continued to expand sanctions designations and sectoral measures.

Types of Sanctions

The following are key types of sanctions that may be imposed under UK laws:

- Financial Sanctions: These include freezing the assets of designated individuals and entities, prohibiting financial transactions with them, restricting access to financial markets and services, and restrictions on dealings in debt and transferable securities.
- Trade Sanctions: These involve restrictions or prohibitions on the import and export of goods, services and technology to and investments from targeted countries or entities. Trade sanctions can be comprehensive, targeting all trade with a country, or selective, targeting specific parties, goods, services or sectors.
- Immigration Sanctions: These include travel bans that prevent designated individuals from entering or transiting through the UK.
- Transport Sanctions: These can restrict or prohibit the use of UK airspace or ports by targeted individuals, entities or vessels.

Recent developments have also included increased use of services-related sanctions (e.g. restrictions on professional and advisory services), which are particularly relevant to multinational businesses.

Administration and Enforcement

- The Office of Financial Sanctions Implementation (OFSI) within HM Treasury is responsible for the implementation, licensing and civil enforcement of financial sanctions. OFSI issues licences for permitted activities, publishes guidance and monitors compliance. Suspected breaches of financial sanctions are assessed by OFSI and may be referred to His Majesty's Revenue and Customs (HMRC) for prosecution.
- The Office of Trade Sanctions Implementation (OTSI) is responsible for the implementation, licensing and civil enforcement of trade sanctions measures relating to: (i) professional services (including legal advisory services, engineering, accounting and management consultancy services); (ii) trade control sanctions (i.e. restrictions on activities, such as the supply or acquisition of sanctioned items between two overseas countries and related technical assistance and financial services, for example, where a UK person acquires sanctioned items while overseas or makes such items available from a third country to Russia). Suspected breaches of the trade sanctions specified above are assessed by OTSI and may be referred to HMRC for prosecution.
- HMRC is responsible for civil enforcement of trade sanctions relating to the import, export, and/or transfer of goods and technology to or from the UK. It is also responsible for criminal enforcement of both financial and trade sanctions.
- The Sanctions Unit at the Foreign, Commonwealth & Development Office (FCDO) has overall policy responsibility for sanctions, maintains the UK Sanctions List (identifying which individuals, entities and ships are designated under the UK's various sanctions regimes) and represents the UK in sanctions discussions at the UN. Other Government departments and agencies, such as the National Crime Agency (NCA) and the Serious Fraud Office (SFO), also play roles in investigating breaches and criminal enforcement of sanctions laws.

Enforcement activity has become increasingly coordinated, with greater information sharing between UK authorities and international partners.

Licensing and Exceptions

The UK's sanctions regime provides for licensing arrangements that allow certain activities otherwise prohibited by sanctions. Specific licences may be granted for specified purposes, such as humanitarian aid, legal services or diplomatic activities. Additionally, sanctions regulations may include exceptions that automatically permit certain activities without the need for a licence, and sanctions authorities can also issue general licences, which are generally subject to registration, reporting or other conditions.

Impact on International Trade

Sanctions can significantly impact international trade by restricting or prohibiting trade with certain countries, entities or individuals. UK businesses engaged in international trade must conduct due diligence to ensure they are not dealing with sanctioned parties or engaging in prohibited activities. This may involve screening transactions and customers against sanctions lists and obtaining licences for permitted activities.

In practice, businesses are expected to implement robust, risk-based sanctions compliance programmes, including screening, escalation procedures and ongoing monitoring, particularly where operating across multiple jurisdictions.

12. Corporate Insolvency and Restructuring

The UK insolvency regime has its origins in laws aimed at protecting creditors from defaulting debtors. While many of the principles of creditor protection remain, there have been substantial revisions to promote a rescue culture aimed at increasing rates of business rescue, saving jobs and improving returns to creditors. Legislative reforms in recent years—most notably the Corporate Insolvency and Governance Act 2020—continue to shape the regime, with an increased emphasis on restructuring and business rescue. In the UK, under section 123 of the Insolvency Act 1986, a company is deemed to be insolvent when it can no longer meet its financial obligations.

There are two tests for corporate insolvency:

- Is the company currently (or will it be in the future) unable to pay its debts?
- Is the value of the company's assets less than the amount of its liabilities, taking into account contingent and prospective liabilities?

Furthermore, a company is deemed unable to pay its debts, and therefore insolvent, if:

- a creditor who is owed more than £750 has served a formal demand for an undisputed sum at the company's registered office and the debt has not been paid for three weeks; or
- a judgment or other court order has not yet been satisfied. Where a company is insolvent, the duties of its directors move from the interests of the shareholders to those of the creditors (and this shift may arise where insolvency is likely, not only where it has crystallised).

The UK regime includes a range of options when a company faces insolvency, including administration, corporate voluntary arrangement (now rarely used), creditors' voluntary liquidation and compulsory liquidation. In June 2020, the UK enacted the Corporate Insolvency and Governance Act, which introduced a moratorium and new "restructuring plan" as additional legislative tools and which amplifies the Companies Act 2006 scheme of arrangement process —both of which are now well-established features of the UK restructuring landscape.

The question of which of the procedures is the most appropriate depends upon all the circumstances; however, the following brief summaries are intended to provide an overview of the various procedures

Administration

A key feature of an administration application is that it brings into force a statutory moratorium in relation to claims against the company. Either the directors of the company or the holder of a qualifying floating charge may apply for an administration order and the appointment of an administrator who is an accredited insolvency practitioner. An administrator can also be appointed by a court order, following an administration application, provided that the court is satisfied that the company is deemed 'unable to pay its debts', as above.

The focus of the administration procedure is to rescue the company itself as a going concern so as to achieve a better result for the creditors of the company as a whole than would be likely in an immediate winding up, and/or to return monies to secured or preferential creditors by way of realising the company's assets for their benefit.

Pre-Pack

Pre-pack is a sale of all or part of a distressed company's business or assets, negotiated before the company enters an administration and executed by the appointed insolvency practitioner immediately after the administration commences.

A pre-pack minimises the impact of the administration on the distressed company's business and helps to optimise the sale value achieved for the benefit of its creditors.

If the sale is not pre-arranged in this way, there is a greater risk of business interruption and consequent loss of enterprise value upon news of the insolvency.

In the UK, the pre-pack is a commercial tool which does not require court sanction. It is effected usually within the structure of an administration and is a powerful-business rescue technique developed by creative restructuring professionals to save a business with a tight cash-runway. Where a pre-pack involves a sale to connected parties, additional independent scrutiny requirements apply (introduced in 2021) to enhance transparency and creditor confidence. These benefits include:

- Pre-packs preserve jobs.
- Pre-packs are typically cheaper than alternative upstream restructuring procedures, such as schemes of arrangement or restructuring plans, which have more court and creditor involvement.
- Buyer companies are more likely to succeed where they have purchased a business in a pre-pack rather than after a period of administration trading, given the buyer is then free to trade the business and/or assets, largely free of the historical debts of the distressed company; though some of these debts may automatically transfer to the buyer by operation of law (e.g. certain employee liabilities) or it may agree to meet them for commercial reasons.

Generally, the distressed company's unsecured creditors are not involved in negotiating the pre-pack, although some may be consulted for particular reasons. This means that most (if not all) unsecured creditors do not have any involvement in the pre-pack until after it has been executed (although post-sale disclosure obligations have increased).

Corporate Voluntary Arrangement (CVA)

If a limited company is insolvent, it can use a CVA to pay creditors over a fixed period. The directors of a company can obtain a CVA by engaging and paying an accredited insolvency practitioner to administer it. They are usually used where there are different classes of landlords in retail or hospitality restructurings and have become more sector-specific in application.

The insolvency practitioner will work out an "arrangement" covering the amount of reduced debt the company can manage and a payment schedule. They will write to creditors about the arrangement and invite them to vote on it. The arrangement must be approved by creditors who are owed at least 75% of the debt. CVAs do not, however, bind secured creditors.

Scheduled payments are made to the creditors through the insolvency practitioner until the debt is paid off. If payments are late or missed, any of the creditors can apply to wind up the business.

Creditors' Voluntary Liquidation (CVL)

A CVL is a terminal procedure, not a rescue option—a last resort where no other option is available, whereby the assets of the company that is in financial difficulties are realised and distributed to creditors in order of priority under the Insolvency Act 1986. It is commenced by the members passing a special resolution to the effect that the company cannot continue its business by reason of its liabilities and therefore it is advisable to wind up the company.

Under a CVL, a liquidator is appointed to wind up the company's affairs. The liquidator does this by calling in all the company's assets and distributing them to its creditors. Any remaining assets will be distributed to the company's members. A CVL enables an insolvent company to be wound up without a court order, and the creditors are given more control over the liquidation process, including control over the choice of the liquidator.

Compulsory Liquidation

A creditor may petition the court on the grounds that the company is insolvent or unable to pay its debts for the compulsory winding up of a corporate debtor in certain specified circumstances. A judge then decides at a court hearing whether it is appropriate to make a winding up order. If granted, the procedure allows the assets of a company to be realised and distributed to the company's creditors. Though uncommon, a company's directors may present a winding up petition against their own company.

Moratorium

The new moratorium on enforcement actions gives a company breathing space to attempt a rescue or restructure. The moratorium is generally initiated via a filing process (with court involvement only in certain circumstances). They will be able to continue trading whilst the moratorium is in place and creditors will be prevented from initiating insolvency proceedings for the duration of the moratorium.

In practice, use of the moratorium has been relatively limited due to eligibility criteria and ongoing payment requirements, but it remains a useful tool in appropriate cases.

Restructuring Plan

A restructuring plan under Part 26A of the Companies Act 2006 is essentially a formal agreement between a company and its creditors (and/or shareholders) to restructure its debts, allowing the company to continue operating while addressing financial difficulties. Importantly, a company does not need to be insolvent to propose a restructuring plan; it is sufficient if it is likely to encounter financial trouble.

Restructuring plans, which must be approved by the court, are a popular restructuring tool; however, they have also been subject to numerous legal challenges by dissenting stakeholders and creditors. They often involve certain groups of creditors seeking to protect their interests, which may be significantly compromised as under a proposed plan.

Restructuring plans can be used in the following circumstances:

- Compromising or reducing the value of debt
- Converting debt into equity
- Resetting financial covenants
- Rescheduling repayments

To gain court sanction, the restructuring plan needs support from at least 75% in value of each class of creditors or members who are voting.

The key factor is the 'cross-class cram down' mechanism. This allows the court to approve the restructuring plan even if one or more creditor classes vote against it, provided:

- those dissenting classes would not be worse off under the restructuring plan than they would in the relevant alternative (usually administration or liquidation); and
- at least one class who would receive something under the plan (or has an economic interest in the company) has approved it by the 75% threshold.

There is now a substantial and evolving body of case law, and the English courts have generally demonstrated a pragmatic and restructuring-friendly approach, reinforcing the UK's position as a leading restructuring jurisdiction.

Debt Collection

If a foreign company is owed a debt by an English company, the foreign company will usually have the option of enforcing payment in England provided that the contract with the English party does not require that claims be brought in a different jurisdiction. Alternatively, the foreign company may have the option of pursuing proceedings in its home courts and then seeking to enforce a judgment through the English courts.

English Court Proceedings

The English courts provide litigants with a broad range of options for enforcing a debt. Fast track procedures are available, in particular, for lower value claims, as are specialist courts for complex matters:

- County Courts (generally for claims under £100,000)
- High Court (generally for complex claims and those exceeding £100,000)
- Commercial Court
- Technology and Construction Court
- Banking Court
- Admiralty Court

The English courts offer a range of mechanisms for the enforcement of a judgment:

- warrant for execution: for the seizure and sale of a judgment debtor's assets;
- third-party debt orders: requiring the debtor's bank to make payment from the debtor's bank account (known in some jurisdictions as a 'garnishment order');
- charging order: to protect against the disposal of a debtor's assets; and
- attachment of earnings: requiring payment by a debtor's employer from their wages.

Enforcement of Foreign Judgments in the UK

In order to enforce a foreign judgment against assets of a debtor in England or Wales, the enforcing party must seek to have the foreign judgment recognised by the English courts. To be enforceable, a foreign money judgment must be final and conclusive, and must not be for the enforcement of taxes, fines or penalties. The English courts will apply their conflict of laws rules to be satisfied that the foreign court had jurisdiction to determine the subject matter of the dispute underlying the judgment. Once jurisdiction is established, the foreign judgment can be challenged only on limited grounds, e.g. that it was obtained by fraud, is contrary to public policy or that the proceedings contravened principles of natural justice.

About Pillsbury

Pillsbury Winthrop Shaw Pittman LLP is an international law firm with a particular focus on the technology and life sciences, energy, financial, and real estate and construction sectors. Recognized as one of the most innovative law firms by Financial Times and one of the top firms for client service by BTI Consulting, Pillsbury and its lawyers are highly regarded for their forward-thinking approach, their enthusiasm for collaborating across disciplines and their authoritative commercial awareness.

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