Doing business in the United Kingdom

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Introduction

This guide has been prepared for the assistance of those interested in doing business in the United Kingdom and includes legislation in force at 1 April 2014. It does not cover the subject exhaustively but is intended to answer some of the important, broad questions that may arise and should not be relied upon without taking legal advice on your specific circumstances which we will be pleased to provide. When specific problems occur in practise, it will often be necessary to refer to the laws and regulations of the United Kingdom and to obtain appropriate accounting and legal advice.

The United Kingdom means England, Wales, Scotland and Northern Ireland. Whilst broadly speaking the law relating to England and Wales is the same for legal purposes, Northern Ireland and Scotland are different territories or "jurisdictions". Northern Ireland and Scotland have their own Courts and in many respects procedures are significantly different from those applying in England and Wales.

Frequently, differently Acts of Parliament apply to Northern Ireland and Scotland from those that apply to England and Wales. Scotland has its own parliament able to make its own laws in certain areas and in Wales, the Welsh Assembly has some limited law making powers.

This guide is based only on the law so far as it relates to England and Wales, and Scotland; where law or procedures are different in Scotland, this is highlighted in the text.

The law on tax, companies, employment and immigration are the same throughout the UK; however the law on real estate, litigation, criminal law, contract, trusts, wills and probate are different in Scotland to the law of England and Wales.

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Kidd Rapinet

Walsingham House, 35 Seething Lane, London, EC3N 4AH

www.kiddrapinet.co.uk

Anderson Strathern LLP

1 Rutland Court Edinburgh EH3 8EY and, 50 George Square, Glasgow G2 1EH

www.andersonstrathern.co.uk

Business entities

The following are the most common forms of entity used to conduct business in the United Kingdom. Other forms of entity may be used for more specialised purposes; such as for charitable or not-for-profit activities or for open-ended investment funds.

Private company limited by shares

This is by far the most common form of business entity in the UK, due to its flexibility and ease of incorporation. It is the default form of company incorporated under the Companies Act 2006, and as such there are no special requirements as to minimum share capital, maximum number of shareholders, restrictions on transfers of shares or participation by UK nationals. A private company may be formed by one natural person, of any nationality, who can be the sole Director and the sole shareholder, holding just one share of no minimum nominal value. A private limited company is distinguished by its name ending with the word "Limited" (which may be abbreviated to "Ltd"). The liability of its members (the shareholders) is limited to the amount payable on the shares they have agreed to take.

A UK limited company must have a registered office in the UK, and must choose whether this is in England & Wales, Wales, Scotland or Northern Ireland. It is only possible to change this between England & Wales and Wales. Welsh companies can have a name ending with "Cyfyngedig" (abbreviated to "Cyf") instead of "Limited" and may file documents and forms in Welsh. Wherever the registered office is situated, the company may carry on its business activities in any part of, or wholly outside, the UK. . The Registrar of Companies for England and Wales is in Cardiff, and the Registrar of Companies for Scotland is in Edinburgh.

Companies used to be formed by acquiring a ready-made "off the shelf" company from a registration agent, but nowadays they are usually incorporated electronically via the agent. No paper documents or signatures are required, and incorporation takes place either the same day or next day (depending on the time of day instructions are submitted). The constitutional documents are the Memorandum and Articles of Association. The former just consists of the agreement by the subscriber(s) to form a company, and the latter is usually based on the statutory default form, known as the "Model Articles", but is often customised for particular requirements - especially if the company is a joint venture or has minority shareholders. There is no requirement to state the company's intended business activity or objects or to have an authorised maximum share capital.

No capital or stamp duty is payable on the issue of share capital by a UK company. Stamp duty is payable at the rate of 0.5% on the consideration paid on a transfer of shares.

Companies are required to file an annual return (which may be filed online with a £14 fee or on paper with a £40 fee) and accounts. For financial years starting on or after 6 April 2008, to qualify for total accounts audit exemption, a company must haveany two of an annual turnover of £6.5 million or less, net assets of £3.26 million or less and less than 50 employees. Accounts must be filed within 9 months of the year end, or financial penalties will be incurred. This information is available on the public record at Companies House, and copies can be obtained for modest fees.

A private company is prohibited by law from offering its shares to the public.

Public company limited by shares

The requirements and procedures for forming a public company limited by shares are the same as described above for a private company limited by shares except:

- The company's name must end with "Public Limited Company" or "PLC" (or "Cwmni Cyfyngedig Cyhoeddus" or "CCC" for a Welsh public company);
- A public company may be incorporated with the authorised minimum share capital of £50,000 or €57,100, of which at least 25% must be paid up;
- A minimum of two Directors and two Shareholders are required and a suitably-qualified Company Secretary must be appointed;
- Annual General Meetings must be held;
- Accounts must be filed within 6 months of the year end, and the penalties for late filing are higher; and
- It may offer its shares to the public. Note that a Prospectus may be required and that where it is not, an offer of shares to the public will be a financial promotion, requiring the approval of an authorised person under the Financial Services and Markets Act 2000 unless it can be brought within various exemptions.

In addition to the above there are a number of other tighter rules and restrictions applying only to PLCs. A private company is therefore generally preferred, except where it is intended the shares will be admitted for trading on a regulated market, such as the London Stock Exchange, AIM or PLUS.

Limited Liability Partnership

Despite the name, a Limited Liability Partnership (or "LLP") is a corporate entity registered at Companies House like a private company, and is subject to many of the same requirements (in particular filing annual returns and accounts). Although intended primarily as a hybrid entity for incorporating professional firms, LLPs are not restricted to any type of business and so provide an alternative option that combines the advantages of separate legal personality and limited liability with the tax transparency of a partnership.

LLPs can be useful for joint ventures or incorporated partnerships, but have no share capital as such or statutory default form of constitution. This necessitates the drafting of a custom constitutional document in the form of a Limited Liability Agreement, which can contain profit sharing and succession arrangements similar to share capital, but this additional complexity means that the private limited company remains the preferred form for most businesses.

Scottish LLPs are registered at Companies House in Edinburgh.

Partnership

A partnership, under UK law, is defined as the relationship that exists between "two or more persons carrying on business in common with a view to profit". In practice, most partnerships are between individuals but a partnership may exist between individuals and companies and indeed between companies alone.

An English or Welsh partnership does not have a legal personality separate from that of its partners (in contrast to a Scottish partnership, which does have separate legal personality). In the legal sense, the partnership does not enter into contracts in its own name, but in the names of its partners. Similarly, for legal purposes, the assets of the partnership usually belong jointly to the persons making up the partnership and (subject to the comments below regarding limited partnerships) each partner is jointly and severally liable for the debts of the partnership.

Partnership arrangements are often formalised by way of a written partnership agreement. Where such an agreement is not in place, the partnership is governed by the provisions of the Partnership Act 1890. It is usual for a partnership to prepare accounts showing the results of the partnership business. Partnerships are not obliged to file these accounts with Companies House. They may submit them with their tax returns, but the accounts do not appear on the public record.

It is also possible to establish what is known as a limited partnership. A limited partnership is comprised of at least one general partner (who has unlimited liability) and one or more limited partners. Limited partners are liable for partnership obligations only to the extent of the cash and property they contribute. Where no written partnership agreement is in existence, limited partnerships are governed by the Limited Partnership Act 1907. If the general partner is a limited company, the limited partnership is obliged to file its accounts for public record with the Registrar of Companies. Limited partnerships have been little used, except in structuring investment funds, and the LLP is now the more favoured option for a partnership-type entity with limited liability.

A partnership is not required to register its business name.

Sole trader

An individual setting up business as a sole proprietor is the simplest business form. This option is only available where the business has only one owner, as if there are two or more it will be a partnership. Like a partnership, there is unlimited personal liability for the business's debts and no requirements for registration or filing of accounts. It is commonly used for very small businesses or start-ups, which may be incorporated if the business grows.

Overseas company

There are no restrictions on foreign-registered entities doing business in the UK. However, if they establish a branch or place of business in any part of the UK, they are required to register as an overseas company with Companies House and to file certain information and annual accounts in a similar fashion to a UK-registered company.

They will be liable to UK corporation tax on their UK business, and obliged to make tax returns just like any other entity doing business in the UK.

Grants

England & Wales

The main sources of grants for businesses within England and Wales are Central Government, the European Union, the Regional Development Agencies in England and the Welsh Development Agency in Wales, and Local Authorities.

There are a multitude of different types of grant, but two of the most significant categories are Grants for Business Investment (GBI) and Grants for Innovation Research and Development (GRAND).

GBI is a discretionary scheme run by the Department for Business, Innovation and Skills (BIS) in conjunction with the Regional Development Agencies and is aimed at providing support for most manufacturing businesses. GBI is accessed through the Local Business Link and generally relates to the acquisition of key assets by small businesses such as buildings and equipment, in the context of establishing a new business, expanding or rationalizing an existing business or setting up research and development facilities. Most manufacturing businesses are eligible to apply although winning a grant can be difficult because of competition for funding. The grant rate is often 10-15% of funding range, and can go from a minimum of £10,000 to several million pounds depending on the capital spend. These parameters may be varied depending upon the likely number of new jobs to be created. An Applicant must also provide a financial contribution of at least 25% of the eligible costs of a project, either through its own resources or by external financing in a form which is free of any public support.

GRAND is a BIS scheme which replaced the former DTI's "Smart" Scheme and is aimed at helping small businesses to carry out research and development in "high tech" areas. The types of projects which grants may be available can be categorized as:

- Micro Projects for which grants of up to £20,000 are available for businesses with less than 10 employees and projects of up to 12 months' which represent up to 45% of the required funding.

- Research Projects for which there are grants of up to £100,000 for business with less than 50 employees are projects likely to take 6 to 18 months representing up to 60% of funding.

- Development Projects which are intended to assist development of pre-production proto types of a new project, or process that involves significant technological advance and is available for projects likely to take 6 to 36 months and be available up to £250,000 for businesses with fewer than 250 employees representing 35% of funding.

- Exceptional Development Projects are strategically important in a particular technology sector, and involves significant technological advance. A grant of up to £500,000 is available for businesses with a qualifying project, and the project is likely to take between 6 and 36 months, and where the grant represents 35% funding.

Scotland

In Scotland, The Scottish Government, the European Union, Scottish Enterprise, Historic Scotland, the local authorities, and various other organisations, all provide grant funding. The availability of grant funding depends on the type project or enterprise, and the grant situation does change frequently. Assistance should be sought in every situation.

UK Employment Law

Mixture of statutory and contractual rights

Employment law throughout England & Wales and Scotland usually involves contractual and statutory principles. It can be a complicated area and often tactics are necessary to ensure a party's objectives are achieved.

The contract of employment

A employment contract is created like any other contract. It can be made orally or in writing (or a mixture of both) and contains implied and express terms.

Employment Rights Act 1996 (ERA)

The ERA is the main Act that affects most employers and employees on a day-to-day basis. It provides the fundamental rights to an employee not to be unfairly dismissed. Other rights are also contained within the Act to include, amongst others, notice provisions, redundancy etc.

Discrimination and equal pay

An employee or potential employee must not exposed to sex, disability, race, age or trade union membership discrimination. Discrimination can be direct or indirect. An example of direct sex discrimination is treating a man more favourably than a woman. An example of indirect discrimination would be if the proportion of women who can comply with a particular requirement or condition is considerably smaller than the proportion of men.

There are exceptions and defences such as there being a genuine occupational qualification required. An employment tribunal would decide on whether to make an order declaring the applicant's rights and award compensation.

Dismissing Staff

An employer must dismiss in accordance with the employee's contract and in accordance with legislation. Otherwise claims for compensation may follow e.g. for unfair dismissal and/or discrimination.

Unfair dismissal

There is a particular set of rules and procedures that must be followed. Unfair dismissal cases are exclusively heard in employment tribunals. Any claim must be presented within three months of what is termed the 'effective date of termination'.

Every employee has the right not to be unfairly dismissed based on certain preliminary conditions:

1. Employees generally must have at least two year's continuous employment from 6 April 2012 (one year if employment commenced before that date)

2. Legal “fairness” both as to the reason and the procedure adopted. Fair reasons include conduct, redundancy, statutory illegality and some other substantial reason.

3. Fairness is determined by:

    - Whether in the circumstances the employer acted reasonably (definition contained in ERA 1996, s 98(4))

    - Case law

    - Whether a fair procedure has been followed by the employer

Remedies for unfair dismissal can include reinstatement in the same job and re-engagement in a similar job. This is rare, however, and usually compensation is the main remedy. Compensation is made up of the basic and the compensatory awards.

If an employee is able to establish an unfair dismissal then an employment tribunal will award compensation. Broadly compensation is made up of a basic award and a compensatory award.

A basic award is determined exactly the same way as a redundancy award (see below).

The compensation award is subject to a statutory cap of £76,574 or a year’s salary (which ever is the lower). The amount that an employee receives of a compensation award will depend upon his or her loss i.e. six months out of work, then an award of six months’ net pay subject to the said caps.

There are instances, however, where the statutory cap can be exceeded i.e. sex race and disability discrimination, amongst others. At all times, however, the amount awarded will be determined by the amount of loss suffered. Please note that certain types of claims also carry an award for injury to feelings e.g. sex and race discrimination. The amount of an award for injury to feelings ranges between £0 and in excess of £30,000. The amount awarded depends on how severely the feelings have been injured. It is very subjective.

Redundancy

This is a fair ground for dismissal. A redundancy will be present if:

1. A business has closed down; or

2. the employee’s particular place of work has closed down (even though other sites may still continue); or

3. the requirement for employees to do that employee’s particular work has ceased or diminished or is expected to cease or diminsh.

Where an employee is dismissed there may be an entitlement to a statutory redundancy payment. This is calculated according to age, length of service, and pay. The contract may also entitle the employee to a contractual redundancy payment.

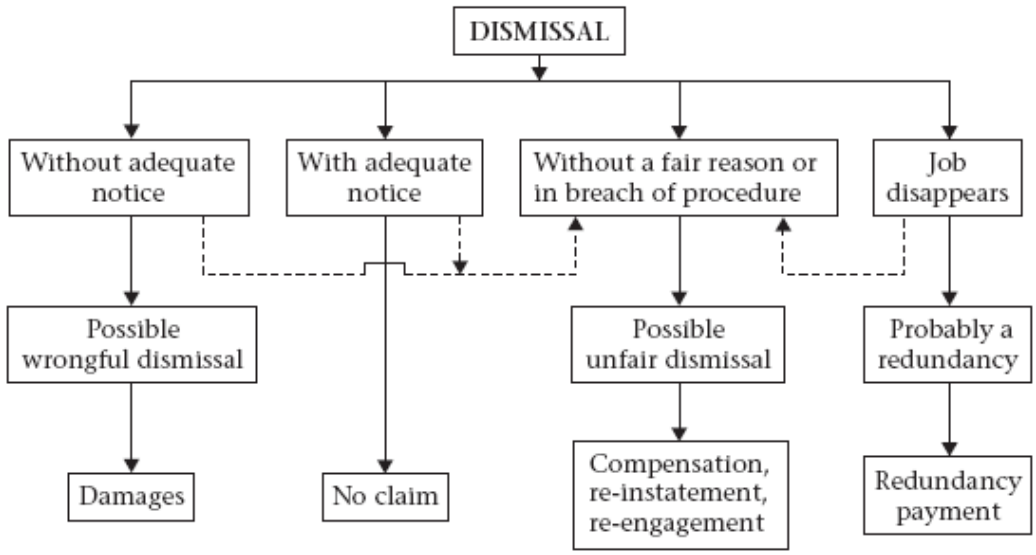
Redundancy can be fair reason for dismissal, however, if handled badly it can result in unfair dismissal and the ex-employee will get compensation if their case is successful.

An employer must follow a proper dismissal procedure. The correct procedure can be (subject to the particulars of the particular circumstances):

- send the employee a written statement, explaining why they are considering making them redundant.
- hold a consultative meeting with the employee to discuss the matter at which the employee has the right to be accompanied by a trade union official or a work colleague.
- form a pool of workers for selection if appropriate and then apply an objective selection criteria as necessary.
- offer suitable alternative employment before dismissing for redundancy if available.
- hold an appeal meeting with the employee, if they want to appeal against the decision to make them redundant.

The table below outlines the possible consequences for dismissal.

Possible consequences for dismissal



Settlement agreement

This is a specific type of contract, regulated by statute, between an employer and an employee (or ex-employee) under which the employee receives a negotiated financial sum in exchange for agreeing that he will have no further claim against the employer as a result of any breach of a statutory obligation by the employer.

Settlement agreements are one of the few means whereby an employee can waive statutory claims e.g. unfair dismissal or discrimination. The agreement must be in writing and the employee must receive independent advice from a solicitor who has

professional indemnity insurance. Compromise agreements will also contain a waiver of any claim for breach of contract as well as statutory claims.

Working Time Regulations

The Regulation have been introduced in order to protect workers' health and safety. In summary they provide that workers' (including employees) average working time (including overtime) does not exceed 48 hours per week over a 17 week reference period. In the circumstances an employee has to be working long hours regularly to get close to the 48-hour maximum week. The mere fact that employee works every now and then long hours (e.g. 60 hours one-week followed by 70 hours the next) will not amount to an infringement of the 48-hour week if then the employee goes back to their more typical hours of say 37 – 40 hours each week.

Employers are under an obligation to maintain records of the hours of their staff work. Specific regulations extends to night workers which provides that their normal hours should not exceed eight hours per day on average.

There is a requirement on employers to provide a rest break of 20 minutes when working more than six hours per day.

Employees are entitled to 5.6 weeks' paid holiday a year (equivalent to 28 days for a full-time worker), with pro rata entitlement for part-time workers. There is no obligation to also give workers' holiday on bank holidays.

Many of the rights granted by the WTR can be waived or varied by an individual, workforce, or collective agreement. For example, individual workers have the right to "opt out" of the 48-hour limit on average working time.

UK Immigration Law

This section applies to the whole of the UK

Primary Legislation

1. The primary sources of Immigration law in the United Kingdom are the various Immigration and Asylum Acts. The first such act was called the Immigration Act 1971 and it remains the principal act. Since then there have been several other major pieces of legislation on Immigration and Asylum which form the law.

2. Whilst most of these acts cover Immigration, there are also the Nationality and Citizenship Acts which define who is automatically entitled to British Citizenship (and therefore a British Passport) and how others can apply for this. Normally those who are not British automatically will have to show they have obtained the right to live permanently in the United Kingdom before they can apply to become a British Citizen.

3. These Acts also give the force of law to certain rights contained in International Conventions which are of course fundamental to immigration rights. These include the 1951 Refugee Convention and the European Convention of Human Rights, the Treaty of Rome Provisions, and various European Economic agreements such at the EC Ankara agreement.

Secondary Legislation

1. Whilst the various Immigration Acts form the basis of the law; the essential detail of immigration law and procedure is contained in what is known as secondary legislation. This consists of regulations, rules and orders that Governments are given power to make under the main Immigration Acts. The most important of these is what are called the Immigration Rules which the Secretary of State is given power to make under the 1971 Immigration Act. These Rules set out the exact requirements for people wishing to enter the United Kingdom, remain in the United Kingdom or face removal from the United Kingdom.

2. The rules cover various categories ranging from visits, students, family members to work and business categories.

3. These Rules are changed frequently. They are formally known as “Statement of Changes to the Immigration Rules” and are a very convenient way of making law because they can be altered much more easily than the major Acts. All that is required is that a copy of any proposed new Rules are laid before Parliament and come into force unless MPs call for a debate and then they can be debated, amended or changed. It is rare for any proposed changes in Immigration Rules to be voted against.

Policy and Practice

Policies, practices and procedures that are not formally laid out in the primary legislation or the Immigration Rules are also very important to shaping Immigration Law in the United Kingdom. The UK Border Agency will set out case working instructions and

internal documents for the benefit of their own staff in making decisions and for the proper exercise of their functions.

Caselaw

Over the last 10 years Immigration case law has grown enormously and leading Court decisions are of course very relevant for the practice of this area of law.

Recent Significant Developments

Since 2008 there has been probably the most significant development and change in immigration law since the formation of the 1971 Immigration Act. This has been the adoption of what is known as the "Points Based System". This system has been designed primarily for work related and business applicants but also covers students.

This requires individuals to satisfy points criteria that must be met by applicants in a particular category. These are as follows:-

Category	Comment
Tier 1 **(General)**	The Tier 1 (General) category allows highly skilled people to look for work or self-employment opportunities in the UK. Tier 1 (General) migrants can seek employment in the UK without a sponsor, and can take up self-employment and business opportunities here. This category is now closed to applicants who are outside the UK, and to migrants who are already here in most other immigration categories.
Tier 1 **(Entrepreneur)**	Tier 1 (Entrepreneur) is for non-European migrants who want to invest in the UK by setting up or taking over, and being actively involved in the running of, a business or businesses here. You have access to not less than **£200,000** or You have access to not less than **£50,000** from: - 1 or more registered venture capital firms regulated by the Financial Services Authority; - 1 or more UK entrepreneurial seed funding competitions listed as endorsed on the UK Trade and Investment website, or - 1 or more UK government departments, which have made the funds available for the specific purpose of establishing or expanding a UK business. **or** You have access to not less than **£50,000** and: - are applying for leave to remain; and - have, or were last granted, leave as a Tier 1 (Graduate entrepreneur) migrant. **or** You have access to not less than **£50,000** and: - are applying for leave to remain; and - have, or were last granted, leave as a Tier 1 (Post-study work) migrant; and

Category	Comment
	- were registered with HM Revenue and Customs as self-employed, or a registered director of a new or existing business no more than 3 months before your application; and - are engaged in business activity, other than the work necessary to administer your business.
Tier 1 **(Investors)**	The Tier 1 (Investor) category is for high-net-worth individuals who want to make a substantial financial investment in the UK. You do not need a job offer to apply in this category. Your application based on your ability to invest £1,000,000 in the UK in the prescribed ways. Such as Government bonds, share capital or loan capital in active and trading United Kingdom registered companies other than those principally engaged in property investment
Tier 2 **(General)**	The Tier 2 (General) category is for foreign nationals who have been offered a skilled job to fill a gap in the workforce that cannot be filled by a settled worker.
Tier 2 **(Intra Company Transfer)**	This category is for employees of multinational companies who are being transferred by their overseas employer to a UK branch of the organisation, either on a long-term basis or for frequent short visits. There are 4 sub-categories: - **Long-term staff** - for established, skilled employees to be transferred to the UK branch of their organisation for more than 12 months to fill a post that cannot be filled by a new recruit from the resident workforce - **Short-term staff** - for established, skilled employees to be transferred to the UK branch of their organisation for 12 months or less to fill a post that cannot be filled by a new recruit from the resident workforce - **Graduate trainee** - this route allows the transfer of recent graduate employees to a UK branch of the same organisation, as part of a structured graduate training programme which clearly defines progression towards a managerial or specialist role - **Skills transfer** - this route allows the transfer of new graduate employees to a UK branch of the same organisation to learn the skills and knowledge required to perform their job overseas, or to impart their specialist skills or knowledge to the UK workforce.

Category	Comment
Tier 3 **(Temporary Workers)**	Currently suspended
Tier 4 **(Student)**	Tier 4 is part of our points-based system for immigration. It is for migrants who want to study in the UK. This category requires colleges and all such institutions to go through a vetting process before they can issue, take on or enroll overseas students. The students themselves have to meet the relevant points in order to qualify for entry or permission to remain under this category.
Tier 5	This is a category for voluntary workers, religious workers and sports people.

As stated above, the Immigration Acts and Rules do of course still contain provision for residency in the United Kingdom through families. This is for spouses, unmarried and same sex relationships, children under the age of 18, dependant parents and dependant other relatives. This is not part of the points based system.

Appeals

There is provision within the Immigration Acts and the Rules for appeals against adverse decisions. Such appeals are heard by what is known as the First-tier and Upper-tier Tribunals, by Judges, who are Independent of the UK Border Agency.

British Citizenship

Once an overseas national has acquired what is known as 'permanent resident status', they can apply to become naturalised as a British Citizen. This is usually after 5 years of lawful residence or 3 years of lawful residence if married to a British citizen. Once naturalised an application for a British passport can be made.

Finance

This section applies to the whole of the UK

The London Capital Markets

Since the Financial Services and Markets Acts 2000, companies are no longer "listed on the London Stock Exchange". They now have a "London Listing"– and may be traded on a number of platforms which include the London Stock Exchange, ISDX (the old PLUS Markets), and GXG among others. While it is often the case that a company is referred to as having a 'London Listing', this may be referring to a company with a listing on the Official List or to a company that has its shares quoted on an Exchange-regulated market such as AIM or ISDX.

The Official List

The term 'listing' should refer to a listing on the Official List rather than a quotation on an Exchange-regulated market and since 6th April 2010, a company which lists its securities on the Official List will have either a Premium or a Standard Listing for each listed security. The Premium Listing follows more stringent super-equivalent standards while the Standard Listing follows EU minimum standards. Interestingly, the Standard Listing will now make an admission to the Official List a more economical alternative than admission to the AIM.

Exchange Regulated Markets

There are several other markets in the UK which provide access to capital and it is possible for companies to move between markets as their circumstances change, provided they meet the relevant eligibility criteria and the company's shareholders agree. As an alternative to obtaining a listing, companies can access capital through these other markets. Companies that are admitted to trading on Exchange-regulated markets are said to be 'quoted'. Their securities are not 'listed' and so do not need to comply with the Listing Regime's requirements but will need to comply with the individual market's own Rule books.

What is often not realised is that each of these markets has the same individual market-maker making the market in the shares and thus liquidity and depth of trading in shares are unaffected by which market is chosen. More important for liquidity is the size of the company, the news flow and the depth and spread of shareholders.

There are a number of benefits in being listed but being on any market brings with it direct costs (audit, non-executive directors, shareholder communication, etc.) and indirect costs in terms of the time of senior executives taken up. You should consider carefully whether it is the right route for your company with the alternatives of venture capital and business angels also available, albeit with different equity structures and costs.

The Role of Tax Incentives

UK tax payers are able to invest tax efficiently in one or other of two ways – through Venture Capital Trusts and through the Enterprise Investment Scheme. VCTs are listed

vehicles which invest as an entity while the EIS scheme allows investors to make their own individual investment decisions, should they wish. EIS qualifying companies (which excludes property, finance and the professions among others) are required to have a place of business in the UK and to be the parent company of a trading group to allow UK investors to obtain tax relief. Whatever the intentions of the UK Revenue, this EU requirement expands the horizon of UK investors very significantly and will make EU businesses (subject to achieving the necessary qualifications) much more attractive to UK investors than hitherto. Changes to SIPPS and ISA rules make junior quoted companies eligible and are now exempt for UK Stamp Duty Reserve Tax.

The Junior Markets

The smaller markets in the UK are AIM, ISDX and GXG alongside Frankfurt and Munich in Europe. Frankfurt is currently proving attractive to certain US stocks, principally due to cost and the continuation of the settlement system from NASDAQ, which means that American investors often remain unaware of the move. Also US companies with a $500m market capitalisation would gain more attention from a listing on AIM for example and more likely to receive research coverage. However, it does not carry the cachet of "Listed in London". We are seeing an improvement in sentiment for early stage (and riskier) high growth companies following generally increased activity in the FTSE, the total number of companies listed on AIM to date is up on 2013 and 2012, with 82 companies joining AIM and 92 companies leaving. Order book turnover on Xetra on the Frankfurt Stock Exchange was €96.1bln in November 2014 compared to €83.4lbln in 2013.

The Unquoted Markets/Platforms

AIM

The Alternative Investment Market was launched by the London Stock Exchange in 1995 to provide smaller companies with access to new funds for expansion and to create a market where shares can be traded.

AIM is a market for smaller companies from any sector and any country and has more than 3000 companies quoted from 26 different countries, raising a combined total of £60 billion.

AIM has become hugely successful over the last five years and now has more companies listed than the main London Stock Exchange. For smaller companies looking to raise in excess of £2m in one fundraising, it has become the natural default choice of market; however, the cost of joining can be prohibitive for smaller and start up companies.

Costs of joining AIM

The applicant must pay the AIM fees. As at December 2014 an admission fee of between £7,600 and £85,750 (depending on the company's initial market capitalisation) together with an annual fee of £6,050 pro-rata is payable. Companies looking to list on AIM require an AIM Nominated Adviser (Nomad), as well as the services of law and accountancy firms conversant with the rules and regulations of AIM. Additionally the services of a broker and PR or Investor Relations company may well be required. The likely total cost of attaining an AIM listing will probably exceed £350,000 and at least twice that if a fund raising is involved.

ISDX

ICAP Securities & Derivatives Exchange, is a London based Recognised Stock and Investment Exchange. It is a member of the £2.72B listed ICAP Group. It offers a three tier market solution ISDX Main Board is an EU Regulated Market for officially listed securities which are regulated by the UK Listing Authority, ISDX Growth Market for unlisted securities with a regulatory framework dedicated to the needs of smaller companies – an SME market and ISDX Secondary Market which is a trading venue for listed and unlisted securities trading on other EU markets.

Formerly known as Plus Markets and Ofex. ISDX Markets has several market makers offering competing prices on the quoted companies committing their own capital to the market, playing a key role in providing price information and liquidity.

Costs of joining ISDX Markets

Whilst there is a minimum admission fee of between £15,000 and £51,500 depending on the market capitalisation of the company and an annual fee of £6,500 payable to ISDX Markets, companies looking to be quoted will need to have an ISDX Markets Nominated Adviser. The likely total cost of attaining an ISDX Markets quotation will probably be in the region of £66,750 - £150,000. ISDX is currently reviewing some of their rules and fees, the proposed changes are with the FCA and once approved ISDX will be conducting a public consultation relating to the proposed rulebook amendments.

GXG

GXG in an International Stock Exchange dedicated to the SME sector. GXG joined this junior market arena in 2011 and has a three tier offering with First Quote being for the most junior companies, Main Quote for companies with proven operating model which is broadly equivalent to ISDX and the Official List which is for UKLA listed companies. GXG was established in 1998, has 113 listed companies and is Danish owned and is regulated by the Danish Financial Supervisory Authority.

Costs of joining GXG Main Quote

Whilst there is an application fees start from £6,000 and an annual fee of between £6,000 and £12,000 per annum depending on the market capitalisation of the company, payable to GXG Markets, companies looking to be quoted will need to have a GXG Markets Nominated Adviser. The likely total cost of attaining a GXG Markets quotation will probably be in the region of £63,250 - £120,000.

Crowd Funding (or "P2P")

The newest way of raising finance by way of connecting individuals or organisations (the Crowd) who have funds to invest with businesses that wish to borrow money. Typically those seeking funds will set up a profile of their project on a website and the public chose whether to back it, generally a large number of people invest a small amount of money.

There are three different types of crowdfunding: donation, debt and equity.

Donation is where lenders have a social or personal motivation for investing and can be rewarded with acknowledgments or gifts. Debt where investors receive their money back with interest and Equity is an opportunity in exchange for a stake in the project.

The regulatory burden varies depending on the instrument offered. Briefly, donation and loan instruments are effectively unregulated, whereas an equity instrument requires a declaration from the investors that he/she is a sophisticated or high net worth investor and will observe certain limits to his investing. There are now currently a very large number of sites, mainly offering P2P debt, being the unregulated activity.

From a company's point of view, typical amounts per investor are low (a few £100's) and with the proliferation of sites, not many succeed in raising the amount required. Additionally, the platforms themselves, of course charge, (usually a percentage of amounts raised – Seedrs is 7.5%) and with the amount of noise and clutter in the market, only the well-established or most advertised platforms are worth a look – and you will still have to write your own prospectus or equivalent document.

Real Estate

Introduction

Real Estate may be defined loosely as any interest in land and/or any interest in the buildings erected on land. The national laws and local byelaws and regulations that apply to real estate in England are also fully applicable in Wales; Scotland has its own unique system of laws applying to real estate - see the relevant text for Scottish aspects of Real Estate in this section . The most common methods of holding interests in land are in the form of Freehold or Leasehold. There are no restrictions on foreign individuals or businesses owning Freehold or Leasehold property in England and Wales or in Scotland. A non-resident individual can hold UK real estate personally or through a UK or offshore company. If he holds the property through an offshore company and he is non-domiciled, his shares in the offshore company are exempt from Inheritance Tax. The company will pay Income or Corporation Tax on any rental income but at the basic rate only.

Throughout the UK, there is a generally landlord-friendly regime for leases of commercial (business) premises, and is thus a fertile property investment environment not only for UK investors, but also for the very large number of institutional and private investors from outside the UK.

Commercial Real Estate

Commercial real estate is generally referred to simply as “commercial property” throughout the UK. A commercial lease, which can be for any number of years is commonly known as a Business lease and commercial property includes any real estate, used for a business purpose e.g. shops, offices, hotels, pubs and all industrial premises.

Farmlands or properties used for agricultural purposes are subject to their own specialized law.

As mentioned below, an Energy Performance Certificate is now required on the occasion of any sale or lease of commercial property.

Business rates levied by the local authority are payable annually in respect of all commercial properties, but business rates are usually an allowable deduction when calculating profits for Corporation Tax purposes.

Residential Real Estate

Residential real estate is commonly referred to as “residential property” throughout the UK Most houses in England tend to be owned with freehold title while the vast majority of flats, maisonettes and apartments are leasehold, with the leasehold owner sometimes also holding a share in the management company which in many cases, owns the freehold interest in the block of apartments and the land on which the building sits. Leasehold owners usually have to pay an annual service or maintenance charge to their management company, to cover e.g. buildings insurance and the repair and maintenance of the building. In Scotland, most houses, flats and other residential property is owned outright, as opposed to being leased, but there are some areas of Scotland where old long leases granted in the 18th and 19th centuries of up to 999 years

apply for residential property. Since 1974, the maximum period of a residential lease has been reduced to only 20 years.

Local or council tax is also payable by all landowners or occupiers of residential property. The rate or amount of tax varies between different local authorities.

Every homeowner in the United Kingdom is required to obtain an Energy Performance Certificate ("EPC") before marketing a property for sale or letting. The EPC contains information about the energy efficiency of the building & its environmental impact. An EPC is now required under European and national law for all commercial and residential property sales and leases.

Land Registration – all properties

All land transactions in England & Wales are now recorded at the national Land Registry. The aim is to provide a complete electronic record of title, securities and rights associated with every piece of land. Traditional paper title deeds and other documents of title such as Land Certificates are no longer required. The Official Copy of the Land Register (now in electronic form) now comprises the definitive record in relation to the ownership of registered land. Although registration is now compulsory when there has been any dealing with land, there remains a significant amount of land in certain (mainly rural) parts of the country that has not yet been registered. Transactions relating to unregistered land are often more complex as further enquiries must be made and on completion of a purchase or other transaction, title to the land must be registered.

In Scotland, leases that last longer than 20 years and all conveyances of real estate were recorded in the Register of Sasines from the late 17th century, this was a register of deeds. Land registration was introduced in 1979, and is a map-based register of title. All of Scotland is now operational for land registration, but some properties have not yet had a transaction that induces registration in the Land Register of Scotland. Land Certificates contain a guarantee from the UK Government as to the validity of title, unless Government indemnity is specifically excluded in respect of any matter. In some cases defective title insurance cover may be available to meet such difficulties.

The feudal system was abolished in 2004. Outright ownership is usually conveyed, although ownership of minerals under the property is often reserved to a third party.

Leases – Scotland

Occasionally, land and buildings are not actually owned outright, but are held under old leases of up to 999 years, with very few landlord and tenant obligations. Leases of residential property granted since the early 1970's can only be granted for a maximum of 20 years' duration. Since 2000 it has not been competent to grant a lease of non-residential property for longer than 175 years

Business Leases

Leases of commercial premises in England are called "Business Leases" while in Scotland they are more commonly referred to as "Commercial Leases". Although there is a large amount of statutory protection for business tenants in England, there is in Scotland, only very limited protection (in respect of forfeiture), and in particular there is no automatic right of renewal, (although there are qualified and limited rights of renewal for shop premises).

As a general rule parties are free to include whatever terms they agree in a Business Lease. The terms will depend on the state of the property market at the relevant time and the bargaining power of the landlord and tenant. Business Leases tend to be very long and sometimes complex documents and it is essential to take legal advice before taking a new lease or a transfer of an existing lease.

Right to Renew a Business / Commercial Lease

Most tenants of business premises in England and Wales have a legal and automatic right to renew their business leases when they expire, although there are some exceptions e.g. where the landlord wants to occupy the property himself or he wishes to redevelop the property. This “security of tenure” as it is called protects the tenant’s position even when their lease comes to an end. However, it is possible and common for landlords to exclude this statutory security. To do so effectively it is necessary for the landlord and tenant to comply with some very technical requirements.

In Scotland, the Lease will specify the termination date; unless either party gives (in cases of leases of one year or longer duration) more than 40 days (or if specified, a longer period) prior written notice to the other before termination requiring the tenant to vacate, or informing the landlord of the tenant's intention to vacate, then the Lease is deemed to continue for one year at a time at the current rent on the basis of silent agreement of the parties. If notice is given by the tenant and he fails to vacate on the due date then he is deemed to have abandoned his intention to remove and is committed to continuing the lease for a further year, and so on.

However for **shops** in Scotland**,** the tenant can apply within 21 days to the Sheriff Court for renewal on such terms and for a period of up to one year as the Court considers reasonable. Any renewal is deemed to be a new lease, and the tenant is entitled to further renewals, as previous applications are disregarded. A shop is defined in Section 74(1) of the Shops Act 1950 as any premises where any retail trade or business is carried on; this includes hairdresser, sale of refreshment or alcohol, lending books or periodicals when carried on for profit, and retail sales by auction. The character of the business itself (as opposed to the character of the area occupied) is of importance in determining whether the premises are a shop.

Stamp Duty Land Tax

This specific land tax is a tax that, with one or two exceptions, applies to all land transactions in the UK. The tax rate depends on whether the property is residential or commercial
For a commercial property it is a percentage payable depending on the value of the transaction and is payable on the whole of the purchase price and may be summarised as follows:

Rate	**Commercial Property**
Zero	£0 - £150,000
1%	£150,001 - £250,000
3%	£250,001 - £500,000
4%	£500,000 or over

For residential properties the rates vary from band to band in accordance with the following scale so that the amounts due for each band are added together to arrive at the total payable:

Rate	**Residential Property**
Zero	£0 - £125,000
2%	£125,001 - £250,000
5%	£250,001 - £925,000
10%	£925,001 - £1,500,000
12%	£1,500,001 and over

Note:

***** It should be carefully noted that certain companies and other non-natural entities may have to pay 15% stamp duty on residential property purchased for more than £500,000. Residential properties owned wholly or partly by a company or other non-natural body (whether offshore or onshore) may also be subject to Annual Tax on Enveloped Dwellings (ATED). At present this applies to properties valued at £2 million on 1 April 2012 or at acquisition if later. From 1 April 2015 this will apply to properties of £1 million or over and from 1 April 2016 to properties of £500,000 or over. The tax is a fixed amount starting at £15,400 for a £1m property to a maximum of £143,750 for a property worth more than £20m for the 2014/15 tax year. There are some exemptions and reliefs e.g. for investment properties let to unconnected persons. It is the responsibility of the taxpayer to carry out regular revaluations and to advise HMRC if a property falls into ATED. Properties subject to ATED are also potentially subject to Capital Gains Tax even for a non-resident owner.

The method of calculation of stamp duty is complex for leases and is based on the rent payable over the term of the lease, in conjunction with any premium paid for the lease.

LAND & BUILDINGS TRANSACTION TAX – SCOTLAND

With effect from 1st April 2015, Stamp Duty Land Tax will be replaced by Land & Buildings Transaction Tax in Scotland. This new tax will affect all sales, leases, assignments etc of land and/or buildings in Scotland. The information above about companies and other non-natural entities buying residential property, and the ATED will continue to apply.

The rates that have been announced for the new Land & Buildings Transaction Tax, but which are subject to approval by the Scottish Parliament are:

<u>Commercial property:</u>

0% on the part of the price between £0 and £150,000

3% for the part of the price between £150,001 and £350,000 and

4.5% for the part of the price above £350,000

Residential property:

0% on the part of the price between £0 and £135,000

2% on the part of the price between £135,001 and £250,000

10% on the part of the price between £250,001 and £1m, and

12% on the part of the price above £1m

VAT

Valued Added Tax at the current rate of 20% is payable on commercial property transactions but only where the landlord or one of the other parties has elected to waive what is otherwise an exemption from VAT for commercial real estate. If the exemption has been waived, VAT will be payable on the price whether on the sale of a building or on the grant of a lease at a premium, unless both parties are registered for VAT and the transaction can be shown to be a TOGC (transfer of a going concern). In the case of a "VAT building" VAT will also be payable on the rent. VAT is an extremely complex area when it involves commercial real estate and professional advice must be sought before entering into a contract. VAT is never payable in the case of residential property.

Planning

There are detailed and complicated planning rules in England and Wales relating to the use of all land as well as to the buildings that are built on any land. Permitted uses are divided into a number of classes and these govern the type of business or residential use that is permitted. It is vital to check that any property that you use for your business has the correct planning use.

Throughout the UK, Local Authorities are responsible for granting planning consents in their area and for determining the local policies (called the "local plan") although these are based on national policies and guidance. Local Authorities are also responsible for the making and implementation of what are called Building Regulations – these are rules which govern the more practical aspects of planning law e.g. construction requirements for any building or alterations to existing buildings.

Recent changes in planning laws have made it much easier to convert and change the use of former offices and certain shops into residential units, in some cases without the need for planning consent.

In Scotland there is a different planning system, and there is a different Use Classes Order.

Environment

There are detailed environmental control laws requiring consents for various potentially polluting emissions. The general principle is that it is the current occupier of the land that is responsible for all clean up costs where there has been any historic pollution. Such costs can be very expensive indeed. Proper environmental reports, warranties

and searches are therefore essential, particularly where it is established that the property was formerly used for a potentially contaminative use e.g. as a petrol station.

In Scotland, the Scottish Environmental Protection Agency ("SEPA") is responsible for monitoring and enforcing environmental laws. Scotland has some laws in common with the remainder of the UK, but in addition has certain laws and regulations that apply only in Scotland.

Disability Discrimination

The Disability Discrimination Act 1995 requires that all service providers make reasonable adjustments to their premises to allow access by disabled people. More stringent requirements apply to new buildings. These obligations are on the occupier of premises rather than the landlord.

Litigation

England & Wales

The Courts of England and Wales place a particular emphasis on the pragmatic expeditious and cost effective resolution of any Court business presented to them.

This pragmatic approach is founded upon the double-barrelled:-

(a) recourse to the hundreds year old systems of Common Law (a body of written case law reports of prior judicial decisions which are then applied to a latter date cases involving the same or similar facts; this is known as the Law of Precedent), and

(b) Statute Law (involving the application and sometimes interpretation or construction of Acts of Parliament in addition to European Law).

These benefits have been bolstered by recent watersheds in English law obliging the Court to case manage. The emphasis today is upon clear and full obedience to all Court Orders and Directions. Default or delay will be met with punitive and other draconian sanctions. There is now little scope for agreed variations in timetable. Dates need to be kept. Adjournments are not readily permitted.

The recent obligation to produce costs and budgets means that any client can be made aware and well in advance of their likely financial outlay overall.

There is an increasing emphasis upon resolution outside of the Courts through the use of Alternative Dispute Resolution (with a particular emphasis upon mediation or arbitration).

British judges must of necessity have practiced for a number of years in private practice prior to elevation to the Bench.

Jurisdiction and structure

Civil actions commenced within England and Wales are dealt with either by the High Court or the County Court.

Claims with a monetary value of more than £50,000 may automatically be commenced within the High Court.

Claims with a monetary value of between £25,000 and £50,000 may be commenced within the County Court or if the matter is of sufficient complexity or contains an issue of law of sufficient public interest, may be commenced within the High Court.

Claims with a monetary value of below £25,000 must of necessity be commenced within the County Court within one of the three tracks set out below.

The small claims track

For claims of a monetary value of £5,000 or below or in the case of personal injury claims, with a value of £3,000 or below.

Small claims track hearings are relatively informal affairs and costs orders are rarely made in favour of the successful party.

Fast track claims

A claim will be assigned to the fast track if the duration of the final trial is estimated to take 1 day or less, the value of the monies in dispute is £16,000 or less and expert evidence is not required. Costs orders may be made in favour of a successful party, in the absolute discretion of the Court. However costs awards for the trial itself are limited to £750.

Multi-track claims

A claim will be assigned to the Multi-track where the matter is of weight and complexity: where the duration of the final hearing is estimated to be in excess of 1 day; ordinarily where expert evidence may be necessary or where the amounts in dispute are in excess of £16,000.

Costs are always in the absolute discretion of the Court but are usually awarded in favour of the successful party.

Multi-track claims must of necessity be heard before a Circuit Judge rather than a District Judge who will hear small claims track and fast track disputes.

Costs

Costs awards usually follow the event, meaning that a successful person will normally enjoy a contribution towards their costs. Costs awards may be made on either the standard or the indemnity basis.

As a general *rule-of-thumb* a costs award is usually made upon the standard basis. This normally provides a broader return of between 60% - 65% of any successful party's legal fees. There is never full recovery.

Costs awards on an indemnity basis are rarely made: the Court would only be persuaded so to do if a party's conduct has been adjudged wholly unreasonable or their claims found to have been quite devoid of a merit. If a party is fortunate in obtaining an indemnity award of costs they might expect to recover broadly 85% of their outlay.

The High Court - is divided into the following divisions:

The Queen's Bench Division:

Undertakes Common Law disputes including but not limited to breach of contract and personal injury claims. The Commercial Court is under the jurisdiction of the Queen's Bench Division.

The Chancery Division:

Undertakes claims involving equitable rights and breach of trusts. The Company Court is under the jurisdiction of the Chancery Division.

The Family Division:

Deals with high net worth individuals ancillary relief claims and Children Act claims of sufficient complexity or public interest.

Appeals process

There is a right of appeal from a County Court to the High Court and from the High Court to the Court of Appeal. An Appeal may be made from the Court of Appeal to the Supreme Court. The Supreme Court is subject to the jurisdiction of the Court of Justice of the European Communities pursuant to Article 177 of the Treaty of Rome 1957.

Insolvency proceedings

Proceedings may be taken within the High Court for either personal or corporate insolvency.

Personal Insolvency

A private individual may be rendered personally insolvent, or bankrupt, if served with a Statutory Demand for an uncontestable debt or through failure to satisfy a Court Order (which falls due for payment in full within 14 days of such an Order being made) if the sums demanded within the Statutory Demand remain unsatisfied for a period of 21 days. A Bankruptcy Petition can then be presented by a Petitioning Creditor to the High Court in Bankruptcy. If an Order for Bankruptcy is made the bankruptcy will be registered within a Public Register of personal insolvency.

It is possible for a person to prevent a Petition for Bankruptcy being presented to the Court by way of injunctive relief if there is a credible contention that the monies claimed are neither due nor owing.

Corporate Insolvency

A company will be adjudged insolvent if it is unable to pay its debts as and when such debts fall due. Again, a company can be served with a Statutory Demand requiring payment of an uncontestable sum or settlement or a Court Order (after 14 days has expired from the date of the Court Order) requiring settlement of the sums demanded within 21 days from service of the Statutory Demand. If after the expiry of the statutory period of 21 days the sums demanded remain unsatisfied a Petition to wind-up the company may be issued out of the High Court. It is a requirement that the Winding-Up Petition is advertised within the London Gazette within a statutory prescribed period prior to the Winding-Up Petition being heard by the High Court. A remedy is available to the debtor company to seek an injunction to prevent either the issuing of a Winding-Up Petition or the publication of the Winding-Up Petition within the London Gazette. Ordinarily the publication of a Winding-Up Petition within the London Gazette will trigger the crystallisation of a floating charge and/or repayment of secured monies under the standard terms of most commercial legal charges extended to corporate bodies.

Enforcement

In addition to enforcing judgment or contractual disputes by way of personal or corporate insolvency, as described above, the following means of enforcement are open to private individuals and corporate bodies who have obtained a successful judgment against a Defendant within the jurisdiction of the Courts of England and Wales:

(a) a Charging Order against registered land owned by the Judgment Debtor;

(b) a Garnishee Order against a bank account in the name of a Judgment Debtor;

(c) a Writ of Fi Fa against assets owned by a Judgment Debtor.

Scotland

The Scottish legal system is separate to that of England and Wales, having its own court system and legal profession. Scots law shares many statutory provisions with the Law of England and Wales, but Scots civil law remains substantially based on Scots common law rather than statute and Scots civil law contains elements that have origins in Roman Law rather than English Common Law traditions. The Scottish court system uses different terminology, for instance the principal law officer is the Lord Advocate.

Jurisdiction and Structure

The Court of Session is the supreme civil court in Scotland, subject to appeal to the Supreme Court in London (sitting as a Scottish Court), with most civil jurisdiction being dealt with in the sheriff courts.

Generally speaking there are three types of procedure in the Sheriff Court depending on the value of the claim you are presenting. Claims for a monetary value of £5,000 or over are known as Ordinary Actions; claims for a monetary value of between £3,000-5,000 are known as Summary Cause actions; and claims of a monetary value of £3,000 or less are known as Small Claims actions.

The procedure for Small Claims and Summary Cause are extremely similar and proceed under a simple procedure to a Hearing at a relatively early date. These cases often proceed through the courts without the need to instruct a solicitor. In the case of Ordinary Actions, the defender has 21 days after the service of the Writ to answer, and it may then proceed at more length to either or both of a legal Debate or an evidential Proof to resolve the case.

The Court of Session is the supreme civil court in Scotland and is situated at Parliament House in Edinburgh. It sits in both an appeal capacity and also as a civil court of first instance. It has a wide jurisdiction at first instance with very little restriction by way of subject matter or value. The principal judge is called the Lord President. Administrative functions are mainly dealt with by the General, Petition and Inner House and Extracts Departments.

Costs

As in England and Wales, costs awards usually follow success. In Scotland, as a general *rule-of–thumb*, a costs award made in favour of a successful party on a standard basis will provide that party with a return of between 1/2- 2/3rds of their legal fees. Costs awards on an indemnity basis are rare.

Appeal process

The Court of Session sits as a court of first instance as well as a court of appeal. The Court of Session is headed by the Lord President, assisted by the Lord Justice Clerk. The court is divided into an Outer House, in which a single Judge hears cases at first instance, and an Inner House, which is an appeal court and in which three Judges will normally sit. The Inner House is divided into the First, Second and Extra Divisions, all of equal authority. The Lord President presides over the First Division; the Lord Justice Clerk presides over the Second Division; and a senior Judge will preside over any Extra Division. The Divisions hear cases on appeal from the Outer House, the Sheriff Courts and certain tribunals and other bodies. Decisions of this court can be further appealed to the Supreme Court.

Insolvency Proceedings

Scottish Bankruptcy legislation applies to individuals, partnerships and other unincorporated organisations such as trusts. However limited companies and other organisations registered at Companies House are subject to separate Insolvency legislation.

Personal Insolvency:

In Scotland sequestration is the legal term used to describe personal bankruptcy. The Accountant in Bankruptcy is responsible for administering and supervising the process of personal Bankruptcy and recording Corporate Insolvencies in Scotland.

Bankruptcy is awarded either, following a debtor's application to the Accountant in Bankruptcy or, alternatively, following a petition to the sheriff court by a creditor (or, in certain circumstances, by the trustee in a trust deed).

The debtor must be 'apparently insolvent' whether they are making themselves bankrupt or being sequestrated by someone else. Common forms of “apparent insolvency” include when an individual is served with an uncontested Statutory Demand for Payment within 21 days, which then remains unpaid; or failure to satisfy a Court Order, which falls due for payment in full within 14 days of a formal demand for payment being made.

As of the 1st of April 2008, sequestration orders usually remain in place for one year. This change was made to bring sequestration in line with bankruptcy legislation in England and Wales, although sequestration orders can be extended under certain circumstances.

Corporate insolvency:

Generally speaking the law in Scotland is the same as that in England and Wales in the area of corporate insolvency. However the Accountant in Bankruptcy develops policy for certain aspects of corporate insolvency and is responsible for receiving and recording information on liquidations and receiverships of Scottish businesses, held in the Register of Insolvencies.

The Register of Insolvencies contains details of liquidations and receiverships of Scottish businesses which are wound up by either the sheriff court or the Court of Session. These Courts have jurisdiction to wind up limited companies registered in Scotland and unregistered companies with a principal place of business in Scotland.

The reserved elements remain the responsibility of the UK Government and are dealt with by the Insolvency Service. Reserved elements include Company voluntary arrangements, Administration, legal effects of liquidation and the Regulation of insolvency practitioners

Enforcement:

As an alternative to sequestration or corporate insolvency, other means of enforcement are also available in Scotland. Diligence is the Scottish term for methods of enforcing the repayment of debts through legal processes. There are a number of possible diligences that can be executed in Scotland including:

- Arrestment - an action by a creditor to arrest or freeze funds or goods belonging to a debtor in the hands of a third party;

- Earnings Arrestment in the hands of a debtor's employer;

- Attachment - prevents a debtor moving attached articles from the place at which they were attached;

- Landlord's Hypothec - under Scots common law, landlords have a right is security over certain moveable property situated on land or in buildings that they have let, although this is now of limited effect, other than in insolvency situations; and

- Inhibition - a personal diligence which prevents a debtor dealing with their heritable property.

The law of diligence is under review in many respects, and further changes to diligence may arise over the coming years.

Financial reporting and audit

This section applies to the whole of the UK

- Financial statements must be prepared in accordance with UK GAAP
- These financial statements must be in the format set out in the Companies Acts
- UK incorporated companies are required to have their financial accounts audited by a registered auditor where turnover is over £6.5M or gross assets are over £3.26M.
- Companies with subsidiaries may be required to prepare group accounts
- A foreign company trading through a branch in the UK must register certain details with the Registrar of Companies.

Accounting standards

UK Generally Accepted Accounting Principles (GAAP) take the form of Financial Reporting Standards (FRS). There are certain differences between these principles and International or US Generally Accepted Accounting Principles (GAAP).
UK GAAP is governed by guidelines issued by the Accounting Standards Board as promulgated by the Institute of Chartered Accountants in England and Wales. Listed companies must adopt International Financial Reporting Standards (IFRS) under EU directives.
There has been a significant amount of work carried out to align FRS with IFRS (the Convergence project) and several UK standards have been amended to mirror IFRS principles.

Domestic corporations

Filing/publication requirements

UK companies are required to keep proper financial records. The directors are also required to prepare accounts on a periodical basis, which give a true and fair view of the state of affairs and results of the company for its financial period, a copy which must be filed with the Registrar of Companies. An abridged form of financial statements can be filed by small or medium sized companies (as defined in company legislation).

Audit requirements

UK incorporated companies are required to have their financial statements audited by a registered auditor, subject to the exemptions listed below. The audit includes an examination, on a test basis, of evidence relevant to the amounts and disclosures in the financial statements. It also includes an assessment of the significant estimates and judgements made by the directors in the preparation of the financial statements, and of whether the accounting policies are appropriate to the company's circumstances,

consistently applied and adequately disclosed. If the auditor is satisfied with the above, a formal (unqualified) audit report will be issued.

Certain companies are exempt from having their financial statements audited. To qualify for the exemption the company must have:

- turnover less than £6.5M;
- gross assets of less than £3.26M; and

This exemption does not apply to:

- banks and financial institutions;
- insurance companies; and
- certain financial intermediaries.

This is an exemption from an audit only. It does not obviate the need to prepare financial statements. In the year concerned the annual return and accounts must be filed at Companies House within the time limit specified in the Companies Acts.

Branches of foreign companies

Filing/publication requirements

A foreign company trading through a branch in the UK must register certain details with the Registrar of Companies, including:

- names, addresses and nationalities of directors;
- name and address of secretary
- a certified copy of its Charter, Statutes of Memorandum and Articles of Association and its number and place of registration;
- address and activities of the branch;
- names and addresses of person(s) in the State authorised to accept notice on behalf of the company;
- names and addresses of person(s) in the State authorised by the company to ensure
- compliance with the regulations; and
- copy of the financial statements of the company.

Audit requirements

Branches of foreign companies operating in UK are not required to have accounts audited independent of the group accounts to which they relate.

U.K. TAX 2014/2015

This section applies to the whole of the UK

Summary

Despite significant tax changes over the last few years, the UK still remains a favourable destination both to live and do business. Capital gains tax remains at 18%/28% depending on other gross income with Entrepreneurs Relief reducing this still further in certain circumstances. With careful tax planning companies and individuals can still profit from UK's longterm stability and position as one of the leading financial centres.

Companies

Companies tax resident in UK are liable to pay UK corporation tax on total profits arising. Companies not tax resident in the UK are only liable to corporation tax profits on profits generated by UK branch or agency.

A company is tax resident in England, if it is an English incorporated company or if it is managed and controlled in England.

The standard rate of corporation tax in England is 20% for small companies on profits below £300,000 and 21% for profits above £1.5m and between those figures 21.25%. There is a special rate tax for unit trusts and open ended investment companies of 20%.

From 1 April 2015 the main rate of Corporation tax will be reduced to 20%.

Companies involved in oil extraction activities (or oil rights) in the UK and UK Continental Shelf are termed Ring Fence Companies. These have a Small Profits Rate of tax at 19% and a main rate of tax of 30%. The profits limits may be reduced for a company which is part of a group or has associated companies. The lower rates and marginal reliefs do not apply to close investment holding companies.

Note:

1. There are no deductions made on dividend payments (out of the UK)

2. Corporation tax on certain capital gains from the disposals of holdings of at least 10% in subsidiary companies by trading companies is exempt.

Value Added Tax (generally) 20%

Stamp Duty – on land transactions

For a commercial property it is a percentage payable depending on the value of the transaction and is payable on the whole of the purchase price and may be summarised as follows:

Rate	Commercial Property
Zero	£0 - £150,000
1%	£150,001 - £250,000
3%	£250,001 - £500,000
4%	£500,000 or over

For residential properties the rates vary from band to band in accordance with the following scale so that the amounts due for each band are added together to arrive at the total payable:

Rate	Residential Property
Zero	£0 - £125,000
2%	£125,001 - £250,000
5%	£250,001 - £925,000
10%	£925,001 - £1,500,000
12%	£1,500,001 and over

Note:

***** It should be carefully noted that certain companies and other non-natural entities may have to pay 15% stamp duty on residential property purchased for more than £500,000.

SCOTLAND – LAND & BUILDINGS TRANSACTION TAX

Please see text above about the new Land & Buildings Transaction Tax that comes into effect on 1st April 2015.

High Value UK Residences held by Companies

Annual Tax on Enveloped Dwellings (ATED)

The "annual charge" is imposed from 1 April 2013 on a company, a partnership having one or more companies among its members or a collective investment scheme which owns a UK dwelling with a "taxable value" exceeding £2 million on a "valuation day". Valuation days are 1 April 2012, each 1 April falling five years or a multiple of five years after 1 April 2012, the effective date of any acquisition and the date of any part disposal (which includes even the grant of a shorthold tenancy), whichever is the most recent. Taxable value, which determines the rate of ATED, is market value as at a valuation day.

Reliefs from the charge will apply to dwellings owned by property dealers and property developers, let to unconnected tenants, open to the public, farmhouses, and dwellings acquired by financial institutions in the course of a lending business or occupied in the course of a trade.

If a "chargeable person" is within the charge with respect to a single-dwelling interest on the first day of a "chargeable period", the year commencing 1 April 2014 and each subsequent year beginning 1 April the tax due is as follows:

- £15,400 if the taxable amount is over £2,000,000 but not over £5,000,000
- £35,900 if the taxable amount is over £5,000,000 but not over £10,000,000
- £71,850 if the taxable amount is over £10,000,000 but not over £20,000,000
- £143,750 if the taxable amount is over £20,000,000

These "annual chargeable amounts" are to be increased if the RPI is higher for September in 2013 or any later year.

An ATED return is to be filed within 30 days of the first chargeable day, save in the case of a new dwelling, when it had to be delivered within 90 days. However, in the case of a return for the year commencing 1 April 2013, the due date is deferred to 1 October 2013. The tax due in accordance with the return has to be paid by the filing date.

The starting point for ATED will be reduced to £500,000. There will be two new bands: residential properties worth over £1,000,000 and up to £2,000,000 will be brought into the charge with effect from 1 April 2015. The charge for these properties in 2015/16 will be £7,000. Properties worth over £500,000 and up to £1,000,000 will be brought into the charge with effect from 1 April 2016. The charge for these properties in 2016/17 will be £3,500. These charges will be increased by CPI each year.

Capital Gains Tax

A capital gains tax charge at 28% will apply to gains realised by all non-natural persons subject to ATED (including UK resident companies) who dispose of UK residential property for more than £2,000,000. It will not apply to non-resident trusts. Nor will it apply to gains realised by non-natural persons on disposal of shares in companies owning such property.

It will apply to disposals from 6 April 2013, but normally only to that part of the gain attributable to periods after 5 April 2013 to which the ATED applies. In other words, there will be a re-basing for such properties as at 5 April 2013.

Individuals

Capital Gains

Capital Gains Tax is 18% on all gains for those whose total taxable income and gains for the year are below £31,866 and 28% for gains which are above that figure.
There is also Entrepreneur's Relief, with an effective rate of 10% on gains to a maximum lifetime limit of £10m.

The individual has a tax allowance of £11,000 per tax year on all gains.

Legislation will be introduced with effect from April 2015 to charge capital gains tax on future gains made by non-residents disposing of UK residential property. A consultation process will look at how to implement the charge.

Income Tax

Income Tax is payable by individuals and is charged on an annual basis, the tax year running from 6th April to 5th April. The tax rates for 2014/2015 for income above the personal allowance of £10,000 are: -

Basic rate at 20% 0- £31,865
Higher rate at 40% from £31,855 - £150,000
Additional at 45% from £150,000 or above

Remittance basis taxation is available for non-domiciled individuals

Inheritance Tax (on donor/testator) is: -

Nil rate: £325,000
20% (life time rates) on transfers
40% (on death)

Implications of Territorial Scope of Residence, Ordinary Residence and Domicile

This section applies to the whole of the UK

Income Tax Liability on Individual	**Subject to UK Tax on**:
Resident and Domiciled	Worldwide income
Resident, non Domiciled	All UK income Remittance of foreign investment and foreign employment income From 06.04.2008 any person who has been resident for at least 7 out of 9 years, has been liable to a flat rate tax of £30,000 for any year for which an election is made to be taxed on the remittance basis. If no election is made taxation of worldwide income for that year is on an arising basis.
Non Resident and not Ordinarily Resident and Non Domiciled	UK source income only except certain categories of income including company dividends and interest (subject to withholding taxes on interest (if any)

The flat rate tax charge rose in 2012/2013 to £50,000 for those who have been resident in the United Kingdom for 12 of the previous 14 years. It can sometimes be difficult to distinguish between remittance of income (taxable) and capital – particularly if bank accounts contain elements of both. Advice should be taken to avoid such problems.

Note:

Until 6 April 2014 an individual could be resident but **not** ordinarily resident (rarely the opposite applied) – but this distinction has now changed except for transitional arrangements until 5 April 2015. This status can result in different treatment enabling the remittance basis to apply.

Applicable for treaties may impact on liability to UK tax.

Capital Gains Tax Liability on Disposal of Assets by Individual	**Subject to UK Tax on**:-
Resident or Ordinarily Resident and Domiciled	Worldwide gains
Resident or Ordinarily Resident and Domiciled	UK gains

	Remittance of other foreign gains From 06.04.2008, £30,000 flat rate tax as described above may apply
Non Resident and not Ordinarily Resident	None (except in limited circumstances)
Inheritance Tax (IHT) on Death or Certain Lifetime Gifts	
Liability to gift and inheritance taxes depended upon the domicile of the transferor or the location of the assets involved. Tax falls on the estate or donor not on the inheritors or donee	
Domiciled in the UK	Worldwide assets
Not domiciled in the UK	UK situated assets only

Note:

- Exemption from tax applicable to the acquisition by a person neither domiciled nor ordinarily resident of certain Government Securities.

- Agricultural and business property relief applies to UK domiciled individuals.

- Outright gifts by UK domiciled individuals in which they reserve no benefit are "potentially" exempt and become exempt if the donor survives 7 years. Further rules (Pre-owned Assets tax) can impose an income tax charge in respect of assets where the donor continues to enjoy a benefit.

- Note that "domicile" for IHT includes "deemed" domicile (applies to an individual who has been resident in the UK for 17 out of 20 consecutive tax years)

Companies	**Subject to UK tax on:**
Resident	Worldwide profits (Corporation Tax)
Non Resident	UK source income profits (Income Tax) or profits (Income Tax) or profits from UK permanent establishment (Corporation Tax). No liability to Capital Gains (except in respect of assets used in UK trade).
A. Residence **As from 6 April 2013, the rules for determining residency have become clearer. As before, an individual is treated as resident in the UK if he is physically present with the intention of being resident. The applicable tests are now more specific:**	
1.	Physically present for 183 days in any one tax year (April 6th to April 5th), resident in that year

2.	Physically present for more than 90 days, part of which falls within the tax year, and they have a home in the UK and no home overseas (disregarding any home at which they are present for fewer than 30 days in the tax year)
3.	In the current tax year they work full time in the UK
4.	They die in the current year subject to the conditions which include having been UK resident in the previous three tax years.
5.	If an individual meets none of these tests, they may still be considered a resident on the basis of the "Sufficient ties test" If they have any of the following – a UK resident family, substantive UK employment, available accommodation in the UK and more than 90 days in the UK in either of the previous two tax years – fewer days in the UK are needed to be considered resident. (Specific detailed rules apply.)
A company is resident in the UK if it is:	
1.	(a) Controlled and managed from the UK. "Control and Management" means ultimate control (usually exercised at Board meetings). A company can be exceptionally resident in more than one country for UK tax purposes. (b) Registered in the UK
Notes	(a) The UK imposes an emigration charge on companies ceasing to be resident in the UK (including UK companies in certain circumstances)
B. Domicile An individual will be domiciled in the UK if he/she is born here of UK parents or if after the age of 16 he/she decides to make the UK his/her permanent home. An individual can lose UK domicile in favour of a domicile in another country if he/she is physically present in that other country and intends to live there permanently. It is often considered that a person has domicile in the country where he/she expects to be buried (or cremated, etc.)	
Notes	Domicile is a crucial connecting factor for UK tax purposes for foreigners coming to the UK.

These notes are intended for guidance only. Professional advice should always be obtained.

Imports

This section applies to the whole of the UK

Import restrictions

The Licensing Unit of the [Department of Enterprise, Trade and Employment] administers European Union (EU) restrictions on the importation into the Union of certain non-EU products. In some instances, it may be necessary to apply to the Licensing Unit for a licence to import such products.

The three types of import restrictions which are applied are:

- Quantitative restrictions - a limit or "quota" is imposed on the volume of goods that may be imported from non-EU countries ("third countries"). Quotas may be managed in different ways but the most commonly used method is that of "first come, first served basis".

- Single surveillance - a statistical tool which enables the EU to monitor the level of imports of certain goods from third countries. There is no limit on the volume that may be imported.

- Double surveillance - the EU monitors the level of imports of a particular product while the supplier country monitors the level of exports to the EU. There is no limit on the volume of goods that may be imported.

In most cases, the decision to issue an individual licence is subject to explicit approval from the European Commission. The system does not allow any margin of indiscretion to the Department.

Customs duties

England is a member of the European Union (EU) and all border controls between member countries have been eliminated. This created the Single European Market, which allows duty- free importation of goods from other EU countries.

Goods imported from outside the EU are subject to customs duty at the appropriate rate specified by the EU's Common Customs Tariff. The rate of duty is based on the International Harmonised System (HS). The EU has preferential tariff agreements with certain countries and country groupings which will result in the rates being reduced or eliminated.

Excise duty is chargeable on a limited number of goods including petrol, diesel, LPG, beer, spirits, wine, tobacco products and motor vehicles. Excise tax rates vary depending on the goods and are payable in addition to any customs duties payable.

Duty relief

Customs and Excise Duties are collected at point of importation. There are, however, some arrangements in operation under which foods may be imported without payment of duty.

- Inward processing relief (IPR) – approval may be obtained to import goods duty-free from outside the EU for processing and re-exportation to non-EU countries.

- Warehousing – businesses can obtain approval to store goods duty-free on their premises until required. If the goods are for processing, the above relief will apply. Where it is finished product for sale, no duties are payable if the goods are re-exported outside the EU. Where the goods are released into the EU, the appropriate duties are payable

- Special arrangements operate to allow movement of dutiable goods within the EU, with the duty being eventually paid in the country of consumption.

- Temp Import when duties and tax applicable can be paid on a guarantee account then refunded after/upon proof of re-exploration.

Useful Contacts

Useful Websites	
Kidd Rapinet, Solicitors – England & Wales Anderson Strathern, Solicitors, Scotland Companies House	www.kiddrapinet.co.uk www.andersonstrathern.co.uk www.companies-house.gov.uk
BIS	www.bis.gov.uk
Health & Safety Executive	www.hse.gov.uk
Information Commissioner	www.ico.gov.uk
Intellectual Property Office	www.ipo.gov.uk
Land Registry (England & Wales) Land Register of Scotland	www.landregistry.gov.uk www.ros.gov.uk
Office of Fair Trading	www.oft.gov.uk
Stamp Duties Scottish Government Scottish Parliament	www.hmrc.gov.uk www.scotland.gov.uk www.scottish.parliament.uk