

Organisations

Bott Chapter 3

Becoming a Legal Entity

- Types of organisation: commercial, public, not-for-profit.
- Mostly we look at commercial organisations intended to make profits.
- Different kinds of organisation:
 - Sole trader – individual – no legal formalities – the legal entity is the individual.
 - If turnover is big enough will need to register for VAT etc.
 - The individual is liable for company debts – so assets like home, savings are at risk
 - Partnership – this is the form a group must trade under unless it is a limited company
 - Often the required form of organisation for professionals e.g. law, medical, hedge fund etc because the liability issues control excesses
 - Liability is joint and several liability – all are fully liable for the debt of the partnership
 - Limited company : the preferred form of legal entity for commercial firms

Limited companies

- Three principles:
 - The company is a legal person separate from the people who own or work in the company.
 - Ownership is divided into shares that can be bought and sold by shareholders
 - Owners of the company have no obligation to pay debts incurred by the company – the owners risk is limited to the value of their shares.
- In the UK:
 - Public limited company (plc): public can hold shares – BA plc – shares may or may not be listed on the stock exchange
 - Private limited company (Ltd): shares cannot be held by the public -Small Company Ltd

Setting Up a Limited Company

- Two documents:
 - Memorandum of Association: short and simple – name, location of the registered office, objects of the company, liability clause (saying the limits to liability of the owners), share capital (e.g. 100 shares, value £1 – to be a plc must have capital over £50K). Concludes with declaration of association that list the people setting up the company.
 - Articles of Association: Complex and technical (see the handout). Covers how the company will run, roles of directors, ...
- Once a company is registered then the memo of association and articles of association are on public deposit at Companies House.

Directors

- Sometimes shareholders run the company but in larger companies directors may be employed
- Directors must:
 - Have regard to the owners and employees' interests
 - Act in good faith and for the benefit of the company
 - Exercise skill and care (be “professional”)
 - Declare conflicts of Interest
 - Legally:
 - Be aware of the financial position of the company
 - Drawing up annual reports and accounts and filing them at companies house
 - Complies with relevant law
- Companies have executive (employed) and non-executive (non-employed advisors)
- Every company has a company secretary responsible for required communications

Conflicts of Interest – Activity – Reading

- Individually, read clause 14 of the model articles
- In pairs look again at clause 14(4) parts (a)-(c)
- Choose one each of (a) – (c) and try to explain it to your partner
- Write down your explanations.
- Get together in a group of four
- Review your explanations – choose the best one and then work together to write a short scenario describing when you think that clause might be invoked in an imaginary company.

Setting up a company

- Not necessary to employ a lawyer or accountant
- Easiest way is to buy an “off-the-shelf” company and tailor it to your needs (change the name, objectives, constitution, ...)
- Registering a company yourself costs £100 (same-day service at the Register of Companies) – this is slower because you need to fill in forms etc.
- UK and US have similar, easy, ways to set up companies. In other countries it can take several months and cost thousands of pounds.

Non-Commercial Bodies

- Statutory bodies – set up by act of Parliament e.g. local unitary authorities.
- Royal Charter: sets up free-standing bodies that are independent of the state, e.g. Universities
- Not-for-profit organisations (often established as companies limited by guarantee):
 - Charities
 - Professional organisations: BCS, Institute of Physics, ...
 - Political Parties

Summary

- Becoming a legal entity
- What situations are different entities appropriate
- Limited companies
- Obligations on limited companies
- Other organisations