

United Kingdom

Legal Provisions

Compiled by:

Swiss Business Hub UK & Ireland

London, January 2019

GENERAL REMARKS

Within the UK there are three different legal systems: 1) England and Wales, 2) Scotland, 3) Northern Ireland. Each region has its own laws, courts and solicitors. Legislation relating to the economy (e.g. Company Law, Tax Law) is similar among the regions. In other sectors (e.g. Property Law) there can be substantial differences. Irrespective of similarities or differences, it is always advisable to seek clarification on what laws will apply to the specific situation at hand.

The English legal system is a common law system based on the recorded judgments of decided cases, with statute law only recently becoming the primary source of law. The courts still have an interpretive role, deciding what a particular statute means. England and Wales is the only jurisdiction in the EU with a common law system. The United Kingdom is still part of the EU and therefore, in addition to the national legal system, it is important to consider the influence of European legislation.

The legal profession is split into two distinct branches. Solicitors deal with the general public and have on-going client relationships. Barristers are sole practitioners who are instructed by solicitors on specific matters, and carry out the bulk of advocacy work. They have no direct dealings with the general public.

CUSTOMS

Her Majesty's Revenue and Customs

Her Majesty's Revenue and Customs (HMRC) is the UK's tax authority. It is responsible for making sure that tax revenues are available to fund the UK's public services and help families and individuals with targeted financial support.

HMRC is a non-ministerial Department established by the Commissioners for Revenue and Customs Act (CRCA) 2005, replacing the Inland Revenue and HM Customs & Excise. CRCA vested responsibility for the administration of the tax system in Commissioners appointed by the Queen. The Commissioners are drawn from the Department's top management.

They report to Parliament through the Treasury minister who oversees their spending. For more information please see: <https://www.gov.uk/government/organisations/hm-revenue-customs>

UK Visas and Immigration

UK Visas and Immigration is responsible for the physical borders and enforcing customs regulations at UK entry and exit points. If you are planning to travel into or out of the UK, there are rules about what goods you can take with you without paying UK duty or Value Added Tax (VAT). Some items are also banned or restricted by law. These restrictions apply even if you are a UK citizen who is returning from abroad.

For more information please see: <https://www.gov.uk/government/organisations/uk-visas-and-immigration>

IMPORT AND EXPORT REGULATIONS

Information regarding importing and exporting can be found using the following links:

- <https://www.gov.uk/browse/business/imports-exports>
- http://customs.hmrc.gov.uk/channelsPortalWebApp/channelsPortalWebApp.portal?_nfpb=true&_pageLabel=pageImport_Home

Please note this is not an exhaustive list of resources. For further information please contact the British Embassy in Berne or HMRC directly or speak to [ExportHelp](#) at Switzerland Global Enterprise.

CURRENCY REGULATIONS

UK and foreign currency taken into and out of the UK must be declared, if above a certain value. For additional information, please see: <http://www.hmrc.gov.uk/customs/arriving/declaring-cash.htm>

Interest payments and patent royalties are both subject to withholding taxes (the UK has a double taxation agreement with Switzerland). For more information about agreements between Switzerland and the UK, please see: <https://www.fdfa.admin.ch/eda/en/home/representations-and-travel-advice/great-britain/switzerland-great-britain.html>

REGISTRATION PROCEDURE FOR PRODUCTS

Some products such as medical devices or pesticides must be registered in the UK. Requirements are sector specific and relevant enquires should be made on an individual basis. Please contact the Department for International Trade (DIT) (<https://www.gov.uk/government/organisations/department-for-international-trade>) or HMRC (<http://www.hmrc.gov.uk>) for initial information. Please also see: <https://www.gov.uk/getting-the-right-licences-for-international-trading>

STANDARDS, TECHNICAL RULES, LABELLING REGULATIONS

Generally the CE registration is required

To enable the free movement of goods and services within the EU, there are a number of EU directives which contain basic requirements in respect of safety, health and environmental protection. CE marking indicates that the marked product meets the basic requirements laid out in these directives and has undergone the mandatory process that ensures it is worthy of the mark.

Any technical equipment and devices exported from Switzerland to the UK that are covered by EU directives must bear the CE mark. In the case of most products, manufacturers can evaluate conformity for themselves, declaring their products to be compliant by means of a final written declaration which acts as the basis for CE marking. Products sold in the UK, as in other EU member states, must carry a CE mark whenever they are covered by specific product legislation.

The CE mark is not intended to include detailed technical information on the product, but there must be enough information to enable the inspector to trace the product back to the manufacturer or the

authorized representative established in the EU. This detailed information should not appear next to the CE mark, but rather on the declaration of conformity, the certificate of conformity (which the manufacturer or authorized agent must be able to provide at any time, together with the product's technical file), or the documents accompanying the product. In certain cases, however, the involvement of a testing laboratory or institute is compulsory. These are known as Notified Bodies.

Products sold in the UK, as in other EU member states, must carry a CE mark whenever they are covered by specific product legislation.

Detailed information can be found here: <https://www.gov.uk/european-commission-product-directives> and here: <https://www.gov.uk/government/organisations/department-for-business-energy-and-industrial-strategy>

- Food:
<http://www.food.gov.uk/enforcement/regulation/>
<http://www.food.gov.uk/business-industry/guidancenotes/labelregsguidance/>
- Drinks („Labelling of bottled water“):
http://www.britishtsoftdrinks.com/write/MediaUploads/Publications/2008_Labelling_of_Bottled_Water_TSO_V2.pdf

TAXES

The structure adopted by an overseas investor for his UK venture will have implications for the taxation of its profits. HMRC administers direct taxes. Due to the complexity of the subject it is advisable to consult the following link: <http://www.hmrc.gov.uk/>

In addition DIT provides information regarding tax matters and the newest regulations. This information can be found here:

<https://www.gov.uk/government/publications/entrepreneurs-setting-up-in-the-uk>

Indirect taxation VAT

The UK has a number of indirect taxes that are levied on certain goods and services: Value Added Tax (VAT), Excise Duties, Customs Duties, Landfill Tax and Insurance Premium Tax. These taxes are administrated by HMRC. Local property taxes are levied by reference to the value of the property.

There is also Stamp Duty which is payable in respect of certain transactions that are evidenced in documentary form. HMRC administers this.

VAT is applicable to most business transactions involving supplies of goods or services made in the UK, although there are certain exceptions. There are no local sales taxes in the UK.

If taxable turnover reaches £55,000 per annum (or is expected to), it is necessary to register with HMRC for VAT. Under certain circumstances it may also be beneficial to register on a voluntary basis.

More information can be found at:

http://www.hmrc.gov.uk/vat/index.htm?_nfpb=true&_pageLabel=pageVAT_Home

COMMERCIAL LAW

Questions relating to legal requirements and company structures should be directed to the authorities or clarified via a registered legal entity.

The Law Society is a useful starting point and information and checklists are available on their website:

- For England and Wales:
<http://www.lawsociety.org.uk/>
- For Scotland:
<http://www.lawscot.org.uk/>
- For Northern Ireland:
<http://www.lawsoc-ni.org/>

In addition full information about legal requirements for foreign companies setting up in the UK can be obtained from UKTI here: http://www.ukti.gov.uk/pt_pt/investintheuk/whytheuk/lawandregulation.html

SETTING UP COMPANIES

Having made the decision to operate in the UK, the overseas investor will need to decide on the appropriate vehicle for the UK operation.

- Branches
- Representative offices

- Limited companies
- Partnerships and sole traders

The choice should not be made without detailed consideration of the pros and cons that each has to offer. The tax treatment varies and can have a major effect on the actual profitability of the operation overall. A vehicle should be chosen which provides the most appropriate mix of tax breaks and commercial advantages to the overall operation of both the business and the parent group.

In addition to these, overseas businesses wishing to trade in the UK could also consider:

- Representation or agency arrangements
- Distribution agreements
- Joint ventures

More information can be found here:

- Companies House:
<http://www.companieshouse.gov.uk>
- DIT:
<https://www.gov.uk/government/collections/investment-in-the-uk-guidance-for-overseas-businesses>
- Law Society:
<http://www.lawsociety.org.uk/for-the-public/common-legal-issues/setting-up-business/>

ENTRY CONDITIONS, WORK PERMITS, RESIDENCE PERMITS, LABOUR LAW

Swiss nationals are not required to register with any authority in the UK. Since the Free Movement of Persons Agreement between Switzerland and the EU came into force, Swiss nationals have the same rights as EU nationals when entering and staying in the UK. A valid identity card or passport must be used to enter the UK. For further information about entry conditions, please contact <http://www.eda.admin.ch/london> or see <http://www.ukba.homeoffice.gov.uk/>

For more information about work permits, residence permits (should you require these) and labour laws please contact the UK Visas and Immigration <https://www.gov.uk/browse/visas-immigration>

For specific questions about working in the UK please see <https://www.gov.uk/browse/working>

- Citizens Advice:
http://www.adviceguide.org.uk/wales/work_w/work_rights_at_work_e/basic_rights_at_work.htm

- The Department for Work and Pension:
<https://www.gov.uk/government/organisations/department-for-work-pensions>
- More information about living and working in the UK can be found at:
www.swissemigration.ch

PROCEDURES FOR COLLECTING PAYMENT

The UK has a highly regulated and advanced system of dealing with insolvencies, both personal and corporate. Full information about debt and debt collection can be found on the Citizens Advice Bureau website (including links to the specific regulations for Wales, Scotland and Northern Ireland)

http://www.adviceguide.org.uk/england/debt_e/debt_help_with_debt_e.htm

Date: 8th January 2019
Authors: Daniel Gasser, Swiss Business Hub UK & Ireland
Author's address: Embassy of Switzerland, 16-18 Montagu Place, London W1H 2BQ