

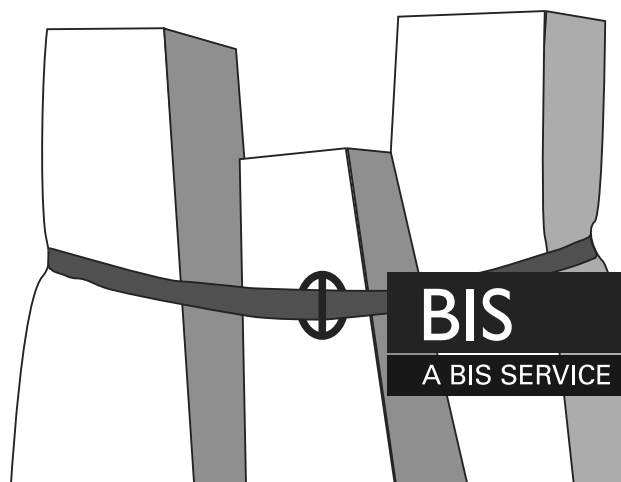
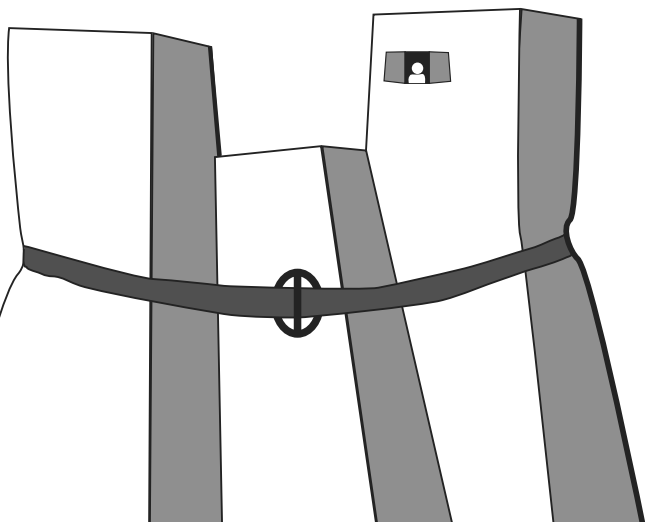
Companies Act 2006



Companies House
— for the record —

european economic interest groupings

GPO4 - May 2010



BIS

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Is this guidance for you?

This guide will be relevant to you if:

- you wish to register an EEIG in the UK;
- you are thinking of becoming a member or manager of an EEIG and looking for basic guidance on your filing requirements.

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This guide answers many frequently asked questions and provides information on completing the most commonly used filings relating to this area. The guide is not drafted with unusual or complex transactions in mind. Specialist professional advice may be needed in those circumstances.

Introduction

This guide explains the main features of European Economic Interest Groupings (EEIG). It tells you what information is required to be registered at Companies House when a grouping is:

- being formed in the UK;
- moving its official address to the UK from another European Member State; or
- establishing a UK office but retaining its official address outside the UK.

This guide also tells you when notice of changes to the grouping's particulars has to be delivered to Companies House, which forms to use and where to get them.

This publication is intended as an introductory guide only. If you are considering forming an EEIG, please refer to the legislation governing EEIGs, or seek specialist legal advice. You will find the relevant law covering the United Kingdom (UK) in Statutory Instrument 1989/638 - see chapter 3.

Chapter 1

About EEIGs

EEIGs are designed to help businesses establish and maintain links with firms in other Member States. For businesses, and smaller firms in particular, other development options - mergers, take-overs, joint ventures - may be too expensive and complicated. The EEIG provides an alternative way to establish links in other Member States without losing individual identity and independence.

The European Union (EU) Regulations (see chapter 4) require and permit Member States to make certain provisions under national law in respect of EEIGs. As a result, there are some differences in the laws of Member States in areas such as legal capacity, the managers and auditing requirements. The information given here only covers EEIGs registered in the UK.

1. What is an EEIG?

The EEIG is a form of association between companies or other legal bodies, firms or individuals from different EU countries who need to operate together across national frontiers. It carries out particular tasks for its member-owners and is quite separate from its owners' businesses. Its aim is to facilitate or develop the economic activities of its members.

An EEIG may be set up in any one of the Member States, and operate in any part of the EU. It can also enter into arrangements with organisations outside the EU, although these organisations cannot themselves become members of an EEIG.

2. What can an EEIG do?

An EEIG's activities must relate to the economic activity of its members but must be ancillary to them. The concept of 'economic activity' can be interpreted very widely. For example, universities and research institutes may participate in an EEIG. The creation of an EEIG between people in the professions (for example, solicitors) is also permitted. However, professional people will need to consider whether or not participation in an EEIG would be contrary to the rules of their profession. The Grouping may not itself practise a profession - as this would replace the activities of the members - but it may provide services for its members which relate to their profession (for example, consultation on legal matters).

Apart from this, and the restrictions set out under question 3, the EEIG can do whatever its members wish.

For example, companies in the UK, Spain and France might form an EEIG to carry out scientific research in an area of common concern; or firms in

Portugal and Scotland might use an EEIG to create a joint marketing operation for a new range of products; or lawyers in England, Denmark and Germany could join together to pool information.

3. What can't an EEIG do?

An EEIG cannot:

- be formed with the object of making a profit, although it may do so as a consequence of its normal operations;
- exercise management control over its members own activities or those of any other undertaking;
- hold shares in any of its members;
- take investment from the public;
- be a member of another EEIG;
- employ more than 500 people;
- be used to make loans to a company director or any person connected with him or her where that would be restricted or controlled by national law;
- be used for the transfer of any property between a company and a director, or any person connected with him or her, except to the extent allowed by national law.

4. What are the advantages of an EEIG?

An EEIG enjoys several advantages including 'legal capacity' - the right to enter into contracts and to sue (or be sued) - and tax transparency (see question 15). Further, members have flexibility regarding the method of financing the Grouping. For example, when smaller firms or non-profit making organisations are involved, their contribution may be in the services and skills they can provide. There is no capital requirement for an EEIG. Members may vary their funding methods, rights and obligations by contract so that the Grouping can develop. And, since an EEIG may not hold shares in its members, nor exercise any management control over them, it works for the members, not vice versa.

5. What are the disadvantages?

The price to pay for the lack of a capital requirement is unlimited joint and several liability of the members. This means that not only is there no limit to the financial liability of any of the members for the activities of the EEIG, but also that each member can individually be held liable for those activities. If no provision were made for this responsibility, third parties might not have the

confidence to sign contracts with the EEIG. In addition, whilst an EEIG may, for example, be funded from members' funds, by raising share capital from its members, or by bank loans, it cannot seek funds from the public or buy a share in another EEIG.

6. How is an EEIG structured?

An EEIG is set up in much the same way as a company. It must be formed by at least two members from different Member States, and a manager or managers must be appointed to operate the EEIG on a day-to-day basis.

7. Who may be a member of an EEIG?

The Regulations aim to make membership of an EEIG open to as many people and organisations as possible within the Union. The main requirement is that each member should have been engaged in an economic activity in the EU before becoming a member of the EEIG.

8. Is there a nationality requirement?

An EEIG must have at least two members with their central administrations or principal activities based in different Member States.

To be eligible for membership, companies, firms and other legal bodies must:

- have been formed according to the law of one of the Member States and have their registered or statutory office (if applicable) within the EU; and
- have their central administration (that is, their place of central management and control) within the EU.

Individuals may become members if they carry on any industrial, commercial, craft or agricultural activity or provide professional or other services in the EU.

Organisations from non-EU countries may not become members.

9. What is the role of the members?

The members decide how the EEIG will be run. Normally this will be set out in the formation contract of the EEIG, but there is no requirement that this must be so. There is no requirement for regular meetings or for decisions of the members to be taken only at meetings: all communication may be by fax, telephone or video-conferencing if the members so desire.

Each member has at least one vote. The contract of formation can give more than one vote to certain members (for example, if one member has subscribed a greater share of the capital or expertise), provided that no one member holds a majority of the votes.

The members are free to decide the voting procedures to be set down in the contract of formation except for certain decisions fundamentally affecting the existence and operation of the EEIG, for which unanimous decisions are required. The decisions requiring unanimity are:

- alteration of the objects of the grouping;
- alteration of the number of votes allotted to each member;
- extension to the duration of the grouping;
- alteration to members' contributions to the grouping's financing;
- alteration to members' obligations, unless otherwise provided by the formation contract;
- alteration to the formation contract not covered above, unless otherwise provided by the contract itself; and
- transfer of the official address of an EEIG to another Member State.

10. What is the role of the managers?

The members appoint managers who run the EEIG and make normal daily decisions. At least one manager must be appointed. EEIGs registered in the UK may appoint legal persons (for example, a company incorporated under the Companies Act) as managers, provided that an individual is then registered as the manager's representative.

The members determine the limits of the managers' powers. The actions of the managers are binding on the EEIG and the members are jointly liable for those actions. The only limitation that can be applied to the managers by the members in this respect is that of the 'double signature'. This means that the EEIG is only bound by the joint action of two or more managers. If this control device is used it will be effective only if its existence is published in the appropriate Gazette - see question 5 in chapter 3.

11. Does an EEIG have legal personality?

An EEIG registered in the UK is accorded legal personality as a 'body corporate' from the date shown on its certificate of registration.

12. What competition rules apply to EEIGs?

EEIGs are not exempt from EU or domestic competition laws. They are subject to control under Articles 85 and 86 of the Treaty of Rome and to national competition legislation in the same way as any other undertaking.

For more information contact;

Enquiries and Reporting Centre
The Office of Fair Trading,
Fleetbank House,
2- 6 Salisbury Square,
London
EC4Y 8JX

13. How is an EEIG funded?

The members of the EEIG are not required to subscribe any capital. The grouping can be financed by capital invested by the members or by loans or donations from them or others. The contribution of some members may be in the form of the services and skills that they can provide. EEIGs may not seek investment from the public.

14. Are grants available for EEIGs?

There is nothing to stop an EEIG from bidding for EU or Government funds. However, there are no special grants available specifically for EEIGs.

15. What taxation rules apply to EEIGs?

Taxation operates under a system of fiscal transparency; that is to say, any profits, losses or gains are shared between the members according to their shares. These are then taxed in the hands of the members according to the relevant national law in the normal way. The provisions for taxation of EEIGs in the UK are given in the Finance Act 1990, Schedule 11.

16 How do they work?

For the purposes of taxation, a grouping is regarded as acting as the agent of its members: its activities are those of its members acting jointly, and each member is regarded as having a share of the property, rights, liabilities and profits of the EEIG. The portion of profits, losses or gains going to each member is determined by the formation contract where this is stated. If the contract says nothing the members are apportioned equal shares. The shares of property, rights and liabilities are determined in the same way.

Returns, accounts and information are given by the EEIG acting through its managers. The members of the grouping are jointly and severally liable for any acts or omissions relating to the taxation provisions.

The concept of tax transparency does not extend to other taxes such as VAT and stamp duty. An EEIG will have to register for VAT purposes if it makes taxable supplies in excess of the registration limits, in the same way as any other person.

17. What are the accounting requirements?

The EEIG is not subject to any accounting or auditing requirements, and therefore does not have to file an annual return with Companies House. It is, however, required to make a return to HM Revenue & Customs (HMRC).

Chapter 2

How to register an EEIG

1. Can I register an EEIG in any EU Member State?

An EEIG must be registered in the Member States of the EU where its 'official address' is situated. The official address must be either:

- where the EEIG has its central administration, or
- where one of its members has its central administration or - in the case of an individual who is a member - his or her principal activity, provided that the grouping carries on an activity there.

2. Where do I register an EEIG in the UK?

If the grouping's official address is to be in England or Wales it must register with:

The Registrar of Companies for England and Wales
Companies House
Crown Way
Cardiff
CF14 3UZ

If the grouping's official address is to be in Scotland it must register with:

The Registrar of Companies for Scotland
Companies House
Fourth Floor
Edinburgh Quay 2
139 Fountainbridge
Edinburgh EH3 9FF

If the grouping's official address is to be in Northern Ireland it must register with:

The Registrar of Companies
Companies House
Second Floor
The Linenhall
32-38 Linenhall Street
Belfast

Northern Ireland
BT2 8BG
DX 481 N.R. Belfast 1

3. Is there an obligation to register in other Member States if the EEIG also has activities there?

If a UK-registered EEIG opens an establishment in another Member State that establishment must be registered in that State.

The same applies in reverse: if a grouping opens an establishment in the UK but has its official address in another Member State it must register in that part of the UK where the establishment is situated.

4. Can the official address be transferred from one Member State to another?

Yes. The official address may be transferred within the Union. If the transfer is to another Member State a transfer proposal must be drawn up and filed with Companies House. No decision to transfer may be taken until 2 months after the proposal has been published.

5. What information must be published?

The formation and termination of an EEIG must be published in the London, Edinburgh or Belfast Gazette (as appropriate) and then, within one month, in the Official Journal of the European Union. In addition, various changes and other events must also be published in the Gazette. The full list of these is set out in Articles 8 and 14 of the Regulations - see chapter 3.

In the UK, the responsibility for publication of these particulars has been placed on the Registrar of Companies.

If an EEIG is transferring its official address to another Member State, the registry there will require evidence that the proposal to transfer has been published. It is the EEIG's responsibility to obtain a copy of the relevant Gazette, which can be obtained from:

The London Gazette	The Edinburgh Gazette	The Belfast Gazette
PO Box 7923 London SE1 5ZH	TSO Scotland, 26 Rutland Square, Edinburgh EH1 2BW	16 Arthur Street Belfast BT1 4GD

Alternatively for London, Edinburgh or Belfast editions call the TSO (The Stationery Office) order line on 0870 600 5522 or visit the web site at www.gazettes-online.co.uk

6. What name can I give the grouping?

EEIGs must include either 'European Economic Interest Grouping' or 'EEIG' in their name. The name cannot include any of the following: 'limited', 'unlimited'

or 'public limited company', their abbreviations or their Welsh equivalents. Similarly, the name cannot include 'SE' (or the abbreviation SE bracketed or with other punctuation marks before or after the abbreviation). For more information, see our guidance on The European Company: Societas Europaea (SE).

With this exception, substantially the same rules and restrictions on names apply for EEIGs registered in the UK as for companies formed and registered under the Companies Act 2006. For further information see our guidance on 'Incorporation and Names'.

7. What is required for registration?

There are 3 different registration possibilities:

1. A new EEIG which is to have its official address in the UK must submit to the appropriate registrar:
 - form EE FM01;
 - the contract of formation; and
 - if the contract is not in English, a certified translation.
2. An existing EEIG that is transferring its official address from another Member State to the UK must submit to the appropriate registrar:
 - form EE FM01, contract and certified translation (if appropriate);
 - evidence of the publication of the transfer proposal; and
 - a statement that no competent authority has opposed the transfer under Article 14(4) of the Regulations.
3. An existing EEIG which is setting up an establishment in the UK but which will continue to have its official address outside the UK must submit the following documents to the appropriate registrar:
 - form EE FM02;
 - certified copies of all documents which were submitted to the registering authority where the EEIG has its official address; and
 - if the documents are not in English, certified translations.

8. What does the formation contract have to say?

The contract of formation must, as a minimum, contain the following information about the EEIG:

- its full name - see question 6;
- its official address;
- the objects for which the grouping was formed;
- the names, business names and legal form of each member;
- the permanent address or registered office of each member;
- the number and place of registration (if any) of each member;
- the duration of the EEIG, except where this is indefinite.

9. Do any other documents have to be registered?

After the EEIG is registered, certain other additional documents and details must also be filed. These are:

- notice of the appointment and removal of managers. To appoint a manager where the official address is in the UK, use either form EE AP01 or EE AP02. To remove a manager where the official address is in the UK use form EE TM01. Where the official address is outside of the UK, use form MP01.
- form EE MP01 must also be used to file the following documents and particulars:
 - any amendment to the formation contract;
 - notice of a member's assignment of all or part of its participation in the EEIG;
 - any judicial or members' decision ordering or establishing the winding up of the EEIG;
 - any judicial decision nullifying the EEIG;
 - notice of the appointment or termination of appointment of a liquidator or liquidators of the EEIG;
 - notice of the conclusion of liquidation of the EEIG;
 - a proposal to transfer the official address to another Member State; and
 - notice of any provision exempting a new member from the payment of debts and other liabilities which originated prior to his admission.
- form EE MP02 must be used to file notice of the setting up or closure of any establishment of the EEIG, except where registration on form EE FM02 is required.

10. What are the filing fees?

- for registration of Form EE FM01 or Form EE FM02, the fee is £20;

- for registration of the change of name for an EEIG, the fee is £10; and
- for registration of a charge by an EEIG, the fee is £13.

All other documents are free (including Form EE MP01 when it does not include a change of name).

Please note that this guide is intended as an introductory guide only. Anybody planning to establish an EEIG should seek specialist advice.

Chapter 3

Further information

1. What legislation governs EEIGs?

EEIGs were established by Council Regulation (EEC) No 2137/85. This is referred to in this booklet as 'the Regulations'. The Regulations require Member States to make further provisions in respect of EEIGs under national law in order to give practical effect to the EU Regulations. In the UK the relevant pieces of legislation are:

- Statutory Instrument 1989/638: The European Economic Interest Grouping Regulations 1989, HMSO, ISBN 0 11 096638 4. (This includes the GB and EU Regulations in full, together with specimen forms for filing with Companies House).

Further information is also available in a short guide to the EU Regulations that has been produced by the EU Commission:

European File: The European Economic Interest Grouping, Commission of the European Communities, April 1989, Luxembourg. ISSN 0379-3133.

2. Where do I get forms and guidance?

This is one of a series of Companies House guidance which provide a simple guide to the Companies Act.

Statutory forms and guidance are available, free of charge from Companies House. The quickest way to get them is through this website or by telephoning 0303 1234 500

Forms can also be obtained from company law stationers, accountants, solicitors and company formation agents - addresses in business phone books.

3. How do I send information to the Registrar?

You may deliver documents by hand (personally or by courier), including outside office hours, bank holidays and weekends.
You may also send documents by post, by the Document Exchange Service (DX) or by Legal Post (LP) in Scotland. If you send documents you should address them to:

**For EEIGs in
England & Wales:**

The Registrar of
Companies
Companies House
Crown Way
Cardiff CF14 3UZ

DX33050 Cardiff 1

**For EEIGs in
Scotland:**

The Registrar of Companies
Companies House
Fourth Floor
Edinburgh Quay 2
139 Fountainbridge
Edinburgh EH3 9FF

DX ED235 Edinburgh 1
LP – 4 Edinburgh 2

**For EEIGs in
Northern Ireland:**

The Registrar of Companies
Companies House
Second Floor
The Linenhall
32-38 Linenhall Street
Belfast

Northern Ireland
BT2 8BG

DX 481 N.R. Belfast 1

If you are sending documents by post, courier or Document Exchange Service (DX) and would like a receipt, Companies House will provide an acknowledgement if you enclose a copy of your covering letter with a pre-paid addressed return envelope. We will barcode your copy letter with the date of receipt and return it to you in the envelope provided.

Please note: an acknowledgement of receipt does not mean that a document has been accepted for registration at Companies House.

Please note: Companies House does not accept accounts or any other statutory documents by fax.

how to contact us

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contact centre: **0303 1234 500**

(For training and quality purposes your call may be monitored)

mini-com: 029 2038 1245

enquiries@companieshouse.gov.uk

www.companieshouse.gov.uk

- Cardiff:** Companies House
Crown Way, Cardiff CF14 3UZ
- Edinburgh:** Companies House
Fourth Floor, Edinburgh Quay 2,
139 Fountainbridge, Edinburgh, EH3 9FF
- London:** Companies House
21 Bloomsbury Street, London, WC1B 3XD
- Belfast:** Companies House,
Second Floor, The Linenhall,
32-38 Linenhall Street, Belfast, BT2 8BG

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www.companieshouse.gov.uk



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