

SETTING UP A COMPANY IN POLAND

a) Read the following letter, then rewrite it to make it more formal.

Dear Ms Nowak,

I'm writing to you to find out if you could help me set up my business in Poland.

Perhaps you already know that I'm an owner of the *Coffee & Cake* restaurant chain in Canada. As we've been expanding successfully for the last two years we would like to open some restaurants in Europe, too. We want to start in Poland.

The trouble is, I don't know Polish law well enough. It would be great if you could give me some information on how to set up a business. Could you also explain the differences between different types of businesses in Poland and advise me on which one would be the best for our venture?

Thank you for your help.

Bests

Joan Doughnut

Joan Doughnut

b) What kind of legal form should she choose for her company? Complete the table below to provide some basic information for Ms. Doughnut. For this activity you may use the information in the handbook or the following link: *Investor's Guide* <http://www.arpg.gda.pl/arp_nowe/strona.php?id=202>

Issue	Limited partnership	Limited liability company	Joint-stock company
No. of founders			
Capital requirements (is start-up capital required?)			
Articles of association must be executed in writing (tick, if applicable)			
Articles of association must be executed in writing as a notarial deed (tick, if applicable)			
Liability			

Taxation			
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c) Now, work in pairs. One of you plays the role of an advisor. Use the table you have completed in b) ask further questions, another person plays the role of Ms Doughnut. Invent some answers concerning the information about your company.

Exercise 8. a) Apart from enterprises run by a natural person (sole traders), the most common forms of business activities in Poland are: civil partnership, registered partnership and limited liability company. Read the statements below, decide which type of business activity they refer to: sole traders – ST, civil partnership – SP, registered partnership – RP, limited liability company – LLC. Sometimes a statement falls into more than one category.

1. A minimum start up capital is required.
2. Before the registration procedure for a company the articles of association must be prepared and duly signed and notarised.
3. For this enterprise the founding capital must be fully paid up on incorporation.
4. High taxes to pay.
5. It is impossible to take a partner without changing the legal form.
6. Setting up the company is relatively easy, cheap and there are few formalities.
7. Simplified form of book-keeping.
8. Suitable for low risk sectors as the owners are responsible with all his or her assets for all the company's liabilities.
9. The articles of association must be made in the form of a notarial deed.
10. The articles of association must be made in writing, or else they will be invalid.
11. The enterprise may be formed by one or more persons.
12. The enterprise must be formed by one person only.
13. The liability of the partners is limited.
14. The liability of the partners is unlimited.
15. The owners have to pay social insurance even if the company doesn't bring any profit.
16. The share capital of the enterprise must be at least 50,000 PLN.
17. There are many formalities to set the business up and it takes a lot of time.
18. There is no need to pay taxes or social insurance for the owners if the company does not generate any profits.
19. There must be at least two partners.
20. This is one of the most common forms of business activity among small and medium enterprises in Poland.

b) Try to sum up all the information about the four most common forms of running business in Poland. Try to add some more facts.

sole traders	civil partnership	registered partnership	limited liability company

c) Imagine you have just started working for a busy firm of solicitors. You have been asked to give advice to some clients, who have just decided to start their own company. With your partner, in turns practise giving advice, give reasons for your choice. Study the language box, decide what expressions might be useful:

- | |
|---|
| <ul style="list-style-type: none"> - Considering your experience, you may / might... - From a purely practical point of view... - Have you thought about...? - How / what about...? - In my opinion you should... - You may always... |
|---|

Clients:

1. A husband and wife who have been in business for 15 years now. They have a civil partnership and they produce garden dwarfs and other plastic sculptures such as flamingos or frogs. Two years ago they started cooperation with a German company selling garden equipment in Germany. They have already bought 900 sculptures and consider ordering more as there is a huge demand for such products. The prospect export might amount 3,000 sculptures a year. The couple are a little bit worried to extend their business as they would have to invest all their savings to buy new equipment and employ new staff. They don't speak any foreign languages.

2. A successful architect who has just bought several shops in a big city. He is a sole trader now but plans to get married to a successful clothes designer. He can invest up to 100,000 into his business which he hopes to turn into a domestic (international in the future) brand of luxurious, upmarket garments.
3. A teacher of French. She has just finished her maternity leave which lasted 5 years. From her boss she learned that the situation at her school changed and, in fact, there are too few classes of children so they will be forced to make her redundant. She has two kids: 3- and 6-year old. On maternity leave as a sole trader she used to give lessons of French in the evenings, but for the last two years she mainly looked after her neighbours' and friends children for minimum 3 days a week. Half a year ago she inherited a small business premises after her late uncle. Her husband supports her idea of a small business, with one or more partners and suggested taking a loan of approximately 30,000–40,000 PLN if she needed to extend or refurbish the premises she inherited. She has not done any market research, but hopes there are quite a few children in the area for kindergarten in the morning and early afternoon and even more children for evening language courses.
4. A young doctor who can't find any job. Her parents have been helping her financially and in her free time she started making postcards (Christmas, name days, birthdays etc) for her friends. She discovered there is huge demand for artistic objects like these and her friends started asking her to help them design and arrange their rooms / homes. She has already talked to a man producing luxurious fabrics like silk, wool and heavy-wear upholstery material, he was very interested in her designs. She doesn't have any savings and she doesn't want to take any loans either, she still hopes to work as a doctor in the future.
5. An IT specialist, multimedia software is his main area of business. He is quite happy with his income as a freelance programmer but his dream is to start an e-book store.
6. Three students in the last year of marketing. Published student bulletins and papers. Their dream is to set up a publishing business and print books and magazines for students of banking, economics etc. They know the market quite well. As students they spent their holidays in Western Europe and managed to put aside 40,000 EUR.

d) After giving advice to your clients, compare your ideas. Think about yourself in 10 years' time. Is there any business form among the discussed that you can see yourself in? Give reasons for your choice. If you can't see yourself as a company owner or partner, where would you like to work? Why?

Exercise 9. Work with a partner or in small groups.

1. Would you like to own your own business? If you would, what type of business would you like to operate? What steps would you have to take to set up your business?
2. Do you feel that your government treats foreign-owned businesses differently than Polish-owned businesses? What are some of the differences?

GROUP 1

1. Kapitał zakładowy Spółki wynosi 250.000,00 zł (dwieście pięćdziesiąt tysięcy złotych) i jest podzielony na 500 (pięćset) równych i niepodzielnych udziałów o wartości nominalnej 500,00 zł (pięćset złotych) każdy.
2. Każdy ze Wspólników może mieć więcej niż jeden udział.
3. Wpłaty na udziały mogą być dokonywane w pieniądzu (wpłata gotówkowa) lub jako wkłady niepieniężne (aporty).
4. Organami Spółki są: Zgromadzenie Wspólników i Zarząd.

GROUP 2

- Do kompetencji Zgromadzenia Wspólników należy będzie w szczególności:
- a) rozpatrzenie i zatwierdzenie sprawozdania Zarządu z działalności Spółki oraz sprawozdania finansowego, w tym bilansu i rachunku zysków i strat, za poprzedni rok obrotowy oraz udzielenie skwitowania członkom organów Spółki, potwierdzające wypełnienie przez nich obowiązków,
 - b) zbycie przedsiębiorstwa lub jego części oraz ustanowienie ograniczonego prawa rzeczowego,
 - c) podział i przekształcenie Spółki,
 - d) podjęcie decyzji o podziale zysku lub pokryciu strat,
 - e) zmiany Umowy Spółki.

Fill in the gaps in the English translation of the following text:

<p>(1)UMOWA (2)SPÓŁKI Z OGRANICZONĄ ODPOWIEDZIALNOŚCIĄ</p> <p>§ 1. X i Y (3) oświadczają, że (4) tworzą spółkę z ograniczoną odpowiedzialnością, (5) zwaną dalej „Spółką”.</p> <p>§ 2. Spółka prowadzona będzie (6) pod firmą „SAMPLE” Spółka z ograniczoną odpowiedzialnością. Spółka może używać (7) firmy w skrócie: „SAMPLE” Sp. z o.o. lub „SAMPLE” Spółka z o.o. oraz (8) wyróżniającego ją znaku graficznego.</p> <p>§ 3. (9) Siedzibą Spółki jest Warszawa.</p> <p>§ 4. (10) Czas trwania Spółki jest (11) nieoznaczony.</p> <p>§ 5. Terenem (12) działania Spółki jest obszar Rzeczypospolitej Polskiej i zagranicy.</p>	<p>(1) _____ of a (2) _____</p> <p>§ 1. X and Y (3) _____ that they (4) _____ a limited liability company, (5) _____ “the Company”.</p> <p>§ 2. The Company shall operate (6) _____ “SAMPLE” Spółka z ograniczoną odpowiedzialnością. The Company may use the (7) _____: “SAMPLE” Sp. z o.o. or “SAMPLE” Spółka z o.o. and a (8) _____ graphic mark.</p> <p>§ 3. The (9) _____ of the Company shall be Warsaw.</p> <p>§ 4. The (10) _____ of the company shall be (11) _____.</p> <p>§ 5. The Company shall (12) _____ in the territory of the Republic of Poland and abroad.</p>
<p>§ 6. Spółka może tworzyć (13) oddziały i (14) przedstawicielstwa w kraju i za granicą (15) z zachowaniem obowiązujących przepisów prawa.</p> <p>§ 7. 1. (16) Przedmiotem działalności Spółki jest:</p> <ol style="list-style-type: none"> 1) roboty budowlane związane ze (17) wznoszeniem budynków, 2) pozostałe (18) doradztwo w zakresie (19) prowadzenia działalności gospodarczej i zarządzania, 3) pozostała działalność (20) usługowa, (21) gdzie indziej niesklasyfikowana. 	<p>§ 6. The Company may establish (13) _____ and (14) _____ in Poland and abroad (15) _____ applicable legal provisions.</p> <p>§ 7. 1. The (16) _____ of the Company shall be as follows:</p> <ol style="list-style-type: none"> (1) construction work, related to (17) _____ of buildings, (2) other (18) _____ services in respect of (19) _____ business and management, (3) other (20) _____ activity, not classified (21) _____.

Read the source text below and decide whether the following statements are true or false:

1. The company may pursue only goals specifically stated in the Articles of Incorporation.
2. A document without corporate seal cannot be considered valid.
3. Articles of Incorporation never specify the end date of existence of the company.
4. A company may buy its own shares.
5. A company may create stock option plans for employees of its subsidiaries.

SOURCE TEXT (Louisiana Revised Statutes – Title 12 §41):

PART IV. CORPORATE POWERS

§41. General powers

A. A corporation shall have the power to perform any acts which are necessary or proper to accomplish its purposes as expressed or implied in the articles, or which may be incidental thereto and which are not repugnant to law.

- B. Without limiting the grant of power contained in Subsection A of this Section, it is hereby specifically provided that every corporation shall have authority:
- (1) To have a corporate seal which may be altered at pleasure, and to use the same by causing it or a facsimile thereof to be impressed or affixed or in any manner reproduced; but failure to affix a seal shall not affect the validity of any instrument;
 - (2) To have perpetual existence, unless a limited period of duration is stated in its articles of incorporation;

- (4) The President of the Management Board shall be _____ and _____ by way of a written declaration submitted to the Company.
- (5) The Management Board shall _____ the Annual General Meeting within 6 months from the end of a financial year.
- (6) Shareholders have _____ right with respect to shares intended for alienation on a _____ basis.

(3) To sue and be sued in its corporate name;

- (4) In any legal manner to acquire, hold, use and alienate or encumber property of any kind, including its own shares, subject to special provisions and limitations prescribed by law or the articles; (...)
- (7) To lend money for its corporate purposes and invest and reinvest its funds, and to take and hold property or rights of any kind as security for loans or investments;
- (8) To conduct business and exercise its powers in this state and elsewhere as may be permitted by law;
- (9) (a) To elect or appoint officers and agents;
(b) To define their duties;
(c) To fix their compensation;
- (d) To pay pensions in cash, shares of stock, or property, and establish pension plans, pension trusts, profit sharing plans, and other incentive and benefit plans for any or all of its directors, officers, and employees; and
(e) To establish stock bonus plans, stock option plans, and plans for the acquisition of any or all of its unissued shares, or of shares acquired or to be acquired, by the employees of the corporation, or by employees of subsidiary corporations, or by trustees on their behalf (...)
- (10) To make and alter by-laws, not inconsistent with the laws of this state or with the articles, for the administration and regulation of the affairs of the corporation;
- (11) To provide indemnity and insurance pursuant to R.S. 12:83;
- (12) To make donations for the public welfare, or for charitable, scientific, educational or civic purposes; (...)

Fill in the gaps with the words specified below (some in another grammatical form).

unanimously, convene, hereof, appoint, pro rata, subscribe for, alienable, pass, pre-emption, lay down, dismiss

- (1) Shares in the share capital of the Company have been _____ in the following way: 50 by X and 50 by Y.
- (2) Shares are _____ and may be pledged subject to the rules in Article 16 _____
- (3) The General Meeting shall _____ resolutions _____