

A Smart Move: Relocation to Ireland in a Post Brexit Economy

Brexit Outcome – A Challenge to Businesses Across Europe

The unexpected outcome of the Brexit referendum in the UK prompted a swift reappraisal of corporate relationships across Europe. Multinationals were forced to consider the impact of the vote upon their operations both inside and outside the UK. National governments also sought to assess the extent to which they might be exposed to some of the fallout from the decision and carefully considered their next steps. Companies across the UK faced a very difficult and fundamental problem. As of the date of leaving the EU, they would no longer have access to the single market.

The single market has brought growth and diversity to the British business environment since 1973. Any UK firm that trades with Europe will find their business model fundamentally changed.

As of autumn 2017, the degree to which the new post-EU UK will have access to the single market remains floating and unresolved. However, it is quite likely that domestic UK firms will be rendered isolated and excluded and the City of London's position as key global hub for financial services will be permanently affected. It is not possible for multinationals or domestic companies in the UK to maintain profitability and efficiency if isolated from the single market. So for those businesses, the critical challenge is how to preserve access once the UK leaves the EU. Relocation to other European countries to maintain access has, and will, occur in the coming years and will serve as a practical solution for many.

Why Ireland?

Europe wide locations are under consideration by UK and multinational businesses for relocation – Ireland consistently presents an impressive array of qualities:

1. Fundamentally, our position displays our openness to trade and investment, a strong commitment to trade liberalisation, our global connectedness and our open society.
 - More specifically, Ireland demonstrates on-going, consistent growth with indigenous exports recently increasing by 60% to reach €20.6 billion; we have strong export growth in all geographic territories; our visitor revenues exceeded government targets by 20%; and our foreign direct investment (FDI) targets were exceeded by 30%. Ireland's competitiveness has increased dramatically, from 17th most competitive in 2013 to 6th in the world in 2017.
2. With respect to taxation, Ireland has consistent, transparent and long term tax policies:
 - 12.5% corporate tax rate, which is the lowest in Europe. Non-trading revenue is taxed at 25%.
 - Start-ups are exempt from corporation tax for three years where profits are less than €320k.
 - 72 tax treaties including with the US, UK, Australia, China, Canada, Japan and Russia.
 - A 25% tax credit is available on qualifying R&D spend – including staff salaries and other direct R&D costs.

Why Ireland?

3. The population in Ireland is the youngest in Europe and possesses a desirable skill set:

- Our people are highly educated, open, collaborative and creative. Over 20% of Irish students are engaged in higher education in the scientific and engineering sphere. Furthermore, approximately 25% of the student population are studying in the fields of social sciences, gaining skills and expertise in areas that include business and law.
- 49% of the entire population is aged under 35, which gives access to a dynamic and ambitious workforce. This is more than that offered in the EU or the UK.

4. Although increasingly multilingual, Ireland is the largest English-speaking country in the Single Market post Brexit. Going forward we remain 100% committed to the EU and importantly retain access to the 27 member states with a population that totals 450 million people. Ireland benefits directly from a further 53 EU free trade agreements across the globe.

- In Ireland we strongly believe the key to our achievements in sustaining jobs and incomes is our ability to succeed in international markets. In short: we will export more; we will attract more investment, visitors and international students; we will deliver success for our existing and newly imported businesses, for our country and for our citizens.
- Our ambition for the future is to build on our successes, we aim to increase exports to €26 billion by 2020 and secure 900 new FDIs by 2019 in addition to significantly increased economic investment by our government. We also aim to have 200,000 more people in work by 2020.
- Ireland will build and deepen relationships at all levels, engage with the global Irish business community, expand research collaborations, strengthen linkages in education and develop economic partnerships reinforcing Ireland's connectedness across the world.
- We plan to continue to strengthen our business environment for trade, provide a streamlined visa service, develop global transport connectivity and build our network of double taxation agreements and Foreign Earnings Deductions aligned with trade priorities.

Many Have Already Chosen Ireland

Ireland is an attractive location to many domestic UK or international firms but financial services companies in particular may be looking for a positive and practical solution to the Brexit problem:

- 15 out of the world's leading financial services firms already operate in Ireland;
- Ireland is already the leading international hub for aviation finance with eight of the top 10 global aviation lessors based in Ireland, equating to over 60% of the world's leased commercial aircraft owned or managed from Ireland. Aircraft lessors based in Ireland manage more than €159 billion in assets, which equates to more than 26% of the global fleet.
- Our financial services industry is underpinned by cutting edge technology, innovation, a highly skilled workforce, an independent regulator and robust regulatory regime. The IFS2020 strategy aims to achieve almost 30% growth in employment by 2020.
- In May 2017, JP Morgan Chase & Co. bought a landmark office building in Dublin large enough for 1,000 staff, doubling its workforce in Ireland. It has been reported that the firm is also looking to occupy more office space with a view to further expansion and transfer of its London staff.
- In July, British firm Barclays decided to relocate to Dublin to preserve its access to the EU, setting up its European Hub in the city centre at a new development on Dawson Street.
- Also in July, Bank of America announced it was planning to relocate to Dublin post-Brexit.
- According to the British Banking Authority, one-third of the UK's financial services workforce (87,499 jobs) will migrate to the 27 EU member states over the next few years. Given the attractiveness of Ireland for foreign direct investment, it is likely that a growing number of firms will choose to relocate here in the coming months.

A Pro-Business Environment

Regardless of the particular industry seeking to invest in Ireland, relocating firms can expect to benefit from a pro-business environment:

- The legal environment in Ireland uses the same common law system in use in Australia, Canada, New Zealand, offshore locations and in the US, which means minimal adjustment and maximum flexibility with respect to the regulatory environment.
- Locating office space to house employees may also prove easier as Dublin has more office space available than many competing European cities, with 2m sq. feet due to come to market by the end of 2018.
- Firms wishing to set up a hub in Ireland are not confined to the capital city and can opt for well connected regional locations such as Letterkenny, Cork, Galway, Limerick and Waterford, which are all easily accessible by road, rail and air.

UK Businesses Can Also Preserve Access to the Single Market

Ireland represents a smart and economically sensible move for medium or large sized UK businesses to preserve their access to the single market and the euro. Ireland offers UK companies:

- shared English language;
- similar business practices, customs and cultural links;
- enhancement of historically strong economic links already established; and
- established logistics of transportation between the two neighbouring countries.

How Do I Invest in Ireland?

When considering whether or not to invest in Ireland, there are a variety of practical issues that our specialist commercial solicitors and investment experts can help you with. Below we provide an overview of some key questions our clients seek advice on:

What Permissions Do I Need?

In order to do business in Ireland, you must be granted 'business permission' by the Irish Government. It should be noted, however, that this permission only applies to individuals who are from outside the European Economic Area (EEA). If you are based outside the EEA, there are certain criteria that your investment or business must meet before you will be granted 'business permission':

- Your investment or business must create employment (beyond your own) for at least two nationals of the EEA. Alternatively, your investment (if this is for an existing business) must provide for continued employment of the workforce concerned; and
- The proposed business that you hope to set up must add to the competitiveness and commercial activity of Ireland.

How Do I Invest in Ireland?

What Assistance Can I Get in Terms of Visas and Residency?

Ireland offers a variety of programmes that are designed specifically for individuals looking to set up in Ireland. There are a variety of different schemes available:

a) Start-Up Entrepreneur Programme

This programme applies to non-Irish nationals who have an innovative business proposal for a 'high-potential start-up', with a minimum approved funding of €50,000. Qualifying persons can be given residency in Ireland in order to develop their business. There is no requirement that the business meet particular job creation targets, reflecting the fact that many business will take time to be built up.

In order for your business to be deemed as a 'high potential start-up', it must:

- introduce a new or innovative product from the international marketplace into Ireland;
- be headquartered in Ireland;
- have been trading for less than six years;
- be controlled by experienced managers; and
- possess the potential to create no less than 10 jobs and €1 million in revenue.

How Do I Invest in Ireland?

What Assistance Can I Get in Terms of Visas and Residency?

b) Immigrant Investor Programme

This scheme is available to non-EEA individuals and their families who pledge themselves to an 'approved investment' in Ireland. It allows individual investors and their immediate family to enter Ireland and to remain here, initially, for up to 5 years, renewable thereafter.

In order to be approved under this programme, an investment must be good for Ireland, for jobs and in the public interest. Furthermore, the funds of an investment must have been legally acquired and owned by the investor. If you have borrowed funds to make the investment, you will not qualify for this programme.

To qualify for approval under this programme, your investment must fall into one of the following categories:

- A minimum of €500,000 investment into an Irish business for a period of at least 3 years. The business can be new or pre-existing.
- An investment of at least €1,000,000 in a 5 year low interest immigrant investor bond.
- A once-off endowment of no less than €500,000 to a public project that will benefit sports, the arts, health, culture or education. An investment of €400,000 will be approved under this scheme, where it is pooled by at least 5 people.
- An investment of funds no less than €500,000 in a managed fund, focusing on Irish businesses and projects.
- An investment of at least €2,000,000 in any REIT (Irish Real Estate Investment Trust) that features on the Irish Stock Exchange. It is permissible for the investment to be spread across a variety of REITs.

How Do I Invest in Ireland?

Can I Bring Some Members of My Team Into Ireland?

The environment in Ireland has been specifically designed to encourage foreign investment, and this extends to employment permits and the rules that govern them. Depending on who you will need to be present in Ireland, and for what purpose, there are a variety of employment schemes that are available to you:

a) Intra-Company Transfer Permit

If you need to bring key personnel into Ireland to assist in the development of your business, the Intra-Company Transfer Permit could be useful. The main advantage of this particular permit is that it allows for the temporary placement of senior members of staff in the Irish business, while allowing them to remain on the payroll of the parent company. The temporary nature brings flexibility in that it allows for foreign investors to test the environment and make an informed decision on whether or not to put further resources into the business. In order to qualify for this permit, the following criteria need to be satisfied:

- the employee in question must be a key employee;
- they must earn more than €40,000; and
- they must occupy a senior role, e.g. a manager or director.

Please note that if the spouse, partner or any dependants of the holder of an Intra-Company Transfer Permit plan on coming to Ireland, they will need to apply for a separate employment permit.

How Do I Invest in Ireland?

Can I Bring Some Members of My Team Into Ireland?

b) Critical Skills Employment Permit

This is a particular kind of employment permit that is geared towards encouraging individuals with advanced skills to enter the Irish labour market, and ultimately to take up permanent residence. This is sometimes known as the 'Ireland Green Card'. In order for your employees to be eligible for this particular permit, you as the prospective employer must:

- operate a private limited company that is registered in Ireland;
- be a start-up; and
- provide a job offer with a salary in excess of €60,000 or for a limited number of strategically important occupations with a salary between €30,000 and €59,999.

The list of occupations that are deemed important to the Irish economy is available [here](#). Please note that the list of approved occupations changes periodically, but currently includes:

- IT specialists;
- doctors, nurses, pharmacists and other positions allied to these;
- scientists;
- accountants;
- solicitors; and
- tax and business experts.

It is also a condition for the Critical Skills Employment Permit that the job offer you provide is for a position for 2 years or more.

How Do I Invest in Ireland?

Can I Bring Some Members of My Team Into Ireland?

c) General Employment Permits

These employment permits are different from Critical Skills Employment Permits in that all occupations will be eligible to apply unless they are excluded as Ineligible Employments. The list of Ineligible Employments is available [here](#) and currently includes:

- managers in the hospitality, leisure and healthcare services;
- pensions, human resources and sales assistants/administrators;
- construction and building professionals; and
- food preparation and hospitality personnel.

A General Employment Permit can be granted for an initial period of two years, after which it can be renewed for a maximum of three years. After five years have passed, the individual concerned will be able to apply to the Irish Naturalisation and Immigration Service to explore other, more permanent options for residency in Ireland. It is important to understand that employees that are seeking naturalisation must satisfy stringent criteria before their application will be approved.

How Do I Invest in Ireland?

What Incentives Are Available to Encourage Staffing of the Business from the Domestic Workforce?

The Irish Government operates a number of Employer Incentive Schemes to encourage employers, including foreign investor businesses, to employ their staff from the local population:

Jobplus

This particular scheme was created to persuade employers to employ individuals who have been registered unemployed for significant periods of time. Foreign investor businesses have found this scheme to be particularly attractive. To qualify for the scheme, your business must:

- be registered as a PAYE employer with Irish Tax & Customs, and the employee must be on your payroll and subject to PAYE and social insurance (this is known as 'PRSI' in Ireland);
- be in-keeping with Irish tax and employment laws, and hold a valid Tax Clearance Certificate from Irish Tax & Customs; and
- offer full-time employment in excess of 30 hours per week over a 4 days per week minimum.

If your business meets the criteria listed above, and employs someone under this scheme, you will be given one of two regular payments from the Department of Social Protection:

- if you employ someone who has been unemployed for between 1 and 2 years, you will be paid €7,500; or
- if you employ an individual that has been unemployed for more than 2 years, you will be given €10,000.

How Do I Invest in Ireland?

What Kind of Businesses are Acceptable?

Private limited companies incorporated in Ireland tend to be the most common commercial entities foreign investors utilise. Certain criteria need to be satisfied:

- The company must have the intention of carrying on some kind of activity in Ireland including the holding, acquisition or disposal of any kind of property.
- There must be details given as to the place in Ireland where the company will carry out its business, and where the organisations and administration of the company will be conducted from.
- Regarding the proposed name of the company, there must be a search conducted with the Companies Registration Office. This will guarantee that the name proposed for the company is not already being used, or does not have too much of a similarity with a company that is already operating in Ireland.
- At least one of the directors of the company must be resident within the European Union (EU). If not possible, then the company will be entitled to hold a bond to the value of €25,400. An insurance company will provide two original bonds, and the company must file both of these with the Companies Registration Office.

How Do I Invest in Ireland?

What Kind of Businesses are Acceptable?

You may decide that you do not want to incorporate a private limited company in Ireland to facilitate your investment. The alternative is to make use of a company incorporated outside of Ireland, and operate in Ireland via a branch office. A branch office, in Irish law, is a branch of a foreign company that operates in Ireland and:

- has the appearance of permanency;
- has a separate management structure;
- has the ability to negotiate contracts with third parties; and
- has a reasonable degree of financial independence.

As a result of changes in EU law, domestic companies and branch offices of foreign companies must now satisfy largely similar registration requirements.

It is important to be aware that the legal regime under which companies operate in Ireland will undergo significant reform, following the introduction of the Companies Act 2014, which came into force on 1 June 2015. This new regime enhances the benefits of investing in Ireland, such as introducing the new simplified corporate vehicle of private company limited by shares.

How Do I Invest in Ireland?

What Are The Rules Governing The Ownership of Real Estate in Ireland?

Foreign investor businesses have the option of owning real estate in Ireland, if it proves to be a more attractive proposition than securing a commercial lease. Real estate can be owned either through the purchase of the freehold interest, or of a long leasehold interest. All businesses in Ireland are subject to certain restrictions on the purchase, development and occupation of real estate.

An alternative to purchasing real estate in Ireland would be to secure a commercial lease. The duration of commercial leases tend to range between five and twenty years. Recent legislative reform has brought greater flexibility to would-be occupiers of real estate. Commercial leases commonly include break clauses, facilitating an exit from the agreement if you no longer deem it viable to operate your business from the premises. Other points to note regarding commercial leases include:

- it will normally be a requirement of a lease that you, as a commercial tenant of the property, will maintain the property, and make any repairs that become necessary;
- the lease will limit what you are able to use the property for;
- if your business is placed in a development with multiple occupiers, you may be obliged to pay service charges and insurance costs in addition to the monthly rent; and
- there will likely be a provision allowing for a rent review – these can allow both for an upward or downward movement.

How Do I Invest in Ireland?

How Will My Investment Be Protected?

For many years Ireland has been focused on developing a business culture that protects businesses, and encourages investment and innovation. The intellectual property (IP) regime in Ireland has been specifically formulated to provide robust protection for businesses:

Copyright

Copyright laws provide protection against infringement of a variety of works including original databases, literary, dramatic or artistic works, film and television programming.

There is no registration requirement for your business to enjoy copyright protection: the moment a particular work is created, copyright will exist. The duration of the copyright will however depend on the type of work in question.

Design and Trademarks

Both designs and trademarks are protected where the necessary statutory criteria are satisfied. In addition to this protection, trademarks also benefit under common law. Registration may be achieved under the Irish, European or international registration frameworks.

Patents

Irish patent legislation is in keeping with comparator states. Where the requisite criteria are satisfied, patents can last for 20 years. It is possible to apply for shorter patent protection, allowing for some savings to be made by the business.

Data Protection

Ireland has a strong reputation for data protection. There is also a dedicated Data Protection Commission charged with overseeing the enforcement of data protection laws, designed to protect the data that is used by businesses.

Why Instruct Sherwin O’Riordan?

What Are The Rules Governing The Ownership of Real Estate in Ireland?

At Sherwin O’Riordan, we have a dedicated foreign investment team of solicitors that have specialist expertise in assisting businesses to relocate to Ireland. We regularly provide advice on how to establish a foothold in the country, which can be achieved through the registration of domestic companies or the operation of branch offices. We are also experienced in providing advice on seeking beneficial tax relief for investors.

We take a comprehensive view that takes into account all the specific needs of our clients. As a full service law firm, we are regularly instructed to provide legal advice in respect of building a client’s workforce, including ensuring compliance with employment laws and enforcing intellectual property interests.

Ireland ranks among the most competitive states in the world for businesses, alongside America, Japan and the UK. If you have questions about doing business in Ireland and want to speak to a lawyer that will provide you with bespoke, comprehensive legal advice, contact us today.

- it will normally be a requirement of a lease that you, as a commercial tenant of the property, will maintain the property, and make any repairs that become necessary;
- the lease will limit what you are able to use the property for;
- if your business is placed in a development with multiple occupiers, you may be obliged to pay service charges and insurance costs in addition to the monthly rent; and
- there will likely be a provision allowing for a rent review – these can allow both for an upward or downward movement.

Why Instruct Sherwin O’Riordan?

Here are some of the companies we have worked for and what we did for them:

- **Profitero** advised on US bank loan (Silicon Valley Bank) and security for multi-million dollar facility.
- **Newworld** (Brand and design agency) advised on intellectual property protection and terms and conditions of business and website.
- **MyBeatz Music** (Online music collaboration website) Private investment, share subscription and investment agreement, M&A review, IP issues, collaborated with Delaware solicitors on IP issues, EI investment.
- **Manepa** (Medical Device company) Property transactions, employment law, share purchase agreements, debt collection.
- **Steorn** (Intellectual Property Development & Software) Private investment, trust investment, M&A review, IP protection and licencing and all of its employment law issues.
- **Crossflow** Payment Solutions (Finance technology and Peer to Peer finance) Incorporation, IP licencing, SHA.
- **IC Realtime** (Software and Hardware Company in HD Camera sector) Employment law advices, supplier contracts, distribution agreements, Non disclosure agreements, T&Cs (on and off line), Property transactions.
- **CMC Platform Financials** (Finance & markets technology) Incorporation, IP licencing, SHA.
- **Marvao Medical Devices** (Medical Technology) Investment from EI and Private, IP licencing, Employment law.
- **Hephaheat Limited** (Energy Technology), Formation, M&A, IP licencing, employment law.
- **Shelbourne Hotel** (Renaissance Hotel Group) Employment advice and HR reviews.
- **SST renewables** (Solar Energy Farms and Investment Company) Share subscription and investment agreement and IP advice.

Contact Sherwin O’Riordan Business Relocation Advice

If you are considering relocating your business or setting up a branch in Ireland in order to preserve access to the single market, contact Sherwin O’Riordan for an immediate response. Expert advice will be provided from one of our foreign investment team of solicitors. A detailed assessment of the nature of your business will form part of our comprehensive approach to setting up your business to take advantage of the many positive features on offer in Ireland. Our wide range of expertise encompasses regulatory requirements, company registrations, taxation advice, employment concerns and intellectual property law. Contact us today to discuss your next steps.

