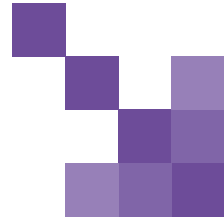


# Doing business in Grenada



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## LEGAL SYSTEM

1. What is the legal system (civil law, common law or a mixture of both)?

Grenada has a common law legal system.

## FOREIGN INVESTMENT

2. Are there any restrictions on foreign investment (including authorisations required by central or local government)?

There is little regulation of foreign investment. A foreign investor (whether a limited liability company or an individual) investing in land or real property must obtain a licence from the central government (*Aliens (Land-holding Regulation) Act*). If the licence is not obtained, any land, equity or security interest in land the foreign investor acquires can be forfeited to the state.

3. Are there any exchange control or currency regulations?

There are only minimal foreign exchange control restrictions (a substantial part of the Exchange Control Act (*Cap 93 of the 1990 Revised Laws of Grenada*) is currently suspended). However, banking and anti-money-laundering regulations can apply.

4. What grants or incentives are available to investors? Are any of these aimed specifically at foreign investors?

There are a variety of grants or incentives available to foreign investors, most of which are tax-concession based. For further information, see [www.grenadaworld.com](http://www.grenadaworld.com).

## BUSINESS VEHICLES

5. What is the most common form of business vehicle used by foreign companies to conduct business in your jurisdiction? In relation to this vehicle, please provide details on:
  - Registration formalities (including timing).
  - Minimum (and maximum) share capital.
  - Whether shares can be issued for non-cash consideration, such as assets or services (and any formalities).
  - Any restrictions on the rights that can attach to shares.
  - Any restrictions on foreign shareholders.
  - Management structure and any restrictions on foreign managers.
  - Directors' liability.
  - Parent company liability.
  - Reporting requirements (including filing of accounts) and cost of compliance.

The most common form of business vehicle used by foreign companies is a private limited liability compa-

ny, or a foreign company's branch or subsidiary (called an external company). An external company must file its constitutional information, with supporting copies, with the Registrar of Companies (Registrar).

- **Registration formalities.** A company must submit to the Registrar:
  - its articles of incorporation (or equivalent documentation);
  - specified forms detailing its registered office, directors and company secretary.

The registrar then issues a certificate of incorporation. Registration takes about ten to fifteen working days and costs US\$1,500 (about EUR1,050)

- **Share capital.** There is no maximum or minimum share capital.
- **Non-cash consideration.** Shares can be issued for non-cash consideration. No formal valuation process is required.
- **Rights attaching to shares.** Rights attaching to shares are imposed by the:
  - Companies Act 1994;
  - company's articles of incorporation;
  - shareholders' agreement (if any).
- **Foreign shareholders.** There are no restrictions on foreign shareholders.
- **Management structure.** Private companies must have a board with at least one director. There are no restrictions on foreign directors.
- **Directors' liability.** Under the Companies Act 1994 and common law, directors are personally liable for, among other things:
  - breach of their fiduciary duties to the company;
  - failing to act honestly, in good faith and in the best interests of the company;
  - not acting with due skill and care.

Minors, declared bankrupts and persons declared to be of unsound mind cannot be directors of companies.

- **Parent company liability.** Parent companies are not liable for the liabilities of their subsidiaries.
- **Reporting requirements.** A company must submit an annual return to the registrar, which costs US\$65 (about EUR45). It must file all changes to its details with the registrar, including changes to its:
  - registered office;
  - directors;
  - constitutional documents.

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## EMPLOYEES

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### 6. What are the main laws regulating employment relationships?

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The Employment Act 1999 and the Labour Act 1999, together with the common law, are the main laws regulating employment relationships.

The law applies to foreign persons working in Grenada but not to employees from Grenada working outside of Grenada.

The Employment Act sets down certain minimum requirements for employment in Grenada, such as holiday and sick leave entitlements, that cannot be contracted out of.

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### 7. Is a written contract of employment required? Are any agreements and/or implied terms likely to govern the employment relationship?

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A written contract is not required but, if requested by the employee, an employer must give them a written memorandum outlining the terms of employment. Terms can be implied into the contract by past conduct or a course of dealing between the parties. Under the common law there is an assumption that the relationship is based on mutual trust and confidence.

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### 8. Are employees entitled to management representation and/or to be consulted in relation to corporate transactions (such as redundancies and disposals)?

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Employees are not entitled to management representation, or to be consulted in relation to corporate transactions, unless given such rights by their employment contract (usually in the form of a collective bargaining or labour union agreement).

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### 9. How is the termination of individual employment contracts regulated?

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Termination of individual employment contracts is regulated by the common law and the Employment Act 1999.

There is a distinction between fair and unfair dismissal. A dismissal is unfair if it is because of an employee's:

- Race.
- Colour.
- Sex.
- Social origin.
- Religion.
- Marital status.
- Nationality.
- Disability.
- Participation in industrial action.
- Temporary absence from work because of sickness.
- Pregnancy.
- Having left a situation which he believes poses a serious threat to his life or health.

A dismissal is fair (subject to compliance with the relevant minimum notice periods for termination) if it is due to the:

- Capacity or conduct of the employee.

- Operational requirements of the business.
- Breach of contract or disciplinary rules by the employee.

There are minimum statutory notice periods for termination and minimum severance or redundancy payments.

In unfair/unjustified dismissals the remedies available to the employee include:

- Legal proceedings for:
  - damages;
  - reinstatement;
  - re-employment.
- Filing a complaint with the Labour Commissioner and Ministry of Labour, leading to mediation or arbitration proceedings.

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### 10. Are redundancies/mass layoffs regulated? If so, please give details.

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Mass layoffs are not regulated, save to the extent that the employer and an employees' labour union agree to regulate this in any collective agreement.

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### 11. Do foreign employees require work permits and/or residency permits? If so, how long does it take to obtain them and how much do they cost?

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Foreign workers must obtain work permits, with the exception of Caribbean Community and Common Market (CARICOM) nationals who qualify under the free movement of labour scheme. It takes about two months for work permits to be granted. Obtaining a work permit costs US\$1,243 (about EUR870).

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## TAX

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### 12. In relation to employees, what constitutes tax residency in your jurisdiction?

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A person is resident in Grenada for tax purposes if he is physically present in Grenada for more than 183 days in the year of assessment.

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### 13. What income tax or social security contributions must the following pay:

- Tax resident employees?
  - Non-tax resident employees?
  - Employers, in relation to their employees?
- 

#### Tax resident employees

Tax resident employees' first EC\$60,000 (about US\$22,988) of earnings is tax exempt. Thereafter there is a flat rate of 30% tax on all income. Employees must pay monthly national insurance contributions capped at EC\$120 (about US\$46).

#### Non-tax resident employees

Non-tax resident employees must pay monthly national insurance contributions, capped at EC\$120.

#### Employers

Employers must pay 5% of employees' gross salaries as its share of national insurance contributions.

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### 14. In relation to business vehicles, what constitutes tax residency in your jurisdiction?

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Business vehicles are considered tax resident in Grenada when either:

- Incorporated in Grenada.
  - Managed and controlled in Grenada.
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### 15. Please give details of the main taxes that potentially apply to a tax resident business vehicle (including rates).

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#### Corporation tax

A company is charged 30% corporation tax on its profits, irrespective of where the income is derived from.

#### Government consumption tax (GCT)

GCT is paid on the sale of goods and services. The rates are:

- Food and beverages, and hotel occupancy: 8%.
- Overseas telephone calls: 10%.
- All other services: 5%.

#### Stamp duty

Stamp duty is a transaction tax on legal instruments. The highest rate is 1.5% on the value of the consideration stated in the instrument.

#### Annual stamp tax

A company pays annual stamp tax at

- 0.25% on gross revenue between EC\$30,000 (about US\$11,494) and EC\$100,000 (US\$38,314).
- 0.5% of all gross revenue in excess of EC\$100,000.

#### Property transfer tax

Property transfer tax is payable on the sale or transfer of real property or company shares. The rates of tax, calculated on the property's market value (usually the consideration stated in the transferring instrument) are:

- Grenadian vendors: 5%.
- Non-Grenadian vendors: 15%.
- Grenadian purchasers: 0%.
- Non-Grenadian purchasers: 10%.

For investors in approved tourism developments, second and subsequent transfers of the same property are taxed at 2.5% for vendors and 2.5% for purchasers.

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### 16. How are the activities of non-tax resident business vehicles taxed?

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Profits paid out of Grenada are subject to withholding tax of 15%.

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**17. Please explain how each of the following is taxed:**

- Dividends paid to foreign corporate shareholders.
  - Dividends received from foreign companies.
  - Interest paid to foreign corporate shareholders.
  - Intellectual property (IP) royalties paid to foreign corporate shareholders.
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- **Dividends paid.** Withholding tax of 15% is charged on dividend payments.
  - **Dividends received.** Dividends received are not taxed.
  - **Interest paid.** Withholding tax of 15% is charged on interest.
  - **IP royalties paid.** Withholding tax of 15% is charged on IP royalties.
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**18. Are there any thin capitalisation rules (restrictions on loans from foreign affiliates)? If so, please give details.**

Thin capitalisation rules apply to loans to or from foreign affiliates and loans between domestic affiliates. If a domestic company is thinly capitalised, loan advances are treated as income and attract tax.

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**19. Must the profits of a foreign subsidiary be imputed to a parent company that is tax resident in your jurisdiction (controlled foreign company rules)?**

The profits of a foreign subsidiary are not imputed to a parent company that is tax resident in Grenada.

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**20. Are there any transfer pricing rules? If so, please give details.**

There are no transfer pricing rules.

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**21. How are imports and exports taxed?**

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Import and export taxes depend on whether the goods originate in CARICOM. Goods imported from outside CARICOM are subject to an additional tariff called the Common External Tariff (CET). Goods are also subject to customs and excise duties, port charges and GCT.

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**22. Is there a wide network of double tax treaties? If so, please give details.**

Grenada is signatory to a small number of double taxation treaties.

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**COMPETITION**

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**23. Are restrictive agreements and practices regulated by competition law in your jurisdiction? If so, please give brief details.**

Save for some regulation of the telecommunications industry (specifically, restrictions on a telecommunication provider's declining a connection request from another provider (*Telecommunications Act 2000*)), there is no applicable legislation addressing restrictive agreements or any other competition legislation.

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**INTELLECTUAL PROPERTY**

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**24. Please outline the main intellectual property rights that are capable of protection in your jurisdiction. In each case, please state:**

- **Nature of right.**
  - **How protected.**
  - **How enforced.**
  - **Length of protection.**
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**Patents**

- **Nature of right.** It is possible to register in Grenada:
    - independent local patents;
    - UK patents.
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To be patentable an invention must:

- be new;
- not have been publicly known or used in Grenada before the application filing date;
- involve an inventive step;
- be capable of industrial application;
- not be scandalous, or contrary to law or morality.

The owner of the patent has the exclusive right to its use and can license it to another person.

- **How protected.** Patents are protected under the:
  - Patents Act (*Cap 227, 1990 Revised Laws of Grenada*);
  - Registration of United Kingdom Patents Act (*Cap 283, 1990 Revised Laws of Grenada*);
  - Registration of United Kingdom Patents Rules (*Cap 283, 1990 Revised Laws of Grenada*).

Applications are made at the Supreme Court Patent Registry. For registration of a UK patent, the application must be made within three years of the UK patent being issued.

- **How enforced.** Local patents and registered UK patents are generally enforced through the courts. The remedies the courts can grant include injunctions, damages and accounts of profits.
- **Length of protection.** An independent local patent is valid for 14 years from the date of application. A patentee can petition the Governor General for a new patent or a term extension of up to seven years (14 years in exceptional cases).

A registered UK patent remains in force in Grenada for as long as the underlying UK registration remains in force. Registration is for a maximum of twenty years, provided that renewal fees are paid annually from the fifth year after filing.

## Trade marks

- **Nature of right.** Trade marks can be either registered or unregistered. The owner of a trade mark enjoys the exclusive right to its use and can license it to others. The owner can prevent others from using his mark where such use causes damage to the mark or confusion among consumers. Only trade marks registered in the UK can be registered in Grenada. They can be applied for at any time during the existence of the basic UK registration. The applicant can be the registered owner of the UK registration or any person deriving his right from the registered owner.
- **How protected.** Unregistered trade marks are protected by common law principles and the Merchandise Marks Act (*Cap 192, 1990 Revised Laws of Grenada*). Registered trade marks are protected under the:
  - Merchandise Marks Act;
  - Registration of UK Trade Marks Act (*Cap 284, 1990 Revised Laws of Grenada*);
  - Registration of UK Trade Marks Rules (*Cap 284, 1990 Revised Laws of Grenada*).

Registration is made by filing at the Supreme Court Trade Mark Registry an application from the trade mark owner or its agent as appointed for such purpose together with a certified copy of the UK registration certificate.

- **How enforced.** The trade mark owner is entitled to enforce his rights through the courts. The owner of an unregistered trademark must rely on the common law action of passing off. Registration gives owners the same rights and privileges as would be available under UK law and allows the courts to impose injunctions, damages and accounts of profits.
- **Length of protection.** A registered trade mark is valid in Grenada for the unexpired term of the basic UK registration (in the UK protection is indefinite, subject to renewal every ten years). On renewal of the UK registration the corresponding registration in Grenada must be renewed within six months. Failure to renew the Grenada registration leads to its cancellation.

## Registered designs

- **Nature of right.** Designs registered in the UK are protected in Grenada.
- **How protected.** Protection is through filing a proof of certificate of registration in the UK.
- **How enforced.** Enforcement is by the courts, who can impose injunctions or an award of damages.
- **Length of protection.** Registration in Grenada is valid as long as the registration valid in the UK.

## Copyright

- **Nature of right.** Copyright is a right granted to protect works resulting from an author's own intellectual creation and protects the expression of an idea. To qualify for protection, the work must be original and recorded. The works protected include:
  - literary, dramatic, musical or artistic works;
  - sound recordings, films or broadcasts.

When a work qualifies for copyright protection exclusive moral and economic rights arise for the owner. Moral rights are non-alienable but are assignable and include the right to:

- be identified as the author or director of the work;
- object to derogatory treatment of the work;
- not have work falsely attributed to him.

Economic rights concern the commercial exploitation of works. The owner of the copyright has the exclusive right to (or to authorise others to):

- copy/reproduce the work;
- perform, show or play the work publicly;
- publish the work;
- distribute the work;
- adapt the work;
- communicate by cable and broadcast the work or any part of it.

- **How protected.** Protection is under the Copyright Act (*Cap 67, 1990 Revised Laws of Grenada*). There are no formal requirements for the protection of works in Grenada. Protection automatically begins on the work's creation.
- **How enforced.** The author of a work is the first owner of the copyright in a work, unless there is an agreement to the contrary. The first owner is entitled to enforce the copyright rights but can transfer, assign or license his rights to someone else. An infringement of the copyright owner's rights is actionable as a breach of a statutory duty and can result in an award of damages or an account of profits. The owner may also have remedies under contract, defamation, passing off, injurious falsehood and other economic torts.
- **Length of protection.** Copyright in literary, dramatic, musical and artistic works lasts for the lifetime of the author plus 50 years after his or her death.

## Confidential information

- **Nature of right.** Confidential information is not protected by statute but can be protected by common law principles where it is communicated in circumstances importing an obligation of confidence.
- **How protected.** Protection is through the courts.
- **How enforced.** The right holder can bring an action for damages for breach of confidence, breach of contract or in equity.
- **Length of protection.** There is no fixed term of protection; the information is protected long as it remains confidential.

## MARKETING AGREEMENTS

**25. Are marketing agreements regulated in your jurisdiction? If so, please give brief details in respect of the following arrangements:**

- **Agency.**
- **Distribution.**
- **Franchising.**

- **Agency.** There is no legislation regulating agency agreements in Grenada. The law is based on common law principles arising from the relationship of principal and agent.

- **Distribution.** There is no legislation regulating distribution agreements.
- **Franchising.** There is no legislation regulating franchising agreements.

## E-COMMERCE

### 26. Are there any laws regulating e-commerce (such as electronic signatures and distance selling)? If so, please give brief details.

There is no legislation regulating e-commerce or distance selling, but some common law principles can apply, such as whether an electronic signature is sufficient to execute a document.

## DATA PROTECTION

### 27. Are there any data protection laws? If so, please give brief details.

There are no data protection laws in place, apart from some applicable common law principles regarding confidential information.

## PRODUCT LIABILITY

### 28. Are there any laws regulating product liability and product safety? If so, please give brief details.

There is no legislation regulating product liability and product safety but common law negligence principles apply.

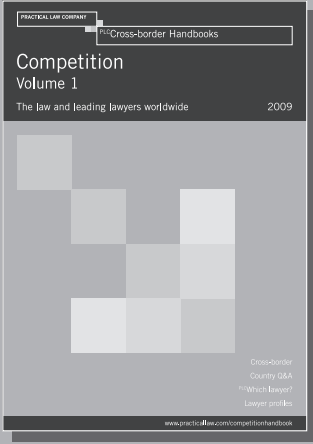
The guiding principle is that the buyer purchases at his own risk. However, a manufacturer or distributor is liable in negligence if it breaches its duty of care by selling a defective product which, when used in the manner intended, causes damage or harm. The onus is on the consumer to establish that the manufacturer or distributor breached its duty of care.

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