

# ARE YOU COMPLIANT WITH THE LAW? ONE THING TO CHECK THIS MONTH ...

By **Tessa Shepperson** of **Landlord Law**

**M**uch of the content of this magazine is about the business of investing and developing property to rent. However, sometimes people overlook the legal rules and regulations which landlords need to comply with.

Renting property to tenants is heavily regulated. Many of these regulations carry substantial penalties for non-compliance. So, your earnings as an investor are dependent not only on your savvy investment skills but also on legal compliance to avoid fines and penalties.

Every month, we will be looking at one issue where, if you fail to comply, could cause you financial loss.

This month's topic is:

## Complying with company law rules

More and more landlords are buying property through a limited company or are setting up a limited company and transferring their properties over to that company.

If you are running your property business through a limited company, there are a number of important rules that you need to comply with. Failure to do this will result in the company and its directors being guilty of an offence and potentially liable on summary conviction to a fine. They can also occasionally result in the company being 'struck off'.

Let's take a look at what you need to do:

## Confirmation statement and annual accounts

These need to be done annually. The 'confirmation statement' involves completing an online form either confirming that the information Companies House holds about your company (eg names or directors) is correct, or notifying them of any changes.

You also need to file your annual accounts every year, which is normally done online now.

If you use accountants, you can delegate this work to them. You can also sign up for email reminders at Companies House (now part of the gov.uk website).

## Company information and documents

All companies must provide information, such as the company name, at the registered office address and wherever the business operates.



For example, you can comply with this by having a framed copy of the company certificate of incorporation hanging in your office.

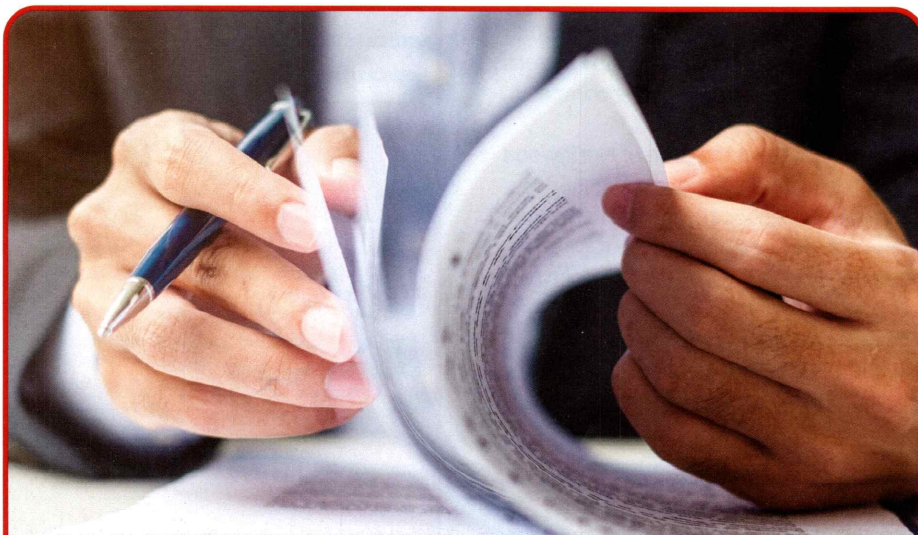
You will also need to provide the following information on all your stationery (including emails), all company documents (including forms and receipts), and all publicity, including your website:

- the company's registered number
- its registered office address
- where the company is registered (England and Wales, Scotland or Northern Ireland)
- the fact that it's a limited company (usually by spelling out the company's full name including 'Limited' or 'Ltd')

You don't have to provide the director's names with this information but if you do, you must include all of them.

For example:

- Make sure your email footer includes this information (it can be in small font)
- Include this information on all your company stationery – for example, it can be automatically added in a Word document footer text
- Make sure that all your tenancy documents, including tenancy agreements, give the company name and registered office rather than the name and address of the directors





## Something to be aware of

Landlords often assume that running their business through a limited company has no downsides (apart from the additional paperwork and bureaucracy). However, note that you will no longer be able to take advantage of the consumer protection rules as a company cannot be classed as a consumer.

For example, many landlords will be classed as consumers vis a vis dealings with their letting agent, and may be able to call on the consumer protection legislation if their agency agreement includes 'unfair terms' for example as regards continuing commission, or unfair termination clauses.

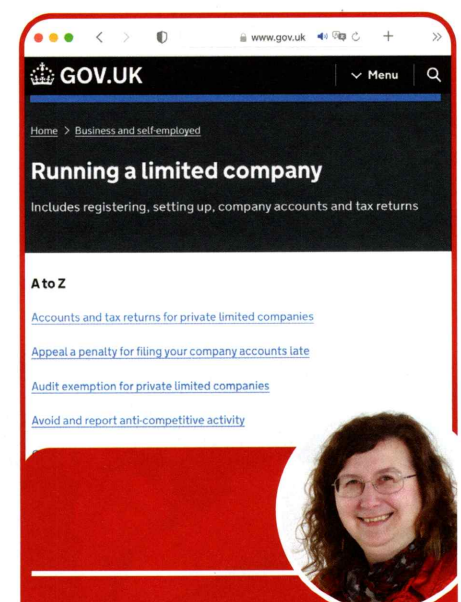
But not if they run their property business through a limited company!

## And finally

Prosecutions are normally carried out by Companies House, and the vast majority of these are for failure to file accounts and confirmation statements.

However, you should still aim to comply with all the other disclosure rules and run your company in a proper and professional manner.

You will find further guidance on running a limited company on the gov.uk website at <https://www.gov.uk/browse/business/limited-company>



*Tessa Shepperson*

Tessa is a specialist landlord and tenant solicitor and author of [www.landlordlaw.co.uk](http://www.landlordlaw.co.uk) and [lodgerlandlord.co.uk](http://lodgerlandlord.co.uk).

## What should you do if you are transferring a property from your ownership to your company?

Under Section 3 of the Landlord & Tenant Act 1985, you must notify tenants of any new landlord (which will be the company in this case), the landlord's address (which will be the company registered office address) and any changed arrangements for the payment of rent. For example, you may have set up a new company bank account.

Failure to do this is a criminal offence. A 'Section 3 notice' has no standard format and can be sent by letter or email.

Once you have done this, there is no need to get tenants to sign a new tenancy agreement immediately. Just keep a copy of the Section 3 notice sent and be sure to give the company name and address in any renewal forms or tenancy agreements.

## Signature of documents

All company documents must be signed in accordance with Section 44 of the Companies Act 2006. This provides that formal documents must be signed:

- by two authorised signatories, or
- by a director of the company in the presence of a witness who attests the signature.

'Authorised signatories' means:

- every director of the company, and
- in the case of a private company with a secretary or a public company, the secretary (or any joint secretary) of the company.

However, note that the case of *Northwood v. Fearn* provided that possession notices and tenancy deposit prescribed information forms can be signed by an agent without compliance with the Companies Act rules.

The possession notice in the case was a Section 8 notice, but it is generally assumed that the case will also cover Section 21 notices.