

Companies Act 2006



Companies House
— for the record —

late filing penalties

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Is this guidance for you?

This guide will be relevant to you if:

- you are a director or secretary of a company
- you act as an adviser to a company

- Chapter 1.** Late filing penalties explained
- Chapter 2.** How to avoid late filing penalties
- Chapter 3.** Once a penalty has been imposed?
- Chapter 4.** Late filing penalty appeals
- Chapter 5.** Quality of Documents
- Chapter 6.** Further Information

This is a guide only and should be read in conjunction with the relevant legislation.

Introduction

This guide applies to all private and public companies registered in the United Kingdom (UK) i.e. England, Wales, Scotland and Northern Ireland. It explains how a late filing penalty will be imposed against the company if its accounts are not filed by the filing deadline. It will also tell you how to appeal if a late filing penalty has already been imposed.

For the purposes of this guide the main legislation that applies to UK companies is:

- The Companies (Late Filing Penalties) and Limited Liability Partnerships (Filing Periods and Late Filing Penalties) Regulations 2008 (SI2008/497) and
- Companies Act 2006.

This guide includes a number of terms which have the following meanings:

Financial year – the financial year is usually a 12 month period for which you must prepare accounts and reports. Financial years are determined by reference to an accounting reference period. The accounting reference period ends on the accounting reference date or a date up to seven days either side of it, if this is more convenient.

Accounting reference date - For all new companies, the legislation sets the first accounting reference date as the first anniversary of the last day in the month in which the company was incorporated. The subsequent accounting reference dates will automatically be on the same date each year. For example, if the company was incorporated on 6 April 2008 its first accounting reference date would be 30 April 2009 and 30 April for every year thereafter.

Filing deadline – this the last date that your accounts must reach Companies House.

For further information on accounts and accounting reference dates please see our Life of a Company Part 1 – Annual Requirements guide.

Chapter 1

Late filing penalties explained

1. What are late filing penalties?

Late filing penalties were introduced in 1992 to encourage directors of companies to file their accounts and reports on time, because this information is required for the public record. All companies - private or public, large or small, trading or non-trading must send their accounts and reports to Companies House every year. If you submit company accounts and reports late, the law imposes an automatic penalty.

The period allowed for filing your company's accounts depends on whether you are filing your first accounts since incorporation or subsequent accounts:

Your first accounts

If your company's first accounts cover a period of more than 12 months, you must deliver them to Companies House within 21 months of the date of incorporation for private companies and within 18 months for public companies, or 3 months from the accounting reference date, whichever is the longer.

Please see our 'Life of a Company Part 1 – Annual Requirements' guide for more information.

Subsequent Accounts

In subsequent years, a private company has 9 months from the end of the accounting reference period in which to deliver its accounts. A public company has 6 months. However if you change the accounting reference period the filing time may be reduced. Further information on accounting reference dates and the filing deadline is in our 'Life of a Company Part 1 – Annual Requirements' guide. If you are a director of the company you are personally responsible for ensuring you deliver your accounts before the time allowed runs out. Delivery means actual receipt at Companies House in the correct format. If the accounts are late a penalty is automatically imposed.

2. How much are late filing penalties?

The level of the penalty depends on how late the accounts reach Companies House and is shown in the following table.

Length of period (measured from the date the accounts are due)	Penalty	Penalty
	Private company	Public company
Not more than 1 month	£150	£750
More than 1 month but not more than 3 months	£375	£1,500
More than 3 months but not more than 6 months	£750	£3,000
More than 6 months	£1,500	£7,500

For example a private company's set of acceptable accounts for the accounting period ending 30 September 2009 would need to be delivered by 30 June 2010 to avoid a late filing penalty. If they were not delivered to Companies House until 15 July 2010 the company will incur a late filing penalty of £150.

The penalties will be doubled if a company files its accounts late in 2 successive financial years beginning on or after 6 April 2008. This means that if a private company, has an accounting reference date of 30 September and the accounts for the period ending 30 September 2009 were delivered late and you delivered accounts for the subsequent period ending 30 September 2010 late, then you would incur a £300 late filing penalty.

3. Are late filing penalties the same as fines imposed on company directors for non-filing of annual returns and accounts?

No. They are entirely different. Failure to file accounts or annual returns is a criminal offence which can result in directors being fined personally in the criminal courts. The registrar may also take steps to strike the company off the public record. Your company could receive a late filing penalty and as a director, you could incur a fine for the same set of accounts if you do not file them on time. Failure to pay a late filing penalty can result in enforcement proceedings.

Chapter 2

How to avoid late filing penalties

1. How can I avoid a penalty?

Allow enough time to ensure that your accounts reach Companies House within the period allowed (see chapter 1, question 1). If a filing deadline expires on a Sunday or Bank Holiday the law still requires accounts to be filed by the due date.

Please note: First class post does not guarantee next day delivery, so please consider using guaranteed methods of delivery to ensure your accounts arrive on time, especially if your filing deadline is near.

To help you file on time:

- mark your diary or calendar to remind you in good time of the filing deadline(s);
- read the filing reminders we send to your registered office;
- if appropriate, instruct your accountants in good time and remind them of the need to prepare and deliver your accounts on time.

Please note: If you have any doubts about the deadline you can check when your accounts are due using our WebCHECK service.

2. How do I deliver accounts to Companies House?

Details of the addresses of our information centres can be found on our website which also includes street maps and travel information. You can also deliver your accounts using our safe and secure online services details of which, including how to register, can be found on our website. Further information on filing statutory documents can be found in Chapter 6.

3. Can I extend the time allowed for delivering the accounts?

You should take appropriate measures to ensure your accounts are filed on time. However, if, before the filing deadline, there is a special reason, such as an unforeseen event why the accounts might be filed late, you may make an application

to extend the period allowed for filing to Companies House.

Please note, an extension will only be granted if the reasons are exceptional. You will find more information on this in our Life of a Company Part 1 – Annual Requirements guide.

4. What if Companies House rejects my accounts as incorrect?

We cannot accept accounts until they meet the requirements of the Companies Act. If, for example, the balance sheet is not signed, we will return them for amendment. If you file the corrected accounts late the company will receive a late filing penalty. To avoid this possibility we recommend that you deliver accounts as soon as they are complete and as far as possible in advance of the last date for delivery.

Chapter 3

Once a penalty has been imposed.

1. How will I know when a penalty has been imposed?

If you deliver your accounts late, we will automatically issue a penalty notice to the registered office address.

2. What is a penalty notice?

The penalty notice gives details of the penalty/penalties imposed against the company. It shows the last date for filing, the date of filing of the accounts and the level of the penalty imposed.

3. How do I pay the penalty?

Information on how to pay the penalty is enclosed with the penalty notice.

4. What happens if I do not pay the penalty?

If you do not pay the penalty, we will ask our debt collectors to take action. Ultimately the matter will be decided in the County Court or Sheriff Court where you will have the opportunity to file a defence. You may wish to consider seeking professional advice because we may seek to recover our legal costs if the court finds in favour of the registrar.

5. What happens if I restore a company to the register?

If you restore a company to the register after it has been struck off and dissolved it will not be required to pay penalties that became due during the period it was dissolved. However, it will need to pay:

- unpaid penalties outstanding on accounts delivered late before the company was dissolved; and

- penalties due for accounts delivered on restoration, if the accounts were overdue at the date the company was dissolved;

Further information about restoration is included in our 'Strike off, Dissolution and Restoration' guide.

Chapter 4

Late filing penalty appeals

1. Can I appeal?

You may appeal against a penalty, but it will only be successful if you can show that the circumstances are exceptional.

2. What is exceptional?

The registrar has very limited discretion not to collect a penalty. It may be applied when an unforeseen catastrophe strikes a company at a critical time. This might include, for example, a fire destroying records a few days before the filing deadline.

3. What is not exceptional?

The registrar cannot consider an appeal in the following circumstances as they are outside his discretion:

- your company is dormant;
- you cannot afford to pay;
- your accountant was ill;
- you relied on your accountant;
- these are your first accounts;
- you are not familiar with the filing requirements;
- your company or its directors have financial difficulties (including bankruptcy);
- your accounts were delayed or lost in the post;
- the directors live or were travelling overseas;
- another director is responsible for preparing the accounts.

4. Do I still want to appeal?

If, after reading the above, you still wish to appeal, you must do so in writing and address your letter to the address shown on the front page of the penalty notice. We will normally reply within 10 working days and will suspend recovery action while we are considering your appeal.

5. What happens if my appeal is rejected?

If your appeal is rejected you can write to the senior appeals manager, Late Filing Penalties Department at the appropriate office in Cardiff, Edinburgh or Belfast.

If the senior appeals manager upholds the penalty, you can ask for the Independent Adjudicator to review your case. All communication with the adjudicator must be in writing. Please do not write to the adjudicator until you have heard from the senior appeals manager. Further information about the adjudicator can be found on our website.

Please note: Parliament decided that discretion resides solely with the registrar. The registrar's discretion is limited and the adjudicator cannot force him to reverse his decision to collect a penalty.

6. Can I pay the penalty by instalments?

Yes. If you have difficulty in paying the penalty outright then we will normally accept payment by monthly instalments. These are usually over 4 months and exceptionally over 10 months, depending on the amount you have to pay. You must make any request to pay by instalments in writing and explain why you cannot pay the penalty immediately.

Chapter 5 Quality of documents

1. What happens to the documents I send to Companies House?

We scan the documents and forms you deliver to us to produce an electronic image. We then store the original, paper documents and use the electronic image as the working document.

When a customer searches the company record, they see the electronic image reproduced on-line. So it is important not only that the original is legible, but that it can also produce a clear copy.

When you file a document electronically, we automatically create an electronic image from the data you have provided us with.

This chapter sets out some guidelines to follow when preparing a document for filing at Companies House.

2. How should I set out documents?

Documents filed electronically

Documents filed electronically must comply with the specifications set out by the registrar in his rules on electronic filing. The formats for software filing are contained in the rules published on the website, and our website contains all the formats you will need to file via that method.

Paper documents

Generally, every paper document sent to Companies House must state in a prominent position the registered name and number of the company. There are a few exceptions to this rule, which are set out in the published registrar's rules, which can be found on our website.

Paper documents should be on A4 size, plain white paper with a matt finish. The text should be black, clear, legible, and of uniform density. Letters and numbers must be clear and legible so that we can make an acceptable copy of the document. The following guidelines may help:

When you fill in a form please:

- use black ink or black type;
- use bold lettering (some elegant thin typefaces and pens give poor quality copies);
- don't send a carbon copy;
- don't use a dot matrix printer;
- remember - photocopies can result in a grey shade that will not scan well.

When you complete other documents, please remember:

- the points already made relating to completing forms;
- to use A4 size paper with a good margin;
- to supply them in portrait format (that is with the shorter edge across the top);
and
- to include the company number and name.

3. Where can I find out more about this?

For further guidance on print requirements please visit our website

Chapter 6 Further Information

1. How do I deliver information to Companies House?

For full details of all the ways of sending documents to Companies House, electronically or on paper, please refer to the registrar's rules which appear on our website. The safest and most secure way to file statutory information is to use our online filing services. For more information and registration details please visit our website.

If you are delivering documents by post, courier, Document Exchange Service (DX) or Legal Post (in Scotland) 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 any statutory documents by fax, PDF or by email.

2. Do I have to pay to file documents at Companies House?

You do not have to pay a fee for many of the documents that you have to send to Companies House, **but some do require a fee and we will not accept them for registration without it.** For full details you should refer to our website.

3. Can I file documents in other languages?

As a general rule the law requires that you deliver documents to Companies House in English. There are exceptions as detailed below. You can draw up and deliver documents in Welsh if you are a company with its registered office situated in Wales.

Companies can deliver the following documents in other languages if the document is accompanied by a certified translation into English:

- Resolutions and agreements affecting a company's constitution;
- For companies included in accounts of larger EEA (European Economic Area) groups, the group accounts and parent undertaking's annual report;
- For companies included in accounts of larger non-EEA groups, the group accounts and, where appropriate, the consolidated annual report;
- Charge instruments (or copy charge instruments);
- Valuation report required to be delivered to the registrar under section 94(2)(d) of the Act;

- Articles of association; Memorandum of association; and
- Court orders.

In addition companies may also file voluntary certified translations of any document subject to the First Company Law Directive disclosure requirements. These are:

- Constitutional documents such as the memorandum and articles of association;
- Directors appointments, changes in particulars or terminations; Accounts, reports and annual returns; Notification of any change in a company's registered office; Winding up documents; Share capital documents (public companies only); Documents relating to mergers and divisions (public companies only); and Documents relating to overseas companies.

The voluntary translation must relate to a document delivered to Companies House on or after 1 January 2007. Voluntary translations can only be filed in an official language of the European Union and must be accompanied by Form VT01 which will link the translation to the original document.

4. Where do I get forms and guides?

This is one in a series of Companies House publications which provides a simple guide to the Companies Act.

All statutory forms and guides are available, free of charge from Companies House. The quickest way to get them is on our website or by telephoning 0303 1234 500.

You can also obtain forms from company law stationers, accountants, solicitors and formation agents.

how to contact us

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contact centre: **0303 1234 500**

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

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