

Transposition table for the Late Payment of Commercial Debts (Scotland) Regulations 2013 (showing the transposition of previously unimplemented provisions of Directive 2011/7/EU)

Article	Purpose	Implementation
1	<u>Subject matter and scope</u>	No action required.
2	<u>Definitions</u>	Substantively the same as definitions in Directive 2000/35/EC. No action required.
3	<u>Transactions between undertakings</u>	Articles 3 and 4 of Directive 2011/7/EU (“ the Directive ”) are to be implemented by Regulation 2: Regulation 2(2) implements Article 4(3)(a) (except 4(3)(a)(iv)) by inserting s.4(3A) into the Late Payment of Commercial Debts (Interest) Act 1998 (“ the Act ”). This provides that where the purchaser is a public authority and a date for payment has been agreed (the latter by reference to s.4(3) of the Act), the payment period cannot exceed 30 days (Article 4(3)(a)). The payment period is limited to 30 days by reference to s.4(5).
4	<u>Transactions between undertakings and public authorities</u>	Regulation 2(2) also implements Articles 3(3)(a) and 3(5) by inserting ss.4(3B) and (3C) into the Act. This provides that where the purchaser is not a public authority and a date for payment has been agreed (the latter by reference to s.4(3) of the Act), the payment period cannot exceed 60 days unless agreed and not grossly unfair to the creditor. Regulations 2(3) and 2(4) implement Article 3(4) and 4(4) by inserting new ss.4(5)(c) and 4(5A) to (5D) into the Act. Regulation 2(5) defines “grossly unfair”: the wording is largely imported from the Directive and is limited to the defined subsections. Regulation 2(6) defines “public authority” by referring to the definition found in the Public Contracts (Scotland) Regulations 2012 (SSI 2012/88) that implement Directive 2004/18/EC.

		No further action required for the remaining provisions.
5	<u>Payment schedules</u>	Section 3 of the Act makes the same provision. No further action required.
6	<u>Compensation for recovery costs</u>	With the exception of Article 6(3), section 5A of the Act makes the same provision. Regulation 3 implements Article 6(3) by inserting s.5A(2A) and allows creditors to recover their reasonable costs in excess of the fixed sum to which they are entitled.
7	<u>Unfair contractual terms and practices</u>	Article 7(3) is implemented by inserting ss.5A(4) and (5). Other than that specified above, sections 8 and 14 of the Act and the general law are to the same effect. No further action required.
8	<u>Transparency and awareness raising</u>	No action required.
9	<u>Retention of title</u>	Substantively the same as Article 4 of Directive 2000/35/EC, no action required.
10	<u>Recovery procedures for unchallenged claims</u>	Substantively the same as Article 5 of Directive 2000/35/EC, no action required.
11	<u>Report</u>	No action required.
12	<u>Transposition</u>	Deadline to be met. No further action required.
13	<u>Repeal</u>	No action required.
14	<u>Entry into force</u>	No action required.
15	<u>Addressees</u>	No action required.

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