



Late Payment of Commercial Debts (Interest) Act 1998

1998 CHAPTER 20

PART I

STATUTORY INTEREST ON QUALIFYING DEBTS

4 Period for which statutory interest runs.

- (1) Statutory interest runs in relation to a qualifying debt in accordance with this section (unless section 5 applies).
- (2) Statutory interest starts to run on the day after the relevant day for the debt, at the rate prevailing under section 6 at the end of the relevant day.
- (3) Where the supplier and the purchaser agree a date for payment of the debt (that is, the day on which the debt is to be created by the contract), that is the relevant day unless the debt relates to an obligation to make an advance payment.

A date so agreed may be a fixed one or may depend on the happening of an event or the failure of an event to happen.

[^{F1}(3A) If, in a case where the purchaser is a public authority, the relevant day under subsection (3) would (but for this subsection) be later than the day which would be the relevant day if subsection (5) applied, it is to be treated for the purposes of subsection (3) as being the day which would be the relevant day if subsection (5) applied.

(3B) If, in a case where the purchaser is not a public authority, the relevant day under subsection (3) would (but for this subsection) be more than 30 days after the day which would be the relevant day if subsection (5) applied, it is to be treated for the purposes of subsection (3) as being the day which is 30 days after the day which would be the relevant day if subsection (5) applied.

(3C) Subsection (3B) does not apply if—

Status: Point in time view as at 16/03/2013. This version of this provision has been superseded.

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- (a) the supplier and the purchaser expressly agree in the contract a date for payment of the debt that is later than the day which would otherwise be the relevant day by virtue of that subsection, and
 - (b) that later date is not grossly unfair to the supplier (see subsection (7A)).]
- (4) Where the debt relates to an obligation to make an advance payment, the relevant day is the day on which the debt is treated by section 11 as having been created.
- (5) In any other case, the relevant day is the last day of the period of 30 days beginning with—
- (a) the day on which the obligation of the supplier to which the debt relates is performed; [^{F2}or]
 - (b) the day on which the purchaser has notice of the amount of the debt or (where that amount is unascertained) the sum which the supplier claims is the amount of the debt, [^{F3}; or
 - (c) where subsection (5A) applies, the day determined under subsection (5B).]
- whichever is the later.
- [^{F4}(5A) This subsection applies where—
- (a) there is a procedure of acceptance or verification (whether provided for by an enactment or by the contract), under which the conforming of goods or services with the contract is to be ascertained, and
 - (b) the purchaser has notice of the amount of the debt on or before the day on which the procedure is completed.
- (5B) For the purposes of subsection (5)(c), the day in question is the day which is 30 days after the day on which the procedure is completed.
- (5C) Where, in a case where subsection (5A) applies, the procedure in question is completed after the end of the period of 30 days beginning with the day on which the obligation of the supplier to which the debt relates is performed, the procedure is to be treated for the purposes of subsection (5B) as being completed immediately after the end of that period.
- (5D) Subsection (5C) does not apply if—
- (a) the supplier and the purchaser expressly agree in the contract a period for completing the procedure in question that is longer than the period mentioned in that subsection, and
 - (b) that longer period is not grossly unfair to the supplier (see subsection (7A)).]
- (6) Where the debt is created by virtue of an obligation to pay a sum due in respect of a period of hire of goods, subsection (5)(a) has effect as if it referred to the last day of that period.
- (7) Statutory interest ceases to run when the interest would cease to run if it were carried under an express contract term.
- [^{F5}(7A) In determining for the purposes of subsection (3C) or (5D) whether something is grossly unfair, all circumstances of the case shall be considered; and for that purpose, the circumstances of the case include in particular—
- (a) anything that is a gross deviation from good commercial practice and contrary to good faith and fair dealing,
 - (b) the nature of the goods or services in question, and

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- (c) whether the purchaser has any objective reason to deviate from the result which is provided for by subsection (3B) or (5C).]
- (8) [^{F6}In this section—
- “advance payment” has the same meaning as in section 11;
 - “enactment” includes an enactment contained in subordinate legislation (within the meaning of the Interpretation Act 1978);
 - “public authority” means a contracting authority (within the meaning of regulation 3 of the Public Contracts Regulations 2006).]

Textual Amendments

- F1** S. 4(3A)-(3C) inserted (E.W. N.I.) (16.3.2013) by [The Late Payment of Commercial Debts Regulations 2013 \(S.I. 2013/395\)](#) , regs. 1(1) , **2(2)** (with reg. 1(3))
- F2** Word in s. 4(5) omitted (E.W. N.I.) (16.3.2013) by virtue of [The Late Payment of Commercial Debts Regulations 2013 \(S.I. 2013/395\)](#) , regs. 1(1) , **2(3)(a)** (with reg. 1(3))
- F3** S. 4(5)(c) and word inserted (E.W. N.I.) (16.3.2013) by [The Late Payment of Commercial Debts Regulations 2013 \(S.I. 2013/395\)](#) , regs. 1(1) , **2(3)(b)** (with reg. 1(3))
- F4** S. 4(5A)-(5D) inserted (E.W. N.I.) (16.3.2013) by [The Late Payment of Commercial Debts Regulations 2013 \(S.I. 2013/395\)](#) , regs. 1(1) , **2(4)** (with reg. 1(3))
- F5** S. 4(7A) inserted (E.W. N.I.) (16.3.2013) by [The Late Payment of Commercial Debts Regulations 2013 \(S.I. 2013/395\)](#) , regs. 1(1) , **2(5)** (with reg. 1(3))
- F6** S. 4(8) substituted (E.W. N.I.) (16.3.2013) by [The Late Payment of Commercial Debts Regulations 2013 \(S.I. 2013/395\)](#) , regs. 1(1) , **2(6)** (with reg. 1(3))

Commencement Information

- I1** S. 4 fully in force; s. 4 not in force at Royal Assent see s. 17(2) ; s. 4 in force for specified purposes: at 1.11.1998 by [S.I. 1998/2479](#) , **art. 3** ; at 1.7.1999 by [S.I. 1999/1816](#) , **art. 3** ; at 1.9.2000 by [S.I. 2000/2225](#) , **art. 3(1)** , **Sch.** ; at 1.11.2000 by [S.I. 2000/2740](#) , **art. 3(1)** ; S. 4 in force (E. W. NI.) in so far as not already in force at 7.8.2002 by [S.I. 2002/1673](#) , **art. 2** ; S. 4 in force (S.) in so far as not already in force at 7.8.2002 by [S.S.I. 2002/337](#) , **art. 2**

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