



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.

[^{F1}(2A) The relevant day for a debt is—

- (a) where there is an agreed payment day, that day, unless a different day is given by subsection (2D), (2E) or (2G);
- (b) where there is not an agreed payment day, the last day of the relevant 30-day period.

(2B) An “agreed payment day” is a date agreed between the supplier and the purchaser for payment of the debt (that is, the day on which the debt is to be created by the contract).

(2C) A date agreed for payment of a debt may be a fixed date or may depend on the happening of an event or the failure of an event to happen.

(2D) Where—

- (a) the purchaser is a public authority, and
- (b) the last day of the relevant 30-day period falls earlier than the agreed payment day,

the relevant day is the last day of the relevant 30-day period, unless subsection (2G) applies.

(2E) Where—

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- (a) the purchaser is not a public authority, and
- (b) the last day of the relevant 60-day period falls earlier than the agreed payment day,

the relevant day is the last day of the relevant 60-day period, unless subsection (2G) applies.

(2F) But subsection (2E) does not apply (and so the relevant day is the agreed payment day, unless subsection (2G) applies) if the agreed payment day is not grossly unfair to the supplier (see subsection (7A)).

(2G) 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 (instead of the agreed payment day or the day given by subsection (2D) or (2E)).

(2H) “The relevant 30-day period” is the period of 30 days beginning with the later or latest of—

- (a) the day on which the obligation of the supplier to which the debt relates is performed;
- (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;
- (c) where subsection (5A) applies, the day determined under subsection (5B).

(2I) “The relevant 60-day period” is the period of 60 days beginning with the later or latest of—

- (a) the day on which the obligation of the supplier to which the debt relates is performed;
- (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;
- (c) where subsection (5A) applies, the day determined under subsection (5B).]

^{F2}(3)

^{F2}[^{F3}(3A)

^{F2}(3B)

^{F2}(3C)]

^{F2}(4)

^{F2}(5)

[^{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 [^{F5} subsections (2H)(c) and (2I)(c)], the day in question is the day ^{F6}... after the day on which the procedure is completed.

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(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, [F7 subsections (2H)(a) and (2I)(a) have effect as if they] 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.

[F8(7A) In determining for the purposes of subsection [F9(2F)] 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
- (c) whether the purchaser has any objective reason to deviate from the result which is provided for by subsection [F10(2E)] or (5C).]

(8) [F11In this section—

“advance payment” has the same meaning as in section 11;

“enactment” has the same meaning as in section 126(1) of the Scotland Act 1998;

“public authority” means a contracting authority (within the meaning of [F12regulation 2(1) of the Public Contracts (Scotland) Regulations 2015].]

[F13In 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 [F14regulation 2(1) of the Public Contracts Regulations 2015].]

Textual Amendments

F1 S. 4(2A)-(2I) inserted (21.6.2015 for E.W. N.I. and 27.6.2015 for S.) by [The Late Payment of Commercial Debts \(Amendment\) Regulations 2015 \(S.I. 2015/1336\)](#), regs. 1(1), **2(2)** (with reg. 1(3)); [The Late Payment of Commercial Debts \(Scotland\) Regulations 2015 \(S.S.I. 2015/226\)](#), regs. 1(1), **2(2)** (with reg. 1(3))

F2 S. 4(3)-(5) omitted (21.6.2015 for E.W. N.I. and 27.6.2015 for S.) by virtue of [The Late Payment of Commercial Debts \(Amendment\) Regulations 2015 \(S.I. 2015/1336\)](#), regs. 1(1), 2(3) (with reg. 1(3)); [The Late Payment of Commercial Debts \(Scotland\) Regulations 2015 \(S.S.I. 2015/226\)](#), regs. 1(1), 2(3) (with reg. 1(3))

Changes to legislation: There are currently no known outstanding effects for the Late Payment of Commercial Debts (Interest) Act 1998, Section 4. (See end of Document for details)

- F3** S. 4(3A)-(3C) inserted (16.3.2013 for E.W. N.I. and 29.3.2013 for S.) by The Late Payment of Commercial Debts Regulations 2013 (S.I. 2013/395) , regs. 1(1) , **2(2)** (with reg. 1(3)); The Late Payment of Commercial Debts (Scotland) Regulations 2013 (S.S.I. 2013/77), regs. 1(1), **2(2)** (with reg. 1(3))
- F4** S. 4(5A)-(5D) inserted (16.3.2013 for E.W. N.I. and 29.3.2013 for S.) by The Late Payment of Commercial Debts Regulations 2013 (S.I. 2013/395) , regs. 1(1) , **2(4)** (with reg. 1(3)); The Late Payment of Commercial Debts (Scotland) Regulations 2013 (S.S.I. 2013/77), regs. 1(1), **2(4)** (with reg. 1(3))
- F5** Words in s. 4(5B) substituted (21.6.2015 for E.W. N.I. and 27.6.2015 for S.) by The Late Payment of Commercial Debts (Amendment) Regulations 2015 (S.I. 2015/1336), regs. 1(1), 2(4) (with reg. 1(3)); The Late Payment of Commercial Debts (Scotland) Regulations 2015 (S.S.I. 2015/226), regs. 1(1), **2(4)** (with reg. 1(3))
- F6** Words in s. 4(5B) omitted (3.5.2013 for S. and 14.5.2013 for E.W. N.I.) by virtue of The Late Payment of Commercial Debts (Scotland) (No. 2) Regulations 2013 (S.S.I. 2013/131), regs. 1(1), **2** (with reg. 1(3)); The Late Payment of Commercial Debts (No.2) Regulations 2013 (S.I. 2013/908), regs. 1(1), **2** (with s. 1(3))
- F7** Words in s. 4(6) substituted (21.6.2015 for E.W. N.I. and 27.6.2015 for S.) by The Late Payment of Commercial Debts (Amendment) Regulations 2015 (S.I. 2015/1336), regs. 1(1), **2(5)** (with reg. 1(3)); The Late Payment of Commercial Debts (Scotland) Regulations 2015 (S.S.I. 2015/226), regs. 1(1), **2(5)** (with reg. 1(3))
- F8** S. 4(7A) inserted (16.3.2013 for E.W. N.I. and 29.3.2013 for S.) by The Late Payment of Commercial Debts Regulations 2013 (S.I. 2013/395) , regs. 1(1) , **2(5)** (with reg. 1(3)); The Late Payment of Commercial Debts (Scotland) Regulations 2013 (S.S.I. 2013/77), regs. 1(1), **2(5)** (with reg. 1(3))
- F9** Word in s. 4(7A) substituted (21.6.2015 for E.W. N.I. and 27.6.2015 for S.) by The Late Payment of Commercial Debts (Amendment) Regulations 2015 (S.I. 2015/1336), regs. 1(1), **2(6)(a)** (with reg. 1(3)); The Late Payment of Commercial Debts (Scotland) Regulations 2015 (S.S.I. 2015/226), regs. 1(1), **2(6)(a)** (with reg. 1(3))
- F10** Word in s. 4(7A) substituted (21.6.2015 for E.W. N.I. and 27.6.2015 for S.) by The Late Payment of Commercial Debts (Amendment) Regulations 2015 (S.I. 2015/1336), regs. 1(1), **2(6)(b)** (with reg. 1(3)); The Late Payment of Commercial Debts (Scotland) Regulations 2015 (S.S.I. 2015/226), regs. 1(1), **2(6)(b)** (with reg. 1(3))
- F11** S. 4(8) substituted (S.) (29.3.2013) by The Late Payment of Commercial Debts (Scotland) Regulations 2013 (S.S.I. 2013/77), regs. 1(1), **2(6)** (with reg. 1(3))
- F12** Words in s. 4(8) substituted (S.) (18.4.2016) by The Public Contracts (Scotland) Regulations 2015 (S.S.I. 2015/446), reg. 1(2), **sch. 6 para. 1(2)** (with regs. 3-18, 99-101)
- F13** 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))
- F14** Words in s. 4(8) substituted (E.W. N.I.) (26.2.2015) by The Public Contracts Regulations 2015 (S.I. 2015/102), reg. 1(2), **Sch. 6 para. 1**

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**

Changes to legislation:

There are currently no known outstanding effects for the Late Payment of Commercial Debts (Interest) Act 1998, Section 4.