
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement Directive 2011/7/EU of the European Parliament and of the Council of 16th February 2011 on combating late payment in commercial transactions.

These Regulations amend the Late Payment of Commercial Debts (Interest) Act 1998 (c.20) by—

- (a) introducing, in section 4(3A) to (3C) a maximum payment period of up to 30 days where the purchaser is a public authority, and in other cases a payment period of up to 60 days or longer as otherwise agreed. Where the payment period is longer than 60 days, the period must not be grossly unfair to the supplier (regulation 2);
- (b) introducing, in section 4(5A) to (5D) a period of either up to 30 days or longer as otherwise agreed and provided it is not grossly unfair to the supplier, for a purchaser to confirm that the goods or services they have received from the supplier conform with the contract before the payment period commences (regulation 2);
- (c) introducing, in section 5A(2A), a right to compensation for the reasonable costs to the supplier of recovering a debt incurred if that amount exceeds the fixed sums in section 5A(2) (regulation 3).

The references to “grossly unfair” in regulation 2 and to section 3(2)(b) of the Unfair Contract Terms Act 1977 in regulation 3 require a consideration of all the circumstances of the case.

These Regulations (by virtue of regulation 1(3)) do not apply to contracts made before 29th March 2013.

A regulatory impact assessment of the effect of this instrument on the costs of business is available from the Enterprise and Cities Division, Business Directorate, Scottish Government, 5 Atlantic Quay, 150 Broomielaw, Glasgow G2 8LU.