



# Late Payment of Commercial Debts (Interest) Act 1998

## 1998 CHAPTER 20

### PART II

#### CONTRACT TERMS RELATING TO LATE PAYMENT OF QUALIFYING DEBTS

#### 9 Meaning of “substantial remedy”.

- (1) A remedy for the late payment of the debt shall be regarded as a substantial remedy unless—
  - (a) the remedy is insufficient either for the purpose of compensating the supplier for late payment or for deterring late payment; and
  - (b) it would not be fair or reasonable to allow the remedy to be relied on to oust or (as the case may be) to vary the right to statutory interest that would otherwise apply in relation to the debt.
- (2) In determining whether a remedy is not a substantial remedy, regard shall be had to all the relevant circumstances at the time the terms in question are agreed.
- (3) In determining whether subsection (1)(b) applies, regard shall be had (without prejudice to the generality of subsection (2)) to the following matters—
  - (a) the benefits of commercial certainty;
  - (b) the strength of the bargaining positions of the parties relative to each other;
  - (c) whether the term was imposed by one party to the detriment of the other (whether by the use of standard terms or otherwise); and
  - (d) whether the supplier received an inducement to agree to the term.

#### Commencement Information

- II** S. 9 fully in force; s. 9 not in force at Royal Assent see s. 17(2); s. 9 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. 9 in force (E. W. NI.) in so far

---

**Changes to legislation:** *There are currently no known outstanding effects for the Late Payment of Commercial Debts (Interest) Act 1998, Section 9. (See end of Document for details)*

---

as not already in force at 7.8.2002 by [S.I. 2002/1673](#), **art. 2**; [S. 9](#) 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 9.