
STATUTORY INSTRUMENTS

1998 No. 2481

CONTRACTS

**The Late Payment of Commercial Debts (Interest)
Act 1998 (Transitional Provisions) Regulations 1998**

<i>Made</i>	- - - -	<i>4th October 1998</i>
<i>Laid before Parliament</i>		<i>7th October 1998</i>
<i>Coming into force</i>	- -	<i>1st November 1998</i>

Whereas the Secretary of State considers that it is expedient in connection with the operation of the Late Payment of Commercial Debts (Interest) Act 1998(1) (“the Act”) while it is not fully in force to make the transitional, supplemental and incidental provisions made by these Regulations:

Now, therefore, the Secretary of State, in exercise of the power conferred on him by section 17(3) of the Act, and of all other powers enabling him in that behalf, hereby makes the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Late Payment of Commercial Debts (Interest) Act 1998 (Transitional Provisions) Regulations 1998 and shall come into force on 1st November 1998.

Proof of size of purchaser’s business

2.—(1) These Regulations apply to any proceedings relating to a contract for the supply of goods and services made between a supplier and purchaser neither of whom are United Kingdom public authorities while the Late Payment of Commercial Debts (Interest) Act 1998(1) is not fully in force.

(2) In any such proceedings it shall be presumed (for the purposes of determining whether that Act applies to the contract by virtue of any order made under section 17(2) thereof), until the contrary is proved, that the business of the purchaser is a large business.

(3) In this regulation—

(a) “United Kingdom public authority” means an authority—

(1) 1998 c. 20.
(1) 1998 c. 20.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (i) which is a United Kingdom public authority for the purposes of the Late Payment of Commercial Debts (Interest) Act 1998 (Commencement No. 1) Order 1998(2) (“the first commencement order”); or
 - (ii) being an authority which was not in existence on the date that Order was made, that is to say, 4th October 1998, it is to be regarded by virtue of any later order made under the said section 17(2) as a United Kingdom public authority; and
- (b) “large business” means a business which is a large business for the purposes of the first commencement order.

Barbara Roche
Parliamentary Under Secretary of State for Small
Firms, Trade and Industry,
Department of Trade and Industry

4th October 1998

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Late Payment of Commercial Debts (Interest) Act 1998 (“the Act”) provides for the payment of interest on the late payment of commercial debts in respect of the supply of goods or services.

The Late Payment of Commercial Debts (Interest) Act 1998 (Commencement No. 1) Order 1998 (S.I.1998/2479 (C. 56)), which comes into force on the same date as these Regulations) provides for the Act to come into force in respect of debts due to suppliers which are small businesses owed by purchasers who are either large businesses or United Kingdom public authorities. These terms are defined in that Order.

These Regulations provide (regulation 2(2)) that in any proceedings it shall be presumed, unless the contrary is proved, that the business of the purchaser is a large business. The term “purchaser” is defined in section 14(1) of the Act. To displace this presumption, the purchaser would have to prove, on balance of probability, that it was a small business.

Where on a claim for interest any dispute arises about the size of the supplier, it will be for the supplier to prove that it is a small business. The rules of procedure and evidence have this effect without modification.

United Kingdom public authorities will be required to pay interest on the late payment of their commercial debts from the coming into force of the commencement order referred to above, but will not be entitled to claim interest until the Act is brought into force for that purpose. The size of such an authority does not affect its rights and liabilities under the Act.

Nothing in these Regulations affects the incidence of the burden of proof in respect of any fact in issue in any proceedings other than the size of the purchaser.

On the same day as these Regulations come into force, the following will also come into force to give full effect to the Act—

- (a) the [Late Payment of Commercial Debts \(Interest\) \(Legal Aid Exceptions\) Order 1998 \(S.I. No. 2482\)](#), which excepts certain contracts made by the Legal Aid Board for the provision of legal aid where the rates are those provided for under the Legal Aid Act 1988;
- (b) the [Late Payment of Commercial Debts \(Rate of Interest\) Order 1998 \(S.I. No. 2480\)](#), which sets the rate of interest under section 6 of the Act.