



Local Democracy, Economic Development and Construction Act 2009

2009 CHAPTER 20

PART 8

CONSTRUCTION CONTRACTS

143 Notices relating to payment

- (1) In the [Housing Grants, Construction and Regeneration Act 1996 \(c. 53\)](#), in section 109 (entitlement to stage payments), in subsection (4), for “under the contract” substitute “provided for by the contract”.
- (2) In section 110 of that Act (dates for payment), omit the following—
 - (a) subsection (2), and
 - (b) in subsection (3), “or (2)”.
- (3) After section 110 of that Act insert—

“110A Payment notices: contractual requirements

- (1) A construction contract shall, in relation to every payment provided for by the contract—
 - (a) require the payer or a specified person to give a notice complying with subsection (2) to the payee not later than five days after the payment due date, or
 - (b) require the payee to give a notice complying with subsection (3) to the payer or a specified person not later than five days after the payment due date.
- (2) A notice complies with this subsection if it specifies—
 - (a) in a case where the notice is given by the payer—

Status: This is the original version (as it was originally enacted).

- (i) the sum that the payer considers to be or to have been due at the payment due date in respect of the payment, and
 - (ii) the basis on which that sum is calculated;
 - (b) in a case where the notice is given by a specified person—
 - (i) the sum that the payer or the specified person considers to be or to have been due at the payment due date in respect of the payment, and
 - (ii) the basis on which that sum is calculated.
- (3) A notice complies with this subsection if it specifies—
- (a) the sum that the payee considers to be or to have been due at the payment due date in respect of the payment, and
 - (b) the basis on which that sum is calculated.
- (4) For the purposes of this section, it is immaterial that the sum referred to in subsection (2)(a) or (b) or (3)(a) may be zero.
- (5) If or to the extent that a contract does not comply with subsection (1), the relevant provisions of the Scheme for Construction Contracts apply.
- (6) In this and the following sections, in relation to any payment provided for by a construction contract—
- “payee” means the person to whom the payment is due;
 - “payer” means the person from whom the payment is due;
 - “payment due date” means the date provided for by the contract as the date on which the payment is due;
 - “specified person” means a person specified in or determined in accordance with the provisions of the contract.

110B Payment notices: payee’s notice in default of payer’s notice

- (1) This section applies in a case where, in relation to any payment provided for by a construction contract—
- (a) the contract requires the payer or a specified person to give the payee a notice complying with section 110A(2) not later than five days after the payment due date, but
 - (b) notice is not given as so required.
- (2) Subject to subsection (4), the payee may give to the payer a notice complying with section 110A(3) at any time after the date on which the notice referred to in subsection (1)(a) was required by the contract to be given.
- (3) Where pursuant to subsection (2) the payee gives a notice complying with section 110A(3), the final date for payment of the sum specified in the notice shall for all purposes be regarded as postponed by the same number of days as the number of days after the date referred to in subsection (2) that the notice was given.
- (4) If—
- (a) the contract permits or requires the payee, before the date on which the notice referred to in subsection (1)(a) is required by the contract to be given, to notify the payer or a specified person of—

- (i) the sum that the payee considers will become due on the payment due date in respect of the payment, and
 - (ii) the basis on which that sum is calculated, and
- (b) the payee gives such notification in accordance with the contract, that notification is to be regarded as a notice complying with section 110A(3) given pursuant to subsection (2) (and the payee may not give another such notice pursuant to that subsection).”