

2015 No. 226

CONTRACTS

**The Late Payment of Commercial Debts (Scotland) Regulations
2015**

<i>Made</i> - - - -	<i>28th May 2015</i>
<i>Laid before the Scottish Parliament</i>	<i>29th May 2015</i>
<i>Coming into force</i> - -	<i>27th June 2015</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(a) and all other powers enabling them to do so.

Citation, commencement, extent and application

1.—(1) These Regulations may be cited as the Late Payment of Commercial Debts (Scotland) Regulations 2015 and come into force on 27th June 2015.

(2) These Regulations extend to Scotland only.

(3) These Regulations do not affect contracts made before 27th June 2015.

Amendment of the Late Payment of Commercial Debts (Interest) Act 1998

2.—(1) Section 4 of the Late Payment of Commercial Debts (Interest) Act 1998(b) (period for which statutory interest runs) is amended as follows.

(2) After subsection (2), insert—

“(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.

(a) 1972 c.68; section 2(2) was amended by the Scotland Act 1998 (c.46) (“the 1998 Act”), Schedule 8, paragraph 15(3) (which was amended by section 27(4) of the Legislative and Regulatory Reform Act 2006 (c.51) (“the 2006 Act”)); section 2(2) was also amended by section 27(1) of the 2006 Act and by the European Union (Amendment) Act 2008 (c.7), Schedule 1, Part 1; the functions conferred on the Minister of the Crown under section 2(2), insofar as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act.

(b) 1998 c.20; section 4 was amended by S.S.I. 2013/77 and S.S.I. 2013/131.

(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—

- (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).”.

(3) Omit subsections (3) to (5).

(4) In subsection (5B), for “subsection (5)(c)” substitute “subsections (2H)(c) and (2I)(c)”.

(5) In subsection (6), for “subsection (5)(a) has effect as if it” substitute “subsections (2H)(a) and (2I)(a) have effect as if they”.

(6) In subsection (7A)—

- (a) for “(3C)” substitute “(2F)”;
- (b) for “(3B)” substitute “(2E)”.

FERGUS EWING

Authorised to sign by the Scottish Ministers

St Andrew’s House,
Edinburgh
28th May 2015

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement requirements of Directive 2011/7/EU of the European Parliament and of the Council on combating late payment in commercial transactions (OJ L 48, 23.2.2011, p.1).

These Regulations amend the Late Payment of Commercial Debts (Interest) Act 1998. They clarify that, where a creditor has contracted with a public authority and that authority has not paid the debt due under that contract to the creditor by the time that the payment period prescribed by that Act expires, that creditor is entitled to statutory interest at the rate set out in the Act, even where no reminder that the debt is due has been given to the purchaser.

No impact assessment has been produced as no cost to the business or voluntary sectors is foreseen.

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