



# Late Payment of Commercial Debts (Interest) Act 1998

## 1998 CHAPTER 20

### PART I

#### STATUTORY INTEREST ON QUALIFYING DEBTS

#### 1 Statutory interest.

- (1) It is an implied term in a contract to which this Act applies that any qualifying debt created by the contract carries simple interest subject to and in accordance with this Part.
- (2) Interest carried under that implied term (in this Act referred to as “statutory interest”) shall be treated, for the purposes of any rule of law or enactment (other than this Act) relating to interest on debts, in the same way as interest carried under an express contract term.
- (3) This Part has effect subject to Part II (which in certain circumstances permits contract terms to oust or vary the right to statutory interest that would otherwise be conferred by virtue of the term implied by subsection (1)).

#### Commencement Information

- II** [S. 1](#) wholly in force; [s. 1](#) not in force at Royal Assent see [s. 17\(2\)](#); [s. 1](#) 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. 1](#) in force (E. W. N.I.) in so far as not already in force at 7.8.2002 by [S.I. 2002/1673, art. 2](#); [s. 1](#) in force (S.) in so far as not already in force at 7.8.2002 by [S.S.I. 2002/337, art. 2](#)

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

## 2 Contracts to which Act applies.

- (1) This Act applies to a contract for the supply of goods or services where the purchaser and the supplier are each acting in the course of a business, other than an excepted contract.
- (2) In this Act “contract for the supply of goods or services” means—
  - (a) a contract of sale of goods; or
  - (b) a contract (other than a contract of sale of goods) by which a person does any, or any combination, of the things mentioned in subsection (3) for a consideration that is (or includes) a money consideration.
- (3) Those things are—
  - (a) transferring or agreeing to transfer to another the property in goods;
  - (b) bailing or agreeing to bail goods to another by way of hire or, in Scotland, hiring or agreeing to hire goods to another; and
  - (c) agreeing to carry out a service.
- (4) For the avoidance of doubt a contract of service or apprenticeship is not a contract for the supply of goods or services.
- (5) The following are excepted contracts—
  - (a) a consumer credit agreement;
  - (b) a contract intended to operate by way of mortgage, pledge, charge or other security; and
  - <sup>F1</sup>(c) .....
- <sup>F2</sup>(6) .....
- (7) In this section—
 

“business” includes a profession and the activities of any government department or local or public authority;

“consumer credit agreement” has the same meaning as in the <sup>M1</sup>Consumer Credit Act 1974;

“contract of sale of goods” and “goods” have the same meaning as in the <sup>M2</sup>Sale of Goods Act 1979;

[<sup>F3</sup>“government department” includes any part of the Scottish Administration;]

“property in goods” means the general property in them and not merely a special property.

### Textual Amendments

- F1** S. 2(5)(c) repealed (7.8.2002) by S.S.I. 2002/335, reg. 2(2) (with reg. 4)  
 S. 2(5)(c),(6) repealed (7.8.2002) by S.I. 2002/1674, reg. 2(2)
- F2** S. 6 repealed (7.8.2002) by S.S.I. 2002/335, reg. 2(2) (with reg. 4)
- F3** Definition in s. 2(7) inserted (1.7.1999) by S.I. 1999/1820, art. 4, Sch. 2 Pt. I para. 132

### Commencement Information

- I2** S. 2 fully in force; s. 2 not in force at Royal Assent see s. 17(2); s. 2 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. 2 in force (E. W. NI.) in so far

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as not already in force at 7.8.2002 by S.I. 2002/1673, **art. 2**; S. 2 in force (S.) in so far as not already in force at 7.8.2002 by S.S.I. 2002/337, **art. 2**

#### Marginal Citations

**M1** 1974 c. 39.

**M2** 1979 c. 54.

### [<sup>F4</sup>2A Application of the Act to Advocates

The provisions of this Act apply to a transaction in respect of which fees are paid for professional services to a member of the Faculty of Advocates as they apply to a contract for the supply of services for the purpose of this Act.]

#### Textual Amendments

**F4** S. 2A inserted (S.) (7.8.2002) by S.S.I. 2002/335, **reg. 2(3)** (with **reg. 4**)

### 3 Qualifying debts.

- (1) A debt created by virtue of an obligation under a contract to which this Act applies to pay the whole or any part of the contract price is a “qualifying debt” for the purposes of this Act, unless (when created) the whole of the debt is prevented from carrying statutory interest by this section.
- (2) A debt does not carry statutory interest if or to the extent that it consists of a sum to which a right to interest or to charge interest applies by virtue of any enactment (other than section 1 of this Act).

This subsection does not prevent a sum from carrying statutory interest by reason of the fact that a court, arbitrator or arbiter would, apart from this Act, have power to award interest on it.

- (3) A debt does not carry (and shall be treated as never having carried) statutory interest if or to the extent that a right to demand interest on it, which exists by virtue of any rule of law, is exercised.

<sup>F5</sup>(4) .....

<sup>F5</sup>(5) .....

#### Textual Amendments

**F5** S. 3(4)(5) repealed (E. W. NI.) (7.8.2002) by S.I. 2002/1674, **reg. 2(3)**  
S. 3(4)(5) repealed (S.) (7.8.2002) by S.S.I. 2002/335, **reg. 2(4)** (with **reg. 4**)

#### Commencement Information

**I3** S. 3 fully in force; s. 3 not in force at Royal Assent see s. 17(2); s. 3 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. 3 in force (E. W. NI.) in so far as not already in force at 7.8.2002 by S.I. 2002/1673, **art. 2**; S. 3 in force (S.) in so far as not already in force at 7.8.2002 by S.S.I. 2002/337, **art. 2**

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#### 4 Period for which statutory interest runs.

- (1) Statutory interest runs in relation to a qualifying debt in accordance with this section (unless section 5 applies).
- (2) Statutory interest starts to run on the day after the relevant day for the debt, at the rate prevailing under section 6 at the end of the relevant day.
- (3) Where the supplier and the purchaser agree a date for payment of the debt (that is, the day on which the debt is to be created by the contract), that is the relevant day unless the debt relates to an obligation to make an advance payment.

A date so agreed may be a fixed one or may depend on the happening of an event or the failure of an event to happen.

[<sup>F6</sup>(3A) If, in a case where the purchaser is a public authority, the relevant day under subsection (3) would (but for this subsection) be later than the day which would be the relevant day if subsection (5) applied, it is to be treated for the purposes of subsection (3) as being the day which would be the relevant day if subsection (5) applied.

(3B) If, in a case where the purchaser is not a public authority, the relevant day under subsection (3) would (but for this subsection) be more than 30 days after the day which would be the relevant day if subsection (5) applied, it is to be treated for the purposes of subsection (3) as being the day which is 30 days after the day which would be the relevant day if subsection (5) applied.

(3C) Subsection (3B) does not apply if—

- (a) the supplier and the purchaser expressly agree in the contract a date for payment of the debt that is later than the day which would otherwise be the relevant day by virtue of that subsection, and
- (b) that later date is not grossly unfair to the supplier (see subsection (7A)).]

(4) 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.

(5) In any other case, the relevant day is the last day of the period of 30 days beginning with—

- (a) the day on which the obligation of the supplier to which the debt relates is performed; <sup>F7</sup> ...
- (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; <sup>F8</sup>; or
- (c) where subsection (5A) applies, the day determined under subsection (5B).]

whichever is the later.

[<sup>F9</sup>(5A) This subsection applies where—

- (a) there is a procedure of acceptance or verification (whether provided for by an enactment or by the contract), under which the conforming of goods or services with the contract is to be ascertained; and
- (b) the purchaser has notice of the amount of the debt on or before the day on which the procedure is completed.

(5B) For the purposes of subsection (5)(c), the day in question is the day <sup>F10</sup> ... after the day on which the procedure is completed.

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- (5C) Where, in a case where subsection (5A) applies, the procedure in question is completed after the end of the period of 30 days beginning with the day on which the obligation of the supplier to which the debt relates is performed, the procedure is to be treated for the purposes of subsection (5B) as being completed immediately after the end of that period.
- (5D) Subsection (5C) does not apply if—
- (a) the supplier and the purchaser expressly agree in the contract a period for completing the procedure in question that is longer than the period mentioned in that subsection; and
  - (b) that longer period is not grossly unfair to the supplier (see subsection (7A)).]
- (6) Where the debt is created by virtue of an obligation to pay a sum due in respect of a period of hire of goods, subsection (5)(a) has effect as if it referred to the last day of that period.
- (7) Statutory interest ceases to run when the interest would cease to run if it were carried under an express contract term.
- [<sup>F11</sup>(7A) In determining for the purposes of subsection (3C) or (5D) whether something is grossly unfair, all circumstances of the case shall be considered; and for that purpose, the circumstances of the case include in particular—
- (a) anything that is a gross deviation from good commercial practice and contrary to good faith and fair dealing;
  - (b) the nature of the goods or services in question; and
  - (c) whether the purchaser has any objective reason to deviate from the result which is provided for by subsection (3B) or (5C).]
- (8) [<sup>F12</sup>In this section—
- “advance payment” has the same meaning as in section 11;
  - “enactment” has the same meaning as in section 126(1) of the Scotland Act 1998;
  - “public authority” means a contracting authority (within the meaning of regulation 3 of the Public Contracts (Scotland) Regulations 2012).]
- [<sup>F13</sup>In this section—
- “advance payment” has the same meaning as in section 11;
  - “enactment” includes an enactment contained in subordinate legislation (within the meaning of the Interpretation Act 1978);
  - “public authority” means a contracting authority (within the meaning of [<sup>F14</sup>regulation 2(1) of the Public Contracts Regulations 2011]

#### Textual Amendments

- F6** S. 4(3A)-(3C) inserted (16.3.2013 for E.W. N.I. and 29.3.2013 for S.) by [The Late Payment of Commercial Debts Regulations 2013 \(S.I. 2013/395\)](#), regs. 1(1), **2(2)** (with reg. 1(3)); [The Late Payment of Commercial Debts \(Scotland\) Regulations 2013 \(S.S.I. 2013/77\)](#), regs. 1(1), **2(2)** (with reg. 1(3))
- F7** Word in s. 4(5) omitted (16.3.2013 for E.W. N.I. and 29.3.2013 for S.) by virtue of [The Late Payment of Commercial Debts Regulations 2013 \(S.I. 2013/395\)](#), regs. 1(1), **2(3)(a)** (with reg. 1(3)); [The Late Payment of Commercial Debts \(Scotland\) Regulations 2013 \(S.S.I. 2013/77\)](#), regs. 1(1), **2(3)(a)** (with reg. 1(3))

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- F8** S. 4(5)(c) and word inserted (16.3.2013 for E.W. N.I. and 29.3.2013 for S.) by [The Late Payment of Commercial Debts Regulations 2013 \(S.I. 2013/395\)](#) , regs. 1(1) , **2(3)(b)** (with reg. 1(3) ); [The Late Payment of Commercial Debts \(Scotland\) Regulations 2013 \(S.S.I. 2013/77\)](#) , regs. 1(1) , **2(3)(b)** (with reg. 1(3))
- F9** S. 4(5A)-(5D) inserted (16.3.2013 for E.W. N.I. and 29.3.2013 for S.) by [The Late Payment of Commercial Debts Regulations 2013 \(S.I. 2013/395\)](#) , regs. 1(1) , **2(4)** (with reg. 1(3) ); [The Late Payment of Commercial Debts \(Scotland\) Regulations 2013 \(S.S.I. 2013/77\)](#) , regs. 1(1) , **2(4)** (with reg. 1(3))
- F10** Words in s. 4(5B) omitted (3.5.2013 for S. and 14.5.2013 for E.W. N.I.) by virtue of [The Late Payment of Commercial Debts \(Scotland\) \(No. 2\) Regulations 2013 \(S.S.I. 2013/131\)](#) , regs. 1(1) , **2** (with reg. 1(3)); [The Late Payment of Commercial Debts \(No.2\) Regulations 2013 \(S.I. 2013/908\)](#) , regs. 1(1) , **2** (with s. 1(3))
- F11** S. 4(7A) inserted (16.3.2013 for E.W. N.I. and 29.3.2013 for S.) by [The Late Payment of Commercial Debts Regulations 2013 \(S.I. 2013/395\)](#) , regs. 1(1) , **2(5)** (with reg. 1(3) ); [The Late Payment of Commercial Debts \(Scotland\) Regulations 2013 \(S.S.I. 2013/77\)](#) , regs. 1(1) , **2(5)** (with reg. 1(3))
- F12** S. 4(8) substituted (S.) (29.3.2013) by [The Late Payment of Commercial Debts \(Scotland\) Regulations 2013 \(S.S.I. 2013/77\)](#) , regs. 1(1) , **2(6)** (with reg. 1(3))
- F13** S. 4(8) substituted (E.W. N.I.) (16.3.2013) by [The Late Payment of Commercial Debts Regulations 2013 \(S.I. 2013/395\)](#) , regs. 1(1) , **2(6)** (with reg. 1(3) )
- F14** Words in s. 4(8) substituted (E.W. N.I.) (26.2.2015) by [The Public Contracts Regulations 2015 \(S.I. 2015/102\)](#) , reg. 1(2) , **Sch. 6 para. 1**

#### Commencement Information

- I4** S. 4 fully in force; s. 4 not in force at Royal Assent see s. 17(2) ; s. 4 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. 4 in force (E. W. NI.) in so far as not already in force at 7.8.2002 by [S.I. 2002/1673](#) , **art. 2** ; S. 4 in force (S.) in so far as not already in force at 7.8.2002 by [S.S.I. 2002/337](#) , **art. 2**

## 5 Remission of statutory interest.

- (1) This section applies where, by reason of any conduct of the supplier, the interests of justice require that statutory interest should be remitted in whole or part in respect of a period for which it would otherwise run in relation to a qualifying debt.
- (2) If the interests of justice require that the supplier should receive no statutory interest for a period, statutory interest shall not run for that period.
- (3) If the interests of justice require that the supplier should receive statutory interest at a reduced rate for a period, statutory interest shall run at such rate as meets the justice of the case for that period.
- (4) Remission of statutory interest under this section may be required—
  - (a) by reason of conduct at any time (whether before or after the time at which the debt is created); and
  - (b) for the whole period for which statutory interest would otherwise run or for one or more parts of that period.
- (5) In this section “conduct” includes any act or omission.

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*Changes to legislation: There are currently no known outstanding effects for the Late Payment of Commercial Debts (Interest) Act 1998, Part 1. (See end of Document for details)*

### Commencement Information

- I5** S. 5 fully in force; S. 5 not in force at Royal Assent see s. 17(2); s. 5 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. 5 in force (E. W. NI.) in so far as not already in force at 7.8.2002 by S.I. 2002/1673, **art. 2**; S. 5 in force (S.) in so far as not already in force at 7.8.2002 by S.S.I. 2002/337, **art. 2**

### [<sup>F15</sup>5A Compensation arising out of late payment

- (1) Once statutory interest begins to run in relation to a qualifying debt, the supplier shall be entitled to a fixed sum (in addition to the statutory interest on the debt).
- (2) That sum shall be—
  - (a) for a debt less than £1000, the sum of £40;
  - (b) for a debt of £1000 or more, but less than £10,000, the sum of £70;
  - (c) for a debt of £10,000 or more, the sum of £100.

[ If the reasonable costs of the supplier in recovering the debt are not met by the fixed <sup>F16</sup>(2A) sum, the supplier shall also be entitled to a sum equivalent to the difference between the fixed sum and those costs.]

- (3) The obligation to pay [<sup>F17</sup>a sum] under this section in respect of a qualifying debt shall be treated as part of the term implied by section 1(1) in the contract creating the debt.]

[<sup>F18</sup>(4) Section 3(2)(b) of the Unfair Contract Terms Act 1977 (no reliance to be placed on certain contract terms) shall apply in cases where a contract term is not contained in written standard terms of the purchaser as well as in cases where the term is contained in such standard terms.

- (5) In this section “contract term” means a term of the contract relating to a sum due to the supplier under this section.]

[<sup>F19</sup>(4) Section 17(1)(b) of the Unfair Contract Terms Act 1977 (no reliance to be placed on certain contract terms) shall apply in cases where a contract term is not contained in written standard terms of the purchaser as well as in cases where the term is contained in such standard terms.

- (5) In this section “contract term” means a term of the contract relating to a sum due to the supplier under this section.]

### Textual Amendments

- F15** S. 5A inserted (7.8.2002) by S.S.I. 2002/335, **reg. 2(5)** (with **reg. 4**)  
S. 5A inserted (7.8.2002) by S.I. 2002/1674, **reg. 2(5)**
- F16** S. 5A(2A) inserted (16.3.2013 for E.W. N.I. and 29.3.2013 for S.) by **The Late Payment of Commercial Debts Regulations 2013** (S.I. 2013/395), **regs. 1(1), 3(2)** (with **reg. 1(3)**); **The Late Payment of Commercial Debts (Scotland) Regulations 2013** (S.S.I. 2013/77), **regs. 1(1), 3(2)** (with **reg. 1(3)**)
- F17** Words in s. 5A(3) substituted (16.3.2013 for E.W. N.I. and 29.3.2013 for S.) by **The Late Payment of Commercial Debts Regulations 2013** (S.I. 2013/395), **regs. 1(1), 3(3)** (with **reg. 1(3)**); **The Late Payment of Commercial Debts (Scotland) Regulations 2013** (S.S.I. 2013/77), **regs. 1(1), 3(3)** (with **reg. 1(3)**)

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- F18** S. 5A(4)(5) inserted (E.W. N.I.) (16.3.2013) by [The Late Payment of Commercial Debts Regulations 2013 \(S.I. 2013/395\)](#), regs. 1(1), **3(4)** (with reg. 1(3))
- F19** S. 5A(4)(5) inserted (S.) (29.3.2013) by [The Late Payment of Commercial Debts \(Scotland\) Regulations 2013 \(S.S.I. 2013/77\)](#), regs. 1(1), **3(4)** (with reg. 1(3))

## 6 Rate of statutory interest.

- (1) The Secretary of State shall by order made with the consent of the Treasury set the rate of statutory interest by prescribing—
- (a) a formula for calculating the rate of statutory interest; or
  - (b) the rate of statutory interest.
- (2) Before making such an order the Secretary of State shall, among other things, consider the extent to which it may be desirable to set the rate so as to—
- (a) protect suppliers whose financial position makes them particularly vulnerable if their qualifying debts are paid late; and
  - (b) deter generally the late payment of qualifying debts.

### Commencement Information

- I6** S. 6 fully in force; s.6 not in force at Royal Assent see s. 17(2); s.6 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. 6 in force (E. W. NI.) in so far as not already in force at 7.8.2002 by [S.I. 2002/1673](#), **art. 2**; S. 6 in force (S.) in so far as not already in force at 7.8.2002 by [S.S.I. 2002/337](#), **art. 2**



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