



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)).

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.

Status: This is the original version (as it was originally enacted).

- (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
 - (c) a contract of a description specified in an order made by the Secretary of State.
- (6) An order under subsection (5)(c) may specify a description of contract by reference to any feature of the contract (including the parties).
- (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 Consumer Credit Act 1974;
 - “contract of sale of goods” and “goods” have the same meaning as in the Sale of Goods Act 1979;
 - “property in goods” means the general property in them and not merely a special property.

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.
- (4) A debt does not carry statutory interest if or to the extent that it is of a description specified in an order made by the Secretary of State.
- (5) Such an order may specify a description of debt by reference to any feature of the debt (including the parties or any other feature of the contract by which it is created).

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.
- (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; or
 - (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,whichever is the later.
- (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.
- (8) In this section “advance payment” has the same meaning as in section 11.

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.

Status: This is the original version (as it was originally enacted).

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.