

1999 No. 1816 (C. 50)

CONTRACTS

**The Late Payment of Commercial Debts (Interest) Act 1998
(Commencement No. 2) Order 1999**

Made - - - - *25th June 1999*

The Secretary of State, in exercise of the power conferred on him by section 17(2) of the Late Payment of Commercial Debts (Interest) Act 1998^(a) and of all other powers enabling him in that behalf, hereby makes the following Order:—

Citation

1. This Order may be cited as the Late Payment of Commercial Debts (Interest) Act 1998 (Commencement No. 2) Order 1999.

Interpretation

2.—(1) In this Order—

- (a) “small business supplier” means a supplier, not being a body falling within Schedule 1 to the first commencement order or a United Kingdom public authority, whose business is a small business;
- (b) “United Kingdom public authority” means an authority falling within the Schedule;
- (c) “the first commencement order” means the Late Payment of Commercial Debts (Interest) Act 1998 (Commencement No. 1) Order 1998^(b).

(2) For the purposes of this Order, a business is a small business if the number of full-time employees employed in the business is 50 or fewer when calculated in accordance with Schedule 2 to the first commencement order.

Contracts in relation to which the Late Payment of Commercial Debts (Interest) Act 1998 comes into force on 1st July 1999

3.—(1) The Late Payment of Commercial Debts (Interest) Act 1998 shall come into force on 1st July 1999 in relation to contracts for the supply of goods or services made on or after that date between a small business supplier and any purchaser who is a United Kingdom public authority.

(2) The question whether a contract falls within this description is to be determined by reference to the circumstances when the contract is made and, accordingly, is not affected by any subsequent change in those circumstances.

Michael Wills,
Parliamentary Under Secretary of State
for Small Firms, Trade and Industry,
Department of Trade and Industry

25th June 1999

(a) 1998 c. 20.
(b) S.I. 1998/2479.

MEANING OF “UNITED KINGDOM PUBLIC AUTHORITY”

1. For the purposes of this Order, each of the following is a United Kingdom public authority—

- (a) the Scottish Parliamentary Corporate Body constituted under the Scotland Act 1998(a);
- (b) any part of the Scottish Administration within the meaning of the Scotland Act 1998;
- (c) the Auditor General for Scotland constituted under the Scotland Act 1998;
- (d) the National Assembly for Wales also known as Cynulliad Cenedlaethol Cymru constituted under the Government of Wales Act 1998(b);
- (e) the Auditor General for Wales also known as Archwilydd Cyffredinol Cymru constituted under the Government of Wales Act 1998.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force the Late Payment of Commercial Debts (Interest) Act 1998, in relation to commercial contracts for the supply of goods or services where the supplier is a small business and the purchaser is a United Kingdom public authority (Article 3). This is the second commencement Order.

Article 2 provides for the definitions of “small business supplier”, and “United Kingdom public authority”. The Schedule lists as United Kingdom public authorities, the Scottish Parliamentary Corporate Body, any part of the Scottish Administration, the Auditor General for Scotland, the National Assembly for Wales (Cynulliad Cenedlaethol Cymru) and the Auditor General for Wales (Archwilydd Cyffredinol Cymru). By Article 2(2), a small business is one which has 50 or fewer full-time employees when calculated in accordance with Schedule 2 to the Late Payment of Commercial Debts (Interest) Act 1998 (Commencement No. 1) Order 1998 (“the first commencement order”).

An employee is defined (paragraph 2 of Schedule 2 to the first commencement order) to include persons who work in the business both under a contract of employment and other than under such a contract, for example, partners and a sole owner. Provision is made for the counting of part-time employees as fractions of full-timers (paragraph 3 of Schedule 2 to the first commencement order) and employees in associated businesses are counted (paragraph 6 of Schedule 2 to the first commencement order). Taking the period of 1st April to 31st March (or a shorter period for new businesses) preceding making the contract (paragraph 4 of Schedule 2 to the first commencement order), the average is taken of the numbers of employees over that period (paragraph 5).

(a) 1998 c. 46.

(b) 1998 c. 38.

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