



STATUTORY INSTRUMENTS.

S.I. No. 196 of 2014

EUROPEAN COMMUNITIES (LATE PAYMENT IN COMMERCIAL
TRANSACTIONS) (AMENDMENT) REGULATIONS 2014

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I, RICHARD BRUTON, Minister for Jobs, Enterprise and Innovation, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving further effect to Directive No. 2011/7/EC of the European Parliament and of the Council of 23 February 2011¹, hereby make the following regulations:

1. These Regulations may be cited as the European Communities (Late Payment in Commercial Transactions) (Amendment) Regulations 2014.

2. The European Communities (Late Payment in Commercial Transactions) Regulations 2012 (S.I. No. 580 of 2012) (the “Principal Regulations”) are amended—

(a) in Regulation 2(1)—

(i) in the definition of “amount due”, by inserting “, either in one sum or in such instalments as the contract provides,” after “have been paid”,

(ii) by inserting after the definition of “amount due” the following new definition:

“ ‘amount outstanding’ means the amount due, or the portion of the amount due, which is outstanding under the contract concerned at the relevant payment date;”,

(iii) in the definition of “public authority”, by deleting “for the purposes of the Local Government Act 2001 (No. 37 of 2001)”, and

(iv) in the definition of “relevant payment date”—

(I) in paragraph (b), by inserting “the later of” after “30 calendar days after”,

(II) in paragraph (c), by deleting “where the contract does not specify the date or period for payment,”, and

(III) by substituting for paragraph (d) the following paragraph:

“(d) where the contract does specify the date for payment, such date, provided that—

¹OJ No. L48, 23.2.2011, p. 1.

(i) in the case of a commercial transaction between undertakings, where that date exceeds 60 calendar days from the date of the delivery of the goods or the provision of the service, such date shall—

(I) be expressly agreed in the contract, and

(II) not be grossly unfair, within the meaning of Regulation 6, to the supplier,

and

(ii) in the case of a commercial transaction between an undertaking and a public authority, that date shall not exceed 60 calendar days from the date of the delivery of the goods or the provision of the service;”,

(b) by inserting the following new paragraphs in Regulation 4 (substituted by the European Communities (Late Payment in Commercial Transactions) (Amendment) Regulations 2013 (S.I. No. 74 of 2013)):

“(4) Where a procedure of acceptance or verification, by which the conformity of the goods or services with the contract is to be ascertained, is provided for by statute or in the contract, the duration of such procedure shall not exceed 30 calendar days from the date of the delivery of the goods or the provision of the service, unless otherwise expressly agreed in the contract and any tender documents and provided it is not grossly unfair to the creditor.

(5) In the case of a commercial transaction between an undertaking and a public authority, the date of receipt of the invoice shall not be subject to a contractual agreement between the purchaser and the supplier.”,

(c) in Regulation 5—

(i) in paragraph (1), by substituting “Subject to paragraph (3),” for “Unless otherwise specified in the contract concerned,”, and

(ii) by inserting the following new paragraph:

“(3) In commercial transactions between undertakings, the parties may contractually agree to vary the amount of the statutory late payment interest payable on the amount outstanding under the contract concerned, provided the amount of the said interest so varied is not grossly unfair to the creditor.”,

and

(d) by inserting after Regulation 9 the following Regulation:

“Retention of title

9A. (1) If a retention of title clause has been expressly agreed between the supplier and the purchaser before the delivery of goods, the supplier retains title to the goods until they are fully paid for.

(2) ‘retention of title’ means the contractual agreement according to which the seller retains title to the goods in question until the price has been paid in full.”.

3. Notwithstanding the amendment of the Principal Regulations by these Regulations, the Principal Regulations shall continue to apply to a contract for the provision of goods or services to which the Principal Regulations apply which was made before, and is still in force after, the coming into operation of these Regulations.



GIVEN under my Official Seal,
1 May 2014.

RICHARD BRUTON,
Minister for Jobs, Enterprise and Innovation.

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