



Local Democracy, Economic Development and Construction Act 2009

2009 CHAPTER 20

PART 8

CONSTRUCTION CONTRACTS

144 Requirement to pay notified sum

- (1) In the Housing Grants, Construction and Regeneration Act 1996 (c. 53), for section 111 (notice of intention to withhold payment) substitute—

“111 Requirement to pay notified sum

- (1) Subject as follows, where a payment is provided for by a construction contract, the payer must pay the notified sum (to the extent not already paid) on or before the final date for payment.
- (2) For the purposes of this section, the “notified sum” in relation to any payment provided for by a construction contract means—
- (a) in a case where a notice complying with section 110A(2) has been given pursuant to and in accordance with a requirement of the contract, the amount specified in that notice;
 - (b) in a case where a notice complying with section 110A(3) has been given pursuant to and in accordance with a requirement of the contract, the amount specified in that notice;
 - (c) in a case where a notice complying with section 110A(3) has been given pursuant to and in accordance with section 110B(2), the amount specified in that notice.
- (3) The payer or a specified person may in accordance with this section give to the payee a notice of the payer's intention to pay less than the notified sum.
- (4) A notice under subsection (3) must specify—

Changes to legislation: There are currently no known outstanding effects for the Local Democracy, Economic Development and Construction Act 2009, Section 144. (See end of Document for details)

- (a) the sum that the payer considers to be due on the date the notice is served, and
- (b) the basis on which that sum is calculated.

It is immaterial for the purposes of this subsection that the sum referred to in paragraph (a) or (b) may be zero.

- (5) A notice under subsection (3)—
 - (a) must be given not later than the prescribed period before the final date for payment, and
 - (b) in a case referred to in subsection (2)(b) or (c), may not be given before the notice by reference to which the notified sum is determined.
- (6) Where a notice is given under subsection (3), subsection (1) applies only in respect of the sum specified pursuant to subsection (4)(a).
- (7) In subsection (5), “prescribed period” means—
 - (a) such period as the parties may agree, or
 - (b) in the absence of such agreement, the period provided by the Scheme for Construction Contracts.
- (8) Subsection (9) applies where in respect of a payment—
 - (a) a notice complying with section 110A(2) has been given pursuant to and in accordance with a requirement of the contract (and no notice under subsection (3) is given), or
 - (b) a notice under subsection (3) is given in accordance with this section, but on the matter being referred to adjudication the adjudicator decides that more than the sum specified in the notice should be paid.
- (9) In a case where this subsection applies, the decision of the adjudicator referred to in subsection (8) shall be construed as requiring payment of the additional amount not later than—
 - (a) seven days from the date of the decision, or
 - (b) the date which apart from the notice would have been the final date for payment,
 whichever is the later.
- (10) Subsection (1) does not apply in relation to a payment provided for by a construction contract where—
 - (a) the contract provides that, if the payee becomes insolvent the payer need not pay any sum due in respect of the payment, and
 - (b) the payee has become insolvent after the prescribed period referred to in subsection (5)(a).
- (11) Subsections (2) to (5) of section 113 apply for the purposes of subsection (10) of this section as they apply for the purposes of that section.”

- (2) In section 112 of that Act (right to suspend performance for non-payment)—
 - (a) in subsection (1), for the words from “Where” to “given” substitute “ Where the requirement in section 111(1) applies in relation to any sum but is not complied with, ”;
 - (b) in subsection (3), for “the amount due” substitute “ the sum referred to in subsection (1) ”.

Changes to legislation: There are currently no known outstanding effects for the Local Democracy, Economic Development and Construction Act 2009, Section 144. (See end of Document for details)

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Commencement Information

- I1** S. 144 in force at 1.10.2011 for specified purposes for E.W. by [S.I. 2011/1582](#), [art. 2](#)
- I2** S. 144 in force at 1.10.2011 for specified purposes for E.W. by [S.I. 2011/1597](#), [arts. 2, 3\(b\)](#)
- I3** S. 144 in force at 1.11.2011 for S. by [S.S.I. 2011/291](#), [art. 2](#)

Changes to legislation:

There are currently no known outstanding effects for the Local Democracy, Economic Development and Construction Act 2009, Section 144.