POLICY NOTE

THE LATE PAYMENT OF COMMERCIAL DEBTS (SCOTLAND) REGULATIONS 2015

SSI 2015/226

The above instrument was made in exercise of the powers conferred by section 2(2) of the European Communities Act 1972. The SSI is subject to negative procedure.

Policy Objectives

The purpose of the Regulations is to clarify the terms of section 4 of the Late Payment of Commercial Debts (Interest) Act 1998 (c.20). Section 4 is amended to clarify the limits set for payment periods for commercial debts at a maximum of 60 days in most cases and 30 days for those incurred by public authorities. The Regulations clarify that, where a creditor has contracted with a public authority and that authority has not paid the debt due under that contract to the creditor by the time that the payment period prescribed by the Act expires, that creditor is entitled to statutory interest at the rate set out in the Act, even where no reminder that the debt is due has been given to the purchaser. The Regulations will ensure full implementation of the requirements of Directive 2011/7/EU of the European Parliament and of the Council of 16th February 2011 on combating late payment in commercial transactions. The European Commission (through the Pilot process) had requested clarification of section 4.

Consultation

Following a DBIS/SG joint consultation in 2012, Directive 2011/7/EU (recast) was transposed into national law in spring 2013 through the Late Payment of Commercial Debts Regulations 2013 (SI 2013/395) and in Scotland through the Late Payment of Commercial Debts (Scotland) Regulations 2013 (SSI 2013/77) which introduced specific rights and remedies for businesses experiencing late payment by customers. The Directive's requirements are substantively already in place in UK domestic law and the instrument is simply a matter of technical clarification. Therefore, there is no additional regulatory burden on business. No further consultation on these Regulations has been carried out.

Impact Assessments

No impact assessment has been produced as no cost to the business or voluntary sectors is foreseen. The Minister for Business, Energy and Tourism confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business. An equality impact assessment has not been completed because the Regulations will not impact on people.

Scottish Government
Directorate for Economic Development
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