

August 2025

Client briefing - government consultation on payment (including whether to ban the use of retentions in the construction industry)

On 30 July the government announced an open consultation on payments called 'late payments: tackling poor payment practices'

This is significant for the construction industry.

- **Retention:** Most relevant are the proposals concerning the use of retentions in the construction industry. The government is consulting on the following:
 - Prohibiting the use of retentions altogether; or
 - The introduction of requirements to protection retention funds from both insolvency and late or non-payment. It is proposed that there will be a single retention sum permitted to be deducted and withheld from the final payment until the expiry of the rectification period. Monies will be automatically segregated and held for the benefit of the person to whom the money is to be paid and that person will be entitled to any interest. The person making payment will be required to keep accounting and records for all retention sums held and make them available for inspection within a reasonable time period and without charge.
- **Limiting payment terms to no longer than 60 days.**
 - At the moment, the Late Payment of Commercial Debts (Interest) Act 1998 requires payment to be made within 60 days, but allows businesses to agree to longer than 60 days if it is not 'grossly unfair'. It is proposed that this exemption be abolished. The government has also said that (subject to further consultation) it could in due course (5 years) reduce this 60 day period to 45 days.
- **The introduction of a 30-day deadline for disputing invoices.**
 - It is proposed that there be a 30 days to dispute an invoice. If a dispute is raised after 30 days the invoice will have to be paid in full with late payments statutory interest.
- **Interest at 8% on late payments.**
 - Although there is already provision for this, it is proposed to change the law to stop parties from being able to avoid avoid the right to statutory interest or to vary the interest rate.
- **Other measures that are the subject of the consultation include:**
 - Large companies to be required to publish key payment information in their annual reports. The duty to report under the Reporting on Payment Practices and Performance Regulations 2017 to be reduced to once a year.

- Where companies have audit committees, the committees be required to provide commentary and make recommendations to company directors before data is submitted to Government or included in Directors' reports.
- Requiring qualifying businesses to report certain information relating to payment of statutory interest.
- The Small Business Commissioner to have powers to take enforcement action through financial penalties on large business that consistently pay suppliers late.
- The giving of additional powers to the small business commissioner to "investigate and address a range of unfair payment practices by late companies" and investigate the accuracy of data submitted by large companies".

The consultation is open until 23 October 2025.



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