Commercial Briefing

Small suppliers set to get intel on big company payment performance

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New regulations designed to help small businesses get paid on time came into force this month, with a requirement for larger companies to publish information about how long they take to pay suppliers.

The requirement affects companies and LLPs who exceed two or more of the qualifying thresholds at the date of their last two balance sheets. The thresholds are based on the definition of 'medium-sized' under the Companies Act 2006 and are an annual turnover of £36 million, a balance sheet total of £18 million and an average of 250 employees during the year.

From 6 April 2017, those qualifying will be required to publish information on a Government website about their payment practices and policies and how they have performed against them, including the average time taken to pay suppliers, and to update the information every six months. Late payment is recognised as causing serious financial and administrative problems for businesses and the aim of the new regulations is to tackle concerns about adverse treatment of smaller suppliers by larger, more powerful customers, through increased transparency and scrutiny. The Reporting on Payment Practices and Performance Regulations 2017 came about as part of the Small Business Enterprise and Employment Act 2015, and applies to public, private and listed companies and to limited liability partnerships through a separate set of regulations.

Businesses will not be required to report in their first financial year and those in their second year will be expected to check the requirements against their single, first financial year. For parent companies and LLPs, reporting will be required if the aggregate group figures exceed the thresholds. Any company or LLP within a group that satisfies the test individually, will need to report separately on its own payment practices and performance.

Explained commercial law expert Simon Parrott of Sharman Law Solicitors: "It's important that larger businesses check whether they are required to report under the regulations, and must then keep an eye on the thresholds as these will be updated over time. Smaller businesses can ask new customers whether they are required to report and, if they are, check out payment performance as part of their pre-contract checks".

Simon added: "It's worth remembering that there are other existing measures already available to tackle late payment, including the option of claiming interest and recovery charges, and it's worth checking that existing contract terms don't undermine those rights with something less advantageous."

Under the Late Payment of Commercial Debts (Interest) Act 1998 commercial businesses are expected to pay their supplier invoices within 30 days, unless they have both agreed a longer time limit of no more than 60 days. Alongside, all public bodies are required to pay suppliers within 30 days, except for some specific or devolved activities.

Statutory interest can be applied, together with a fixed sum of between £40 and £100, depending on the sum owed, for the cost of recovering the late commercial payment. The interest is currently set at 8% plus the Bank of England base rate, and starts to run automatically at 30 days from the latest date of either receiving the supplier's invoice, or of receiving or accepting the goods or services. You can agree a longer period for payment, but if it's more than 60 days it must be fair to both businesses. And unless a 'reasonable' longer period has been agreed, any purchaser must confirm that goods or services conform with the contract within 30 days.

Late payment legislation does not have to be referenced in trading terms, as it will apply automatically in any commercial relationship, unless an alternative process has been set out in the contract.

If you need any more information on this, please let us know:

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