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Late Payment

Where payment for goods or a service is not made on time or is a late payment, the party the money is owed to is normally entitled to claim interest as a result of non-payment. This can either be governed by the contract between the parties or, where the contract does not adequately provide for this, by the law.

Contracts between businesses and their customers are usually based upon the standard terms and conditions of the business. The Unfair Contract Terms Act applies to those terms. Where the customer is an individual, the term has to be reasonable, whereas if the customer is a business, that restriction does not apply.

Most contracts will include a clause allowing the business to charge interest for late payment. In the absence of such a clause, the Court will normally allow interest on debts which are claimed through them, from the date they fall due to the date they are paid or judgment is entered, whichever is the earlier.

The Late Payment of Commercial Debts (Interest) Act 1998 allows businesses to charge interest and claim compensation, where the customer is another business and the contract between them does not adequately provide for compensation for late payment. Since 2002 the size of the business has been irrelevant, although the activity has to be such that it is regarded as a business. The legal status of the business is irrelevant, so it covers everything from sole proprietors through to limited liability companies and public bodies.

Where a business is owed money by a business customer, they can claim interest at 8% above the Bank of England reference rate (which is higher than the interest rate the Court normally allows), from the later of 30 days from delivery/provision of the service or 30 days from provision of the invoice for the goods/service or the agreed date for payment, along with compensation which is fixed at:
£40 for a debt less than £1,000;
£70 for a debt of £1,000 or more, but less than £10,000; and
£100 for a debt of £10,000 or more.

The Bank of England reference rate is fixed every 6 months based on the Bank of England base rate at the time. The rate for 1 January to 30 June is fixed on 31 December and the rate for 1 July to 31 December is fixed on 30 June. If you are claiming interest for a period which covers more than one fixed-rate period you need to adjust the rate of interest every time the fixed-rate changes. Put more simply, if the rate goes up you can charge more interest for that period, but if it goes down less.

Where part-payment is made, it goes first towards satisfying the claim for interest. This means that interest continues to run on the outstanding principal sum.