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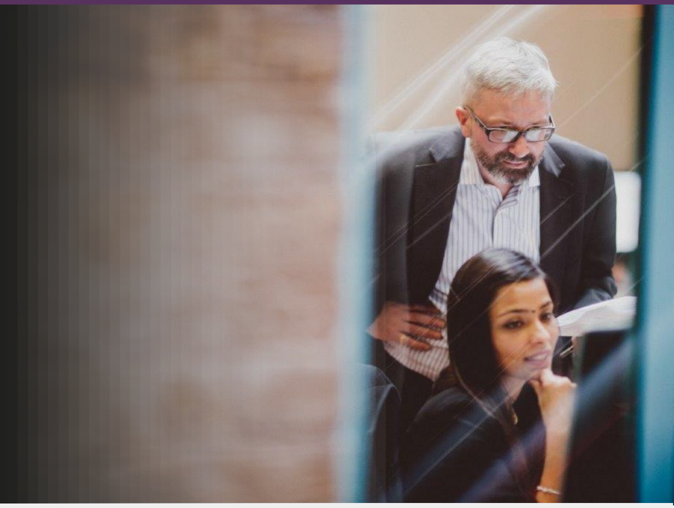
Small suppliers to get info on big companies' payment performance



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

The requirement affects those companies and limited liability partnerships (LLPs) exceeding the thresholds to qualify as a 'medium-sized' company under the Companies Act 2006. The new regulations therefore apply to all companies who, at the date of their last two balance sheets, satisfy two or more of the following criteria:

1. have an annual turnover of £36 million or more;
2. have a balance sheet total of £18 million or more; or
3. have an average of 250 or more 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. They will also be required to update the information every six months.

The new regulations aim 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 into force as part of the Small Business Enterprise and Employment Act 2015 and applies to public, private and listed companies, and to LLPs through a separate set of Regulations.

Businesses are not required to report in their first financial year. Those in their second year are expected to check the requirements against their single, first financial year.

For parent companies and LLPs, reporting is required if the aggregate group figures exceed the thresholds. Any company or LLP within a group that satisfies the test individually must report separately on its own payment practices and performance.

Head of Company Commercial, Veronica Hartley, explains:

"It's important that larger businesses check whether they are required to report under the regulations. They 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.

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. 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 to a longer time limit of no more than 60 days. Further, all public bodies are required to pay suppliers within 30 days, except for some specific or devolved activities.

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[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 payment. The interest is currently set at 8% above the Bank of England's base rate, and starts to run automatically 30 days after, either receipt of the supplier's invoice, or the date of receiving or accepting the goods or services (whichever is the later). 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 such 'reasonable' longer period has been agreed, purchasers 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 alternative provisions have been set out in the contract.

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Note: This is not legal advice; it is intended to provide information of general interest about current legal issues.