

Insights

LATE PAYMENTS CONSULTATION RESPONSE: SIGNIFICANT CHANGES COMING FOR THE CONSTRUCTION INDUSTRY

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Summary

In this BCLP Insight, first published in PLC Construction, Jack McFadden considers the government's proposals for tackling late payments, including its proposal to ban the practice of deducting and withholding retention payments under the terms of a construction contract.

This article contains links which are only accessible by PLC subscribers.

In March 2026, the government published its response, "Late payment consultation: time to pay up", to the July 2025 Late Payments consultation.

In its response, the government announced significant reforms to tackle late payment and poor payment practices in the UK. This was swiftly followed in May with the introduction of the Commercial Payments Bill to the House of Lords to implement the reforms outlined in the response.

In this article, the first of two articles on this topic, we consider the key takeaways from the response. In our second article, we will focus on the Commercial Payments Bill itself.

For more information, see:

- [Legal update, Government confirms package of stronger new laws to tackle late payments.](#)
- [Legal update, Commercial Payments Bill introduced into Parliament.](#)
- [Practice note, Tackling late payment issues for smaller businesses.](#)

Key reforms announced

The reforms announced by the response include:

Abolition of retentions

The government has confirmed that it is proposing to ban the practice of deducting and withholding retention payments under a construction contract. It will effect this by amending the Housing Grants, Construction and Regeneration Act 1996 (Construction Act 1996).

The consultation asked respondents to consider two options: the prohibition of retention altogether, **or** the protection of retention sums for the benefit of the payee through either segregating the retained sums in a separate bank account or through an instrument of guarantee.

The response noted that a significant majority (87%) of respondents favoured reform, with 53% of responses indicating they could support either option. The government noted the view of the respondents that a ban was the less complex legislative proposal and would be simpler to implement and enforce, with economic analysis demonstrating that this would be a lower cost option.

Respondents noted that retained money is often subject to unjustified late, partial and non-payment, and considered that the underlying driver for retention is economic benefit for the payer. Conversely, those who expressed concern with changing the current framework believed retentions are a cost-effective mechanism, incentivising contractual performance and the rectification of defects.

Respondents mainly supported a 12-24 month transitional period, with the government noting its intention to consult further with interested parties before taking a final decision on implementation, including to address concerns about build quality and surety alternatives.

Given that the government has now introduced the Commercial Payments Bill, which bans retentions, it will be interesting to see how further consultation will interact with this, and whether the government intends to delay enactment or introduce amending legislation at a later stage.

For more information on retentions, see [Practice note, Retention under a construction contract: Government's late payment consultation response](#) and [Commercial Payments Bill](#).

Imposition of maximum payment terms of 60 days

The government intends to introduce maximum 60-day payment terms for construction contracts between private parties (30 days for public authority clients), with strictly limited exemptions. This would remove the current exemption that allows businesses to agree longer terms provided they are not "grossly unfair".

Recognising the concerns of smaller businesses that this period is still too long and may become a "default" period rather than a maximum period, the government is proposing a gradual transition, starting with 60 days (which may subsequently be reduced subject to further consultation), no

earlier than 2027. Once again, respondents from the construction industry highlighted the importance of alignment with existing processes within the Construction Act 1996.

For more information, see [Practice note, Payment in construction contracts: Construction Act 1996: Timing of final date for payment](#).

Statutory limit for raising invoice disputes

The government has confirmed its intention to introduce a window for disputing invoices, with businesses failing to raise a dispute within the required period having to pay invoices in full within the agreed payment terms, with later payments accruing interest.

The government has noted that a separate measure will be taken forward for construction contracts, noting the potential complex interaction with the statutory processes of payment notices already provided for in the Construction Act 1996, including the potential re-set of the payment due date. In our second article on this topic, we will explore in detail how the legislation attempts to achieve this.

For more information on payment under the Construction Act 1996, see [Practice note, Payment in construction contracts: Construction Act 1996](#).

Mandatory statutory interest rate payment on qualifying late payments

The government intends to take forward its proposal of a mandatory statutory interest rate payment on qualifying late payments (8% above the Bank of England base rate) meaning parties will be unable to agree a lower rate.

For more information on the current regime, see [Practice note, Interest under the Late Payment of Commercial Debts \(Interest\) Act 1998](#).

Additional reporting on statutory interest

The government also intends to amend the Reporting on Payment Practices and Performance Regulations 2017 (SI 2017/395) to require qualifying large businesses to report information relating to the payment of statutory interest. This will include a requirement to report the total statutory interest the qualifying company owed to its suppliers and the total statutory interest the company has paid out to suppliers in any given reporting period.

For more information, see [Practice note, Reporting payment practices and performance for large companies and LLPs](#).

Strengthening audit committee and board-level scrutiny of payment practices and additional powers for Small Business Commissioner

The government intends to provide the Small Business Commissioner with further powers, including to investigate unfair payment practices, settle payment disputes and impose financial penalties for non-compliance or persistent breaches. Additionally, boards or audit committees of large UK businesses that have made a significant proportion of payments late will be required to report on how the business will improve its payment performance.

For more information on the Small Business Commissioner, see [*Practice note, Tackling late payment issues for smaller businesses: Small Business Commissioner*](#).

Thoughts

Addressing late payment abuse is unquestionably an important policy objective, and the reforms represent a serious attempt to do so. Indeed, the changes proposed amount to some of the most significant changes to construction legislation in a generation (not counting building safety).

Given the scale of the reforms, it is worth pausing to note that the measures are based on feedback from only 867 responses, of which only 238 (roughly a quarter) came from the construction industry; this is in contrast to the ONS figures which say that in Q3 2024 there were approximately 370,770 registered construction firms operating in the UK construction industry. It is therefore welcome that the government has said that it plans to consult the industry further on the abolition of retentions and that there will be a lengthy transition period to allow businesses time to adapt to the new regime.

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- Commercial Construction

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