

INTEREST ON THE LATE PAYMENT OF COMMERCIAL DEBTS

Few businesses are aware that they can charge (and be charged) statutory interest on unpaid commercial debts – are you one of them?

- The late payment of Commercial Debts (Interest) Act 1998 allows any business which is owed money by any other business (regardless of size) to charge statutory interest on the amount outstanding.
- All types of businesses are affected, including sole traders, partnerships, Limited Liability Partnerships and limited companies.
- Statutory interest is calculated as 8% over the Bank of England base rate (as at the end of the day when the debt becomes overdue). There is no requirement for the debt to be over a certain amount in order for this interest to be claimed.
- Interest should be claimed in writing with a clear calculation of the amount claimed with interest to date, the daily rate of interest thereafter, the original invoice details and the details of whom to forward payment to.
- It is good practice to add a statement to all letters concerning payment quotations, order confirmations and invoices warning that you may wish to claim statutory interest on any overdue debts.

For more detailed information or advice on the appropriate wording you can use to protect your right to claim interest, please contact us.

CONSUMER CREDIT ACT LICENSING

It is a criminal offence for anyone to offer credit or to lend money, either directly or through a broker, without being licensed by the Director General of the Office of Fair Trading (OFT) under the Consumer Credit Act 1974. Examples of consumer credit business include cars bought on hire purchase and allowing consumers to pay for goods or services in instalments.

- Licences are only issued when the OFT is satisfied that a business is “fit” to hold a licence.
- A public register of all licence holders (past and present) and all applications is maintained by the OFT. It also includes details of unsuccessful applications.
- It is a criminal offence to knowingly or recklessly give false or misleading information to the OFT when making an application for a consumer credit licence.
- Changes to the business such as new business addresses, partners or directors must be notified to the OFT within 21 days. Failure to do so will mean that the business will be guilty of a criminal offence.

DATA PROTECTION ACT COMPLIANCE

Have you considered whether or not the information your firm holds in relation to its employees or customers complies with the Data Protection Act 1998 (the Act)? If not a ‘data subject’ (ie someone about whom you hold information) may have a claim against you for compensation for emotional distress, as well as any

financial loss they may have suffered.

Recent studies have shown that many companies fail to carry out a full data protection audit to ensure they are entitled to hold the information that they do. Are you one of them?

The Act applies to you if you hold or process personal data about living individuals and applies to paper records, as well as to computer databases. If this applies to you, you must comply with the eight Data Protection Principles. You must also be registered with the Information Commissioner as a data controller.

Particular care must be taken when processing sensitive data such as race, religion, criminal convictions, political opinions or health, as even stricter conditions are imposed by the Act.

There are criminal sanctions (including fines up to £5,000) for failing to comply with the Act. For example; you can be fined for:-

Failing to notify the Information Commissioner that you are processing personal data;

Disclosing personal data without proper authorisation;

Breaching an enforcement notice.

There are special rules which apply to data in telecommunication systems and unsolicited marketing by email, fax and telephone under the Privacy and Electronic Communications (EC Directive) Regulations 2003.

For further information on the Data Protection Act, please see our specialised Data Protection Factsheet or contact [stevensdrake](#) for advice on your obligations.

COMPANY SECRETARIAL



Emma Ladd

office: 01293 643431

email: emma.ladd@stevensdrake.com

