Late Payment Reform: What does it mean for Construction?

Cashflow remains one of the most persistent challenges facing the construction industry. As construction solicitors, payment disputes are among the most common issues we encounter. From subcontractors chasing overdue interim payments to main contractors locked in protracted final account negotiations. The Housing Grants, Construction and Regeneration Act 1996 was introduced to bring structure to the way payments are handled across the supply chain, but nearly 30 years on, significant gaps remain.

Following a public consultation, the Government published its response in March 2026: "Late payment consultation: time to pay up – Government response". The report sets out a series of proposed reforms targeting late payment practices and the damage they cause across the wider economy. Below, we break down the key proposals and their practical implications for the construction supply chain.

Abolition of Retention

The Government has proposed an outright ban on the deduction and withholding of retention monies under construction contracts. Retention has long been used as a safeguard against defective work, but for many subcontractors and smaller firms, withheld retention represents a significant proportion of their margin. When retentions are lost through upstream insolvency or protracted disputes, the consequences can be terminal.

Retention provisions are expected to be removed from standard form contracts, including the JCT and NEC suites. However, whilst the policy intention is clear, the practical consequences are likely to be more nuanced than the headline suggests.

Without retention as a lever, employers and main contractors will need to look elsewhere to protect themselves against defective or incomplete work. We anticipate this leading to:

- More disputes around Practical Completion — with employers and contract administrators taking a harder line on what constitutes completion.
- More onerous conditions precedent — stricter contractual requirements before Practical Completion can be certified.
- Increased use of performance bonds and guarantees — adding cost and potentially creating barriers to tendering, particularly for SMEs.
- More aggressive pursuit of defects claims post-completion.

In short, removing retention does not remove the underlying risk, it simply moves it. Businesses at every level of the supply chain should be thinking carefully about how their contracts, procurement processes and risk models will need to adapt.

Maximum 60-Day Payment Terms

A maximum 60-day payment period is proposed where larger firms are paying smaller firms. Currently, extended payment terms are routinely imposed, placing significant cashflow pressure on subcontractors and SMEs further down the supply chain.

Holmes & Hills
SOLICITORS

However, the detail will matter. If the 60-day cap applies to payments from main contractors to subcontractors but not from employers to main contractors, there is a real risk of creating a cashflow mismatch, with main contractors bound by shorter cycles downstream whilst remaining subject to longer terms upstream. Contractors should review their existing subcontract and head contract payment terms to assess exposure.

Time Limit for Raising Invoice Disputes

A strict 30-day deadline for invoice verification is to be introduced. Where a dispute is not raised within this window, the paying party will be required to settle the invoice in full and may face liability for additional compensation. In construction, this has significant implications for how interim applications, valuations and payment notices are managed. Employers, main contractors and contract administrators should review their certification procedures to ensure they can assess and respond to payment applications within this timeframe.

Mandatory Interest on Late Payment

All commercial contracts will be required to include provision for statutory interest on late payments at 8% above the Bank of England base rate. This removes the ability to contractually agree lower rates or alternative remedies. For the construction industry, where overdue interim payments and delayed final accounts are commonplace, this strengthens financial leverage when pursuing outstanding sums and materially increases the cost of paying late.

Expanded Power for the Small Business Commissioner

The Small Business Commissioner will receive expanded powers to investigate poor payment practices, compel disclosure of information, carry out compliance checks, adjudicate payment disputes and impose financial penalties. Construction businesses should anticipate increased scrutiny and begin reviewing their procurement processes, valuation workflows and payment certification cycles to ensure they can demonstrate compliance.

Looking Ahead

These proposals represent the most significant shift in payment regulation affecting construction in a generation. Now is the time to review your payment terms, retention arrangements and wider risk position across both live and upcoming projects. If you would like to discuss how these reforms may affect your contracts or your business, please get in touch with our construction team.

How We Can Support You

If you require expert assistance in reviewing or drafting contracts which work well for you, or help in understanding variations, the Federation of Traditional Metal Roofing Contractors' National Legal Partner, Holmes & Hills can assist. Their specialist team of construction lawyers can be reached on **01206 593933**, or by emailing the team at **enquiriesconstruction@holmes-hills.co.uk.**

LEAD CONTRACTORS ASSOCIATION

Holmes & Hills