

Need to amend and shorten your Payment Period?

Introduction

As of 1 July 2022 the “*Wijziging van Boek 6 van het Burgerlijk Wetboek in verband met het verkorten van de wettelijke betaaltermijn tot 30 dagen*”, an amendment of the Dutch Civil Code (“DCC”) relating to payment periods will enter into force (“Amendment”). As a result, agreed payment periods in “trade agreements” may need to be shortened from 60 to 30 days. This is explained below.

Relevant Definition

Article 6:119a DCC relates to “trade agreements”, meaning: agreements between two or more companies, where one company delivers goods and/or services and the other company pays for this. Paragraph 6 of article 6:119a DCC specifically relates to “large” companies, being a company that meets at least 2 of the following 3 criteria:

- the company has a balance sheet total of 20 million euros;
- the company has a net profit of more than 40 million euros;
- the company has 250 employees or more.

A SME, a small and medium-sized enterprise, is a company that does not qualify and only meets 1 (or none) of the criteria mentioned above.

What is this Amendment about?

If a large company and a SME enter into a trade agreement and the large company is the debtor, it is no longer allowed to have a payment period amount to 60 days. Instead, a payment period of max. 30 days is allowed.

The Amendment does not apply to the other scenario, e.g. where two SME’s enter into a trade agreement. The table below shows per scenario the maximum payment period:

Debtor \ Creditor	SME	Large company
SME	60 days (exceptions are possible)	Maximum of 30 days
Large company	60 days (exceptions are possible)	60 days (exceptions are possible)

As of what date will the Amendment apply?

New trade agreements, that enter into force after 1 July 2022, between a large company (debtor) and a SME (creditor) the payment period of max. 30 days immediately applies and longer payment periods will be void.

For existing trade agreements between a large company (debtor) and a SME (creditor) that are already agreed and valid on 1 July 2022, a 'grace period' of one (1) year applies, meaning that a payment period of more than 30 days is void after 1 July 2023.

What if payment is not received within the (agreed upon) payment period?

If payment is not received within the applicable payment period, the creditor is entitled to legal interest. Consequently, it is of utmost importance to be aware when payment is due.

What can we do for you?

We are happy to check your trade agreements and/or Sale or Purchase Terms and Conditions and assess whether these are in line with the Amendment. Besides this, we can draft a (template) notification to inform your counterparties when payment periods are not observed.

You can contact us [here](#)!