



# Act on Counteracting Excessive Delays in Commercial Transactions

Despite the fact that the amendment to the Act on payment deadlines in commercial transactions, now referred to as the Act on counteracting excessive delays in commercial transactions ("Act"), imposed many new obligations on entrepreneurs and introduced many restrictions, our experience shows that its provisions are not widely known. This state of affairs could have serious consequences.

The most important changes introduced by the Act include the maximum payment time limits in commercial transactions and the possibility for the President of the Office of Competition and Consumer Protection ("UOKiK") to conduct proceedings for excessive delays in payments of consideration in cash to entrepreneurs.

The Act also introduced an obligation to submit reports to the minister responsible for the economy, on the applicable payment deadlines in commercial transactions.

## Broad Scope of the Act

The Act is applicable to the majority of contracts entered into in business dealings.

The provisions of the Act apply to commercial transactions, i.e. contracts for the supply of goods or provision of services against payment, concluded primarily by entrepreneurs in connection with their business activities.

It applies both to entrepreneurs entered in the KRS and CEiDG registers, as well as entrepreneurs from EU Member States, Member States of the European Free Trade Association (EFTA) - parties to the Agreement on the European Economic Area or the Swiss Confederation and branches and representative offices of foreign entrepreneurs.

**IMPORTANT:** The Act may also apply to transactions between related entities within groups of companies.

Contracts entered into by the parties to a commercial transaction as contracts which do not constitute commercial transactions and provisions of such contracts which are intended to circumvent the Act shall be null and void.

## Payment Deadlines for Commercial Transactions

In principle, the payment time limit for business-to-business commercial transactions is 60 days.

The payment deadline may be extended depending on the parties to the commercial transaction and their size, i.e. depending on whether the counterparty is a micro, small, medium-sized enterprise ("SME") or large enterprise.

The 60-day payment deadline must not be exceeded in commercial transactions where the debtor of the monetary consideration is a large enterprise and the creditor is an SME. In other cases, solutions are provided to allow the parties to prolong the payment deadline, but only if this is not grossly unfair to the creditor.

**IMPORTANT:** If a time limit of more than 60 days is set contrary to the provisions of the Act, the 60-day time limit will automatically apply, and higher statutory interest for delay in commercial transactions may be charged after that date.

## Proceedings Conducted by the President of the UOKiK

The Act prohibits excessive delay in the case of payments of consideration in cash ("Arrears").

Such a situation occurs if in the period of three consecutive months the sum of payments of cash considerations unfulfilled and fulfilled after the deadline amounts for a given entrepreneur to at least PLN 5,000,000 in the years 2020 and 2021 or PLN 2,000,000 in later years.

The proceedings in the case of the Arrears are conducted by the President of UOKiK ex officio. At the same time, any person may submit to the President of UOKiK a notice of suspected Arrears.

In the event of finding any Arrears, the President of UOKiK imposes an administrative cash penalty on a party to the proceedings.

**IMPORTANT:** The President of the UOKiK may conduct proceedings with respect to considerations in cash that became due after January 1, 2020, even if they arise from contracts concluded before the date of entry of the Act into force.

## CONTACT

We encourage you to contact us in case of any doubts regarding payments in commercial transactions.



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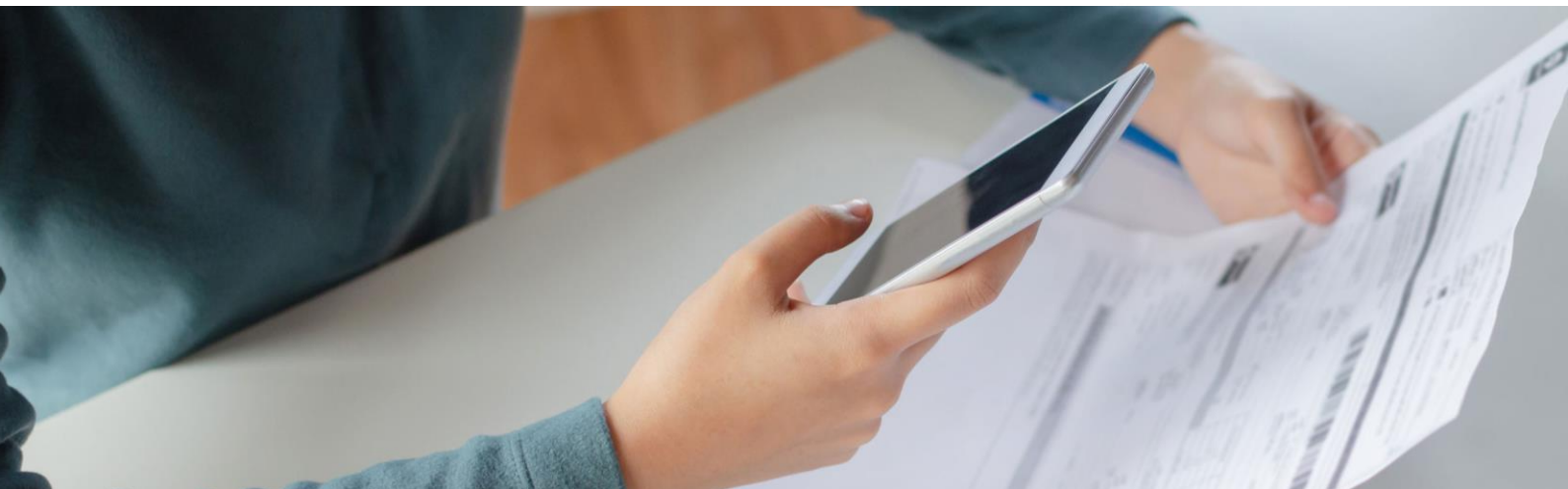
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## ABOUT US

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