

TIMELY PAYMENT LAW



On January 16th, 2019, the Law N° 21.131 was published in the Chilean Official Journal ("Diario Oficial"), also known as "**Timely Payment Law**" ("Ley de Pago Oportuno"), (the "Law"), introducing several amendments to Law 19.983 which regulates the transfer and grants direct enforcement ("mérito ejecutivo") to invoices copies. The most important duty contained in the Law is **establishing a maximum period of 30 days to pay the invoices**.

Originally, the Law was envisaged to modify Law 20.416 which determines special rules to micro, small and medium-size companies; but finally, the Law modified Law 19.983, **extending the application of the Law to all kinds of companies**.

The main modifications introduced by the Timely Payment Law are:

The Payment Period

The Law established a maximum payment period of **30 calendar days** since the **invoice reception** for its payment; however, **the parties can establish a larger payment term**, fulfilling the requirements specified in the Law. Among those requirements, there is the inscription of the agreement that allows the prolongation of the payment period in a register that will be carried by the Economy, Development and Tourism Ministry ("Ministerio de Economía, Fomento y Turismo"). The agreements that do not fulfill the requirements shall be considered as non-written.

Before the Law

The invoice had to be paid: (i) at the moment of the reception; (ii) in a payment period counted since the goods reception or service delivery; or (iii) in a fixed or certain date.

For lack of express mention in the invoice, it must be paid within 30 days following the receipt.

With the New Law

The invoice has to be paid within a maximum payment period of 30 days counted from the reception.

The parties can agree to a larger payment period fulfilling the requirements established in the Law.

Forbidden Clauses

The Law establishes that **the clauses or stipulations trying to improperly delay the invoice payment shall not have any effects**. As examples of forbidden clauses, among others, are the following:

- The ones that grant to the buyer or the service beneficiary the faculty to leave without effects or modify at their own will the contract;
- Those which contain absolute liability limitations that could deprive the seller or the service provider of their right to be indemnified in case of breaches; and
- The ones that establish lower interests for non-payment than the interests indicated by Law.

In addition, it is important to note that the Law includes as **acts of unfair competition**, in the list contained in Article 4 of Law 20.169 that regulates unfair competition, the establishment or application of the aforementioned clauses, and the systematic noncompliance of the term for the payment of the invoices.

Minimal Interest in Case of Non-Payment

The Law regulates the **minimal interest** that shall operate in the case of arrears or simple delay in the invoice payment, and establishes a **fixed commission** for concept of payment recovery, equivalent to one percent of the outstanding balance.

Public Agencies

Concerning the **supply and service delivery agreements** celebrated by public agencies, except in cases of legal exceptions, there will be applied the **same term of 30 days for the payment of the invoices**. However, such term can be reasonably extended up to 60 calendar days on the corresponding bidding bases.

Coming into force

The Law shall come into force **the fourth month after being published** in the Official Journal, except for the payment period established for invoices which shall come into force the **twenty-fifth month after being published**, and during the first twenty-fourth month, the maximum payment period shall be **60 calendar days counted since the invoice reception**.

We hope this information is of interest to you.

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