COMMERCIAL PAYMENTS BILL

Payment Reform, Supply Chain Resilience and Delivery Capacity

FIS Briefing Note (abridged). Updated 20 October 2026 to reflect Lords third reading (20 October 2026) and HL Bill 55. The full analysis is in the detailed FIS briefing note.

FIS BRIEFING NOTE AND POSITION

Purpose

This note sets out the FIS position on the Commercial Payments Bill for engagement with Government, officials and industry during the Bill's remaining stages. The Bill is the most significant intervention in payment practices for more than 25 years. FIS supports it. The priority is Royal Assent, followed by implementation that works in practice.

The Bill in Brief

The Bill has five linked measures:

- a ban on retentions in construction contracts
- maximum payment terms of thirty days for public sector payers and sixty days for private sector payers (in construction, the cap runs only from the payment due date to the final date for payment)
- statutory interest on late payment that cannot be contracted away
- new powers for the Small Business Commissioner to investigate, adjudicate and penalise persistent late payers (adjudication does not reach construction)
- new payment reporting duties for large businesses

Where it stands. The Bill completed Lords Report stage on 15 September 2026 with the retentions policy unchanged, and has been reprinted as HL Bill 55. Lords third reading is on 20 October 2026, after which it goes to the Commons. Enactment is not expected before 2027.

What changed at Report. The Government added a power to shorten the payment caps by regulations, and must consult on using it within five years. Commissioner penalties are no longer limited to UK turnover. An amendment to exempt resident management companies from the retentions ban was tabled but not agreed, and is likely to return in the Commons.

The retention timetable (section numbers as in HL Bill 55):

- **Commencement:** sections 12 and 13 come into force and the clock starts.
- **First two years:** retention clauses can still be agreed or varied.
- **After two years:** sections 14 to 16 come into force. No new retention clauses can be agreed, and existing clauses can only be varied in the payee's favour. From this point, any retention that forms part of a notified sum and is not paid attracts a fixed sum of £40 or fifty per cent of the sum, whichever is higher, on top of statutory interest, whenever the contract was made.
- **After three years ("the last retention day"):** every retention clause becomes void and money still held under them must be paid out, within sixty days (public sector payers) or ninety days (private sector payers). Clauses in contracts made before commencement, and not varied since, are not caught and continue on their own terms.

Why timing matters. If the Bill does not complete its stages before Parliament is dissolved, it falls and the whole process starts again. Every amendment that adds delay or reopens settled ground increases that risk. FIS will push for improvements in ways that support passage, not slow it.

The Case for Abolishing Retention

Around £4.5 billion of retention is held each year in England, and £229 million is lost annually through upstream insolvency. Between £300 million and £600 million is held from the finishes and interiors sector, and fifty-two per cent of FIS members report problems recovering it.

Retention is cash already spent on labour, materials and compliance. It does not buy quality: defects liability runs through the contract and statute (including the Defective Premises Act), not through withheld cash, and the three to five per cent typically retained could never fund the cost of serious defects. Quality comes from good procurement, competence and quality control during delivery.

FIS Asks

FIS supports the Bill without qualification. The asks below are about making it work. With Lords Report stage complete, most will now be pursued in the Commons.

Retentions

- **No exemptions.** No client group should be exempt, and the power to add exemptions by regulation should be narrowed. A carve-out for one group invites the next.
- **No substitutes.** Government should confirm that anything with the effect of retention is banned, including fixed sums, conditions precedent, staged payments or delayed certification tied to defects.
- **Protect the timetable.** No extension of the two- and three-year periods, and a firm commencement date.
- Close the pre-commencement gap. Retention clauses in contracts made before commencement should also end on the last retention day, so that long contracts and frameworks signed before the ban cannot keep retention running indefinitely.
- **Be realistic about bonds and insurance.** Substitute security is costly and often unavailable to smaller firms. Where a client needs security, the client should secure it rather than pass the cost down the supply chain.

Payment terms

- **Start the clock on time.** In construction, the sixty days only starts once the contract's payment due date arrives, and valuation or certification can delay that. Construction should have the same start-point and verification limit as other contracts, with a statutory definition of the payment application.
- **Use the new power to shorten terms.** Sixty days should be a ceiling, not the norm. Government should commit to using its new power, targeting forty-five and then thirty days for private sector terms.
- **Make interest automatic.** The payer should have to add statutory interest to late payments, rather than leaving suppliers to claim it from clients they want to keep working for.

Enforcement and transparency

- **Affordable dispute resolution.** Low-value payment and retention disputes need a fast, low-cost route: a small-claims-style court process, or statutory fast-track adjudication under the Construction Act, and a formal review of the Commissioner's adjudication exclusion for low-value construction disputes.

- **A properly resourced Commissioner.** The Commissioner needs funding and construction expertise. The Bill already allows investigation costs to be recovered from persistent late payers, and that power should be used from the start.
- **Name persistent late payers.** Investigation reports should name the business by default. Government should publish clear criteria for "persistent" late payment, and trade bodies should have a route to submit evidence.
- **Close the penalty loophole.** The wrongful-withholding penalty should not be avoidable simply by alleging the supplier is in breach.
- **Make reporting count.** Keep reporting twice yearly, require independent verification, sanction false reporting and link reporting to eligibility for public work.

Implementation and next steps

- **Review and improve.** Published reviews at two and five years, tracking payment periods, certification behaviour, disputes and use of substitute security.
- **Align across the UK.** A clear plan for alignment with Scotland, Wales and Northern Ireland, with industry involved. The Scottish Parliament has still to vote on consent, and consent is not being sought in Northern Ireland.
- **Reform the Construction Act next.** Maximum verification periods, a statutory definition of practical completion, final account timetables and clear anti-avoidance provisions.
- **Act now.** Nothing stops clients going retention-free today. Government should write it into the Construction Playbook and public procurement, and FIS supports a voluntary pledge to stop taking and release retentions.

Appendix A: What Members Can Do

FIS encourages members to contact their MP. The Bill reaches the Commons after 20 October 2026, so now is the time. Key messages:

- **Support the Bill and resist exemptions.** A carve-out for one client group would quickly become a route for wider avoidance.
- **Retentions do not buy quality.** Competence, supervision, warranties and legal liability do. Building safety depends on accountability and competence, not withheld cash.
- **Retentions drain working capital** from the firms expected to invest in people, training and compliance.
- **Close the loopholes.** Any payment mechanism tied to defects should count as a retention, whatever it is called. Retention in contracts signed before the ban should not be allowed to run on indefinitely.
- **Sixty days is a ceiling, not a target.** Ask for a commitment to use the new power to shorten payment terms.
- **Make rights usable.** Affordable dispute resolution, automatic interest, a resourced Commissioner and named late payers.
- **Protect the timetable.** Every delaying amendment risks the Bill running out of time.

What not to concede: that retentions guarantee quality, that building safety needs withheld cash, that exemptions can be contained, or that bonding should replace payment.

Appendix B: Key Evidence

Theme	Evidence	Why it matters
Late payment	Late payment costs the UK economy around **£11 billion a year** and contributes to around **38 business closures a day**. Fifteen per cent of listed companies pay more than a quarter of invoices beyond sixty days (Build UK).	The Bill tackles a wider economic problem, not a narrow contractual one.
Retentions held	Around **£4.5 billion** held each year in England, with **£229 million** lost annually through upstream insolvency (BEIS impact assessment).	Shows the scale of unsecured supply-chain finance at risk.
Finishes and interiors	**£300 million to £600 million** held from the sector; fifty-two per cent of members report problems recovering it (FIS).	Direct impact on FIS members.
Payment in practice	Only six per cent of specialist subcontractors are paid within thirty days of application; thirty-two per cent say retention is never released on time (FIS/University of Reading, 2023).	Headline terms do not reflect how cash actually moves.
Working capital	Specialist contractors provide **60 to 78 days** of working capital into delivery (FIS/University of Reading, 2023).	Payment delay quickly becomes a capacity and investment problem.