

No hiding place in Europe for debtor companies

Debtor companies are set to be pursued across Europe following a shake-up in EU regulations. And the move, including small claims procedures, has been welcomed by Simon Trees, a partner and head of commercial dispute resolution at law firm Else Solicitors, which has offices in Birmingham and Burton on Trent. Whilst arrangements for cross-border debt-collecting came into effect in 2006, these proved hugely complicated, protracted and expensive. Now a new streamlined procedure becomes law on December 12 which Mr Trees believes will be a big benefit to many Midland businesses.

The European Order for Payment, which is only available for cross-border cases, allows for citizens and businesses to enforce uncontested debts. Local debt-recovering systems work alongside EOPs. Creditors can choose which they wish to use. However, one of the biggest benefits is that it is specifically designed to work in multinational scenarios. Small businesses in particular should benefit from the EOP changes since it provides a simple, cost-effective method of collecting payments from a multinational group of customers. Similarly, the European Small Claims Procedure comes into effect on January 1. It is intended to improve access to justice by simplifying cross-border small claims in civil cases. These 'small claims' are limited to 2,000 euros (£1,709) excluding interest and costs.

The procedure is an optional alternative to that under the national law of the member state. Enforcement is governed by the law of the member state where the judgment is to be enforced. The intention of the EOP is to promote swift and efficient recovery of uncontested claims. Mr Trees said the previous set-up had been "cumbersome, time-consuming and costly". He went on: "This is good news for businesses that deal in international trade especially with the small claims procedure. "Previously it was a nightmare to deal with; now it should assist in us actioning claims for clients in a more streamlined manner. It remains to be seen how cost effective this will be. However, I am optimistic that it can only be a benefit for companies with cross-border debts."

West Midlands firms producing manufactured parts, many of which would be below the 2,000 euro limit, would benefit in particular, he suggested. A claim is made on the prescribed form, and an EOP issued and served. If no statement of opposition is sent within 30 days, the court declares the order enforceable. If a statement of opposition is served, the claimant can then either ask that the EOP ceases, or that it be transferred to the national system as a normal county court action.



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