

Illustration (1) – Contractual late payment interest exceeds capped amount

Facts

- (a) X is unable to pay Y a sum of \$1000 that becomes due on 1 February 2020. X is only able to repay the sum on 1 November 2020.
- (b) Under X's contract with Y:
 - (i) The late payment interest rate is 10% per annum of simple interest.
 - (ii) The late payment interest is calculated on a daily basis, based on all amounts which remain unpaid, until the unpaid amounts are paid in full. Calculation is done on the basis of a 365-day year, or a 366-day year in the case of a leap year like 2020.

Once X serves a Notification for Relief on Y:

All late payment interest and charges that are chargeable on arrears that accrued between 1 February and 19 October 2020 will be capped at an amount equal to 5% per annum of simple interest on the arrears.

To determine the amount of late payment interest X must pay between 2 February and 19 October, the contractual late payment interest and the capped amount must be compared.

Contractual late payment interest between 2 February and 19 October 2020 Computed based on 261 out of 366 days at the contractual late payment interest rate of 10% per annum of simple interest	\$71.31
Capped amount between 2 February and 19 October 2020 Computed based on 261 out of 366 days at 5% per annum of simple interest	\$35.66

Since the contractual amount exceeds the capped amount, the capped amount will apply. The late payment interest payable between 2 February and 19 October 2020 is **\$35.66**.

The total amount payable by X on 1 November 2020 (when X is able to repay the sum), is:

Principal	\$1000
Late payment interest between 2 February and 19 October 2020 This is the capped amount, computed based on 261 out of 366 days at 5% per annum of simple interest.	\$35.66
Late payment interest between 20 October and 1 November 2020 Computed based on 13 out of 366 days at the contractual late payment interest rate of 10% per annum of simple interest	\$3.55
Total	\$1,039.21

Illustration (2) – Contractual late payment interest and charges exceed capped amount

Facts

- (a) X is unable to pay Y a sum of \$1000 that is due and payable on 1 February 2020. X is only able to repay the sum on 1 November 2020.
- (b) Under X's contract with Y:
 - (i) The late payment interest rate is 10% per annum of simple interest.
 - (ii) The late payment interest is calculated on a daily basis, based on all amounts which remain unpaid, until the unpaid amounts are paid in full. Calculation is done on the basis of a 365-day year, or a 366-day year in the case of a leap year like 2020.
 - (iii) A late payment charge of \$80 is payable at the end of every calendar month if any amount remains unpaid on that date. Interest does not accrue on these charges.

Once X serves a Notification for Relief on Y:

All late payment interest and charges that are chargeable on arrears that accrued between 1 February and 19 October 2020 will be capped at an amount equal to 5% per annum of simple interest on the arrears.

To determine the amount of late payment interest and charges X must pay between 2 February and 19 October, the contractual late payment interest and charges, and the capped amount, must be compared.

Contractual late payment interest and charges between 2 February and 19 October 2020

This is calculated as follows:

Late payment interest between 2 February and 19 October 2020 Computed based on 261 out of 366 days at the contractual rate of 10% per annum of simple interest	\$71.31
Late payment charges between 2 February and 19 October 2020 Computed based on \$80 each month for a total of 8 months from February to September 2020	\$640
Total	\$711.31

Capped amount between 2 February and 19 October 2020

The capped amount is computed based on 261 out of 366 days at 5% per annum of simple interest on the arrears. This is **\$35.66**.

Since the contractual amount exceeds the capped amount, the capped amount will apply. The late payment interest payable between 2 February and 19 October 2020 is **\$35.66**.

The total amount payable by X on 1 November 2020 (when X is able to repay the sum), is:

Principal	\$1000
Late payment interest between 2 February and 19 October 2020 This is the capped amount, computed based on 261 out of 366 days at 5% per annum of simple interest.	\$35.66
Late payment interest for 20 October – 1 November 2020 Computed based on 13 out of 366 days at the contractual late payment interest rate of 10% per annum of simple interest	\$3.55
Late payment charges on 31 October 2020	\$80
Total	\$1,119.21

Illustration (3) - Contractual late payment interest and charges does not exceed capped amount

Facts

- (a) X is unable to pay Y a sum of \$1000 that is due and payable on 1 February 2020. X is only able to repay the sum on 1 November 2020.
- (b) Under X's contract with Y:
 - (i) The late payment interest rate is 2.5% per annum of simple interest.
 - (ii) The late payment interest is calculated on a daily basis, based on all amounts which remain unpaid, until the unpaid amounts are paid in full. Calculation is done on the basis of a 365-day year, or a 366-day year in the case of a leap year like 2020.
 - (iii) A late payment charge of \$2 is payable at the end of every calendar month if any amount remains unpaid on that date. Interest does not accrue on these charges.

Once X serves a Notification for Relief on Y:

All late payment interest and charges that are chargeable on arrears that accrued between 1 February and 19 October 2020, will be capped at an amount equal to 5% per annum of simple interest on the arrears.

To determine the amount of late payment interest and charges X must pay between 2 February and 19 October 2020, the contractual late payment interest and charges, and the capped amount, must be compared.

Contractual late payment interest and charges between 2 February and 19 October 2020

This is calculated as follows:

Late payment interest between 2 February and 19 October 2020 Computed based on 261 out of 366 days at the contractual rate of 2.5% per annum of simple interest	\$17.83
Late payment charges between 2 February and 19 October 2020 Computed based on \$2 each month for a total of 8 months from February to September 2020	\$16
Total	\$33.83

Capped amount between 2 February and 19 October 2020

The capped amount is computed based on 261 out of 366 days at 5% per annum of simple interest on the arrears. This is **\$35.66**.

Since the contractual amount does not exceed the capped amount, the contractual amount will apply. The late payment interest and charges payable between 2 February and 19 October 2020 is **\$33.83**.

The total amount payable by X on 1 November 2020 (when X is able to repay the sum), is:

Principal	\$1000
Late payment interest between 2 February and 19 October 2020 Computed based on 261 out of 366 days at the contractual rate of 2.5% per annum of simple interest	\$17.83
Late payment charges between 2 February and 19 October 2020 Computed based on \$2 each month for a total of 8 months from February to September 2020	\$16
Late payment interest between 20 October and 1 November 2020 Computed based on 13 out of 366 days at the contractual rate of 2.5% per annum of simple interest	\$0.89
Late payment charge on 31 October 2020	\$2
Total	\$1,036.72

Illustration (4) – Partial repayments made

Facts

- (a) X is unable to pay Y a sum of \$1000 that is due and payable on 1 February 2020.
- (b) Under X's contract with Y:
 - (i) The late payment interest rate is 10% per annum of simple interest.
 - (ii) The late payment interest is calculated on a daily basis, based on all amounts which remain unpaid, until the unpaid amounts are paid in full. Calculation is done on the basis of a 365-day year, or a 366-day year in the case of a leap year like 2020.

- (iii) All payments shall be applied to the payment of interest then due and payable before application to principal.
- (c) X makes a partial repayment of \$400 on 1 June 2020.
- (d) X serves a Notification for Relief on 1 July 2020.
- (e) X makes a partial repayment of \$300 on 1 August 2020.
- (f) X repays the remaining sums owed on 1 November 2020.

Points to note:

- Sums that have already been paid (i.e., X's partial repayment of \$400 on 1 June 2020) are unaffected. X cannot get a refund on any late payment interest paid that exceeds the capped amount.
- The capped amount applies to arrears that accrued between 1 February and 19 October 2020.
- If partial payments are made after the service of the Notification for Relief, the capped amount will continue to apply to the remaining arrears.

Once X serves a Notification for Relief on Y:

All late payment interest and charges that are chargeable on arrears that accrued between 1 February and 19 October 2020 will be capped at an amount equal to 5% per annum of simple interest.

Outcome pursuant to section 7A

Date	Amount payable	Comments
1 February 2020	\$1000 is due and payable.	
1 June 2020	<p>\$1000 (principal) and \$33.06 (contractual late payment interest) is due and payable (total of \$1033.06).</p> <p>X repays \$400 (applied to interest first).</p> <p>Remaining arrears: \$633.06</p>	Contractual late payment interest is computed based on 121 out of 366 days at 10% per annum of simple interest.
1 July 2020 (after service of NFR)	<p>\$633.06 remains outstanding.</p> <p>The late payment interest chargeable on the remaining arrears between 2 June 2020 and 1</p>	Contractual late payment interest computed based on 30 out of 366 days at 10% per annum of simple interest.

	<p>July 2020 will be capped. As the contractual amount (\$5.19) exceeds the capped amount (\$2.59), the capped amount will apply (see comments).</p> <p>Total: \$635.65 (\$633.06 + \$2.59)</p>	<p>The capped amount is computed based on 30 out of 366 days at 5% per annum of simple interest.</p>
1 August 2020	<p>The late payment interest chargeable on the remaining arrears between 2 July 2020 and 1 August 2020 will be capped.</p> <p>The contractual late payment computed on the remaining arrears (<u>including</u> unpaid late interest) is \$5.38.</p> <p>The capped amount computed on the remaining arrears (<u>excluding</u> unpaid late interest) is \$2.68.</p> <p>As the contractual amount (\$5.38) exceeds the capped amount (\$2.68), the capped amount will apply.</p> <p>Total: \$638.33 (\$635.65 + \$2.68)</p> <p>X repays \$300 (applied to interest first).</p> <p>Remaining arrears: \$338.33.</p>	<p>Contractual late payment interest computed based on 30 out of 366 days at 10% per annum of simple interest.</p> <p>The capped amount is computed based on 30 out of 366 days at 5% per annum of simple interest.</p>
1 November 2020	<p>The late payment interest chargeable on the remaining arrears between 2 August 2020 and 19 October 2020 will be capped, while the late payment interest chargeable after 19 October 2020 will <u>not</u> be capped.</p> <p><u>Between 2 August 2020 and 19 October 2020</u></p> <p>The contractual late payment computed on the remaining arrears is \$7.30.</p>	<p>Contractual late payment interest computed based on 79 and 13 out of 366 days at 10% per annum of simple interest respectively.</p> <p>The capped amount is computed based on 79 out of 366 days at 5% per annum of simple interest.</p>

	<p>The capped amount computed on the remaining arrears (which does not include any unpaid late interest) is \$3.65.</p> <p>As the contractual amount (\$7.30) exceeds the capped amount (\$3.65), the capped amount will apply.</p> <p><u>Between 20 October 2020 and 1 November 2020</u></p> <p>The cap no longer applies after 19 October 2020.</p> <p>On 20 October, the remaining arrears (including unpaid late payment interest) is \$341.98 (\$338.33 + \$3.65).</p> <p>The contractual late payment computed on the remaining arrears (including unpaid late interest) is \$1.21.</p> <p>Total arrears = \$343.19</p>	
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Illustration (5) - Recurring payments due that are not paid

Facts

- (a) X entered into a hire-purchase contract with Y. Under the contract:
- (i) The amount loaned is \$60,000, repayable over 5 years, with a simple interest rate of 2.5% per annum (flat rate).
 - (ii) The monthly instalment payable is \$1,125 (comprising \$1,000 principal and \$125 interest). The first instalment is due and payable on 1 July 2020.
 - (iii) Late payment interest of 5% per annum of simple interest is payable, based on the balance amount (i.e., the entire outstanding principal), until the unpaid amounts are paid in full. Calculation is done on the basis of a 365-day year, or a 366-day year in the case of a leap year like 2020.

- (b) X is unable to pay instalments that fell due in July and August 2020.
- (c) X serves a Notification for Relief on 1 August 2020.
- (d) X repays all arrears owed on 31 August 2020.

Once X serves a Notification for Relief on Y:

All late payment interest and charges that are chargeable on arrears that accrued between 1 February and 19 October 2020 will be capped at an amount equal to 5% per annum of simple interest on the arrears.

Point to note: The prescribed cap is calculated on the unpaid **principal** that is **due and payable**, and not the full outstanding principal.

Contractual late payment interest between 2 July 2020 and 31 August 2020

This is calculated as follows:

Late payment interest due between 2 July 2020 and 31 August 2020	\$500
Computed based 61 out of 366 days at the contractual rate of 5% per annum of simple interest, calculated based on the balance amount (i.e., the entire outstanding principal)	

Capped amount between 2 July 2020 and 31 August 2020

This is calculated as follows:

Period	Arrears (which do not include unpaid late payment interest)	Capped amount
2 July – 1 August 2020	\$1,125	\$4.76 Computed based on 31 out of 366 days at 5% per annum of simple interest on the arrears.
2 August – 31 August 2020	\$2,250	\$9.22 Computed based on 30 out of 366 days at 5% per annum of simple interest on the arrears.
		Total: \$13.98

Since the contractual amount exceeds the capped amount, the capped amount will apply. The late payment interest payable between 2 July 2020 and 31 August 2020 is **\$13.98**.

Outcome pursuant to section 7A

Date	Amount payable
1 July 2020	<p>Monthly instalment of \$1,125 (comprising \$1,000 principal and \$125 interest) is due and payable.</p> <p>Total: \$1,125</p>
1 August 2020	<p>Arrears from 1 July 2020 of \$1,125 remain due and payable.</p> <p>Capped late payment interest of \$4.76 is due and payable (as calculated above).</p> <p>Monthly instalment of \$1,125 (comprising \$1,000 principal and \$125 interest) is due and payable.</p> <p>Total: \$2,254.76</p>
31 August 2020	<p>Arrears from 1 August 2020 of \$2,254.76 remain due and payable.</p> <p>Late payment interest of \$9.22 is due and payable (as calculated above).</p> <p>Total: \$2263.98</p>