Quantum meruit is a term that can be applied where a party that has provided services wishes to recover a sum of money in return for the services supplied. The sum may be calculated on a “quantum meruit” basis.

It is usual for a contract to include an express clause for the customer to pay the service provider an agreed sum for works or services performed. In such circumstances, the parties’ relationship is governed by the usual provisions of contract law.

Quantum meruit can be relevant for example: (i) where the parties have not agreed a valid contract covering the work to be performed, or (ii) where the contract does not contain an agreed sum for payment, or (iii) where the parties have agreed to pay a reasonable sum for the work done, or (iv) where the parties have agreed an original contract but since then have undertaken further work outside the scope of the original contract.

Additionally, where a customer commits a repudiatory breach of a contract and the service provider terminates on the grounds of repudiatory breach, the service provider may either bring a claim for breach of contract or sue on a quantum meruit basis for the work actually done.

Under quantum meruit, a claimant can claim for recovery of a reasonable sum in respect of the services supplied. This is usually referred to as “quantum meruit” meaning “the amount he deserves” or “as much as he has earned”.

Such claims can be contractual in nature, for example where a contract is in place but no sum for the services has been fixed. In other cases, quantum meruit is likely to be a restitutionary claim such as where the parties had never agreed a contract or the contract is void. It can be difficult to establish with certainty whether a quantum meruit claim is contractual or restitutionary in nature.

A quantum meruit claim in restitution aims to address the unjust enrichment of the customer at the expense of the service provider. The remedy in a quantum meruit claim will be the payment of a reasonable sum in respect of the services supplied. The case law is complex but broadly the courts have held that the starting point for valuing services is the objective market value of the services provided.

To establish a claim in restitution, a service provider must show: (i) the customer has been enriched or received a benefit, (ii) the enrichment of the customer is unjust, and (iii) the enrichment of the customer was at the expense of the service provider.

Enrichment may consist of performance of work or the provision of services, where the work or services were requested or “freely accepted” by the customer. For example, where a service provider provides IT services to a customer who has the opportunity to reject the services but does not do so and the customer knows the service provider intends to charge for the IT services.
Examples of unjust factors recognised by the courts include the customer being enriched as a result of his own wrongdoing, the benefit being transferred to the customer at his own request and the benefit being transferred by mistake or under compulsion. It is important to remember that the focus of the claim is on whether the customer has been enriched at the service provider’s expense, and not whether the service provider has suffered a loss that might have been avoided. One example of an unjust factor would be where a customer requested that services were provided to it by the service provider.

That the enrichment of the customer was at the expense of the service provider can generally be established by proving that it is the service provider who has transferred benefit (i.e. the services) to the customer.

For more information please contact Angelica Liddell, or any other member of the Commercial team at Stevens & Bolton LLP.

Angelica Liddell
Associate
T: +44 (0)1483 406991
E: angelica.liddell@stevens-bolton.com