



Payment Times Reporting Rules 2020

I, Michaelia Cash, Minister for Employment, Skills, Small and Family Business, make the following rules.

Dated 20 November 2020

Michaelia Cash
Minister for Employment, Skills, Small and Family Business

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Part 1—Preliminary

1 Name

This instrument is the *Payment Times Reporting Rules 2020*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The later of: (a) the start of the day after this instrument is registered; and (b) the commencement of the <i>Payment Times Reporting Act 2020</i> .	1 January 2021 (paragraph (b) applies)

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *Payment Times Reporting Act 2020*.

4 Definitions

Note: A number of expressions used in this instrument are defined in the Act, including the following:

- (a) ABN;
- (b) controlling corporation;
- (c) payment times report;
- (d) Regulator;
- (e) reporting entity;
- (f) small business invoice;
- (g) small business supplier.

In this instrument:

Act means the *Payment Times Reporting Act 2020*.

cash transaction has the same meaning as in the *Financial Transaction Reports Act 1988*.

Section 4

small business supply chain finance arrangement means an arrangement under which an entity undertakes or agrees to pay small business invoices, or arranges for a third party to pay small business invoices, earlier than the end of the relevant supply payment period in exchange for the small business supplier accepting discounts on the payments.

supply payment period means the period within which payment is required to be made for the supply of goods or services, disregarding any applicable small business supply chain finance arrangement.

trade credit arrangement means an arrangement under which an entity and a small business supplier agree that payment by the entity for a supply of goods or services by the supplier is to be delayed to a time after the supply.

Part 2—Definitions for the purposes of the Act

5 Payment Times Small Business Identification Tool

For the purposes of the definition of *Payment Times Small Business Identification Tool* in section 5 of the Act, *Payment Times Small Business Identification Tool* means the tool by that name made available by the Department in any form the Regulator considers appropriate, as existing from time to time.

6 Standard payment periods

For the purposes of the definition of *standard payment period* in section 5 of the Act, *standard payment period*, for an entity, means:

- (a) a supply payment period on offer for inclusion in the entity's contracts with small business suppliers; or
- (b) if no such supply payment period is on offer—the supply payment period most commonly included in the entity's contracts with small business suppliers.

Part 3—Applications to cease to be a reporting entity

7 Information and documents required for applications

For the purposes of subsection 7(6) of the Act, an application by a reporting entity under subsection 7(5) of the Act must include all of the following:

- (a) the entity's name;
- (b) if the entity has an ABN—the ABN;
- (c) if the entity is a member of a controlling corporation's group:
 - (i) the controlling corporation's name; and
 - (ii) if the controlling corporation has an ABN—the ABN;
- (d) in relation to the income year for the entity in which the application is made—the date on which that income year started;
- (e) the grounds on which the application is made;
- (f) documentary evidence supporting the application.

Note 1: For paragraph (e), subsection 7(7) of the Act sets out grounds on which the Regulator is required to make a determination.

Note 2: For paragraph (f), documentary evidence might include income tax returns (within the meaning of the *Income Tax Assessment Act 1997*) or a statement from an independent and suitably qualified auditor.

Part 4—Payment times reports

8 Extension of time for giving payment times report

For the purposes of paragraph 13(4)(a) of the Act, the Regulator must not allow an entity further time to give a payment times report unless the entity made the application for further time within the period of 3 months mentioned in subsection 13(1) of the Act.

9 Information required for payment times reports

For the purposes of paragraph 14(1)(o) of the Act, a payment times report for a reporting period for a reporting entity must include all of the following:

- (a) details of the practices or arrangements used by the entity during the reporting period for receiving or paying small business invoices;
- (b) details of any practices or arrangements used by the entity during the reporting period through which a small business is required to pay an amount, including a subscription or membership fee:
 - (i) to participate in the entity's procurement processes, including to lodge a tender; or
 - (ii) for the entity to accept a small business invoice issued by the small business;
- (c) if the entity used small business supply chain finance arrangements during the reporting period:
 - (i) a description of the arrangements used; and
 - (ii) a statement of the proportion, determined by total number and total value, of small business invoices paid by the entity during the reporting period that were paid using those arrangements; and
 - (iii) details of any benefits, including commissions or other payments, received by the entity during the reporting period from the providers of those arrangements;
- (d) a statement on whether, during the reporting period, small businesses were required to agree to use small business supply chain finance arrangements to participate in the entity's procurement processes or to receive payments in relation to small business invoices;
- (e) a statement on when the report will be provided to the principal governing body of the entity;
- (f) if the entity is a member of a group of related entities that has a head entity, and the head entity is not a controlling corporation identified in the report under paragraph 14(1)(j) of the Act—information identifying the head entity;
- (g) any additional information providing context or explanation in relation to other information included in the payment times report.

Section 10

10 Method for determining certain proportions for payment times reports

For the purposes of subsection 14(2) of the Act, in determining the proportions mentioned in paragraph 14(1)(g) of the Act for a payment times report for a reporting period for a reporting entity:

- (a) a small business invoice is issued as follows, regardless of any other date entered into a software system for the entity:
 - (i) if the entity has a record of the date on which the small business invoice was received by the entity in accordance with all requirements of the relevant written or oral contract—on that date;
 - (ii) in any other case—on the date of the invoice; and
- (b) for a small business invoice paid by the entity under a small business supply chain finance arrangement—the invoice is paid at the end of the relevant supply payment period; and
- (c) for a small business invoice paid by the entity other than under a small business supply chain finance arrangement—the invoice is paid:
 - (i) for a cash transaction—on the day the amount of the relevant payment is given to the small business supplier by the entity; or
 - (ii) for a payment by way of a cheque—on the day the cheque for the amount of the relevant payment is given to the small business supplier by the entity; or
 - (iii) in any other case—on the day, in a transfer to the applicable account of the small business supplier, the amount of the relevant payment is debited from the applicable account of the entity; and
- (d) for the purposes of calculating the time within which a small business invoice is paid after it is issued:
 - (i) it is irrelevant whether a day is a business day; and
 - (ii) it is irrelevant whether the invoice is in dispute; and
- (e) any small business invoice that is not paid under a trade credit arrangement is to be disregarded; and
- (f) if the entity is a member of a controlling corporation's group—any small business invoice issued to the entity by a small business supplier that is also a member of that group is to be disregarded.

11 Notifiable event—member of controlling corporation's group has total income of less than \$10 million for income year

For the purposes of paragraph 14(4)(c) of the Act, if a reporting entity (other than a volunteering entity) is a member of a controlling corporation's group, a prescribed event is that the total income for the entity for each of the 2 most recent income years for the entity was less than \$10 million.

Part 5—Payment Times Reports Register

12 Circumstances for registering revised version of payment times report

For the purposes of paragraph 19(3)(a) of the Act, the prescribed circumstances are that the registration of the revised version of the payment times report is required to correct substantial errors or omissions in the version of the report previously registered.

13 Additional matters for decision not to publish certain information

For the purposes of paragraph 20(2)(c) of the Act, the Regulator must have regard to whether the information is irrelevant for the purposes of the achievement of the objects of the Act (see section 3 of the Act).