

EXPLANATORY STATEMENT

Issued by authority of the Minister for Small Business

Payment Times Reporting Act 2020

Payment Times Reporting Rules 2024

Section 58 of the *Payment Times Reporting Act 2020* (the Act) provides that the Minister may make rules prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The purpose of the *Payment Times Reporting Rules 2024* (the 2024 Rules) is to, along with the *Payment Times Reporting Amendment Act 2024* (the Amending Act), improve the Payment Times Reporting Scheme (the Scheme), by implementing the Government response to the *Statutory Review of the Payment Times Reporting Act 2020* (the Review) and making other amendments to the operation of the Scheme.

The Scheme commenced on 1 January 2021. It was introduced to improve payment outcomes for Australian small businesses by providing for large businesses and certain other entities to publicly report on their payment terms, times and practices with respect to small business suppliers. The *Payment Times Reporting Rules 2020* (the 2020 Rules) commenced concurrently with the Act to provide additional detail for technical and administrative aspects of the Scheme.

The Review was publicly released in August 2023. The Review assessed the effectiveness of the Act and the Scheme against its objects and found that certain requirements in the Act imposed unnecessary regulatory burdens on reporting entities, compromised the effectiveness of the Payment Times Reporting Regulator (the Regulator), and limited the accuracy and accessibility of the data reported under the Act. The Government response to the Review was released on 5 December 2023 and it agreed with all the findings and recommendations of the Review. As part of the response, the Government agreed to amend the Act and the 2020 Rules to address issues identified in the Review.

The Amending Act passed both Houses of Parliament by 3 July 2024 and received Royal Assent on 9 July 2024. Broadly, it amended the Act to expand the functions and enforcement powers of the Regulator, introduce a new Ministerial direction-making power for slow small business payers, include criteria for when an entity is a fast small business payer, reform the reporting entity framework and consolidate both payment times reporting and the Payment Times Reports Register (the Register).

The 2024 Rules repeal and remake the 2020 Rules to support the wider amendments made to the Scheme by the Amending Act.

In summary, the 2024 Rules prescribe the:

- entity information that a reporting entity or a reporting nominee must provide to the Regulator (Part 2);

- information that must be included in a payment times report, including modified content requirements for special kinds of entities (Part 3);
- method to determine whether an entity is a slow small business payer (Part 4);
- meaning of a qualifying payment time of 20 days or less, for the purposes of determining a fast small business payer (Part 5);
- information relating to the Scheme that may or must be published on the Register (Part 6); and
- transitional provisions for reporting periods beginning before 1 July 2024, with the 2020 Rules continuing to apply, on and after 1 July 2024, to a payment times report for these reporting periods (Part 20).

Details of the 2024 Rules are set out in [Attachment A](#).

A summary of the changes to reporting requirements including an overview of the reporting requirements applying in relation to payment times reports for reporting periods beginning on or after 1 July 2024 is at [Attachment B](#).

A Statement of Compatibility with Human Rights is at [Attachment C](#).

The Act does not specify any conditions that need to be satisfied before the power to make the 2024 Rules may be exercised.

The Office of Impact Analysis (OIA) has been consulted (OIA23-05344) and agreed that an Impact Analysis was not required.

The 2024 Rules will reduce compliance costs for entities.

The 2024 Rules is a legislative instrument for the purposes of the *Legislation Act 2003* (Legislation Act).

The 2024 Rules is subject to the disallowance regime under section 42 of the Legislation Act and is subject to the sunseting regime under section 50 of the Legislation Act.

The whole of the 2024 Rules commence on the day after the 2024 Rules is registered.

Details of the *Payment Times Reporting Rules 2024*

Part 1 – Preliminary

Part 1 contains machinery provisions, including the commencement provision, authorising legislation provision and definitions.

Section 1 – Name

This section provides that the name of the Instrument is the *Payment Times Reporting Rules 2024* (2024 Rules).

Legislative references in this attachment are to the Instrument unless otherwise stated.

Section 2 – Commencement

The whole of the Instrument commences on the day after the Instrument is registered on the Federal Register of Legislation.

Section 3 – Authority

The Instrument is made under the *Payment Times Reporting Act 2020* (the Act).

As explained in the note under the section, section 58 of the Act provides that the Minister may, by legislative instrument, make rules prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Section 4 – Schedule

This section provides that each instrument that is specified in a Schedule to the instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to the instrument has effect according to its terms.

Section 5 – Definitions

This section sets out definitions of key terms used in the 2024 Rules, which are instrumental to the Payment Times Reporting Scheme (the Scheme), in addition to the definitions set out in the Act. These definitions are:

- ‘AASB 8’ – refers to:
 - the accounting standard *AASB 8 – Operating Segments – August 2015* (as amended and in force from time to time). The accounting standard is a legislative instrument, subject to disallowance. The current version is available publicly online, without charge, on the Federal Register of Legislation with title ID F2015L01606 at the time of making this Instrument; or
 - the remade instrument if *AASB 8 – Operating Segments – August 2015* [F2015L01606] is repealed and remade, with or without modifications;

- ‘ABN’ – takes the same meaning as in the *A New Tax System (Australian Business Number) Act 1999*;
- ‘ACN’ – as defined in section 9 of the *Corporations Act 2001*;
- ‘ARBN’ – as defined in section 9 of the *Corporations Act 2001*;
- ‘controlled entity’ – an entity is a ‘controlled entity’ of another entity if the latter controls the former. Section 5 of the Act defines ‘control’ to mean control of the entity within the meaning of the accounting standards;
- ‘corporate Commonwealth entity’ – takes the same meaning as in the *Public Governance, Performance and Accountability Act 2013*;
- ‘government entity’ – takes the same meaning as in the *A New Tax System (Australian Business Number) Act 1999*;
- ‘local governing body’ – takes the same meaning as in the *Income Tax Assessment Act 1997*;
- ‘nominated entity’ – an entity is a ‘nominated entity’ of a reporting nominee if the entity is specified in a reporting nominee determination in relation to the reporting nominee;
- ‘Peppol enabled eInvoice’, in relation to an invoice or notice for payment, in relation to an entity – means an invoice or notice that the entity can send or receive using the Peppol network as the entity is connected to the network;
- ‘Peppol network’ – refers to the network for electronic invoicing developed and maintained by OpenPeppol.
 - The note to this definition in the 2024 Rules clarifies that OpenPeppol gives authority to different nations to manage the Peppol framework for members in that nation. In Australia, the Peppol framework is managed for Australian Peppol members by the Australian Taxation Office as the Australian Peppol Authority;
- ‘recipient created tax invoice’ takes the same meaning as in the *A New Tax System (Goods and Services Tax) Act 1999*;
- ‘reporting nominee determination’ – the determination made by the Payment Times Reporting Regulator (the Regulator) under subsection 10L(1) of the Act to determine an entity is a reporting nominee for one or more other entities specified in that determination;
- ‘supply chain finance arrangement’ – arrangements where an entity (directly or indirectly) pays a small business supplier before the terms for payment require, and in exchange the small business supplier pays a fee or accepts a discounted payment. A reporting entity or reporting nominee is required to report on whether it, or any of its controlled entities or nominated entities, made an offer to enter into such an arrangement;

- ‘the Act’ means the *Payment Times Reporting Act 2020*. In this Explanatory Statement any reference to the Act is a reference to the Act as amended by the Amending Act;

The meaning of ‘95th percentile payment time’, ‘entity information’, ‘payment term’, ‘payment time’, ‘Payment Times Small Business Identification Tool’, ‘small business trade credit payments dataset’, ‘trade credit arrangement’ and ‘trade credit payments dataset’ are explained in detail at relevant points in this Explanatory Statement.

Section 6 – Payment Times Small Business Identification Tool

In accordance with the definition of ‘Payment Times Small Business Identification Tool’ in section 5 of the Act, this section prescribes the meaning of ‘Payment Times Small Business Identification Tool’.

The Payment Times Small Business Identification Tool means the tool by that name, as existing from time to time, that is accessible on a website maintained by the Department of Treasury for the provision of payment times reports to the Regulator (the Payment Times Reporting Portal website). At the time the 2024 Rules were made, the website could be found at <https://www.paymenttimes.gov.au>.

The purpose of the tool is to assist entities in identifying their small business suppliers with an annual turnover of less than \$10 million. The tool contains a database of ABNs that are large and medium sized business (businesses with an annual turnover of more than \$10 million), small businesses which have opted out of the tool, and other bodies which are not businesses such as government agencies. The tool compares each entities’ list of ABNs to the businesses within its database, and ABNs that do not match those recorded in the database are considered small business suppliers for the purposes of the Scheme.

This reduces the compliance burden for entities subject to the Scheme and provides a consistent methodology for reporting entities to identify their payments to small business suppliers.

Section 7 – Meaning of payment term

The Scheme requires reporting entities and reporting nominees to include in their payment times reports the payment terms and times information for payments to small businesses for goods and services procured under a trade credit arrangement. This requirement is provided in section 13.

Where an invoice states the number of days in which payment must be made, the payment term is that number of days (converted to calendar days). For example, an invoice requiring payment in 15 days would have a payment term of 15 calendar days. An invoice that requires payment in 10 business days would have a payment term of 14 calendar days.

For clarity, subsection (3) provides that when converting a number of non-calendar days into calendar days, the method to be utilised is the one which would result in the largest possible number of calendar days. For example, 5 business days would be converted into 7 calendar days.

If an invoice states a period in which payment is required to be made that isn't expressed as a number of days (for example, 'end of the month'), the payment term is the largest possible number of calendar days that period could represent, disregarding the actual date the invoice was issued or received. The purpose of this is to allow for such periods to be considered in a standardised way to reduce the burden of calculation.

The Rules include examples to illustrate how this standardised approach works. A period phrased as 'end of the month' will always equal a payment term of 31 days. A period phrased as 'end of next week' will always be a payment term of 14 calendar days. An invoice requiring payment by the longer of 14 days and the end of the month, would have a payment term of 31 calendar days.

If an invoice specifies a payment date rather than a payment period (for example, to be paid by 15 June), the payment term is the number of calendar days between the day the invoice was issued and the payment date specified on the invoice. Similarly, if an invoice stated that payment was to be made 'on receipt of the goods', the payment term would consist of the number of calendar days between the invoice issue date and the receipt date.

For a notice of payment, the payment term is worked out as if the notice of payment was an invoice.

Where a payment is made without an invoice or notice for payment, the payment term is the number of calendar days between the date the obligation to make the payment arises under the relevant agreement and the date the obligation is fully discharged by the payment.

However, under subsection (2), where the terms for a payment are set out as an express term in a written contract, then the payment term is to be determined in accordance with the relevant term of the contract, instead of determining the payment term in accordance with subsection (1). For example, where such a written contract exists and an invoice issued provides that payment be made within 14 days, but the contract provides that payment be made within 31 days, the payment term will be 31 calendar days.

Subsection (4) provides that where an invoice or notice for payment contains an error, making it difficult to ascertain a single payment term under subsection (1), then the payment term for that affected payment is the payment term with the largest number of calendar days. For example, if an invoice erroneously contains two payment dates, requiring payment both by the end of the month and within 14 calendar days, then the payment term would be 31 calendar days.

Section 8 – Meaning of payment time

This section sets out the meaning for payment time for a payment. Information on payment times is required to be included in a reporting entity or reporting nominee's payment times report under section 13.

Under subsection (1), the payment time for a payment is as follows:

- where the payment is a payment of an invoice (other than a recipient created tax invoice) – the smallest number of calendar days between either the date the invoice was issued and the date the invoice was fully discharged by payment, or the date the

invoice was received (if recorded) and the date the invoice was fully discharged by the payment;

- where the payment is a payment of a recipient created tax invoice – the number of calendar days between the date the invoice was issued and the date the invoice was fully discharged;
- where the payment is in response to a notice for payment under an agreement – the number of calendar days between the date the notice was issued and the date it was fully discharged by the payment;
- where the payment is made without an invoice or notice for payment – the number of calendar days between the date the obligation to make the payment arose under an agreement and the date the obligation was fully discharged by the payment.

To avoid doubt, if the entity makes a number of payments in response to an invoice, notice for payment or obligation under an agreement, then it is only the final payment that fully discharges the invoice, notice or other obligation that is relevant to determining the payment time.

Subsection (2) provides that where a payment is made before an invoice was issued, an invoice was received, a notice for payment was issued, or an obligation arose under an agreement (as is relevant), the payment time for a payment is zero calendar days.

Recipient created tax invoices are now explicitly included as part of reporting obligations, as whilst responsibility for creating the invoice falls to the reporting entity, terms can still represent a trade credit arrangement from the perspective of the small business supplier. This inclusion remedies definition constraints under previous legislation that resulted in their exclusion.

Section 9 – Meaning of trade credit arrangement

Section 9 provides the meaning of a trade credit arrangement. Under such arrangements an entity can make payment for a good or service supplied by an entity (other than an employee, government entity, local governing body and corporate Commonwealth entity) at least one calendar day after receiving the supply. Effectively, these arrangements allow an entity to delay payment for a good or service to a time after the supply of the good or service.

To avoid doubt, trade credit arrangements do not include arrangements under which payment that can only be made at the point of supply or before the supply (for example, prepayments). Trade credit arrangements do include arrangements under which payment occurred at the point of supply, provided the arrangement allowed the payment to be made after the supply.

Part 2 – Entity information

In accordance with subsection 10S(1) of the Act, Part 2 requires a reporting entity or a reporting nominee to provide the Regulator with entity information about it and certain other entities. The Part prescribes the types of entity information to be provided and requires a reporting entity or a reporting nominee to update or correct missing, inaccurate or out of date entity information previously provided.

Broadly, entity information is administrative information about entities that assists the Regulator to administer and ensure compliance with the Scheme. To avoid doubt, entity information is not given as part of an entity's payment times report. However, content requirements for a report under Part 3 require the entity to confirm in its report that the entity information most recently given by the entity to the Regulator is still true and correct as at the time the report is given. The Regulator can publish entity information, other than personal information on the Payment Times Reports Register (the Register) under Part 6 of the 2024 Rules (as explained later in this Explanatory Statement).

Section 10 – Entity information

This section sets out the requirements related to entity information, in accordance with subsection 10S(1) of the Act.

Prescribed entity information

Subsection (1) prescribes the entity information that a reporting entity or reporting nominee must give the Regulator. It comprises the following information:

- the entity's name;
- any business name registered to the entity on the Business Names Register maintained under section 22 of the *Business Names Registration Act 2011*;
- the entity's Australian Business Number (ABN), or if the entity does not have an ABN – the entity's Australian Company Number (ACN) or Australian Registered Body Number (ARBN);
- the entity's address for service for the purposes of the Act, which must contain an email address and a physical or postal address in Australia;
- the Subdivision code and title for the entity, under the Australian and New Zealand Standard Industrial Classification (ANZSIC);

This information is required to determine fast and slow small business payers in a particular ANZSIC Division under Parts 4 and 5. It also allows for industry-based comparison of the payment terms, times and practices in relation to small business suppliers.

As defined in section 5 of the Act, the ANZSIC mean the *Australian and New Zealand Standard Industrial Classification (ANZSIC) 2006* as published from time to time by the Australian Bureau of Statistics (ABS). It is a standard classification produced jointly by the ABS and Statistics New Zealand and used for organising data about businesses. The Australian Taxation Office and ABS use it for data collection purposes.

The ANZSIC Subdivision codes and titles are available publicly online without charge on the ABS website (<https://www.abs.gov.au>);

- the day and month the entity's financial year would ordinarily end;

To avoid doubt, an ordinary financial year refers to an entity's financial year disregarding any temporary adjustments to the start or end of a financial year that

may happen from reporting year to reporting year, but *not* adjustments that are intended to change an entity's financial year for all future reporting periods.

For example, an entity had a 31 December financial year end for the previous financial year but has altered its ordinary financial year end to 30 June on a permanent basis. Accordingly, the entity information must list 30 June (day and month on which the entity's financial year ends) as 30 June is the entity's ordinary financial year for the current financial year and future financial years.

As another example, an entity had a 30 June financial year end for the previous financial year and 30 June is the entity's ordinary financial year. For the current financial year, 30 June fell on a Saturday so the directors of the entity lengthened the financial year under subsection 323D(2) of the *Corporations Act 2001* by 6 days to 6 July in order to accommodate the entity's week-based internal reporting. The ordinary financial year end date is 30 June;

- whether the entity's financial reports must comply with AASB 8 (or an equivalent financial reporting standard of a foreign jurisdiction) for the immediately preceding financial year. Such an entity has modified reporting obligations under Part 3;
- the type of principal governing body of the entity; and
- the name, telephone number and email address for the responsible member of the entity and an individual (other than the responsible member) that has written authorisation to act on the entity's behalf in relation to its obligations under the Act (including by accepting information on the entity's behalf). This information is collected only for the purposes of providing the appropriate authorisation and contact details for the entity, and its collection, use, and potential disclosure is governed by Part 5 of the Act.

Entity information for particular entities

Subsection (1) also requires the reporting entity or reporting nominee to give the Regulator certain entity information for:

- the entity that ultimately controls the reporting entity or reporting nominee (that is, the entity that is not itself a controlled entity of another entity where the reporting entity or reporting nominee is a controlled entity of one or more other entities, including that entity) to enable that entity to be identified;
- each controlled entity (if the reporting entity has one or more controlled entities). To avoid doubt, this requirement does not apply to reporting nominees;
- each nominated entity of a reporting nominee (if the information is being provided by that reporting nominee);
- each controlled entity that is a subsidiary reporting entity (if the reporting entity or reporting nominee has one or more controlled entities that are subsidiary reporting entities); and
- the reporting entity that controls the subsidiary reporting entity (if the entity is a subsidiary reporting entity).

For each of these entities, the reporting entity or reporting nominee is only required to give the Regulator entity information comprising of the entity's name, any business name registered to the entity and the entity's ABN (or the entity's ACN or ARBN, if the entity does not have an ABN).

Giving, updating and correcting entity information

Subsection (2) requires a reporting entity or reporting nominee to correct, give or update entity information (as appropriate) where that entity becomes aware of any of the following:

- the entity information given was false, incorrect or misleading in a material particular when given, including because of information omitted (scenario 1);
- entity information was required to be given and has not been given (scenario 2);
- the entity information given was correct at the time it was given but has become incorrect because of a change in circumstances (scenario 3);
- entity information was not previously required to be given but is now required to be given because of a change in circumstances (scenario 4).

The reporting entity or reporting nominee must correct, give or update the entity information as soon as practicable for scenarios 1 and 2.

Similarly, the reporting entity or reporting nominee must correct, give or update the entity information no later than before the entity next gives a payment times report to the Regulator for scenarios 3 and 4.

If the entity fails to do so, the entity will not be able to satisfy the requirement to confirm entity information in subsection 12(4). As explained in the note under subsection 10(2), a payment times report given by an entity must include a statement confirming that each particular of the entity information is correct as at the time the report is given. An untrue statement may result in the report being false or misleading in a material particular, and attract a civil penalty of 350 penalty units under section 16 of the Act.

Form or manner for giving entity information

Under subsection 10S(3) of the Act, the Regulator may approve a form or manner for giving entity information.

Subsection 10(3) of the 2024 Rules provide that if an entity is required to give the Regulator entity information, the entity must give the information in the form or manner, if any, approved by the Regulator.

Part 3 – Payment times reports

In accordance with section 14 of the Act, Part 3 prescribes the information that must be included in a payment times report. Broadly, this Part covers:

- reporting content requirements;
- modified reporting content requirements for special kinds of entities;

- reporting content requirements where an entity is required to report on behalf of another entity but cannot access the necessary information or documents of that entity; and
- the methods for ascertaining certain prescribed information included in a report.

The *Statutory Review of the Payment Times Reporting Act 2020* (the Review) emphasised the need for reporting clear, relevant and easy-to-analyse information to enable the Scheme to operate as intended. In particular, the Review recommended streamlining and improving the quality of reported data, including by:

- excluding certain credit card transactions from reported data where an entity has an internal policy prohibiting the use of credit cards for trade credit arrangements; (Recommendation 4.1);
- introducing a value threshold to exclude certain credit card transactions from reported data (Recommendation 4.2);
- updating the reporting content requirements as detailed in the Review (Recommendation 4.3); and
- consolidating the reporting content requirements in the rules (Recommendation 4.4).

The Review also recommended introducing consolidated reporting and reporting on operating segments, consistent with standards set by the Australian Accounting Standards Board (Recommendation 2.1).

The 2024 Rules give effect to this so that the Act sets out the principles and objectives of reporting and affected entities and includes the substantive and detailed requirements of what should be reported. This Part, together with the Amending Act, address these recommendations by:

- including the reporting content requirements exclusively in the Rules;
- revising the reporting content requirements having regard to the proposed content requirements for payment times reports in the Review, to provide for more useful data and streamlined reporting;
- consolidating reporting by providing for reporting entities and reporting nominees to report on behalf of particular other entities in a single report. Prior to this requirement, multiple entities within a corporate group had to give individual reports. Under the 2024 Rules, consolidated reporting applies so that a reporting entity will give a single report each reporting period with consolidated data for each entity it controls in the corporate structure. This has the effect of reducing the number of reports on the Register; and
- prescribing method statements for how an entity is to work out certain matters, thereby improving the comparability and consistency of reported data while still allowing for flexibility of application.

The content requirements for a payment times report have been restructured by the 2024 Rules to give reporting entities and reporting nominees detailed guidance on preparing

datasets and subsequent report content. This seeks to provide entities with greater certainty on dataset preparation and report content. It also ensures greater consistency and comparability of reported data.

The prescribed information under this Part requires an entity to create datasets. To avoid doubt, these datasets are not included in the final report given to the Regulator. However, entities have record-keeping obligations in relation to information used in the preparation of reports under section 29 or 29A of the Act (for reporting entities and reporting nominees, respectively). These datasets may therefore be subject to compliance audits under section 30 of the Act. Evidence of a dataset for the purpose of record-keeping may be in the form of a script, coding, or other means of sorting and filtering applied to data. It is not necessary for entities to maintain an actual list of such records.

Section 11 – Purpose of Part 3

In accordance with section 14 of the Act, this section provides that Part 3 prescribes the information that a reporting entity or reporting nominee must include in a payment times report and the methods for working out certain matters that must be included in such reports.

Section 12 – Content of report: general requirements

This section sets out the general requirements for the content of an entity's payment times report for a reporting period. This includes requirements for content on:

- the entity;
- controlled entities where the entity has one or more controlled entities; and
- nominated entities where the entity is the reporting nominee for the nominated entities.

The content reported on these entities provides greater transparency on which entities are included in consolidated payment times reporting, as well as their payment practices for their small business suppliers.

Overview

The general requirements for the content ensure the Regulator and users of the reports and the Register are provided with a comprehensive understanding of the payment terms, times and practices with small business suppliers of entities subject to the Scheme. Content required (as outlined below) includes the start and end dates of the reporting period, use of supply chain finance arrangements during the reporting period, and whether the entity was subject to other legislative and regulatory requirements in relation to payment times and practices for small business suppliers (including codes of conduct).

These content requirements provide greater transparency and context to users of the reports and the Register. For example, an entity may have prompt payment times but require their small business suppliers to pay costs to make an offer for the supply of goods or services or otherwise to issue an invoice for that supply. Similarly, an entity may utilise supply chain finance arrangements whereby it agrees to pay a small business supplier earlier than the payment terms in exchange for a discount on payment. These arrangements may

facilitate faster payment times but may not improve overall outcomes for small businesses. Reporting on such arrangements provides a comprehensive understanding of an entity's payment practices, and discourages entities using these methods to artificially boost their payment times data.

Required content – reporting entities and reporting nominees

Subsection (1) requires the following information to be included in relation to reporting entities and reporting nominees:

- the start and end dates of the entity's reporting period; and
- the name of the responsible member that approved the report and the date of the approval.

Required content – reporting entities

Subsection (2) requires that reporting entities must also include the following information in a payment times report:

- whether the entity, or any of its controlled entities, had offered to enter into supply chain finance arrangements during the reporting period;
- whether the entity, or any of its controlled entities, had or used a practice or arrangement during the reporting period which involved one or more small business suppliers paying that entity an amount (including, but not limited to a subscription or membership fee) to be able to:
 - make an offer to the entity to supply it with goods or services; or
 - issue an invoice to the entity for the supply of goods or services; and
- whether there are any legislative and regulatory requirements that apply to the entity, or its controlled entities, in relation to their payment times and practices for small business suppliers. These requirements are imposed by or under other Commonwealth laws, State or Territory laws and a code of conduct (regulating the industry in which the entity participates, and to which the entity has voluntarily agreed to comply with it);

Required content – reporting nominees

Subsection (3) requires that reporting nominees must also include the following information in a payment times report:

- whether the reporting nominee, or any of its nominated entities, had offered to enter into supply chain finance arrangements during the reporting period;
- whether the reporting nominee, or any of its nominated entities, had or used a practice or arrangement during the reporting period which involved one or more small business suppliers paying the reporting nominee or any of its nominated entities an amount (including, but not limited to a subscription or membership fee) to be able to:

- make an offer to that entity to supply it with goods or services; or
- issue an invoice to that entity for the supply of goods or services;
- whether there are any legislative and regulatory requirements that apply to the reporting nominee, or any of its nominated entities in relation to their payment times and practices for small business suppliers. These requirements are imposed by or under other Commonwealth laws, State or Territory laws and a code of conduct (regulating the industry in which the entity participates, and to which the entity has voluntarily agreed to comply with it).

Confirmation of entity information

Subsection (4) requires an entity’s payment times report for a reporting period, to include a statement confirming that each particular of entity information most recently given by the entity to the Regulator is still true and correct at the time the report is given. To avoid doubt, an incorrect statement results in the report being false or misleading in a material particular, which attracts a civil penalty of 350 penalty units under section 16 of the Act.

Reports to include additional contextual information

Subsection (5) requires that an entity’s payment times report for a reporting period, must include any reasonable additional information providing context or explanation for anything in the report that relates to any of the following:

- a matter, occurring during the reporting period, that had an effect of a material nature, on the payment times and practices for small business suppliers;
- a change, of a material nature, to financial reporting practices, dataset creation processes, or statistical calculation methods;
- whether the entity relied upon section 15 (about access to information of controlled entities) to not include certain information in a report. If the entity relied upon section 15, the extent and reason must be explained; or
- any other details without which the report is likely to be misleading in a material respect.

Section 13 – Content of report: small business trade credit payment times and terms statistics

This section requires an entity to include specific information related to small business payment times and terms in its payment times report for a reporting period (including information based on the entity’s small business trade credit payments dataset for the reporting period). The section also prescribes the methods to calculate median payment time and to create a small business trade credit payments dataset for the reporting period for the entity. This dataset is a subset of the trade credits payments dataset (which is also calculated in this section).

Entities are only required to report payment times and terms data in relation to their trade credit arrangements, which is a change from the reporting obligations in place under the 2020 Rules. This has the effect of reducing compliance burden on reporting entities,

reducing the number of steps required for calculation, and improving the consistency and accuracy of reporting.

Further, trade credit arrangement is defined in the 2024 Rules to exclude any payment to an employee, government entity, local governing body or corporate Commonwealth entity (see section 7). Therefore, these payments should not be included in the trade credits payment dataset and are not required to be classified using the Small Business Identification Tool.

Information to be included in a report

Subsections (1) to (3) require an entity to include specific payment times and terms information for small business suppliers (payment time and term metrics based or derived from the small business trade credit payments dataset) in its payment times report for a reporting period. This information provides a comprehensive overview of the entity's payment times and terms for small business suppliers during the reporting period, including providing users of the report with transparency on how quickly small business supplier payments were made during the reporting period.

Paragraph (1)(a) requires an entity to report the total number of payments in the small business trade credit payments dataset relative to the total number of payments in the trade credit payments dataset. Expressed as a percentage, this proportion allows the Regulator to monitor payments in the trade credit payments dataset that are not made to a small business supplier. For example, an entity reports that 70 per cent of payments in a reporting period in the trade credit payments dataset are payments in the small business trade credit payments dataset. This means that 30 per cent of payments in the trade credit payments dataset for the reporting period were not made to a small business.

Paragraph (1)(b) requires an entity to report the total number of payments in the small business trade credit payments dataset that relate to an invoice or notice for payment that was capable of being received through a Peppol enabled network. Expressed as a percentage, this proportion provides valuable information to the Regulator on the relationship between the adoption of Peppol eInvoicing by entities and payment outcomes for small business suppliers. The reporting of this information intends to highlight the use of electronic invoicing and encourage further uptake of electronic invoicing.

The Review analysed the adoption of Peppol eInvoicing in Australia and found that a greater uptake of electronic invoicing would facilitate faster payments to small business suppliers by reducing administrative burdens and delays associated with paying invoices. The Review agreed with stakeholders that information reported on the Register should identify entities that are Peppol enabled.

The purpose of requiring this as a proportion is also because it removes inconsistencies in reporting, particularly for consolidated groups.

Paragraphs (2)(a) to (d) require an entity to report the following payment times information, expressed as a number of calendar days, for all payments (that discharged an invoice or obligation in full) included in the small business trade credit payments dataset for the reporting period for the entity:

- the average payment time that represents the statistical mean (i.e. the average payment time);
- the median payment time (for clarity, subsection (6) provides that the median payment time is the average of the two median payment times if there is an even number of payment times in the dataset);
- the payment time that is the 80th percentile of all payment times (ordered from fastest to slowest); and
- the payment time that is the 95th percentile of all payment times (ordered from fastest to slowest).

The requirement for an entity to provide the 80th percentile payment time and 95th percentile payment time is intended to provide a meaningful point of comparison to evaluate the payment practices of the entity. Specifically, this data provides insight into whether slower payments by the entity are outliers or representative of a more systemic practice of the entity.

The payment time that is the 95th percentile of all payment times of the entity is also used by the Regulator to determine whether the entity is a ‘slow small business payer’ (discussed later in this Explanatory Statement). In general, this figure removes the very slowest payment times of an entity, but generally reflects when a small business will be paid.

The 2024 Rules do not prescribe a method to calculate the 80th percentile of all payment times or the 95th percentile of all payment times. However, it is intended that the Regulator will publish guidance to assist entities with calculating this information, noting that there are multiple methods which can be used to calculate a percentile and a range of statistical software available to entities for calculation purposes.

Under subparagraph (2)(e)(i), an entity is also required to report the payments in the small business trade credit payments dataset that discharged an invoice or obligation in full (where the payment time did not exceed the payment term) relative to all payments in the small business trade credit payments dataset that discharged an invoice or obligation in full. This is expressed as a percentage.

It provides users of an entity’s reports with an understanding of the proportion of payments in the dataset that discharged invoices or obligations in full (within the payment term). It also includes the proportion of payments that discharged invoices or obligations in full (where the payment time was greater than the payment term) (for example, where terms for payment required full discharge of an invoice or obligation to be made by a specific time but the payment did not fully discharge the invoice or obligation by this time) relative to the payments that discharged an invoice or obligation in full in the small business trade credit payments dataset.

Subparagraphs (2)(e)(ii) to (iv) further require an entity to identify and report the proportion of payments that discharged invoices or obligations in full:

- for which the payment time was 30 days or less;
- for which the payment time was between 31 and 60 days; and

- for which the payment time was more than 60 days.

Cumulatively, the three percentages for these categories reported by an entity should total 100 per cent. The Review proposed content requirements for payment times reports and reasons for their selection. In line with the Review, the consolidated interval reporting includes the quantum of invoices or obligations discharged in full after 60 days. This ensures that such long payment times are highlighted for users of the data and senior staff in reporting entities and reporting nominees who must approve the payment times reports.

Subsection 11(3) also requires an entity to report the following payment terms information for the entity's reporting period:

- the payment term (expressed as a number of calendar days) that represents the statistical mode of all payment terms for all payments (that discharged an invoice or obligation in full) included in the small business trade credit payments dataset (i.e. the most frequent payment term);
- whether the entity's most commonly offered terms for payment (see subsection (8)), expressed in calendar days, within which payment is required to be made by a buyer of good or services from the entity, is longer, shorter or the same as the statistical mode of payment terms as worked out above. This provides information on how an entity fund its working capital, including whether the entity's payment terms result in small businesses funding its working capital;
- the payment term (expressed as a number of calendar days) that represents the statistical maximum and minimum of all of the following payment terms where the entity is not a reporting nominee but has one or more controlled entities (i.e. where the entity is a reporting entity with at least one controlled entity):
 - the payment term representing the statistical mode for all payment terms for all payments (that discharged an invoice or obligation in full) made by the reporting entity included in the small business trade credit payments dataset (i.e. the most frequent payment term made by the reporting entity);
 - a payment term for each of the reporting entity's controlled entities, representing the statistical mode for all payment terms for all payments (that discharged an invoice or obligation in full) made by the controlled entity included in the small business trade credit payments dataset (i.e. the most frequent payment term of each of the controlled entities);
- the payment term (expressed as a number of calendar days) that represents the statistical maximum and minimum of all of the following payment terms where the entity is a reporting nominee:
 - the payment term representing the statistical mode for all payment terms for all payments (that discharged an invoice or obligation in full) made by the reporting nominee included in the small business trade credit payments dataset (i.e. the most frequent payment term made by the reporting nominee);
 - a payment term for each of the reporting nominee's nominated entities, representing the statistical mode for all payment terms for all payments (that

discharged an invoice or obligation in full) made by the nominated entity included in the small business trade credit payments dataset (i.e. the most frequent payment term of each of the nominated entities);

- if the entity is a reporting entity, what the reporting entity reasonably expects the payment terms (expressed as a number of calendar days) to represent that statistical maximum and minimum of all payment terms for all payments (that will discharge an invoice or obligation in full) to be made by the reporting entity and the reporting entity's controlled entities in the small business trade credit payments dataset for the next reporting period for the reporting entity;
- if the entity is a reporting nominee, what the reporting nominee reasonably expects the payment terms (expressed as a number of calendar days) to represent that statistical maximum and minimum of all payment terms for all payments (that will discharge an invoice or obligation in full) to be made by the reporting nominee and the reporting nominee's nominated entities in the small business trade credit payments dataset for the next reporting period for the reporting nominee.

The requirement for controlling entities and reporting nominees to report on the maximum and minimum mode payment terms provides transparency of the payment practices and conduct if the entity or consolidated group. Additionally, reporting on expected payment terms is intended to provide users of the Register information that is a lead indicator of changes in conduct and payment practices by the entity.

Creating a trade credit payments dataset

A trade credit payments dataset comprises all the payments made in the relevant reporting period by a reporting entity and generally each of its controlled entities; and for reporting nominees, payments for that period by the reporting nominee and each of their nominated entities. The trade credit payment dataset consists of payments made to suppliers including small business suppliers. To give effect to the consolidated reporting framework introduced by the Amending Act, the entity must account for payments made by certain other entities.

Subsection (4) provides that there are three steps to create a trade credit payments dataset for a reporting period for the entity.

The first step requires the entity to identify all payments made in the reporting period by:

- the reporting entity and each entity it controls (excluding controlled entities that are subsidiary reporting entities and any controlled entities of the subsidiary reporting entities, because such entities report on their own behalf) where the entity is a reporting entity; and
- for a reporting nominee, that nominee and each of its nominated entities.

The second step requires the following details to be included in the trade credit payments dataset in relation to each payment identified in the first step:

- the payment amount;

- the entity that made the payment (and that entity’s ABN, or ACN or ARBN if the entity does not have an ABN);
- the entity receiving the payment (and that entity’s ABN (if the entity has an ABN));
- the date the payment was made;
- if the payment was made by way of a credit card;
- if the payment relates to an invoice:
 - an invoice reference number;
 - whether the invoice was a Peppol enabled eInvoice;
 - the date on which the invoice was issued;
 - the date on which the invoice was received (if recorded);
 - the specified due date for payment on the invoice (if specified);
 - the terms for payment as specified on the invoice;
 - the terms for payment set out in the contract (if subsection 7(2) applies); and
 - whether the invoice was a recipient created tax invoice;
- if the payment was made without an invoice – a reference number for the agreement to which the payment relates (if any), the date on which the obligation to make the payment arose under the agreement, the date a notice for payment under the agreement was issued (if any), whether the notice was a Peppol enabled eInvoice, the due date for payment under the agreement and the terms for payment as specified in the agreement; and
- whether the payment fully or partially discharged the invoice or obligation (as applicable)

As certain payments are not relevant to the Scheme and therefore do not form part of the reported data, the third step excludes the following payments from the dataset:

- payments to entities that do not have an ABN. For example, where a foreign subsidiary of a reporting entity that does not record an ABN as part of their procurement and payment processes, those payments are excluded from payment times reporting;
- intragroup payments, as in payments between entities where both entities’ payments are included in the dataset, both entities are controlled by a common entity (such as where a controlling company is not a constitutionally covered entity but controls both entities), or where one of the entities is a controlled entity of the other;
- payments that were made by way of a credit card for an amount of less than \$100 if the entity elects to remove these for a reporting period (as these low value credit card

payment amounts are insignificant, can be high volume and increase reporting burden, may lack ABN data and details to classify a transaction, and to not discourage the use of credit cards as an option to pay small business suppliers as they can result in faster payment times. The removal of these payments is consistent with Recommendation 4.2 of the Review);

- payments made by credit card when the entity has a genuinely enforced policy of prohibiting such payments. The removal of these payments is consistent with Recommendation 4.1 of the Review. To be a genuinely enforced policy, the policy must be sincerely and not superficially enforced. Entities can have a ‘general’ policy that applies to all credit cards, or only apply the policy to specified cards. The credit card policy must prohibit the use of the credit card to make payment for a trade credit arrangement. The approach can only be relied on from the date the policy is applied to a credit card. Entities should include details of the approaches used in their report comments and keep the appropriate records required under the Act’s record keeping requirements.

The created trade credit payments dataset is intended to provide the Regulator with information to ensure the entity is complying with the Scheme, should the entity be subject to a compliance audit under section 30 of the Act.

Creating a small business trade credit payments dataset

A small business trade credit payments dataset for a reporting period for the entity is required to determine certain information prescribed under subsections (1) to (3).

Subsection (5) provides that that an entity creates the small business trade credit payments dataset by using the Payment Times Small Business Identification Tool to remove from the trade credit payments dataset, for the reporting period for the entity, each payment in that dataset that was not made to a small business supplier.

The resulting dataset is the small business trade credit payments dataset.

Special rule for calculating median payment time

A payment times report must include the median payment time for all payments included in the small business trade credit payments dataset for the entity’s reporting period (see above).

Subsection (6) provides the rule for calculating that mediation payment time if there is an even number of payment times. In those cases, the mediation payment time is the average of the two median payment times.

Rounding rules

Subsection (7) clarifies that any amount that is worked out under this section is to be rounded to two decimal places, and rounded up if the third decimal place is five or more. This ensures consistency in reporting and comparability of data across payment times reports.

Most common offered terms for payment

An entity must include in its payment time report whether its most common offered terms for payment is longer, shorter or the same as the entity's statistical mode of payment terms (see above).

Subsection (8) clarifies how to determine the reporting entity or reporting nominee's most common offered terms for payment within which payment is required to be made by a buyer of goods or services from the entity or its controlled entities or nominated entities (as appropriate). It provides that when determining this, the entity may choose to either use the most commonly offered terms for payment as referenced in the entity's (including controlled or nominated entities of the entity) standard credit policies, or by way of an appropriate statistical calculation of all relevant payments as is customary in the entity's industry.

Section 14 – Content of report: special rules for certain entities

Prior to the Amending Act, the Scheme did not include special reporting content requirements for entities in prescribed circumstances. All entities subject to the Scheme had to report the same information. The Amending Act revised the reporting requirements in section 14 of the Act and provided the rules with the ability to require an entity's payment times reports to include different information in prescribed circumstances.

This section sets out the circumstances in which an entity is to provide modified information in its payment times reports and prescribes the reporting content requirements for each of those circumstances. Requiring reporting entities and reporting nominees to give the same data regardless of their circumstances can result in disproportionate burdens and payment times data that is not relevant or omits relevant data. Therefore, prescribing special reporting content requirements in these circumstances improves the quality of reported data and streamlines reporting for the relevant entities.

This section prescribes special reporting content requirements for entities:

- in external administration;
- that do not make payments to small business suppliers;
- for which another entity is a reporting nominee; and
- required to comply with AASB 8, or an equivalent financial reporting standard of a foreign jurisdiction, in the preparation of their financial reports.

An entity of a kind listed above must only report the information prescribed by this section. In other words, the requirements in this section displace the general reporting content requirements set out in sections 12 and 13.

Entities in external administration

Subsection 14(1) provides that an entity in external administration is only to include the following information in the entity's payment times report for a reporting period:

- the start and end date of the reporting period;

- the name of the responsible member who approved the report and the date of this approval;
- the name of the entity's external administrator (within the meaning of section 5-20 of Schedule 2 to the *Corporations Act 2001*);
- the capacity in which the external administrator has been appointed (for example, as an administrator of the entity or as a liquidator of the entity); and
- the date the external administrator was appointed.

For this subsection to apply, an entity must be in external administration (within the meaning of section 5-15 of Schedule 2 to the *Corporations Act 2001*) at any time during the reporting period that relates to the report, or after the reporting period ends but before an entity is required to give the Regulator the report.

In addition to streamlining reporting, the special reporting requirements for an entity in external administration are intended to reduce the regulatory burden on the Regulator. An entity in external administration may otherwise apply to the Regulator to be an exempt entity under the Act, and therefore be exempt from the obligation to report.

Entities that do not make payments to small business suppliers

Subsection 14(2) provides that where there are no payments in the small business payments dataset for a reporting period, the entity's payment times report for that reporting period is only to include:

- the start and end date of the reporting period;
- the name of the responsible member who approved the report and the date of this approval; and
- the proportion of payments made to small business suppliers for the reporting period mentioned in paragraph 13(1)(a) (as explained in the note to subsection 14(2), this proportion is 0 per cent where there are no payments in a small business payments dataset for a reporting period).

An entity will have no payments in the small business payments dataset for a reporting period where the entity, and any entity it is required to report on behalf of, has made no relevant payment to a small business supplier in that reporting period.

Entities for which another entity is a reporting nominee

Subsection 14(3) provides that a nominated entity is only to include the following information in the nominated entity's payment times report for a reporting period:

- the start and end date of the reporting period;
- the name of the responsible member who approved the report and the date of this approval;
- the name of the reporting nominee;

- the ABN of the reporting nominee (if the reporting nominee has an ABN); and
- the ACN or ARBN of the reporting nominee (if the reporting nominee does not have an ABN).

This subsection applies to any reporting entity that is also a nominated entity. The Amending Act introduced a reporting nominee framework into the Scheme, whereby the Regulator may determine under subsection 10L(1) of the Act that an entity is a reporting nominee for nominated entities. While Part 3 requires the reporting nominee to include information on behalf of those entities (the nominated entities) in the reporting nominee's payment times report, the nominated entity must still give reports (reporting on a subset of information, as outlined in the bullet points above) to ensure continuity of reporting. For clarity, the nominated entity does not have to report the general information prescribed in Part 3 (which the reporting nominee reports on their behalf) to avoid duplication of information on the Register.

Entities adopting AASB 8 in the preparation of financial reports

Subsection 14(4) applies where an entity's financial reports, for the financial year immediately preceding a reporting period for the entity, are required to comply with AASB 8 (or an equivalent financial reporting standard of a foreign jurisdiction). Where this subsection applies, the entity's payment times report must include information on segment performance.

In addition to the information prescribed by Part 3, subsection 14(4) provides that the entity's payment times report for the reporting period must also include information covered by subsection 13(2) and paragraph 13(3)(a) in relation to each operating segment of the entity (within the meaning of AASB 8, or the equivalent financial reporting standard of a foreign jurisdiction).

For example, under AASB 8 (F2015L01606, as in force at the time the 2024 Rules commence) an operating segment is a component of an entity:

- that engages in business activities from which it may earn revenues and incur expenses (including revenues and expenses relating to transactions with other components of the same entity);
- whose operating results are regularly reviewed by the entity's chief operating decision maker to make decisions about resources to be allocated to the segment and assess its performance; and
- for which discrete financial information is available.

The purpose of reporting separately on small business payment times and terms for each operating segment is to provide visibility of differences in payment performances for small business suppliers across different business activities within an entity. This allows users of an entity's payment times report to understand the entity's payment performance in relation to small business suppliers under the entity's main activities and operating environments. Reporting by operating segment aims to balance providing visibility of differences in payment performance within a corporate group while streamlining the number of reporting entities to deliver more useful and accessible data. Reporting in this

way ensures that poor payment performance of individual operating segments within a corporate group is highlighted. For example, an entity with diversified mining business activities, separated into three operating segments (coal, gold and iron ore) will provide reporting by each of these segments, allowing users to understand payment performance in relation to small business suppliers for each operating segment.

Additional information

Subsection 14(5) provides that an entity to which this section applies may include in the entity's payment times report any additional information that the entity considers useful for providing additional context for any matter covered in the report.

Section 15 – Access to information of controlled entities

Section 15 provides that Part 3 is taken to not require particular information related to controlled entities to be so included or used in an entity's payment times report for a reporting period where the entity (reporting entity or reporting nominee) is unable to access this information (which would otherwise be required under Part 3) due to limits in its capacity to exercise control over a controlled entity.

Specifically, the inclusion or use of the following information is taken to not be required if the entity is unable to access that information as a result of limitations in its capacity to exercise control over the controlled entity:

- information related to a controlled entity that is required to be included in the entity's payment times report for a reporting period;
- information related to the controlled entity that must be used to work out a matter that is required to be included in a payment times report.

To avoid doubt, controlled entities refers to controlled entities of the reporting entity or the reporting nominee, as well as controlled entities of a nominated entity that is also a reporting entity.

The note below the section clarifies that reporting entities and reporting nominees are required to retain records of any information used in the preparation of a payment times report under sections 29 and 29A of the Act. This includes records of the inability of the reporting entity or reporting nominee to access information of controlled entities.

If this section applies to an entity (because an entity is unable to access information of a controlled entity and is therefore not required to include or use that information in a payment times report), then the reporting requirements under subsection 10(5) require the report to include additional contextual information about why this section applied in relation to the reporting period and the extent to which it applied.

The provision reduces the reporting burden imposed on reporting entities and reporting nominees by ensuring they are only required to report on information that can be accessed by them on the controlled entities (within their capacity of exercising control over controlled entities).

Part 4 – Slow small business payers

The Amending Act introduced a new direction-making power into Division 4 of Part 2 to the Act. This power enables the Minister in certain circumstances to give a slow small business payer direction to a reporting entity or reporting nominee, requiring that entity to take specified action. The Minister may delegate this power to the Regulator under subsection 55B(1) of the Act. Failure to follow a direction attracts a civil penalty under subsection 22G(1) of the Act.

Section 22B of the Act provides that the Minister may give such a direction to a reporting entity or reporting nominee if the Minister is satisfied of any of the following:

- the entity was a slow small business payer in two consecutive reporting cycles;
- the entity was a slow small business payer in a reporting cycle, and did not comply with a requirement to give a payment times report in the preceding reporting cycle; or
- the entity was a slow small business payer in a reporting cycle and did not comply with a requirement to give a payment times report in the following reporting cycle.

Section 22D of the Act provides that the entity is a slow small business payer for a reporting cycle if the entity in that reporting cycle was within:

- the slowest 20 per cent of small business payers (within the meaning prescribed by section 17); or
- the slowest 20 per cent of small business payers in an ANZSIC Division (within the meaning prescribed by section 18).

This Part (including sections 17 and 18) prescribes the method to determine whether an entity is a slow small business payer for the purposes of section 22D of the Act.

A slow small business payer is determined by reference to reporting cycles as defined in the Act and report content provided to the Regulator as set out in the 2024 Rules. It requires calculating the 95th percentile payment time for a reporting cycle for an entity, as defined in this section.

A reporting cycle is defined in section 5 of the Act to mean a period of six months starting on 1 January and 1 July respectively each year. Payment times reports are assigned to a reporting cycle based on the end date of the reporting period for which they are given. Section 8 of the Act sets out the reporting periods for reporting entities and reporting nominees, with such entities required under section 12 of the Act to provide a payment times report to the Regulator for each reporting period.

The end date of a reporting entity or reporting nominee's reporting period is not the same date as the date that a payment times report is given to the Regulator. Under section 13 of the Act, an entity has up to three months after the end date for a reporting period to give a report to the Regulator. An extension of this time is available in certain circumstances.

This section provides that the 95th percentile payment time, for a reporting cycle for an entity, means:

- the 95th percentile payment time for the reporting period where only one reporting period ended within or at the end of the reporting cycle (for example, the 95th percentile payment time for a reporting period that ended on 31 December, which ended in the 1 July to 31 December reporting cycle); or
- the 95th percentile payment time for the reporting period that last ended within or at the end of the reporting cycle where multiple reporting periods ended within or at the end of the reporting cycle (for example, if an entity has a reporting period that ended on 7 January and a subsequent reporting period that ended on 30 June, then the 95th percentile payment for the reporting period which ended on 30 June, which ended in the 1 January to 30 June reporting cycle); or
- the 95th percentile payment time for the first reporting period that ended after the reporting cycle where no reporting period ended within or at the end of the reporting cycle (for example, no reporting period ended in the 1 January to 30 June reporting cycle but the first reporting period (after that reporting cycle) ended on 7 July. The 95th percentile payment time for this reporting period is the 95th percentile payment time for the reporting cycle).

Section 17 – Slowest 20 per cent of small business payers

In accordance with subsection 22D(2) of the Act, subsection 17(1) provides that the slowest 20 per cent of small business payers for a reporting cycle refers to the reporting entities and reporting nominees whose 95th percentile payment times for the reporting cycle were ranked in the slowest 20 per cent of the 95th percentile payment times for the reporting cycle of all reporting entities and reporting nominees collectively.

In other words, the slowest 20 per cent of small business payers is determined by ranking the reporting entities and reporting nominees in a reporting cycle based on their 95th percentile payment time (the payment time, expressed as a number of calendar days, that is the 95th percentile of all payment times for all payments included in the small business trade credit payments dataset for the entity’s relevant reporting period – per paragraph 13(2)(d). The lower the number of calendar days, the faster a reporting entity or reporting nominee has paid its small business suppliers, and vice versa. The reporting entities and reporting nominees that fall within the slowest 20 per cent of ranked entities for the reporting cycle (as represented by their 95th percentile payment time) constitute the ‘slowest 20 per cent of small business payers’.

Where required, the Regulator may perform data validation and cleansing to ensure that the calculation of the slowest 20 per cent of small business payers is accurate. This may include the Regulator taking steps such as rounding, removing null or false information from reports, and checking for duplicate and test reports.

The 95th percentile payment time is used to determine the slowest 20 per cent of small business payers because it removes a small percentage of outlier payments (to ensure those payments do not adversely impact the overall assessment of the payment times of an entity. These outlier payments may be caused by reasons outside the entity’s control (for example, because of a dispute about the good or service supplied) or otherwise do not reflect the normal payment times of an entity. The 95th percentile payment time is defined in the 2024 Rules both because it forms part of the prescribed content of a payment times report

(which are contained in the 2024 Rules as per paragraph 13(2)(d) and it allows for greater flexibility to make future adjustments if this threshold is not working as intended.

Subsection 17(2) provides that an entity and their 95th percentile payment time is disregarded in determining the slowest 20 per cent of small business payers if:

- that entity's payment times report for the reporting period that last ended within, or at the end of, the reporting cycle did *not* need to include information prescribed in subsection 13(2) (the small business trade credit payment times and terms statistics including the 95th percentile payment time); or
- the entity was a volunteering entity for the reporting period that last ended within, or at the end of, the reporting cycle.

This subsection essentially excludes entities that are not required to report the 95th percentile payment time (entities that do not report the data necessary to calculate the 95th percentile payment time, and entities that have special reporting content requirements under subsections 14(1) to 14(3) and are not required to report the 95th percentile payment time information) and volunteering entities (because such entities are only voluntarily subject to the Scheme) from the ranking of the 95th percentile payment times for a reporting cycle.

Section 18 – Slowest 20 per cent of small business payers in an ANZSIC Division

In accordance with subsection 22D(2) of the Act, this section provides that the slowest 20 per cent small business payers in a Division of the ANZSIC for a reporting cycle means those entities worked out using the method prescribed by this section.

Method to determine the slowest 20 per cent of small business payers in an ANZSIC Division

This section sets out five steps to determine which entities are within the slowest 20 per cent of small business payers in an ANZSIC Division for a reporting cycle.

The first step is to identify each reporting entity or reporting nominee, and the 95th percentile payment times for the reporting cycle for each of those entities.

The second step is to remove any entity, and that entity's 95th percentile payment times, for the reporting cycle for the entity, if:

- the payment times report for the reporting period that last ended within, or ended at the end of, the reporting cycle for the entity did *not* need to include the information mentioned in subsection 13(2) (as such entities do not report the data necessary to calculate the 95th percentile payment time, or are entities that have special reporting content requirements under subsections 14(1) to 14(3) and are not required to report the 95th percentile payment time); or
- the entity was a volunteering entity for the reporting period that last ended within, or ended at the end of, the reporting cycle (as such an entity is only voluntarily subject to the Scheme).

The third step is to assign each remaining reporting entity or reporting nominee to their relevant ANZSIC Division (based on entity information given to the Regulator in accordance with section 8).

The fourth step is to determine which entities' 95th percentile payment times for the reporting cycle were in the slowest 20 per cent of the 95th percentile payment times ranked among all entities allocated to that Division for the reporting cycle.

The fifth step provides that the entities worked out under the previous step for each ANZSIC Division are the slowest 20 per cent of small business payers in an ANZSIC Division for the reporting cycle concerned.

As with the slowest 20% of small business payers calculation, where required, the Regulator may perform data validation and cleansing to ensure accuracy.

Section 19 – Qualifying payment time of 30 days or less

Subsection 22D(4) of the Act provides an entity that would otherwise be a slow small business payer with a safe harbour. It states that an entity is not a slow small business payer if the entity has given the Regulator a payment times report for a reporting period that ended within that reporting cycle and the report has a qualifying payment time of 30 days or less.

In accordance with subsection 22D(5) of the Act, section 19 prescribes the meaning of qualifying payment time of 30 days or less. This section provides that a payment times report has a qualifying payment time of 30 days or less for a reporting period if the entity's 95th percentile payment time for that reporting period is 30 days or less.

The qualifying payment time gives an entity certainty on how to avoid being recognised as a slow small business payer.

Part 5 – Fast small business payers

The Amending Act introduced a fast small business payer framework into the Act.

Subsection 22K(1) of the Act provides that the Regulator must maintain and publish on the Register a list of entities that are fast small business payers.

A fast small business payer is defined in subsection 22J(1) of the Act. Central to this definition is that the reporting entity or reporting nominee has payment times reports with qualifying payment times of 20 days or less.

In accordance with subsection 22J(2) of the Act, section 20 sets out the meaning of qualifying payment time of 20 days or less.

A payment times report has a qualifying payment time of 20 days or less for a reporting period if the entity's 95th percentile payment time for the reporting period is 20 days or less.

Part 6 – Publication of information on the Register

Section 17 of the Act requires the Regulator to maintain a Register of payment times reports, known as the Payment Times Reports Register, which must be made publicly available without charge on the internet. In addition to containing reports:

- section 22 of the Act permits the Regulator to publish information about an entity's non-compliance with the Scheme on the Register; and
- subsection 22K(1) of the Act requires the Regulator to maintain and publish a list of entities that are fast small business payers, introduced by the Amending Act.

The Register is the public facing platform for the Scheme. Prior to the Amending Act, the Register was limited to containing payment times reports and notices of non-compliance published by the Regulator. This limited the public's visibility of an entity's engagement with the Scheme, since reported data may be fragmented or incomplete without explanation where an entity has ceased to be subject to the Scheme or has received an extension of time to give a report.

The Amending Act inserts section 22A into the Act, which provides for the rules to prescribe information the Regulator may publish on the Register, information the Regulator must publish on the Register and procedures relating to the publication of information on the Register. This allows for information to be published on the Register beyond payment times reports and notices of non-compliance.

Broadly, Part 6 ensures the Register contains information to provide users of the Register a more complete narrative of an entity's engagement with the Scheme and understanding of an entity's reporting obligations under the Act.

Specifically, this Part prescribes the information the Regulator must or may publish on the Register. This information is largely intended to inform users of the Register of an entity's status under the Scheme or of any approved application made by an entity for an extension to give a report. Publishing this information provides clarity about entities' obligations under the Act to provide context for the reported data or absence of reported data.

Section 21 – Information that may or must be published on the Register

Information that may be published

The Amending Act introduced into the Scheme the concept of an exempt entity. Under subsections 12(2) and (4) of the Act, a reporting entity or reporting nominee is not required to give a payment times report for a reporting period in which the entity is an exempt entity for any part of that reporting period. The Regulator may determine that a reporting entity or reporting nominee is an exempt entity under section 10P of the Act (exempt entity determination). The Amending Act also permits an entity to notify the Regulator that it ceases to be a reporting entity in accordance with section 10H of the Act.

In accordance with paragraph 22A(a) of the Act, subsection 21(1) provides the Regulator with the ability to publish on the Register that an entity has ceased to be a reporting entity from the beginning of a particular reporting period, having notified the Regulator to that effect under subsection 10H(2) of the Act.

The Regulator may publish that they have determined an entity is an exempt entity under section 10P of the Act and when that determination takes effect. The subsection further

requires the Regulator to publish when an exempt entity determination has been revoked under section 10R of the Act and when the revocation takes effect.

In accordance with paragraph 22A(a) of the Act, paragraph 21(1)(d) further provides that the Regulator may publish entity information that is not personal information within the meaning of the *Privacy Act 1988* on the Register. For example, the Regulator may decide to publish entity information to provide users of the Register with information about the entity's ANZSIC class or division.

Information that must be published.

The Amending Act reformed the reporting entity framework by empowering the Regulator to determine, upon application, that an entity is a volunteering entity, subsidiary reporting entity or reporting nominee under sections 10B, 10E and 10L of the Act, respectively. The Amending Act also empowers the Regulator to determine under certain circumstances that an entity is to cease to be a reporting entity under section 10K of the Act.

In accordance with paragraph 22A(b) of the Act, subsection 21(2) provides that the Regulator must publish on the Register information about these determinations. This includes that the Regulator has made a determination, when the determination takes or took effect and whether the determination will be, has been, or is taken to have been revoked. This provides transparency regarding the nature of an entity's reporting obligations under the Scheme.

The subsection also requires the Regulator to publish information that the Regulator has approved an extension for an entity to give a report under section 13A or 13B of the Act.

Information in relation to exempt entities and extensions must be published on the Register because it informs users as to the reason why an entity's payment times report for a particular reporting period is not on the Register at the time that report becomes due.

Section 22 – Matters relevant to the removal of information from the Register

Section 20 of the Act provides that the Regulator may remove information contained in a payment times report from the Register, if the Regulator considers that it would be contrary to the public interest in continuing to make that information publicly available. Paragraph 20(2)(c) of the Act provides that in making a decision to remove information, the Regulator may have regard to matters prescribed by the rules.

In accordance with paragraph 20(2)(c) of the Act, this section provides that the Regulator may have regard to whether the removal of the information would advance or impede the achievement of the objects of the Act (as contained in section 3 of the Act).

Part 20 – Application and transitional provisions

Transitional – reporting periods beginning before 1 July 2024

The *Payment Times Reporting Rules 2020* (the 2020 Rules) continue to apply, on and after 1 July 2024, in respect to payment times reports for reporting periods beginning *before* 1 July 2024. This is despite the repeal of the 2020 Rules, as in force immediately before the commencement of Schedule 1 to the 2024 Rules.

To avoid doubt, the 2024 Rules will apply in relation to payment times reports for reporting periods beginning *on or after* 1 July 2024.

Schedule 1 – Repeals

Schedule 1 to the 2024 Rules repeals the 2020 Rules. This is because the 2024 Rules replaces the 2020 Rules, subject to the transitional provisions to ensure continuity of reporting to the Regulator (as described above).

Entity information & Payment Times Report content**Entity information**

Entities that are reporting entities or reporting nominees will provide this information on registration with the Scheme and update details with each report submission. Entity information include approximately 13 data fields, which is similar to what is currently collected on registration for the Scheme. Many fields will be validated and prepopulated from external data sources.

Entity Information Content	Element	Rules Reference	Description
Identifying Information	Entity name & Business name (if applicable)	s10(1)(a)-(b)	Identifying information may be prepopulated and validated with external data sources where possible (e.g., from the Australian Business Register). Business name registered on the Business Names Register.
	ABN (or ACN/ARBN)	s10(1)(c)-(d)	ABN is the key unique identifier for Australian businesses. ARBN has been added as a unique identifier for businesses registered in Australian but that operate without an ABN or ACN.
	Service Delivery – email and physical address	s10(1)(e)(i) – (ii)	The service delivery email and physical address will be used by the Regulator to send official notices and correspondence to the entity.
Financial & Classifying Information	ANZSIC Code (Subdivision level)	s10(1)(f)	An entity engaging in several activities would provide the ANZSIC Code for its primary activity.
	Ordinary Financial Year End Date	s10(1)(g)	The financial year is the same as the financial statements of the entity. If the entity does not prepare financial

Entity Information Content	Element	Rules Reference	Description
			statements it can use its income year for tax purposes.
	Financial Reporting Operating Segments requirement	s10(1)(h)	Entities identify via a Yes/No question if they are required to prepare financial statements in accordance with AASB 8 Operating segments. Where an entity is required to prepare financial statements in accordance with AASB 8 their payment times report must include payment times information for operating segments.
Governance & Contact Information	Type of Principal Governing Body	s10(1)(i)	A description of the type of governing body for the entity (e.g., Board of Directors, Trustee).
	Contact Information – Responsible member & Authorised contacts	s10(1)(j)(i)-(ii)	<p>Governance and contact information to ensure efficient communications with entities.</p> <p>Authorised contacts are a person or legal entity authorised by the entity to communicate with the Regulator regarding the entity’s obligations under the Act, which may include advisory firms.</p>
Consolidated Group Structure	Reporting Entity - Controlled Entities information (if applicable)	s10(1)(l)	Information on controlled entities provides transparency for corporate groups as it identifies the entities within the broader corporate group and the entities that are included in its consolidated reporting.
	Reporting Entity - Subsidiary Reporting Entity	s10(1)(n)	An entity that has subsidiary reporting entities (s10E of the Act) must include information on those entities.

Entity Information Content	Element	Rules Reference	Description
	information (if applicable)		
	Ultimate Parent Entity information (if applicable)	s10(1)(k)	The identify of a global parent will identify a reporting entity as a member of a larger corporate group.
	Reporting Nominee - nominated entity information (if applicable)	s10(1)(m)	An entity that has received a determination under s10L of the Act provides information on the entities specified in the determination (nominated entities). This information can be prepopulated from the application.
	Subsidiary Reporting Entity – controlling entity information (if applicable)	s10(1)(o)	An entity that has received a determination under s10E of the Act provides information on the reporting entity that the subsidiary entity is controlled by. This information can be prepopulated from the application.

Information required for payment times reports

Entities that are reporting entities or reporting nominees will provide the following information for each payment times report and this information will be contained in the Rules. Payment times reports would have approximately 22 fields compared to over 60 fields in current reports.

Reporting Content	Element	Rules Reference	Description
General requirements	Reporting Period start and end date	s12(1)(a)	The start and end dates of the period covered in the report.
Approval information	Approving Responsible Member name	s12(1)(b)	The name of the responsible member that approved the report. This field is not intended to be published.
	Confirmation statement	s12(4)	Confirm information provided in Entity information to be correct. No requirement to submit a signed declaration. This field is not intended to be published.
Payment Practices	Offers supply chain finance arrangements	s12(2)(a), s12(3)(a)	This field asks entities if they offer supply chain financing arrangements to their small business suppliers.
	Practices and arrangements to accept invoices	s12(2)(b), s12(3)(b)	This field asks entities if they charge small businesses fees during the procurement process.
	Payment practices to small business – legal or voluntary obligations	s12(2)(c), s12(3)(c)	State whether the entity has payment commitments to small businesses. Payment commitments imposed by law (e.g. Security of payment laws) or adopted by agreement to an industry code.
	Most common standard payment term/s (statistical mode)	s13(3)(a),(c),(d)	Entities to provide the most common payment term for small business suppliers. Groups with more than one entity can provide

Reporting Content	Element	Rules Reference	Description
			a range based the most common terms for each entity in the group.
	Most common standard payment term for the next reporting period (estimate)	s13(3)(e)	Entities to indicate whether they expect a change to the most common payment terms (or range for groups) in the next reporting period.
	Percentage of small business procurement that was Peppol enabled	s13(1)(b)	Number of small business payments made via a system that was Peppol enabled. Invoices need not be transmitted via a Peppol network, only that the system used was Peppol enabled.
	Percentage of small business procurement made under a trade credit arrangement	s13(1)(a)	Number of small business payments that were made under a trade credit arrangement compared to all small business payments.
Contextual Information	Report comments	s12(5)(a)-(d)	Ability for the entity to provide information and explanation for a report. Entities will be required to provide information for matters material to payments times and practices for small business suppliers, material changes to report preparation methodologies and any details necessary to prevent a report from being misleading.
Payment Times Information	Average Payment Time	s13(2)(a)	The statistical mean of all payments to small businesses made under a trade credit arrangement.

Reporting Content	Element	Rules Reference	Description
	Median Payment Time	s13(2)(b)	Collection of median, 80 th and 95 th percentile payment times (the calendar days within which 50%, 80% and 95% of small business invoices are paid). This information provides a precise point of comparison not available through sole use of the payment times calendar day intervals.
	80 th Percentile Payment Time	s13(2)(c)	
	95 th Percentile Payment Time	s13(2)(d)	
	Percentage of small business trade credit arrangements paid within payment terms	s 13(2)(e)(i)	
	Percentage of Number of Invoices paid between 0-30 day	s 13(2)(e)(ii)	The proportion (by number) of small business invoices paid between specified intervals of 0-30 days, 31-60 days and more than 60 days.
	Percentage of Number of Invoices paid between 31-60 days	s 13(2)(e)(iii)	
	Percentage of number of Invoices paid over 60 days	s 13(2)(e)(iv)	
	Standard Receivable terms longer than standard payment terms to small business	s13(3)(b)	A comparison of payment terms to receivable terms which would require the selection of one of the following options, 'longer', 'shorter', or 'same'. This data will enable analysis of an entity's approach to working capital

Reporting Content	Element	Rules Reference	Description
			funding and procurement from small business suppliers.

Information required for modified payment times reports – special rules for certain entities

Entities that meet certain prescribed circumstances can provide modified reporting content requirements.

Reporting Content	Element	Rules Reference	Description
Entity in external administration	Information required under s10(1)	s14(1)(a)	Entities that have entered into external administration will have reduced reporting requirements but are required to provide the report period start and end date and name of the responsible member who approved the report.
	Name of external administrator	s14(1)(b)	Details pertaining to the appointment of an insolvency practitioner.
	External administrator appointment details	s14(1)(c)	Details of the capacity in which the external administration was appointed. (e.g. liquidator voluntary administration, deed administration, or a restructuring practitioner that has been appointed in

			order to restructure/sell/wind up the entity or to restructure finances in order to repay debts).
	External administrator appointment date	s14(1)(d)	Date the external administrator was appointed.
Entities with no small business procurement	Information required under s12(1)	s14(2)(a)	Entities that have no small business procurement will have reduced reporting requirements but are required to provide the report period start and end date and name of the responsible member who approved the report.
	Percentage of total value of small business procurement made under a trade credit arrangement (s13(1)(a))	s14(2)(b)	Entities that have no small business procurement are still required to provide the percentage of total value of small business procurement (i.e. 0%).
Entities who have a reporting nominee	Information required under s12(1)	s14(3)(a)	Entities that have a reporting nominee will have reduced reporting requirements but are required to provide the report period start and end date and name of the

			responsible member who approved the report.
	Details of Reporting Nominee name, ABN, ACN or ARBN	s14(3)(b)-(d)	Entities that have a reporting nominee will have reduced reporting requirements but are required to provide details on the reporting nominee.
Entities using AASB 8 in the preparation of financial reports	Operating segment Information	s14(4)	Information covered by section 13 in relation to each operating segment of the entity.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Payment Times Reporting Rules 2024

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The *Payment Times Reporting Rules 2024* (2024 Rules) repeal and remake the *Payment Times Reporting Rules 2020*, to support the wider amendments made to the *Payment Times Reporting Act 2020* to implement the Government response to the Statutory Review of the *Payment Times Reporting Act 2020* (the Review) and make other amendments to improve the operation of the *Payment Times Reporting Scheme* (the Scheme).

The 2024 Rules prescribe the entity information that a reporting entity or a reporting nominee must provide to the *Payment Times Reporting Regulator*, payment times report content, matters that may or must be published on the Register, and the technical details for determining slow and fast small business payers.

Human rights implications

This Legislative Instrument engages the following rights:

- The right to privacy in Article 17 of the *International Covenant on Civil and Political Rights* (the ICCPR);
- The right to work in Article 6 of the *International Covenant on Economic, Social and Cultural Rights* (the ICESCR);
- The right to just and fair conditions of work in Article 7 of the ICESCR.

Right to privacy

Under Article 17(1) of the ICCPR, no one shall be subject to arbitrary or unlawful interference with their privacy, family, home or correspondence, nor to unlawful attacks on his honour or reputation. The 2024 Rules engages this right by requiring reporting entities or reporting nominees to provide entity information and payment times reports to the Regulator. The Rules also prescribe matters that the Regulator must or may publish on the Register.

The right in Article 17(1) may be subject to permissible limitations, where these limitations are authorised by law and are not arbitrary. For an interference with the right to privacy to be permissible, the interference must be authorised by law, be for a reason consistent with the ICCPR and be reasonable in the circumstances. The United Nations Human Rights Committee has interpreted the requirement of ‘reasonableness’ to imply that any

interference with privacy must be proportional to the end sought and be necessary in the circumstances of any given case.

The obligation to disclose information to the Regulator is pre-existing under the Act and similar in nature to the original Scheme. The 2024 Rules introduce a requirement for a reporting entity or reporting nominee to give the Regulator information about the entity and any entity that it controls, known as 'entity information', regarding identity, contact details, classification and financial, accounting and governance arrangements. This is an appropriate and proportionate engagement with the right to privacy. Disclosure in this context equips the Regulator with the necessary information to ensure small businesses are paid on time and that the Scheme is more broadly complied with. In accordance with ss21(1)(d) of the 2024 Rules, entity information that is personal information (within the meaning of the *Privacy Act 1988*) cannot be published on the Register.

The right to work

Articles 6 and 7 of the ICESCR set out the right to work and the right to just and favourable conditions of work.

The 2024 Rules positively engage the right to work in Australia as the rules are relevant to the promotion and advancement of work by improving payment outcomes for small businesses.

Poor payment practices affect the cash flow of small businesses, constraining their ability to hire, invest and grow, potentially leading to bankruptcy and damaging the mental health of small business owners. Accordingly, poor payment practices limit the right of small business owners and employees to enjoy just and favourable conditions of work.

The Payment Times Reporting Rules promote and are compatible with the right to work.

Conclusion

The Legislative Instrument is compatible with human rights because to the extent that it may limit human rights, those limitations are reasonable, necessary, and proportionate.

Further, it seeks to promote the right to work and the right to just and favourable conditions of work.