

EXPOSURE DRAFT



EXPOSURE DRAFT (12/05/2020)

Payment Times Reporting Rules 2020

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

Dated 2020

Michaelia Cash [**DRAFT ONLY—NOT FOR SIGNATURE**]
Minister for Employment, Skills, Small and Family Business

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Preliminary **Part 1**

Section 1

Part 1—Preliminary

1 Name

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

2 Commencement

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

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

Note: This table relates only to the provisions of this instrument as originally made.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

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

3 Authority

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

4 Definitions

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

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

In this instrument:

ABN has the same meaning as in the *A New Tax System (Australian Business Number) Act 1999*.

Act means the *Payment Times Reporting Act 2020*.

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Part 1 Preliminary

Section 4

annual turnover has the same meaning as in the *Income Tax Assessment Act 1997*.

Business Industry Codes means the Business Industry Codes 2017, published by the Australian Taxation Office, as in force or existing at the time when this instrument commences.

Note: The Business Industry Codes could in 2020 be viewed on the Australian Taxation Office's website (<https://www.ato.gov.au>).

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

Payment Times Small Business Identification Tool means the tool by that name made available by the Department in any form the Regulator considers appropriate, as existing from time to time.

small business supply chain finance arrangement means an arrangement under which an entity undertakes to pay a small business invoice before the end of the relevant supply payment period if the small business supplier agrees to accept a discount on the payment or to incur an additional cost.

supply payment period means a period within which a payment under a contract is required to be made in relation to a supply of goods or services.

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

Part 2—Definitions for the purposes of the Act

5 Small businesses

- (1) For the purposes of the definition of *small business* in section 5 of the Act, each entity covered by subsection (2) that is described as a small business in the Payment Times Small Business Identification Tool is prescribed.
- (2) An entity is covered by this subsection at a time in an income year for the entity if the entity's annual turnover for the previous income year was less than \$10 million.

6 Standard payment periods

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

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

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Part 3 Applications to cease to be a reporting entity

Section 7

Part 3—Applications to cease to be a reporting entity

7 Information and documents required for applications

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

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

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

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

Part 4—Payment times reports

8 Information required for payment times reports

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

- (a) the entity's name and ABN;
- (b) a description of the entity's main business activity in accordance with the Business Industry Codes;
- (c) the name of the responsible member who signed the payment times report under subsection 14(5) of the Act and the date it was signed;
- (d) the name and contact details of the individual giving the payment times report to the Regulator;
- (e) a statement on the standard payment periods for the entity at the start of the reporting period, and an explanation of any changes to the standard payment periods for the entity during the reporting period;
- (f) the proportion, determined by total value, of all procurement by the entity during the reporting period that was procurement from small business suppliers;
- (g) details of arrangements under which small business invoices are provided to the entity;
- (h) a statement on whether the entity has entered into any small business supply chain finance arrangements during the reporting period;
- (i) if the entity has entered into one or more small business supply chain finance arrangements during the reporting period:
 - (i) details of those arrangements; and
 - (ii) a statement of the proportion, determined by total number and total value, of small business invoices paid by the entity during the reporting period that were paid under those arrangements;
- (j) any additional information providing context or explanation in relation to other information included in the payment times report.

9 Method for determining certain proportions for payment times reports

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

- (a) a small business invoice is issued when it is received by the entity in accordance with all requirements of the relevant written or oral contract, regardless of any date entered into a software system for the entity; and
- (b) a small business invoice is paid by the entity:
 - (i) for a cash transaction—when the amount of the relevant payment is given to the small business supplier by the entity; and
 - (ii) in any other case—when, in a transfer to the applicable account of the small business supplier, the amount of the relevant payment is debited from the applicable account of the entity; and

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Part 4 Payment times reports

Section 9

- (c) for the purposes of calculating the time within which a small business invoice is paid after it is issued:
 - (i) it is irrelevant whether a day is a business day; and
 - (ii) it is irrelevant whether the invoice is in dispute; and
- (d) any small business invoice that is not paid under a trade credit arrangement is to be disregarded; and
- (e) if the entity is a member of a controlling corporation's group—any small business invoice issued to the entity by a small business supplier that is also a member of that group is to be disregarded.

Part 5—Payment Times Reports Register

10 Additional matters for decision not to publish certain information

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