



COVERSHEET

Minister	Hon Ginny Anderson	Portfolio	Small Business
Title of Cabinet paper	Business Payment Practices Bill – Proposed Regulations Business Payment Practices Act Regulations 2023	Date to be published	19 October 2023

List of documents that have been proactively released

Date	Title	Author
June 2023	Business Payment Practices Bill – Proposed Regulations	Minister for Small Business
21 June 2023	Business Payment Practices Bill: Proposed Regulations DEV-23-MIN-0122 Minute	Cabinet Office
August 2023	Business Payment Practices Act Regulations 2023	Minister for Small Business
24 August 2023	Business Payment Practices Act Regulations 2023 LEG-23-MIN-0161 Minute	Cabinet Office

Information redacted

NO

Any information redacted in this document is redacted in accordance with MBIE's policy on Proactive Release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.



Cabinet Economic Development Committee

Minute of Decision

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Business Payment Practices Bill: Proposed Regulations

Portfolio **Small Business**

On 21 June 2023, the Cabinet Economic Development Committee:

Background

- 1 **noted** that, subject to a Supplementary Order Paper currently under development, the Business Payment Practices Bill will allow for regulations to be made that prescribe:
 - 1.1 what reporting measures to use (ie the information that must be disclosed by entities);
 - 1.2 what is a permitted departure in respect of errors made in a disclosure;
 - 1.3 the definition of invoice;
 - 1.4 goods, services or types of transaction for which disclosure is not required;
 - 1.5 maximum levels for infringement fees and fines;

What reporting measures to use

- 2 **agreed** that the regulations specify that reporting entities must disclose the following business payments information:
 - 2.1 average time to pay an invoice;
 - 2.2 the proportion of total number of invoices paid within various time periods;
 - 2.3 the proportion of total value of invoices paid within various time periods;
 - 2.4 qualitative information (standard payment terms and other descriptions of a reporting entity's payment practices);

What is a permitted departure in respect of errors made in a disclosure

- 3 **agreed** that the regulations set out that an acceptable margin of error in any numeric disclosure is up to two percent of the figure disclosed, or any part thereof (for a distribution);

The definition of 'invoice'

4 **agreed** that the definition of invoice be as follows:

A reporting entity must report on an invoice payment if all of the following apply:

- *the invoice relates to supply of a good or service;*
- *the reporting entity procured the good or service from a supplier under a trade credit arrangement;*
- *the reporting entity is contractually obliged to pay the invoice;*

Goods, services or types of transaction for which disclosure is not required

5 **agreed** that reporting entities do not need to disclose:

- 5.1 credit card debts payable to a bank;
- 5.2 foreign currency transactions;
- 5.3 some other (more technical) exclusions modelled on those used in Australia;

Maximum levels for infringement fees and fines

6 **agreed** to gradate the infringement fees and fines as follows:

- 6.1 maximum (\$3,000 fee and \$9,000 fine):
 - cl. 8 (large entities must make disclosures);
 - cl. 9B and 9C (contents of disclosure);
 - cl. 14 (entities must keep certain records for 7 years);
 - cl. 15 (entities must notify Registrar of error or omission);
- 6.2 mid-range (\$2,000 fee and \$6,000 fine):
 - cl. 9D(3) and (4) (certain subsidiaries may make disclosures);
- 6.3 low (\$1,000 fee and \$2,000 fine):
 - cl. 16 (entities must notify Registrar of changes in identifying information);
 - cl. 17 (entities must notify Registrar when Act ceases to apply);

Legislative implications

7 **agreed** to implement the above proposals through regulations under the Business Payments Bill (once enacted);

8 **invited** the Minister of Small Business to issue drafting instructions to the Parliamentary Counsel Office to give effect to the above paragraphs;

- 9 **authorised** the Minister of Small Business to make minor or technical changes, consistent with the policy framework in the paper under DEV-23-SUB-0122, on any issues that arise during the drafting.

Rebecca Davies
Committee Secretary

Present:

Hon Grant Robertson (Chair)
Hon Dr Megan Woods
Hon Dr Ayesha Verrall
Hon Damien O'Connor
Hon David Parker
Hon Kieran McAnulty
Hon Ginny Andersen
Hon Dr Duncan Webb
Hon Rino Tirikatene
Hon Rachel Brooking
Hon Jo Luxton

Officials present from:

Office of the Prime Minister
Officials Committee for DEV