



**Small Business
Development Corporation**

Our ref: D24/3222

Government Response and Reform Unit
Small and Family Business Division
Treasury
Langton Crescent
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Dear Sir/Madam

PAYMENT TIMES REPORTING ACT 2020 – CONSULTATION ON PRIMARY LEGISLATION AMENDMENTS

Following our submission to the independent review (the **Review**) of the *Payment Times Reporting Act 2020* (the **Act**) in February 2023, the Small Business Development Corporation (**SBDC**) has read the exposure draft of the Payment Times Reporting Amendment Bill 2024 (the **Bill**) and its explanatory materials with great interest.

The SBDC is an independent statutory authority of the Government of Western Australia established to support and facilitate the growth and development of small businesses in the State¹.

One of the agency's key strategic objectives is to influence the policy and regulatory environment affecting the small business sector in Western Australia. In this regard, the SBDC regularly contributes to Federal Government reviews and consultations as well as collaborates with Commonwealth regulators and the Australian Small Business and Family Enterprise Ombudsman to raise and address national policy issues impacting small business.

In its submission to the Review, the SBDC expressed the opinion that the Act was ineffective in meeting its primary purpose of improving payment times from large businesses to small businesses. This view has been validated by the findings of the Review and the SBDC believes that the Federal Government's support of the recommendations and commitment of \$8.1 million over four years for a range of initiatives will improve the operations of the Act and deliver better outcomes for small businesses.

¹ This submission outlines the views of the SBDC and does not necessarily represent the views of the Western Australian Government.

Consequently, the SBDC is pleased to see the draft Bill enacts recommendations from the Review, particularly:

- shifting the object of the Act to focus on exerting reputational pressure on large businesses
- fostering a culture of prompt payment by embedding prompt payments in large businesses' environmental, social and governance (**ESG**) / reputational motives
- simplifying and streamlining payment time reporting, including which entities must report.

However, the SBDC has some reservations about the Bill's provisions relating to:

- the definition of a 'slow small business payer' for a reporting cycle (*Schedule 1, item 32, subsections 22B(1) and (2) of the Act*)
- the ministerial direction of requesting a small business payer to publish a statement or information about its late payment practices on its website (*Schedule 1, item 32, subsection 22C(3) of the Act*).

While appreciating that the Review recommended not mandating maximum payment times as arguably such a model could encourage some faster payers to relax their payments towards the mandated time, the SBDC questions whether defining slow small business payers for a reporting cycle as the 'slowest 20 per cent of small business payers' of that cycle could lead to similar unintended consequences. In other words, such a measure may perversely encourage faster payers to slow down their payments to small businesses.

The SBDC is strongly supportive of introducing mechanisms that will inform small businesses about a particular large business's poor payment practices and deter them from repeating this behaviour. However, directing large businesses to publish information about their payment practices on their own website constitutes in the SBDC's opinion an extraordinary government intervention and there are concerns about its practical implementation and the likelihood of strong pushback from industry.

More broadly, it is unclear, from the material provided, how the proposed 30-day safe harbour for slow small business payer directions (*Schedule 1, item 32, subsection 22D(1)(a)*) will apply and whether unintended consequences may result.

While overall the proposed legislative amendments represent a step forward for small businesses dealing with poor payment time practices, the design of certain provisions will need to be tested in practice to assess their effectiveness. The SBDC is therefore strongly supportive of another independent review of the Act being conducted within three to five years of implementation of the reforms, as per the draft amendments.

Further to the proposed legislative reforms, the SBDC believes a significant issue that needs to be addressed is the chronic lack of awareness of the Payment Times Reports Register among small businesses. The best register in the world can be developed but if the very stakeholders that it is designed for do not engage with it – let alone know about it – what is the point? The promotion of the (new and improved) register and the importance of better payment practices to small businesses is something the SBDC can help support, as appropriate.

The SBDC welcomes the opportunity to provide feedback on the exposure draft Bill and explanatory materials. If you would like to discuss this submission in more detail, please contact Karine Soares, A/ Assistant Director Policy and Advocacy on (08) 6522 3310 or via karine.suares@smallbusiness.wa.gov.au.

Yours sincerely



David Eaton PSM
Small Business Commissioner

29 April 2024