

# EXPOSURE DRAFT



EXPOSURE DRAFT

## Payment Times Reporting Rules 2024

---

I, Julie Collins, Minister for Housing, Minister for Homelessness, and Minister for Small Business, make the following rules.

Dated 2024

Julie Collins **[DRAFT ONLY—NOT FOR SIGNATURE]**

Minister for Housing

Minister for Homelessness

Minister for Small Business

---

EXPOSURE DRAFT



# EXPOSURE DRAFT

---

## Contents

<b>Part 1—Preliminary</b>	1
1 Name .....	1
2 Commencement .....	1
3 Authority.....	1
4 Schedules .....	1
5 Definitions .....	1
6 Payment Times Small Business Identification Tool .....	3
7 Meaning of <i>trade credit arrangement</i> .....	4
<b>Part 2—Entity information</b>	4
8 Entity information to be given to the Regulator.....	4
<b>Part 3—Payment times reports</b>	6
9 Purpose of this Part.....	6
10 Content of a report—general requirements.....	6
11 Content of report—proportion of payments to small business suppliers.....	7
12 Content of report—proportion of payments to small business suppliers relating to Peppol enabled invoices.....	10
13 Content of report—small business trade credit payment times and terms statistics .....	10
14 Content of report—special rules for certain entities.....	12
15 Access to information of controlled entities.....	13
<b>Part 4—Slow small business payers</b>	15
16 Meaning of <i>95<sup>th</sup> percentile payment time</i> for a reporting cycle.....	15
17 Slowest 20% of small business payers .....	15
18 Slowest 20% of small business payers in an ANZSIC Division .....	15
19 Qualifying payment time of 30 days or less.....	16
<b>Part 5—Fast small business payers</b>	17
20 Qualifying payment time of 20 days or less.....	17
<b>Part 6—Publication of information on the register</b>	18
21 Information that may or must be published on the register .....	18
22 Matters relevant to removal of information from the register .....	19
<b>Part 20—Application and transitional provisions</b>	20
100 Transitional—reporting periods beginning before 1 July 2024.....	20
<b>Schedule 1—Repeals</b>	21
<i>Payment Times Reporting Rules 2020</i>	21



# EXPOSURE DRAFT

Preliminary **Part 1**

Section 1

## Part 1—Preliminary

### 1 Name

This instrument is the *Payment Times Reporting Rules 2024*.

### 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. Part 1 and anything in this instrument not elsewhere covered by this table	The day after this instrument is registered.	
2. Parts 2 to 6 and 20	The later of: (a) the day after this instrument is registered; and (b) the day the <i>Payment Times Reporting Amendment Act 2024</i> commences.	
3. Schedule 1	At the same time as the provisions covered by table item 2.	

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*.

Note: 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.

### 4 Schedules

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

### 5 Definitions

Note: Expressions have the same meaning in this instrument as in the *Payment Times Reporting Act 2020* as in force from time to time—see paragraph 13(1)(b) of the *Legislation Act 2003*.

# EXPOSURE DRAFT

## Part 1 Preliminary

### Section 5

---

In this instrument:

**95<sup>th</sup> percentile payment time:**

- (a) in relation to a reporting period—has the meaning given by paragraph @13(1)(e); and
- (b) in relation to a reporting cycle—has the meaning given by section @16.

**AASB 8** means:

- (a) the *AASB 8 - Operating Segments - August 2015* [F2015L01606] (as amended and in force from time to time); or
- (b) if that instrument is repealed and remade, with or without modifications—the remade instrument.

Note: AASB 8 is an accounting standard.

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

**ACN** has the meaning given by section 9 of the *Corporations Act 2001*.

**ARBN** has the meaning given by section 9 of the *Corporations Act 2001*.

**complete payments dataset:** see subsection @11(3).

**controlled entity:** an entity is a **controlled entity** of another entity if the other entity controls the entity.

**entity information:** see subsection @8(1).

**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.

**payment term**, for a payment, means the number of calendar days as mentioned in any of the following paragraphs as is relevant to the payment:

- (a) where a fixed period, within which the payment is required to be made, is stated on an invoice—the number of calendar days in the period;
- (b) where a non-fixed period, within which the payment is required to be made, is stated on an invoice—the largest possible number of calendar days in the period;
- (c) where a date for payment of an invoice is stated on the invoice and the invoice does *not* state a period within which the payment is required—the number of calendar days between date of the invoice and the date for payment of the invoice;
- (d) where a payment is made without an invoice—the number of calendar days between the date the obligation to make the payment arises under an agreement and the date the obligation is to be fully discharged by the payment under the agreement.

**payment time**, for a payment, means the number of calendar days between the 2 dates as mentioned in any one of the following paragraphs as is relevant to the payment:

- (a) where the date for payment on an invoice (other than a recipient created tax invoice) is after the date the invoice was received, or the date the invoice was received was *not* recorded—the date the invoice was issued and the date the invoice was fully discharged by the payment;
- (b) in all other cases involving payment by invoice (other than a recipient created tax invoice)—the date the invoice was received and the date the invoice was fully discharged by the payment;
- (c) in a case involving a payment of a recipient created tax invoice—the date on which the supply of goods or services covered by the invoice occurred and the date the invoice was fully discharged by the payment;
- (d) where a payment is made without an invoice—the date a notice for payment under an agreement was issued and the date it was fully discharged by the payment.

***Payment Times Small Business Identification Tool***: see section @6.

***Peppol enabled invoice***, in relation to an invoice, in relation to an entity, means an invoice that is capable of being sent or received by the entity using the Peppol network because the entity is connected to the network.

***Peppol network*** means the network for electronic invoicing developed and maintained by OpenPeppol.

Note: OpenPeppol gives authority to various countries to manage the Peppol framework for members in that country. In Australia, the Australian Taxation Office is the Australian Peppol Authority, and manages the Peppol framework for the Australian Peppol members.

***recipient created tax invoice*** has the meaning given by the *A New Tax System (Goods and Services Tax) Act 1999*.

***reporting nominee determination***, in relation to a reporting nominee, means the determination made under subsection 10L(1) of the Act relating to that nominee.

***small business payments dataset***: see subsection @11(4).

***small business trade credit payments dataset***: see subsection @13(3).

***supply chain finance arrangement*** means an arrangement under which an entity undertakes or agrees to pay a small business supplier for the supply of a good or service (whether directly or indirectly) earlier than the terms for payment would otherwise allow, in exchange for the small business supplier paying a fee or accepting a smaller payment for the supply of the good or service.

***the Act*** means the *Payment Times Reporting Act 2020*.

***trade credit arrangement***: see section @7.

## 6 Payment Times Small Business Identification Tool

For the purposes of the definition of ***Payment Times Small Business Identification Tool*** in section 5 of the Act, the ***Payment Times Small Business Identification Tool*** means the tool by that name, as existing from time to time, that is accessible on the website that is maintained by the Department for the

# EXPOSURE DRAFT

## Part 2 Entity information

### Section 7

---

giving of payment times reports by reporting entities and reporting nominees to the Regulator.

Note: The Payment Times Small Business Identification Tool could in 2024 be viewed on the Payment Times Reporting Portal website (<https://paymenttimes.gov.au>).

### 7 Meaning of *trade credit arrangement*

A *trade credit arrangement* means an arrangement under which payment, for the supply of a good or service by a small business supplier, can be made, or is made, at least one calendar day after the supply of the good or service.

## Part 2—Entity information

### 8 Entity information to be given to the Regulator

- (1) For the purposes of subsection 10S(1) of the Act, an entity that is a reporting entity or reporting nominee must give the following information (*entity information*) to the Regulator:
  - (a) the entity's name;
  - (b) any business name registered to the entity on the Business Names Register established and maintained under section 22 of the *Business Names Registration Act 2011*;
  - (c) if the entity has an ABN—the entity's ABN;
  - (d) if the entity does *not* have an ABN, but does have an ACN or ARBN—the entity's ACN or ARBN;
  - (e) the entity's address for service for the purposes of the Act, which must include:
    - (i) an email address; and
    - (ii) either a physical or postal address in Australia;
  - (f) the class code and title for the business conducted by the entity, by reference to the Australian and New Zealand Standard Industrial Classification;
  - (g) the day and month on which the entity's financial year would ordinarily end;

Note: An ordinary financial year is the financial year of an entity disregarding any temporary adjustments to the beginning 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.
  - (h) whether the entity's financial reports are required to comply with AASB 8 (or an equivalent financial reporting standard of a foreign jurisdiction) for the immediately preceding financial year;
  - (i) the type of principal governing body of the entity;
  - (j) the name, telephone number and email address for each of the following:
    - (i) a responsible member of the entity;
    - (ii) an individual, other than a responsible member, authorised in writing to act on the entity's behalf in relation to the entity's obligations under the Act (including by accepting information on behalf of the entity);



# EXPOSURE DRAFT

- (k) if the entity *not* a reporting nominee but has one or more controlled entities—the information mentioned in @paragraphs (a) to (d) in relation to each controlled entity;
  - (l) if the entity has one or more controlled entities that are subsidiary reporting entities—the information mentioned in @paragraphs (a) to (d) in relation to each controlled entity that is a subsidiary reporting entity;
  - (m) if the entity is a controlled entity of one or more other entities—the information mentioned in @paragraphs (a) to (d) in relation to the one other entity that is *not* itself a controlled entity of another entity;
  - (n) if the entity is a reporting nominee—the information mentioned in @paragraphs (a) to (d) in relation to each of the reporting nominee’s nominated entities;
  - (o) if the entity is a subsidiary reporting entity—the information mentioned in @paragraphs (a) to (d) in relation to the reporting entity that controls the subsidiary reporting entity.
- (2) For the purposes of subsection 10S(1) of the Act, if an entity gives, or is required to give, the Regulator entity information under this section, and later becomes aware that:
- (a) the information given was false, incorrect or misleading in a material particular (including because the information given omits something without which the information is misleading in a material particular); or
  - (b) information that was required to be given has *not* been given; or
  - (c) the information given, although correct at the time it was given, has later become incorrect as a result of a change in circumstances; or
  - (d) information that was *not* previously required to be given, is now, as a result of a change in circumstances, required to be given;
- the entity must correct, give or update the entity information (as appropriate):
- (e) where @paragraph (a) or (b) applies—as soon as practicable; or
  - (f) where @paragraph (c) or (d) applies—no later than immediately before the entity next gives a payment times report to the Regulator.

Note: A payment times report given by an entity must include a statement confirming that entity information in respect of the entity is correct as at the time the report is given to the Regulator (see subsection @10(4)).

# EXPOSURE DRAFT

## Part 3 Payment times reports

### Section 9

---

## Part 3—Payment times reports

### 9 Purpose of this Part

For the purposes of section 14 of the Act, this Part prescribes:

- (a) information that an entity that is a reporting entity or a reporting nominee must include in a payment times report to be given to the Regulator by the entity for a reporting period for the entity; and
- (b) methods for working out matters that must be included in a payment times report.

### 10 Content of a report—general requirements

#### *Required content—reporting entities and reporting nominees*

- (1) A payment times report for a reporting period for an entity must include the following information:
  - (a) the start date and end date of the reporting period;
  - (b) the name of the responsible member who approved the report and the date the member approved the report.

#### *Required content—reporting entities*

- (2) A payment times report for a reporting period for a reporting entity must also include the following information:
  - (a) whether, during the reporting period, the entity or any of its controlled entities, entered into, or made an offer to enter into, a supply chain finance arrangement;
  - (b) whether, during the reporting period, the entity or any of its controlled entities, had or used a practice or arrangement which involved one or more small business suppliers paying the entity an amount (including a subscription or membership fee) to either be able to make an offer to the entity to supply it with goods or services or to be able to issue an invoice to the entity for the supply of goods or services;
  - (c) whether another law of the Commonwealth, or a law of a State or Territory, or a code of conduct (which binds participants in an industry regulated by the code by voluntary agreement), imposes requirements on the entity or any of its controlled entities, in relation to their payment times and practices for small business suppliers.

#### *Required content—reporting nominees*

- (3) A payment times report for a reporting period for a reporting nominee must also include the following information:
  - (a) whether, during the reporting period, the reporting nominee, or any of its nominated entities, entered into, or made an offer to enter into, a supply chain finance arrangement;
  - (b) whether, during the reporting period, the reporting nominee, or any of its nominated entities, had or used a practice or arrangement which involved

one or more small business suppliers paying the nominee or any of its nominated entities an amount (including a subscription or membership fee) to either be able to make an offer to that entity to supply it with goods or services or to be able to issue an invoice to that entity for the supply of goods or services;

- (c) whether another law of the Commonwealth, or a law of a State or Territory, or a code of conduct (which binds participants in an industry regulated by the code by voluntary agreement), imposes requirements on the reporting nominee, or any of its nominated entities, in relation to their payment times and practices for small business suppliers.

### *Confirmation of entity information*

- (4) A payment times report, for a reporting period for an entity, must also include a statement confirming that, in relation to each particular of entity information most recently given by the entity to the Regulator, the particular of entity information, as most recently given, is still true and correct.

### *Reports to include additional contextual information*

- (5) A payment times report, for a reporting period for an entity, must also include reasonable additional information providing context or explanation for anything included in the report relating to any the following:
  - (a) 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;
  - (b) a change, of a material nature, to financial reporting practices, dataset creation processes, or statistical calculation methods;
  - (c) any other details without which the report is likely to be misleading in a material respect.

## **11 Content of report—proportion of payments to small business suppliers**

### *Information to be included in a report*

- (1) A payment times report for a reporting period for an entity must include the proportion of payments made to small business suppliers for the reporting period for the entity (expressed as a percentage).
- (2) An entity works out the proportion of payments made to small business suppliers for a reporting period for the entity, as follows:

#### *Method statement*

- Step 1. Add up the amounts of all payments in the complete payments dataset for the reporting period for the entity.
- Step 2. Add up the amounts of all payments in the small business payments dataset for the reporting period for the entity.
- Step 3. Divide the result of Step 2 by the result of Step 1.

# EXPOSURE DRAFT

## Part 3 Payment times reports

### Section 11

The result of Step 3, expressed as a percentage, is the proportion of payments made to small business suppliers for the reporting period.

#### *Creating a complete payments dataset*

- (3) An entity creates a ***complete payments dataset*** for a reporting period for the entity, as follows:

#### *Method statement*

Step 1. Identify all payments made in the reporting period by:

- (a) for an entity that is a reporting entity—the reporting entity and each of its controlled entities (other than a controlled entity that is a subsidiary reporting entity and any controlled entity of the subsidiary reporting entity); and
- (b) for an entity that is a reporting nominee—the reporting nominee and each of its nominated entities.

Step 2. Include in the dataset the following information in relation to each payment identified in Step 1:

- (a) the amount of the payment;
- (b) the entity that made the payment (and that entity's ABN, or if that entity does *not* have an ABN, the entity's ACN or ARBN);
- (c) the entity to which the payment was made (and that entity's ABN, or if that entity does *not* have an ABN, the entity's ACN or ARBN);
- (d) the date the payment was made;
- (e) the method by which the payment was made;
- (f) if the payment relates to an invoice—an invoice reference number, whether the invoice was a Peppol enabled invoice, 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 payment term, whether the invoice was a recipient created tax invoice, and if the invoice was a recipient created tax invoice, the date on which the supply of goods or services covered by the invoice occurred;
- (g) 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

# EXPOSURE DRAFT

agreement was issued, the due date for payment under the agreement, and the payment term;

- (h) whether the payment discharged the invoice or obligation (as applicable) in full or in part;
- (i) whether the payment relates to employee remuneration.

Step 3. Remove from the dataset the following payments:

- (a) payments to entities that do *not* have an ABN, ACN or ARBN;
- (b) payments between entities where both entities' payments are included in the dataset, both entities are controlled by a common entity, or one of the entities is a controlled entity of the other entity;
- (c) payments to a government entity (within the meaning of the *A New Tax System (Australian Business Number) Act 1999*);
- (d) payments to, or for the benefit of, employees of an entity whose payments are included in the dataset (including amounts withheld from such payments under Subdivision 12-B in Schedule 1 to the *Taxation Administration Act 1953*);
- (e) payments other than payments for the supply of goods or services;
- (f) if the entity elects that this paragraph applies for a reporting period—payments that were made by way of a credit card for an amount of less than \$100;
- (g) if the entity elects that this paragraph applies for a reporting period and has a genuinely enforced internal policy that prohibits payments by way of credit card, type of credit card, or credit card holder, in relation to a trade credit arrangement—each payment made by way of the prohibited credit card, type of credit card, or credit card holder, as covered by the internal policy.

### *Creating a small business payments dataset*

- (4) An entity creates a ***small business payments dataset*** for a reporting period for the entity, by using the Payment Times Small Business Identification Tool to remove from the complete payments dataset, for the reporting period for the entity, each payment in that dataset that was *not* made to a small business supplier.

Note: Entities that have no payments in their small business payments dataset may have a different content requirement to include in their report—see subsection @14(2).

# EXPOSURE DRAFT

## Part 3 Payment times reports

### Section 12

---

#### **12 Content of report—proportion of payments to small business suppliers relating to Peppol enabled invoices**

*Information to be included in a report*

- (1) A payment times report for a reporting period for an entity must include the proportion of payments made to small business suppliers relating to Peppol enabled invoices for the reporting period for the entity (expressed as a percentage).
- (2) An entity works out the proportion of payments made to small business suppliers relating to Peppol enabled invoices for the reporting period for the entity, as follows:

*Method statement*

- Step 1. Add up the amounts of all payments in the small business payments dataset for the reporting period for the entity.
- Step 2. Add up the amounts of all payments in the small business payments dataset that relate to a Peppol enabled invoice for the reporting period for the entity.
- Step 3. Divide the result of Step 2 by the result of Step 1.

The result of Step 3, expressed as a percentage, is the proportion of payments made to small business suppliers relating to Peppol enabled invoices for the reporting period.

#### **13 Content of report—small business trade credit payment times and terms statistics**

*Information to be included in a report—payment times*

- (1) A payment times report, for a reporting period for an entity, must include the following information:
  - (a) the proportion of the total number of payments in the small business payments dataset that comprises payments in the small business trade credit payments dataset (expressed as a percentage);
  - (b) the average payment time (expressed as a number of calendar days) that represents the statistical mean 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;
  - (c) the median payment time (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;
  - (d) the payment time (expressed as a number of calendar days) that is the 80<sup>th</sup> percentile of all payment times (ordered fastest to slowest) 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;

- (e) the payment time (expressed as a number of calendar days) that is the 95<sup>th</sup> percentile of all payment times (ordered fastest to slowest) 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 **95<sup>th</sup> percentile payment time** for the reporting period);
- (f) each of the following (expressed as percentages), as derived from the small business trade credit payments dataset for the reporting period for the entity:
  - (i) payments that discharged an invoice or obligation in full for which the payment time was equal to or less than the payment term, as a proportion of all payments in the dataset that discharged an invoice or obligation in full;
  - (ii) payments that discharged an invoice or obligation in full for which the payment time was 30 days or less, as a proportion of all payments in the dataset that discharged an invoice or obligation in full;
  - (iii) payments that discharged an invoice or obligation in full for which the payment time was between 31 and 60 days, as a proportion of all payments in the dataset that discharged an invoice or obligation in full;
  - (iv) payments that discharged an invoice or obligation in full for which the payment time was more than 60 days, as a proportion of all payments in the dataset that discharged an invoice or obligation in full.

*Information to be included in a report—payment terms*

- (2) A payment times report, for a reporting period for an entity, must also include the following information:
  - (a) 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 for the reporting period for the entity;
  - (b) whether the entity's most common terms for payment (expressed in calendar days), within which payment is required to be made by a buyer of goods or services from the entity, is longer, shorter or the same as the statistical mode of payment terms as specified in @paragraph (a).
  - (c) if the entity *not* a reporting nominee but has one or more controlled entities—the payment terms (expressed as a number of calendar days) that represent the statistical maximum and minimum of all of the following:
    - (i) the payment term representing the statistical mode for all payments (that discharged an invoice or obligation in full), made by the entity, included in the small business trade credit payments dataset for the reporting period for the entity;
    - (ii) a payment term for each of the entity's controlled entities, representing for each controlled entity, the statistical mode 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 for the reporting period for the entity;

# EXPOSURE DRAFT

## Part 3 Payment times reports

### Section 14

---

- (d) if the entity is a reporting nominee—the payment terms (expressed as a number of calendar days) that represent the statistical maximum and minimum of all of the following:
  - (i) the payment term representing the statistical mode 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 for the reporting period for the reporting nominee;
  - (ii) a payment term for each of the reporting nominee’s nominated entities, representing for each nominated entity, the statistical mode 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 for the reporting period for the reporting nominee;
- (e) what the entity reasonably expects the payment terms mentioned in paragraph (a), and (c) or (d) (if, and as appropriate), to be for the next reporting period for the entity.

#### *Creating a small business trade credit payments dataset*

- (3) An entity creates a ***small business trade credit payments dataset*** for a reporting period for the entity, as follows:

#### *Method statement*

- Step 1. Include in the dataset all payments from the small business payments dataset for the reporting period for the entity.
- Step 2. Remove from the dataset each payment that was *not* made under a trade credit arrangement.
- Step 3. Remove from the dataset each payment that is a deposit.

#### *Special rule for calculating median payment time*

- (4) For the purposes of paragraph (1)(c), if there are an even number of payment times, the median payment time is the average of the 2 median payment times.

## 14 Content of report—special rules for certain entities

#### *Entities in external administration*

- (1) If, at any time during a reporting period, or after the reporting period ends but before an entity is required to give the Regulator a payment times report for the reporting period, the entity is in external administration (within the meaning of section 5-15 of Schedule 2 to the *Corporations Act 2001*), then, despite anything else in this Part, the entity’s payment times report for the reporting period, is to include only the following:
  - (a) the information mentioned in subsection @10(1);
  - (b) the name of the external administrator of the entity (within the meaning of section 5-20 of Schedule 2 to the *Corporations Act 2001*);



- (c) the capacity in which the external administrator has been appointed;  
Example: As an administrator of the entity or as a liquidator of the entity.
- (d) the date the external administrator was appointed.

*Entities that do not make payments to small business suppliers*

- (2) Where there are no payments in a small business payments dataset for a reporting period for an entity, then, despite anything else in this Part, the entity's payment times report for the reporting period, is to include only the following:
  - (a) the information mentioned in subsection @10(1);
  - (b) the proportion of payments made to small business suppliers for the reporting period for the entity mentioned in subsection @11(1).

Note: Where there are no payments in a small business payments dataset for a reporting period, the proportion of payments made to small business suppliers for the reporting period is 0%.

*Entities for which another entity is reporting nominee*

- (3) If, at all times during a reporting period, an entity is a nominated entity of a reporting nominee, then despite anything else in this Part, a payment times report for the reporting period for the entity is to include only the following:
  - (a) the information mentioned in subsection @10(1);
  - (b) the name of the reporting nominee;
  - (c) if the reporting nominee has an ABN—the reporting nominee's ABN;
  - (d) if the reporting nominee does *not* have an ABN, but does have an ACN or ARBN—the reporting nominee's ACN or ARBN.

*Entities adopting AASB 8 in the preparation of financial reports*

- (4) Where the 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), then the entity's payment times report for the reporting period must also include the information covered by section @13 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)).

*Additional information may be included*

- (5) An entity to which this section applies may include, in a payment times report for a reporting period for the entity, any additional information that the entity considers useful for providing additional context for any matter covered in the report.

## 15 Access to information of controlled entities

If an entity to which this Part applies is, due to the limits of its capacity to exercise control over a controlled entity, unable to access:

- (a) information relating to the controlled entity that is required to be included in a payment times report for a reporting period for the entity; or

# EXPOSURE DRAFT

## Part 3 Payment times reports

### Section 15

---

(b) information relating to the controlled entity that must be used to work out a matter that is required to be included in such a report;

then this Part is taken *not* to require that information to be so included or used.

Note: Reporting entities and reporting nominees must keep records of any information used in the preparation of a payment times report for a reporting period (see sections 29 and 29A of the Act).

## Part 4—Slow small business payers

### 16 Meaning of 95<sup>th</sup> percentile payment time for a reporting cycle

A **95<sup>th</sup> percentile payment time**, for a reporting cycle for an entity, means:

- (a) if only one reporting period for the entity ended within, or at the end of, the reporting cycle—the 95<sup>th</sup> percentile payment time for that reporting period; or
- (b) if more than one reporting period for the entity ended within, or at the end of, the reporting cycle—the 95<sup>th</sup> percentile payment time for the reporting period that last ended within or at the end of the reporting cycle; or
- (c) if no reporting period for the entity ended within, or at the end of, the reporting cycle—the 95<sup>th</sup> percentile payment time for the first reporting period that ended after the reporting cycle.

### 17 Slowest 20% of small business payers

- (1) For the purposes of section 22D of the Act, the **slowest 20% of small business payers** for a reporting cycle means those entities that are reporting entities or reporting nominees and whose 95<sup>th</sup> percentile payment times for the reporting cycle, as ranked amongst all reporting entities' and reporting nominees' 95<sup>th</sup> percentile payment times for the reporting cycle, were in the slowest 20%.
- (2) In applying subsection (1) for a reporting cycle, disregard any entity, and that entity's 95<sup>th</sup> percentile payment time, if:
  - (a) 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(1); or
  - (b) the entity was a volunteering entity for the reporting period that last ended within, or ended at the end of, the reporting cycle.

### 18 Slowest 20% of small business payers in an ANZSIC Division

For the purposes of section 22D of the Act, the **slowest 20% of small business payers in a Division of the Australian and New Zealand Standard Industrial Classification** for a reporting cycle means those entities worked out as follows:

*Method statement*

- Step 1. For the reporting cycle, identify each reporting entity or reporting nominee, and the 95<sup>th</sup> percentile payment times for the reporting cycle for each of those entities.
- Step 2. Remove any entity, and that entity's 95<sup>th</sup> percentile payment times, for the reporting cycle for the entity, if:
  - (a) 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(1); or

# EXPOSURE DRAFT

## Part 4 Slow small business payers

### Section 19

	<p>(b) the entity was a volunteering entity for the reporting period that last ended within, or ended at the end of, the reporting cycle.</p>
Step 3.	Based on the entity information known to the Regulator, assign each remaining reporting entity or reporting nominee to the relevant Division of the Australian and New Zealand Standard Industrial Classification for that entity.
Step 4.	For each Division of the Australian and New Zealand Standard Industrial Classification, work out which entities' 95 <sup>th</sup> percentile payment times for the reporting cycle, as ranked amongst all reporting entities' and reporting nominees' 95 <sup>th</sup> percentile payment times allocated to that Division for the reporting cycle, were in the slowest 20%.
Step 5.	The entities worked out under Step 4 for each Division of the Australian and New Zealand Standard Industrial Classification are the <b><i>slowest 20% of small business payers in a Division of the Australian and New Zealand Standard Industrial Classification.</i></b>

### 19 Qualifying payment time of 30 days or less

For the purposes of paragraph 22D(4)(b) of the Act, a payment times report has a ***qualifying payment time of 30 days or less*** for a reporting period if the entity's 95<sup>th</sup> percentile payment time for the reporting period is 30 days or less.

## **Part 5—Fast small business payers**

### **20 Qualifying payment time of 20 days or less**

For the purposes of Division 5 of Part 2 of the Act, a payment times report has a *qualifying payment time of 20 days or less* for a reporting period if the entity's 95<sup>th</sup> percentile payment time for the reporting period is 20 days or less.

# EXPOSURE DRAFT

## Part 6 Publication of information on the register

### Section 21

---

## Part 6—Publication of information on the register

### 21 Information that may or must be published on the register

#### *Information the Regulator may publish*

- (1) For the purposes of paragraph 22A(a) of the Act, the Regulator may publish the following information on the register:
  - (a) that the Regulator has determined that an entity is a reporting entity under subsection 10B(1) of the Act, and when that determination takes or took effect;

Note: Section 10B of the Act is about volunteering entity determinations.
  - (b) that a determination that an entity is a reporting entity under subsection 10B(1) of the Act, will be, has been or is taken to have been revoked under section 10D of the Act, and when that revocation takes effect (where specified in a notice);
  - (c) that the Regulator has determined that the entity is a subsidiary reporting entity under subsection 10E(1) of the Act, and when that determination takes effect;
  - (d) that a determination that an entity is a subsidiary reporting entity under subsection 10E(1) of the Act has been revoked under subsection 10G(1) of the Act, and when that revocation takes effect;
  - (e) that an entity has ceased to be a reporting entity from the start of a specified reporting period, having notified the Regulator to that effect under subsection 10H(2) of the Act (unless the entity has given notice to withdraw that notice);
  - (f) that the Regulator has determined that an entity is a reporting nominee under subsection 10L(1) of the Act for one or more other entities, and when that determination takes effect;
  - (g) that a determination that an entity is a reporting nominee under subsection 10L(1) of the Act has been revoked under subsection 10N(1) of the Act, and when that revocation takes effect;
  - (h) that the Regulator is reasonably satisfied that an entity is no longer a reporting entity (including whether the Regulator has determined that the entity is to cease to be a reporting entity under subsection 10K(1) of the Act, and when such a determination takes effect);
  - (i) entity information that is *not* personal information (within the meaning of the *Privacy Act 1988*).

#### *Information the Regulator must publish*

- (2) For the purposes of paragraph 22A(b) of the Act, the Regulator must publish the following information on the register:
  - (a) that the Regulator has determined that an entity is an exempt entity under subsection 10P(1) of the Act, and when that determination takes effect;
  - (b) that a determination that an entity is an exempt entity under subsection 10P(1) of the Act has been revoked under subsection 10R(1) of the Act, and when that revocation takes effect;

- (c) that the Regulator has extended the time for an entity to give a payment times report under section 13A or 13B of the Act.

## **22 Matters relevant to removal of information from the register**

For the purposes of paragraph 20(2)(c) of the Act, the Regulator may, when deciding to remove information, contained in a payment times report, from the register, have regard to whether removing the information would further, or hinder achieving, the objects of the Act.

# EXPOSURE DRAFT

Part 20 Application and transitional provisions

Section 100

---

## Part 20—Application and transitional provisions

### 100 Transitional—reporting periods beginning before 1 July 2024

Despite the repeal of the *Payment Times Reporting Rules 2020*, as in force immediately before the commencement of Schedule 1 to this instrument, the *Payment Times Reporting Rules 2020* continue to apply, on and after 1 July 2024, in relation to a payment times report for a reporting period beginning before that date.



---

## **Schedule 1—Repeals**

### *Payment Times Reporting Rules 2020*

#### **1 The whole of the instrument**

Repeal the instrument.