Payment Times Reporting: Updated guidance material

Consultation Paper

July 2022

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# Consultation process

## Request for feedback and comments

Interested parties are invited to provide feedback on 3 draft guidance notes using the template in [Appendix 1](#_Appendix:_Consultation_template). Consultation will close on Friday 2 September 2022.

While submissions may be lodged electronically or by post, electronic lodgement is preferred. For accessibility reasons, please submit responses in a Word or RTF format via email. An additional PDF version may also be submitted.

## Publication of submissions and confidentiality

All information (including name and address details) contained in formal submissions may be made available to the public on [the Treasury](https://treasury.gov.au/consultation) website or the [Payment Times Reporting Scheme](https://paymenttimes.gov.au/) website, unless you indicate that you would like all, or part of your submission to remain confidential. Automatically generated confidentiality statements in emails do not meet this purpose. Respondents who would like part of their submission to remain confidential should state this clearly in the submission email or letter.

Legal requirements, such as those imposed by the [*Freedom of Information Act 1982*](https://www.legislation.gov.au/Series/C2004A02562), may affect the confidentiality of your submission.

## Continuous consultation

Although there is a close date for this consultation, we encourage continuous feedback from regulated entities and other interested parties. Feedback and comments on guidance material, information sheets and other regulatory resources can be provided at any time through the [Payment Times Reporting Scheme](https://paymenttimes.gov.au/contact) website.

Closing date for submissions: 02 September 2022

|  |  |
| --- | --- |
| **Email** | support@paymenttimes.gov.au |
| **Mail** | Payment Performance BranchSmall and Family Business DivisionThe TreasuryLangton CrescentPARKES ACT 2600 |
| **Enquiries** | Enquiries can be initially directed to support@paymenttimes.gov.au |

# Update of guidance material

## Introduction

The Payment Times Reporting Regulator administers the [*Payment Times Reporting Act 2020*](https://www.legislation.gov.au/Series/C2020A00091) (the **Act**). The Act requires large businesses operating in Australia to report on their payment practices with Australian small business suppliers.

The Act commenced on 1 January 2021. Most reporting entities have already submitted 2 payment times reports and will be preparing their third report. To date, around 16,000 payment times reports have been lodged and published to the [Payment Times Reports Register](https://register.paymenttimes.gov.au/).

Since the commencement of the scheme, we have received a high number of enquiries from reporting entities and their advisers regarding administration of the Act, including requests for:

* assistance to determine whether an entity is required to report
* information on reporting requirements
* details on how to make an application.

Since commencement of the enforcement powers under the Act on 1 January 2022, we have also received several enquiries concerning compliance activities.

From our screening of payment times reports and reviewing the enquiries received, we have identified a need for updated regulatory resources to assist reporting entities to meet their obligations and understand our expectations when undertaking compliance activities.

## Guidance notes

In response to the need for updated regulatory resources we have prepared 3 draft guidance notes:

|  |  |
| --- | --- |
| **Guidance note** | **Description** |
| **Guidance note 1: Key concepts** | Guidance on key concepts under the Act including reporting entities, reporting periods, reportable procurement, and governance reporting.  |
| **Guidance note 2: Preparing a payment times report** | Guidance on when to prepare a report, the data used to prepare a report, content requirements of reports and the process to submit a report. This guidance note also includes an appendix with updated instructions for completing the payment times reporting templates. |
| **Guidance note 3: Applications and notifications** | Guidance on how to apply for an extension of time, to cease to be a reporting entity and registration of a revised payment times report.Guidance on volunteering to become a reporting entity and giving notice of notifiable events. |

### Purpose of the guidance notes

Draft guidance notes are designed as accessible reference guides that provide broad coverage of the requirements of the Act and how we administer our functions.

They include information on how reporting entities can engage with us for particular processes, provide examples of how the Act may apply in common circumstances, and give insights into what we may look for when undertaking compliance activities or considering an application.

The draft guidance notes are an initial set that will be reviewed and updated periodically. They may also be supplemented by additional guidance notes or information sheets as required.

### What the guidance notes don’t cover

The guidance notes do not provide:

* instructions on navigating or using the [Payment Times Reporting Portal](https://portal.paymenttimes.gov.au/)
* comprehensive interpretations of the Act
* specific guidance for complex circumstances
* details on the enforcement powers we may use in particular cases.

For information on how we intend on using enforcement powers see [Information sheet 1: Our approach to regulation](https://paymenttimes.gov.au/about/regulatory-resources/information-sheet-1).

## Implementation

The draft guidance notes include information and guidance that may be new or more detailed than existing guidance available on the [Payment Times Reporting Scheme website](https://paymenttimes.gov.au/).

While the consultation is open, reporting entities may choose to use the draft guidance to prepare reports or applications. As consultation is during a reporting window for many entities, this is an opportunity to test the guidance notes during report preparation and provide feedback.

Alternatively, reporting entities can continue to use the existing guidance on our website until guidance notes are finalised. The choice of guidance used by reporting entities prior to guidance note finalisation will not affect their compliance with reporting obligations.

We plan to publish the finalised guidance notes in October 2022 after the end of the September 2022 reporting window. As a part of finalising the guidance notes we will also update the existing content on our website to align with the guidance notes.

# Consultation

## Comments and feedback

We are requesting comments and feedback from reporting entities and other interested parties on the draft guidance notes, in particular:

* if there are sections of guidance where clarifications or further details would be helpful
* whether there is additional information, guidance or examples which could be included
* any practical concerns or issues that may arise from following updated guidance
* if there are specific requirements or obligations under the Act not covered by the draft guidance notes that you think should be included

In response to comments and feedback we may modify the draft guidance notes, record the feedback for potential future updates and revisions, or consider giving guidance in another form, such as a Regulator Update or Information Sheet.

Although we will only consider comments and feedback in writing, if you want to discuss the draft guidance notes and their content with us prior to providing written feedback, contact us at support@paymenttimes.gov to arrange a meeting with a representative.

## Consultation template

Due to the volume of guidance open for consultation, please provide consultation responses in the template in [Appendix 1](#_Appendix_1:_Consultation).

Using the template will allow us to collate feedback and ensure any responses are properly targeted.

**We will not accept changes or modifications provided in mark-ups to draft guidance notes.**

#

# Appendix 1: Consultation template

**Name/Organisation:**

| **Heading** | **Section # /Paragraph #** | **Feedback** |
| --- | --- | --- |
| **Guidance note 1 – Key concepts** |
| **Reporting entities – Types of reporting entities** |
| Entities deemed to be reporting entities |  |  |
| Volunteering entities |  |  |
| **Constitutionally covered entities** |
| Identifying constitutionally covered entities |  |  |
| Constitutional corporations |  |  |
| Foreign entities |  |  |
| Entities incorporated or carrying on an enterprise in a territory |  |  |
| **Carrying on an enterprise in Australia** |
| Carrying on an enterprise in Australia |  |  |
| **Income thresholds** |
| Identifying the relevant income threshold |  |  |
| Applying income thresholds |  |  |
| Controlling corporations and member entities |  |  |
| Head entities |  |  |
| Unincorporated entities |  |  |
| **Total income** |
| Measurement and recognition |  |  |
| Foreign currency translation |  |  |
| Use of tax return information |  |  |
| Business combinations and control transactions |  |  |
| **Reporting period** |
| Income year |  |  |
| Determining reporting periods |  |  |
| **Procurement - Small business procurement** |
| Supply of goods and services |  |  |
| Trade credit arrangements |  |  |
| Credits, rebates and discounts |  |  |
| Excluded payments |  |  |
| Credit card payments |  |  |
| **Procurement - Payment terms** |
| Arrangements, agreements and contracts |  |  |
| Standard payment period |  |  |
| **Procurement - Invoices** |
| Invoices |  |  |
| Combined invoices |  |  |
| Invoice date |  |  |
| Recipient-created tax invoice |  |  |
| Disputed invoices |  |  |
| Supply chain finance |  |  |
| **Governance** |
| Principal governing body |  |  |
| Responsible member |  |  |
| Trusts, partnerships and unincorporated entities |  |  |
| **Other** |
| Other feedback on Guidance note 1 |  |  |
| **Guidance note 2 – Preparing a payment times report** |
| **When to prepare a report** |
| Reporting deadline |  |  |
| Mergers and acquisitions |  |  |
| **Report data** |
| Information to prepare a report |  |  |
| Small Business Identification Tool information |  |  |
| Record keeping |  |  |
| **Payment times report content** |
| Required content |  |  |
| Other content |  |  |
| Reporting for groups |  |  |
| Reporting nil values |  |  |
| Misleading information |  |  |
| **Submitting a payment times report** |
| The Payment Times Reporting Portal |  |  |
| Signing reports and declarations |  |  |
| Publication of reports |  |  |
| **Guidance note 2: Appendix 1 – Payment times reporting template instructions** |
| Instructions on how to complete the payment times reporting templates |  |  |
| Payment Times Reports Register |  |  |
| **How to complete the Payment Times Reporting Template** |
| Entity information |  |  |
| Reporting period dates |  |  |
| Standard payment periods |  |  |
| Small business payments |  |  |
| Invoicing arrangements |  |  |
| Small business procurement |  |  |
| Supply chain financing |  |  |
| Notifiable events |  |  |
| Report comments |  |  |
| Submission and approval details |  |  |
| Principal governing body |  |  |
| **How to complete the Responsible Member Declaration Template** |
| Responsible member approval |  |  |
| Provision to the Principal Governing Body |  |  |
| **Other** |
| Other feedback on Guidance note 2 |  |  |
| **Guidance note 3 – Applications and notifications** |
| **Applications - Extension of time to lodge a payment times report** |
| When we can give an extension |  |  |
| Circumstances that are exceptional or outside an entity’s control |  |  |
| Severity of circumstances |  |  |
| Length of extension |  |  |
| Applying for an extension |  |  |
| Assessing your application |  |  |
| Review of decision |  |  |
| **Applications - Cease to be a reporting entity** |
| Eligibility for a determination to cease being a reporting entity |  |  |
| Applying for a determination to cease being a reporting entity |  |  |
| Assessing your application |  |  |
| Effect of determination |  |  |
| Review of decision |  |  |
| **Applications - Revised payment times reports** |
| When to give a revised report |  |  |
| Applying to register a revised report |  |  |
| Assessing your application |  |  |
| **Applications - Redaction of commercial-in-confidence information** |
| Redaction of commercial-in-confidence information |  |  |
| Requesting a redaction |  |  |
| Assessing your request |  |  |
| **Notifications – Volunteering entities** |
| Volunteering entities |  |  |
| Notifiable events |  |  |
| **Other** |
| Other feedback on Guidance note 3 |  |  |