



INSTITUTE OF
PUBLIC
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**Submission to the Senate
Education and Employment
Committees on Payment Times
Reporting Bill 2020**

July 2020

02 July 2020

Committee Secretary
Senate Education and Employment Committees
PO Box 6100
Parliament House
Canberra ACT 2600

via email: eec.sen@aph.gov.au

Dear Sir/Madam

Payment Times Reporting Bill 2020 and Payment Times Reporting (Consequential Amendments) Bill 2020

The Institute of Public Accountants (IPA) welcomes the opportunity to provide this submission to the Senate Education and Employment Committees on the above Bills.

The IPA is one of the three professional accounting bodies in Australia, representing over 38,000 members and students in Australia and in over 80 countries. Approximately three-quarters of the IPA's members work in or are advisers to the small business and SME sectors. The IPA Group represents the largest accounting body in the world focused on these sectors.

In 2015 the IPA established the IPA Deakin SME Research Centre which undertakes academic research to inform and develop the IPA's policy, advocacy and thought leadership on a wide range of issues relevant to the Australian and global economies.

Having considered the issue of payment times and practices in the past and having worked with the Australian Small Business and Family Enterprise Ombudsman (ASBFEO), we are very pleased that this Bill is before the Parliament. Payment times and practices are of critical importance to small businesses given that cashflow is one of the major causes of small business failure.

We have had the benefit of reviewing the submission lodged by the ASBFEO and we are in agreement with all of the points put forward.

In particular, we wish to reinforce and make the additional points.

Legislating payment times

The IPA continues to support the recommendation of the ASBFEO that maximum payment times should be legislated, preferably 30 days. Without a prescribed period of time there will be room for ambiguity or arbitrage which can be exploited by large businesses. This was borne out in the ASBFEO's review of payment times and practices in 2017.

Review

In order to ensure that payment times and practices have sufficiently and sustainably changed, we believe that a review of the regime should be undertaken within two years of commencement of the legislation. It is critical that the reporting requirements have the desired effect of changing behaviour and this should be investigated and reviewed, with consequent amendments to the legislation.

Definition

Our preference is to have the definition of 'small business' contained in the primary legislation. This is an integral part of the regime and should be legislated. There are numerous definitions which can be used, including those applied in tax law and by the ABS.

Regulator

We note that the Payment Times Reporting Regulator is prescribed as being a SES employee in the Department. Our concern is whether this role and function will be adequately resourced to act in a decisive and timely manner. This will be left to the Department and we expect that the Regulator will be provided with appropriate secretariat and other necessary resources to carry out the function of Regulator. There are many examples of how inadequate resourcing has compromised the ability of the regulator in fulfilling its function.

Extending reporting times

We note that the Regulator can extend the reporting time with no limit to the extension. We believe that this is too open ended and that a maximum period of time should be prescribed, say, no more than an additional three months.

Penalties

We are pleased that the penalties prescribed are of sufficient weight to have the desired objective of changing behaviour to ensure that small businesses are paid in a timely manner. According to research, reputational risk is as much, if not more, of a deterrent. However, to ensure the adequacy of penalties, they should be part of the review.

Payment practices

The IPA is also pleased that the focus in the objects is on 'payment terms and practices'. Whilst it is critical to report payment times, it is also important to focus on payment practices. There is evidence that some large businesses will blame inaccurate invoicing, missing invoices, make changes to contract terms or to terms and conditions, to essentially extend the payment time. If the legislation can achieve the objective of changing behaviour in terms of payment times and practices, then this will be a significant benefit for small business. As mentioned above, a timely review of the regime should be carried out to investigate whether these types of practices have actually been overcome.

Commencement

Our view is that the commencement of the regime should not be delayed and should start on 01 January 2021. There has been ample opportunity to prepare for reporting under the legislation. The more time that passes, the more damage that is caused to small businesses across the country.

Grace period

Further, the 18 month grace period should more than make up for any problems in implementing the appropriate systems to comply with the terms of the legislation. We note that it is common for regulators to provide a 12 month grace period, so 18 months is quite generous. Our preference would be to reduce this period to 12 months.

If you have any queries with respect to our submission please don't hesitate to contact Vicki Stylianou

Vicki Stylianou
Group Executive Advocacy & Policy
Institute of Public Accountants