2022‑2023‑2024

The Parliament of the

Commonwealth of Australia

HOUSE OF REPRESENTATIVES

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| **EXPOSURE DRAFT** |

Payment Times Reporting Amendment Bill 2024

No. , 2024

(Treasury)

A Bill for an Act to amend the *Payment Times Reporting Act 2020*, and for related purposes

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A Bill for an Act to amend the *Payment Times Reporting Act 2020*, and for related purposes

The Parliament of Australia enacts:

1 Short title

This Act is the *Payment Times Reporting Amendment Act 2024*.

2 Commencement

(1) Each provision of this Act 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. The whole of this Act | The day after this Act receives the Royal Assent. |  |

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

(2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendments

Payment Times Reporting Act 2020

1 Title

After “terms”, insert “, times”.

2 Section 3

Repeal the section, substitute:

3 Objects of this Act

The objects of this Act are:

(a) to promote timely payment practices by large businesses, certain government entities and volunteering entities; and

(b) to foster a culture of prompt payment practices by those entities to:

(i) support economic growth; and

(ii) improve outcomes for small business suppliers; and

(c) to encourage those entities to improve their payment terms, times and practices in relation to their small business suppliers; and

(d) to provide for those entities to report on payment terms, times and practices in relation to their small business suppliers; and

(e) to make information reported under this Act publicly available.

3 Section 4

Repeal the section, substitute:

4 Simplified outline of this Act

This Act requires certain entities to report their payment terms, times and practices in relation to their small business suppliers. Other entities may volunteer to give reports.

A reporting entity must give the Payment Times Reporting Regulator a report for each period of 6 months. The Regulator keeps the reports on a publicly available register, known as the Payment Times Reports Register.

The Regulator is to be an SES employee in the Department. The functions of the Regulator include monitoring and enforcing compliance with this Act, and undertaking research and publishing analysis on the payment terms, times and practices of reporting entities.

4 Section 5 (definition of *ABN*)

Repeal the definition.

5 Section 5

Insert:

***accounting standards*** has the same meaning as in the *Corporations Act 2001*.

6 Section 5 (definition of *Business Industry Codes*)

Repeal the definition.

7 Section 5

Insert:

***carries on business in Australia***: an entity ***carries on business in Australia*** if the entity:

(a) in the case of a body corporate—carries on business in Australia, a State or a Territory within the meaning of the *Corporations Act 2001* (see section 21 of that Act); or

(b) in any other case—would be taken to do so within the meaning of that Act if the entity were a body corporate.

***consolidated revenue***, of an entity, means:

(a) the total revenue of the entity, for a financial year; or

(b) if the entity controls another entity or entities—the total revenue of the entity and all of the controlled entities, considered as a group, for a financial year of the controlling entity;

worked out in accordance with the accounting standards, even if those standards do not otherwise apply to such an entity (including a controlling entity) or group.

***control***, of an entity by another entity, means control of the entity within the meaning of the accounting standards.

8 Section 5 (definition of *controlling corporation*)

Repeal the definition.

9 Section 5

Insert:

***exempt reporting entity*** means a reporting entity in relation to which a determination under subsection 10L(1) is in effect.

***financial year***, in relation to an entity:

(a) if a paragraph of the definition of ***financial year*** in section 9 of the *Corporations Act 2001* applies to the entity—has the meaning given by that definition; or

(b) otherwise—means an income year for the entity.

10 Section 5 (subparagraph (b)(i) of the definition of *income year*)

Omit “financial year”, substitute “period of 12 months starting on 1 July”.

11 Section 5 (definition of *member*)

Repeal the definition.

12 Section 5 (definition of *notifiable event*)

Repeal the definition.

13 Section 5

Insert:

***provisional reporting period***, of an entity, means, in relation to a financial year of the entity:

(a) if the entity is a reporting entity for the whole of the financial year—a reporting period of the entity in the financial year; or

(b) otherwise—a part of the financial year that would be a reporting period for the entity if the entity were a reporting entity for the whole of the financial year.

***reporting cycle***: each of the following is a ***reporting cycle***:

(a) a period of 6 months starting on 1 January;

(b) a period of 6 months starting on 1 July.

***reporting nominee*** has the meaning given by section 22H.

Note: See also section 55A (former reporting nominees).

14 Section 5 (definition of *responsible member*)

Repeal the definition, substitute:

***responsible member***, of an entity, in relation to a requirement under this Act that a report, application or other matter be approved, means:

(a) an individual member of the entity’s principal governing body who is authorised to approve the report, application or other matter; or

(b) if the entity is a trust administered by a sole trustee—that trustee; or

(c) if the entity is a corporation sole—the individual constituting the corporation; or

(d) if the entity is under administration within the meaning of the *Corporations Act 2001*—the administrator; or

(e) if the entity is of a kind prescribed by the rules—a prescribed member of the entity.

15 Section 5

Insert:

***slow small business payer***: see section 22B.

***slow small business payer direction*** means a direction given under subsection 22A(1).

16 Section 5 (note to the definition of *small business*)

Repeal the note.

17 Section 5 (definition of *standard payment period*)

Repeal the definition.

18 Section 5 (definition of *subsidiary*)

Repeal the definition.

19 Section 5

Insert:

***subsidiary reporting entity*** has the meaning given by section 10E.

20 Section 5 (definition of *volunteering entity*)

Omit “an election under subsection 7(1A)”, substitute “a determination under subsection 10B(1)”.

21 Section 7

Repeal the section, substitute:

7 Meaning of *reporting entity*

(1) A constitutionally covered entity becomes a ***reporting entity*** at the start of a financial year for the entity if the entity is covered by subsection (2).

(2) An entity is covered by this subsection if:

(a) the entity:

(i) carries on business in Australia; or

(ii) is a company that is incorporated in Australia; or

(iii) is a company that is not incorporated in Australia, but has either its central management and control in Australia, or its voting power controlled by shareholders who are residents of Australia; or

(iv) is a corporate Commonwealth entity, or a Commonwealth company, within the meaning of the *Public Governance, Performance and Accountability Act 2013*; and

(b) the entity’s consolidated revenue for the previous financial year is more than $100 million; and

(c) the entity is not controlled by another entity that is a reporting entity; and

(d) the entity is not registered under the *Australian Charities and Not‑for‑profits Commission Act 2012*.

(3) If the Regulator determines under subsection 10B(1) that a constitutionally covered entity is a reporting entity, the entity becomes a ***reporting entity*** at the time the determination takes effect (unless the reporting entity is already a reporting entity at that time).

Note: A reporting entity that is a reporting entity only because of a determination under subsection 10B(1) is a ***volunteering entity*** (see the definition of ***volunteering entity*** in section 5).

(4) If the Regulator determines under subsection 10E(1) that a constitutionally covered entity is a subsidiary reporting entity, the entity becomes a ***reporting entity*** at the time the determination takes effect (unless the subsidiary reporting entity is already a reporting entity at that time).

Ceasing to be a **reporting entity**

(5) A reporting entity continues to be a ***reporting entity*** until:

(a) if the entity is a volunteering entity—any of the following occurs:

(i) the determination under subsection 10B(1) that relates to the entity is revoked under section 10D;

(ii) the entity begins to be controlled by another entity that is a reporting entity;

(iii) the entity becomes a reporting entity under subsection (1) of this section; or

(b) if the entity is a subsidiary reporting entity—the determination under subsection 10E(1) that relates to the entity is revoked under section 10G; or

(c) a notice under section 10H (notice that entity has ceased to be a reporting entity) takes effect; or

(d) the entity ceases to be a reporting entity under subsection 10K(2) (Regulator may determine that entity is to cease to be a reporting entity).

22 Subsection 8(1)

Omit “subsections (2) and (3)”, substitute “subsection (2)”.

23 Paragraphs 8(1)(a) and (b)

Omit “income year”, substitute “financial year”.

24 Subsections 8(2) and (3)

Repeal the subsections, substitute:

Volunteering entities

(2) If a volunteering entity becomes a reporting entity on a day in a financial year for the entity that is not the first day of that financial year, any part of that financial year before the day the entity becomes a reporting entity is not a reporting period, or part of a reporting period, for the entity.

25 After Part 1

Insert:

Part 1A—Provisions about reporting entities

Division 1—Introduction

10A Simplified outline of this Part

This Part provides for various ways that a constitutionally covered entity can become, or cease to be, a reporting entity.

Division 2 provides for an entity to apply to the Regulator to volunteer to be a reporting entity.

Division 3 provides for subsidiary reporting entities. An entity that is controlled by another entity that is a reporting entity, may apply to the Regulator to become a reporting entity in its own right.

Division 4 provides for ways for an entity to cease to be a reporting entity.

Division 5 provides for the Regulator to exempt reporting entities from reporting obligations.

Division 2—Volunteering entities

10B Volunteering entity determination

(1) The Regulator may determine, in writing, that a constitutionally covered entity is a ***reporting entity*** if:

(a) the entity applies to the Regulator under subsection 10C(1); and

(b) the Regulator is satisfied that:

(i) the entity is not a reporting entity as a result of becoming a reporting entity under subsection 7(1); and

(ii) the entity is not controlled by another entity that is a reporting entity.

Note: An entity to which a determination under this subsection applies is a ***volunteering entity***, unless it is also a reporting entity for some other reason (see the definition of ***volunteering entity*** in section 5).

(2) A determination under subsection (1) takes effect on the day specified in the determination, which:

(a) if the application specifies a day for the purposes of paragraph 10C(2)(c)—may be that day, or, if the Regulator considers it appropriate, the first day of the next provisional reporting period for the entity; or

(b) if the application does not so specify a day—must be the first day of the next provisional reporting period for the entity after the determination is made.

(3) A determination under subsection (1) is not a legislative instrument.

10C Application for Regulator to make volunteering entity determination

(1) A constitutionally covered entity (the ***applicant***) may apply, in writing, for the Regulator to determine, under subsection 10B(1), that the applicant is a reporting entity.

(2) An application under subsection (1):

(a) must be given in the form and manner (if any) approved in an instrument under subsection (3); and

(b) must state the name of the applicant; and

(c) may state that the applicant wishes the determination to take effect on either of the following days:

(i) the first day of the provisional reporting period of the applicant in which the application is made;

(ii) the first day of the following provisional reporting period of the applicant; and

(d) must include the information determined by the Regulator under subsection (4); and

(e) must be approved in writing by a responsible member of the applicant; and

(f) must state the name of the responsible member of the applicant who approved the application.

(3) The Regulator may, by notifiable instrument, approve a form or manner for the purposes of paragraph (2)(a).

(4) The Regulator may, by legislative instrument, determine information that must be included in an application for the purposes of paragraph (2)(d).

Regulator may require further information

(5) The Regulator may, by written notice given to the applicant, require the applicant to give the Regulator further information in connection with the application.

(6) If the applicant does not comply with a notice under subsection (5), the Regulator may, by written notice given to the applicant:

(a) refuse to consider the application; or

(b) refuse to take any action, or any further action, in relation to the application.

10D Revocation of volunteering entity determination

Revocation by Regulator

(1) The Regulator may revoke a determination under subsection 10B(1), by written notice given to the entity to which the determination relates, if the Regulator reasonably suspects that the entity has failed to comply with this Act.

(2) The revocation takes effect on the day specified in the notice, which may be before the Regulator revokes the determination.

Note: If the entity to which the determination relates is a reporting entity only because of the determination, the entity may cease to be a reporting entity when the revocation takes effect.

Revocation on notice by reporting entity

(3) If:

(a) the Regulator has made a determination under subsection 10B(1) in respect of a reporting entity; and

(b) the determination has not been revoked;

the entity may, by written notice to the Regulator, inform the Regulator that the entity wishes to cease to be a volunteering entity.

(4) A notice under subsection (3) must specify the time when the determination under subsection 10B(1) is to be revoked, which must be either:

(a) the start of the reporting period of the entity in which the entity gives the notice to the Regulator; or

(b) the start of the reporting period of the entity that follows the reporting period mentioned in paragraph (a) of this subsection.

(5) If a reporting entity gives the Regulator a notice under subsection (3), the determination mentioned in paragraph (3)(a) is taken to be revoked at the time specified in the notice for the purposes of paragraph (4)(a) or (b).

Note: If the entity to which the determination relates is a reporting entity only because of the determination, the entity may cease to be a reporting entity when the revocation is taken to take effect.

Division 3—Subsidiary reporting entities

10E Subsidiary reporting entity determination

(1) The Regulator may determine, in writing, that a constitutionally covered entity is a ***subsidiary reporting entity*** if:

(a) the entity applies to the Regulator under subsection 10F(1); and

(b) the entity is controlled by another entity that is a reporting entity; and

(c) the Regulator is satisfied that granting the application:

(i) would not be contrary to the public interest; and

(ii) would be consistent with the objects of this Act; and

(d) the Regulator is satisfied of any other matters prescribed by the rules.

Note 1: A subsidiary reporting entity becomes a reporting entity when the determination under this subsection takes effect (see subsection 7(4)).

Note 2: Rules made for the purposes of section 14 may provide that:

(a) a payment times report given by a subsidiary reporting entity must include information about the payment terms, times and practices of the entity and other entities that the entity controls; and

(b) that information is not required to be included in a payment times report given by the reporting entity that controls the subsidiary reporting entity.

Note 3: Rules made for the purposes of section 14 may make other provision in relation to subsidiary reporting entities.

(2) In deciding whether to make a determination under subsection (1), the Regulator must have regard to any matters prescribed by the rules.

When determination takes effect

(3) A determination under subsection (1) takes effect at the time specified in the determination, which must be:

(a) the time specified in the application for the purposes of paragraph 10F(2)(c); or

(b) if the application does not specify a time for the purposes of paragraph 10F(2)(c)—at the start of the first provisional reporting period of the entity that begins after the Regulator makes the determination.

(4) Despite paragraph (3)(a), the time specified in the determination may be the start of the first provisional reporting period of the entity that begins after the Regulator makes the determination, if the Regulator considers it appropriate in all the circumstances for the determination to take effect at that time.

Determination is not a legislative instrument

(5) A determination under subsection (1) is not a legislative instrument.

10F Application for Regulator to make a subsidiary reporting entity determination

(1) A constitutionally covered entity (the ***applicant***) may apply, in writing, for the Regulator to determine, under subsection 10E(1), that the applicant is a subsidiary reporting entity.

(2) An application under subsection (1):

(a) must be given in the form and manner (if any) approved in an instrument under subsection (3); and

(b) must state the name of the applicant; and

(c) may specify the time when the applicant proposes the determination to take effect, which must be either:

(i) the start of the provisional reporting period of the applicant in which the applicant gives the application to the Regulator; or

(ii) the start of the provisional reporting period of the applicant that follows the reporting period mentioned in subparagraph (i); and

(d) must include the information determined by the Regulator under subsection (4); and

(e) must be approved in writing by a responsible member of the applicant; and

(f) must state the name of the responsible member of the applicant who approved the application.

(3) The Regulator may, by notifiable instrument, approve a form or manner for the purposes of paragraph (2)(a).

(4) The Regulator may, by legislative instrument, determine information that must be included in an application for the purposes of paragraph (2)(d).

Regulator may require further information

(5) The Regulator may, by written notice given to the applicant, require the applicant to give the Regulator further information in connection with the application.

(6) If the applicant does not comply with a notice under subsection (5), the Regulator may, by written notice given to the applicant:

(a) refuse to consider the application; or

(b) refuse to take any action, or any further action, in relation to the application.

10G Revocation of subsidiary reporting entity determination

Revocation by Regulator

(1) The Regulator may revoke a determination under subsection 10E(1) by written notice given to the subsidiary reporting entity to which the determination relates.

(2) A revocation under subsection (1) takes effect at the time specified in the notice, which must be either:

(a) the start of the reporting period of the entity in which the Regulator gives the notice; or

(b) the start of the reporting period of the entity that follows the reporting period mentioned in paragraph (a) of this subsection.

Revocation on notice by reporting entity

(3) If:

(a) the Regulator has made a determination under subsection 10E(1) in respect of an entity; and

(b) the determination has not been revoked;

the entity may, by written notice to the Regulator, inform the Regulator that the entity wishes to cease to be a subsidiary reporting entity.

(4) A notice under subsection (3) must specify the time when the determination under subsection 10E(1) is to be revoked, which must be either:

(a) the start of the reporting period of the entity in which the entity gives the notice to the Regulator; or

(b) the start of the reporting period of the entity that follows the reporting period mentioned in paragraph (a) of this subsection.

(5) If a subsidiary reporting entity gives the Regulator a notice under subsection (3), the determination mentioned in paragraph (3)(a) is taken to be revoked at the time specified in the notice for the purposes of paragraph (4)(a) or (b).

Division 4—Ceasing to be a reporting entity

10H Notice that entity has ceased to be a reporting entity

(1) A reporting entity ceases to be a reporting entity if:

(a) any of the following circumstances exist:

(i) paragraph 7(2)(a) does not apply to the entity;

(ii) the entity’s consolidated revenue for each of the 2 previous financial years was not more than $100 million;

(iii) the entity is controlled by another entity that is a reporting entity; and

(b) the reporting entity gives the Regulator a notice under subsection (2); and

(c) the notice takes effect under subsection (5).

Giving of notice

(2) A reporting entity may give the Regulator a notice for the purposes of paragraph (1)(b).

(3) The notice:

(a) must be given in the form and manner (if any) approved in an instrument under subsection (4); and

(b) must state the name of the reporting entity; and

(c) must state which circumstance or circumstances mentioned in paragraph (1)(a) exist; and

(d) must be approved in writing by a responsible member of the entity; and

(e) must state the name of the responsible member of the entity who approved the notice.

(4) The Regulator may, by notifiable instrument, approve a form or manner for the purposes of paragraph (3)(a).

When notice takes effect

(5) The notice takes effect at the start of the reporting period in which the notice is given, but only if one or more subparagraphs of paragraph (1)(a) apply to the entity at the start of that reporting period.

Note: If no subparagraphs of paragraph (1)(a) apply to the entity at the start of the reporting period, the entity does not cease to be a reporting entity and must continue to give payment times reports.

Withdrawing a notice

(6) An entity that has given a notice under subsection (2) may, by written notice given to the Regulator, withdraw the notice (even if the entity has ceased to be a reporting entity).

(7) If an entity withdraws, under subsection (6), a notice given under subsection (2):

(a) the notice under subsection (2) is taken never to have had effect; and

(b) the entity is taken not to have ceased to be a reporting entity because of the notice.

10J Civil penalty provision for giving false or misleading notice

Reporting entities that are not volunteering entities

(1) A reporting entity is liable to a civil penalty if:

(a) the entity gives the Regulator a notice under subsection 10H(2); and

(b) the notice is false or misleading in a material particular; and

(c) the entity is not a volunteering entity.

Civil penalty: 350 penalty units.

(2) For the purposes of subsection (1), the reference in paragraph 82(5)(a) of the Regulatory Powers Act to 5 times the pecuniary penalty specified for the civil penalty provision has effect as if it were a reference to 0.6% of the total income for the person for the income year in which the contravention occurred.

Note: This subsection modifies the maximum pecuniary penalty that a body corporate can be ordered to pay for a contravention of subsection (1).

Volunteering entities

(3) A volunteering entity must not give the Regulator a notice under subsection 10H(2) that is false or misleading in a material particular.

10K Regulator may determine that entity is to cease to be a reporting entity

(1) The Regulator may determine, in writing, that an entity that is a reporting entity is to cease to be a reporting entity at the time specified under subsection (2), if:

(a) the entity is not:

(i) a volunteering entity; or

(ii) a subsidiary reporting entity; and

(b) the Regulator is satisfied that:

(i) the entity has ceased to exist; or

(ii) paragraph 7(2)(a) does not apply to the entity; or

(iii) the entity’s consolidated revenue for each of the 2 most recent financial years was not more than $100 million; or

(iv) the entity is controlled by another entity that is a reporting entity; or

(v) a circumstance prescribed by the rules applies.

(2) If the Regulator makes a determination under subsection (1) in relation to an entity, the entity ceases to be a reporting entity at the time specified in the determination, which must be either:

(a) the start of the reporting period of the entity in which the determination is made; or

(b) the start of the reporting period of the entity that follows the reporting period mentioned in paragraph (a).

(3) The Regulator must give written notice of a determination under subsection (1) to the entity concerned.

(4) The Regulator may publish a notice of a determination under subsection (1) on the register. The notice may include:

(a) the identity of the entity concerned; and

(b) the fact that the entity is no longer a reporting entity.

(5) To avoid doubt, a determination under subsection (1) that relates to an entity does not prevent the entity becoming a reporting entity again.

Determination is not a legislative instrument

(6) A determination under subsection (1) is not a legislative instrument.

Division 5—Exempt reporting entities

10L Exempt reporting entity determination

(1) The Regulator may determine, in writing, that a constitutionally covered entity is an ***exempt reporting entity*** if:

(a) the entity applies to the Regulator under subsection 10M(1); and

(b) the Regulator is satisfied that:

(i) the entity is a reporting entity; and

(ii) it is appropriate in the circumstances to make the determination, having regard to the objects of this Act.

When exemption has effect

(2) A determination under subsection (1) must specify:

(a) the day the determination takes effect, which:

(i) may be, but need not be, the day (if any) specified in the application under paragraph 10M(2)(c); and

(ii) may be a day before the day the determination is made; and

(b) the day the determination ceases to have effect, which must be no more than 2 years after the day the determination takes effect.

(3) The determination takes effect, and ceases to have effect, as specified under subsection (2).

Determination is not a legislative instrument

(4) A determination under subsection (1) is not a legislative instrument.

10M Application for Regulator to make an exempt reporting entity determination

(1) A reporting entity (the ***applicant***) may apply, in writing, for the Regulator to determine, under subsection 10L(1), that the applicant is an exempt reporting entity.

(2) An application under subsection (1):

(a) must be given in the form and manner (if any) approved in an instrument under subsection (3); and

(b) must state the name of the applicant; and

(c) may specify the day that the applicant proposes the determination to take effect; and

(d) must include the information (if any) prescribed by the rules; and

(e) must include the information (if any) specified in the approved form; and

(f) must be approved in writing by a responsible member of the applicant; and

(g) must state the name of the responsible member of the applicant who approved the application.

(3) The Regulator may, by notifiable instrument, approve a form or manner for the purposes of paragraph (2)(a).

Regulator may require further information

(4) The Regulator may, by written notice given to the applicant, require the applicant to give the Regulator further information in connection with the application.

(5) If the applicant does not comply with a notice under subsection (4), the Regulator may, by written notice given to the applicant:

(a) refuse to consider the application; or

(b) refuse to take any action, or any further action, in relation to the application.

10N Revocation of exempt reporting entity determination

(1) The Regulator may revoke a determination under subsection 10L(1), by written notice given to the exempt reporting entity to which the determination relates, if the Regulator is satisfied that it is no longer appropriate in the circumstances for the entity to be an exempt reporting entity.

(2) A revocation under subsection (1) takes effect on the day specified in the notice, which may be a day before the day the notice is given to the exempt reporting entity.

Revocation may apply retrospectively

(3) An entity may be liable for a civil penalty under section 15 if:

(a) the Regulator revokes a determination under subsection 10L(1) that relates to the entity; and

(b) the revocation takes effect before the Regulator decides to revoke the determination, or before the Regulator gives the notice of revocation; and

(c) the revocation results in the entity having failed to comply with a requirement to give the Regulator a payment times report in accordance with Division 2 of Part 2 at a time before the Regulator decides to revoke the determination or before the Regulator gives the notice of revocation.

26 Section 11

Repeal the section, substitute:

11 Simplified outline of this Part

This Part requires a reporting entity to give the Regulator a payment times report for each reporting period. The report must be given within 3 months after the end of the reporting period, unless the Regulator allows an extension of time.

A payment times report must contain the information and documents prescribed by the rules, and must comply with a number of requirements relating to preparation and approval.

Civil penalties apply to reporting entities (other than volunteering entities) that fail to report, or that give the Regulator a false or misleading report.

Payment times reports are published on a publicly available register, known as the Payment Times Reports Register. A reporting entity may register a revised payment times report.

If the Regulator is satisfied that an entity has failed to comply with this Act, the Regulator may publish the identity of the entity, or details of the entity’s non‑compliance, on the register.

Division 4 provides for the Minister to give slow small business payer directions, which may require reporting entities to publish the fact that they are slow small business payers.

27 Section 12

Before “A reporting”, insert “(1)”.

28 At the end of section 12

Add:

(2) However, a reporting entity is not required to give the Regulator a payment times report for a reporting period if the entity is an exempt reporting entity for any part of the reporting period.

29 Section 14

Repeal the section, substitute:

14 Reporting requirements

Content requirements

(1) The report must include:

(a) the information and documents, relating to an entity’s payment terms, times or practices (including supply chain financing) in relation to small business suppliers, that are prescribed by the rules; and

(b) the information and documents, relating to the timing of an entity’s payments of small business invoices, that are prescribed by the rules; and

(c) any other information or documents prescribed by the rules.

(2) Without limiting subsection (1), the rules may do any of the following:

(a) require the report to include information or documents relating to a constitutionally covered entity that is controlled by the reporting entity;

(b) prescribe a method for working out any of the matters that must be included in the report.

(3) Without limiting subsection (1), the rules may:

(a) require reports to include different information and documents in different circumstances; and

(b) require a report to include a statement about whether a circumstance mentioned in paragraph (a) of this subsection applies.

Note: See sections 16 and 22L in relation to false or misleading reports.

(4) Subsection (3) does not limit subsection 33(3A) of the *Acts Interpretation Act 1901*.

Approval requirement

(5) The report must:

(a) be approved in writing by a responsible member of the entity; and

(b) include the name of the responsible member of the entity who approved the report.

Form and manner for giving report

(6) The report must be given in a form and manner (if any) approved in an instrument under subsection (7).

(7) The Regulator may, by notifiable instrument, approve a form or manner for the purposes of subsection (6).

Applying, adopting or incorporating other instruments etc.

(8) Despite subsection 14(2) of the *Legislation Act 2003*, rules made for the purposes of this section may make provision in relation to a matter by applying, adopting or incorporating, with or without modification, any matter contained in an instrument or other writing as in force or existing from time to time.

30 Sections 18 to 21

Repeal the sections, substitute:

18 Contents of register

(1) The register must contain the payment times reports given to the Regulator under:

(a) Division 2 (reporting payment times); and

(b) subsection 22J(2) (reporting nominees).

(2) The Regulator may arrange for payment times reports given to the Regulator to be published on the register automatically.

Information that is not to be published on the register

(3) The rules may prescribe information that, if the information is included in a report, the Regulator must remove from the report before the report is published on the register.

Note: For example, rules made for the purposes of section 14 may require a report to include contact information for individuals. Rules made for the purposes of this subsection may require that information to be removed before the report is published.

(4) If:

(a) the rules prescribe information for the purposes of subsection (3); and

(b) the Regulator has arranged for payment times reports to be published on the register automatically;

the Regulator’s arrangements must result in the information being removed from reports before they are published.

19 Revised payment times reports

(1) An entity that is a reporting entity or a reporting nominee may give the Regulator a revised version of a payment times report previously given by the entity.

Note: See sections 16 and 22L in relation to false or misleading reports.

(2) The revised version of the payment times report must indicate the date of the revision and include a description of the changes made to the most recent version of the report given by the entity.

(3) The Regulator may arrange for revised versions of payment times reports given to the Regulator under this section to be published on the register automatically.

20 Regulator may remove certain information

(1) The Regulator may remove information contained in a payment times report from the register if the Regulator considers that continuing to make the information publicly available would be contrary to the public interest.

(2) In making a decision under subsection (1), the Regulator must have regard to:

(a) whether the information is personal information (within the meaning of the *Privacy Act 1988*); and

(b) whether the information is commercial‑in‑confidence; and

(c) any other matters prescribed by the rules.

(3) Information is ***commercial‑in‑confidence*** if the Regulator is satisfied that:

(a) further release of the information would cause competitive detriment to a constitutionally covered entity; and

(b) removing the information from the register is likely to be effective in removing the information from the public domain; and

(c) the information is not required to be disclosed under another Australian law; and

(d) removing the information from the register is likely to be effective in preventing the information from being readily discoverable.

21 Removal or non‑publication of payment times reports for volunteering entities that fail to comply with Act

(1) This section applies if the Regulator is reasonably satisfied that a volunteering entity has failed to comply with this Act.

(2) The Regulator may decide that any payment times reports that have been or will be given to the Regulator by the entity:

(a) are not to be made available for public inspection on the register; or

(b) are to be removed from the register;

until the Regulator is satisfied that the entity has taken appropriate remedial action.

31 Subsection 22(1)

Omit “reporting entity”, substitute “constitutionally covered entity”.

32 At the end of Part 2

Add:

Division 4—Slow small business payers

22A Minister may give slow small business payer direction

(1) The Minister may give a reporting entity a direction under this section (a ***slow small business payer direction***) if:

(a) the Minister is satisfied that the entity was a slow small business payer in 2 consecutive reporting cycles; or

(b) the Minister is satisfied that the entity was a slow small business payer in a reporting cycle, and the entity did not comply with a requirement to give a payment times report in the preceding reporting cycle; or

(c) the Minister is satisfied that the entity was a slow small business payer in a reporting cycle, and the entity did not comply with a requirement to give a payment times report in the following reporting cycle.

(2) Before the Minister decides to give a slow small business payer direction to an entity, the Minister must:

(a) give the entity notice in writing of the proposed decision and the reasons for the proposed decision; and

(b) invite the entity to make written submissions to the Regulator about the proposed decision within the period of 28 days beginning on the day the notice is given.

(3) In considering whether to give an entity a slow small business payer direction, the Minister must have regard to the following:

(a) the entity’s history of compliance or non‑compliance with this Act;

(b) the entity’s practices in relation to paying small business invoices;

(c) whether the slowness of the entity’s payment of small business invoices has been because of circumstances beyond the entity’s control;

(d) the likely cost and burden for the entity of complying with the direction, and whether that cost and burden is reasonable in the circumstances;

(e) any written submissions made by the entity in accordance with the invitation mentioned in paragraph (2)(b).

(4) A slow small business payer direction:

(a) must be in writing; and

(b) may include one or more requirements under section 22C; and

(c) may specify, for the purposes of paragraph 22D(1)(b), the day that the direction ceases to be in effect.

(5) The Minister may only give a slow small business payer direction before the end of 12 months after:

(a) if paragraph (1)(a) applies—the end of the later of the 2 consecutive reporting cycles mentioned in that paragraph; or

(b) if paragraph (1)(b) applies—the end of the reporting cycle in which the entity was a slow small business payer; or

(c) if paragraph (1)(c) applies—the end of the reporting cycle in which the entity failed to comply with a requirement to give a payment times report.

(6) The Minister must not give a slow small business payer direction to a volunteering entity.

(7) A slow small business payer direction is not a legislative instrument.

22B Slow small business payers

(1) A reporting entity is a ***slow small business payer*** for a reporting cycle if the reporting entity was within the slowest 20% of small business payers for that reporting cycle.

(2) For the purposes of subsection (1), ***slowest 20% of small business payers***, for a reporting cycle, has the meaning prescribed by the rules.

22C Requirements that may be included in slow small business payer direction

(1) A slow small business payer direction given to an entity (the ***recipient***) may require the recipient:

(a) to publish specified statements or information in accordance with this section; or

(b) to take reasonable steps to cause a constitutionally covered entity that the recipient controls (a ***controlled entity***) to publish specified statements or information in accordance with this section.

(2) The direction may require the recipient to publish, or take reasonable steps to cause to be published, any of the following:

(a) a statement that the recipient or the controlled entity is a slow small business payer;

(b) information on how to access payment times reports that relate to the recipient or the controlled entity.

(3) The direction may require the recipient to publish the statement or information, or take reasonable steps to cause the statement or information to be published:

(a) on the recipient’s website or the controlled entity’s website; or

(b) in documents relating to procurement processes, including requests for quotes and tender documents; or

(c) in documents relating to the environmental, social and governance policies or performance of the entity or the controlled entity; or

(d) in invoices; or

(e) in other kinds of commercial documents; or

(f) in any other way that the Minister considers appropriate.

(4) The direction may require the statement or information to be published in a specified manner, including by imposing any of the following requirements:

(a) a requirement relating to the prominence of the statement or information;

(b) a requirement relating to the location of the statement or information in relation to other material.

22D Duration of slow small business payer direction

(1) A slow small business payer direction given to an entity continues in effect until the earliest of the following:

(a) the day the entity gives the Regulator a payment times report with a 95% payment time of 30 calendar days or less;

(b) if the direction specifies a day that it ceases to be in effect—that day;

(c) the day 1 year after the day the direction is given;

(d) if the Minister revokes the direction under subsection (2)—the time the Minister gives the entity the notice of revocation.

(2) The Minister may, by written notice given to the entity to which a slow small business payer direction was given, revoke the direction.

(3) For the purposes of paragraph (1)(a), a payment times report has a 95% payment time of 30 calendar days or less in the circumstances prescribed by the rules.

22E Civil penalty provision for failure to comply with slow small business payer direction

(1) A reporting entity is liable to a civil penalty if:

(a) the Minister gives the entity a slow small business payer direction; and

(b) the entity fails to comply with the direction.

Civil penalty: 200 penalty units.

(2) For the purposes of subsection (1), the reference in paragraph 82(5)(a) of the Regulatory Powers Act to 5 times the pecuniary penalty specified for the civil penalty provision has effect as if it were a reference to 0.6% of the total income for the person for the income year in which the contravention occurred.

Note: This subsection modifies the maximum pecuniary penalty that a body corporate can be ordered to pay for a contravention of subsection (1).

(3) Subsection (1) does not apply if compliance with the direction (including compliance by a constitutionally covered entity controlled by the reporting entity) would contravene any Australian law.

Note: A defendant bears an evidential burden in relation to the matter in this subsection (see section 96 of the Regulatory Powers Act).

22F Minister may direct Regulator to include statement on Register

(1) If the Minister gives a slow small business payer direction to an entity, the Minister may, in writing, direct the Regulator to publish on the register:

(a) a statement that the entity has been given a slow small business payer direction; and

(b) a description of the slow small business payer direction.

(2) The Regulator must comply with a direction under subsection (1).

(3) To avoid doubt, information published on the register in accordance with a direction under subsection (1) may remain on the register after the slow small business payer direction has ceased to be in effect.

33 After Part 2

Insert:

Part 2A—Reporting nominees

Division 1—Introduction

22G Simplified outline of this Part

This Part provides for constitutionally covered entities to nominate to give payment times reports on behalf of other entities.

Division 2—Reporting nominee determination

22H Reporting nominee determination

(1) The Regulator may determine, in writing, that a constitutionally covered entity (the ***first entity***) is a ***reporting*** ***nominee*** for another entity that is a reporting entity if:

(a) the first entity applies to the Regulator under subsection 22M(1); and

(b) the Regulator is satisfied that the other entity has consented to the first entity being a reporting nominee for the other entity; and

(c) the Regulator is satisfied that granting the application:

(i) would not be contrary to the public interest; and

(ii) would be consistent with the objects of this Act; and

(d) the Regulator is satisfied of any other matters prescribed by the rules.

Note 1: The determination does not result in the reporting nominee becoming a reporting entity (although the reporting nominee may be a reporting entity under another provision of this Act).

Note 2: The determination does not result in the other entity ceasing to be a reporting entity.

(2) In deciding whether to make a determination under subsection (1), the Regulator must have regard to any matters prescribed by the rules.

When determination takes effect

(3) A determination under subsection (1) takes effect at the time specified in the determination, which must be:

(a) the time specified in the application for the purposes of paragraph 22M(2)(d); or

(b) if the application does not specify a time for the purposes of paragraph 22M(2)(d)—at the start of the first reporting period of the other entity that begins after the Regulator makes the determination.

(4) Despite paragraph (3)(a), the time specified in the determination may be the start of the first reporting period of the other entity that begins after the Regulator makes the determination, if the Regulator considers it appropriate in all the circumstances for the determination to take effect at that time.

Determination is not a legislative instrument

(5) A determination under subsection (1) is not a legislative instrument.

Division 3—Effect of reporting nominee determination

22J Reporting obligations of reporting nominee

(1) This section applies if a determination under subsection 22H(1), that an entity is a reporting nominee for another entity, is in effect.

Requirement to give payment times report

(2) The reporting nominee must give the Regulator a payment times report for the other entity for each reporting period for the other entity.

(3) Section 13 applies to the report in the same way as it applies to a report that is required to be given under section 12. For this purpose, a reference in section 13 to an entity is taken to be a reference to the reporting nominee.

Note: The other entity must also give the Regulator a payment times report, in accordance with Division 2 of Part 2, for each reporting period.

Contents of payment times reports

(4) The report must be in accordance with section 14. For this purpose, the references to an entity in subsection 14(5) are taken to be references to the reporting nominee.

Note: Rules made for the purposes of section 14 may prescribe different reporting requirements for different circumstances (see subsections 14(3) and (4)). For example, the rules may provide that a report given by the other entity need not include certain information that is required to be included in the reporting nominee’s report.

22K Civil penalty provision for failure to report by reporting nominee

A reporting nominee is liable to a civil penalty if:

(a) the reporting nominee is required to give the Regulator a payment times report in accordance with section 22J; and

(b) the reporting nominee fails to comply with the requirement.

Civil penalty: 60 penalty units.

22L Reporting nominees must not give false or misleading reports

(1) A reporting nominee is liable to a civil penalty if:

(a) the reporting nominee gives the Regulator a payment times report in accordance with section 22J; and

(b) the report is false or misleading in a material particular.

Civil penalty: 350 penalty units.

(2) For the purposes of subsection (1), the reference in paragraph 82(5)(a) of the Regulatory Powers Act to 5 times the pecuniary penalty specified for the civil penalty provision has effect as if it were a reference to 0.6% of the total income for the person for the income year in which the contravention occurred.

Note: This subsection modifies the maximum pecuniary penalty that a body corporate can be ordered to pay for a contravention of subsection (1).

Division 4—Application for, and revocation of, reporting nominee determination

22M Application for Regulator to make a reporting nominee determination

(1) A constitutionally covered entity (the ***applicant***) may apply, in writing, for the Regulator to determine under subsection 22H(1) that the applicant is a reporting nominee for another entity that is a reporting entity.

(2) An application under subsection (1):

(a) must be given in the form and manner (if any) approved in an instrument under subsection (3); and

(b) must state the name of the applicant; and

(c) must state the name of the other entity; and

(d) may specify the time when the applicant proposes the determination to take effect, which must be either:

(i) the start of the reporting period, of the other entity, in which the applicant gives the application to the Regulator; or

(ii) the start of the reporting period, of the other entity, that follows the reporting period mentioned in subparagraph (i); and

(e) must include the information determined by the Regulator under subsection (4); and

(f) must be approved by a responsible member of the applicant; and

(g) must state the name of the responsible member of the applicant who approved the application.

(3) The Regulator may, by notifiable instrument, approve a form or manner for the purposes of paragraph (2)(a).

(4) The Regulator may, by legislative instrument, determine information that must be included in an application for the purposes of paragraph (2)(e).

Regulator may require further information

(5) The Regulator may, by written notice given to the applicant, require the applicant to give the Regulator further information in connection with the application.

(6) If the applicant does not comply with a notice under subsection (5), the Regulator may, by written notice given to the applicant:

(a) refuse to consider the application; or

(b) refuse to take any action, or any further action, in relation to the application.

22N Revocation of reporting nominee determination

(1) The Regulator may revoke a determination under subsection 22H(1) by written notice given to the reporting nominee and the other entity to which the determination relates.

(2) A revocation under subsection (1) takes effect on the day specified in the notice, which must be either:

(a) the start of the reporting period, of the other entity, in which the Regulator gives the notice; or

(b) the start of the reporting period, of the other entity, that follows the reporting period mentioned in paragraph (a) of this subsection.

Revocation on notice by reporting nominee or reporting entity

(3) If:

(a) the Regulator has made a determination under subsection 22H(1) that an entity is a reporting nominee for another entity; and

(b) the determination has not been revoked;

the reporting nominee or the other entity may, by written notice to the Regulator, inform the Regulator that the determination is to be revoked.

(4) A notice under subsection (3) must specify the time when the determination under subsection 22H(1) is to be revoked, which must be either:

(a) the start of the reporting period, of the other entity, in which the notice is given to the Regulator; or

(b) the start of the reporting period, of the other entity, that follows the reporting period mentioned in paragraph (a) of this subsection.

(5) If the Regulator is given a notice under subsection (3), the determination mentioned in paragraph (3)(a) is taken to be revoked at the time specified in the notice for the purposes of paragraph (4)(a) or (b).

34 Section 23

Omit:

The Regulator has functions relating to the administration of this Act, including monitoring and enforcing compliance with this Act.

substitute:

The Regulator has functions relating to the administration of this Act, including monitoring and enforcing compliance with this Act. The Regulator also has functions relating to undertaking research and publishing analysis on the payment terms, times and practices of reporting entities.

35 After paragraph 25(b)

Insert:

(ba) to undertake research, and publish analysis, on the payment terms, times and practices of reporting entities, for the purpose of informing the Commonwealth;

(bb) to provide users of the register with data and tools to assist them to understand and use information made available on the register;

36 Section 28

Omit:

This Part applies Parts 2, 3, 4 and 5 of the Regulatory Powers Act with suitable modifications. Those Parts of that Act deal with monitoring and investigation powers, civil penalty provisions and infringement notices. The Regulator may appoint authorised officers and infringement officers to exercise powers under the Regulatory Powers Act.

substitute:

This Part applies Parts 2, 3, 4, 5 and 6 of the Regulatory Powers Act with suitable modifications. Those Parts of that Act deal with monitoring and investigation powers, civil penalty provisions, infringement notices and enforceable undertakings. The Regulator may appoint authorised officers and infringement officers to exercise powers under the Regulatory Powers Act.

37 Division 2 of Part 4 (at the end of the heading)

Add “**and reporting nominees**”.

38 Section 29 (at the end of the heading)

Add “**—reporting entities**”.

39 After section 29

Insert:

29A Record‑keeping requirements—reporting nominees

Reporting nominee must keep records

(1) An entity that is a reporting nominee for another entity must keep records of any information used in the preparation of a payment times report for a reporting period for the other entity for at least 7 years after the end of the reporting period.

Civil penalty

(2) A reporting nominee is liable to a civil penalty if:

(a) the reporting nominee is required to keep records under subsection (1); and

(b) the reporting nominee fails to comply with the requirement.

Civil penalty: 200 penalty units.

(3) For the purposes of subsection (2), the reference in paragraph 82(5)(a) of the Regulatory Powers Act to 5 times the pecuniary penalty specified for the civil penalty provision has effect as if it were a reference to 0.2% of the total income for the person for the income year in which the contravention occurred.

Note: This subsection modifies the maximum pecuniary penalty that a body corporate can be ordered to pay for a contravention of subsection (2).

40 Subsection 30(1)

Omit “a reporting entity”, substitute “an entity that is a reporting entity or a reporting nominee”.

41 After Division 2 of Part 4

Insert:

Division 2A—Information‑gathering powers

30A Regulator may obtain information

(1) This section applies to a person if the Regulator believes on reasonable grounds that the person has information or a document or thing that is relevant to the operation of this Act.

(2) The Regulator may, by written notice given to the person, require the person:

(a) to give to the Regulator any such information; or

(b) to produce to the Regulator any such document or thing.

(3) The notice must specify:

(a) the name of the person; and

(b) the form and manner in which the person is required to comply with the notice; and

(c) the period (which must be at least 14 days after the notice is given to the person) within which the person is required to comply with the notice.

(4) The Regulator may, by written notice given to the person, extend the period mentioned in paragraph (3)(c). The Regulator may extend the period even if it has expired.

(5) The Regulator may, by written notice given to the person, withdraw a notice given under subsection (2).

30B Civil penalty provision for failure to comply with notice

A person is liable to a civil penalty if:

(a) the person is given a notice under subsection 30A(2); and

(b) the person fails to comply with the notice.

Civil penalty: 60 penalty units.

42 After section 34

Insert:

34A Enforceable undertakings

Enforceable provisions

(1) Each civil penalty provision of this Act is enforceableunder Part 6 of the Regulatory Powers Act.

Note: Part 6 of the Regulatory Powers Act creates a framework for accepting and enforcing undertakings relating to compliance with provisions.

Authorised person

(2) For the purposes of Part 6 of the Regulatory Powers Act, the Regulator and each authorised officer is an authorised person in relation to the civil penalty provisions of this Act.

Relevant court

(3) For the purposes of Part 6 of the Regulatory Powers Act, each relevant court (as defined in section 5 of this Act) is a relevant court in relation to the civil penalty provisions of this Act.

Extension to external Territories etc.

(4) Part 6 of the Regulatory Powers Act, as it applies in relation to the civil penalty provisions of this Act, extends to every external Territory.

43 After section 40

Insert:

40A Research and analysis

An entrusted person may use protected information, or disclose protected information to another entrusted person, in undertaking research, or publishing analysis, on the payment terms, times and practices of reporting entities for the purpose of informing the Commonwealth.

44 Section 47

Omit:

This Part deals with miscellaneous matters, such as the review of decisions, the continuation of certain obligations for former reporting entities, annual reporting, a statutory review and the power to make rules.

substitute:

This Part deals with miscellaneous matters, such as the review of decisions, the continuation of certain obligations for former reporting entities and former reporting nominees, annual reporting and the power to make rules.

45 Subsections 48(1) and 49(1)

Omit “a reporting entity”, substitute “an entity that is a reporting entity or a reporting nominee”.

46 Subsection 50(1)

After “a reporting entity”, insert “or a reporting nominee”.

47 Section 51 (table)

Repeal the table, substitute:

| Reviewable decisions | | |
| --- | --- | --- |
| Item | Column 1  Decision | Column 2  Provision |
| 1 | A decision not to determine that an entity is a reporting entity | Subsection 10B(1) |
| 2 | A decision to revoke a determination under subsection 10B(1) that an entity is a reporting entity | Subsection 10D(1) |
| 3 | A decision not to determine that an entity is a subsidiary reporting entity | Subsection 10E(1) |
| 4 | A decision to revoke a determination under subsection 10E(1) that an entity is a subsidiary reporting entity | Subsection 10G(1) |
| 5 | A decision to determine that a reporting entity is to cease to be a reporting entity | Subsection 10K(1) |
| 6 | A decision not to determine that an entity is an exempt reporting entity | Subsection 10L(1) |
| 7 | A decision to revoke a determination under subsection 10L(1) that an entity is an exempt reporting entity | Subsection 10N(1) |
| 8 | A decision not to allow further time to give a payment times report | Subsection 13(4) |
| 9 | A decision to publish the identity of an entity or details of non‑compliance | Subsection 22(1) |
| 10 | A decision to give a slow small business payer direction, if the decision was made by the Regulator in accordance with a delegation under section 55B | Subsection 22A(1) |
| 11 | A decision not to determine that an entity is a reporting nominee for another entity | Subsection 22H(1) |
| 12 | A decision to revoke a determination that an entity is a reporting nominee for another entity | Subsection 22N(1) |

48 Section 54

Before “Applications”, insert “(1)”.

49 At the end of section 54

Add:

(2) Applications may be made to the Administrative Appeals Tribunal for review of decisions of the Minister to give slow small business payer directions (not including such decisions made by the Regulator in accordance with a delegation under section 55B).

Note: For review of a decision to give a slow small business payer direction made by the Regulator in accordance with a delegation, see section 51.

50 After subsection 55(1)

Insert:

(1A) Subsection (1) does not apply if the entity was a volunteering entity during the reporting period.

51 After section 55

Insert:

55A Former reporting nominees

Former reporting nominees

(1) The requirement for a reporting nominee to give the Regulator a payment times report for a reporting period for another entity under section 22J continues to apply to the reporting nominee if:

(a) the reporting nominee has not given the Regulator a payment times report for the reporting period under that section; and

(b) the reporting nominee ceases to be a reporting nominee for the other entity at any time after the end of the reporting period.

Other rights and obligations

(2) The following provisions continue to apply to a reporting nominee that has ceased to be a reporting nominee for another entity, as if it were still a reporting nominee for that other entity:

(a) section 22K (civil penalty provision for failure to report);

(b) section 22L (false or misleading reports);

(c) Division 3 of Part 2 (access to payment times reports);

(d) Division 2 of Part 4 (obligations of reporting entities and reporting nominees);

(e) Division 2 of this Part (treatment of certain kinds of entities).

55B Delegation by the Minister

(1) The Minister may, in writing, delegate all or any of the Minister’s functions or powers under Division 4 of Part 2 of this Act to the Regulator.

Note: Sections 34AA to 34A of the *Acts Interpretation Act 1901* contain provisions relating to delegations.

(2) In performing a delegated function or exercising a delegated power, the delegate must comply with any written directions of the Minister.

52 After paragraph 57(1)(a)

Insert:

(aa) the Minister; and

53 Sections 57A and 57B

Repeal the sections.

54 Before section 58

Insert:

57C Fees

(1) The Regulator may, on behalf of the Commonwealth, charge a fee specified in an instrument under subsection (2) for dealing with any of the following applications under this Act:

(a) an application under subsection 10F(1) for the Regulator to determine that an entity is a subsidiary reporting entity;

(b) an application under subsection 10M(1) for the Regulator to determine that an entity is an exempt reporting entity;

(c) an application under subsection 22M(1) for the Regulator to determine that an entity is a reporting nominee.

(2) The Regulator may, by notifiable instrument, determine fees that may be charged in relation to any of the applications mentioned in subsection (1).

(3) A fee must not be such as to amount to taxation.

(4) A fee charged under subsection (1):

(a) is a debt due to the Regulator, on behalf of the Commonwealth; and

(b) is recoverable by the Regulator, on behalf of the Commonwealth, in a court of competent jurisdiction.