

D R A F T S T A T U T O R Y I N S T R U M E N T S

201X No. XXXX

COMPANIES

The Reports on Payment Practices Regulations 201X

Made - - - - ***

Coming into force - - ***

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 3(1) and section 3(4) to 3(7) of the Small Business, Enterprise and Employment Act(a).

The Secretary of State has consulted such persons as appears to him appropriate in accordance with section 3(8) of that Act.

In accordance with sections 3(9) and 145(4) of that Act, a draft of these Regulations has been laid before Parliament and approved by a resolution of each House of Parliament.

Citation and commencement

- 1.—(1) These Regulations may be cited as the Reports on Payment Practices Regulations 201X.
- (2) These Regulations come into force on [].
- (3) These Regulations have effect in respect of financial years beginning on or after [].

Interpretation

2. In these Regulations—
 - “the 2006 Act” means the Companies Act 2006(b);
 - “the 2015 Act” means the Small Businesses, Enterprise and Employment Act 2015;
 - “director” means in relation to a company, a director of the company, and any person occupying in relation to it the position of a director (by whatever name called);
 - “financial year” means a company’s financial year determined in accordance with sections 390 to 392 of the Companies Act 2006;
 - “period for payment” means the period or periods within which a company is required to pay sums due under the contract;
 - “excluded company” is in respect of a financial year a company which—

(a) XX
(b) 2006 c.46.

- (a) falls within section 3(3) of the Small Businesses, Enterprise and Employment Act 2015;
- (b) would fall within that section but for the fact that it is a public company, provided that it is not a quoted company within the meaning of section 385(1) and (2) of the Companies Act 2006;

“quarterly period” means the first, second, third or fourth quarter of—

- (a) the period of 12 months which commences on the first day of a company’s financial year; and
- (b) each subsequent period of 12 months.

Duty to prepare report on payment practices

3.—(1) In a financial year where a company is not an excluded company, the directors must prepare a report on its payment practices for each quarterly period (“payment practices report”).

(2) In case of failure to comply with the requirement to prepare a payment practices report, an offence is committed by every person who—

- (a) was a director of the company immediately before the end of the period for preparing the report in question, and
- (b) failed to take all reasonable steps to secure compliance with that requirement.

(3) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding the statutory maximum.

Content of payment practices report

4.—(1) The payment practices report must state with respect to contracts entered into during the quarterly period to which the report relates—

- (a) the length of any standard period for payment;
- (b) the average period for payment; and
- (c) the maximum period for payment.

In paragraphs (a) to (c), periods for payment will be expressed by reference to a number of days.

(2) The payment practices report must include with respect to contracts which period for payment ends within the quarterly period to which the report relates—

- (a) the average number of days within which invoices were paid;
- (b) the percentage of invoices which were not paid within their period for payment;
- (c) the percentage of invoices which were paid within the following periods, where day 1 is the date of issue of the invoice—
 - (i) the period beginning on day 1 and ending on day 30;
 - (ii) the period beginning on day 31 and ending on day 60;
 - (iii) the period beginning on day 61 and ending on day 120; and
 - (iv) the period beginning on day 121.

(3) The payment practices report must contain information relating to—

- (a) whether the company has signed up to a relevant code of practice on payment practices and, if so, the name of that code;
- (b) the company’s standard payment terms, where relevant;
- (c) any variation to the company’s standard period for payment made during the reporting period, where relevant;
- (d) the length of any notice of a variation to the company’s standard period for payment made during the reporting period;
- (e) the availability of electronic invoicing, where relevant;

- (f) whether the company offers supply chain finance and, where it does whether this affects its standard payment terms;
- (g) any dispute resolution mechanism followed by the company in case of disputed invoices relating to terms of payment.

Signing of the payment practices report

- 5.—(1) The payment practices report must be signed by a director of the company.
- (2) If a payment practices report is signed that does not comply with the requirements of these Regulations, every director of the company who—
- (a) knew that it did not comply, or was reckless as to whether it complied, and
 - (b) failed to take reasonable steps to secure compliance with those requirements or, as the case may be, to prevent the report from being signed, commits an offence.
- (3) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding the statutory maximum.

Publication on website

- 6.—(1) A director of a company must ensure that its payment practices report—
- (a) is published in a prominent position on a website within a period of 30 days beginning on the day after the end of the quarterly period to which it relates,
 - (b) remains so available for a minimum period equivalent to three financial years, and
 - (c) appears alongside the other payment practices reports.
- (2) The report must be made available on a website that—
- (a) is maintained by or on behalf of the company, and
 - (b) identifies the company in question.
- (3) A failure to make material available on a website throughout the period mentioned in subsection (2) is disregarded if—
- (a) the material is made available on the website for part of that period, and
 - (b) the failure is wholly attributable to circumstances that it would not be reasonable to have expected the company to prevent or avoid it.
- (4) In the event of default in complying with this section, an offence is committed by every director of the company who is in default.
- (5) A director guilty of an offence under subsection (4) is liable on summary conviction to a fine not exceeding the statutory maximum.

Name
Parliamentary Under Secretary of State for Employment Relations and Consumer Affairs
Department for Business, Innovation and Skills

Date

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Regulations create an obligation on certain companies to prepare and publish on a website a report on their payment practices and performance (“the payment practices report”).

Regulation 3 sets out the obligation to prepare a payment practices report on companies which qualify as large under the accounting regime set out Part 15 of the Companies Act 2006 including those public companies which are quoted companies, irrespective of size. Other public companies which would qualify as micro, small or medium companies were it not for the fact that they are public companies are excluded from the requirement. Regulation 3 also creates an offence where that obligation is not complied with.

Regulation 4 prescribes certain information which must be included in the payment practices report.

Regulation 5 requires a director of a company to sign the payment practices report. It creates an offence for failure to do so.

Regulation 6 requires a director of a company to publish on a website the payment practices report. It must be published in a prominent position and remain available for three financial years. It must also be published alongside other payment practices reports for ease of reference. Regulation 6 creates an offence where the obligations relating to publication are not complied with.

A full regulatory impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the Business Environment Directorate, Department for Business, Innovation and Skills, 1 Victoria Street, London SW1H 0ET or from www.gov.uk/bis and is annexed to the Explanatory Memorandum which is available alongside the instrument at www.legislation.gov.uk.