

Our reference: QSBC-9368

30 April 2024

Government Response and Reform Unit  
Small and Family Business Division  
Treasury  
Langton Cres  
Parkes ACT 2600  
**via email:** [paymenttimesreformSMB@treasury.gov.au](mailto:paymenttimesreformSMB@treasury.gov.au)

To whom it may concern

### Re: **Payment Times Reporting Act 2020 primary legislation amendments**

The Queensland Small Business Commissioner (QSBC), including the Small Business Commissioner and supporting office, welcomes the opportunity to provide feedback to the Treasury in relation to the Payment Times Reporting Amendment Bill 2024 (Bill).

The QSBC is established under the *Small Business Commissioner Act 2022*, and one of the main objectives is to enhance the operating environment for small businesses in Queensland. This includes advocating on behalf of the 482,836 Queensland small businesses<sup>1</sup> on matters relevant to them.

Having contributed to the statutory review of the *Payment Times Reporting Act 2020 (Act)* in 2023, the QSBC provides the following feedback on the primary legislation amendments for consideration:

#### **Objects of the Act and Regulator's functions**

The QSBC supports the proposed amendments to the objects of the Act which aim to emphasise the primary purpose of the Payment Times Reporting Scheme (Scheme). The QSBC believes the proposed additions better highlight the intended policy objectives of Scheme—to improve the payment terms, times and practices of large businesses and other reporting entities towards their small business suppliers. Additionally, the amendments clarify that the publication of the reported data aims to apply reputational pressure on large businesses to help achieve these improvements.

The QSBC also supports the proposed amendments to broaden the functions of the Payment Times Reporting Regulator (Regulator), including to undertake research on

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<sup>1</sup> ABS 8165 Counts of Australian Business, including entries and exits as of 30 June 2023. Australian Bureau of Statistics, Canberra.

payment terms, times and practices and publish analysis, and to provide data and tools to improve use of information on the Payment Times Reports Register (Register). The QSBC believes these additional functions will help enhance payment times transparency and empower users, including small businesses, to better navigate the Register.

It is imperative that the research and data analysis undertaken by the Regulator be used to assess the efficiency and effectiveness of the Scheme, and used to inform any further enhancements to the Scheme in the next independent review of the Act. The QSBC notes that the Regulator is not required to undertake any particular activity in carrying out its functions and instead apply appropriate judgment and apply resources consistent with the benefits. While the QSBC supports this flexibility, the QSBC recommends that the next independent review of the Act gives consideration to the effectiveness of the research and data analysis undertaken by the Regulator, and if appropriate, legislate set reporting requirements for the Regulator to further improve transparency about the effectiveness of the Scheme.

### **Reporting, Volunteering, and Subsidiary reporting entities**

The QSBC are supportive of the amendments regarding reporting entities, which aim to provide clarity in determining reporting obligations, which is essential for businesses to comply effectively. The clarification of which entities have obligations under the Act and the introduction of principles of consolidation for corporate groups to align with accounting standards, should make it easier for entities to determine if the scheme applies to them. Additionally, the inclusion of exemptions from reporting obligations provides flexibility while maintaining the integrity of the scheme.

The amendments concerning volunteering entities promote transparency and accountability by allowing businesses to apply for volunteering status and provides a mechanism for revoking volunteering status in cases of suspected non-compliance. The QSBC believes this balanced approach will help maintain the integrity of the reporting system by ensuring compliance, while also encouraging improved payment practices by entities which technically fall outside the scope of the Scheme.

The QSBC welcomes the introduction of subsidiary reporting entities under the Act, which allows entities controlled by reporting entities to provide their own payment times reports, addressing anomalies in the reporting entity definition. The QSBC believes this change will ensure more accurate reporting and that entities controlled by reporting entities are not overlooked in the reporting process.

Overall, the QSBC believes these amendments will help streamline reporting processes, reduce administrative burdens, and ensure that reporting entities are accurately identified—improving the efficiency and effectiveness of the Act.

### **Payment Times Reports and changes to the register**

The QSBC supports the amendment to consolidate the reporting content requirements within the Payment Times Reporting Rules (Rules), rather than the Act, and to provide the Regulator with rule-making powers in relation to those reporting requirements. The QSBC believes these changes will make the Scheme more agile and responsive, providing the Regulator with greater flexibility to adjust reporting obligations in the Rules, to ensure they remain relevant and fit for purpose.

The QSBC also supports the proposed amendment to allow for payment times reports to be automatically published on the Register, removing the requirement for the Regulator to scrutinise reports before publication. This streamlined approach will reduce administrative

burdens for reporting businesses and the Regulator, and ensure the Register is updated in a timely fashion with the latest data available on the Register for users, including small businesses.

### **Ministerial Direction – Slow Small Business Payers**

The QSBC welcomes the introduction of the direction making power which allows for the Minister to give a reporting entity a ‘slow small business payer direction’, which may include direction to published statements or information on the entity’s website, documents and invoices. The introduction of a civil penalty for non-compliance with the Ministerial direction, ensures that there are genuine consequences for non-compliant entities.

In addition, the entity may be ‘named and shamed’ on the Register at the discretion and direction of the Minister. However, the QSBC believes that, rather than being at the discretion of the Minister, *all* businesses who are given a ‘slow small business payer direction’ should be published on the Register by default, rather than on a case-by-case basis. The QSBC believes these amendments will help to apply reputational pressure on large businesses to help achieve payment times improvements.

### **Enforcing compliance with the Act**

As per the QSBC’s submission to the statutory review of the Act, we support the strengthening of the Regulator’s powers. The QSBC therefore supports the amendments which introduce information-gathering powers for the Regulator, along with a civil penalty for failure to comply. These powers will supplement the Regulator’s existing audit, monitoring and investigation powers.

The QSBC also supports the introduction of powers to the Regulator to exercise enforceable undertakings for non-compliance with obligations under the Act which attract a civil penalty. The QSBC believes these additional powers will help strengthen the Scheme and help ensure that the reporting entities fulfill their obligations and contribute to a fair and transparent business environment.

### **Application fees, Independent Review of the Act, and miscellaneous amendments**

The QSBC supports the introduction of a discretionary power for the Regulator to charge cost-recovery application fees for certain applications and for a reporting submission extension. The QSBC considers these fees will encourage timely reporting by reporting entities and that reporting entities will give due consideration before requesting exemptions from the Scheme.

The QSBC also supports the amendment to undertake an independent review of the Act within five years, and in particular, supports that the review must consider if the introduction of a mandated maximum payment period would be more effective in improving the payment terms and practices to small business suppliers. The QSBC understands Dr Emerson’s statutory review of the Act did not recommend the introduction of a mandated maximum payment period due to risk of perverse outcomes, including disincentivising large businesses from procuring goods and services from small businesses. However, should there be no demonstrable improvements in payment times in the next review of the Act, the QSBC recommends that the setting of a mandated maximum payment period be given further consideration.

The QSBC further supports the other miscellaneous amendments in the Bill including the disclosure and use of protected information provided under the Act for audit, enforcement, and research and data analysis purposes—to help further improve transparency around the effectiveness of the Scheme.

Thank you once again for the opportunity to provide feedback on the Payment Times Reporting Amendment Bill 2024. The QSBC notes that many of actions in the Government response to the statutory review of the Act do not require legislative amendments so fall outside the scope of this Bill. The QSBC looks forward to seeing these non-legislative actions implemented over time and welcomes any opportunity to provide feedback on their design and implementation.

If you have any questions about our submission, please contact Rebekah Godbold, Principal Policy Officer, on 07 3334 2300 or via email at [strategy@qsbc.qld.gov.au](mailto:strategy@qsbc.qld.gov.au).

Yours sincerely

A handwritten signature in black ink, appearing to read 'Dominique Lamb', written in a cursive style.

Dominique Lamb  
**Small Business Commissioner**