
Name and Shame: the Business Payment Practices Bill

Minister Nash's Business Payment Practices Bill has just had its first reading in Parliament, and is open for public submissions until 26 February 2023.

The Bill is aimed at bringing transparency to business-to-business payment terms and practices in New Zealand, based on feedback from small businesses that late payments and lengthy payment terms harm their business. As the Explanatory Note sagely points out, this can lead to cash flow problems, temporary borrowing and, even, insolvency. When one considers how little many smaller businesses have to come and go on to even out the ebbs and flows, this is rather an understatement.

The sincerity of the Bill's purpose statement is laudable: With this new public disclosure of payment practices information, members of the public and other entities will thus be equipped to make an informed choice about whether to engage with certain large entities.

Despite all this, at the same time the Bill is openly honest in another stated aim of "supporting the Government to determine if there is a broader problem with extended payment terms" at all, such that regulatory intervention is warranted.

The Bill requires "large entities" (not just companies) with more than \$33 million in annual revenue (including GST) for 2 or more consecutive accounting periods to file, twice yearly, a payment practices return with the newly created Registrar of Business Payment Practices. This return must cover invoices received or paid, the time taken to pay, the proportion of invoices paid in full plus other information relating to payment practices and policies, yet to be specified in regulations. The data will be published on a publicly searchable register maintained by MBIE.

Importantly, it seems, the filed return must include a statement that a director is satisfied the information in it is complete and accurate. Presumably if a director has turned their mind to it, the information should be reliable and directors will be incentivised to request change if the information paints their business in a bad light.

The Bill relies on large entities valuing their reputation sufficiently that they alter their payment practices to something, presumably, fairer. There are no other substantive sanctions short of not filing a return.

Talking of fairness, why could the unfair contracts provisions of the Fair Trading Act 1986 not have been relied on to deal with this potential problem? And why, in these difficult economic times, did Parliament need to spend valuable time legislating for something that is neither established to be a problem and could in any event have been dealt with through non-legislative means?

If you need any assistance in making a submission, in support or otherwise, please contact a

member of our [commercial team](#).

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