

Version  
as at 8 March 2024



## Business Payment Practices Regulations 2023

(SL 2023/218)

Business Payment Practices Regulations 2023: revoked, on 8 March 2024, by section 4 of the Business Payment Practices Act Repeal Act 2024 (2024 No 8).

Cindy Kiro, Governor-General

### Order in Council

At Wellington this 28th day of August 2023

Present:

Her Excellency the Governor-General in Council

These regulations are made under section 52 of the Business Payment Practices Act 2023—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister for Small Business.

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#### Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

**These regulations are administered by the Ministry of Business, Innovation, and Employment.**

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## Regulations

### 1 Title

These regulations are the Business Payment Practices Regulations 2023.

### 2 Commencement

These regulations come into force on 26 May 2024.

### 3 Interpretation

In these regulations, unless the context otherwise requires,—

**Act** means the Business Payment Practices Act 2023

**credit card contract** has the meaning given in section 19(2)(a) of the Credit Contracts and Consumer Finance Act 2003

**payment time** means the period starting on the day that an entity or a subsidiary of the entity receives an invoice and ending on the day that the entity or subsidiary pays the invoice in full

**registered bank** means a registered bank under the Banking (Prudential Supervision) Act 1989

**standard payment terms** means terms—

- (a) that have not been subject to effective negotiation between the parties;  
and
- (b) that govern when an entity must pay an invoice

**total number of invoices** means the total number of invoices that an entity or a subsidiary of the entity pays in full during a disclosure period

**total value of invoices** means the total value of invoices that an entity or a subsidiary of the entity pays in full during a disclosure period.

#### 4 Transitional, savings, and related provisions

The transitional, savings, and related provisions (if any) set out in Schedule 1 have effect according to their terms.

#### *Payment practices information*

#### 5 Specified payment practices information

For the purposes of section 14(1) of the Act, **payment practices information** means the following information for an entity and a disclosure period:

- (a) the average payment time, calculated as follows:

$$a = b \div c$$

where—

- a is the average payment time
  - b is the aggregate of the payment times for the total number of invoices
  - c is the total number of invoices:
- (b) the percentage of the total number of invoices that the entity or a subsidiary of the entity pays in full within each of the following payment times:
    - (i) 0 to 15 days:
    - (ii) 16 to 30 days:
    - (iii) 31 to 60 days:
    - (iv) 61 to 90 days:
    - (v) 91 to 120 days:
    - (vi) more than 120 days:
  - (c) the percentage of the total value of invoices that the entity or a subsidiary of the entity pays in full within each of the following payment times:
    - (i) 0 to 15 days:
    - (ii) 16 to 30 days:

- (iii) 31 to 60 days:
- (iv) 61 to 90 days:
- (v) 91 to 120 days:
- (vi) more than 120 days:
- (d) whether the entity or a subsidiary of the entity enters into contracts that enable other entities to issue electronic invoices to the entity or subsidiary:
- (e) whether the entity or a subsidiary of the entity uses standard payment terms in relation to invoices received by the entity or subsidiary and, if so, what those standard payment terms are.

## 6 Certain payment practices information not required

An entity is not required to disclose payment practices information under the Act for invoices or payments that relate to the following:

- (a) amounts owing to a registered bank under a credit card contract:
- (b) transactions in currency other than New Zealand currency:
- (c) transactions within the entity's group:
- (d) royalty payments to the Crown:
- (e) invoices that do not require payment due to a credit note.

## 7 Definition of invoice

For the purposes of section 14 of the Act, **invoice**, for a disclosure period, means a written or an electronic document issued to the entity—

- (a) that relates to the supply of goods or services to the entity before it pays for the goods or services; and
- (b) that notifies an obligation to pay the amount set out in the document.

### *Errors or omissions in disclosure*

## 8 Permitted departures

For the purposes of section 18(3) of the Act, a permitted departure from the requirements of the Act or regulations is as follows:

- (a) for a requirement to disclose a figure, a difference of less than 2% of the figure included in the entity's disclosure between that figure and the correct figure:
- (b) for a requirement to disclose a percentage, a difference of less than 2% between the percentage included in the entity's disclosure and the correct percentage.

*Infringement offences*

**9 Penalties for infringement offences**

- (1) The infringement fees and maximum fines for an infringement offence against section 36 of the Act are the fees and fines specified in the third and fourth columns of Schedule 2.
- (2) The descriptions in the second column of Schedule 2 are an indication of the content of the provisions they describe, and are not intended to be used in the interpretation of those provisions.

**10 Infringement notice**

An infringement notice issued under section 38 of the Act must be in the form set out in Schedule 3.

**11 Reminder notice**

The reminder notice for the purpose of section 43 of the Act must be in the form set out in Schedule 4.

**Schedule 1**  
**Transitional, savings, and related provisions**

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**Part 1**  
**Provisions relating to these regulations as made**

There are no transitional, savings, or related provisions in these regulations as made.

## Schedule 2

### Penalties for infringement offences

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<b>Section</b>	<b>Description of obligation</b>	<b>Infringement fee (\$)</b>	<b>Maximum fine (\$)</b>
8	Certain large entities must make disclosures	3,000	9,000
11	Contents of disclosure (if no subsidiaries)	3,000	9,000
12	Contents of disclosure (if 1 or more subsidiaries)	3,000	9,000
13(3) or (4)	Requirements for voluntary disclosures by certain subsidiaries	2,000	6,000
17	Entities must keep certain records for 7 years	3,000	9,000
18	Entities must notify Registrar of error or omission	3,000	9,000
19	Entities must notify Registrar of changes in identifying information	1,000	2,000
20	Entities must notify Registrar when Act ceases to apply	1,000	2,000

## Schedule 3

### Infringement notice

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#### Infringement notice

*Section 38, Business Payment Practices Act 2023*

Infringement notice No:

Date of notice:

#### Enforcement authority

This infringement notice is issued by the Registrar of Business Payment Practices.

Address for correspondence:

#### Details of person infringement notice issued to

Full name:

Full address:

\*Telephone number:

\*Specify only if known.

#### Details of alleged infringement offence

The offence is one against [*specify provision*].

Date:

Time:

Place:

Nature of alleged infringement:

Infringement fee payable:

#### Service details

This infringement notice was served by [*method of service*] on [*date*].

#### Payment of infringement fee

This infringement fee is payable within 28 days after [*date infringement notice served*].

This infringement fee may be paid to the Registrar of Business Payment Practices by [*specify method(s)*].

#### *What you need to know*

If you pay the infringement fee in full as shown above, no further action will be taken. For a more detailed statement of your rights, *see* below. This includes—

- what happens if you are late paying the fee or don't pay the fee at all (*see* paragraphs 3 to 5):

- what to do if you want to query this notice (*see* paragraphs 7 to 12).

### ***Statement of rights***

If there is anything in this statement you do not understand, you should consult a lawyer.

- 1 This notice sets out an alleged infringement offence.

### **Payments**

- 2 If you pay the infringement fee in full as shown above in **Payment of infringement fee**, no further enforcement action will be taken for the offence. Please note that part payment of an infringement fee is not sufficient to avoid further enforcement action for the offence.

### **What happens if you do not pay on time**

- 3 If you do not pay the infringement fee on time as shown above and do not request a hearing (*see* paragraph 7 for your ability to do this), you will be served with a reminder notice (unless the Registrar of Business Payment Practices decides to take no further action to require payment for the alleged offence). Please note that in some circumstances if you do not receive a reminder notice you may still become liable to pay a fine and court costs as set out in paragraph 4.
- 4 If you do not pay the infringement fee and do not request a hearing within 28 days after being served with the reminder notice,—
  - (a) the Registrar of Business Payment Practices may, unless they decide to take no further action to require payment for the alleged offence, provide particulars of the reminder notice for filing in the District Court; and
  - (b) if so, you will become liable to pay court costs as well as a fine.
- 5 The fine will be equal to the amount of the infringement fee or the amount of the infringement fee remaining unpaid.

### **Defence**

- 6 You have a complete defence against proceedings for the alleged infringement offence if the infringement fee has been paid in full to the Registrar of Business Payment Practices in the manner specified in this notice before, or within 28 days after, a reminder notice for the alleged offence is served on you. Late payment or payment made in any other manner is not a defence.

### **Further action you may take**

- 7 You may—
  - (a) ask the Registrar of Business Payment Practices to consider any matter relating to the circumstances of the alleged offence; or
  - (b) deny liability for the alleged offence and request a court hearing; or

- (c) admit liability for the alleged offence, but have a court consider written submissions as to penalty or otherwise.
- 8 To take an action listed in paragraph 7, you must write to the Registrar of Business Payment Practices at the address shown on this notice. You must sign the written communication and it must be delivered within 28 days after you have been served with this notice, or within any further time that the Registrar of Business Payment Practices allows.
- 9 If, in your written communication to the enforcement authority referred to in paragraph 8, you deny liability for the alleged offence and request a court hearing, the Registrar of Business Payment Practices will serve you with a notice of hearing that sets out the place and time at which the court will hear the matter (unless the Registrar of Business Payment Practices decides to take no further action to require payment for the alleged offence).
- Note:** If the court finds you guilty of the offence, the court is entitled to take into account any maximum fine for the offence, and not just the infringement fee. So the court may impose a fine that is greater than the infringement fee. Also, if the court finds you guilty of the offence, costs will be imposed in addition to any penalty and you will be required to pay a hearing fee. You cannot get a conviction for an infringement offence.
- 10 If you admit liability for the alleged offence but want the court to consider your submissions as to penalty or otherwise, you must, in your written communication to the enforcement authority,—
- (a) request a hearing; and
  - (b) admit liability for the offence; and
  - (c) set out the submissions you wish the court to consider.
- 11 If you take the action in paragraph 10, the Registrar of Business Payment Practices will file your written communication with the court (unless the Registrar of Business Payment Practices decides to take no further action to require payment for the alleged offence). If you follow this process, there will be no oral hearing before the court.
- Note:** The court is entitled to take into account any maximum fine for the offence, and not just the infringement fee. So the court may impose a fine that is greater than the infringement fee. Also, costs will be imposed in addition to any penalty. You cannot get a conviction for an infringement offence.

### Contacting the enforcement authority

- 12 When writing, please specify—
- (a) the date of the alleged infringement offence; and
  - (b) the infringement notice number; and
  - (c) your full name and address for replies.

**Note:** All correspondence regarding the infringement offence must be directed to the Registrar of Business Payment Practices at the address shown on this notice.

**Further details of your rights and obligations**

- 13 Further details of your rights and obligations are set out in section 21 of the Summary Proceedings Act 1957.

## Schedule 4

### Reminder notice

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#### Reminder notice

*Section 43, Business Payment Practices Act 2023*

Reminder notice No:

Date of notice:

This notice is to remind you that you have been issued with an infringement notice. The details of the notice are as follows:

#### **Enforcement authority**

The infringement notice was issued by the Registrar of Business Payment Practices.

Address for correspondence:

#### **Details of person to whom infringement notice issued**

Full name:

Full address:

\*Telephone number:

\*Specify only if known.

#### **Details of alleged infringement offence**

The offence is one against [*specify provision*].

Date:

Time:

Place:

Nature of alleged infringement:

Infringement fee payable:

Amount of infringement fee remaining unpaid:

#### **Service details**

(To be provided for filing in court.)

Infringement notice served by [*method of service*] on [*date*].

Reminder notice served by [*method of service*] at [*full address of service*] on [*date*].

#### **Payment of infringement fee**

The infringement fee was payable to the Registrar of Business Payment Practices within 28 days after [*date infringement notice served*]. The infringement fee has not been paid.

The last day for payment of the infringement fee is *[date]*, being 28 days after the date of service of this notice.

The infringement fee may be paid to the Registrar of Business Payment Practices by *[specify method(s)]*.

### ***What you need to know***

If you pay the infringement fee in full as shown above, no further action will be taken. For a more detailed statement of your rights, *see* below. This includes—

- what happens if you are late paying the fee or don't pay the fee at all (*see* paragraphs 3 and 4):
- what to do if you want to query this notice (*see* paragraphs 6 to 11).

### ***Statement of rights***

If there is anything in this statement you do not understand, you should consult a lawyer.

- 1 You have not paid the infringement fee described in this notice, or asked for a hearing, within 28 days after you were served with the infringement notice. That is why you have been served with this reminder notice.

### **Payments**

- 2 If you pay the infringement fee in full within 28 days after you are served with this notice, no further enforcement action will be taken for the offence. Payments should be made to the Registrar of Business Payment Practices as shown above in **Payment of infringement fee**.

### **What happens if you do not pay on time**

- 3 If you do not pay the infringement fee on time as shown above and do not request a hearing (*see* paragraph 6 for your ability to do this), you will become liable to pay court costs as well as a fine (unless the Registrar of Business Payment Practices decides to take no further action to require payment for the alleged offence).
- 4 The fine will be equal to the amount of the infringement fee or the amount of the infringement fee remaining unpaid.

### **Defence**

- 5 You have a complete defence against proceedings for an alleged infringement offence if the infringement fee has been paid in full to the Registrar of Business Payment Practices in the manner specified in this notice before, or within 28 days after, this reminder notice is served on you. Late payment or payment made in any other manner is not a defence.

### **Further action you may take**

- 6 You may—

- (a) ask the Registrar of Business Payment Practices to consider any matter relating to the circumstances of the alleged offence; or
  - (b) deny liability for the alleged offence and request a court hearing; or
  - (c) admit liability for the alleged offence but have a court consider written submissions as to penalty or otherwise.
- 7 To take an action listed in paragraph 6, you must write to the Registrar of Business Payment Practices at the address shown on this notice. You must sign the written communication and it must be delivered within 28 days after you have been served with this notice, or within any further time that the Registrar of Business Payment Practices allows.
- 8 If, in your written communication to the enforcement authority referred to in paragraph 7, you deny liability for the alleged offence and request a court hearing, the Registrar of Business Payment Practices will serve you with a notice of hearing that sets out the place and time at which the court will hear the matter (unless the Registrar of Business Payment Practices decides to take no further action to require payment for the alleged offence).

**Note:** If the court finds you guilty of the offence, the court is entitled to take into account any maximum fine for the offence, and not just the infringement fee. So the court may impose a fine that is greater than the infringement fee. Also, if the court finds you guilty of the offence, costs will be imposed in addition to any penalty and you will be required to pay a hearing fee. You cannot get a conviction for an infringement offence.
- 9 If you admit liability for the alleged offence but want the court to consider your submissions as to penalty or otherwise, you must, in your written communication to the enforcement authority,—
  - (a) request a hearing; and
  - (b) admit liability for the offence; and
  - (c) set out the submissions you wish the court to consider.
- 10 If you take the action in paragraph 9, the Registrar of Business Payment Practices will file your written communication with the court (unless the Registrar of Business Payment Practices decides to take no further action to require payment for the alleged offence). If you follow this process, there will be no oral hearing before the court.

**Note:** The court is entitled to take into account any maximum fine for the offence, and not just the infringement fee. So the court may impose a fine that is greater than the infringement fee. Also, costs will be imposed in addition to any penalty. You cannot get a conviction for an infringement offence.

#### **Contacting the enforcement authority**

- 11 When writing, please specify—
  - (a) the date of the alleged infringement offence; and

- (b) the number of this reminder notice; and
- (c) your full name and address for replies.

**Note:** All correspondence regarding the infringement offence must be directed to the Registrar of Business Payment Practices at the address shown on this notice.

### **Further details of your rights and obligations**

- 12 Further details of your rights and obligations are set out in section 21 of the Summary Proceedings Act 1957.

Rachel Hayward,  
Clerk of the Executive Council.

## **Explanatory note**

*This note is not part of the regulations, but is intended to indicate their general effect.*

These regulations come into force on 26 May 2024. They are made under the Business Payment Practices Act 2023 (the Act). The purpose of the Act is to—

- improve transparency in certain business-to-business payment practices; and
- enable members of the public and entities to access information about those business-to-business payment practices so that they can make informed choices about whether to engage with certain large entities.

These regulations provide for the following matters under the Act:

- specifying the information that certain large entities must disclose about their payment practices;
- providing that an entity does not need to disclose information about invoices or payments that relate to certain goods, services, or types of transactions, such as payments between members of the entity’s group or transactions in foreign currency;
- defining an invoice for the purposes of section 14 of the Act;
- specifying a permitted departure from the requirements of the Act or regulations, so that an entity is not required to notify the Registrar of Business Payment Practices of an error or omission in a disclosure if there is a difference of less than 2% between a percentage or figure included in the disclosure and the correct percentage or figure;
- the infringement fees and maximum fines that apply to infringement offences against section 36 of the Act;
- the forms that must be used for infringement notices and reminder notices.

### **Regulatory impact statement**

The Ministry of Business, Innovation, and Employment produced a regulatory impact statement to help inform the decisions taken by the Government relating to the contents of this instrument.

A copy of this regulatory impact statement can be found at <https://treasury.govt.nz/publications/informationreleases/ris>.

Issued under the authority of the Legislation Act 2019.  
Date of notification in *Gazette*: 31 August 2023.

## Notes

### **1** *General*

This is a consolidation of the Business Payment Practices Regulations 2023 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

### **2** *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

### **3** *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

### **4** *Amendments incorporated in this consolidation*

Business Payment Practices Act Repeal Act 2024 (2024 No 8): section 4