
DRAFT STATUTORY INSTRUMENTS

2017 No.

**The Reporting on Payment Practices
and Performance Regulations 2017**

Citation and commencement

1.—(1) These Regulations may be cited as the Reporting on Payment Practices and Performance Regulations 2017.

(2) These Regulations come into force on 6th April 2017.

(3) These Regulations cease to have effect on 6th April 2024.

Interpretation

2. In these Regulations—

“the 2006 Act” means the Companies Act 2006(1);

“director” includes any person occupying the position of director, by whatever name called;

“filing period” means 30 days beginning with the day after the last day of the reporting period to which a report relates;

“financial year” means a company’s financial year determined in accordance with sections 390 to 392 of the 2006 Act;

“qualifying company” has the meaning given in regulation 5;

“qualifying contract” has the meaning given in regulation 6;

“reporting period” means a period determined in accordance with regulation 7.

Duty to publish information on payment practices, policies and performance

3.—(1) For each reporting period, a qualifying company must publish a report containing the information set out in the Schedule.

(2) For the purposes of paragraph (1), to publish a report a qualifying company must publish it—

(a) within the filing period, and

(b) on the web-based service provided for the purposes of these Regulations by or on behalf of the Secretary of State.

Approval of the information

4. A qualifying company’s information for a reporting period must be approved by a director of that company before it is published.

Companies to which the duty applies

5.—(1) These Regulations apply to a company in relation to every financial year in which it is a qualifying company.

- (2) A company is not a qualifying company in—
- (a) its first financial year;
 - (b) a financial year which began before 6th April 2017.
- (3) A company other than a parent company is a qualifying company—
- (a) in its second financial year if on its last balance sheet date before that financial year it exceeded two or all three of the general thresholds;
 - (b) in a subsequent financial year if on both of the relevant balance sheet dates it exceeded two or all three of the general thresholds.
- (4) A parent company is a qualifying company—
- (a) in its second financial year if on its last balance sheet date before that financial year—
 - (i) it exceeded two or all three of the general thresholds, and
 - (ii) the group headed by it exceeded two or all three of the group thresholds;
 - (b) in a subsequent financial year if on both of the relevant balance sheet dates—
 - (i) it exceeded two or all three of the general thresholds, and
 - (ii) the group headed by it exceeded two or all three of the group thresholds.
- (5) In this regulation—
- (a) “balance sheet date” means the date as at which the company’s balance sheet was made up;
 - (b) the “general thresholds” are the maximum figures for a company’s turnover, balance sheet total and number of employees set out in subsection (3) of section 465 of the 2006 Act (companies qualifying as medium-sized: general)(2), determined in accordance with subsections (4) to (6) of that section;
 - (c) “group” means a parent company and its subsidiary undertakings;
 - (d) the “group thresholds” are the maximum figures for a group’s turnover, balance sheet total and number of employees set out in subsection (4) of section 466 of the 2006 Act (companies qualifying as medium-sized: parent companies)(3), determined in accordance with subsections (5) to (7) of that section;
 - (e) “parent company” has the meaning given in section 1173 of the 2006 Act(4);
 - (f) the “relevant balance sheet dates” are—
 - (i) the company’s last balance sheet date before the relevant financial year, and
 - (ii) the balance sheet date preceding that;
 - (g) “subsidiary undertaking” has the meaning given in section 1162 of, and Schedule 7 to, the 2006 Act.
- (6) Paragraph (7) applies if the 2006 Act is amended so that the general thresholds or group thresholds which apply to a financial year (“X”) differ from those which applied to either of the preceding two financial years.
- (7) For the purpose of determining whether a company is a qualifying company in financial year X, the company is to be treated as if the general thresholds or group thresholds which apply to financial year X had also applied to the two preceding financial years.

(2) Section 465(3) was amended by [S.I. 2015/980](#).

(3) Section 466(4) was amended by [S.I. 2015/980](#).

(4) There are amendments to section 1173 but none is relevant to these Regulations.

Contracts to which the information relates

6.—(1) A qualifying contract is a relevant contract which satisfies the conditions in paragraphs (2) and (3).

(2) The first condition is that the relevant contract is not a contract for financial services, as defined in section 2 of the Small Business, Enterprise and Employment Act 2015.

(3) The second condition is that the relevant contract is—

- (a) governed by the law of a part of the United Kingdom otherwise than by choice of the parties;
- (b) governed by the law of a part of the United Kingdom by choice of the parties, and—
 - (i) has a significant connection with that part of the United Kingdom, or
 - (ii) without that choice, its applicable law would still be the law of a part of the United Kingdom; or
- (c) governed by a foreign law by choice of the parties and—
 - (i) without that choice, its applicable law would be the law of a part of the United Kingdom, and
 - (ii) has no significant connection with any country outside the United Kingdom.

(4) In this regulation “foreign law” means the law of a country outside the United Kingdom.

Periods in relation to which information must be published

7.—(1) Subject to paragraphs (2) and (3), a qualifying company has two reporting periods in a financial year—

- (a) the first reporting period is the six months beginning with the first day of that financial year;
- (b) the second reporting period is the remainder of that financial year.

(2) In the event that a qualifying company’s accounting reference period is shortened in accordance with section 392 (alteration of accounting reference date) of the 2006 Act so that a financial year lasts 9 months or less, the reporting period is that financial year.

(3) In the event that a qualifying company’s accounting reference period is extended in accordance with section 392 (alteration of accounting reference date) of the 2006 Act so that a financial year lasts more than 15 months, there are three reporting periods—

- (a) the first reporting period is the six months beginning with the first day of that financial year;
- (b) the second reporting period is the six months beginning with the day after the last day of the first reporting period;
- (c) the third reporting period is the remainder of that financial year.

(4) In this regulation “accounting reference period” has the meaning given in section 391 of the 2006 Act.

Failure to publish a report

8.—(1) If the requirements of regulation 3 are not met in relation to a reporting period, the qualifying company and every person who was a director of the qualifying company immediately before the end of the filing period commits an offence.

(2) It is a defence for a director to prove that the director took all reasonable steps for securing that the requirements of regulation 3 would be complied with before the end of the filing period.

- (3) A person guilty of an offence under this regulation is liable on summary conviction—
- (a) in England and Wales, to a fine;
 - (b) in Scotland or Northern Ireland, to a fine not exceeding level 5 on the standard scale.

False statement offence

- 9.**—(1) It is an offence for a person knowingly or recklessly—
- (a) to publish or cause to be published, for the purposes of these Regulations, a report or any information, or
 - (b) to make, for any such purpose, a statement,
- that is misleading, false or deceptive in a material particular.
- (2) A person guilty of an offence under this regulation is liable on summary conviction—
- (a) in England and Wales, to a fine;
 - (b) in Scotland or Northern Ireland, to a fine not exceeding level 5 on the standard scale.
- (3) No proceedings are to be brought under this regulation—
- (a) in England and Wales except by or with consent of the Secretary of State or the Director of Public Prosecutions;
 - (b) in Northern Ireland except by or with consent of the Secretary of State or the Director of Public Prosecutions for Northern Ireland.

Summary proceedings: time limit for proceedings

- 10.**—(1) An information relating to an offence under these Regulations may be tried by a magistrates' court in England and Wales if it is laid—
- (a) within three years beginning with the day after the commission of the offence, and
 - (b) within twelve months beginning with the day after the date on which evidence sufficient in the opinion of the Director of Public Prosecutions or the Secretary of State (as the case may be) to justify the proceedings comes to that person's knowledge.
- (2) Summary proceedings in Scotland for an offence under these Regulations—
- (a) must not be commenced after the expiration of three years beginning with the day after the commission of the offence;
 - (b) subject to that, may be commenced at any time—
 - (i) within twelve months beginning with the day after the date on which evidence sufficient in the Lord Advocate's opinion to justify the proceedings came to the knowledge of the Lord Advocate, or
 - (ii) where such evidence was reported to the Lord Advocate by the Secretary of State, within twelve months beginning with the day after the date on which it came to the knowledge of the Secretary of State.
- (3) Section 136(3) of the Criminal Procedure (Scotland) Act 1995⁽⁵⁾ (date when proceedings deemed to be commenced) applies for the purposes of this regulation as for the purposes of that section.
- (4) A magistrates' court in Northern Ireland has jurisdiction to hear and determine a complaint charging the commission of an offence under these Regulations provided that the complaint is made—

(5) 1995 c.46.

- (a) within three years beginning with the day after the commission of the offence, and
 - (b) within twelve months beginning with the day after the date on which evidence sufficient in the opinion of the Director of Public Prosecutions for Northern Ireland or the Secretary of State (as the case may be) to justify the proceedings comes to that person's knowledge.
- (5) For the purposes of this regulation a certificate of the Director of Public Prosecutions, the Lord Advocate, the Director of Public Prosecutions for Northern Ireland or the Secretary of State (as the case may be) as to the date on which evidence came to that person's knowledge is conclusive evidence.

Review

- 11.—(1) Before 6th April 2022 the Secretary of State must—
- (a) carry out a review of these Regulations,
 - (b) set out the conclusions of the review in a report, and
 - (c) publish the report.
- (2) The report must in particular—
- (a) set out the objectives intended to be achieved by the regulatory provisions established by these Regulations,
 - (b) assess the extent to which those objectives are achieved, and
 - (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

Date

Name
Parliamentary Under Secretary of State, Minister
for Small Business, Consumers and Corporate
Responsibility
Department for Business, Energy and Industrial
Strategy