ADDLESHAW GODDARD

The Payment Practices Regulations are due to be implemented in April 2017. Is your business ready?

What are the Payment Practices Regulations?

The Payment Practices Regulations (Regulations) (to be made under section 3 of the Small Business, Enterprise and Employment Act 2015), will require large companies and LLPs to publish specific information regarding their payment practices and policies.

The Government first published draft Regulations in November 2014. However, we are currently awaiting a final version, to reflect the Government's latest thinking and the results of a consultation that the Government ran in early 2015.

Why are the Regulations being implemented?

The Government has identified that late payment of undisputed invoices is a significant problem for UK businesses. The aim is to introduce greater transparency, so that suppliers can easily identify which businesses are "good payers" and which are not.

When will businesses be required to publish this information?

It is expected that the Regulations will come into force in April 2017, and will apply to financial years that start after that point. Businesses will be required to report on a six-monthly basis.

Which businesses will be required to report?

The requirement will only apply to "large" businesses (private companies, quoted companies and LLPs), determined using the Companies Act definition. Each large company within a group will be required to publish its own report – there is no option to report on a group-wide basis.

Where will the information need to be published?

Under the draft Regulations, each business will be required to publish its payment practices report in a prominent place on its website within 30 days of the end of the reporting period. The report must remain on the website for a minimum of three years.

What information should be included in the report?

The Government has published a draft form of report, which would require businesses to provide the following kinds of information:

- standard payment terms;
- maximum payment terms;
- any changes to these terms over the last reporting period;
- average time taken to pay invoices;
- proportion of invoices paid beyond the agreed terms; and
- proportion of invoices paid within the periods of 30, 60, 120 and over 120 days.

What will happen if a large business fails to publish a payment practices report?

The Government intends that public pressure on businesses will be the main driver for compliance. The draft Regulations also set out a number of offences (punishable by a fine) for directors of businesses which fail to comply with various aspects of the reporting requirement. However, respondents to the Government's consultation were understandably unenthusiastic about this aspect of the Government's proposals, and we await confirmation of the final position.

What should businesses do between now and April 2017?

Until the Regulations come into force, businesses can voluntarily support prompt payment practices by becoming a signatory to the Prompt Payment Code (PPC). The PPC sets standards for payment practices and best practice and is administered by the Chartered Institute of Credit Management on behalf of BEIS.

Businesses should ensure that their regulatory, legal and finance teams are aware of the new legislation regarding payment practices, and that they have the processes in place to be able to report on a company by company basis.

It may be that some businesses need to make changes now to policies, procedures and/or IT systems, or upgrade financial reporting tools, to ensure that they will be compliant with the Regulations when they come into force.

What about contracts awarded under the Public Contracts Regulations 2015?

Regulation 113 of the Public Contracts Regulations 2015 already requires contracting authorities to ensure invoices submitted by a supplier are paid within 30 days of the date the invoice is regarded as valid and undisputed. However, private sector suppliers to the public sector must also ensure that they 'pass down' the requirement to pay undisputed invoices within 30 days in any sub-contract arrangements.

Companies who have both public and private sector contracts will therefore need to comply with the prompt payment.

Who to contact

MARK MOLYNEUX
Partner

0161 934 6872
mark.molyneux@addleshawgoddard.com

ANDREW ROSLING
Partner

020 7880 5613
andrew.rosling@addleshawgoddard.com

LOUISE DOBSON
Managing Associate

0113 209 7636
louise.dobson@addleshawgoddard.com