

Departmental Disclosure Statement

Business Payment Practices Act Repeal Bill
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The departmental disclosure statement for a government Bill seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill.

It identifies:

- the general policy intent of the Bill and other background policy material;
- some of the key quality assurance products and processes used to develop and test the content of the Bill;
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

This disclosure statement was prepared by the Ministry of Business, Innovation and Employment.

The Ministry of Business, Innovation and Employment certify that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

20 February 2024

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Part One: General Policy Statement

The Business Payment Practices Act Repeal Bill repeals the Business Payment Practices Act 2023 (the Act) and revokes its secondary legislation.

The BPP Act was put in place to address long business to business payment times by requiring large entities to disclose their payment terms and practices on a public register.

However, the Government's view is that most small businesses will not have time to search for payment data on the Ministry of Business, Innovation and Employment's Internet site and that, even if they can find it and interpret it correctly, it be unlikely to impact their decisions about who to do business with. Furthermore, information on late payers is already available from credit agencies.

The repeal of the Act will remove its compliance costs on reporting entities. Comparable overseas disclosure regimes show that even if the reporting process is automated, there are still cases where manual intervention is required. This imposes an ongoing impost from the time to manually collate and enter invoice receipt dates.

Part Two: Background Material and Policy Information

Published reviews or evaluations

2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill?	NO
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Relevant international treaties

2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?	NO
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2.2.1. If so, was a National Interest Analysis report prepared to inform a Parliamentary examination of the proposed New Zealand action in relation to the treaty?	N/A
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Regulatory impact analysis

2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?	YES
<p><i>Two regulatory impact statements were prepared for the Act:</i></p> <ul style="list-style-type: none"><i>Regulatory Impact Statement Business to Business Payment Practices – 2 December 2021</i><i>Business Payment Practices Bill Regulations Regulatory Impact Statement – 25 May 2023.</i> <p><i>Cabinet’s impact analysis requirements applied to the proposal to repeal the Business Payment Practices Act 2023, but no Regulatory Impact Statement accompanied the Cabinet paper seeking policy decisions [ECO-24-MIN-0001], and the Treasury did not exempt the proposal. Therefore, the Cabinet paper seeking policy decisions did not meet Cabinet’s requirements for regulatory proposals.</i></p>	

2.3.1. If so, did the RIA Team in the Treasury provide an independent opinion on the quality of any of these regulatory impact statements?	NO
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2.3.2. Are there aspects of the policy to be given effect by this Bill that were not addressed by, or that now vary materially from, the policy options analysed in these regulatory impact statements?	NO
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Extent of impact analysis available

2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?	NO
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2.5. For the policy to be given effect by this Bill, is there analysis available on:	
(a) the size of the potential costs and benefits?	NO
(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?	NO
<i>The May 2023 RIS on the BPP regulations provides the latest analysis.</i>	

2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by:	
(a) the level of effective compliance or non-compliance with applicable obligations or standards?	NO
(b) the nature and level of regulator effort put into encouraging or securing compliance?	NO

Part Three: Testing of Legislative Content

Consistency with New Zealand's international obligations

3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?
<i>No inconsistencies with New Zealand's international obligations were identified</i>

Consistency with the government's Treaty of Waitangi obligations

3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi?
<i>No inconsistencies with the Crown's obligations under the Treaty of Waitangi were identified</i>

Consistency with the New Zealand Bill of Rights Act 1990

3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?	YES
<i>The Ministry of Justice has received a copy of the Bill and will raise any potential inconsistencies with the Attorney-General</i>	

Offences, penalties and court jurisdictions

3.4. Does this Bill create, amend, or remove:	
(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?	YES
(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?	NO
<i>a) Removes infringement offences, pecuniary penalties and offences clauses 36-50 in Act and clauses 9-11 in the regulations.</i>	

3.4.1. Was the Ministry of Justice consulted about these provisions?	YES
<i>The Ministry of Justice will be/has been consulted regarding the removal of these provisions through the BORA vet process.</i>	

Privacy issues

3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information?	NO
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3.5.1. Was the Privacy Commissioner consulted about these provisions?	N/A
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External consultation

3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill?	YES
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Yes, impacted government departments who were covered as reporting entities under the Act were consulted on the proposal to repeal the Act.

There has been no stakeholder consultation outside government departments on this Repeal Bill. However, stakeholder views were recently canvassed as the Act being repealed was considered by a Select Committee in 2023.

Other testing of proposals

3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill's provisions are workable and complete?	NO
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No – this is a straightforward repeal Bill of an Act not yet in force so there was no requirement for further policy testing or assessment.

Part Four: Significant Legislative Features

Compulsory acquisition of private property

4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?	NO
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Charges in the nature of a tax

4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?	NO
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Retrospective effect

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	NO
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Strict liability or reversal of the usual burden of proof for offences

4.4. Does this Bill:	
(a) create or amend a strict or absolute liability offence?	NO
(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?	NO

Civil or criminal immunity

4.5. Does this Bill create or amend a civil or criminal immunity for any person?	NO
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Significant decision-making powers

4.6. Does this Bill create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?	NO
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Powers to make delegated legislation

4.7. Does this Bill create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?	NO
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4.8. Does this Bill create or amend any other powers to make delegated legislation?	NO
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Any other unusual provisions or features

4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?	NO
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