



Comptroller and Auditor General
Special Report

Prompt Payment of Accounts

Report for presentation to Dáil Éireann pursuant to Section 11 of
the Comptroller and Auditor General (Amendment) Act, 1993 (No. 8 of 1993)



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July 2000

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ISBN 0-7076-6511-6

Special Report of the Comptroller and Auditor General

Prompt Payment of Accounts

I carry out prompt payment audits for all bodies whose financial statements I audit, as required under Section 13 of the Prompt Payment of Accounts Act, 1997. Individual prompt payment audit reports for all these bodies are produced in accordance with that Act.

This is a special report about a number of general matters which arose in relation to the 1998 prompt payment audits. The report was prepared in accordance with Section 11 of the Comptroller and Auditor General (Amendment) Act, 1993 and is hereby submitted for presentation to Dáil Éireann pursuant to that Section.

A handwritten signature in black ink, appearing to read 'John Purcell', with a large loop at the end.

John Purcell
Comptroller and Auditor General

26 July 2000

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Summary

Summary

Before the passage of the Prompt Payment of Accounts Act, 1997 (the Act), there were frequent complaints from individual suppliers and their representative organisations that many public sector bodies delayed payments for goods and services beyond reasonable limits, causing serious cash-flow problems for suppliers. With effect from 2 January 1998, the Act placed a legal obligation on public bodies to pay their bills on time. Where bodies fail to pay on time, they are required to compensate the suppliers affected by the delay, by paying interest on the outstanding amounts.

Under an EU directive to be translated into Irish law in 2002, the principle of prompt payment of bills will apply to both public bodies and private sector firms. The deadlines for payment will be tighter than under the current legislation.

This report was prepared to place relevant information about the payment performance of public bodies in the public domain, to draw attention to some difficulties which have arisen following implementation of the Act and to suggest remedial action where appropriate.

Payment Performance

The Act places a clear onus on public bodies to pay their suppliers on time. Each invoice must be paid within the period stated in the related contract or, if a contract does not apply, within 45 days. Special provisions in the Act deal with delays which arise because of problems involving suppliers, such as incorrect invoices being issued or disputes about the goods or services supplied.

The evidence available from prompt payment audits, supported by opinions of supplier representative organisations, suggests that for the most part public sector bodies paid most of their bills on time in 1998. Some organisations, especially in the education sector, need to improve their performance.

A total of £173,000 in penalty interest was paid in 1998 as compensation to suppliers by 73 of the 93 public bodies reviewed for this report. It is likely that further interest was paid by bodies not included in the review. Such payments represent a loss which could have been avoided if invoice handling and payment procedures had been managed more efficiently.

Implementation of the Act

Some public bodies were slow in adapting their payment systems and were unable to comply with the Act for all or part of 1998.

In 1997, the Department of Enterprise, Trade and Employment (DETE) issued an information booklet for public bodies about the implementation of the Act. A number of issues not dealt with in the booklet have since arisen. These include the payment of very small amounts of interest and the appropriate treatment of payments to foreign suppliers and between government departments. Legal advice has been received by DETE on each of these issues. It should swiftly take any steps needed to resolve outstanding matters and publish revised guidance for public bodies on how such matters are to be handled.

Reporting of Payment Practices

The Act requires public bodies to publish a report each year about their payment practices. The report must be included in the annual report of the body concerned or, if no annual report is published, the payment practices report must be sent by the body to DETE for transmission to the Oireachtas. These reporting arrangements are intended to provide members of the public, including potential suppliers, with information about payment practices in individual bodies.

There was an overall lack of completeness in DETE's arrangements for obtaining payment practices reports. Moreover, there were significant delays in submitting the reports to DETE and in their presentation to the Oireachtas.

DETE issued guidelines outlining the minimum information to be contained in payment practices reports. Around one third of the 93 public bodies reviewed for this report failed to provide some or all of the information specified in the guidelines in their 1998 payment practices reports.

It is not easy for members of the public to access information about the payment performance of public sector bodies, since it is not obvious where or how payment practices reports are to be found. The range of information published in the reports could be expanded so that comparisons can be made between the performance of different bodies and sectors. Revised guidelines for reporting should be issued by DETE, which should also consider taking steps to improve public access to relevant information about the payment practices in public bodies. It could, for example, consider issuing an annual report on the subject.

Audit Considerations

The Act requires the auditors of public sector bodies to report on whether or not the bodies concerned comply with the provisions of the Act. This role for auditors and the possibility of receiving an adverse audit report were designed to ensure bodies comply with the Act.

No provision was made in the Act for the publication of the prompt payment audit reports. DETE should consider issuing guidelines about the presentation of the audit reports, requiring them to be published with the relevant payment practices reports.

Prompt Payment of Accounts

1 Introduction

1.1 During the early 1990s, there were frequent complaints from suppliers of goods and services to public bodies that they were experiencing excessive delays in receiving payment. The suppliers and their representative bodies pointed out that delays in payment contributed to cash-flow difficulties for suppliers, particularly small businesses, and made it necessary for suppliers to allocate extra resources to follow up unpaid invoices.

The Prompt Payment of Accounts Act, 1997

1.2 The Task Force on Small Business, which reported in 1994, concluded that late payment to suppliers was a constant problem for small businesses and recommended that legislation be introduced to ensure prompt payment by the public sector. The Government decided in 1996 to introduce legislation along those lines.

1.3 Surveys and estimates of the time taken to pay invoiced amounts indicated that average payment periods in Ireland were very long. However, the surveys did not distinguish between public and private sector purchasers. Goodbody Economic Consultants were commissioned to provide information about the range and extent of late payment by public sector bodies and to establish a benchmark for future measurement of the effectiveness of the proposed legislation. The consultants concluded¹ that late payment by public sector bodies (particularly bodies in the local authority and health sectors) was a significant problem.

1.4 The Prompt Payment of Accounts Act, 1997 (the Act) came into effect on 2 January 1998. The terms of the Act apply to over 400 public sector bodies (see Appendix A). The Act aims to reduce the level of late payments made by public sector purchasers by requiring them to pay their suppliers within a specified time, or to pay interest to suppliers if payments are late. Each body must report annually on its payment performance and compliance with the Act must also be independently audited each year. (See Figure 1.1.)

1.5 The Minister of Enterprise, Trade and Employment is empowered to make regulations or orders under the Act. For example, she may (in consultation with the Minister for Finance) vary the rate of penalty interest to be paid by purchasers or make changes to the list of bodies covered by the Act. Apart from increasing the rate of penalty interest, the Minister has not made any regulations or orders under the Act.

¹ Goodbody Economic Consultants, Payment Practices in the Public Sector, May 1997.

Figure 1.1 Requirements under the Prompt Payments of Accounts Act, 1997

Payment requirements on public sector bodies

- Pay suppliers within the contract period, or within 45 days if no contract conditions apply.
- If payments are late, pay interest to the suppliers.
- Pay interest due when the bill is being paid.
- Explain to the supplier why interest is being paid and how the amount of interest was calculated.

Reporting requirements

- Public sector bodies must report once a year to the Department of Enterprise, Trade and Employment, or in their annual reports, about their payment performance and practices.
- The Department of Enterprise, Trade and Employment must present the reports it receives to the Houses of the Oireachtas as soon as practicable.

Audit requirements

- Auditors of the affairs of public sector bodies must report on whether, in all material respects, the body concerned has complied with the provisions of the Act.

Guidance on the Implementation of the Act

1.6 The Act describes the obligations which it imposes on public sector bodies only in very broad terms. After the Act was passed, the Department of Finance, which is responsible for ensuring that appropriate accounting practices are adopted by public sector bodies, issued instructions to public sector bodies about the implementation of the Act.² The Department of Enterprise, Trade and Employment (DETE) issued a guidance document about the objectives and operation of the Act to assist the bodies affected by the Act to meet their obligations.³ The DETE also issued a booklet which outlines the minimum information about payment practices which should be reported by public bodies.⁴

² Department of Finance, Circular 30/97 - Prompt Payment of Accounts Act, 1997, July 1997.

³ Department of Enterprise, Trade and Employment, Prompt Payment of Accounts Act 1997 - Explanatory Leaflet, September 1997.

⁴ Department of Enterprise, Trade and Employment, Prompt Payment of Accounts Act 1997 - Guidelines for Public Bodies on Disclosure of Payment Practices, November 1998.

EU Directive on Prompt Payment

1.7 The EU has recently adopted a directive which will set standards for the timeliness of payments to suppliers of goods and services across all EU member states. It defines late payments as those not made within 30 days of receipt of invoice and will apply to both public and private sector purchasers. It is envisaged that Irish legislation will be amended to give effect to the directive by June 2002.

Objective of the Report

1.8 Most of the bodies to which the Act applies (see appendix A) are audited by the Comptroller and Auditor General. This report reviews issues arising from the 1998 prompt payment audits of these bodies and, where appropriate, makes recommendations to address problem areas.

1.9 Local authorities, which are audited by the Local Government Audit Service, and public sector bodies audited by private sector auditors are not covered by this report because they are outside the remit of the Comptroller and Auditor General.

1.10 This report considers the issues from the viewpoints of the four stakeholder groups: the suppliers of goods and services to public sector bodies; the public sector purchasers themselves; DETE; and the auditors of public sector bodies.

- Chapter 2 considers the extent to which purchasers complied with the Act in its first year in operation.
- Chapter 3 outlines the main issues which purchasers had to address in implementing the legislation.
- Chapter 4 considers whether the reporting of payment practices has been satisfactory.
- Chapter 5 reviews issues related to carrying out audits of compliance with the requirements of the Act.

Methodology and Approach

1.11 This report is based mainly on the findings of 1998 prompt payment audits of bodies whose financial audits had been completed by February 2000. The information presented was largely drawn from audit papers, payment practices reports prepared by purchasers, correspondence with suppliers' representative bodies, Dáil Éireann and Seanad Éireann debates and other information provided by DETE.

2 Payment Performance

2.1 The Act requires public sector bodies to pay their bills on time. It also created obligations on bodies to pay interest to suppliers when payments are late and to provide public information about the bodies' payment records. These further obligations were designed as incentives to encourage bodies to pay on time.

2.2 In the context of the Act, best business practice for public sector bodies is to try to pay all their bills on time. Success in achieving this objective would minimise the need for bodies to pay penalty interest. While such payments are mandatory under the Act, they should be unnecessary and could largely be avoided by efficient handling of invoices and payments. The level of late payments and of penalty interest payments are indicative of the extent of the failure of individual public bodies to pay their bills on time.

2.3 This chapter presents the results of an examination of the payment practices reports of 93 public sector bodies as an indication of the timeliness of payments to suppliers by public bodies. The summarised views of the representative bodies of suppliers on the impact of the Act on the timeliness of payment by public bodies are also presented.

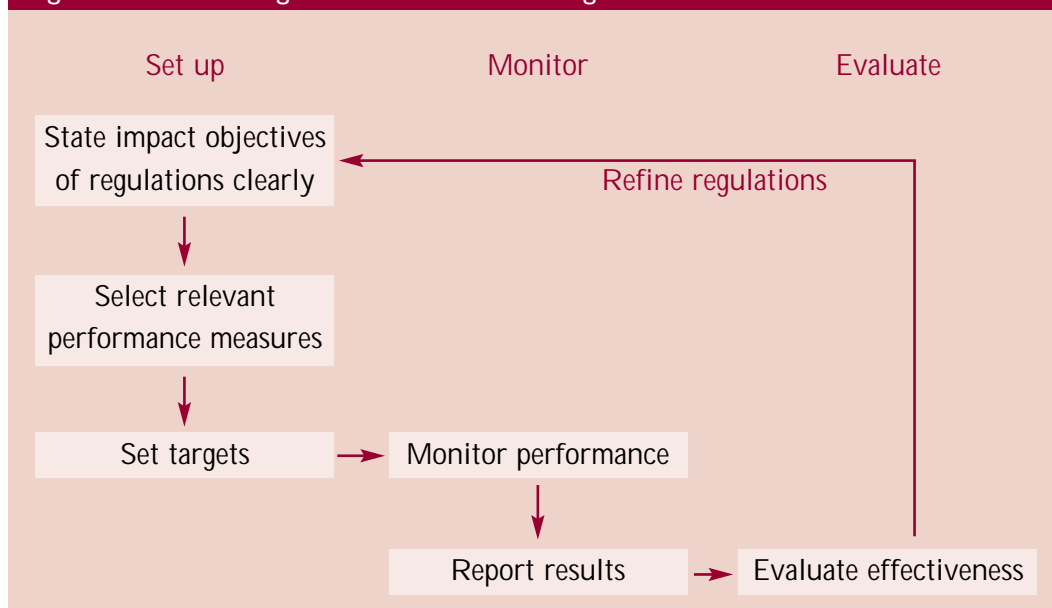
Evaluating the Effectiveness of the Act

2.4 The process of evaluating a set of operational regulations can be divided into three stages, as shown in Figure 2.1. At the time the regulations are being put in place, the desired impacts should be specified clearly. Relevant performance measures should be selected, where possible, and target values for each measure should be stated. Once the regulations are implemented, the performance of the agencies which are required to administer them should be monitored and the results reported regularly. At appropriate stages, the effectiveness of the regulations should be evaluated and, if warranted, the objectives and the regulations should be refined in the light of the evaluation findings.

2.5 The DETE guidelines on reporting about payment practices specify five performance measures in relation to the timeliness of payments. These are

- the total number of payments in excess of £250 which were late
- the total value of payments in excess of £250 which were late
- a "broad indication of the length of the delays"
- the value of all late payments as a proportion of the value of total payments made to suppliers
- the total amount of interest paid in respect of all late payments.

Figure 2.1 Evaluating the effectiveness of regulations



2.6 The measures specified by DETE would enable it to monitor the performance of individual bodies but comparisons between bodies could be enhanced if additional information along the following lines was furnished

- the average payment period for all payments (days elapsed from date of receipt of invoice to date payment is made)
- the number and value of all payments to suppliers
- the number and value of late payments.

In addition, it would be useful if a distinction could be made between payments that are due to be paid within a contract period and those that are governed by the 45-day rule.

Prompt Payments Performance

2.7 The results presented in the following sections are based on the payment practices reports of 93 public sector bodies. This includes all government departments and offices (30 in total) and a proportion of the bodies in the education, health and semi State sectors. While this is a significant proportion of the bodies covered by the Act, the results cannot be regarded as a representative sample for a number of reasons.

- Only bodies audited by the Comptroller and Auditor General were included. Consequently, the results do not cover bodies in the local authority and commercial semi State sectors.
- Bodies whose financial audits in respect of 1998 had not been completed by February 2000 were excluded.

- Non-commercial State bodies whose expenditure on goods and services was estimated to be less than £5 million were not included in the examination.

The impact of the Act on the bodies not included in the review may differ significantly from the results reported here.

2.8 Further prompt payment findings were available for financial audits completed after the February 2000 cut-off date adopted for this review. It was found that the bodies audited later were more likely not to have complied with the provisions of the Act. This was particularly the case with those vocational education committees whose audits were completed between February and May 2000.

Number of Public Bodies Making Late Payments

2.9 More than half the public bodies reviewed made at least some late payments to suppliers in 1998. More than a quarter stated that all their payments had been made on time. Almost a fifth of the bodies gave no indication in their payment practices reports as to whether or not they had made any late payments during 1998.

Table 2.1 Number of public sector bodies reporting late payments to suppliers in 1998, by sector

Bodies	Number of bodies reporting		Number of bodies where no information was given	All bodies reviewed
	no late payments	some late payments		
Government departments and offices	7	22	1	30
Education sector bodies	3	6	7	16
Health sector bodies	2	10	5	17
Semi State bodies	14	12	4	30
All bodies	26	50	17	93
	28%	54%	18%	100%

Source: Reports prepared by bodies under Section 12 of the Prompt Payment of Accounts Act, 1997

Number of Payments Made Late

2.10 Sixty three of the bodies reviewed reported the number of large payments (£250 or more) which were paid late (see Table 2.2). One body - the Department of Justice, Equality and Law Reform - had over 1,300 large payments which were late. Seven bodies reported that they were late in making large payments to suppliers on more than 100 occasions.

2.11 The total number of large payments to suppliers by the 63 bodies which reported is not known but is certainly very considerable. On that basis, it is reasonable to conclude that the percentage of large payments made late is relatively low.

Table 2.2 Frequency of late payment of invoices of £250 or more in 1998, by sector

Bodies	Number of bodies where the number of large payments which were late was					Number of bodies not reporting the number of late payments	All bodies reviewed
	none	10 or less	11 to 100	101 to 500	More than 500		
Government departments and offices	9	7	9	2	1	2	30
Education sector bodies	3	1	3	1	-	8	16
Health sector bodies	2	-	1	1	-	13	17
Semi State bodies	14	3	4	2	-	7	30
All bodies	28	11	17	6	1	30	93

Source: Reports prepared by bodies under Section 12 of the Prompt Payment of Accounts Act, 1997

Amount of Money Paid Late

2.12 Two-thirds of the bodies reviewed stated the percentage of money which they paid late (see Table 2.3). This ranged from nil (i.e. they had no late payments) up to almost 5%. In most cases, the percentage was very low. Only in four cases did the amount of money paid late exceed 3% of the total amount paid to suppliers.

2.13 Many bodies reported the total amount of money involved in the large payments made late to suppliers. Thirty one bodies reported that they were late paying a total of £6.4 million to 2,295 suppliers, an average of almost £2,800 per payment. Five bodies were late in paying more than £500,000 each.

Table 2.3 Money paid late as a percentage of total amount paid to suppliers in 1998, by sector

Bodies	Late payments as a percentage of all payments
Government departments and offices	0% to 3.6%
Education sector bodies	0% to 3.6%
Health sector bodies	0% to 2.5%
Semi State bodies	0% to 4.8%
All bodies	0% to 4.8%
Number of bodies reporting	61

Source: Reports prepared by bodies under Section 12 of the Prompt Payment of Accounts Act, 1997

Time Taken to Make Payments to Suppliers

2.14 For the 26 bodies which reported they had no late payments, the average time taken to make payments is 45 days or less.

2.15 In those bodies which reported that they made some late payments in 1998, late payments ranged from an average of 6 days late in one body, to an average of 73 days late in another.

2.16 For those bodies which had a large number of late payments, the average delay was generally in the region of 25 to 30 days i.e. it took a total of 70 to 75 days to make the payments.

Penalty Interest Paid

2.17 The amount of penalty interest paid by public bodies is a useful summary indicator of the extent of late payments because it takes into account both the amount of money paid late and the length of the delays involved.

2.18 Most of the bodies reviewed reported the amount of interest paid (see Table 2.4). The total amount of interest paid which was reported by 76 bodies was £173,000. Seven bodies, four of which were health boards, paid more than £5,000 each in penalty interest. The highest amount of interest paid by a single body was £21,700.

2.19 While the total amount of penalty interest paid is a significant sum, it represents only a very small percentage of the total value of goods and services purchased by the public bodies concerned.⁵ This indicates that the objective of paying on time was largely met.

Table 2.4 Amount of penalty interest paid in 1998, by sector

Bodies	Number of bodies where the amount of penalty interest paid was				Number of bodies not reporting interest amount	All bodies reviewed
	Nil	Less than £1000	£1000 to £5000	More than £5000		
Government departments and offices	7	13	8	1	1	30
Education sector bodies	3	6	-	-	7	16
Health sector bodies	2	4	2	4	5	17
Semi State bodies	14	8	2	2	4	30
All bodies	26	31	12	7	17	93

Source: Reports prepared by bodies under Section 12 of the Prompt Payment of Accounts Act, 1997

⁵ The bodies include all the large government departments and offices, all the health boards, five institutes of technology and a significant number of larger non-commercial semi State bodies.

Comparisons with the Goodbody Report

2.20 The results reported here in relation to 1998 cannot readily be compared with those of the Goodbody report, which examined the situation in all public sector bodies in 1996. The bodies whose payment practices reports were reviewed here are not representative of the public sector in general. Furthermore, the payment practices reports do not yield the same range of information as was collected for the Goodbody report. However, a more significant impediment to direct comparisons lies in differences in the definition of 'late payment'.

2.21 The Act allows public bodies to extend the 45-day payment period for a number of reasons e.g. where contract conditions provide for a longer payment period or where invoices presented by suppliers are inaccurate or deficient in some respect. In contrast, the Goodbody report defined a late payment as any payment not made within 45 days, irrespective of the reason for the delay. The consultants concluded that there was a significant late payment problem in 1996 but that this was due as much to factors on the suppliers' side as to delays by purchasers. However, they could not reliably distinguish how much of the difficulty arose on the purchasers' side. The results presented here relate solely to difficulties on the purchasers' side and, since the 1996 position is not known clearly, the change in purchaser-related performance cannot therefore be quantified. Nevertheless, it does appear that there has been an improvement in the processing of payment by public bodies.

Views of the Suppliers' Representative Bodies

2.22 During the preparation of this report, the Small Firms Association (SFA) and the Irish Small and Medium Enterprises Association (ISME) were asked for their views on the issue of timeliness of payment to suppliers by public sector bodies since the Act came into effect. Both Associations reported that payments to suppliers had improved considerably and that, from the suppliers' point of view, the Act is operating very satisfactorily.

2.23 While being generally satisfied with the impact of the Act, the Associations had a number of specific comments about its operation.

- ISME stated that the wording of the Act is not strong enough on monitoring and enforcement by DETE. The SFA would also like DETE to monitor more closely the level of compliance of purchasers with the Act.

- ISME is of the opinion that the role of DETE is unclear in relation to the resolution of disputes involving late payments while the SFA sees a need for investment in training in dispute resolution for procurement officers in public sector bodies.
- ISME would like the Act to be extended to the private sector.

2.24 In introducing the prompt payment legislation, it was decided to keep DETE's enforcement role to a minimum. It was not intended that DETE would actively intervene to improve payment performance in bodies which had long payment periods. Instead, the intention was that DETE would ensure that information about the payment practices of all public bodies was available to the public. It was expected that this would allow suppliers to identify public bodies with poor payment practices and to take appropriate action.

Conclusions

2.25 Based on the limited evidence which emerged in carrying out prompt payment audits, there is not a significant late payment problem in central government departments and offices. Most departments and offices make the vast majority of their payments on time but some need to improve their performance.

2.26 It is more difficult to draw conclusions about the timeliness of payments in education and health bodies and, to a lesser extent, in the semi State bodies because less information is readily available about payment performance in these sectors. However, more recent audits conclude that a significant proportion of bodies in the education sector are not paying as promptly as they should be. Nevertheless, the indications are that there has been an improvement on the pre-1998 position.

2.27 The generally positive views of the suppliers' representative associations about the impact of the Act suggest that, in the public sector as a whole, the Act has had the desired effect.

2.28 If a formal evaluation of the effectiveness of the Act is carried out, it may provide an opportunity to also carry out research in relation to the application of the EU directive. Benchmark information about prompt payments by the private sector and the implications of the reduction of the payment period from 45 to 30 days for the public sector, should be provided before the directive is translated into Irish law.

3 Implementation Issues

3.1 Public sector bodies covered by the Act had to adapt their payment systems to track individual invoices, to identify those not paid within the prescribed payment periods and to automatically calculate and include interest with these late payments. Some purchasers encountered difficulties applying the requirements of the Act to their organisations either because systems and procedures were deficient or due to problems interpreting the Act.

Coverage of the Act

3.2 The Act is clearly intended to apply to all public sector purchasers. A list of purchasers is included as a Schedule to the Act but the Schedule is incomplete and contains a number of inaccuracies. For example

- The Houses of the Oireachtas, which provides administrative support to elected representatives, is omitted from the Schedule.
- Bodies established since the introduction of the Act, such as Enterprise Ireland and the Food Safety Authority of Ireland, are not listed and therefore are not covered by the Act.
- Bodies that have ceased to exist, such as the Office of the Tánaiste, still appear on the Schedule.
- A number of entities such as the Office of the Paymaster General and the Companies Registration Office are listed in the Schedule although they are, in fact, parts of government departments.

This results in a random group of public bodies being outside the terms of the Act and in confusion about reporting arrangements.

3.3 While DETE intended to review and, if necessary, update the schedule every year, no amendments have been made to it since the passage of the Act. A draft order to amend the schedule was sent to the Parliamentary Draftsman's Office in June 2000.

3.4 In any case, DETE has stated that it should be possible to delete the schedule when the Act is amended to reflect the EU directive requirement that both public and private sector purchasers will be subject to the Act.

Adaptation of Payment Systems

3.5 The implementation date for the Act (2 January 1998) was chosen to provide purchasers with sufficient advance notice to ensure that they were equipped to meet the requirements of the Act. In addition, the Department of Finance circulated a guide about the practical implications of the Act for purchasers at the end of July 1997, which gave public bodies five months to evaluate existing payment systems, make necessary alterations or, if necessary, install new systems.

3.6 Payment systems in all public bodies are now required to be able to identify the dates when invoices are received and payment is made to the supplier. In practice, neither of these is a simple process unless the invoice receipt and payments systems are fully automated. For example, invoices may be received in many parts of an organisation and the recording of the receipt date must usually be done by the recipient. The payment date is defined in the Act as the date the supplier receives payment, rather than the date the payment issues. For a variety of reasons, such as delivery delays when payments are made by post, this can be difficult for the purchaser to identify. Despite these data identification and capture difficulties, penalty interest payments depend on these dates being recorded accurately. This creates a risk that the systems in place may fail to some extent to implement the provisions of the Act.

3.7 Payments systems should also capture any contract conditions about payment periods, since this is a factor in the calculation of penalty interest due. This usually depends on the identification of the relevant information from contract papers or order forms and requires manual input of the data into the payments system. The variable nature of contract payment periods adds to the risk of not paying on time.

3.8 Problems on the suppliers' side can delay payments by purchasers. The Act addresses these supplier-related problems by enabling purchasers to extend the prescribed payment periods if

- the invoice presented by the supplier is inaccurate or incomplete
- the supplier fails to provide a valid tax clearance certificate
- there is a dispute about the amount due to the supplier.

The systems and procedures established by purchasers must be able to deal appropriately with all these situations.

3.9 Four of the bodies reviewed were found, during all or part of 1998, not to have appropriate or adequate systems in place to comply with the payment provisions of the Act. Situations where penalty interest was due to suppliers but was not paid occurred in three of the four bodies (the Arts Council, the National Gallery and the National Rehabilitation Board).

3.10 The Act requires that interest due on each late payment should be included with the payment. Eight purchasers did not enclose interest which was due with some late payments in 1998. The bodies concerned were

- Athlone Institute of Technology
- County Mayo Vocational Educational Committee
- Department of Social, Community and Family Affairs
- Dublin City University
- Eastern Regional Fisheries Board
- Institute of Technology, Sligo
- North Western Health Board
- Údarás na Gaeltachta

Dublin City University decided to pay interest which was due to suppliers only at six-monthly intervals.

3.11 The bodies which did not pay penalty interest at the same time as the related late payment attributed this non-compliance to the failure of their payment systems to track invoices and deal with penalty interest. These bodies were obliged to retrospectively identify late payments and calculate the associated amounts of interest. In certain cases, interest relating to 1998 payments was not paid to suppliers until 1999.

Interpretation Problems

3.12 Several problems arose in the way the Act was interpreted and applied by particular purchasers. Some purchasers had difficulties dealing with specific provisions of the Act and sought legal advice to resolve the situation. In other cases, purchasers decided not to apply certain requirements of the Act for practical economy reasons.

Small Amounts of Interest

3.13 The payment of interest cannot be waived by the supplier and must be paid without demand from the supplier. This automatic entitlement to interest is a fundamental requirement for the effective operation of the Act because it ensures that suppliers are not placed in the vulnerable position of having to apply for interest due or put under pressure by purchasers to forgo such interest.

Table 3.1 Minimum payment thresholds set for penalty interest in 1998

Body	Threshold set
Department of Defence	£1
Eastern Health Board	£1
Western Health Board	£1
Department of Marine and Natural Resources	£2
Athlone Institute of Technology	£5
Dublin City University	£10
St James's Hospital	£10

Source: Analysis of Section 13 audit certificates

3.14 Despite the provisions contained in the Act, seven purchasers decided to withhold the payment of relatively small amounts of interest. They each specified a threshold level of interest (ranging from £1 to £10) and did not pay interest due when it was below this level (see Table 3.1). The purchasers contended that the cost of processing these small amounts was disproportionately high and that furthermore, the cost to suppliers of accounting for these sums would outweigh any financial gain.

3.15 Legal opinion about this practice has confirmed that interest must be paid automatically, irrespective of the amount due. Moreover, regulations cannot be made under the Act to empower purchasers to withhold payment of small amounts of interest. It would require a change in legislation to set a threshold level for interest payments.

3.16 The EU directive allows member states to establish a threshold level for interest payments. If applied, interest amounts less than €5 will not be paid to suppliers.

3.17 An alternative method of eliminating the processing of negligible amounts of interest would be to set a minimum compensation payment whenever a payment to a supplier is late. For example, the payment of the amount of interest due or €5, whichever is the greater, would preserve the central principle that a penalty is paid when payment to a supplier is late.

3.18 DE TE accepts that a failure to pay small amounts of interest is a technical breach of the Act but considers that the approach adopted by purchasers was pragmatic. It favours the proposal in the directive to disregard interest payments below €5. It considers that the purpose of the Act was to improve payment practices which were causing serious problems for suppliers, rather than to deal with issues such as a small payment being a day late. It agrees that the Act should be amended to deal with this matter but does not believe that an early amendment is warranted.

Definition of Supplier

3.19 In the context of the Act, a supplier is defined as a person who provides goods or services on the direction of a purchaser under a contract between that person and the purchaser. Certain purchasers encountered difficulties when applying this definition to certain classes of suppliers.

Foreign Suppliers

3.20 Bord Fáilte paid £11,315 in interest on late payments to suppliers during 1998. Most of this interest was paid to foreign suppliers. Subsequently, however, Bord Fáilte questioned the appropriateness of applying the Act to payments to suppliers outside Ireland. Legal opinion sought by Bord Fáilte and confirmed by the Attorney General supported this view on the basis that the Act does not apply to foreign payments unless the contract states otherwise.

3.21 This interpretation of the Act potentially poses a difficulty for all public sector bodies who, in order to comply with the Act, may now need to distinguish between payments to domestic and overseas suppliers and to ascertain whether or not the contracts made with foreign suppliers explicitly state that the payments are subject to the Act. DE TE has not yet informed purchasers of the implications of the legal opinion.

3.22 These difficulties may be compounded by the translation into law of the EU directive on prompt payments which, presumably, would apply to both Irish and EU suppliers, but not to other suppliers.

Government Departments as Suppliers

3.23 The Department of Agriculture and Food paid £18,000 in interest to the Office of Public Works in relation to late payments in 1998 but subsequently formed the opinion that the Act does not apply to transactions between government departments. The Attorney General agreed with this view even though the Act specifically provides that a purchaser subject to the Act may also be a supplier.

3.24 DETE disputes the assumption made by the Attorney General that the Act was not intended to regulate transactions between government departments. In November 1999, the Attorney General accepted that the Act can cover such transactions but stated that, in general, agreements between government departments are not intended by the Ministers concerned to be legally binding contracts. In that case, they would not be subject to the Act. He recommended that a government decision be sought to ensure that these inter-departmental transactions would not, as a matter of course, be covered by the Act. This issue remains unresolved but DETE is satisfied that the Act does apply to such transactions. However, the Department of Agriculture and Food has not paid any further interest to the Office of Public Works.

Payment Periods Defined by Contracts

3.25 The Act provides for penalty interest to be paid where a supplier is paid after the date due under the terms of a contract or, if no contract date applies, after 45 days. Therefore bodies can legitimately extend the payment period beyond the standard 45 days if a written contract provides for it. However, the Act empowers the Minister for Enterprise, Trade and Employment to make regulations to reduce the payment period in cases where bodies may benefit from unreasonably long payment periods.

3.26 Audits found that few bodies extended the payment period by way of contract conditions. However, it was also found that some bodies made all payments after a standard payment period which was more than 45 days, or on a single designated day every month regardless of whether a payment was overdue or not. These payment conditions are specified by the bodies concerned in writing on their standard order forms. The Attorney General has stated that although these payment periods may become the basis for a binding contract, they are not written terms agreed to in advance between the parties and, as such, they do not constitute written contracts for the purpose of the Act.

3.27 While there is little evidence that contracts are being used to extend payment periods, the potential exists for bodies to take advantage of this power to define when payments become late. This makes it difficult to monitor payment practices and to compare the performance of bodies. For example, a body which routinely sets long payment periods in contracts may pay no penalty interest despite having an average payment period of 55 days. By comparison, another body not using contracts in this way may have an average payment period of 50 days and pay a significant amount of interest.

3.28 Accordingly, it may be appropriate for the Minister for Enterprise, Trade and Employment to make regulations to apply an overall maximum payment period for all payments. DETE should also issue guidance about the conditions of contracts for the purposes of the Act, based on the advice of the Attorney General.

Conclusions

3.29 An update of the Schedule to the Act is required to ensure that all public sector bodies are covered by the Act.

3.30 Purchasers were given at most, five months formal notice of the introduction of the legislation. Some did not have payment systems in place in 1998 to identify late payments or to award penalty interest.

3.31 The practice of withholding small amounts of interest is not permitted under the Act. DETE should give clear guidance to public bodies about the legal situation or amend the Act to give effect to the alternative treatment of such interest payments.

3.32 DETE should inform all public bodies that payments to foreign suppliers are not covered by the Act unless the contracts governing the payments state otherwise.

3.33 Transactions between public bodies were intended to be covered by the Act but there is some ambiguity about the treatment of transactions between government departments. The issues raised by the Attorney General in this respect should be resolved without delay and the resulting position should be explained clearly to all departments.

3.34 DETE plans to deal with shortcomings in the Act when legislation is introduced to give effect to the EU directive. In the meantime, revised guidelines for implementation of the Act should be issued to assist public bodies in dealing with problem areas.

4 Reporting of Payment Practices

4.1 Section 12 of the Act requires each body to which it applies to report each year about its payment practices. The reports are intended to act as a vehicle for

- informing members of the public and potential suppliers about payment practices and the timeliness of payments by public bodies
- making public bodies accountable for the timeliness with which they make payments to suppliers
- evaluation of the impact of the Act by DETE.

4.2 The publication of payment practices reports was planned as a strong incentive for public sector bodies to pay their bills on time. Through this mechanism, suppliers were expected to be able to identify bodies with poor payment records and take appropriate action. It was intended that DETE would ensure that information about payment practices in all public bodies was available to the public.

4.3 DETE issued guidelines in November 1998 to assist public bodies to fulfil their reporting obligations (see Figure 4.1.). This chapter describes the extent to which the bodies reviewed have complied with the DETE reporting guidelines. It also considers whether or not the reporting system currently in place is adequate to meet the accountability, transparency and evaluation objectives referred to above.

Compliance with Reporting Guideline Requirements

4.4 The Act allows the Minister for Enterprise, Trade and Employment to make legally-binding regulations about what information the Section 12 reports should contain and within what time frame they should be produced. Rather than make regulations about these matters, it was decided to issue non-binding guidelines, which can be amended more easily than regulations. DETE promised to review regularly the way in which bodies reported on their payment practices to ensure that the provisions of Section 12 were being adequately followed.

4.5 The DETE guidelines were published in November 1998. They specifically require each government department to ensure that a copy of the guidelines was forwarded to appropriate personnel in the public bodies under the aegis of the department. Several bodies reported that they had not received copies of the guidelines prior to the commencement of the prompt payment audits in mid to late 1999. This resulted in at least some bodies being unaware of the specific reporting requirements.

Figure 4.1 Reporting requirements under the Prompt Payment of Accounts Act, 1997 and departmental guidelines

Reporting requirements under the Act

- A body which is obliged by law to publish an annual report must report on its payment practices in the annual report.
- A body which is not obliged by law to publish an annual report must submit a report on its payment practices to the Minister for Enterprise, Trade and Employment, who in turn must present the report as soon as practicable to the Houses of the Oireachtas.

Reporting procedures specified in DETE guidelines

Timing of report

- Reports which are to be submitted to DETE should be provided within nine months of the end of the period being reported on.
- Where a report is to be included in a statutory annual report, the time limit specified for the submission of the annual report applies.

Content of report

- A broad statement regarding the body's payment practices including, in particular, information on the standard payment periods specified in written contracts and any other information which would be necessary or helpful in the interests of transparency with regard to the payment practices.
- The total number and value of payments in excess of €250 which were late, together with a broad indication of the length of the delays.
- The value of all late payments as a proportion of the value of total payments made to suppliers.
- The total amount of interest paid in respect of late payments.
- A statement of compliance with the Act by the responsible officer/directors.

Submission of Section 12 Reports

4.6 DETE has no reliable estimate of the number of Section 12 reports it should have received in respect of 1998. In part, this is because DETE has not categorised bodies in terms of their method of reporting. Without this information, DETE will have difficulty in monitoring the reporting process and in enforcing the reporting requirements. As a first step to gathering the required information, DETE should consider writing to all the bodies covered by the Act, asking them to state which of the two reporting methods applies to them. A body which states in the return that the annual report method applies should also be asked to supply details of the legal basis for producing the annual report.

4.7 By February 2000, DETE had received a total of 39 payment practices reports. Half of these were submitted by government departments and offices. In some cases, a single report may cover the payment practices of a number of bodies specified in the Act.⁶ It is not known how many other payment practices reports were included by public bodies in their 1998 annual reports.

4.8 More than half of the reports received by DETE from government departments had been submitted by the bodies concerned after the specified nine-month time limit.

4.9 DETE's objective of ensuring that information about the payment practices of public bodies is available to the public would be easier to achieve if all bodies covered by the Act were required to submit their reports about their payment practices to DETE. Bodies required to prepare an annual report under other legislation would continue also to disclose their payment practices in their annual reports, as required under Section 12.

Information Contained in Section 12 Reports

4.10 Almost all Section 12 reports reviewed incorporated a statement of compliance in the required format. However, statements confirming compliance were included in a number of cases where audits subsequently revealed deficiencies and even non-compliance with the Act. Accordingly, the value and reliability of these statements may be doubtful.

⁶ For example, the Office of the Director of Consumer Affairs and the Office of the Registrar of Friendly Societies are both part of DETE, which provides a central accounting and payments system. DETE's own Section 12 report may also be considered to cover the payment practices of the Offices.

4.11 The guidelines detailed how to calculate the value of late payments as a proportion of total payments to suppliers. However, the wording of the guidelines is ambiguous. Three government departments based their calculation on total expenditure, as opposed to total payments to suppliers. One department stated that this interpretation was used after consultation with DETE but, nevertheless, accepted that the late payments would be more appropriately represented as a proportion of payments to suppliers.

4.12 Around one third of the 93 bodies reviewed for this report did not supply some or all of the statistical information requested in the guidelines. For example

- 30 bodies did not state the number of late payments in excess of £250 each
- 34 bodies did not state the value of late payments in excess of £250 each
- 32 bodies did not give the value of all late payments as a proportion of the value of total payments made to suppliers, and
- 18 bodies did not state the amount of penalty interest paid.

Without this minimum amount of information, it is difficult to establish the extent to which payments by individual bodies are late. Consequently, the Section 12 reports in question are of limited value to interested parties.

4.13 In June 2000, DETE carried out a limited review of the 1998 payment practices reports it had received to establish if they contained the information sought in the guidelines. The findings of that review are consistent with the results presented here.

Transmission of Reports to The Oireachtas

4.14 DETE is required under the Act to present payment practices reports to the Oireachtas as soon as practicable after receiving them. However, it has no system in place to record the dates of receipt of the reports so it is difficult to establish whether or not it has fulfilled its obligations in a timely way.

4.15 Fifteen of the payment practices reports from government departments were produced before the end of October 1999. There is no reason to believe that the departments delayed the delivery of the reports to DETE, yet it did not present any of these reports to the Oireachtas until 12 January 2000.

4.16 Four government departments submitted Section 12 reports which were later discovered, during audit, to contain inaccuracies.⁷ DETE did not receive revised reports from the four departments and consequently, it inadvertently presented the original, inaccurate reports to the Houses of the Oireachtas.

4.17 There are no arrangements in place for the publication of the payment practices reports. This makes it difficult for members of the public or suppliers to secure access to information about the payments performance of many public sector bodies.

Conclusions

4.18 It is evident from examination of Section 12 reports of the public bodies included in this review that a significant proportion of them have not conformed fully with the DETE guidelines on disclosure of payment practices. DETE needs to improve its systems for ensuring that the required information is collected and published if its stated objective of providing public access to relevant information is to be achieved.

4.19 Since the DETE guidelines for reporting about payment practices are not binding, much more active enforcement and supervision of the reporting process by DETE will be needed to ensure that the required information will be gathered. (The range of information sought should also be expanded, as outlined in Chapter 2.) If stronger enforcement of the reporting regime still fails to produce the required information, DETE should consider issuing legally-binding ministerial orders in place of the guidelines.

4.20 DETE should consider the option of requiring all bodies covered by the Act to complete a formal return about their payment practices. This could replace or be in addition to the free-form report currently required. The return could include all the required statistical information and could indicate whether, and on what basis, the body is required to include payment practice details in an annual report. Space could be provided for necessary statements and any optional or extra information which bodies wished to report. In the event that a return system was put in place, all public bodies should be informed of its introduction and provided with comprehensive, unambiguous guidelines.

4.21 DETE should ensure that returns are provided by all bodies encompassed by the Act in the required format and in a timely manner. The returns, which should be accompanied by the relevant prompt payment audit reports, should be checked for accuracy and completeness and then forwarded to the Oireachtas without undue delay. DETE should consider publishing an annual report on payment practices in order to inform the general public and potential suppliers of the payment performance of individual bodies and of the public sector as a whole.

7 The following three departments based their late payment proportion on total payments, instead of total payments to suppliers (see paragraph 4.10): the Department of the Taoiseach, the Department of Finance and the Department of Justice, Equality and Law Reform (in relation to the Garda Síochána Vote only). The Department of Environment and Local Government included an incorrect figure for late payments.

5 Audit Considerations

5.1 Section 13 of the Act created a role for the auditors of public bodies specifically in relation to the prompt payment of accounts. That role is described in a single sentence (see Figure 5.1). No indication is given in the Act about what the involvement of the auditors is intended to achieve and there is very limited direction to the auditors about how their role and functions are to be carried out. No ministerial orders or departmental guidance concerning the audit of prompt payments have been issued.

Figure 5.1 The duty of auditors as expressed in the Prompt Payment of Accounts Act, 1997

Section 13

An auditor auditing the affairs of a purchaser specified in the Schedule shall report on whether, in all material respects, the purchaser has complied with the provisions of this Act.

5.2 Statements made by the Minister for Enterprise and Employment in the Houses of the Oireachtas when the legislation was being enacted provide some evidence about the objectives for the involvement of auditors and how it was intended the audit role would operate.⁸ These indicate that

- The prompt payments audit function was intended, along with monitoring and control activity carried out by DETE and Section 12 reporting, to serve as a mechanism for ensuring that public sector bodies complied with the legislation.
- Annual audit and reporting would ensure that public sector bodies would give a high priority to the achievement of compliance with the requirements of the Act.
- Prompt payments audit work would form part of the annual audit of the affairs of public sector bodies.
- Auditors would not have to report on minor infringements of the Act.

⁸ Relevant extracts from the Oireachtas debates about the Prompt Payment of Accounts Act are presented in Appendix B.

- Auditors would not have to conduct detailed checks of all invoices. Instead, they would be required to carry out sufficient checks to establish that proper systems are in place to ensure compliance with the Act and that breaches of the Act are reported.

5.3 Auditors are obliged to operate within the terms of the Act. Section 13 is not specific enough, given the stated objectives for the role of the auditors and the many practical issues that arise in the conduct of audits and the presentation of audit reports. Since no orders or guidance about auditing matters have been issued, many audit matters have been left open to interpretation by auditors themselves.

5.4 This chapter considers the main problems which have arisen in the interpretation of the audit requirements under the Act. In general, these are outlined with reference to the stated intention of giving auditors a role in relation to prompt payments. The generally accepted principles of auditing are also taken into account.

Interpretation of Section 13

5.5 The primary issue which arises in interpreting the meaning of the wording in Section 13 relates to whether the auditor, in reporting, is required

- to make a definitive statement about the compliance of the body with the terms of the Act or
- to give an opinion about the compliance of the body with the terms of the Act.

Some auditors have expressed concern that the wording of the Section requires the making of a definitive statement and this interpretation has been confirmed by legal opinion.

5.6 A definitive statement about compliance could only be reported if a comprehensive audit, involving detailed checking of all payments, was carried out. This would be very difficult and time-consuming and involve the deployment of very considerable audit resources.

5.7 Making definitive statements about financial issues is generally avoided in financial auditing, where it is generally considered that a well-founded audit opinion is sufficient. In practice, reasonable assurance about matters being reported on can be given by auditors, based on an assessment of the systems put in place by the body being audited, supplemented by sample-based testing of transactions. This approach generally requires the use of fewer resources. The auditor who adopts this approach can express an opinion about the matters audited with reasonable confidence.

5.8 At the time the legislation was enacted, the Minister stated that detailed audit work was not intended. He envisaged that auditors would carry out sufficient checks to establish that proper systems were in place to ensure compliance with the Act. This level of audit work would not support the making of a definitive statement. Consequently, it was implied that the auditors were intended by the Minister to report their opinions about compliance with the Act, rather than to make definitive statements.

5.9 Reports by the Comptroller and Auditor General of prompt payments audits are in the form of an audit opinion about whether or not the body in question complied with the requirements of the Act in the period audited. This interpretation of Section 13 is consistent with the implied intention of the Minister and the general approach adopted in financial auditing.

5.10 The Attorney General has recently advised DETE that, in his opinion, detailed examination of all transactions by the auditor is not required and the report can be expressed as an audit opinion.

Materiality in Complying with the Act

5.11 Section 13 states that the auditors must report whether, in all material respects, the body in question has complied with the provisions of the Act. This has major implications for reporting on the audits. During the Oireachtas debates, the Minister stated that this phrase was specifically included in the Act to avoid the situation where auditors would have to report every minor infringement of the Act.

5.12 In the absence of any statutory or official guidance on the matter, auditors themselves have to decide when non-compliance is material (and therefore warrants a qualified audit opinion).

5.13 Four specific actions are required of public bodies under the Act. These are

- to pay suppliers by the appropriate payment date
- if payment to a supplier is late, to include the appropriate penalty interest with the payment
- to send the supplier information about the interest payment when it is being paid
- to disclose its payment practices each year in the appropriate way.

A failure to perform any of these actions would represent non-compliance with the Act.

5.14 The Comptroller and Auditor General decided that, as a general principle, he would qualify his audit opinion where it was found that more than 3% of the number or value of late payments to suppliers were paid outside the prescribed period.

Results of 1998 Prompt Payments Audits

5.15 Table 5.1 presents the results of the prompt payments audits of the bodies reviewed for this report. In over two-thirds of cases, the bodies in question complied with the provisions of the Act. In almost one-fifth of cases, the bodies had not complied with the provisions of the Act in some respects, which were reported. A further 3% of bodies were found not to have complied with the Act and the reasons were stated.

5.16 The ways in which bodies were found not to be compliant included

- more than 3% of the value or number of payments were late
- the body had not paid interest when the amount due was very small
- some interest payments were not made with the related late payments
- there were no systems to identify late payments, and audits revealed that some payments had in fact been late.

Table 5.1 Results of prompt payments audits in respect of 1998

Bodies	Clear audit opinion	Body not compliant in some respects	Body not compliant	Prompt payment audit not completed ^a	All bodies reviewed
Government departments and offices	24	5	1	0	30
Education sector bodies	6	4	0	6	16
Health sector bodies	9	5	1	2	17
Semi State bodies	24	4	1	1	30
All bodies	63	18	3	9	93
	68%	19%	3%	10%	100%

Note a: Bodies whose financial statements had been certified but whose prompt payment audits had not been completed by the end of February 2000

Source: Analysis of Section 13 audit certificates

Compliance with Reporting Requirements

5.17 Since 1998 was the first year of operation of the Act, public sector bodies were not required during that year to disclose their payment practices. The first reports, although concerning payment practices in 1998, were due to be presented only in 1999. Consequently, the failure by a significant number of bodies to present a report in relation to 1998 or to omit some of the information requested by DETE, is properly a matter for the 1999 prompt payments audits and may be reflected in the qualification of the related audit opinions.

Presenting the Report on the Audit of Prompt Payments

5.18 The Act does not specify the format of the prompt payments audit report or to whom it should be addressed. When the prompt payments audit approach was being developed by the Office of the Comptroller and Auditor General, DETE stated that it envisaged that the prompt payments audit report would be included in the relevant financial audit report for the body in question.

5.19 Combining the prompt payments audit report with the financial audit report would create some difficulties.

- Since different approaches would often be used to arrive at prompt payments and financial audit opinions and both approaches should be explained, there could be confusion among readers.
- An adverse opinion about compliance with the Act could be misread as an adverse opinion on the financial audit.
- In many cases, the audit report would be separated from the Section 12 report prepared by the body.

5.20 The Comptroller and Auditor General took the view that, although the Act is not specific in the matter, the clear intention was that the audit report should be associated with the report on payment practices. Accordingly, both reports should be submitted to DETE and presented to the Houses of the Oireachtas or published in the body's annual report, as appropriate. DETE agreed with this proposal and many of the audited bodies consented to this approach.

5.21 The time frames for prompt payments audits and financial audits should be synchronised. In particular, the deadlines for production of Section 12 reports by all bodies should be aligned with those for production of annual financial statements. (This is already the case for bodies which are required to produce a statutory annual report.) It should also be made a requirement that the audit report be published with the Section 12 report.

Conclusions

5.22 The audit of compliance with the Act should be based primarily on how payment systems operate in practice and the resulting report should be expressed as an audit opinion.

5.23 Revised audit provisions should take into account issues of accountability and transparency. Therefore, it should be clear to whom the auditors address their reports and how the reports are brought into the public domain. If DETE decides to publish a report summarising returns of payment practices, as suggested in Chapter 4, it should consider incorporating audit findings into this report.

5.24 The time frame for prompt payments reporting and audit for all public sector bodies should be synchronised with their financial reporting and audit.

5.25 When the scope of the prompt payments legislation is extended to the private sector under the EU directive, the role, operation and reporting arrangements for auditors, if any, should be clearly set out.

Appendices

Appendix A List of public bodies to which the Prompt Payment of Accounts Act, 1997 applies

All the bodies specified in the Schedule to the Prompt Payment of Accounts Act, 1997 are listed below. The list is categorised to show bodies which are audited by

- the Comptroller and Auditor General
- the Local Government Audit Service and
- private sector auditors.

Bodies included in this review are indicated by a tick (✓) in the margin. A number of bodies listed in the schedule are legally part of another body. For example, the Office of the Paymaster General is part of the Department of Finance. Where these bodies have implicitly been covered by the review, they are indicated by a hollow tick mark (✓).

Public Bodies Audited by the Comptroller and Auditor General

Government Departments and Offices

- ✓ Central Statistics Office
- ✓ Civil Service Commission
- ✓ Companies Registration Office
- ✓ Competition Authority
- ✓ Department of Agriculture and Food
- ✓ Department of Arts, Heritage, Gaeltacht and the Islands
- ✓ Department of Defence
- ✓ Department of Education and Science
- ✓ Department of Enterprise, Trade and Employment
- ✓ Department of the Environment and Local Government
- ✓ Department of Finance
- ✓ Department of Foreign Affairs
- ✓ Department of Health and Children
- ✓ Department of Justice, Equality and Law Reform
- ✓ Department of the Marine and Natural Resources
- ✓ Department of Public Enterprise
- ✓ Department of Social, Community and Family Affairs
- ✓ Department of the Taoiseach

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- ✓ Department of Tourism, Sport and Recreation
 - ✓ Land Registry
 - ✓ National Economic and Social Forum
 - ✓ National Gallery of Ireland
 - ✓ Office of Charitable Donations and Bequests
 - ✓ Office of Public Works
 - ✓ Office of the Attorney General
 - ✓ Office of the Chief State Solicitor
 - ✓ Office of the Comptroller & Auditor General
 - ✓ Office of the Director of Consumer Affairs
 - ✓ Office of the Director of Public Prosecutions
 - ✓ Office of the Ombudsman
 - ✓ Office of the Paymaster General
 - ✓ Office of the President
 - ✓ Office of the Registrar of Friendly Societies
 - ✓ Office of the Revenue Commissioners
 - ✓ Office of the Tánaiste (*no longer in existence*)
 - ✓ Ordnance Survey Office
 - ✓ Patents Office
 - ✓ Registry of Deeds
 - ✓ State Laboratory
 - ✓ Stationery Office
 - ✓ Valuation Office

Educational Institutions

- Church of Ireland College of Education, Rathmines
- ✓ Dublin City University
- Dublin Institute for Advanced Studies
- ✓ National College of Art and Design
- National Council for Educational Awards
- ✓ Athlone Institute of Technology
- Institute of Technology, Carlow
- ✓ Cork Institute of Technology
- Dublin Institute of Technology
- Dundalk Institute of Technology
- Dún Laoghaire Institute of Art, Design and Technology
- Galway/Mayo Institute of Technology
- Letterkenny Institute of Technology
- ✓ Limerick Institute of Technology

- ✓ Institute of Technology, Sligo
- Institute of Technology, Tallaght
- ✓ Institute of Technology, Tralee
- Waterford Institute of Technology
- St. Angela's College of Home Economics, Lough Gill, Sligo
- St. Catherine's College of Home Economics, Sion Hill, Blackrock
- ✓ St. Patrick's College of Education, Drumcondra
- ✓ St. Patrick's College, Maynooth
- An tÚdarás um Ard-Oideachas
- University College Cork
- University College Dublin
- University College Galway
- University of Dublin, Trinity College
- University of Limerick
- ✓ Vocational Education Committees (33, of which 7 were included in the review)

Health Bodies (including Public Voluntary Hospitals)

- Blood Transfusion Service Board
- Beaumont Hospital, Beaumont Road, Dublin 9
- Board for Employment of the Blind
- An Bord Uchtála (The Adoption Board)
- Dublin Dental Hospital, Lincoln Place, Dublin 2
- Drug Treatment Centre Board
- Food Safety Advisory Board
- General Medical Services Payment Board
- ✓ Health Board - Eastern
- ✓ Health Board - Midland
- ✓ Health Board - Mid Western
- ✓ Health Board - North Eastern
- ✓ Health Board - North Western
- ✓ Health Board - South Eastern
- ✓ Health Board - Southern
- ✓ Health Board - Western
- ✓ Health Research Board
- ✓ Hospital Bodies Administrative Bureau
- ✓ Irish Medicines Board
- ✓ Leopardstown Park Hospital, Foxrock, Dublin 18
- ✓ National Cancer Registry Board
- ✓ National Rehabilitation Board

- ✓ St James' Hospital, James' Street, Dublin 8
- St Luke's and St. Anne's Hospital, Highfield Road, Rathgar, Dublin 6
- Tallaght Hospital Board, 57c Harcourt Street, Dublin 2
- ✓ *Body in health sector not specifically named in the schedule but included in review*
- Health Service Employers Agency*

Semi-State Bodies

- ✓ APSO (Agency for Personal Service Overseas)
- ✓ Area Development Management Limited
- ✓ Arts Council
- ✓ An Bord Bia
- ✓ Bord Fáilte Éireann
- ✓ An Bord Glas
- Bord na Gaeilge
- Bord Iascaigh Mhara
- Bord na Leabhair Gaeilge
- An Bord Pleanála
- Bord Scannán na hÉireann
- An Bord Tráchtála
- ✓ Central Bank of Ireland
- Central Fisheries Board
- CERT Limited
- ✓ Coiste an Asgard
- ✓ Combat Poverty Agency
- County Enterprise Boards (35)
- ✓ Defence Forces Canteen Board
- Dublin Transportation Office
- ✓ Economic and Social Research Institute
- ✓ Employment Equality Agency
- ✓ Environmental Protection Agency
- ✓ FÁS
- FÁS International Consulting Limited
- Fire Services Council
- Forbairt
- ✓ Forfás
- Heritage Council
- ✓ IDA Ireland
- ✓ Independent Radio and Television Commission
- Institute of Public Administration

- Istitiúid Teangeolaíochta Éireann
- Irish Aid Advisory Committee
- Irish Manuscripts Commission
- Irish Museum of Modern Art
- Irish National Stud Company Limited
- Labour Relations Commission
- Law Reform Commission
- Legal Aid Board
- ✓ Marine Institute
- Medical Bureau of Road Safety
- ✓ National Authority for Occupational Safety & Health
- National Building Agency Limited
- National Council on Ageing and Older People
- National Economic and Social Council
- National Roads Authority
- National Safety Council
- National Social Services Board
- ✓ National Standards Authority of Ireland
- National Theatre Society Limited
- National Treasury Management Agency
- Pensions Board
- ✓ Postgraduate Medical and Dental Board
- ✓ Radiological Protection Institute of Ireland
- ✓ Refugee Agency
- ✓ Regional Fisheries Boards (7, of which 2 were included in the review)
- Royal Irish Academy
- Royal Irish Academy of Music
- Salmon Research Agency of Ireland Limited
- ✓ Shannon Free Airport Development Company Limited
- Teagasc
- ✓ Temple Bar Properties Limited
- Temple Bar Renewal Limited
- ✓ Údarás na Gaeltachta
- Bodies in semi-State sector not specifically named in the schedule but included in review*
- ✓ Enterprise Ireland
- ✓ Legal Aid Fund

Public Bodies Audited by the Local Government Auditors

Border Regional Authority
 Devolution Commission for Local Government Reform
 Dublin Regional Authority
 Local Authorities for the purposes of the Local Government Act, 1941
 Local Government Computer Services Board
 Local Government Staff Negotiations Board
 South-East Regional Authority
 South-West Regional Authority
 West Regional Authority

Public Bodies Audited by Private Sector Auditors

Educational Institutions

National Council for Curriculum and Assessment

Health Bodies (including Public Voluntary Hospitals)

Adelaide Hospital, Peter Street, Dublin 8
 An Bord Altranais
 Central Remedial Clinic, Vernon Avenue, Dublin 3
 Children's Hospital, Temple Street, Dublin 1
 City of Dublin Skin and Cancer Hospital, Hume Street, Dublin 2
 Coombe Women's Hospital, Dolphin's Barn, Dublin 8
 Cork University Dental School and Hospital, Wilton, Cork
 Dental Council
 Federated Dublin Voluntary Hospitals, James's Street, Dublin 8
 Hospitals Trust Board
 Incorporated Orthopaedic Hospital of Ireland, Castle Avenue, Clontarf
 International Missionary Training Hospital, Our Lady of Lourdes, Drogheda
 Mater Misericordiae Hospital, Eccles Street, Dublin 7
 Meath Hospital, Heytesbury Street, Dublin 8
 Mercy Hospital, Grenville Place, Cork
 National Children's Hospital, Harcourt Street, Dublin 2
 National Maternity Hospital, Holles Street, Dublin 2
 National Rehabilitation Hospital, Rochestown Avenue, D'n Laoghaire
 Our Lady's Hospice, Harold's Cross, Dublin 6
 Our Lady's Hospital for Sick Children, Crumlin, Dublin 12
 Peamount Hospital, Newcastle, Co. Dublin
 Portiuncula Hospital, Ballinasloe, Co. Galway
 Rotunda Hospital, Parnell Street, Dublin 1

Royal Hospital Donnybrook, Morehampton Road, Donnybrook, Dublin 4
Royal Victoria Eye and Ear Hospital, Adelaide Road, Dublin 2
South Infirmary - Victoria Hospital Limited, Old Blackrock Road, Cork
St John's Hospital, St. John's Square, Limerick
St Mary's Hospital and Residential School for Children with Disability, Baldoye
St Mary's Orthopaedic Hospital, Cappagh, Finglas, Dublin 11
St Michael's Hospital, Dún Laoghaire, Co. Dublin
St Vincent's Hospital, Elm Park, Dublin 4
St Vincent's Hospital, Convent Avenue, Richmond Road, Fairview, Dublin 3

Commercial Semi-State Bodies

ACC Bank plc
Aer Lingus
Aer Rianta
Bord Gáis Éireann
Bord na Móna
Bord Telecom Éireann
Coillte Teoranta
Córas Iompair Éireann
Electricity Supply Board
ICC Bank plc
Irish Fertiliser Industries Limited
Irish National Petroleum Corporation Limited
Irish Telecommunications Investments plc
Nitrigín Éireann Teoranta
An Post
Raidió na Gaeltachta
RTÉ
SDS
Teilifís na Gaeilge
Voluntary Health Insurance Board

Other Bodies

Bord na gCon
Bord na Radharcmhastóirí
Broadcasting Complaints Commission
Chester Beatty Library
An Chomhairle Leabharlanna
Crafts Council of Ireland
Medical Council
Dublin Docklands Development Authority
Foyle Fisheries Commission
Harbour Authorities within the meaning of the Harbours Act, 1946
Harbour Companies referred to in section 7 of the Harbours Act, 1996
Housing Finance Agency plc
International Development Ireland Limited
Irish Aviation Authority
Irish Horseracing Authority
Irish Red Cross Society
National Committee for Development Education
National Concert Hall
National Milk Agency
Pharmaceutical Society of Ireland
TEASTAS
Western Development Commission

Appendix B Extracts from Oireachtas debates about the Prompt Payment of Accounts Act, 1997

Dáil Éireann, Second Stage

Thursday 8 May 1997

Mr Richard Bruton TD, Minister for Enterprise and Employment

"It is my intention to monitor the operation of this legislation on an ongoing basis"

Column 88

"Section 13 provides a further mechanism for ensuring compliance with the legislation. It specifies that every auditor auditing the affairs of a body listed in the Schedule must report on whether that body has complied with the provisions of the Act. This is in line with the recommendations of the Task Force on Small Business which suggested that the Comptroller and Auditor General should be given a role in monitoring the payment performance of public bodies"

Column 89

The Bill completed the Committee and remaining stages on Wednesday 14 May 1997.

Seanad Éireann, Second Stage

Friday 16 May 1997

Mr Richard Bruton TD, Minister for Enterprise and Employment

"Section 13 provides that every auditor auditing the affairs of a body must report on whether that body has complied with the provisions of the Act. That is an important protection which is built in to ensure this is given a high level of importance within the company and is part of their audit"

Column 1092

Senator Michael Howard

"A letter dated 13 May which I received from the consultative committee of the Accountancy Bodies of Ireland expressed concern regarding what is required of its members under Section 13. It suggests that certain amendments or changes should be made to take account of those concerns. However, on the basis that the Lower House has been dissolved, the balance of advantage lies in proceeding with the Bill as it stands. The accountancy bodies will have to wait for another occasion on which to deal with what appear to be genuine concerns because the balance of advantage rests with the early passage of the legislation."

Column 1096

Mr Richard Bruton TD, Minister for Enterprise and Employment

"A public body will not want an entry in its annual report that, not only did it pay late, but it refused to heed an arbitrator's decision on late payment and insisted on being dragged through the courts"

Columns 1098/1099

"Senator Howard raised the matter of the concerns of auditors. I assure him that Section 13 was drafted to avoid auditors having to report on minor infringements. The words 'in all material respects' were deliberately included to ensure this was the case. It is intended that auditors will conduct sufficient checks so that proper systems are in place to ensure compliance with the Bill and that breaches are reported. It is not intended that auditors conduct detailed checks of all invoices of a purchaser. The Comptroller and Auditor General was consulted on the drafting of this Section. In the light of these discussions, I am satisfied the role of auditors will operate effectively."

Column 1099

Pn: 8897

Price: £5

€6.35

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(Teil: 01-6613111, fo-líne 4040/4045; Fax: 01-4752760)
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Dublin
Published by the Stationery Office
To be purchased directly from the
Government Publications Sales Office,
Sun Alliance House, Molesworth Street, Dublin 2
or by mail order from
Government Publications, Postal Trade Section,
4-5 Harcourt Road, Dublin 2
(Tel: 01-6613111, extension 4040/4045; Fax: 01-4752760)
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