



COVID-19 Resurgence Support Payments Scheme (August 2021) Amendment Order (No 3) 2021

Rt Hon Dame Helen Winkelmann, Administrator of the Government

Order in Council

At Wellington this 4th day of October 2021

Present:

The Right Hon Jacinda Ardern presiding in Council

This order is made under section 7AAC of the Tax Administration Act 1994 on the advice and with the consent of the Executive Council.

Contents

		Page
1	Title	2
2	Commencement	2
3	Principal order	2
4	New clause 3A inserted (Transitional, savings, and related provisions)	2
	3A Transitional, savings, and related provisions	2
5	New clauses 5B and 5C inserted	2
	5B Circumstances required before third grant payable	2
	5C Persons eligible for third grant under this order	2
6	New clauses 5D and 5E inserted	3
	5D Circumstances required before fourth grant payable	3
	5E Persons eligible for fourth grant under this order	4
7	Clause 6 amended (Amount of grant)	4
8	New clause 7 inserted (Calculating number of workers for members of commonly owned group)	5

	7	Calculating number of workers for members of commonly owned group	5
9		New Schedule inserted	5
		Schedule	6
		New Schedule inserted	

Order

1 Title

This order is the COVID-19 Resurgence Support Payments Scheme (August 2021) Amendment Order (No 3) 2021.

2 Commencement

- (1) This order (other than clause 6) comes into force on 8 October 2021.
- (2) Clause 6 comes into force on 29 October 2021.

3 Principal order

This order amends the COVID-19 Resurgence Support Payments Scheme (August 2021) Order 2021.

4 New clause 3A inserted (Transitional, savings, and related provisions)

After clause 3, insert:

3A Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in the Schedule have effect according to their terms.

5 New clauses 5B and 5C inserted

After clause 5A, insert:

5B Circumstances required before third grant payable

- (1) A third grant is payable to eligible persons under clause 5C only if, at all times during the relevant period, at least part of New Zealand was at COVID-19 alert level 2, 3, or 4.
- (2) The relevant period starts at 11.59 pm on 17 August 2021 and ends at 12.01 am on 8 October 2021.

5C Persons eligible for third grant under this order

A specified person living, or (if a non-natural person) registered or otherwise established, in New Zealand is eligible to receive a third grant of money under the CRSP scheme if—

- (a) the person has a minimum 30% decline in revenue in relation to their business or organisation, which is calculated by comparing the following:
 - (i) the revenue received by the person during a 7-day period nominated by the person—
 - (A) in accordance with the eligibility criteria set by the Commissioner; and
 - (B) which period must be during the period starting on or after 1 October 2021 and ending immediately before all areas of New Zealand return to COVID-19 alert level 1:
 - (ii) the revenue received by the person during a 7-day period nominated by the person—
 - (A) in accordance with eligibility criteria set by the Commissioner; and
 - (B) which period must be during the comparator period set by the Commissioner that applies to that person's business or organisation; and
- (b) the person has been operating the business or organisation in relation to which the revenue is received for a period of at least 1 month before 17 August 2021; and
- (c) in the case of a person who is one of a commonly owned group of specified persons, those persons collectively have a 30% decline in revenue, which is calculated by comparing the following:
 - (i) the revenue received by the commonly owned group of specified persons during the same 7-day period nominated by the person in paragraph (a)(i):
 - (ii) the revenue received by the commonly owned group of specified persons during the same 7-day period nominated by the person in paragraph (a)(ii).

6 New clauses 5D and 5E inserted

After clause 5C (as inserted by clause 5 of this order), insert:

5D Circumstances required before fourth grant payable

- (1) A fourth grant is payable to eligible persons under clause 5E only if, at all times during the relevant period, at least part of New Zealand was at COVID-19 alert level 2, 3, or 4.
- (2) The relevant period starts at 11.59 pm on 17 August 2021 and ends at 12.01 am on 29 October 2021.

5E Persons eligible for fourth grant under this order

A specified person living, or (if a non-natural person) registered or otherwise established, in New Zealand is eligible to receive a fourth grant of money under the CRSP scheme if—

- (a) the person has a minimum 30% decline in revenue in relation to their business or organisation, which is calculated by comparing the following:
 - (i) the revenue received by the person during a 7-day period nominated by the person—
 - (A) in accordance with the eligibility criteria set by the Commissioner; and
 - (B) which period must be during the period starting on or after 22 October 2021 and ending immediately before all areas of New Zealand return to COVID-19 alert level 1:
 - (ii) the revenue received by the person during a 7-day period nominated by the person—
 - (A) in accordance with eligibility criteria set by the Commissioner; and
 - (B) which period must be during the comparator period set by the Commissioner that applies to that person's business or organisation; and
- (b) the person has been operating the business or organisation in relation to which the revenue is received for a period of at least 1 month before 17 August 2021; and
- (c) in the case of a person who is one of a commonly owned group of specified persons, those persons collectively have a 30% decline in revenue, which is calculated by comparing the following:
 - (i) the revenue received by the commonly owned group of specified persons during the same 7-day period nominated by the person in paragraph (a)(i):
 - (ii) the revenue received by the commonly owned group of specified persons during the same 7-day period nominated by the person in paragraph (a)(ii).

7 Clause 6 amended (Amount of grant)

(1) Replace clause 6(1) to (3) with:

- (1) A person who is eligible to receive a grant of money under 1 or more of clauses 5, 5A, 5C, and 5E is eligible for 1 grant only under each applicable clause.

- (2) The amount of each grant must be calculated under subclauses (4) and (5) (but a person who is one of a commonly owned group of specified persons may apply the modifications in clause 7).
- (2) In clause 6(4)(b), replace “clause 5 or 5A” with “clause 5, 5A, 5C, or 5E”.

8 New clause 7 inserted (Calculating number of workers for members of commonly owned group)

After clause 6, insert:

7 Calculating number of workers for members of commonly owned group

- (1) A person who is one of a commonly owned group of specified persons may calculate the number of full-time equivalent workers it employs in accordance with clause 6(4) and (5), as modified by this clause.
- (2) The person may count an employee of another member of the commonly owned group as their own employee if that employee regularly works for them.
- (3) In determining whether the employee is a full-time equivalent worker or a part-time equivalent worker, the person may only count the hours that the employee regularly works for them.
- (4) For the purposes of this clause, whether, and to what extent, an employee regularly works for a person must be established in accordance with the terms and conditions determined by the Commissioner.

9 New Schedule inserted

Insert the Schedule set out in the Schedule of this order as the first schedule to appear after the last clause of the principal order.

Schedule

New Schedule inserted

cl 9

Schedule

Transitional, savings, and related provisions

cl 3A

Part 1

Provisions relating to COVID-19 Resurgence Support Payments Scheme (August 2021) Amendment Order (No 3) 2021

- 1 Members of commonly owned group may receive top-up payment**
- (1) This clause applies to a person who—
- (a) is one of a commonly owned group of specified persons; and
 - (b) before 8 October 2021, received a grant under clause 5 or 5A, or both.
- (2) If the grant or grants received by the person were of a lower amount than the person would receive under clauses 5 and 5A as calculated in accordance with the amended order, the person is eligible to receive a top-up payment.
- (3) The amount of the top-up payment must be the difference between—
- (a) the amount the person is eligible to receive under clauses 5 and 5A (as calculated in accordance with the amended order); and
 - (b) the amount the person received under clauses 5 and 5A before 8 October 2021.
- (4) In order to claim a top-up under this clause, an eligible person must make an application in accordance with the procedure required by the Commissioner.
- (5) In this clause, **amended order** means this order as in force on 8 October 2021.

Martin Bell,
for Clerk of the Executive Council.

Explanatory note

This note is not part of the order, but is intended to indicate its general effect.

This order amends the COVID-19 Resurgence Support Payments Scheme (August 2021) Order 2021 (the **August order**) to provide for third and fourth grant payments. Most of the order comes into force on 8 October 2021. However, *clause 6*, which provides for the fourth grant payment, comes into force on 29 October 2021.

Under *new clauses 5B and 5C*, a person is eligible for a third grant if the person experienced a minimum 30% decline in revenue in relation to a business or an organisation during a third nominated 7-day period. The third period must be during the period starting on or after 1 October 2021 and ending immediately before all areas of New Zealand return to COVID-19 alert level 1.

Under *new clauses 5D and 5E*, a person is eligible for a fourth grant if the person experienced a minimum 30% decline in revenue in relation to a business or an organisation during a fourth nominated 7-day period. The fourth period must be during the period starting on or after 22 October 2021 and ending immediately before all areas of New Zealand return to COVID-19 alert level 1.

The nominated 7-day periods for the first, second, third, and fourth grants may overlap in time.

New clause 7 modifies the method of calculating grant payments for eligible persons who are members of a commonly owned group. It allows those persons to count employees of other members of the commonly owned group if those employees regularly work for them. A member of a commonly owned group who has already received 1 or more grants under the August order can apply for a top-up payment if the calculation method inserted by this order would be more advantageous to them.

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*: 7 October 2021.

This order is administered by the Inland Revenue Department.