

Version  
as at 28 March 2022



# COVID-19 Support Payments Scheme (Omicron Outbreak) Order 2022

(SL 2022/45)

Cindy Kiro, Governor-General

## Order in Council

At Wellington this 22nd day of February 2022

Present:

Her Excellency the Governor-General 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.

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### Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

**This order is administered by the Inland Revenue Department.**

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## Order

### 1 Title

This order is the COVID-19 Support Payments Scheme (Omicron Outbreak) Order 2022.

### 2 Commencement

This order comes into force on 28 February 2022.

### 3 Interpretation

(1) In this order, unless the context otherwise requires,—

**7-day period** means a period of 7 consecutive days

**affected revenue period** means the 7-day period nominated by the applicant under clause 6(1)(a)

**Commissioner** means the Commissioner of Inland Revenue

**commonly owned group**, in relation to a group of specified persons, has the meaning described in eligibility criteria set by the Commissioner

**comparator period** means the 7-day period nominated by the applicant under clause 6(1)(b)

**CSP scheme** means the COVID-19 Support Payments Scheme (Omicron Outbreak)

**full-time equivalent worker** means a person who is an employee and who regularly works 20 or more hours per week

**part-time equivalent worker** means a person who is an employee and who regularly works less than 20 hours per week

**specified person** means a person described in clause 5, 5A, or 5B.

(2) For the purposes of this order, a part-time equivalent worker must be treated as 0.6 of a full-time equivalent worker.

Clause 3(1) **specified person**: amended, on 14 March 2022, by clause 4 of the COVID-19 Support Payments Scheme (Omicron Outbreak) Amendment Order 2022 (SL 2022/54).

### 4 Activation and operation of CSP scheme

(1) The CSP scheme is activated on 28 February 2022 in relation to the following COVID-19 circumstances:

- (a) the widespread presence of COVID-19 in the New Zealand community;
  - (b) public health legislative measures taken in order to reduce the spread of COVID-19 in the New Zealand community;
  - (c) any business circumstances that are, or are reasonably likely to be, a consequence of the circumstances described in paragraph (a) or (b) or both.
- (2) The CSP scheme operates on and after 28 February 2022.

**5 Class of persons who may apply for first grant (specified persons)**

- (1) A person described in this clause may apply for a first grant under the CSP scheme.
- (2) The person must be living, or (if a non-natural person) registered or otherwise established, in New Zealand and must be one of the following:
- (a) an individual who is self-employed;
  - (b) a body corporate or an unincorporated body;
  - (c) a registered charity;
  - (d) an incorporated society;
  - (e) a post-settlement governance entity;
  - (f) a trust;
  - (g) a partnership (as defined in sections 8 and 9 of the Partnership Law Act 2019);
  - (h) a department or organisation in the State services (as defined in section 5 of the Public Service Act 2020) that is approved by the Minister of Finance as a participant in the CSP scheme;
  - (i) a non-government organisation;
  - (j) a pre-revenue firm;
  - (k) a joint venture.
- (3) The person must have—
- (a) experienced the revenue decline specified in clause 6 as a result of 1 or more of the COVID-19 circumstances described in clause 4(1); and
  - (b) been operating the business or organisation in relation to which the revenue is received for a period of at least 1 month before 16 February 2022 (but *see* clause 9 if the person has not); and
  - (c) taken all reasonably practicable steps (if any) to minimise revenue losses.
- (4) If the person is, or is applying for a grant in relation to, a regulated business or service, the business or service must have been operating in compliance with the CVC requirements for both the affected revenue period or part of that

period and any comparator period or part of that period that fall during the period starting on 3 December 2021.

- (5) The person must not have received, have an application pending for, or apply for or receive in future, funding under the Cultural Sector Emergency Relief Fund administered by the Ministry for Culture and Heritage (except in the case of any class of funding specified in eligibility requirements determined by the Commissioner).
- (6) In this clause,—

**CVC requirements** means the CVC requirements specified in subpart 3 of Part 2 of the COVID-19 Public Health Response (Protection Framework) Order 2021

**regulated business or service** has the meaning given in clause 25(3) of the COVID-19 Public Health Response (Protection Framework) Order 2021.

Clause 5 heading: amended, on 14 March 2022, by clause 5(1) of the COVID-19 Support Payments Scheme (Omicron Outbreak) Amendment Order 2022 (SL 2022/54).

Clause 5(1): amended, on 14 March 2022, by clause 5(2) of the COVID-19 Support Payments Scheme (Omicron Outbreak) Amendment Order 2022 (SL 2022/54).

Clause 5(4): amended, on 14 March 2022, by clause 5(3) of the COVID-19 Support Payments Scheme (Omicron Outbreak) Amendment Order 2022 (SL 2022/54).

#### **5A Class of persons who may apply for second grant (specified persons)**

- (1) A person described in clause 5(2) may apply for a second grant under the CSP scheme.
- (2) The person must have—
- experienced the revenue decline specified in clause 6 as a result of 1 or more of the COVID-19 circumstances described in clause 4(1); and
  - been operating the business or organisation in relation to which the revenue is received for a period of at least 1 month before 16 February 2022 (but *see* clause 9 if the person has not); and
  - taken all reasonably practicable steps (if any) to minimise revenue losses.
- (3) Clause 5(4) and (6) applies in relation to an application for a second grant under the CSP scheme.
- (4) Clause 5(5) does not apply in relation to an application for a second grant under the CSP scheme.

Clause 5A: inserted, on 14 March 2022, by clause 6 of the COVID-19 Support Payments Scheme (Omicron Outbreak) Amendment Order 2022 (SL 2022/54).

#### **5B Class of persons who may apply for third grant (specified persons)**

- (1) A person described in clause 5(2) may apply for a third grant under the CSP scheme.
- (2) The person must have—

- (a) experienced the revenue decline specified in clause 6 as a result of 1 or more of the COVID-19 circumstances described in clause 4(1); and
  - (b) been operating the business or organisation in relation to which the revenue is received for a period of at least 1 month before 16 February 2022 (but *see* clause 9 if the person has not); and
  - (c) taken all reasonably practicable steps (if any) to minimise revenue losses.
- (3) Clause 5(4) and (6) applies in relation to an application for a third grant under the CSP scheme.
- (4) Clause 5(5) does not apply in relation to an application for a third grant under the CSP scheme.

Clause 5B: inserted, on 28 March 2022, by clause 7 of the COVID-19 Support Payments Scheme (Omicron Outbreak) Amendment Order 2022 (SL 2022/54).

## **6 Revenue decline required before specified person applies for grant**

- (1) For the purposes of clauses 5(3)(a), 5A(2)(a), and 5B(2)(a), a specified person must have experienced a minimum 40% decline in revenue in relation to their business or organisation, which is calculated by comparing the following:
- (a) the revenue received by the person during a 7-day period—
    - (i) nominated by the person in accordance with the eligibility requirements set by the Commissioner; and
    - (ii) that falls—
      - (A) in a case where clause 5(3)(a) applies, during the period beginning on 16 February 2022 and ending at the close of 4 April 2022:
      - (B) in a case where clause 5A(2)(a) applies, during the period beginning on 7 March 2022 and ending at the close of 4 April 2022:
      - (C) in a case where clause 5B(2)(a) applies, during the period beginning on 21 March 2022 and ending at the close of 4 April 2022:
  - (b) the revenue received by the person during a 7-day period—
    - (i) nominated by the person in accordance with the eligibility requirements set by the Commissioner; and
    - (ii) that falls during any of the following:
      - (A) the period beginning on 5 January 2021 and ending at the close of 15 February 2021:
      - (B) the period beginning on 5 January 2022 and ending at the close of 15 February 2022:

- (C) any other period specified in eligibility requirements determined by the Commissioner that applies to that person's business or organisation.
- (2) However, in the case of a person who is one of a commonly owned group of specified persons, those persons collectively must have a 40% decline in revenue, which is calculated by comparing the following:
- (a) the revenue received by the commonly owned group of specified persons during the same affected revenue period:
  - (b) the revenue received by the commonly owned group of specified persons during the same comparator period.

Clause 6(1): replaced, on 14 March 2022, by clause 8 of the COVID-19 Support Payments Scheme (Omicron Outbreak) Amendment Order 2022 (SL 2022/54).

## **7 Amount of grant**

- (1) The amount of each of the grants must be calculated under subclauses (2) and (3) (but a person who is one of a commonly owned group of specified persons may apply the modifications in clause 8).
- (2) The amount of each grant is the lesser of the following:
- (a) \$4,000 plus an additional amount of \$400 for each full-time equivalent worker employed by the person (up to a maximum of 50 full-time equivalent workers):
  - (b) 8 times the amount by which the eligible person's revenue has declined (as calculated in accordance with clause 6 and declared by the person in their application).
- (3) For the purposes of calculating the number of full-time equivalent workers employed by a person, the number of full-time and part-time workers must be added together (applying clause 3(2)), and if that addition produces a fraction it must be rounded up to the nearest whole number.

Clause 7(1): amended, on 14 March 2022, by clause 9 of the COVID-19 Support Payments Scheme (Omicron Outbreak) Amendment Order 2022 (SL 2022/54).

## **8 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 7(2) and (3), 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 Businesses acquired after 15 February 2021**

- (1) Clause 6 applies with the modifications in this clause if—
- (a) the person applying for the grant (the **applicant**) has not been operating the business or organisation in relation to which the revenue is received for a period of at least 1 month before 16 February 2022; and
  - (b) the business or organisation in relation to which the revenue is received has been operating for a period of at least 1 month before 16 February 2022; and
  - (c) the applicant acquired that business or organisation from another person (the **vendor**) after 16 January 2022; and
  - (d) the nature and character of the business or organisation has not substantially changed between the comparator period and the affected revenue period.
- (1A) Clause 6 also applies with the modifications in this clause if—
- (a) the person applying for the grant (the **applicant**) acquired a business or organisation from another person (the **vendor**) after 15 February 2021 but before 17 January 2022; and
  - (b) the nature and character of the business or organisation has not substantially changed between the comparator period and the affected revenue period.
- (2) Any revenue received by the vendor from operating that business or organisation in a comparator period is treated as having been received by the applicant for the purposes of the calculation involving that comparator period.
- (3) For the purposes of this clause, whether a business or an organisation has been acquired, and whether the nature and character of the business or organisation has not substantially changed, must be established in accordance with the terms and conditions determined by the Commissioner.

Clause 9 heading: amended, on 28 March 2022, by clause 4(1) of the COVID-19 Support Payments Scheme (Omicron Outbreak) Amendment Order (No 2) 2022 (SL 2022/84).

Clause 9(1A): inserted, on 28 March 2022, by clause 4(2) of the COVID-19 Support Payments Scheme (Omicron Outbreak) Amendment Order (No 2) 2022 (SL 2022/84).

Michael Webster,  
Clerk of the Executive Council.

## Notes

### **1** *General*

This is a consolidation of the COVID-19 Support Payments Scheme (Omicron Outbreak) Order 2022 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

### **2** *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

### **3** *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

### **4** *Amendments incorporated in this consolidation*

COVID-19 Support Payments Scheme (Omicron Outbreak) Amendment Order (No 2) 2022 (SL 2022/84)

COVID-19 Support Payments Scheme (Omicron Outbreak) Amendment Order 2022 (SL 2022/54)