

Guidance
Version 7 – 20 November 2020
(For applications for months covering November 2020 onwards)

Introduction

1. The Government of Jersey COVID-19 Co-Funded Payroll Scheme: Phase 3+ (“**Phase 3+**”), follows on from Phase 3 of the scheme to assist employers and employees whose businesses and other selected organisations have suffered material detriment as a result of the 2020 coronavirus pandemic (“**COVID-19**”) and the circumstances brought about by COVID-19.
2. The key aims of the scheme are:
 - Support Islanders’ livelihoods, by ensuring employment and allowing workers continue to benefit from a reasonable level of income to avoid hardship during the crisis and preserve demand to support an economic recovery once social distancing and Stay at Home restrictions are lifted.
 - To maintain, as far as possible, existing employment relationships so that businesses are able to retain trained and experienced staff. As far as possible, employees should be kept in employment that is as similar as practicable to the situation they were in pre-COVID-19.
 - Along with other economic support measures being taken by the Government, to allow businesses and self-employed individuals a greater chance to remain solvent during COVID-19. This should also allow for businesses to resume normal business activity where appropriate as soon as possible post COVID-19, once restrictions are eased.
 - Ultimately the scheme aims to accelerate the recovery of the economy post COVID-19 by ensuring that businesses and employment income can restart quickly once restrictions are eased.
 - To support charities and their work in the community during COVID-19, and their paid employees.
3. All of the aims of the scheme will be balanced against the ongoing affordability of the scheme and the duty of the Government to use public money effectively.

Overriding principles of the scheme

4. The circumstances brought about by COVID-19 are unprecedented in the history of the Island of Jersey and therefore the Council of Ministers has agreed to extraordinary financial support to businesses and their employees during this incredibly challenging period.
5. The scheme is designed for applications from businesses in specific industry sectors and other selected organisations which have suffered “material detriment” as a result of COVID-19. Applications should be strictly limited to these circumstances. Should it be found at any time that an application has been made and funding was not properly due, in line with the qualifying criteria and the aims of the scheme, then there is a requirement that the funding would be repaid.

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6. The scheme is designed to share wage costs between the taxpayer and the employer. The scheme does not support wage costs where the current gross income of an employed worker is more than £4,558 a month (£54,696 a year). For self-employed workers, this is a total gross income of £8,884 a month (£106,608 a year) based on the average monthly gross income for 2019.
7. It is expected by the Government that wherever possible, wages should be paid by businesses to employees at the usual amount but the Scheme does allow businesses to negotiate with workers to reduce hours worked.
8. In respect of wages paid, the scheme provides a subsidy in accordance with the table noted in Paragraph 26. The business must pay the worker the agreed wage for the month before making an application under this scheme.
9. Wages that are subsidised through this scheme are subject to income tax (ITIS) and Social Security contributions as usual.
10. All applicants to the scheme will be required to make a final declaration that they meet the qualifying criteria to the best of their knowledge and belief. Applicants will be required to confirm that they will co-operate fully with the operation of the scheme, in particular in providing any and all information reasonably required for the administration and auditing of the scheme. They will also be required to provide consents and permissions for such relevant information to be obtained by the scheme as required for the administration of the scheme and for subsequent auditing.

Where there is cause to suspect that a fraudulent claim may have been made, the claimant will be referred to the States of Jersey Police for possible investigation and may be prosecuted.

Relevant period (the “relevant period”) for the Phase 3+ scheme

11. The Phase 3+ scheme covers the payroll costs incurred during the period from 1 November 2020 to 31 March 2021 (inclusive).
12. A claim will need to be made for each individual month during the “relevant period” through a separate online claim form.
13. Each month claimed for will be known as the “**qualifying month**” for the purpose of determining eligibility.

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Business Eligibility for the scheme

14. The Phase 3+ scheme will support a wide range of businesses within qualifying industries that the Government has determined may be materially affected during the relevant period of the scheme. The scheme has been designed to be broad enough to offer significant financial support to a large range of affected businesses, whilst also managing and protecting public money.
15. Eligible industries are assessed using the UK's Standard Industrial Classification (SIC) 2007 used by Statistics Jersey. Where the relevant SIC is not obvious, the assessment of the business SIC Code for the scheme will be based on the balance of an organisation's business activities.
16. Where a business undertakes multiple business activities, if the majority (over 50%) of its normal trade would be within an eligible industry, the business will be considered eligible for the Phase 3+ scheme.
17. The Minister will determine which industries are eligible to make an application to the scheme and which industries are not eligible and can amend the list at any time as required to meet the aims of the scheme. The list will be available on www.gov.je.
18. On the 29th May 2020, a decision was made to include "Activities of business and employers membership organizations" and "Activities of professional membership organizations" within the scheme. They will be entitled to claim for the duration of the scheme.

Phase 3+ Eligible industries and Excluded industries are found on www.gov.je

Ineligibility

19. Support may not be provided under the Scheme, or payments made may be recouped, if the business is provided with support from another source to cover the payment of the business's payroll during COVID-19.
20. Payments made under the scheme will be recouped if, following assessment/audit of the application, the Applicant did not, in fact, meet the eligibility criteria, or if business owners were found to have removed funds from the business, resulting in the business being unable to meet its payroll costs.

Insurance Policies

21. If a business or other applicant to this scheme has an insurance or other policy under which it is eligible to make a claim for business disruption, it is obliged to pursue that claim, before making an application to this scheme. If a business has received money under this scheme and later ascertains that it is able to make a claim against an insurance or other policy, it is obliged

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to contact the Customer and Local Services Department to inform them of their claim and to repay funds received under this scheme to the Government.

Declaration of Material Detriment

22. For a business to make a claim under the scheme, it will be required to confirm by declaration that it has suffered material detriment during the relevant period relating to an application and that the detriment suffered is as a result of the circumstances brought about by COVID-19. The online claim form will now require the business to input relevant monthly turnover in 2020 and comparatively in 2019 at the point of application in order to calculate detriment (%).
23. The calculation of material detriment is calculated by the qualifying month for the claim.
24. The definition of “**Material Detriment**” which will apply under this scheme is as follows:

A business is considered to have suffered material detriment if during the relevant period it would be able to evidence a drop in turnover of at least 20% in 2020 or the same period in 2019.

The definition of Turnover which will apply under this scheme is “total operating income including income from trading and any other sources of income that the business may have (including investment income)”. Accruals accounting must be used for turnover calculations.

Businesses unable to use prior year turnover as a benchmark (e.g. businesses registered after April 2019) should use turnover from other comparable trading months. Businesses must be able to justify why the comparable month used fairly demonstrate detriment due to coronavirus, rather than other factors (e.g. seasonality).

Businesses are required to retain documentation for audit or other purposes and to provide, on request, evidence of the material detriment suffered. GST filings or financial statements/bank statements, correspondence with shareholders/banks about continued finance for the business, will be considered as evidence of material detriment, when compared with previous trading in 2020 or the same period in 2019. Please note, 2019 should continue to be used as the comparative year for the period Jan – March 2021.

Subsidy payable under Phase 3+ of the scheme

25. The subsidy payable (%) is calculated by the level of detriment (reduction in turnover), in arrears, plus 10%. The subsidy payable is capped at 60%. *Please refer to the FAQs on gov.je for examples.*

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26. Where an applicant falls between 20-30% detriment they will default back to the subsidy payable of 40% to ensure businesses are not any worse off under CFPS 3+ for the months of November and December.
27. A subsidy is not provided in respect of a worker where the current gross monthly income for the relevant month is more than £4,558 a month (£54,696 a year).
28. If a business does not want to apply for all workers to be co-funded for the entire duration of the scheme, it is not obliged to claim for all workers for all months. If a business also decides that it would like to return some or all the subsidy it claims to Government, it should contact the Customer and Local Services Department after the COVID-19 period. Businesses are not obliged to consider this.

Maximum Subsidy

29. The maximum total subsidy payable to any business will be limited to the absolute detriment (reduction in turnover) experienced in a relevant month.

Eligibility of Self-Employed workers

30. Phase 3+ includes self-employed workers who meet any of the following:
 - i. Workers who expect to pay Class 2 social security contributions for March 2020 such as business owners, directors, sole traders or partnerships (acknowledging they may be able to defer such payments under a Government deferral due to COVID-19).
 - ii. Self-employed workers who meet the criteria in (i) but are not required to pay Class 2 contributions as they have an exemption or contribution credits such as pensioners, parents caring for a child under 5 or married women
 - iii. Self-employed workers who pay Class 1 contributions in March as they were employed by another business provided, they have:
 - a. a business licence issued by the Population Office with a start date no later than 31 March 2020; and
 - b. evidence of planned trading activity in the month for which a claim is being made (acknowledging that the business may have been unable to trade as a result of COVID-19).
31. The subsidy will be calculated using a self-declared average monthly gross income for 2019. This will be compared to the gross income confirmed on the 2019 tax return and subsequent tax assessment, once processed. Only one claim per worker can be made regardless of the number of businesses they draw an income from to a maximum subsidy of £1,600.

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32. The scheme is not available for self-employed workers with total gross income of more than £8,884 a month (£106,608 a year) based on the average monthly gross income for 2019.

Employees to be included in a claim by an employer

33. A business will be able to receive a subsidy towards wages or salaries of workers that have been retained in employment for the qualifying period and are being paid at their agreed rate and frequency.
34. For claims for the month of November (and subsequent claims), a business may claim for employees employed by the business who are either:
- i. Classified as Entitled or Entitled to Work; or
 - ii. Registered and included on any Social Security Schedule in March 2020
35. This includes employees who were hired as replacement employees for those that left the business since March 2020. The total number of employees claimed for must not exceed the total number of employees on the business's March 2020 Schedule.
36. The number of hours an employee is scheduled to work can be altered by agreement between the employer and the employee. Employment and discrimination legislation still apply in the usual way. The scheme is available to both full-time and part-time workers and includes those employed on a fixed-term contract, and zero-hour workers who were paid during the qualifying month.
37. Agency workers on placement are excluded from the scheme (although employees of employment agencies carrying out duties for the employment agency itself do qualify).
38. There are no age restrictions on workers that can be claimed for under the scheme, provided they are lawfully employed.
39. All relevant Social Security contribution schedules **must be submitted** prior to applications under scheme (acknowledging that businesses employing less than 80 employees can defer payments under a Government deferral due to COVID-19).
40. If an employee leaves the employment of a business during the operation of the scheme, the business will still be paid for the period in which they were in the employment of the business. The business will not be required to repay the subsidy for that employee, so long as it was correctly claimed in line with the Guidance.
41. The scheme is not available in relation to any worker with current gross earnings from the business of more than £4,558 a month (£54,696 a year).

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Eligibility of Charities

42. Charities registered in Jersey which employ paid staff are eligible for payroll support under Phase 3+ of the scheme. However, Charities will still be required to confirm Material Detriment, which in the case of a Charity, will for the purpose of the scheme mean that its donation, grant or other income has dropped by at least 20% during the qualifying month, when compared to a previous comparable period.
43. If a Charity applies and is granted payroll support, this information will be shared with Government Departments administering other grants and support to Charities to assist in their decision making. The term Charity/Charities is interchangeable with the term business for the purpose of this guidance.

Eligibility of Households as employers

44. If a household is an employer of, for example, a cleaner, nanny or gardener, and therefore pays ITIS and/or social security contributions in respect of the employee, the household is eligible for payroll support if it can demonstrate material detriment.
45. For a household, this will be measured as a reduction of 20% or more of the household's total gross income over the qualifying period when compared to the average monthly total gross income for the household in 2019. "Total gross income" means all income, whether from primary source employment or elsewhere (for example: investment income, maintenance or support payments) and includes available income not paid to a member of the household (e.g. from a family business, investment company or trust).
46. Evidence such as payslips, tax returns, financial statements, management accounts, evidence supporting reductions in other forms of income or declarations may be required to evidence material detriment for households.
47. If a household engages a cleaner, nanny, gardener or other qualifying staff, but they remain self-employed for the purpose of the engagement, the individual can consider if they are eligible to apply as a self-employed individual. It is important to note that only one party should make a claim in respect of any particular worker, and that should be determined on the basis of whether the individual is employed by household or self-employed.
48. Households which act as an employer run by an individual, or family including an individual, holding 'entitled' status as a high value resident under Article 2(1)(e) of the Control of Housing and Work (Residential and Employment Status) (Jersey) Regulations 2013 are not eligible to claim under the scheme as a Household.
49. The term Household is interchangeable with the term business for the purpose of this guidance.

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Eligibility of Government Arm’s Length Organisations (“ALOs”) and States Owned Entities

50. An ALO is an organisation which either has statutory fee levying powers or fulfils a role or function the Government of Jersey would otherwise perform (for the purposes of this Guidance, this definition does not extend to organisations which receive funding from the Government of Jersey of less than £75,000 per year).
51. ALOs are not eligible for payroll support under this scheme. All ALOs are being contacted by Government officials to discuss their specific financial pressures during COVID-19.
52. Any queries in this regard should be directed to the ALO’s usual contact within Government.

Conditions applying to specific sectors

53. Certain conditions apply to eligibility of businesses in the following industries:
- Law firms or Lawyers regulated by the Law Society of Jersey
 - Accounting, bookkeeping and auditing activities; tax consultancy; regulatory and compliance activities
 - Pre-Primary Education

Law firms or Lawyers regulated by the Law Society of Jersey & Accounting, bookkeeping and auditing activities; tax consultancy; regulatory and compliance activities

These businesses will be eligible to apply if they have:

- less than 30 employees (total headcount)
 - pass a test concerning predominantly local work
54. For Law firms or Lawyers regulated by the Law Society of Jersey firms will be required to conduct “predominantly local work” in order to be eligible. Predominantly local work in this context means “Over 75% of the firm’s normal practice is in the area of local conveyancing, probate, family, criminal and/or employment law or providing legal advice to local individuals or businesses.” For the avoidance of doubt, advice to financial services clients and commercial litigation is not considered “local work”.
55. For accounting, bookkeeping and auditing activities; tax consultancy; regulatory and compliance activities - “predominantly local work” means 75% of the firm’s normal practice is providing services to Jersey registered businesses or local residents. For the avoidance of doubt, advice to financial services clients is not considered “local work”.

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Pre-primary education

56. Businesses conducting pre-primary education will not be eligible for the scheme if they are charging fees to parents of children who are no longer receiving a service in the qualifying month.

Holiday Clubs

57. Holiday Clubs provide an important source of childcare during the school holiday periods. Given the unique position of holiday clubs they will not be required to fulfil the requirements for eligible employees, however they will be capped on the number of employees claimed for at the same number as claimed for and listed on the relevant 2019 schedule.

Onus on Applicant

58. It is for the Applicant to satisfy the Scheme that the business is eligible for support under the provisions of the Scheme.

Unpaid Social Security Contributions

59. A business or self-employed individual with unpaid social security contributions is entitled to support under Phase 3+ of the scheme.

Businesses required to be open and trading in line with public health restrictions and not artificially restricting revenue

60. For November 2020 (and subsequent claims), in order to be eligible to claim under the scheme, businesses will be required to be open and be trading based on normal trading hours to the extent permissible considering public health restrictions. In order to remain eligible for the scheme, businesses must not remain closed or restrict trading where there is no public health reason (based on current advice) to remain closed or restrict trading.
61. Businesses must not artificially restrict trading hours so as to ensure eligibility for the scheme by, for example, closing on certain days/hours in order to meet the material detriment test.
62. Where a business operates multiple locations or separate companies within a group, a claim can still be made in respect of employees working at a location or for a group company that is open even if some other locations or group companies remain closed subject to the following:
- Only staff working at a location or for a group company that is open can be claimed for, employees of those companies that are closed are not eligible other than where they have been transferred to an open location or company and would qualify under paragraphs 34 and 35 of this guidance

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- Locations or companies that are closed do not count towards the wider business or group's material detriment. The business' material detriment calculation must only include detriment that is experienced for locations or companies that are open.

Business to make available staff for community benefit

63. Where a business claims under this scheme, and it is envisaged that staff will have spare working capacity, those staff should be made available to the Government of Jersey to participate in appropriate activity required to support the government and community actions needed, including volunteering, whilst this national crisis in relation to COVID-19 persists. Employers who claim under the scheme should make their staff aware of this situation and may be contacted by the Community Taskforce.

Process to claim under the scheme

64. Businesses will be reimbursed after full wages have been paid.
65. Businesses must maintain their usual pay schedules (e.g. weekly, monthly pay) with employees as per the first quarter of 2020. The employer must have paid the employee's wage prior to claiming under the scheme.
66. Businesses will need to complete a dedicated online form, which will need to be completed for each qualifying month in arrears.
67. All relevant 2020 contribution schedules must **be submitted** prior to application for this scheme (acknowledging that Businesses employing less than 80 employees can defer certain payments under a Government deferral due to COVID-19).
68. The dedicated online form will require businesses to provide their contact details, select their relevant industry from a list of SIC Codes, bank details, names of every worker (including social security numbers) and the wages they have been paid for that month. Businesses will also be required to make formal declarations related to each of the conditions of the scheme.
69. Claims will be processed within five working days of receipt and the applicant will be notified by email whether their claim is successful (and a breakdown of payment) or unsuccessful (and reason why). The e-mail will contain contact information if further clarification is required. Payments will then be made by BACS to the customer's nominated bank account and will take a further three working days to arrive.

Access to information

70. In order to determine an application, or for the purpose of auditing claims, the Scheme may require access to a significant amount of financial information and non-financial records held

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by businesses. Failure to submit your income tax return within the required timeframe may result in repayment in full of any government support received.

71. The Applicant is required to give consents and permissions to obtain and process these records. Once the Application has been received and any other records have been obtained these records will be processed in accordance with paragraphs 12 and 13 of Schedule 2 of the Data Protection (Jersey) Law 2018.
72. Government will contact workers as deemed appropriate to check they have been paid and any wage negotiations have been conducted fairly. In making an application the applicant provides consent for the Government to contact any employee regarding the scheme.
73. The Applicant can withdraw their permission and/consent at any time, however, if permission and/consent is withdrawn the Scheme may be unable to determine the Application or require the repayment of monies already provided under the Scheme.
74. Whether or not an application has been determined, the Scheme will retain copies of all relevant information relating to an application in accordance with established retention schedules.

Other Government filing requirements

75. It should be noted that this is a new emergency scheme, and businesses and self-employed workers will still be required to file returns such as Social Security Contribution Schedules, Manpower returns, GST filings and required Tax filings in the usual way (acknowledging that Businesses employing less than 80 employees can defer certain payments under a Government deferral due to COVID-19).

Scheme application windows

76. Each qualifying month of the Phase 3+ scheme will close at the end of the month following the qualifying month. Therefore, applications windows will be as follows:

Month claimed for:	Opens	Closes
Nov-20	01.12.20 9am	31.12.20 5pm
Dec-20	04.01.21 9am	29.01.21 5pm
Jan-21	01.02.21 9am	26.02.21 5pm
Feb-21	01.03.21 9am	31.03.21 5pm
Mar-21	01.04.21 9am	30.04.21 5pm

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Publication of information under the scheme

77. Claimants should be aware that the Government of Jersey will periodically publish appropriate information in respect of businesses and self-employed individuals that have claimed under the scheme. For businesses, this may include the name of the business, number of employees claimed for and the total amount claimed. It may include similar aggregated information for self-employed workers.

General Powers of the Minister Under the scheme

78. The Minister for Treasury and Resources has the power to determine all matters related to the Government Co-funded Payroll Scheme.
79. The Minister may require a business or individual to provide written evidence in respect of any aspect of the eligibility of the business for the Scheme and/or the level of payments claimed under the Scheme.
80. Where evidence is requested and is not provided to the satisfaction of the Minister, the Minister may require any payment made under the Scheme to be repaid.
81. Where evidence is submitted which shows that the business or individual is not eligible for the scheme or for a payment under the scheme, the Minister may require any payment made under the Scheme to be repaid.
82. Any decision taken by the Minister or their delegate is final.

Senior Officer Advisory Panel

83. A Senior Officer Advisory Panel is established under the Scheme in order to determine principles relating to the eligibility of industry sectors / SIC Codes which do not meet the eligibility criteria at the relevant time.
84. The Minister will request that the Panel consider the facts and circumstances of an industry sector / SIC Code which the Minister considers that there may be compelling grounds for the inclusion of that industry sector / SIC Code in the eligibility criteria.
85. The Senior Officer Advisory panel will make recommendations to the Minister as to whether the eligibility criteria should be amended (although this can only be done on an industry or SIC basis and not for an individual business).

Appeals

86. There is no appeal process for the Government Co-funded Payroll Scheme. Information will be provided in respect of the outcome of individual applications.

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Status of Guidance and amendment of Guidance

87. The Government Co-Funded Payroll Scheme is a non-statutory scheme. As such the terms of the scheme can be amended or withdrawn without notice at the discretion of the Minister for Treasury and Resources.
88. The Guidance, including the eligibility conditions and financial support provided by the scheme can be amended, withdrawn or re-issued at any time.

Freedom of Information

89. The Government of Jersey is subject to the requirements of the Freedom of Information (Jersey) Law 2011.
90. The Government of Jersey is responsible for determining whether any sensitive information and/or any other information:
- i. is exempt from disclosure in response to a Freedom of Information request in accordance with the provisions of the Freedom of Information (Jersey) Law 2011; or
 - ii. is to be disclosed.

Costs

91. By way of clarity, the Scheme will not pay any contribution towards any Legal or other Professional Fees incurred by an Applicant in relation to their Application to the Scheme.

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