



Joint Report: Operational settings for the COVID-19 Wage Subsidy
March 2021 Scheme

Date:	2 March 2021	Report No:	T2021/152
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Action sought

	Action sought	Deadline
Minister of Finance (Hon Grant Robertson)	Agree to the recommendations	Tuesday 2 March 2021
Minister for Social Development and Employment (Hon Carmel Sepuloni)	Agree to the recommendations	Tuesday 2 March 2021

Contact for telephone discussion (if required)

Name	Position	Telephone	1st Contact
9(2)(a)	Principal Adviser, Welfare & Oranga Tamariki, The Treasury	9(2)(a) (wk)	N/A (mob) X
Keiran Kennedy	Manager, Welfare & Oranga Tamariki, The Treasury	N/A (wk)	9(2)(a) (mob)
Hayley Hamilton	General Manager, Employment and Housing Policy	9(2)(a) (mob)	

Minister's Office actions (if required)

Return the signed report to Treasury.

Enclosure: Yes (attached)

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Executive Summary

Officials have designed operational settings to give effect to Cabinet's 1 March 2021 decisions to activate the COVID-19 Wage Subsidy March 2021 Scheme.

These settings require applicants to reapply to the scheme for a two-weekly payment each time the scheme is extended and define the time period applicants should use to demonstrate a 40% revenue-decline.

This paper seeks your agreement to clarifications of the revenue test settings, eligibility criteria for pre-revenue firms and seasonal businesses.

We have updated the wage subsidy declaration to reflect these changes.

Recommended Action

We recommend that you:

- a **agree** that applications to the WSSMAR21 scheme will be open at 1pm on Thursday 4 March with payments commencing from Monday 8 March covering the first 14-day period of 8 to 21 March

Agree/disagree
Hon Grant Robertson

~~Agree/disagree~~
Hon Carmel Sepuloni

- b **note** that employer obligations will apply for a 14-day period from 8 March if they apply ahead of that date, or from the date of application if that date is between 8 March and 21 March

~~Noted~~

- c **agree** that applicants to the WSSMAR21 scheme will be able to nominate a revenue decline test period of 14 consecutive days during the period 28 February to 21 March

Agree/disagree
Hon Grant Robertson

~~Agree/disagree~~
Hon Carmel Sepuloni

- d **agree** that a second two-week payment will be made available under the WSSMAR21 if any part of the country remains at Alert Level 3 or 4 at 6.00am on 21 March

Agree/disagree
Hon Grant Robertson

~~Agree/disagree~~
Hon Carmel Sepuloni

- e **agree** that if a second WSSMAR21 payment is triggered, that:

- i. applications for the second payment open on Monday March 22 in the interest of simplicity of timing for employers,
- ii. the revenue decline test period window be a consecutive 14-day period during the period 15 March to 4 April, based on actual or predicted revenue, and
- iii. for employers who received the WSSMAR21 during the first period it was active, that the test period used for their second application begin the day immediately following the end of the period they used for their first application

Agree/disagree
Hon Grant Robertson

Agree/disagree
Hon Carmel Sepuloni

- f **note** that for any third or subsequent extension, the process will follow the pattern above

Noted

- g **note** that if the scheme is not extended, that applications will close at 11.59pm on Sunday 21 March 2021

Noted

- h **agree** to allow firms with highly seasonal revenue to use a comparator period that is either 12 or 24 months prior to the 14-day revenue test period selected for the wage subsidy application (seasonal comparator period)

Agree/disagree
Hon Grant Robertson

Agree/disagree
Hon Carmel Sepuloni

- i **agree** that to be eligible for the scheme, pre-revenue firms must be a research and development intensive 'start-up' business that is 'seed' or 'venture' backed and Callaghan Innovation affiliated as of 28 February 2021 which have no other revenue other than government support and seed or venture capital

Agree/disagree
Hon Grant Robertson

Agree/disagree
Hon Carmel Sepuloni

- j **note** that broader pre-revenue criteria is used for the Resurgence Support Payment and the Small Business Cashflow Scheme administered by Inland Revenue but officials consider the fiscal and integrity benefits of a narrower definition for the WSSMAR21 outweigh any compliance costs of non-alignment

Noted

- k **note** that a pro-active email will be sent to all applicants at the end of the first and any subsequent payment period as an additional integrity process to mitigate the risk that actual revenue does not meet eligibility criteria initially satisfied using predicted revenue

Noted

- l **note** officials have made other minor updates in the declaration for consistency with the new 'specifically affected' test

Noted

- m **agree** that officials engage with key stakeholders (eg Business NZ and Deloitte) on the technical details of the WSSMAR21 prior to going live on 4 March 2021

Agree/disagree
Hon Grant Robertson

Agree/disagree
Hon Carmel Sepuloni

Keiran Kennedy

Keiran Kennedy
Manager, Welfare & Oranga Tamariki
The Treasury



Hayley Hamilton
General Manager
Employment and Housing Policy
Ministry of Social Development

Hon Grant Robertson
Minister of Finance



Hon Carmel Sepuloni
Minister for Social Development and Employment

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Purpose of Report

1. To seek agreement to detailed design features of the COVID-19 Wage Subsidy March 2021 Scheme following Cabinet's decisions to open this for applications on 4 March 2021 [CAB-21-MIN-0043 refers].

Background

2. On 1 March 2021, Cabinet agreed to activate the COVID-19 Wage Subsidy March 2021 Scheme (WSSMAR21).
3. Cabinet agreed the Wage Subsidy Scheme (WSS) would retain core settings and payment rates from previous schemes, be available nationwide but require that applicants be affected by a current escalation in alert levels ('specifically affected test'), rather than by COVID-19 in general. The scheme would provide two-weekly payments to match the time spent at Alert Level 3 or above rounded to the nearest 14 days.
4. Cabinet authorised the Minister of Finance and the Minister for Social Development and Employment to jointly make decisions on:
 - a. further revenue decline assessment periods should the scheme be extended beyond an initial two-week period,
 - b. the revenue decline test for pre-revenue and highly seasonal firms, and
 - c. other minor policy and consequential policy decisions or operational settings for the WSSMAR21.

Implementing Cabinet Decisions

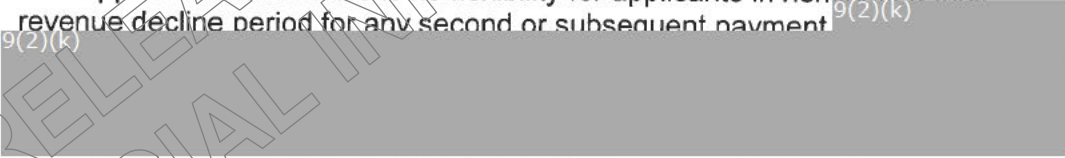
5. Officials have now designed operational settings to give effect to Cabinet's decisions and are seeking your agreement to these.

Scheme duration

6. On 14 December, Cabinet agreed to introduce a wage subsidy scheme in the event of escalation to Alert Level 3 or above, anywhere in New Zealand, lasting seven or more consecutive days and to provide WSS support to match the duration spent at Alert Level 3 or above, rounded to the nearest 14 days [CAB-20-MIN-0531 refers].
7. On 1 March 2021, delegated Ministers agreed that the WSSMAR21 will open for applications at the earlier date of 4 March 2021. This is to provide greater certainty to affected businesses that they can access the WSSMAR21 given that Cabinet has already set out that the current level 3 settings will apply in Auckland for seven days.
8. While MSD will receive applications from 4 March, eligible applications will be paid the two-week wage subsidy beginning from Monday 8 March, covering the first 14-day period of 8 to 21 March and consistent with Cabinet's 14 December decision. This also means that the employer's obligations will apply for a 14-day period from 8 March if they apply ahead of that date, or from the date of application if that date is between 8 March and 21 March. Employer's obligations include retaining staff for the period that the payment relates to and not requiring employees to use leave entitlements during this period.

9. If any part of the country remains at Alert Level 3 or 4 at 6.00am on 21 March, a further two-week payment under the WSSMAR21 will be triggered, commencing the following day. The first payment period would then close, at 11.59pm on 21 March.
10. Cabinet has agreed that employers who receive a payment under the WSSMAR21 will be required to re-apply for each subsequent payment [CAB-21-MIN-0043 refers]. Employers applying for subsequent payments will be required to make a new declaration that attests to their satisfying eligibility for a new period and their commitment to retain staff over this time.
11. Cabinet agreed to an eligibility test of a 40% decline in revenue over a consecutive 14-day period during the period 28 February to 20 March, based on actual or predicted revenue [CAB-21-MIN-0043 refers].

Revenue decline test

12. Implementation of the revenue decline test is straightforward if the Alert Level remains at level 3 for less than 21 days. However, if Alert Level 3 is extended and a further two-week payment under the WSSMAR21 is triggered, further clarity is required for how these eligibility criteria will need to be applied.
13. We propose that if a second WSSMAR21 payment is triggered, that:
 - a. applications for the second payment open on Monday March 22 in the interest of simplicity of timing for employers,
 - b. the revenue decline test period window be a consecutive 14-day period during the period 15 March to 4 April, based on actual or predicted revenue, and
 - c. that, for employers who received the WSSMAR21 during the first period it was active, that the test period used for their second application begin the day immediately following the end of the period they used for their first application.
14. We note that:
 - a. This approach means there is no flexibility for applicants in nominating their revenue decline period for any second or subsequent payment ^{9(2)(k)} 
 - b. Any subsequent periods the WSSMAR21 is active would follow the same pattern of opening period and revenue test period such that applicants will be able to nominate a revenue decline test period of 14 consecutive days during a 21-day period that begins 7 days prior to when applications open for that subsequent period and ends when that application period closes. However, employers making a subsequent application to the WSSMAR21 will be required to use a revenue test period that immediately follows the test period used for a previous application.
15. Annex one shows how this proposal will work if the Alert level extends beyond the first three weeks (ie 21 March).
16. We note there is an inconsistency between the body and the recommendations of the Cabinet paper (Activating the COVID-19 Wage Subsidy March 2021 Scheme). The body of the paper indicated allowing applicants up to 14 days of flexibility in nominating their first revenue decline period after 28 February (see para 26). The recommendation agreed by Cabinet (rec 11) agreed that applicants will be able to nominate a revenue decline test period of 14 consecutive days during the period 28 February to 20 March. This inconsistency was introduced due to drafting the paper at pace.

17. We therefore recommend a small alteration to the dates for the revenue decline test window for applications commencing from 4 March 2021, to bring it in alignment with the period we propose the WSSMAR21 will be active, and to clarify the process for employers using predicted income up to the end of the period for which they receive the wage subsidy. This would mean the revenue decline test window extends to 21 March (as opposed to 20 March as agreed by Cabinet on 1 March).
18. This also means that the first application period would be extended by 4 days from ending on March 17 to ending on March 21.
19. This approach means that employers who do not qualify for the WSSMAR21 when it first opens will have an opportunity to apply for any subsequent WSSMAR21 payments based on a revenue decline period that is closely linked to the period for which they will receive the wage subsidy.
20. Employers would not be eligible to apply for a second or any subsequent 'rounds' of WSSMAR21 for the same employees until 14 days after their last application (unless they applied between the 4 March and 7 March in which case it will be 14 days from the 8 March).
21. Existing integrity measures will be applied by MSD for the WSSMAR21. These include:
 - a. pre-payment validation of application details with Inland Revenue,
 - b. publishing the names of businesses who receive the subsidy,
 - c. an exceptions process where applications meet one or more integrity risk criteria supported by analysis with Inland Revenue,
 - d. a coordinated complaints process with post-payment integrity checks as required,
 - e. an investigations process,
 - f. a repayment process, and
 - g. undertaking criminal prosecution and civil recovery proceedings where appropriate.
22. In addition to this, there may also be a pre-payment conversation with applicants who meet the integrity risk criteria by MSD, to support them to ensure they have appropriate evidence to support their eligibility.

Approach to mitigating risks of eligibility based on predicted revenue

23. Due to the timing of the revenue test period for the WSSMAR21, many firms will be applying based on a decline in revenue which is at least partly predicted rather than 'actual' at the time of application. Repayment would be required if employers do not subsequently experience an actual 40% decline in revenue (because they no longer meet the eligibility requirements for the scheme at the point the revenue decline is realised).
24. This creates a compliance risk for the scheme^{9(2)(k)}
25. We propose an additional integrity measure to mitigate this risk. MSD will implement a pro-active email to applicants two-weeks after receipt of a WSSMAR21 payment, that reminds employers:
 - a. of their obligation to repay the subsidy if they no longer meet eligibility requirements; and
 - b. to check that their actual revenue decline maintains eligibility and highlighting the audit processes in place.

26. You will shortly receive a joint report on plans for further strengthening of audit processes for the wage subsidy schemes, including historic schemes. This planning is underway as part of the initial response plan resulting from the preliminary findings of the Auditor-General's Performance Audit report on the wage subsidy schemes.

Specific flexibility for highly seasonal firms

27. Cabinet agreed that the default comparison period is a typical 14-day consecutive period of revenue in the six weeks prior to 14 February [CAB-21-MIN-0043 refers].
28. The default comparison period may not be appropriate for businesses which experience seasonal fluctuations in revenue, as the period might not give the best indication of what their business would have typically earned. These businesses may be involved in horticulture work such as harvesting fruit and vegetables, music festival or event planners whose peak seasons are during the summer months, or tourism businesses where the season starts on a specific date.
29. On 14 December, Cabinet agreed that employers that have highly seasonal revenue be allowed to use a prior year comparator if they can show that the seasonality in their revenue makes it harder to meet the revenue decline test with the default comparator period, than if their revenues were not seasonal [CAB-20-MIN-0531 refers].
30. If the WSSMAR21 is activated at any time after 23 March (the anniversary of the first escalation to Alert Level 3 in 2020) and before 13 May (when we first shifted to Alert Level 2 in 2020), the prior year comparator period for seasonal firms will include a time when New Zealand was at Alert Level 3 or 4 in 2020.
31. We therefore recommend to allow firms with a highly seasonal revenue to use a comparator period that is either 12 or 24 months prior to the 14-day revenue test period selected for the wage subsidy application (seasonal comparator period).
32. If asked, businesses will need to provide evidence to show that the seasonality in their revenue makes it harder to meet the decline in revenue test with the default comparison period.

Pre-revenue firms

33. A small number of pre-revenue research and development 'start-up' businesses are eligible for the WSS if they meet specific eligibility criteria. Ministers with Powers to Act agreed that the definition of revenue loss for eligible pre-revenue firms include a fall in projected capital income and defined eligibility criteria for pre-revenue firms in April 2020 [T2020/1190 Addendum to TR2020/912].
34. The criteria agreed were that employers must be:
 "a research and development intensive 'start-up' business that is 'seed' or 'venture' backed, or are Callaghan Innovation affiliated as of 17 March 2020 which have no other revenue other than government support and seed or venture capital."
35. On 14 December, Cabinet agreed the WSS would retain core scheme settings [CAB-20-MIN-0531 refers]. However, the eligibility criterion for pre-revenue firms need to be clarified.
36. The paper discussing inclusion of pre-revenue 'start-up' firms in the WSS's [TR2020/912] is unclear on whether the intent of this change was to limit eligibility only to those firms that are Callaghan Innovation affiliated, or to use Callaghan Innovation as part of verification of R&D start-up status for a broader set of firms. MSD has used the former interpretation in practice through the declarations and eligibility decisions for WSS to date, namely:

“a research and development intensive ‘start-up’ business that is ‘seed’ or ‘venture’ backed, **and** are Callaghan Innovation affiliated as of 17 March 2020 which have no other revenue other than government support and seed or venture capital.”

37. We recommend the criteria be formally altered for the WSSMAR21 and any future schemes to match the interpretation used by MSD to date. This means that the previously agreed criteria for pre-revenue firms is limited to businesses that are ‘seed’ or ‘venture’ backed **and** are Callaghan Innovation affiliated.
38. We consider this approach is more appropriate because it retains current operationalised settings for simplicity of understanding, limits the fiscal costs of the scheme and limits the integrity risks associated with opening the scheme to a broader set of pre-revenue firms that potentially have had no previous contact with Government.
39. We note that pre-revenue eligibility criteria used for the Resurgence Support Payment (RSP) and Small Business Cashflow Scheme administered by Inland Revenue (IR) are broader than that proposed here. IR has defined these as follows: *A pre-revenue business or organisation is one that has taken active steps towards being market ready but has not yet begun trading. They will need to keep records of how their ability to raise capital or begin trading was affected by the raised alert level.*
40. Although it is also desirable to have aligned settings between the RSP and WSS where possible, we consider the fiscal, integrity and simplicity benefits of retaining current WSS settings outweigh any potential compliance costs of misaligned settings.

Updates to the Wage Subsidy Declaration

We have updated the declaration to reflect the policy changes

41. WSS applicants make a declaration covering their eligibility and obligations when applying to the scheme. We have updated the declaration to give effect to the changes agreed by Cabinet and above.
42. In summary, the key changes are to:
 - a. provide for two-weekly payments specific to the period that the WSSMAR21 is active,
 - b. require the declared revenue decline to be attributable to the effect of the current Alert Level escalation on the business,
 - c. define the revenue-decline test period to use for each subsidy payment,
 - d. update the revenue comparator period to be the typical fortnightly revenue over the six weeks prior to the escalation to Alert Level 3 or 4, or a prior 12-24 months for a business that can show it has highly seasonal revenue,
 - e. require the applicant to retain records to support the declaration, and
 - f. introduce a naming convention to help distinguish wage subsidy schemes (COVID-19 Wage Subsidy [month] [year]).
43. Employers will need to re-apply and make a new declaration should a further two-week payment under the WSSMAR21 is activated.

There are some minor, consequential updates to the Declaration

44. Officials are proposing some other minor clarifications to applicant obligations to be consistent with the new specifically affected test, as follows.
 - a. Employers are obliged to pay subsidised employees at least their *ordinary wages and salary* if this is less than the subsidy amount. We have updated *ordinary*

wages and salary to refer to the period before the current escalation, rather than before the impact of COVID-19.

- b. Applicants are required to take active steps to mitigate the impact of COVID-19 on your business activities. We have updated this to refer to the impact of the **current escalation** on your business activities. This retains the intent of this rule as it means businesses cannot simply rely on their past actions in previous COVID outbreaks to meet this obligation.

Next steps

45. We recommend that officials engage with key stakeholders (eg Business NZ and Deloitte) on the technical details of the WSSMAR21 prior to going live on 4 March 2021. This is to support the development of comms for businesses.

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

Annex I; Illustration of how the WSSMAR21 will be applied if the alert levels remain escalated beyond 21 March

Timeline – Wage Subsidy Scheme March 2021: WSSMAR21

