

## **COVID-19 Employment Update: Guidance on the Employment Wage Subsidy Scheme**

Pursuant to the Financial Provisions (Covid-19) (No. 2) Act 2020 (Act No. 8 of 2020), the Employment Wage Subsidy Scheme (“EWSS”) will operate from today, 1 September 2020 until 31 March 2021 as part of the July Job Stimulus Plan. EWSS replaces the Temporary Wage Subsidy Scheme (“TWSS”), which ceased on 31 August 2020. As such, for pay dates from 1 September 2020, EWSS can be claimed in respect of eligible employees.

EWSS will be overseen by the Revenue Commission, on a “*self-assessment*” basis in accordance with the Guidance on the New Employment Wage Subsidy Scheme (the “Guidance”). As such, no proof of eligibility will be sought at registration stage, however, Revenue has advised that they will review eligibility in the future and that employers should retain evidence for entering and remaining on the EWSS.

### **Employer Eligibility**

- 1. Tax Clearance:** Employers must possess a valid tax clearance certificate to qualify for EWSS and should continue to maintain tax clearance for the duration of the scheme to receive EWSS payments. Employers without a tax clearance are advised to apply for a certificate via Revenue Online Service (“ROS”).
- 2. 30% Reduction in Turnover or Orders caused by COVID-19:** Employers must be able to demonstrate that their business is expected to experience a 30% reduction in turnover or orders between 1 July and 31 December 2020 and that this was caused by COVID-19.

Where the business was in existence prior to 1 July 2019, the relevant period for the reduction in turnover or orders is 1 July-31 December 2019. If the business commenced trading between 1 July and 1 November 2019, the relevant period begins on the date the business commenced and ends on 31 December 2019. Where the business commenced after 1 November 2019, the relevant period is the projected turnover or orders for 1 July 2020 to 31 December 2020.<sup>1</sup>

Employers are obliged to undertake a review on the last day of every month to ensure they meet the above eligibility criteria. If employers no longer qualify, they must withdraw from the EWSS with effect from the following day - the first day of the month. Employers can deregister via ROS.

### **Employee Eligibility**

In contrast to the TWSS, which required eligible employees to be employed prior to 29 February 2020, employees on the payroll at any time during the “*qualifying period*” (i.e. between 1 July 2020 and 31 March 2021) are eligible to apply for EWSS. Employees who were eligible under TWSS will also be considered eligible under the EWSS. An EWSS claim can commence for an employee when TWSS ceases to be claimed.

In recognition of the exclusion from TWSS of new entities, seasonal employees and new hires, the EWSS introduces a “sweepback” mechanism, which permits employers eligible for EWSS to backdate a claim to 1 July 2020 in circumstances where the employer or their employees were not previously eligible for TWSS. As the eligibility criteria differs to TWSS, employers will need to register separately for the EWSS.

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<sup>1</sup> Further information available at Appendix 1 of the Guidance

The EWSS can be claimed in respect of employees in receipt of a gross weekly wage of between €151.50 and €1,462 during the period of the EWSS at the following rates:

<u>Employee Gross Weekly Wage</u>	<u>Subsidy Payable</u>
• Less than €151.50	Nil
• From €151.50 to €202.99	€151.50
• From €203 to €1,462	€203
• More than €1,462	Nil

### Excluded Employees

While proprietary directors are currently excluded from the EWSS, the Guidance states that additional information will be provided in due course to grant EWSS in respect of certain proprietary directors.

Connected parties who were not on the payroll between 1 July 2019 and 30 June 2020 are also excluded. Connected parties include brothers, sisters, linear ancestors, linear descendants, aunts, uncles, nieces and nephews and spouses of the employer. A person is connected to a company if they alone or together with their connected parties can exercise or acquire control of more than 50% of the issued share capital or voting rights, the greater part of distributions, or the greater parts of assets distributed on winding up.

Furthermore, EWSS cannot be claimed in respect of employees working in a business division or related group entity not expected to suffer a 30% reduction and employees employed otherwise than as part of a business e.g. childminders, housekeepers and gardeners.

### Taxation

The subsidy payments will be subject to tax and USC at the normal rates. However, employer PRSI will be applied at a reduced rate of 0.5% in respect of employees for whom the subsidy is payable.

### Employer Compliance

When registering for EWSS, employers will be required to sign a declaration that the business qualifies for EWSS and will abide by the terms of the scheme. Where the employer fails to adhere to these requirements, the employer accepts that this could result in recoupment of monies together with interest, penalties and prosecution. The employer must also undertake that the business will retain all records relating to EWSS, including the basis of eligibility for review by Revenue.

Records retained by the employer include documents supporting the expectation that turnover or customer orders will be reduced by at least 30%. Employers must conduct a monthly review to confirm their eligibility to continue availing of the EWSS and should keep records of any assessments made in this regard. Revenue has advised it will undertake assurance checks, details of which will be published in due course.

As with TWSS, the names and addresses of employers who receive an EWSS subsidy payment will be published on Revenue's website.

The Minister for Finance will continue to monitor the economy and may amend the terms of the scheme, specifically the end date, the rate of subsidy payable and the turnover test to determine employer eligibility. We will of course keep you updated on any changes to the scheme if and when they arise.

*Our Employment & Corporate Immigration Team is available to discuss any queries your business may have in relation to the EWSS. For further information, please contact Bláthnaid Evans or Sheila Spokes, +353 1 639 3000 or visit [www.leman.ie](http://www.leman.ie).*