

# Covid-19: Business Grant Scheme

## Guidance Notes

### 1 Background

Covid-19 (caused by the coronavirus SARS-CoV-2) (the **Virus**) continues to have a major adverse impact on general economic activity in the Falkland Islands and across the world. Many Falklands' businesses have experienced a significant fall in revenues and profits as a consequence. In order to assist those businesses to continue to trade, the Falkland Islands Government (**FIG**) is offering various types of support.

Businesses who are otherwise unable to maintain their current workforce or their employees' wages, salaries and other employment benefits at current levels, may be entitled to support in respect of those employees under the **Job Retention (Furlough) Scheme**, details of which are also available at [www.fig.gov.fk/covid-19](http://www.fig.gov.fk/covid-19).

Those in self-employment (including sole traders, partnerships, casual workers and others) who have experienced a significant decline in business sales but who are unable to access support under other Schemes, may be entitled to have their net earnings supplemented under the **Income Supplement Scheme**, details of which are available at [www.fig.gov.fk/covid-19](http://www.fig.gov.fk/covid-19).

In order further to assist:-

- micro- and small-sized businesses generally; and
- micro-, small- and medium-sized businesses which operate in the hospitality or human health and social work sectors in particular,

which in each case have experienced a significant reduction in business revenues on account of the adverse economic impact of the Virus but which may not be able to access sufficient support under the above Schemes or obtain finance from other sources on acceptable terms in current circumstances, FIG (is offering grants to assist them to discharge certain fixed costs pursuant and subject to the **Business Grant Relief Scheme** (the **Scheme**), the terms of which are set out in paragraph 2 below.

Unless and until FIG gives notice to the contrary, the Scheme is to be administered and operated by FIG which will receive and assess applications under the Scheme, determine the eligibility of applicants and any amounts to be paid to them, make payments and otherwise manage and enforce the terms of the Scheme as necessary for FIG's benefit. Certain rights and obligations under the Scheme are reserved to FIG, as set out in the Conditions below.

FIG may announce further measures to extend (or reduce) the scope of, or otherwise amend the terms of, the Scheme in the future.

### 2 Terms of Support

With respect to each applicant who qualifies under the Scheme, FIDC as Scheme Administrator will provide Small Business Grants or HHSW Grants upon and subject to the terms set out below (the **Conditions**):-

#### 2.1 **Small Business Grants:**

- (a) Small Business Grants are available to micro- and small-sized businesses operating in any economic sector or market in the Falkland Islands:-
  - (i) whose annual turnover (according to their most recent annual accounts) is less than £500,000; and

- (ii) who have experienced a significant reduction (as defined in paragraph 2.4(j) below) in their monthly Revenue on account of the adverse economic effects of the Virus (as assessed in accordance with paragraph 2.5(a) below).
- (b) Small Business Grants will be payable either by way of lump sum or in instalments.
- (c) An applicant must apply for a Small Business Grant during the Scheme Term (as defined in paragraph 2.4(i) below but subject to paragraph 2.6(d)).
- (d) The Small Business Grant(s) provided to any one applicant shall not exceed £10,000 per month during the Scheme Term. Subject to that limit, the amount of any Small Business Grant shall be determined by the Scheme Administrator by reference to the applicant's Eligible Expenditure (as defined in paragraph 2.4(b) below) and the other factors referred to in paragraph 2.5(b) below.

## 2.2 **HHSW Grants:**

- (a) Hospitality, human health and social work sector grants (**HHSW Grants**) are available to micro-, small- and medium-sized businesses which conduct a Qualifying Business (as defined in paragraph 2.4(f) below) (in that they are operating in the hospitality, human health and social work sectors in the Falkland Islands) and have:-
  - (i) an annual turnover (according to their most recent annual accounts) of less than £1,000,000; and
  - (ii) experienced a significant reduction in their monthly Revenue on account of the adverse economic effects of the Virus (as assessed in accordance with paragraph 2.5(a) below but subject to paragraph 2.5(a)(cc)).
- (b) HHSW Grants will be payable either by way of lump sum or in instalments.
- (c) An applicant must apply for a HHSW Grant during the Scheme Term.
- (d) The HHSW Grant(s) provided to any one applicant shall not exceed £10,000 per month during the Scheme Term. Subject to that limit, the amount of any HHSW Grant shall be determined by the Scheme Administrator by reference to the applicant's Eligible Expenditure and the other factors referred to in paragraph 2.5(b) below.

## 2.3 **Commencement and Duration of Scheme**

- (a) The Scheme takes effect on and from the Commencement Date (as defined in paragraph 2.4(a) below) and shall, subject to paragraphs 2.3(b), 2.7(b) and 4.3, continue in effect for the duration of the Scheme Term (and for such further period as shall be necessary to process and make Grant Payments claimed during the Scheme Term).
- (b) Without limit to FIG's power to amend or terminate the Scheme in accordance with paragraph 2.7(b), the Scheme will be subject to review on or around 31<sup>st</sup> July 2022.

## 2.4 **Definitions:** For the purposes of the Scheme:-

- (a) **Commencement Date** means 1<sup>st</sup> May 2020;
- (b) **Eligible Expenditure** (subject to paragraph 2.5(b)(aa) below) means such fixed costs of the business (for which application is made under the Scheme) as shall be agreed by the Scheme Administrator on a case-by-case basis, and which have been incurred in the final full month of business operations immediately preceding the date of application and discharged by the applicant prior to such application, as evidenced by the Receipts accompanying such application or such other evidence as the Scheme Administrator may specify from time to time;
- (c) **Grant Payment** means a Small Business Grant or a HHSW Grant, as the case may be;

- (d) **HHSW Grant** means a hospitality, human health and social work sector grant, as described in paragraph 2.2;
- (e) **Qualifying Business**, in relation to applicants for HHSW Grants, means a business operating exclusively or primarily (in the opinion of the Scheme Administrator) within the hospitality, human health and social work sectors, such as a café, restaurant, hotel, nursery, child-minder, and/or such other types of business as may be specified by the Scheme Administrator from time to time;
- (f) **Receipts** means copies (certified on behalf of the applicant if so required by the Scheme Administrator) of receipts or paid invoices for the relevant Eligible Expenditure (the discharge or reimbursement of and for which the Grant Payments are to be used) and/or such other evidence of such Eligible Expenditure as the Scheme Administrator may specify from time to time;
- (g) **Revenue** means the aggregate income of an applicant from the sale of goods and services undertaken as part of the normal commercial activities of the business in respect of which they make a claim under the Scheme but excluding capital receipts; and shall be assessed in accordance with paragraphs 2.5(a)(ii) and (iii);
- (h) **Scheme Term** means the period commencing on and from the Commencement Date and expiring on 30<sup>th</sup> September 2022, during and in respect of which Grant Payments may be claimed;
- (i) **Significant reduction** means, in relation to Revenue, a reduction in excess of 20% in the applicant's Revenue during the final full month of business operations immediately preceding the date of their application under the Scheme, when compared with the level of average monthly Revenue during their previous two financial years (or during the period since the commencement of the business, if less); such significant reduction shall be assessed by the Scheme Administrator in accordance with paragraph 2.5(a) below, having regard to the factors referred to in that paragraph; and
- (j) **Small Business Grant** means a payment as described in paragraph 2.1.

## 2.5 **Grant Payments**

- (a) Grant Payments will only be provided in respect of applicants who experience a significant reduction in their Revenue as a consequence of the adverse economic effects of the Virus provided that, in determining whether an applicant is eligible for a Grant Payment (whether a Small Business Grant or an HHSW Grant) under the Scheme, the Scheme Administrator may have regard to the following in its discretion, namely the applicant's:-
  - (i) current annual turnover (as demonstrated in their most recent annual accounts) and whether it exceeds the limits set out in paragraph 2.6(e) below;
  - (ii) Revenue during the final full month of business operations immediately preceding the date of their application under the Scheme;
  - (iii) average monthly Revenue during the previous two financial years (or the lesser period since the commencement of their business, if applicable);
  - (iv) ability to continue to trade as a going concern; and for this purpose, the Scheme Administrator may have regard to such factors as it thinks fit, in its discretion (including, without limitation, its cash flow and net assets) which indicate whether the applicant's business is at risk of insolvency proceedings (or fulfils the criteria for being placed in insolvency proceedings at the request of its creditors) and so of coming within paragraph 2.6(c)(i) below, in its current financial year or thereafter; and
  - (v) such other factors as the Scheme Administrator may think fit,

Provided that:-

- (aa) in the case of a seasonal business and as an alternative to paragraph (iii) above, the applicant may refer to their Revenue in the same month of the previous year or their average monthly Revenue for the previous financial year (whichever is higher);
- (bb) where a business forms part of a larger chain or group, the above will be assessed by reference to the chain or group as a whole, rather than for each branch of the business separately; and

- (cc) in assessing an HHSW Grant payable to a hospitality business engaged in the tourist sector in respect of the period from 1 April 2021 – 30<sup>th</sup> September 2022 (or any part thereof), the Scheme Administrator shall be entitled to disregard whether the applicant has experienced a significant reduction in their Revenue as a consequence of the adverse economic effects of the Virus and assess the level of HHSW Grant to be paid to such applicant by reference to the applicant's Eligible Expenditure during such period only.
- (b) Grant Payments in respect of each applicant shall not, in any circumstances, exceed the limits set out in paragraphs 2.1(d) and 2.2(d) respectively. Subject to those limits, the amount of any Grant Payment (whether a Small Business Grant or an HHSW Grant) due to an applicant will be determined at the discretion of the Scheme Administrator by reference to the following:-
- (i) the applicant's Eligible Expenditure incurred in the final full month of business operations immediately preceding the date of their application, and whether it has been discharged by the applicant prior to such application, as evidenced by the Receipts accompanying such application or such other evidence as the Scheme Administrator may specify from time to time;
  - (ii) if so required by the Scheme Administrator, the applicant's Eligible Expenditure during their previous two financial years (or the lesser period since the commencement of their business, if applicable) provided that if the rate of that Eligible Expenditure varies during that period, the applicant may refer to an average of their Eligible Expenditure each month during the relevant two-year period (or lesser period as applicable). In the case of seasonal businesses, the applicant may refer to the Eligible Expenditure in the same month of the previous year or their average monthly Eligible Expenditure for the previous financial year (whichever is higher); and
  - (iii) subject to paragraph 2.5(a)(cc), any loss or deficit habitually incurred by the applicant's business in the period corresponding to the Scheme Term in each of the two previous years of their business operations (or the lesser period since the commencement of their business, if applicable) (as evidenced in the applicant's financial statements for those periods or in such other financial information as is provided to, or as may be required by, the Scheme Administrator), any such loss or deficit to be deducted from the Grant Payment awarded to the applicant under the Scheme (in such amount as the Scheme Administrator may, in its discretion, think fit).

Provided that:-

- (aa) Expenditure the payment of which has (without good commercial reason in the opinion of the Scheme Administrator) been accelerated in advance of, or delayed beyond, its due date in order to bring it within the definition of Eligible Expenditure, shall be excluded from that definition for the purposes of the Scheme.
  - (bb) Where a business forms part of a larger chain or group, the above will be assessed by reference to the chain or group as a whole, rather than for each branch of the business separately. Only one Grant Payment (or one set of related Grant Payments) will be made for each business rather than one Grant Payment (or set of Payments) for each branch of a single or combined business.
- (c) Applicants may only use Grant Payments to discharge the applicant's Eligible Expenditure in relation to the business for which those Grant Payments are awarded, and for no other purpose, or to discharge expenditure of any other type. In particular, the applicant shall not, without the prior written consent of the Scheme Administrator, transfer any part of the Grant Payments to bank accounts which are not ordinary business accounts with Standard Chartered Bank (Stanley Branch), or pay any part of a Grant Payment to its proprietors, owners, shareholders, members, partners,

directors, officers, employees, consultants, professional advisers or agents for purposes other than the discharge of Eligible Expenditure.

- (d) With the exception of Grant Payments, there is no additional funding available under the Scheme or commitment on the part of FIG or the Scheme Administrator to provide the same; and the amount of the Grant Payments shall not be increased in the event of any overspend by the applicant or to meet any of its liabilities (whether or not in respect of Eligible Expenditure).
- (e) Grant Payments under the Scheme will be made by the Scheme Administrator in lump sums or monthly instalments or at such other intervals as it may determine. To be eligible, applicants will also need to maintain a current bank account with Standard Chartered Bank in Stanley

## 2.6 Applicants

- (a) Subject to satisfying the eligibility criteria for applicants under this Scheme, this Scheme is available to any type of applicant, including individuals, partnerships, unincorporated associations, corporate bodies and charities.
- (b) Grant Payments under the Scheme are intended for the manager of the relevant business, which means:-
  - (i) in the case of a sole trader, the owner of the business;
  - (ii) in the case of a partnership, the management committee (by whatever name called);
  - (iii) in the case of a company, the board of directors;
  - (iv) in the case of a charity, the board of trustees; and
  - (v) in the case of any other body, the managing committee or other ruling body.

Where the Scheme Administrator has reason to believe that the applicant does not fall into one of the above categories, it may withhold or recover the Grant Payment and take reasonable steps to identify the correct recipient.

- (c) The following applicants are not eligible under the Scheme:-
  - (i) applicants in respect of businesses which as at the Commencement Date are in liquidation or subject to other insolvency proceedings, or have been dissolved, or which are at risk of the same as determined by the Scheme Administrator in accordance with paragraph 2.5(a)(iv);
  - (ii) subject to paragraph 2.5(a)(cc), applicants who, notwithstanding the adverse economic effects of the Virus, have not experienced a significant reduction in their Revenue (as assessed, as necessary, in accordance with paragraph 2.5(a));
  - (iii) statutory corporations and other bodies which are in receipt of regular and substantial subventions from FIG (such that the subvention forms part of FIG's budget process and the recipient body is named in FIG's approved estimates);
  - (iv) the Museum and National Trust (as established pursuant to the Museum and National Trust Ordinance 1991);
  - (v) governments or public authorities of countries or territories other than the Falkland Islands;
  - (vi) applicants whose activities are wholly or substantially conducted outside the Falkland Islands; and
  - (vii) applicants engaged by the Ministry of Defence (**MoD**) and their sub-contractors (including, without limitation, those named in the Taxes and Duties (Defence Contractors' Employees Exemption) Order 2019), in each case to the extent engaged in MoD-related work and to the extent that such applicants or sub-contractors are receiving Virus-related support from the MoD or other UK government departments or offices in terms substantially similar (as determined by the Scheme Administrator) to the support available under this Scheme.
- (d) Applicants in respect of businesses which operate exclusively or primarily (in the opinion of the Scheme Administrator) in the wool production sector and which have received, or intend to apply for, support from FIG under the Covid-19: Wool Producers Assistance Scheme shall be entitled (subject to these Conditions) to receive Grant Payments in respect of their wool production business only for the period commencing on and from 1<sup>st</sup> October 2020 and expiring not later than the expiry of the Scheme Term, provided that in submitting their application, they shall distinguish and keep

separate (to the Scheme Administrator's reasonable satisfaction) their Eligible Expenditure incurred in their wool production business from Eligible Expenditure incurred in connection with any other business or activity.

- (e) In order to be eligible to claim:-
- (i) a Small Business Grant, an applicant must have an annual turnover (as demonstrated in their most recent annual accounts) of less than £500,000; or
  - (ii) a HHSW Grant, an applicant must have an annual turnover (as demonstrated in their most recent annual accounts) of less than £1,000,000, and must be carrying on a Qualifying Business as at the date of its application,
- Provided that, where a business forms part of a larger chain or group, the above will be assessed by reference to the chain or group as a whole, rather than for each branch of the business separately.
- (f) An applicant may claim either a Small Business Grant or a HHSW Grant but may not claim both.
- (g) To be eligible for any Grant Payments under the Scheme, the applicant must:-
- (i) have been engaged in the same business (which, in relation to applicants for HHSW Grants, means the same Qualifying Business) for not less than three months prior to the date of their application under the Scheme (or, in the case of seasonal businesses, at least in the same three-month period during the previous year), must continue to trade (subject to any disability from doing so on account of the Virus) and intend, to the satisfaction of the Scheme Administrator, to continue to trade in that business until the end of the 2022 tax year;
  - (ii) be engaged in their business (which, in relation to applicants for HHSW Grants, means the same Qualifying Business) for at least seven hours per week;
  - (iii) if he or she is an individual, have (or, if the applicant is a partnership or other unincorporated association, each of its partners or members must have) the right to live and work in the Falkland Islands, hold a current, valid entitlement, permit or consent for such purpose, and be resident in the Falkland Islands throughout the Scheme Term; and
  - (iv) if it is a company or other body corporate or charity, be duly incorporated or established and registered under the laws of the Falkland Islands or entitled to conduct business in the Falkland Islands, and conduct all or a substantial part of the business in respect of which it is claiming under the Scheme in the Falkland Islands.
- (h) In making an application under this Scheme, as a precondition to the receipt of any Grant Payments under the Scheme and subject to paragraph 2.6(i), each applicant:-
- (i) shall submit with their application form (or otherwise upon the request of the Scheme Administrator) Receipts for (or such other evidence as the Scheme Administrator may specify from time to time of) the Eligible Expenditure for the period to which such application relates; and
  - (ii) if so required by either of them, shall demonstrate to the reasonable satisfaction of the Scheme Administrator or FIG, that it has made all reasonable endeavours to reduce its Eligible Expenditure so far as reasonably practicable.
- (i) Subject to paragraph 2.6(d), support under the Scheme is available for the duration of the Scheme Term. Subject as aforesaid, an applicant may claim Grant Payments for the whole of such Scheme Term or for one or more months (or other thirty-day periods) during the Scheme Term as they may choose (subject to these Conditions). If the applicant wishes to claim for more than one month (or other thirty-day period) within the Scheme Term, they will need to submit an application for and prior to the first month/period for which they wish to claim, and then a fresh application for, and prior to, each subsequent month/period (although subsequent applications can make reference to the information contained in the first application (to the extent it has not changed in the interim) and need to enclose only the Receipts (or other evidence as referred to in paragraph 2.6(h)(i)) in relation to the month/period to which such subsequent application relates).
- (j) Under the Scheme, an applicant shall not:-
- (i) claim for a period of greater length than the Scheme Term (subject to paragraphs 2.6(d) and 2.7(b) below);
  - (ii) make a claim in respect of any period other than a month or other thirty-day period; or

- (iii) make more than one claim in relation to any one Receipt or the same month/thirty-day period.
- (k) In making an application for Grant Payments, each applicant represents and warrants that all information contained in their application and in any documents accompanying the application or otherwise provided in connection with the Scheme is, to the best of their knowledge and belief (having made all reasonable enquiries), true, accurate, up-to-date and complete; and that the applicant is not aware of any matter in its own affairs which it has not disclosed to the Scheme Administrator which might reasonably have influenced the Scheme Administrator's decision whether to provide a Grant Payment.
- (l) Payments made to applicants under the Scheme will be taxable income in their hands and will be subject to income or other tax in accordance with the terms of the Taxes Ordinance (as amended) and any other relevant tax legislation, and other deductions in the normal way, depending on their individual circumstances.
- (m) Within 28 days after the end of the Scheme Term and if so required by the Scheme Administrator, the applicant shall report in writing to the Scheme Administrator (in such form as it may require) on its use of the Grant Payments.
- (n) If so required by FIG or the Scheme Administrator, the applicant shall acknowledge the Grant Payments, and FIG as the source of the Grant Payments, in its annual report and accounts and in any materials, presentations or information issued with respect to its business, in each case in such form as the Scheme Administrator may require and approve in advance; and shall comply with all reasonable requests from the Scheme Administrator to facilitate visits and provide reports, statistics, photographs and case studies that will assist the Scheme Administrator in its administration and promotion of the Scheme.

## 2.7 *Scheme Administration*

- (a) FIG may, at its discretion, increase (or reduce) the level of Grant Payments, extend (or reduce) the length of the Scheme Term, change the categories of claimants under the Scheme, amend the Conditions, or otherwise make changes to, or terminate, the Scheme at any time. In the event that FIG makes any such changes or amendments, the Scheme Administrator shall be entitled to increase, reduce or otherwise adjust the level of Grant Payments payable to any applicant accordingly. Any such changes may be communicated (on not less than seven days' notice) to individual applicants or by means of public notice in the Gazette or on FIG's or FIDC's website.
- (b) Neither FIG nor the Scheme Administrator shall be liable for any consequences (whether direct or indirect) of or from the use or withdrawal of the Grant Payments.
- (c) For six years commencing on and from the Commencement Date, each successful applicant shall keep and maintain separate, accurate and up-to-date accounts and records of, and any other relevant documents relating to, the receipt and expenditure of the Grant Payments it receives (including, without limitation, all original Receipts) and such further financial and other records or evidence as the Scheme Administrator may require.
- (d) FIG and the Scheme Administrator shall be entitled to audit each successful applicant's compliance with the Conditions on giving them not less than three working days' prior written notice; and the applicant shall provide FIG or the Scheme Administrator with access to such information (including the records referred to in paragraph 2.7(d)), premises, employees and agents as it may reasonably request.
- (e) FIG or the Scheme Administrator shall be entitled to verify an applicant's status, details of its business and claims under the Scheme by reference to their tax and other records as maintained at the FIG Tax Office or other departments within FIG

- (f) In the event that an applicant is in breach of the requirements of the Scheme or any of their undertakings, or provides information for the purposes of the Scheme which is false, misleading or otherwise in breach of paragraph 2.6(k) above, the Scheme Administrator shall be entitled to the repayment of any Grant Payments already made under the Scheme (in whole or part) and to recover that amount as a civil debt, and to withhold, suspend or cancel the payment of any outstanding part or instalment of the Grant Payments. In the event that an applicant receives Grant Payments of amounts in excess of those to which they are entitled under the Scheme (whether as a result of administrative error or otherwise), the applicant shall promptly repay to the Scheme Administrator any overpayment or other monies incorrectly paid to them. Any fraudulent activity in connection with the Scheme may be subject to criminal proceedings.

### **3. Applications under the Scheme**

- 3.1 In order to obtain support under the Scheme, applicants need to complete the application form set out in the Annex. The application form and any information or documents provided in or with this form will be reviewed to assess whether the applicant is eligible for Grant Payments under this Scheme, and to determine the amount of any such Grant Payments.
- 3.2 In the event that an application is successful, these Conditions, the application form and any information the applicant provides in this form and in any documents (including the Receipts) enclosed with their application or otherwise provided in connection with the Scheme (subject to the Scheme Administrator's agreement) will form a legally-binding agreement between the applicant and the Scheme Administrator in relation to the Scheme. The rights reserved to FIG under these Conditions and that agreement shall be exercisable by FIG as if party to that agreement (FIG acting through the agency of FIDC for this purpose). In submitting an application and/or accepting any support under the Scheme, the applicant will be deemed to accept, and agree to be bound by, these documents. In view of this, each applicant is advised to obtain their own independent legal advice on their content, effect and implications.
- 3.3 If an applicant has any questions or needs any assistance in completing the application form, they should e-mail [treasury.support@sec.gov.fk](mailto:treasury.support@sec.gov.fk)

### **4. The Application Process**

- 4.1 To apply for support under this Scheme, please send a completed "*Business Grant Scheme: Application Form*" to the Scheme Administrator by e-mail [Treasury.support@sec.gov.fk](mailto:Treasury.support@sec.gov.fk) or by post to the Emergency Support Scheme Supervisor, Taxation Office, Stanley
- 4.2 The application should be supported by copies of the documents listed in the application form (or those relevant).
- 4.3 Applications may be submitted at any time during the Scheme Term (subject as provided in paragraph 2.6(d)), or until FIG or the Scheme Administrator gives notice that no further funds are available under the Scheme. Each application must have been submitted before the end of the Scheme Term or by the date specified in that notice.
- 4.4 Applicants must notify the Scheme Administrator promptly of any change in the information contained in their applications.
- 4.5 Applications will be assessed by the Scheme Administrator who shall be entitled to require such further information or clarification from an applicant as it thinks fit. The Scheme Administrator will endeavour to decide an application and communicate that decision as soon as reasonably practicable (and in any event within twenty-one days) after receipt of an application.