



BERMUDA

PUBLIC TREASURY (ADMINISTRATION AND PAYMENTS) (SUPPLEMENTAL
UNEMPLOYMENT BENEFIT) REGULATIONS 2020

BR 102 / 2020

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WHEREAS COVID-19 is a public health pandemic globally;

AND WHEREAS COVID-19 has presented an unusual disruption to the Bermuda economy;

AND WHEREAS the Government has expressed its commitment to provide access to supplemental unemployment benefit to certain individuals whose employment has been directly impacted by COVID-19;

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The Minister of Finance, in exercise of the power conferred by section 33 of the Public Treasury (Administration and Payments) Act 1969, makes the following Regulations:

Citation

1 These Regulations may be cited as the Public Treasury (Administration and Payments) (Supplemental Unemployment Benefit) Regulations 2020.

Interpretation

2 In these Regulations—

“Act” means the Public Treasury (Administration and Payments) Act 1969;

“applicant” means an individual who makes an application under these Regulations;

“Director” means the person who is appointed as the Director of Financial Assistance pursuant to section 3 of the Financial Assistance Act 2001;

“employee” has the meaning given by section 4(1) of the Employment Act 2000; and “employed” and “employment” shall be construed accordingly;

“in writing” includes by electronic communication;

“Minister” means the Minister of Finance;

“month” means a calendar month;

“recipient” means a person who is in receipt of supplemental unemployment benefit under the Act pursuant to these Regulations;

“substantially reduced hours” means 50% or less of the employee’s normal hours of employment;

“supplemental unemployment benefit” has the meaning given in regulation 3;

“unemployed”, in relation to an individual, means being in any one of the circumstances set forth in regulation 4(3)(a)(i), (ii), (iii) or (iv);

“Unemployment Insurance Fund” means the fund established under section 10B of the Act.

Supplemental unemployment benefit

3 (1) For the purposes of these Regulations, “supplemental unemployment benefit” means the sum of money approved for payment under these Regulations to an individual who is unemployed as a result of COVID-19, from the Unemployment Insurance Fund.

(2) The supplemental unemployment benefit is a temporary benefit to be paid to an eligible individual for a maximum period of six months beginning from the date when his application for supplemental unemployment benefit is approved with the final payment being made for the month ending 31 March 2021.

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Persons who are qualified to apply for supplemental unemployment benefit

4 (1) An individual who is or was an employee of a business that has been directly impacted as a result of COVID-19, or is a self-employed individual whose business has been directly impacted as a result of COVID-19, is qualified to apply for, and eligible to receive, supplemental unemployment benefit if he satisfies the criteria set forth in paragraphs (2) and (3).

(2) An individual referred to in paragraph (1) is qualified to apply for supplemental unemployment benefit if he is 18 years of age or older and—

- (a) he possesses Bermudian status; or
- (b) he is the spouse of a person who possesses Bermudian status.

(3) An individual living in Bermuda on the date these Regulations come into force is qualified to apply for supplemental unemployment benefit—

- (a) where as a direct result of COVID-19—
 - (i) he is laid off work;
 - (ii) he is self-employed, and without income or his income has been substantially reduced, and is registered with the Office of the Tax Commissioner;
 - (iii) he is engaged as an employee, but is for the time being working substantially reduced hours; or
 - (iv) his employment has been terminated; and
- (b) if, in respect of his income, he meets the criteria set forth in regulation 5.

Eligibility criteria

5 (1) Eligibility for supplemental unemployment benefit shall be assessed on the basis of the eligibility criteria set forth in this regulation.

(2) With consideration being given to the best interests of Bermuda, the Director, in consultation with the Minister, shall provide the supplemental unemployment benefit to individuals with consideration being given to an individual's circumstances and qualifying income.

(3) An individual mentioned in regulation 4 is eligible to apply for and receive supplemental unemployment benefit in respect of any period for which he is claiming supplemental unemployment benefit—

- (a) if the value of his investments and assets (other than real property), does not exceed \$5,000;
- (b) if the amount of his allowable expenses exceeds his qualifying income (including rental income) for that period.

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(4) Notwithstanding paragraph (3), an individual who holds more than one interest in real property (whether located in Bermuda or elsewhere), is not eligible for supplemental unemployment benefit.

(5) A person is not eligible for supplemental unemployment benefit if—

- (a) he is receiving or is eligible to receive financial assistance under the Financial Assistance Act 2001; or
- (b) he has any other feasible source of income or assets (whether in Bermuda or elsewhere) available that are sufficient to provide him with his allowable expenses.

(6) In this regulation, the terms “allowable expense”, “assets”, “excluded income” and “qualifying income” each have the meaning given in regulation 2 of the Financial Assistance Regulations 2004; and apply with any necessary modifications for the purposes of these Regulations.

Powers of Minister

6 (1) In the exercise of his functions under section 10BA of the Act to direct the sum to be paid to an individual for supplemental unemployment benefit and with respect to eligibility criteria, the Minister may consult with the Minister responsible for labour and the Director of Financial Assistance.

(2) The Minister may authorise an officer of his Ministry or department to exercise his powers under section 10BA of the Act and shall furnish such officer with an authorisation signed by him.

(3) An officer exercising powers by virtue of an authority under this regulation shall, if so required, produce evidence of his authorisation.

Scope of supplemental unemployment benefit; duration

7 (1) The supplemental unemployment benefit payment to a recipient shall be \$1,520 per month with the final payment being made for the month ending 31 March 2021.

(2) Where a recipient does not have health insurance, an additional \$430 per month for the cost of the recipient’s health insurance shall be paid directly into the Government’s Health Insurance Plan.

Application for supplemental unemployment benefit

8 (1) An application shall be made in such form as may be determined by the Director, in consultation with the Minister, for the purposes of these Regulations.

(2) The applicant shall submit all of the information required by these Regulations and the completed form.

(3) In respect of his application, an applicant shall provide the following information—

- (a) for the purposes of regulation 4(2), documentary proof that he falls within subparagraph (a) or (b) of that regulation;

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- (b) for the purposes of regulation 4(3), verification in writing from his former employer confirming his current employment status as being unemployed and the date when he became unemployed;
- (c) where applicable, confirmation that he is registered with the Office of the Tax Commissioner;
- (d) confirmation that he has applied for financial assistance and has been informed that he does not qualify for financial assistance;
- (e) a copy of the applicant's photographic identification which includes a valid driver's licence, passport or other valid Government-issued identification.

(4) The applicant or his former employer shall provide any further information, verification or documentation, as the case may be, that is reasonably required by the Director to support the application.

(5) An application shall not be considered complete for the purposes of this regulation until that further information, verification or documentation has been supplied to the Director in writing.

Decision of Director

9 (1) The Director shall consider completed applications, and make a decision whether to approve or refuse to approve the application.

(2) The Director shall not approve an application for supplemental unemployment benefit unless he is satisfied that the applicant fulfils the qualifications and eligibility criteria for such benefit.

(3) Where the Director approves an application, he shall first inform the Minister in writing of the approval of supplemental unemployment benefit, the duration of the benefit, any conditions attached to the benefit, and any other relevant matter.

(4) The Director shall also notify the applicant of his decision and, if the application is refused, give the reasons for the refusal and advise the applicant of his right to appeal the decision.

(5) Where the Director approves an application, he shall inform the applicant in writing of the approval of supplemental unemployment benefit, the duration of the benefit, any conditions attached to the benefit, and any other relevant matter.

(6) Pursuant to such notification from the Director, the Minister shall notify the Accountant General—

- (a) of the sum of supplemental unemployment benefit; and
- (b) to pay the supplemental unemployment benefit directly to the applicant.

Conditions applicable to supplemental unemployment benefit

10 (1) Every supplemental unemployment benefit approved under these Regulations shall be subject to the conditions specified in paragraph (2) and any other conditions that may reasonably be imposed by the Director under this regulation.

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(2) It shall be a condition of every supplemental unemployment benefit granted that the recipient—

- (a) shall notify the Director in writing forthwith of any change in his circumstances which—
 - (i) had he not been in receipt of supplemental unemployment benefit, would disqualify him from applying for such benefit;
 - (ii) would make him ineligible to receive, or continue to receive, supplemental unemployment benefit;
- (b) shall provide such information and produce such documents as the Director may, from time to time, reasonably require; and
- (c) shall, if the Minister so requires, attend at such time and place as the Director may require to be examined as to his circumstances.

(3) A recipient who, without reasonable cause, refuses or fails to comply with a condition under paragraph (2), is in breach of the condition and may be subject to the provisions of regulation 12 or 13.

(4) For the purposes of this regulation, a recipient shall provide to the Director at such time as may be determined by the Director, a letter confirming his employment status and other circumstances at the date set forth in the letter.

Periodic review of supplemental unemployment benefit

11 (1) The Director may, on new facts being brought to his notice, or if he is satisfied that the decision was based on a misrepresentation as to some material fact, review any decision given by him in relation to a person's supplemental unemployment benefit and upon review may vary, suspend or cancel a person's supplemental unemployment benefit.

(2) Before he makes a decision under paragraph (1), the Director shall first give the recipient an opportunity to make representations.

(3) The Director, with the approval of the Minister, may require a recipient to repay any sum of money improperly paid under a supplemental unemployment benefit ("overpayment") as a result of non-disclosure of facts, misrepresentation or for any other cause.

(4) The Director may, with the approval of the Minister, waive the overpayment or may require the recipient to pay a reduced amount if he is satisfied that a recipient has exercised due care and diligence to avoid the overpayment.

(5) Where any sum is required to be repaid by a recipient under this regulation, the Minister may recover such sum as a debt owing to the Government in any court of competent jurisdiction.

(6) For the purposes of this regulation, a recipient, or the employer, where applicable, shall provide to the Director at such time as may be determined by the Director, a letter confirming the recipient's employment status at the date thereof.

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Suspension or cancellation of supplemental unemployment benefit

12 (1) The Director may suspend or cancel a supplemental unemployment benefit where—

- (a) the recipient ceases to be eligible to receive supplemental unemployment benefit pursuant to these Regulations;
- (b) the recipient fails to provide the Director with the information reasonably required to enable the Director to determine his continued eligibility for supplemental unemployment benefit;
- (c) the Director is satisfied that the recipient has been substantially employed during the relevant period or part thereof, and the recipient has, without reasonable excuse, failed to provide documentation as to the hours that he has worked.

(2) If the Director proposes to suspend or cancel a supplemental unemployment benefit under these Regulations, the Director—

- (a) shall give the recipient a notice of his intention and the reasons therefor;
- (b) shall specify a reasonable period (which may not be less than seven days) within which the recipient may make representations to the Director;
- (c) where representations are made under subparagraph (b), shall take them into account in deciding whether to suspend or cancel a recipient's supplemental unemployment benefit.

(3) A decision of the Director under this regulation shall—

- (a) be in writing;
- (b) give reasons for the Director's decision to suspend or cancel the supplemental unemployment benefit to which the notice relates;
- (c) give an indication of the right to appeal the decision as provided in regulation 15.

Investigation

13 The Director may—

- (a) investigate and verify any statements made in an application; or
- (b) investigate and examine the circumstances of an applicant or a recipient in relation to his eligibility, or continued eligibility, for supplemental unemployment benefit.

False information

14 (1) Any person who for the purposes of the Act and these Regulations knowingly makes any false statement or knowingly provides any false information commits an offence.

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(2) A person who commits an offence under paragraph (1) is liable on summary conviction to a fine of \$1,500 or imprisonment for six months or to both such fine or term of imprisonment.

Appeals to Minister

15 (1) An applicant for, or recipient of, supplemental unemployment benefit, who is aggrieved by a decision of the Director—

- (a) not to grant supplemental unemployment benefit under regulation 9;
- (b) to suspend or cancel his supplemental unemployment benefit under regulation 12; or
- (c) regarding any condition subject to which supplemental unemployment benefit is granted or which is thereafter attached to such supplemental unemployment benefit or any variation of such condition,

may within 21 days from the date of such refusal or suspension or cancellation, or imposition or variation of the condition, or such period as the Minister may allow, appeal in writing to the Minister.

(2) After considering an appeal under paragraph (1), the Minister may if he thinks fit, vary the decision of the Director and such variation shall take effect on such date as the Minister may determine.

(3) For the purposes of an appeal under paragraph (1), the Minister shall, at the time of giving his decision, or not later than five working days after the date on which he makes a decision, give reasons, in writing, for the decision.

(4) The Minister may give his decision as soon as possible after considering the appeal but not later than five working days after receipt of the notice of appeal.

(5) When a recipient gives notice of appeal to the Minister, the Minister may suspend the implementation of the decision of the Director, pending the outcome of the appeal.

Director to keep records

16 For the purposes of these Regulations, the Director shall keep a copy of each application with the following information relating to it—

- (a) whether it was approved or refused;
- (b) the amount (if any) permitted to be given to the applicant; and
- (c) the reasons given if the application was refused,

and the Director shall keep copies of documentation submitted in support of an application.

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Made this 17th day of September 2020

Minister of Finance

[Operative Date: 17 September 2020]