



**An Bille um Fhorálacha Airgeadais (Covid-19)
(Uimh. 2), 2020**
Financial Provisions (Covid-19) (No. 2) Bill 2020

Meabhrán Mínitheach
Explanatory Memorandum



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*Mar a tionscnaíodh
As initiated*

EXPLANATORY MEMORANDUM

Section 1 is a definition section.

Section 2 amends Section 28 of the Emergency Measures in the Public Interest (Covid-19) Act 2020 to make provision for several changes to the Temporary Wage Subsidy Scheme (TWSS) namely:

- The extension of the definition of “specified employee” effective from 26 March 2020 to include individuals who return to work with his or her employer on or after 1 March 2020 who were:
 - in receipt of maternity benefit, adoptive benefit, paternity benefit, parental benefit, health and safety benefit, parents benefit, or illness benefit or a period of unpaid absence following on from and related to any such absence,
 - on an apprenticeship and training courses administered by Solas in February 2020.
- The increase in the maximum level of subsidy for those with net weekly emoluments of no more than €586 per week from 70 per cent to 85 per cent effective from 4 May 2020.

Section 2 also amends Section 28 of the Emergency Measures in the Public Interest (Covid-19) Act 2020 to make provision for the introduction of the Employment Wage Subsidy Scheme (EWSS) which will replace the Temporary Wage Subsidy Scheme (TWSS).

The EWSS is an economy-wide enterprise support that focuses primarily on business eligibility to give a flat-rate subsidy to qualifying employers on the basis of the numbers of paid employees on the employer’s payroll. The level of subsidy payable, if any is, dependent on gross income levels of the individual employees.

The primary qualifying criteria for the EWSS is that the employer must be able to demonstrate that in the majority of cases they are operating at no more than 70 per cent in either the turnover of the employer’s business or the customer orders received by the employer by reference to the period from July to December 2020 compared with the same period in 2019.

Sections 3, 4 and 5 provide legislative underpinning to the debt warehousing measures announced by the Revenue Commissioners in March 2020.

Section 3 amends the PAYE (Employer) interest provisions in Chapter 4 of Part 42 of the Taxes Consolidation Act 1997. The *section* inserts a new section 991B into the Taxes Consolidation Act 1997.

Section 4 amends the VAT interest provisions in Chapter 3 of Part 13 of the Value-Added Tax Consolidation Act 2010 (VATCA). The *section* inserts a new section 114B into the Value-Added Tax Consolidation Act 2010.

Section 5 amends the Social Welfare Consolidation Act 2005 by inserting a new section 17C into that Act.

The *sections* are broadly similar but separate provisions are required because the three types of debts involved – income tax/USC, VAT and employment contributions - have different legislative bases.

The *sections* will apply to businesses – “employers” in the PAYE and employment contributions provisions and “accountable persons” in the VAT provision - who because of Covid-19 related restrictions are unable to pay their liabilities and who have filed all required PAYE, VAT and employment contributions returns.

No interest will be charged on the tax and employment contributions debts for the initial “Covid-19 restricted trading period” (period 1) or twelve months thereafter (period 2, the “zero-interest period”). Period 2 may be extended by Ministerial Order but must end not later than 31 December 2022 (this date has been included to comply with EU State Aid requirements). Interest will be charged at the reduced rate of 3 per cent per annum after that in Period 3 until the debt is paid in full. Businesses will also be required to comply with requirements in relation to tax and employment contributions returns and pay other liabilities in full and on time. Otherwise the normal 10 per cent per annum interest will apply.

Businesses whose taxes are warehoused will still be able to obtain tax clearance certificates if they comply with their other tax obligations.

Enforcement action by the Collector General of warehoused debt will be suspended for the three periods of the warehousing scheme provided the business complies with all the provisions of this scheme but enforcement action will recommence if the provisions are breached.

Section 6 inserts a new section 1080A into Chapter 5 Part 47 of the Taxes Consolidation Act 1997. Section 1080A provides for a reduced interest rate of approximately 3 per cent per annum to apply from 1 August 2020 to taxes declared and owing to the Revenue Commissioners which are the subject of a payment agreement between the taxpayer and the Collector General. The *section* applies to agreements currently in existence and where application to make such an agreement is made before 30 September 2020. The measure will assist taxpayers in difficulty with tax payments.

Section 7 of the Bill provides for an income tax credit in relation to qualifying expenditure by an individual on accommodation and food and non-alcoholic drink. The measure provides relief for claimants by way of an income tax credit, equal to the lesser of 20 per cent of the qualifying expenditure and €125 or €250 in the case of a jointly assessed couple. This is the maximum tax credit that may be claimed in respect of 2020 and 2021. The tax credit may be set against a claimant’s USC liability, where he or she does not have a sufficient income tax liability to fully absorb the tax credit in a year of assessment.

This income tax credit is to be known as the “Stay and Spend Tax Credit”.

The Taxes Consolidation Act 1997 is amended as follows:

- Section 458 Taxes Consolidation Act 1997 is amended to provide that the new tax credit is non-refundable.
- A new section, s478A Taxes Consolidation Act 1997, is introduced to provide for the credit.

Qualifying expenditure is defined in *subsection (1)*, it is expenditure incurred by an individual or in the case of jointly assessed couples by the individual and his/her spouse or civil partner, on holiday accommodation and or food and drink from a qualifying service provider. A minimum expenditure amount of €25 per transaction is required and expenditure on alcohol is not allowable expenditure.

The tax credit is granted by reference to the lesser of 20 per cent of the qualifying expenditure incurred and the maximum tax credit (*subsection (5)*). The period during which qualifying expenditure may be incurred is 1 October 2020 to 30 April 2021. Qualifying expenditure can be incurred on a cumulative basis over the life of the scheme, with relief given by reference to the tax year in which the expenditure is incurred, but the claimant must incur minimum qualifying expenditure of €25 (inclusive of VAT) per transaction. The tax credit is subject to a maximum amount of €125 for an individual or €250 in the case of couples jointly assessed to tax. These are lifetime limits.

Two types of services qualify for relief under this section. Firstly, the provision of holiday accommodation, including accommodation in hotels, guest houses, B&Bs, self-catering accommodation, caravan and camping parks, and holiday camps. The property must be registered with Fáilte Ireland to qualify. Food and drinks (excluding alcohol) served in a café, restaurant, hotel and pub may also qualify for relief.

In order to be eligible for participation in the scheme, the business must be registered for VAT, have a tax clearance certificate and be providing holiday accommodation or providing food and drink where it is consumed on the premises of the service provider. Where such conditions are satisfied, the service provider (referred to as an “eligible service provider” in *subsection (1)*) must then register with the Revenue Commissioners and provide the information set out in *subsection (2)*. Revenue will issue a notice in accordance with *subsection (3)* confirming to the service provider whether or not they are a qualifying service provider for the purposes of the scheme.

Where the Revenue Commissioners are satisfied that the service provider has provided the required information, they will confirm to the service provider they are a qualifying service provider for the purposes of the scheme, or not, as the case may be. In the case of a qualifying service provider, details will be published on the website of the Revenue Commissioners as set out in *subsection (4)*.

Subsections (5) and (6) provide for the calculation of the credit.

Subsection (7) provides that the tax credit may be set against a claimant’s USC liability, where he or she does not have a sufficient income tax liability to fully absorb the tax credit in a year of assessment.

Subsection (8) details the information the claimant is required to furnish to the Revenue Commissioners on making a claim for the credit.

Subsection (9) permits the Revenue Commissioners to obtain from the qualifying service provider any information required for the purposes of establishing the entitlement to relief under this section.

Subsection (10) provides that the Minister for Finance, by order, may extend the qualifying period up to 31 December 2021.

Section 8 amends section 477C of the Taxes Consolidation Act 1997. That section provides income tax relief to assist first-time buyers with obtaining the deposit required to purchase or build their first home. The amendment provides increased relief for the Help to Buy scheme to the lesser of (i) €30,000 (up from €20,000) or (ii) 10 per cent (up from 5 per cent) of the purchase price of the new home or of the completion value of the property in the case of self builds or (iii) the amount of Income Tax and DIRT paid over the four years prior to making the application. This enhanced relief is only available for the period from 23 July 2020 to 31 December 2020. From 1 January 2021, the Help to Buy relief reverts back to the pre 23 July 2020 position.

Section 9 of the Bill provides for increases in the allowable expenditure under the ‘Cycle To Work Scheme’ and also provides that employees and directors can avail of the scheme more regularly.

Section 118(5G) of the Taxes Consolidation Act 1997 provides an exemption from benefit in kind on expenditure incurred by an employer in connection with the provision of a bicycle and or safety equipment to an employee or director, up to a specified limit. The bicycle must be for the employee/director’s personal use in undertaking the whole or part of the journey to or from work. Safety equipment includes helmets, lights, bells, mirrors and locks but does not include child seats or trailers.

The limit on allowable expenditure will be increased from €1,000 to €1,500 in respect of pedelecs (‘ebikes’) and related safety equipment and €1,250 in respect of other bicycles and related safety equipment. The scheme currently allows the purchase of a new bicycle once in any 5 years and this will be amended to once in any 4 years.

Section 10 makes a number of amendments to the Taxes Consolidation Act 1997 to provide for a new once-off income tax relief for self-employed individuals carrying on a trade or profession who were profitable in 2019 but, as a result of the Covid-19 pandemic, incur losses in 2020.

These provisions will allow such individuals to claim to have those losses (and certain unused capital allowances) up to a maximum amount of €25,000 carried back and deducted from their profits for the tax year 2019. This will reduce the amount of income tax payable in respect of those profits.

The provisions will also allow for claims for the relief to be made on an interim basis to give a cash flow boost to those taxpayers during 2020.

Finally, the provisions give an option to farmers who incur a loss in 2020 to step out of income averaging for the tax year 2020, notwithstanding that the farmer may already have stepped out of income averaging in one of the four preceding tax years.

Section 11 introduces a new section 396D into the Taxes Consolidation Act 1997 which will provide for a temporary acceleration of corporation tax loss relief for tax compliant companies. This will deliver rapid cash flow support to previously profitable companies which have become loss-making during the COVID-19 period.

The measure allows companies to project trading losses for the current accounting period and make an early claim to carry-back those losses for

offset against taxable profits of the preceding accounting period, thereby expediting a refund of some or all of the corporation tax paid for the preceding period. Companies will be allowed to lodge a claim once at least four months of the current accounting period have elapsed and up to five months after the end of the accounting period, before final accounts have been prepared and filed. Under normal rules, this carry back would not take place until up to nine months after the end of the loss-making accounting period.

In order to qualify for accelerated loss relief, the company must be tax compliant and must have incurred or expect to incur a trading loss in an accounting period which includes some or all of the period from 1 March 2020 to 31 December 2020. The maximum amount of the estimated loss which qualifies for early carry-back is 50 per cent. The remaining loss, when properly quantified in final accounts prepared after the relevant year-end, will qualify for carry-back in due course under the normal rules. A company will be able to revise its interim claim as the current accounting period progresses, including increasing the claim where the company estimates that its loss will be greater than previously expected.

Provision is made in section 396D Taxes Consolidation Act 1997 for the application of interest in circumstances where a claim is overestimated. Penalties under section 1077E Taxes Consolidation Act 1997 will apply to claims under section 396D Taxes Consolidation Act 1997 which are carelessly or deliberately overstated.

Section 12 amends section 46 of the VAT Consolidation Act 2010 which deals with rates of tax. The amendment provides for a temporary decrease in the standard rate of VAT from 23 per cent to 21 per cent, for the period from 1 September 2020 to 28 February 2021.

Section 13 contains a provision relating to the short title of the Bill.

An Roinn Airgeadais,
Iúil, 2020.