

2021 No. 62

FINANCIAL ASSISTANCE

**The Bus Operator (Coronavirus, Financial Assistance)
Regulations (Northern Ireland) 2021**

Made - - - - - *11th March 2021*

Coming into operation - *12th March 2021*

The First Minister and deputy First Minister, acting jointly, made on 23rd February 2021 a determination under section 1(1) of the Financial Assistance Act (Northern Ireland) 2009(a) (“the Act”) and, jointly, they have designated the Department for Infrastructure(b) as the relevant Department under section 1(3)(a) of that Act.

Accordingly, the Department for Infrastructure makes the following Regulations in exercise of the powers conferred by sections 1(2), 3 and 4 of the Act.

In accordance with section 1(4) of the Act, the Executive Office(c) approves the making of these Regulations.

Citation and commencement

1. These Regulations may be cited as the Bus Operator (Coronavirus, Financial Assistance) Regulations (Northern Ireland) 2021 and shall come into operation on 12th March 2021.

Financial Assistance Scheme

2. The Department for Infrastructure makes the Scheme set out in the Schedule.

(a) 2009 c. 2 (N.I.)

(b) Formerly the Department for Regional Development; see section 1(6) and (11) of, and Schedule 1 to, the Departments Act (Northern Ireland) 2016 (2016 c. 5 (N.I.))

(c) Formerly the Office of the First Minister and deputy First Minister; see section 1(1) and (11) of, and Schedule 1 to, the Departments Act (Northern Ireland) 2016 (2016 c. 5 (N.I.))

Sealed with the Official Seal of the Department for Infrastructure on 11th March 2021



Chris Hughes
A senior officer of the
Department for Infrastructure

The Executive Office approves these Regulations
Sealed with the Official Seal of the Executive Office on 11th March 2021



Neill Jackson
A senior officer of the
Executive office

Bus Operator Financial Assistance Scheme 2021**Citation**

1. This Scheme may be cited as the Bus Operator Financial Assistance Scheme 2021.

Interpretation

- 2.—(1) In this Scheme—

“the 1967 Act” means the Transport Act (Northern Ireland) 1967(a);

“the 2020 Scheme” means the Bus Operator Financial Assistance Scheme 2020(b);

“2020 Scheme financial assistance payment” means a payment made under the 2020 Scheme to a person who satisfied the Department that they were eligible under that Scheme;

“application” means an application for a financial assistance payment made in accordance with paragraph 4 and “applicant” shall be construed accordingly;

“the Department” means the Department for Infrastructure;

“determination” means the determination of the First Minister and deputy First Minister, acting jointly, and made on 23rd February 2021 that exceptional circumstances exist for licensed bus and coach operators as a consequence of the outbreak of Coronavirus, including financial hardship arising from the loss of business. It is desirable to provide financial assistance to mitigate the effect of that outbreak on licensed bus and coach operators and that such assistance ought to be provided in accordance with a Scheme made under section 1 of the Financial Assistance Act (Northern Ireland) 2009;

“eligible income” means the total income of an eligible person for the eligible period or, as the case may be, for each of the reference periods, declared in the application or determined by the Department based on the information provided by the applicant including under paragraph 4(4) if appropriate;

“eligible period” means the period beginning on 1st October 2020 and ending on 31st March 2021;

“eligible person” means a person who satisfies the requirements of paragraph 5;

“financial assistance payment” means a payment by the Department for the purpose set out in paragraph 3 and in accordance with paragraph 6;

“reference periods” means the period beginning on 1st October 2018 and ending on 31st March 2019 and the period beginning on 1st October 2019 and ending on 31st March 2020; and

“supplementary financial assistance payment” means a supplementary payment by the Department for the purpose set out in paragraph 3 and in accordance with paragraph 8.

- (2) Terms and expressions used in the 1967 Act have the same meaning in this Scheme.

(3) A reference in this Scheme to anything done in writing or produced in written form includes a reference to an electronic communication which has been recorded and is consequently capable of being reproduced.

(a) 1967 c. 37 (N.I.)
(b) S.R. 2020 No. 282

Purpose of financial assistance

3. The purpose of financial assistance is the mitigation of the effect of the exceptional circumstances referred to in the determination made by the First Minister and deputy First Minister, acting jointly, on 23rd February 2021.

Application for payment of financial assistance

4.—(1) The Department shall publish a notice inviting applications for a financial assistance payment in such manner as will ensure that it is reasonably likely to be seen by eligible persons.

(2) A notice published under sub-paragraph (1) shall specify—

- (a) the closing date for making an application;
- (b) the information which an applicant is required to provide in support of the application; and
- (c) the form of any application.

(3) An application may be made in accordance with the requirements of the notice published under sub-paragraph (1).

(4) On receipt of an application, the Department may request such additional information from the applicant as it considers necessary to establish whether they are an eligible person or to facilitate consideration of that application.

Eligible persons

5.—(1) Subject to sub-paragraph (2), an eligible person must satisfy the Department that, for the duration of the eligible period they—

- (a) have suffered a significant adverse impact on income arising from the loss of business;
- (b) had as the main purpose of their business the carriage of passengers and their luggage for reward by road; and
- (c) held a bus operator's licence.

(2) The following persons are deemed not to be eligible persons—

- (a) the Northern Ireland Transport Holding Company, as established under Part 5 of the 1967 Act;
- (b) the Education Authority, as established under the Education Act (Northern Ireland) 2014(a); or
- (c) any person who has received, or is due to receive, funding from the Department under the Transport Act (Northern Ireland) 2011(b) in the period beginning on 6th April 2020 and ending on 5th April 2021.

(3) In this paragraph, “significant adverse impact on income” means a reduction in eligible income for the eligible period of at least 40%, compared with—

- (a) where there is eligible income for both reference periods, the higher amount;
- (b) where there is eligible income for only one of the reference periods, that amount; or
- (c) where there is eligible income for neither of the reference periods, the alternative information in accordance with the requirements of the notice published under paragraph 4(1).

(a) 2014 c. 12 (N.I.)

(b) 2011 c. 11 (N.I.)

Provision of financial assistance

6.—(1) The Department may, in accordance with the following provisions, make a financial assistance payment to any eligible person.

(2) That financial assistance payment shall constitute a single payment, by way of a grant, to each eligible person in accordance with sub-paragraphs (3) to (5).

(3) For each eligible person, the amount payable shall be the lower of—

- (a) an amount equivalent to the financial standing requirements for that person, calculated in accordance with the number of their eligible vehicles; or
- (b) the amount by which that person's eligible expenditure exceeds their eligible income for the eligible period.

(4) Financial assistance payments to eligible persons shall be on such other terms and conditions as the Department may specify.

(5) In this paragraph—

- (a) “the 2009 Regulation” means Regulation (EC) No 1071/2009 of the European Parliament and of the Council of 21 October 2009 establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator and repealing Council Directive 96/26/EC(a);
- (b) “eligible expenditure” means the total expenditure for the eligible period declared in the application or determined by the Department based on the information provided by the applicant including under paragraph 4(4) if appropriate;
- (c) “eligible vehicles” means vehicles registered on an eligible person's bus operator's licence at 23rd March 2020 adjusted to reflect vehicle sales and vehicle purchases relevant to the period beginning on 23rd March 2020 and ending on 31st March 2021 that the Department is satisfied are supported by the application; and
- (d) the “financial standing requirements” are, in accordance with Article 7 of the 2009 Regulation as it applied at 1st October 2020, £8,000 for the first eligible vehicle and £4,450 for each additional eligible vehicle.

Payment of financial assistance

7.—(1) Where the Department has received an application it must determine whether that application—

- (a) provides the information required in accordance with paragraphs 4 and 5; and
- (b) satisfies the requirements of paragraphs 4 and 5,

and, if it does, the Department may make a financial assistance payment to the eligible person in accordance with paragraph 6.

(2) The Department shall, as soon as reasonably practicable, notify the applicant in writing of its decision to approve or reject an application and—

- (a) if an application is approved, notify the amount of the financial assistance payment to be made; or
- (b) if an application is rejected, the reasons for the rejection and the right of review under paragraph 10.

Payment of supplementary financial assistance

8.—(1) The Department may make a supplementary financial assistance payment to any person that received a 2020 Scheme financial assistance payment where the amount of that payment was restricted to £100,000 by paragraph 6(4) of the 2020 Scheme.

(a) OJ No. L300, 14.11.2009, p. 51

(2) That supplementary financial assistance payment shall constitute a single payment, by way of a grant, in accordance with sub-paragraphs (3) to (7).

(3) The Department shall notify in writing each person to whom sub-paragraph (1) applies that they are eligible for a supplementary financial assistance payment.

(4) Where the Department has notified a person in accordance with sub-paragraph (3) and that person has requested that such a payment be made to them, the Department shall make, as soon as reasonably practicable, a supplementary financial assistance payment to that person and notify them in writing of the amount of that payment.

(5) The amount of the supplementary financial assistance payment to be paid to a person to whom sub-paragraph (4) applies, shall be the amount in excess of £100,000 that would otherwise have been paid had their 2020 Scheme financial assistance payment not been restricted by paragraph 6(4) of the 2020 Scheme.

(6) The Department shall calculate the amount of the supplementary financial assistance payment based solely on the information provided previously to the Department under the 2020 Scheme.

(7) Supplementary financial assistance payments shall be on such other terms and conditions as the Department may specify.

Recovery

9. A financial assistance payment made in accordance with paragraphs 6 and 7, or a supplementary financial assistance payment made in accordance with paragraph 8, which is subsequently found to have been paid contrary to those paragraphs, shall be recoverable by the Department from any person to whom such a payment was made.

Review

10.—(1) Where the Department makes a decision in relation to an application, an applicant aggrieved by that decision may request the Department to review it in accordance with this paragraph.

(2) A request for a review shall be made to the Department no later than 21 days from the date of the notification under paragraph 7(2) of the decision.

(3) A request for a review shall be in writing and shall—

- (a) specify the decision of the Department in respect of which the request is made; and
- (b) give full particulars of the grounds upon which the review of the decision is sought.

(4) Upon receipt of a request under sub-paragraph (2), the Department shall review the decision which is specified in it.

(5) Following a review of a decision under sub-paragraph (4) the Department may—

- (a) confirm the decision; or
- (b) substitute a new decision.

(6) As soon as reasonably practicable after reviewing a decision under sub-paragraph (4), the Department shall notify the result of the review in writing to the person making the request for it and shall give the reasons for the result.

11.—(1) Where the Department makes a supplementary financial assistance payment, a recipient aggrieved by the amount of that payment may request the Department to review the payment amount in accordance with this paragraph.

(2) A request for a review shall be made to the Department no later than 21 days from the date of the notification under paragraph 8(4) of the amount of the supplementary financial assistance payment.

(3) A request to review shall be in writing and shall give full particulars of the grounds upon which a review of the supplementary financial assistance payment amount is sought.

(4) Upon receipt of a request under sub-paragraph (2), the Department shall review the supplementary financial assistance payment amount as requested.

(5) Following a review under sub-paragraph (4) the Department may—

- (a) confirm the amount of the supplementary financial assistance payment made; or
- (b) substitute a new supplementary financial assistance payment amount.

(6) As soon as reasonably practicable after a review under sub-paragraph (4), the Department shall notify the result of the review in writing to the person making the request for it and shall give the reasons for the result.

Information

12.—(1) In addition to any application under paragraph 4, the Department may request information from another public body for use in determining whether a person is eligible under paragraph 5 for financial assistance under this Scheme.

(2) The Department may share information in relation to eligibility for Coronavirus financial assistance with another public body.

EXPLANATORY NOTE

(This note is not part of the Regulations)

The First Minister and deputy First Minister, acting jointly, made a determination on 3rd November 2020 that exceptional circumstances existed for licensed bus operators, including financial hardship arising from the loss of business, as a consequence of the outbreak of Coronavirus.

Accordingly, the Bus Operator (Coronavirus, Financial Assistance) Regulations (Northern Ireland) 2020 (S.R. 2020 No. 282) provided for the setting up of a Scheme, “the Bus Operator Financial Assistance Scheme 2020” (“the 2020 Scheme”), under which the Department for Infrastructure made financial assistance payments to eligible licensed bus operators towards directly incurred overhead costs and expenses. This initial Scheme covered the 1st April 2020 to 30th September 2020 period.

On 23rd February 2021, the First Minister and deputy First Minister, acting jointly, made a further determination recognising that exceptional circumstances continue to exist for licensed bus and coach operators, including financial hardship arising from the loss of business, as a consequence of the outbreak of Coronavirus.

These Regulations therefore provide for the setting up of a further Scheme “the Bus Operator Financial Assistance Scheme 2021” under which the Department for Infrastructure may make financial assistance payments to eligible licensed bus operators who have suffered because of the exceptional circumstances identified over the 1st October 2020 to 31st March 2021 period. The eligibility criteria and the basis of the Scheme remains the same as before, i.e. to provide financial assistance in relation to directly incurred overhead costs and expenses. However the maximum amount payable cap of £100,000 that applied to the 2020 Scheme has been removed. In addition, any person whose 2020 Scheme payment was restricted by that £100,000 cap, may, under this Scheme, receive a supplementary payment which will be the amount in excess of £100,000 that would otherwise have been paid had their 2020 Scheme payment not been restricted by that cap.

The Schedule to these Regulations sets out the detail of the Bus Operator Financial Assistance Scheme 2021.

The Scheme—

- (a) specifies the manner in which applications are to be made (paragraph 4);
- (b) specifies the eligibility criteria and the payment amount (paragraphs 5 and 6);
- (c) provides for the Department to approve or reject applications, make payments of financial assistance and advise applicants of its decision regarding payment (paragraph 7);
- (d) provides for the payment of a supplementary financial assistance amount to those whose payments were capped under the 2020 Scheme by the £100,000 maximum applied (paragraph 8);
- (e) provides for the recovery by the Department of any amounts paid in excess of entitlement under the Scheme (paragraph 9);
- (f) provides for a review of the decisions made by the Department (paragraphs 10 and 11); and
- (g) provides for the request of information from other public bodies for use in determining eligibility and for the sharing of information in relation to eligibility with other public bodies (paragraph 12).

An Explanatory Memorandum has been produced and is available from the Safe and Accessible Travel Division, Department for Infrastructure, Clarence Court, 10-18 Adelaide Street, Town Parks, Belfast, BT2 8GB or online alongside these Regulations at <http://www.legislation.gov.uk/nisr>.

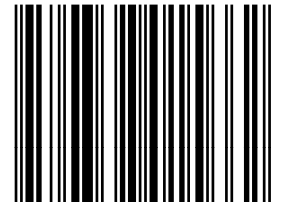
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