

2022 No. 5

FINANCIAL ASSISTANCE

**The Financial Assistance (Coronavirus: Hospitality) Regulations
(Northern Ireland) 2022**

Made - - - - - *14th January 2022*

Coming into operation - *17th January 2022*

The First Minister and deputy First Minister, acting jointly, made on 30th December 2021 a determination under section 1(1) of the Financial Assistance Act (Northern Ireland) 2009^(a); and, acting jointly, they have designated the Department of Finance^(b) as the relevant department under section 1(3)(a) of that Act.

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

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

Citation and commencement

1. These Regulations may be cited as the Financial Assistance (Coronavirus: Hospitality) Regulations (Northern Ireland) 2022 and come into operation on 17th January 2022.

The Coronavirus Financial Assistance Scheme 2022

2. The Department of Finance makes the Scheme set out in the Schedule.

Sealed with the Official Seal of the Department of Finance on 14th January 2022.

(L.S.)

Sharon Magee
A senior officer of the Department of Finance

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

(b) The Department of Finance and Personnel was renamed the Department of Finance by Section 1(4) of, and Schedule 1 to the Departments Act (Northern Ireland) 2016 (c.5 (N.I.))

(c) Formerly the Office of the First Minister and the 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.))

Approved by the Executive Office
Sealed with the Official Seal of the Executive Office on 14th January 2022.

(L.S.)

Neill Jackson
A senior officer of the Executive Office

SCHEDULE

Regulation 2

The Coronavirus Financial Assistance (Hospitality) Scheme 2022

Citation and interpretation

1.—(1) This Scheme may be cited as the Coronavirus Financial Assistance (Hospitality) Scheme 2022.

(2) In this Scheme:—

“capital value list” has the same meaning as in Article 2(2) of the Rates Order;

“Coronavirus Financial Assistance” means financial assistance provided under this Scheme;

“the Department” means the Department of Finance;

“hereditament” has the same meaning as in Article 2(2) of the Rates Order;

“higher rate” means a single payment of £20,000;

“hospitality sector” means, for the purposes of this Scheme,

(a) restaurants licensed under Article 5(1)(e) of the Licensing (Northern Ireland) Order 1996(a),

(b) unlicensed restaurants, cafés, coffee shops, bistros and snack bars,

(c) public houses licensed under Article 5(1)(a) of the Licensing (Northern Ireland) Order 1996, and

(d) social clubs and private members clubs (but not sporting clubhouses);

“the Insolvency Order” means the Insolvency (Northern Ireland) Order 1989(b);

“lower rate” means a single payment of £10,000;

“Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975(c);

“net annual value” has the same meaning as in Article 2(2) of the Rates Order;

“occupier” means a person who carries on a relevant business in a restricted hereditament where—

(a) the relevant business is separate and distinct from any activity carried on by any other occupier of the restricted hereditament;

(b) they are not the employee or agent of any other occupier of the restricted hereditament;

(c) their occupation of the whole or a part of the restricted hereditament to conduct their relevant business is exclusive of the activity of any other occupier during their business hours; and

(d) their occupation is not transient;

“the Rates Order” means the Rates (Northern Ireland) Order 1977(a);

(a) S.I. 1996/3158 (N.I. 22)

(b) S.I. 1989/2405 (N.I. 19)

(c) 1975 c. 26.

“relevant business” means a business carried on in the hospitality sector that–

- (a) has previously received support under the schemes provided by the Financial Assistance (Coronavirus) Regulations (Northern Ireland) 2020^(b) or The Financial Assistance (Coronavirus) (No. 2) Regulations (Northern Ireland) 2020^(c); or
- (b) would have been eligible for support under the schemes referred to in sub-paragraph (a) had an application been made to those schemes on the basis of the circumstances pertaining to that business as at 20th December 2021;

“restricted hereditament” means a hereditament within which an occupier carries on a relevant business;

“standard rate” means a single payment of £15,000;

“statutory undertaker” means persons authorised by any statutory provision to carry on any railway, road transport, water transport, inland navigation or dock undertaking, or a gas undertaker, an electricity undertaker, a water undertaker or a sewerage undertaker or the airport operator (within the meaning of the Airports (Northern Ireland) Order 1994^(d)) of any airport to which Article 25 of that Order applies.

Eligibility

2.—(1) No award shall be granted except on an application made to the Department; and any such application shall contain information, and be provided in the format and within the timeframe that the Department has requested.

(2) Where a person has previously made an application for, and been awarded, Coronavirus Financial Assistance in relation to a particular restricted hereditament under the Financial Assistance (Coronavirus) Regulations (Northern Ireland) 2020 or the Financial Assistance (Coronavirus) (No. 2) Regulations (Northern Ireland) 2020, the Department may treat that application as an application made under this scheme, by that person for the same restricted hereditament.

3. A person is eligible upon application under paragraph 2 for Coronavirus Financial Assistance at the lower rate if they are–

- (a) the occupier of a restricted hereditament whose net annual value does not exceed £15,000; or
- (b) the occupier of a part of a restricted hereditament;

4. A person is eligible upon application under paragraph 2 for Coronavirus Financial Assistance at the standard rate if they are the occupier of a restricted hereditament whose net annual value exceeds £15,000 but does not exceed £51,000.

5. A person is eligible upon application under paragraph 2 for Coronavirus Financial Assistance at the higher rate if they are the occupier of a restricted hereditament whose net annual value exceeds £51,000.

6. Paragraphs 3, 4 and 5 shall not apply where–

- (a) the occupier is a Northern Ireland department or a Minister of the Crown or any officer or body exercising functions on behalf of the Crown;
- (b) the occupier is a body established by or under a statutory provision or by a statutory undertaker;

(a) S.I. 1977/2157 (N.I. 28)

(b) S.R. 2020 No. 221

(c) S.R. 2020 No. 230 as amended by S.R. 2020 No. 262, S.R. 2020 No. 262, S.R. 2020 No. 354, and S.R. 2021 No. 94

(d) S.I. 1994/426 (N.I.1)

- (c) the occupier is the Northern Ireland Housing Executive or a housing association registered in the register maintained under Part II of the Housing (Northern Ireland) Order 1992(a);
- (d) in respect of any hereditament where the person entitled to possession of that is so entitled in the capacity of liquidator by virtue of an order made under Article 98 or Article 123 of the Insolvency Order;
- (e) in respect of any hereditament where there subsists in respect of the estate of the person entitled to possession of that hereditament, a bankruptcy order within the meaning of Parts I and VIII to X of the Insolvency Order;
- (f) in respect of any hereditament where the person entitled to possession of that hereditament is—
 - (i) a company in administration within the meaning of paragraph 2 of Schedule B1 to the Insolvency Order or is subject to an administration order made under the former administration provisions within the meaning of Article 2 of the Insolvency (2005 Order) (Transitional Provisions and Savings) Order (Northern Ireland) 2006(b); or
 - (ii) a company which is subject to a winding-up order made under the Insolvency Order or which is being wound up voluntarily under that Order.

Information

7.—(1) In addition to any application made under paragraph 2, the Department may use information obtained for the purposes of the Rates Order, or provided by a district council for the purposes of these Regulations, in determining whether a person is eligible for Coronavirus Financial Assistance.

(2) The Department may request and obtain information held by a district council for the purposes of determining whether a person is eligible for Coronavirus Financial Assistance.

(3) The Department may share information in relation to eligibility for Coronavirus Financial Assistance with another Northern Ireland department.

Award of Coronavirus Financial Assistance

8.—(1) Where the Department is satisfied that the person making application under paragraph 2 is eligible for the purposes of paragraph 3, 4, or 5 it shall award Coronavirus Financial Assistance in accordance with this Scheme.

(2) A person to whom sub-paragraph (1) applies may choose to forgo any award of Coronavirus Financial Assistance under this Scheme by providing written notification to the Department.

Recovery

9.—(1) Any amount of award made in accordance with paragraph 8, and which is subsequently found to have been paid contrary to that paragraph, shall be recoverable by the Department from any person to whom such an award was made.

(2) For the purposes of sub-paragraph (1), the Department may recover an amount as an offset against any other award of Covid-19 financial assistance.

(a) S.I. 1992/1725 (N.I. 15)
 (b) S.R. 2006 No. 22

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for financial assistance (Coronavirus Financial Assistance) to be awarded to occupiers of certain hospitality hereditaments affected by public health guidance issued in December 2021.

Regulation 1 provides for citation and commencement.

Regulation 2 provides for the Coronavirus Financial Assistance scheme to be set out in the Schedule.

Schedule

Paragraph 1 provides for interpretation to be applied in respect of the scheme.

Paragraph 2 provides for applications to be made in relation to the scheme.

Paragraphs 3, 4 and 5 provide the eligibility criteria for the scheme.

Paragraph 6 provides for certain exclusions under the scheme.

Paragraph 7 provides for information requirements for the purposes of the scheme.

Paragraph 8 provides for the award of Coronavirus Financial Assistance.

Paragraph 9 provides for recovery provisions in respect of the scheme.

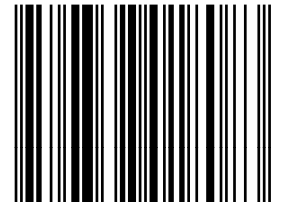
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