

- (i) relating to the place where the work under it is required to be done, the capacity in which the reservist concerned is to be employed and any other terms or conditions of employment are not less favourable to the reservist than those of his or her contract of employment immediately before the start of the period of absence from work while on protective leave, and
 - (ii) incorporate any improvement to the terms or conditions of employment to which the reservist would have been entitled if he or she had not been so absent from work during that period.
- (4) During a period of absence from work by a reservist who is called up on such permanent service or in aid to the civil power, the reservist shall be deemed to have been in employment of the employer or successor and, accordingly, while so absent, the reservist shall be treated as if he or she had not been so absent and such absence shall not affect any right, whether conferred by statute, contract or otherwise, and related to the reservist's employment.
- (5) Entitlement to return to work in accordance with *subsection (1)* or to be offered suitable alternative work under *subsection (2)* shall be subject to a reservist who has been absent from work as a result of being called out on permanent service or in aid to the civil power having, as soon as reasonably practicable, notified in writing (or caused to be so notified) the employer or, where the reservist is aware of a change of ownership of the undertaking concerned, the successor of his or her intention to return to work and the date on which he or she expects to return to work.
- (6) Where, because of an interruption or cessation of work at a reservist's place of employment, existing on the date specified in a notification under *subsection (4)* given by the reservist, it is unreasonable to expect the reservist to return to work on the date specified in the notification, the reservist may return to work instead when work resumes at the place of employment after the interruption or cessation, or as soon as reasonably practicable after such resumption.

PART 7

COVID-19: TEMPORARY WAGE SUBSIDY PROVISIONS

Covid-19: temporary wage subsidy provisions**28. (1)** In this section—

“Act” means the Taxes Consolidation Act 1997;

“applicable period” means the period commencing on 26 March 2020 and expiring on such day as the Minister determines and specifies in an order made by him or her under *subsection (20)*;

“emoluments”, “employer” and “employee” have the same meanings as they have in Chapter 4 of Part 42 of the Act;

“gross pay” has the same meaning as it has in the Regulations;

“Minister” means the Minister for Finance;

“Regulations” means the Income Tax (Employments) Regulations 2018 (S.I. No. 345 of 2018);

“specified employee”, in relation to an employer, means an individual who was on the payroll of the employer as at 29 February 2020, and the following is the case, the employer—

- (a) has submitted to the Revenue Commissioners a notification or notifications of the payment of emoluments to the employee in February 2020 in accordance with Regulation 10 of the Regulations, and
- (b) has submitted the return required under section 985G of the Act for the month of February 2020 on or before the return date (within the meaning of section 983 of the Act) for that month;

“temporary wage subsidy” shall be construed in accordance with *subsections (5) and (6)*.

(2) This section shall apply where—

- (a) the business of an employer has been adversely affected by Covid-19 to a significant extent with the result that the employer is unable to pay to a specified employee the emoluments the employer would otherwise have normally paid to him or her,
- (b) notwithstanding the existence of the circumstances referred to in *paragraph (a)*, the employer has the firm intention of continuing to employ the specified employee (and to pay to him or her emoluments accordingly) and is making best efforts to pay to the employee some of the emoluments referred to in *paragraph (a)* during the applicable period, and
- (c) the employer has satisfied the conditions specified in *subsection (4)*.

(3) The business of an employer shall be treated as being adversely affected to the extent referred to in *subsection (2)(a)* where, in accordance with guidelines published by the Revenue Commissioners under *subsection (19)*, the employer demonstrates to the satisfaction of the Revenue Commissioners that, by reason of Covid-19 and the disruption that is being caused thereby to commerce, there will occur in the period of 14 March 2020 to 30 June 2020 at least a 25 per cent reduction either in the turnover of the employer’s business or in customer orders being received by the employer.

(4) The conditions referred to in *subsection (2)(c)* are—

- (a) the employer has logged on to the online system of the Revenue Commissioners (in this section referred to as “ROS”) in the MyEnquiries field using the tax reference number of the employer for the purposes of the operation of Chapter 4 of Part 42 of the Act and the Regulations,
- (b) having read the declaration referred to in ROS as the “Covid-19: Temporary Wage Subsidy Scheme” declaration, the employer has submitted that declaration to the Revenue Commissioners through ROS, and

- (c) the employer has provided details of the employer's bank account on ROS in the "Manage bank accounts" and "Manage EFT" fields.
- (5) Where this section applies, then, following the notification by the employer of the payment of emoluments to a specified employee in the applicable period in accordance with Regulation 10 of the Regulations, the following provisions shall apply:
- (a) the Revenue Commissioners shall pay to the employer in relation to the specified employee a sum (in this section referred to as a "temporary wage subsidy") of an amount determined in accordance with *subsection (6)*,
- (b) the payment referred to in *paragraph (a)* shall be made by way of bank transfer to the bank account of the employer, the details of which have been provided in accordance with *subsection (4)(c)*,
- (c) where, under *paragraph (a)*, a payment is required to be made to the employer in respect of each of 2 or more specified employees by the Revenue Commissioners, the payments under *paragraph (a)* may be aggregated by the Revenue Commissioners for the purposes of compliance with *paragraph (b)*,
- (d) on the payment of the emoluments to the specified employee which are the subject of the notification first-mentioned in this subsection by the employer, the employer shall include in that payment an additional amount equivalent to the temporary wage subsidy in relation to the specified employee,
- (e) notwithstanding any other provision of the Act, the additional amount paid by the employer to a specified employee in accordance with *paragraph (d)* shall not be regarded as emoluments of the specified employee for the purposes of Chapter 4 of Part 42 of the Act and the Regulations, but shall be treated as income chargeable to tax on the specified employee under Schedule E within the meaning of section 19 of the Act,
- (f) the employer shall include, and separately identify, in the statement of wages and deductions from wages required to be given by the employer to the specified employee under section 4 of the Payment of Wages Act 1991, details of the additional amount paid by the employer to a specified employee in accordance with *paragraph (d)* and that additional amount shall be treated as part of the gross pay of the specified employee for the purpose of the Regulations,
- (g) where *paragraph (d)* applies, the employer shall treat the specified employee concerned as falling within Class J9 of Pay Related Social Insurance for the purposes of the employer's obligations under Chapter 4 of Part 42 of the Act and the Regulations to report matters specified in that Chapter or the Regulations,
- (h) the operation of *paragraph (g)* shall not prejudice the specified employee's entitlement to benefits or assistance under the provisions of the Social Welfare Acts, but, where *paragraph (d)* applies in relation to a specified employee for any week, the specified employee shall not be entitled to any benefit or payment, related to Covid-19, from the Department of Employment Affairs and Social Protection for that week,

- (i) notwithstanding any other provision of the Act, in computing the employer's liability to income tax or corporation tax, as the case may be, the employer shall not be entitled to a deduction in respect of any additional amount paid to a specified employee in accordance with *paragraph (d)*, and
 - (j) the employer shall comply with any other direction of the Revenue Commissioners that, by virtue of this paragraph, they may reasonably give regarding the reporting of the payment by the employer of an additional amount paid to a specified employee in accordance with *paragraph (d)*, being a direction that facilitates the effective administration of this section.
- (6) (a) The amount of the temporary wage subsidy shall, subject to *paragraphs (b) to (f)*, be determined by the Minister for Finance, with the consent of the Minister for Employment Affairs and Social Protection, given with the concurrence of the Minister for Public Expenditure and Reform.
- (b) Different amounts of temporary wage subsidy may be determined under this subsection in relation to different classes of employee.
 - (c) In determining what is to be the amount of the temporary wage subsidy under this subsection, the Minister shall have regard to an amount being determined that, in the opinion of the Minister, would represent a significant contribution to making good the shortfall in the amount of emoluments that would otherwise have been payable, as mentioned in *subsection (2)(a)*, to the specified employee concerned.
 - (d) In the case where the net weekly emoluments that would otherwise have been payable, as mentioned in *subsection (2)(a)*, to the specified employee amount to not more than €586 per week, the amount of the temporary wage subsidy shall not exceed a weekly amount equivalent to 70 per cent of the net weekly emoluments that would otherwise have been so payable.
 - (e) In the case where the amount of the net weekly emoluments that would otherwise have been payable, as mentioned in *subsection (2)(a)*, to the specified employee is in excess of €586 per week but not more than €960 per week, the amount of the temporary wage subsidy shall be that which is determined from time to time by the Minister for Finance, with the consent of the Minister for Employment Affairs and Social Protection, given with the concurrence of the Minister for Public Expenditure and Reform.
 - (f) A temporary wage subsidy shall not be paid to an employer in relation to a specified employee where the amount of the net weekly emoluments of that employee is in excess of €960 per week.
- (7) Particulars of any determination under *subsection (6)* of the amount of a temporary wage subsidy shall be published on the website of the Revenue Commissioners.
- (8) Notwithstanding any obligation imposed on the Revenue Commissioners under section 851A of the Act or any other enactment in relation to the confidentiality of taxpayer information (within the meaning of that section), the names and addresses of all employers to whom a temporary wage subsidy has been paid by the Revenue Commissioners shall be published on the website of the Revenue Commissioners.

- (9) Where the Revenue Commissioners have paid to an employer a temporary wage subsidy in relation to a specified employee in accordance with *subsection (5)(a)* and it transpires that the employer has not paid to the specified employee an additional amount equivalent to the temporary wage subsidy in accordance with *subsection (5)(d)*, or that the employer was not entitled to receive a temporary wage subsidy in respect of any individual, the temporary wage subsidy so paid to the employer shall be refunded by the employer to the Revenue Commissioners.
- (10) An amount that is required to be refunded by an employer to the Revenue Commissioners in accordance with *subsection (9)* (in this section referred to as “relevant tax”) shall be treated as if it were income tax due and payable by the employer from the date the temporary wage subsidy referred to in that subsection had been paid by the Revenue Commissioners to the employer and shall be so due and payable without the making of an assessment.
- (11) Notwithstanding *subsection (10)*, where an officer of the Revenue Commissioners is satisfied there is an amount of relevant tax due to be paid by an employer which has not been paid, that officer may make an assessment on the employer to the best of the officer’s judgment, and any amount of relevant tax due under an assessment so made shall be due and payable from the date the temporary wage subsidy referred to in *subsection (9)* had been paid by the Revenue Commissioners to the employer.
- (12) The provisions of the Income Tax Acts relating to—
- (a) assessments to income tax,
 - (b) appeals against such assessments (including the rehearing of appeals and the statement of a case for the opinion of the High Court), and
 - (c) the collection and recovery of income tax,
- shall, in so far as they are applicable, apply to the assessment, collection and recovery of relevant tax.
- (13) Any amount of relevant tax payable in accordance with this section shall carry interest at the rate of 0.0219 per cent for each day or part of a day from the date when the amount is due and payable.
- (14) Subsections (3) to (5) of section 1080 of the Act shall apply in relation to interest payable under *subsection (13)* as they apply in relation to interest payable under section 1080 of the Act.
- (15) Where an employer fails to comply with the provisions of *subsection (5)(f)* in relation to a specified employee with respect to the giving to the employee of a statement of wages and deductions from wages under section 4 of the Payment of Wages Act 1991, the employer shall be liable to a penalty as if that failure were a failure to comply with the Regulations, and the provisions of section 987 of the Act shall apply, with any necessary modifications, in relation to a penalty under this subsection as they apply in relation to a penalty for a failure to comply with the Regulations.
- (16) A person shall, without prejudice to any other penalty to which the person may be liable, be guilty of an offence under this section if the person—

- (a) knowingly or wilfully delivers any incorrect return or statement, or knowingly or wilfully furnishes any incorrect information, in connection with the operation of *subsection (3)* or the eligibility for a temporary wage subsidy in relation to any individual, or
- (b) knowingly aids, abets, assists, incites or induces another person to make or deliver knowingly or wilfully any incorrect return or statement, or knowingly or wilfully furnish any incorrect information, in connection with the operation of *subsection (3)* or the eligibility for a temporary wage subsidy in relation to any individual,

and the provisions of subsections (3) to (10) of section 1078, and section 1079, of the Act shall, with any necessary modifications, apply for the purposes of this subsection as they apply for the purposes of offences in relation to tax within the meaning of section 1078 of the Act.

- (17) Notwithstanding any obligation imposed on the Revenue Commissioners under section 851A of the Act or any other enactment in relation to the confidentiality of taxpayer information (within the meaning of that section) or any obligation imposed on the Minister for Employment Affairs and Social Protection under the Social Welfare Acts or any other enactment in relation to the confidentiality of information relating to employers and insured persons or other persons entitled to benefits or assistance under those Acts, information relevant to the effective operation of this section may be exchanged between the Minister for Employment Affairs and Social Protection and the Revenue Commissioners.
- (18) The administration of this section shall be under the care and management of the Revenue Commissioners and section 849 of the Act shall apply for this purpose with any necessary modifications as it applies in relation to tax within the meaning of that section.
- (19) The Revenue Commissioners shall prepare and publish guidelines with respect to the matters that are considered by them to be matters to which regard shall be had in determining whether a reduction, as referred to in *subsection (3)*, will occur by reason of Covid-19 and the disruption that is being caused thereby to commerce.
- (20) Whenever the Minister considers appropriate, the Minister shall determine a day, for the purposes of the definition of “applicable period” in *subsection (1)*, to be the day as referred to in that definition, on which the period there referred to shall expire and the day so determined shall be specified in an order made by the Minister for the purposes of this subsection.
- (21) This section shall be construed together with—
 - (a) in so far as it relates to income tax, the Income Tax Acts, and
 - (b) in so far as it relates to corporation tax, the Corporation Tax Acts.
- (22) *Paragraph (g)*, in so far as it relates to Pay Related Social Insurance, and *paragraph (h)* of *subsection (5)*, shall be construed together with the Social Welfare Acts.