



## MANX RESTART SCHEME 2020

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Statutory Document No. 2020/0457



*Financial Provisions and Currency Act 2011*

## **MANX RESTART SCHEME 2020<sup>1</sup>**

*Approved by Tynwald: 22 October 2020*  
*Coming into operation in accordance with paragraph 2*

The Treasury makes the following Scheme under section 3 of the Financial Provisions and Currency Act 2011.

### **PART 1 – INTRODUCTION**

#### **1 Title**

This Scheme is the Manx Restart Scheme 2020.

#### **2 Commencement**

If approved by Tynwald, this Scheme comes into operation on the day after it is approved by Tynwald<sup>1</sup>.

#### **3 Expiry**

This Scheme expires on 31 December 2021.

#### **4 Interpretation**

(1) In this Scheme —

“**an employee**” means a person who is engaged in employment as an employed earner;

“**the employee**” means an employee of the employer and “**the employee’s employment**” is to be read accordingly; and

“**officer**”, in relation to an employer which is a body corporate, means a director, manager, secretary or other similar officer of the employer.

(2) In this Scheme the expressions “**earnings**”, “**employed earner**”, “**employment**”, “**secondary Class 1 contributions**”, “**self-employed**

<sup>1</sup> Under section 3(7) of the Financial Provisions and Currency Act 2011 this Scheme must not come into operation unless it is approved by Tynwald.

**earner**” and **“tax week”** have the meanings given to them in Part 1 of the Social Security Contributions and Benefits Act 1992<sup>2</sup> (see section 122 especially).

- (3) Reference in this Scheme to any provision of legislation applied to the Island by an order under section 1 of the Social Security Act 2000 is to be taken to be a reference to that legislation as it has effect in the Island.

## **PART 2 – QUALIFYING CONDITIONS**

### **5 Qualifying conditions for a restart payment – introduction**

- (1) A payment (called a **“restart payment”** in this Scheme) is payable to the employer of an employee in respect of the employee for any tax week beginning on or after the day on which this Scheme comes into operation if –
  - (a) the condition in paragraph 6 is met (but see paragraph 6(2)); and
  - (b) each of the conditions in paragraphs 7 to 12 is met in respect of that week (but see paragraph 12(2)).
- (2) But a restart payment is not payable in respect of the employee if the employer has been paid a restart payment in respect of the employee for more than 52 tax weeks in total (whether consecutive or not).

### **6 Employee has not been in employment in the 3 months before the first tax week in relation to which an application for a restart payment is made**

- (1) The condition in this paragraph is that the employee has not been engaged in employment as an employed or self-employed earner on any day in the period of 3 months immediately preceding the first tax week in relation to which the employer makes an application for a restart payment in respect of the employee.
- (2) But this condition does not have to be met in any case if the Treasury is satisfied that it is not met because exceptional circumstances apply in that case.
- (3) For the purposes of sub-paragraph (1), an employee is to be treated as not being engaged in employment as an employed earner on any day on which that employee is furloughed by an employer who is not the employee’s employer.
- (4) The Treasury may amend the condition in this paragraph specified in sub-paragraph (1) by giving notice of doing so published by the Treasury, in

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<sup>2</sup> 1992 c.4 (see SD505/94 in relation to the application of the Social Security Contributions and Benefits Act 1992 to the Island).

such manner as the Treasury considers appropriate, and laying that notice before Tynwald.

**7 Employee has been matched with the employer using an employment agency arranged by the Treasury or in accordance with any other Treasury arrangements**

- (1) The condition is that the employee has been matched with the employer —
  - (a) as a result of the provision of services by persons carrying on an employment agency to the Treasury; or
  - (b) in accordance with any other arrangements made by the Treasury.
- (2) In sub-paragraph (1) “**employment agency**” has the meaning given in the Employment Agencies Act 1975<sup>3</sup>.

**8 Employee is in permanent employment or in employment for not less than 12 months**

- (1) The condition in this paragraph is that the employee is in —
  - (a) permanent employment; or
  - (b) limited-term employment under a contract of employment for a fixed term of not less than 12 months.
- (2) Sub-paragraph (1) is to be read with the Employment Act 2006<sup>4</sup>.

**9 Employee’s employment has not arisen from, or does not give rise to, another person being made redundant, etc.**

- (1) The condition in this paragraph is that the employee’s employment —
  - (a) has not arisen as a result of another person being dismissed by the employer by reason of redundancy; and
  - (b) does not give rise to—
    - (i) another person being dismissed by the employer by reason of redundancy; or
    - (ii) a reduction in the number of hours which another person who is employed by the employer is in employed earner’s employment in any tax week.
- (2) Sub-paragraph (1) is to be read with the Redundancy Payments Act 1990<sup>5</sup>.

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<sup>3</sup> AT 20 of 1975.

<sup>4</sup> AT 21 of 2006.

<sup>5</sup> AT 18 of 1990.

**10 Employee is not a close relative of the employer**

- (1) The condition in this paragraph is that, in the case of an employer which is not a body corporate, the employee is not a close relative of the employer.
- (2) In sub-paragraph (1) “**close relative**” has the meaning given in regulation 2 of the Income Support (General) (Isle of Man) Regulations 2000<sup>6</sup>.

**11 Employee is aged 16 or over but under pensionable age**

- (1) The condition in this paragraph is that the employee has attained the age of 16 but has not attained pensionable age.
- (2) In sub-paragraph (1) “**pensionable age**” has the meaning given in section 122 of the Social Security Contributions and Benefits Act 1992.

**12 Maximum number of employees in respect of whom a restart payment is payable is not exceeded**

- (1) The condition in this paragraph is that the employer —
  - (a) is not being paid a restart payment in respect of more than one employee of the employer; or
  - (b) is being paid a restart payment in respect of more than one employee of the employer, but the number of those employees is less than 5% of the total number of employees of the employer.
- (2) But this condition does not have to be met in any case if the Treasury is satisfied that it is not met because exceptional circumstances apply in that case.

## PART 3 – PAYMENTS

**13 Amount of a restart payment**

- (1) The amount of a restart payment (“RP”) is to be calculated in accordance with the formula —

$$RP = ((E + NI) \times 70\%) / N.$$

- (2) In sub-paragraph (1) E is to be calculated in accordance with the formula —

$$E = H \times W.$$

- (3) In sub-paragraph (2) “**H**” means the number of hours in which the employee is engaged in the employee’s employment in the applicable earnings period (see sub-paragraph (8)).

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<sup>6</sup> SD26/00.

But if H is greater than the maximum number of work hours (see sub-paragraph (7)), H is to be treated as equal to the maximum number of work hours.

- (4) In sub-paragraph (2) “W” means the rate at which earnings are payable to the employee in respect of each hour in which the employee is engaged in the employee’s employment in the applicable earnings period.

But if W is greater than £10.19, W is to be treated as being £10.19.

- (5) In sub-paragraph (1) “NI” means the amount of secondary Class 1 contributions payable in respect of E.
- (6) In sub-paragraph (1) “N” means the number of tax weeks in the applicable earnings period, taking the number of tax weeks in an applicable earnings period of one month to be  $4\frac{1}{3}$ .
- (7) In sub-paragraph (3) the “**maximum number of work hours**” is to be found in accordance with the table below.

**Table**

<i>Applicable earnings period</i>	<i>Maximum number of work hours</i>
A week	35
A multiple of a week	The amount found by multiplying 35 by that multiple
A month	152
A multiple of a month	The amount found by multiplying 152 by that multiple
Any other earnings period	The amount found by multiplying the number of days in the earnings period by 5

- (8) In this paragraph “**the applicable earnings period**” means the earnings period as determined in accordance with Part 2 of the Social Security (Contributions) Regulations 2001<sup>7</sup> (see regulation 2 in particular) for the purposes of determining the amount of earnings on which earnings-related contributions are payable in respect of the employee’s employment under that Part.

#### **14 Method of payment of a restart payment**

Any restart payment is to be paid by crediting it to the bank account or other account of the employer.

#### **15 Restart payment to be paid for an indefinite period**

Subject to Part 2, a restart payment is to be paid for an indefinite period.

<sup>7</sup> SI 2001/1004 (see SD374/02).

## 16 Information to be given and changes to be notified about a restart payment

- (1) An employer must give the Treasury, in such way and at such time as the Treasury determines, any information or evidence that the Treasury may require –
  - (a) for determining whether a restart payment is to be paid to the employer; or
  - (b) in connection with payment of a restart payment to the employer.
- (2) The employer must notify the Treasury of any change of circumstances which the employer might reasonably be expected to know might affect whether –
  - (a) the requirements mentioned in Part 2 are met in relation to a restart payment payable to the employer; or
  - (b) a restart payment is payable to the employer,as soon as reasonably practicable after the change occurs in such way as the Treasury determines.

## 17 Arrangements for payment of a restart payment

A restart payment is to be paid to an employer –

- (a) on such day of the week; and
- (b) at such intervals,

as the Treasury chooses in that case, and in accordance with any other arrangements made for doing so by the Treasury.

## PART 4 – APPLICATIONS

### 18 Making an application for a restart payment

- (1) An application for a restart payment must be –
  - (a) made in writing by the employer on the approved form;
  - (b) completed in accordance with the instructions on that form; and
  - (c) given or sent to the Treasury.
- (2) In sub-paragraph (1) “**approved form**” means the form approved by the Treasury for the purpose of making an application for a restart payment.

### 19 Time allowed for making an application for a restart payment

An application for a restart payment for any tax week must be made within the period of 3 months beginning on the first day of that tax week.

**20 Evidence and information relating to an application for a restart payment**

An employer must give such certificates, documents, information and evidence in connection with an application for a restart payment, or any question arising out of such an application —

- (a) in such way as the Treasury requires; and
- (b) within such period of time after being required to do so as the Treasury considers reasonable.

**21 Application for a restart payment to be treated as made for an indefinite period**

Subject to Part 2, an application for a restart payment is to be treated as made for an indefinite period.

## **PART 5 – DETERMINATION OF APPLICATIONS AND REVIEWS AND APPEALS**

**22 Determination of an application for a restart payment**

An application for a restart payment is to be determined by the Treasury.

**23 Review of a determination of an application for a restart payment**

- (1) If an employer is dissatisfied with the Treasury’s determination of the employer’s application for a restart payment (“**the original determination**”), the employer may apply to the Treasury to review the original determination.
- (2) An application for a review of the original determination must be—
  - (a) made in writing;
  - (b) state the reasons why the employer is dissatisfied with the original determination; and
  - (c) given or sent to the Treasury.
- (3) An application for review of the original determination must be made within one month of the date of notification of the original determination.
- (4) If the Treasury receives an application to review the original determination, the Treasury may revise the original determination or not do so and must send notification to the employer accordingly.
- (5) If the Treasury revises the original determination, the revised determination (“**the Treasury’s revised determination**”) replaces the original determination.

## 24 Appeal against a determination of an application for a restart payment or against the Treasury's revised determination

- (1) If —
  - (a) the Treasury —
    - (i) does not revise the original determination; or
    - (ii) revises the original determination; and
  - (b) the employer —
    - (i) remains dissatisfied with the original determination; or
    - (ii) is dissatisfied with the Treasury's revised determination,

the employer may appeal against the original determination or the Treasury's revised determination (as the case may be) to the Chief Financial Officer.
- (2) An appeal against the original determination or the Treasury's revised determination must be—
  - (a) made in writing;
  - (b) state the reasons why the employer —
    - (i) remains dissatisfied with the original determination; or
    - (ii) is dissatisfied with the Treasury's revised determination; and
  - (c) given or sent to the Chief Financial Officer.
- (3) An appeal against the original determination or the Treasury's revised determination must be made within 1 month of the date of the notification sent to the employer by the Treasury under paragraph 23(4).
- (4) If the Chief Financial Officer receives an appeal against the original determination or the Treasury's revised determination, the Chief Financial Officer —
  - (a) may revise the original determination or the Treasury's revised determination, or not do so; and
  - (b) must send notification to the employer accordingly.
- (5) If the Chief Financial Officer revises the original determination or the Treasury's revised determination, the revised determination made by the Chief Financial Officer —
  - (a) replaces the original determination or the Treasury's revised determination (as the case may be); and
  - (b) is final.
- (6) In this paragraph “**the original determination**” and “**the Treasury's revised determination**” have the meanings they have in paragraph 23.

## PART 6 – OFFENCES AND RECOVERY

### 25 Offence of furnishing false, incomplete or misleading information in connection with an application for a restart payment

- (1) It is an offence for the employer to furnish false, incomplete or misleading information in connection with an application for a restart payment.
- (2) A person who commits an offence under sub-paragraph (1) is liable on summary conviction to –
  - (a) a fine of £5,000;
  - (b) a custodial sentence of not more than 6 months; or
  - (c) both a fine and a custodial sentence.
- (3) If –
  - (a) the employer is a body corporate;
  - (b) the employer commits an offence under this paragraph; and
  - (c) the offence is proved to have been committed with the consent or connivance of, or to be attributable to neglect on the part of, an officer of the employer,

the officer (as well as the employer) is guilty of that offence and is liable to be proceeded against accordingly.

### 26 Recovery of a restart payment following furnishing of false, incomplete or misleading information

- (1) This paragraph applies if –
  - (a) the employer, or an officer of the employer, furnishes false, incomplete or misleading information in connection with an application for a restart payment; and
  - (b) in consequence of the employer or officer doing so, a restart payment is paid to the employer.
- (2) If this paragraph applies the Treasury may recover from the employer or the officer of the employer (whichever of them furnished the information mentioned in sub-paragraph (1)(a)) the amount of the restart payment which it would not have paid but for the employer or officer furnishing that information.
- (3) Any amount recovered by the Treasury under this paragraph forms part of the General Revenue.

## **PART 7 – ADMINISTRATION AND FINANCE**

### **27 Management and administration of this Scheme**

The Treasury is responsible for managing and administering this Scheme.

### **28 Publication of guidance about how the Treasury is to exercise its powers**

The Treasury may publish information to serve as guidance as to how the Treasury is to exercise its powers under this Scheme.

### **29 Finance**

Any restart payment and any other expenses attributable to this Scheme are to be paid out of money provided by Tynwald.

**MADE            09 OCTOBER 2020**

## ENDNOTES

### Table of Endnote References

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<sup>1</sup> The format of this legislation has been changed as provided for under section 75 of, and paragraph 2 of Schedule 1 to, the Legislation Act 2015. The changes have been approved by the Attorney General after consultation with the Clerk of Tynwald as required by section 76 of the Legislation Act 2015.