

Declaration – COVID-19 Wage Subsidy Scheme

This declaration applies to you if you applied for the COVID-19 Wage Subsidy on or after 4pm on 27 March 2020.

By submitting this form, you are declaring that:

You must meet the eligibility criteria

- You meet the eligibility criteria for the Wage Subsidy (**subsidy**):
 - you operate a **business** (being a registered business, sole trader, self-employed person, registered charity [1], incorporated society [2], non-government organisation, or post settlement governance entity) in New Zealand that employs and pays the employees named in your application; and
 - the **employees** (including you if you are a sole trader or self-employed person) named in your application are legally employed by your business and are employed in New Zealand; and
- your business has experienced a minimum 30% decline in actual or predicted revenue [3] over the period of a month when compared to the same month last year, or a reasonably equivalent month for a business operating less than a year or a high growth business that has experienced a significant increase in revenue, and that revenue loss is attributable to the COVID-19 outbreak; and
- before making your application for the subsidy, you have taken active steps to mitigate the impact of COVID-19 on your business activities (including but not limited to engaging with your bank, drawing on your cash reserves as appropriate, making an insurance claim); and
- you are not currently receiving the COVID-19 Wage Subsidy, COVID-19 Leave Subsidy, COVID-19 Essential Workers Leave Support or COVID-19 Leave Support Scheme in respect of any of the employees named in your application.

Your obligations to use the subsidy to retain and pay your employees

- You acknowledge that the granting of your application and your receipt of the subsidy does not override your existing obligations under the Employment Relations Act 2000;
- You will not make any changes to your obligations under any employment agreement, including to rates of pay, hours of work and leave entitlement, without the written agreement of the relevant employee; [4]
- You will retain the employees named in your application as your employees for the period you receive the subsidy in respect of those employees;
- You will not unlawfully compel or require any of the employees named in your application [5] to use their leave entitlements for the period you receive the subsidy in respect of those employees; [6]
- You will only use the subsidy for the purposes of meeting your named employees ordinary wages and salary and your obligations in relation to this subsidy.
- You remain responsible for paying your employees ordinary wages and salary for the employees named in your application.
- You will for the period you receive the subsidy:
 - use your best endeavours to pay at least 80 per cent of each named employee's ordinary wages or salary; and
 - pay at least the full amount of the subsidy to the employee; but

- where the ordinary wages or salary of an employee named in your application was lawfully below the amount of the subsidy before the impact of COVID-19, pay the employee that amount.
- The ordinary wages or salary of an employee are:
 - as specified in the employee's employment agreement as at 26 March 2020; or
 - if you ended your employment relationship with any employee named in your application as a result of your business being adversely affected by the COVID-19 outbreak and have re-employed that employee on or after 17 March 2020, as specified in the employee's employment agreement as at the date that employment relationship ended.

Providing information about you, your business and your employees to the Ministry

- You will provide the Ministry of Social Development [7] with information about you, your business and (with their consent) the employees named in your application to the extent required by the Ministry of Social Development or its auditors to make decisions about your application, and to audit and review any subsidy that is granted (to you or another applicant) and how any subsidy granted is paid to employees.

Consent to the Ministry sharing information about your application with other agencies

- You consent to the Ministry of Social Development sharing information about you or your business provided with respect to your application (both at the time of application, and any information provided at a later time) with other agencies (including non-government agencies) to the extent necessary to make decisions about your application, and to audit and review any subsidy that is granted (to you or another applicant) and how any subsidy granted is paid to employees.

Consent to other agencies providing information about you to the Ministry

- You consent to other agencies (including non-government agencies) providing information about you or your business to the Ministry of Social Development or its auditors, to the extent necessary in order for the Ministry of Social Development to make decisions about your application, and to audit and review any subsidy that is granted (to you or another applicant) and how any subsidy granted is paid to employees.

Discuss your application with your employees and gain their consent to information sharing

- You have discussed this application with the employees named in it.
- The employees named in your application have consented (in writing, if practicable) to the following matters:
 - The employees consent to:
 - the information about them in your application being provided to the Ministry of Social Development; and
 - you providing the Ministry of Social Development with any further information about them required in order for the Ministry of Social Development to make decisions about your application, and to audit and review any subsidy that is granted (to you or to another applicant) and how any subsidy granted is paid to employees; and
 - you advising the Ministry of Social Development if they end their employment relationship with your business at a time when you are receiving a subsidy with respect to them.

- The employees consent to the information about them provided to the Ministry of Social Development with respect to this application (both at the time of application, and any information provided at a later time):
 - being used by the Ministry of Social Development to make decisions about your application, and to audit and review any subsidy that is granted (to you or to another applicant) and how any subsidy granted is paid to employees; and
 - being shared by the Ministry of Social Development with other agencies (including non-government agencies) to the extent necessary in order for the Ministry of Social Development and its auditors to make decisions about your application, and to audit and review any subsidy that is granted (to you or to another applicant) and how any subsidy granted is paid to employees; and
 - being used by the Ministry of Social Development to make decisions about other assistance and entitlements to the extent your application and any subsidy granted is relevant to them (for instance, where your application is relevant to an employee's application for other assistance).
- The employees consent to other agencies (including non-government agencies) providing information about them to the Ministry of Social Development and its auditors, to the extent necessary in order for the Ministry of Social Development to make decisions about your application, and to audit and review any subsidy that is granted (to you or to another applicant) and how any subsidy granted is paid to employees.

Advise your employees they can request access to information you have provided in your application under the Privacy Act

- People have the right to request access to all information held about them under the Privacy Act, they can contact privacyofficer@msd.govt.nz ^(Link 1) to make a request.

Publication of information about you

- You consent to the Ministry of Social Development publishing information about your business and the level and duration of any subsidy provided to you (excluding any personal information about the employees named in your application) on a publicly accessible register.

Notify changes in eligibility

- You will notify the Ministry of Social Development within 5 working days if anything changes that may affect your eligibility or entitlement to the subsidy, including if any of the employees named in your application end their employment relationship with you.

Repaying the subsidy

- You agree to repay the subsidy or any part of the subsidy paid to you if you:
 - fail to meet any of the obligations about how you must use the subsidy; or
 - were not or stop being eligible for the subsidy or any part of the subsidy;
 - provide false or misleading information in your application; or
 - receive insurance such as business interruption insurance for any costs covered by the subsidy.

Provision of true and correct information

- You acknowledge and agree that all of the information you have provided to the Ministry of Social Development is true and correct.

Consequences of non-compliance with the obligations in this declaration

- You acknowledge that you may be subject to civil proceedings for the recovery of any amount you receive that you are not entitled to and/or to prosecution for offences under the Crimes Act 1961 if you:
 - have provided false or misleading information; or
 - fail to meet any of the obligations about how you must use the subsidy; or
 - receive any subsidy or part of a subsidy that you were not entitled to receive.

Authority to make this declaration

- You are making this declaration of behalf of your business and you have the authority to do so.

The Ministry may amend this declaration

- You acknowledge that the Ministry of Social Development may amend this declaration at any time and at its discretion.

Declaration forms part of your application

- You acknowledge that this declaration forms part of your application.

In submitting your application you also acknowledge and/or agree:

- The Ministry of Social Development collects the information in this application to determine whether you are eligible to receive assistance.
- The Ministry of Social Development will use the information provided in this application for the purposes addressed in this document, including to assess your eligibility to receive the subsidy and to audit and review any subsidies granted. We may also use the information to contact you or for research and reporting purposes, or to advise you on the matters relating to the assistance you applied for.
- The Ministry will not use the information provided in this application for any other purpose unless required or authorised by law.
- Under the Privacy Act 1993 you have the right to request access to all information held about yourself and to request corrections to that information.

[1] Incorporated under the Incorporated Societies Act 1908 and registered under the Charities Act 2005; or registered the Charities Act 2005.

[2] Incorporated under the Incorporated Societies Act 1908.

[3] Businesses can include a fall in projected capital income as 'revenue' for the purpose of an application where:

- They have no revenue other than seed or venture capital, or Government funding; and
- They are recognised by Callaghan Innovation as a legitimate research and development start up business

[4] It is unlawful for you to unilaterally vary an employment agreement to reduce an employee's wages or salary in order to receive the subsidy. You must continue to comply with your obligations under the Employment Relations Act 2000.

[5] Including essential workers who are unable to work for COVID-19 related reasons including their own illness or caring for dependents.

[6] Other than as you are lawfully permitted to do, including as provided for in an employee's employment agreement.

[7] "Ministry of Social Development" includes the Chief Executive of the Ministry of Social Development and her staff.