



Province of Saskatchewan

Order in Council 541/2020

Approved and Ordered: 02 December 2020

Lieutenant Governor

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, makes *The Saskatchewan Small Business Emergency Payment Regulations, 2020 (No. 2)*, in accordance with the attached Schedule.

President of the Executive Council

(For administrative purposes only.)

Recommended by: Minister of Finance

Authority: *The Executive Government Administration Act, Section 17*
JAG DM - The Economic and Co-operative Development Act, Section 8
26-11-20

SCHEDULE to OC 541/2020

Title

1 These regulations may be cited as *The Saskatchewan Small Business Emergency Payment Regulations, 2020 (No. 2)*.

Definitions and interpretation

2(1) In these regulations:

“**applicant**” means an eligible small business that applies for financial assistance pursuant to these regulations;

“**eligible small business**” means a small business that meets the criteria set out in subsection 4(2) or (3);

“**eligibility period**” means the period commencing on December 1, 2020 and ending on December 31, 2020;

“**emergency declaration**” means the emergency declaration made on March 18, 2020 pursuant to *The Emergency Planning Act* and renewed from time to time;

“**minister**” means the Minister of Finance;

“**ministry**” means the ministry over which the minister presides;

“**participant**” means an applicant whose application has been approved by the minister pursuant to section 6;

“**permanent establishment**” means a permanent establishment as defined in *The Income Tax Act, 2000*;

“**program**” means the Saskatchewan Small Business Emergency Payment Program (No. 2) established pursuant to section 3;

“**public emergency period**” means the period during which the emergency declaration is in force;

“**public health order**” means a public health order made pursuant to section 38 and subsection 45(2) of *The Public Health Act, 1994*;

“**record**” includes any document or information that is recorded or stored in any medium or by means of any device, including a computer and its hard drive or any electronic media;

“**sales revenue**” means the income that a small business derives from all business activities, including from the sale of goods and services;

“**seasonal business**” means a small business that:

- (a) provides services in person to its clients; and
- (b) carries on business for more than one month in a year but not during the full year;

“**small business**” means, subject to subsection (2):

- (a) any person or partnership registered pursuant to *The Business Names Registration Act*;
- (b) any corporation incorporated, continued or registered pursuant to *The Business Corporations Act*; or
- (c) any co-operative incorporated, continued or registered pursuant to *The Co-operatives Act*.

(2) The minister may approve a person, partnership, corporation or co-operative as a participant in the program pursuant to section 6 notwithstanding that the person, partnership, corporation or co-operative is not registered pursuant to *The Business Names Registration Act*, is not incorporated, continued or registered pursuant to *The Business Corporations Act* or is not incorporated, continued or registered pursuant to *The Co-operatives Act* if the minister is satisfied that the person, partnership or corporation:

- (a) carries on business in Saskatchewan; and
- (b) is otherwise eligible pursuant to these regulations to be approved as a participant.

(3) Any person, partnership, corporation or co-operative approved by the minister pursuant to subsection (2) is deemed to be a small business.

Program established

3 The Saskatchewan Small Business Emergency Payment Program (No. 2) is established to provide financial assistance to eligible small businesses that were required as a result of a public health order to temporarily suspend or substantially curtail operations.

Application and eligibility

4(1) An applicant for financial assistance pursuant to these regulations must apply to the minister in a form and manner satisfactory to the minister.

(2) Subject to subsections (3) and (4), an application pursuant to subsection (1) must include evidence satisfactory to the minister of all of the following:

- (a) that the applicant is a small business;

- (b) that the applicant maintains a permanent establishment in Saskatchewan;
- (c) that the applicant was carrying on business in Saskatchewan on October 31, 2020;
- (d) that the applicant is subject to a public health order and, as a result, is required to temporarily suspend or substantially curtail operations;
- (e) that the applicant has experienced or will experience a loss of sales revenue during the eligibility period that affects the applicant's ability to pay for its fixed costs;
- (f) that the applicant had fewer than 500 employees at all locations where it operates:
 - (i) for the year before the year in which the emergency declaration was made; or
 - (ii) when averaged for the 3 years before the year in which the emergency declaration was made;
- (g) that the applicant intends to restart the applicant's operations after the public emergency period ends.

(3) An application pursuant to subsection (1) for a seasonal business must include evidence satisfactory to the minister of all of the following:

- (a) that the applicant is a small business;
- (b) that the applicant maintains a permanent establishment in Saskatchewan;
- (c) that the applicant was eligible to carry on business in Saskatchewan on October 31, 2020;
- (d) that the applicant is subject to a public health order and, as a result, is required to temporarily suspend or substantially curtail operations;
- (e) that the applicant has experienced or will experience a loss of sales revenue during the eligibility period that affects the applicant's ability to pay for its fixed costs;
- (f) that the applicant had fewer than 500 employees at all locations where it operates:
 - (i) for the year before the year in which the emergency declaration was made; or
 - (ii) when averaged for the 3 years before the year in which the emergency declaration was made;
- (g) that the applicant intends to restart the applicant's operations after the public emergency period ends.

(4) The minister may provide financial assistance to a participant for the eligibility period if, with respect to the eligibility period:

- (a) the minister is satisfied, based on the participant's application pursuant to subsection (1), that the participant is required for the eligibility period to continue to suspend or substantially curtail its operations because of the public health order; and
- (b) the minister is satisfied that it is consistent with the purposes of these regulations to provide the financial assistance.

Time limit for submitting applications

5(1) Subject to subsection (2), an application must be received by the minister within 30 days after the expiry of the eligibility period.

(2) The minister may consider an application received after the date mentioned in subsection (1) if the minister is satisfied that extenuating circumstances made it unreasonable or impossible for the application to have been received by that date.

Approval

6(1) If the minister receives an application pursuant to section 4 and is satisfied that the application is complete, that the applicant meets the criteria set out in these regulations and that it is appropriate to do so, the minister may approve the application.

(2) If the minister approves an application pursuant to subsection (1), the minister may provide financial assistance to the participant.

Amount of financial assistance

7(1) In this section, "**monthly sales revenues**", with respect to a participant, means the amount the participant satisfies the minister that the participant derived from sales revenue in Saskatchewan for a month.

(2) Subject to subsections (3) and (4), the amount of financial assistance for the eligibility period that the minister may provide to a participant is the greatest of:

- (a) 15% of the applicant's monthly sales revenues for November 2019;
- (b) 15% of the applicant's monthly sales revenues for December 2019; and
- (c) 15% of the applicant's monthly sales revenues for February 2020.

(3) The maximum amount of financial assistance that a participant may receive is \$5,000.

(4) In the case of a seasonal business, the amount of financial assistance that the minister may provide to a participant is 15% of the participant's average monthly sales revenue, based on the full months that the business carried on operations in 2019.

More than one location

8 If an applicant operates its eligible small business at more than one fixed location:

- (a) the applicant may make a separate application for financial assistance with respect to each fixed location; and
- (b) the minister may make a payment to the applicant in accordance with these regulations for each fixed location as if each were a separate eligible small business.

Audit

9 Every participant who receives financial assistance pursuant to these regulations shall provide, at the minister's request and within the period specified by the minister, any information or record that the minister may require to audit the participant's financial affairs.

Overpayment

10(1) The minister may declare all or any part of a payment made to a participant pursuant to these regulations to be an overpayment if, in the opinion of the minister:

- (a) the participant has knowingly made a false or misleading statement with respect to a material fact on any form or in any information or record provided to the minister pursuant to these regulations;
- (b) the participant has omitted to make a statement or to provide any information or record to the minister pursuant to these regulations that results in a statement with respect to a material fact being misleading; or
- (c) the participant has failed to comply with these regulations.

(2) If the minister declares a payment to be an overpayment, the amount of the overpayment is deemed to be a debt due and owing to the Crown in right of Saskatchewan and may be recovered from the participant in any manner authorized pursuant to *The Financial Administration Act, 1993* or in any other manner authorized by law.

Minister's powers re audits and overpayments

11 For the purposes of performing audits and collecting overpayments pursuant to these regulations, the minister may exercise any powers that the minister may exercise pursuant to *The Revenue and Financial Services Act*.

Service

12(1) Any notice, decision or other document required to be given or served may be served:

- (a) by personal service;
- (b) by regular mail or registered mail sent to the person's last address known to the ministry; or
- (c) by email sent to an email address provided by the person to the ministry.

- (2) If service is made by regular mail, the document is deemed to have been served on the fifth day after the date of its mailing.
- (3) If service is made by registered mail, the document is deemed to have been served on the delivery date shown on the signed post office acknowledgment of receipt.
- (4) If service is made by email, the document is deemed to have been served at the time it is sent.

Immunity

13(1) No action or proceeding lies or shall be commenced against the Government of Saskatchewan, the minister, the ministry or any officer or employee of the ministry or administrator or agent of the minister, if that person is acting pursuant to the authority of these regulations, for anything in good faith done, caused, permitted or authorized to be done, attempted to be done or omitted to be done, by that person or by any of those persons pursuant to or in the exercise or supposed exercise of any power conferred by these regulations or in the carrying out or supposed carrying out of any duty imposed by these regulations.

(2) The decisions or actions of any of the persons mentioned in subsection (1) are final and conclusive and are not reviewable by any court of law or restrained by any injunction, prohibition, mandamus, *certiorari* or other proceeding whatsoever.

Provision of records from program

14(1) If the minister receives a request from any person for a copy of any of the following information respecting the program and considers it appropriate and in the public interest to do so, the minister may, on any terms that the minister considers appropriate, provide that information to that person:

- (a) the number of payments made pursuant to the program;
- (b) the minimum and maximum payments made pursuant to the program;
- (c) the average payment made pursuant to the program.

(2) Information respecting the names of individual applicants is not to be disclosed.

Coming into force

15 These regulations come into force on the day on which they are filed with the Registrar of Regulations.