



BERMUDA

PUBLIC TREASURY (ADMINISTRATION AND PAYMENTS) (TEMPORARY UNEMPLOYMENT BENEFIT) AMENDMENT REGULATIONS 2020

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The Minister of Finance, in exercise of the power conferred by section 33 of the Public Treasury (Administration and Payments) Act 1969, makes the following Regulations:

Citation

1 These Regulations may be cited as the Public Treasury (Administration and Payments) (Temporary Unemployment Benefit) Amendment Regulations 2020.

Amends regulation 2

2 The Public Treasury (Administration and Payments) (Temporary Unemployment Benefit) Regulations 2020 (hereinafter referred to as the “principal Regulations”) are amended in regulation 2 by inserting in the appropriate alphabetical order the following—

“ “substantially reduced hours” means 50% or less of the employee’s normal hours of employment;”.

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Amends regulation 6

3 (1) The principal Regulations are amended in regulation 6(1) by deleting the word “The”, and substituting the words “Except as provided in paragraph (1A), the”.

(2) The principal Regulations are amended in regulation 6 by inserting after paragraph (1) the following—

“(1A) The unemployment benefit payable to an applicant in respect of whom regulation 7(4)(d)(ii) applies, shall be \$300 per week.”.

Amends regulation 7

4 (1) The principal Regulations are amended in regulation 7(4) by revoking and replacing paragraph (d) as follows—

“(d) where the applicant is self-employed, documentation showing—

- (i) payroll tax returns for his last two quarters; or
- (ii) that he has, in connection with his application, registered with the Office of the Tax Commissioner;”.

(2) The principal Regulations are amended in regulation 7 by inserting after paragraph (4) the following—

“(4A) With the approval of the Director and in such form as the Director may determine, an employer that is a business with employees who are each qualified under regulation 4 to apply for unemployment benefit, may submit—

- (a) all information and documentation required with respect to an application for unemployment benefit; and
- (b) all information and documentation with respect to the employment status or remuneration and any other information in respect of a recipient of unemployment benefit.

(4B) Information and documentation submitted by an employer pursuant to paragraph (4A) is deemed to be an application made for unemployment benefit by each qualified individual to which the information and documentation so submitted relates.”.

Amends regulation 8

5 The principal Regulations are amended in regulation 8(6) by revoking and replacing subparagraph (b) as follows—

“(b) to pay the unemployment benefit—

- (i) directly to the individual applicant or recipient; or
- (ii) if the Minister so directs, via the individual recipient’s employer, or former employer, for payment, in accordance with

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regulation 8A(2), by the employer to each approved applicant or recipient.”

Inserts regulation 8A

6 The principal Regulations are amended by inserting after regulation 8 the following—

- “Duties of employer where unemployment benefit is paid via the employer
- 8A (1) Any sums that are paid via an employer pursuant to regulation 8(6)(b) (ii) for unemployment benefit are held by the employer on trust for each individual employee, or former employee, respectively approved to receive an unemployment benefit under these Regulations.
- (2) Within five business days of receipt of the sums referred to in paragraph (1), the employer shall pay the sum approved by the Director for unemployment benefit to each individual recipient without any deduction.
- (3) The employer shall account properly and promptly for all sums paid via the employer for unemployment benefit and, in particular, shall ensure that—
- (a) proper accounts and records are kept in respect of all sums comprising unemployment benefit due to each individual recipient;
 - (b) sums belonging to a recipient approved for unemployment benefit and money belonging to the employer are kept separately identifiable from one another;
 - (c) all payments to each individual recipient approved for unemployment benefit can be accurately identified and traced; and
 - (d) any sum belonging to one recipient of unemployment benefit is not used for another recipient or another employee, or former employee, or for any other purpose.
- (4) The employer shall prepare and submit to the Director, in such form as the Director may determine, every two weeks, or such longer period as may be required by the Director after the first receipt of any sums for unemployment benefit via the employer, a report containing—
- (a) a record of every payment to each individual recipient approved for unemployment benefit in respect of whom the employer has received a sum for unemployment benefit; and
 - (b) such other additional information with respect to such sums for unemployment benefit as the Director may direct in writing.
- (5) Where the Director, in respect of the unemployment benefit paid via the employer requests any information and explanations from an employer, the employer shall comply with that request as soon as practicable thereafter.

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(6) The employer shall retain accounting records in relation to all sums paid via the employer for unemployment benefit and due to recipients employed or formerly employed by the employer for at least three years from the date of the payment to which it relates.

(7) The employer commits an offence where, without reasonable excuse, the employer—

- (a) fails to comply with this regulation or any direction or request pursuant to, this regulation; or
- (b) obstructs the Director or any member of his staff or any other public officer in carrying out their functions under or pursuant to these Regulations,

as regards such sums for unemployment benefit paid via the employer.

(8) An employer who commits an offence under paragraph (7) is liable on summary conviction to a fine not exceeding \$5,000, or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment.

(9) Where an offence under these Regulations has been committed by a body corporate is proved to have been committed with the consent or connivance on the part of any manager, director, secretary or other officer of the body corporate, such person, as well as the corporate body, shall be liable to be proceeded against and punished accordingly.

(10) In the event of winding up of the business of an employer via which any sum for unemployment benefit has been paid, section 236(1)(b) of the Companies Act 1981 shall apply with respect to any sums for unemployment benefit at the time of the winding up held by the employer, as if those sums were wages or salary referred to in that section.”

Amends regulation 10

7 The principal Regulations are amended in regulation 10 by inserting after paragraph (4) the following—

“(4A) The Director shall require an employer via whom any sum of unemployment benefit is paid for an individual recipient who is an employee or former employee of the employer, to repay any sum of money—

- (a) improperly paid via the employer (“overpayment”);
- (b) improperly paid as a result of non-disclosure of facts, misrepresentation or for any other cause; or
- (c) that the employer failed to pay to the applicant approved for, or recipient of, unemployment benefit. ”.

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Made this 1st day of May 2020

Minister of Finance

[Operative Date: 01 May 2020]