



64TACD2023

Between

[REDACTED]

Appellant

and

THE REVENUE COMMISSIONERS

Respondent

Determination

Introduction

1. This matter comes before the Tax Appeals Commission (hereinafter “the Commission”) as an appeal against a refusal by the Revenue Commissioners (“the Respondent”) to allow the Appellant to register for and avail of the Covid Restrictions Support Scheme (“CRSS”).
2. CRSS was introduced by section 11 of the Finance Act 2020. It amends the Taxes Consolidation Act 1997 (“TCA 1997”) by inserting two sections, section 484 and section 485.
3. Section 484 TCA 1997 sets out the objectives of the CRSS which it states are “to provide the necessary stimulus to the economy.... so as to mitigate the effects, on the economy, of Covid-19...”
4. Section 485 TCA 1997 sets out the eligibility criteria and details of the scheme. It permits eligible businesses to make a claim to the Revenue Commissioners for a payment known as Advance Credit for Trading Expenses (ACTE).

5. Section 485 (24) TCA 1997 provides a right of appeal to the Commission where a Revenue Officer determines an entity does not meet the eligibility criteria for the scheme. In accordance with that section, the Appellant makes its appeal.

Background

6. The Appellant is involved in the [REDACTED]
[REDACTED]. In addition, the Appellant develops software to
[REDACTED]
[REDACTED]. The Appellant [REDACTED]
[REDACTED].
The Appellant has a registered address of [REDACTED]
[REDACTED] and also operates two separate addressed offices from this street.
7. On 4th November 2020, the Appellant registered for the CRSS via the Respondents online system ("ROS"). The Respondent reviewed this application and following engagement with the Appellant, the Respondent informed the Appellant on 1st December 2020 that its business did not appear to meet the qualifying criteria for CRSS as it did not carry on a trade which was carried on from a qualifying business premises.
8. On 8th December 2020, the Appellant's agent wrote to the Respondent and indicated that as they were unsure of which address to use for the purpose of the CRSS claim, owing to the multiple addresses where the Appellant provided its services, it had populated the CRSS application form with the Appellant's registered office address. The Appellant's agent sought confirmation from the Respondent if he was correct in providing this address or whether he should have used [REDACTED]
[REDACTED]
9. Absent a reply, the Appellant's agent wrote to the Respondent the day following and suggested that the Appellant's largest business outlet, [REDACTED] ought to be used for the purpose of populating the CRSS application form as that would make the claim "straightforward".
10. The Respondent effectively rejected this proposal in its reply email of 9th December 2020 referring to the relevant CRSS guidelines [**Appendix 1**] which state that outdoor activities do not satisfy the definition of a "business premises".
11. A Determination Notice ("the Notice") was issued by the Respondent on 15th February 2021 informing the Appellant that it did not satisfy the criteria to register for the CRSS.

Specifically, the Notice stated that as the Appellant did not carry on a trade that was carried on from a business premises located within a region subject to restrictions introduced in line with the Government's 'Living with Covid-19 Plan', with the result being that the business was required to prohibit or significantly restrict customers from accessing its premises, it was being refused eligibility for the CRSS.

12. A Notice of Appeal dated 16th March 2021 to the Respondents' Notice was received by the Commission.

13. Following receipt of the Notice of Appeal, further enquiries were made by the Respondent. The nature of these enquiries was as to the [REDACTED]
[REDACTED] On 22nd April 2021, the Appellant's agent responded and stated that the Appellant [REDACTED]
[REDACTED]. The Appellant's agent stated in the correspondence that [REDACTED]
[REDACTED]
[REDACTED]".

14. The appeal was heard over the course of two dates in November 2022. The first hearing which was physical, whereby the parties were in attendance at the Commission, was held on 9th November 2022 and the second hearing, which was confined to legal submissions, was heard remotely online on 24th November 2022. The Appellant and the Respondent were represented by Counsel at those respective hearings, and [REDACTED], ("the Appellant Director") gave evidence on behalf of the Appellant. In addition, the Commissioner had the benefit of written submissions from both parties in advance of the hearing date.

Legislation and Guidelines

15. The legislation relevant to this appeal is as follows:

Section 484 TCA 1997 – "Objectives of Section 485, purposes for which its provisions are enacted and certain duty of Minister for Finance respecting those provisions' operation" provides:

(1) (a) *The objectives of section 485 are to—*

(i) provide the necessary stimulus to the economy (in addition to that provided by Part 7 of the Emergency Measures in the Public Interest (Covid-19) Act 2020 and the Financial Provisions (Covid-19) (No. 2) Act 2020) so as to mitigate the effects, on the economy, of Covid-19, and

(ii) if, as of 1 January 2021, no agreement stands entered into between the European Union and the United Kingdom (with respect to the future relations between them on the relevant matters), mitigate the effects on the economy which are apprehended may arise therefrom.

(b) In paragraph (a) 'relevant matters' means the matters described in Part II of the Political declaration setting out the framework for the future relationship between the European Union and the United Kingdom³.

(c) The purposes for which the several provisions of section 485 (in this section referred to as the 'Covid Restrictions Support Scheme') are, in furtherance of the foregoing objectives, enacted are:

(i) in addition to the provision of basic mechanisms to fulfil those objectives, to ensure the efficient use of the Covid Restrictions Support Scheme so as to minimise the cost to the Exchequer of the scheme (so far as consistent with fulfilment of those objectives);

(ii) to avoid, where possible, allocation of resources to sectors of the economy that are not in need of direct stimulus by means of the Covid Restrictions Support Scheme (and which sectors may reasonably be expected to be restored to financial viability and an eventual growth path by the indirect effects of the scheme);

(iii) to protect the public finances through mechanisms for the discontinuance or amendment of one or more of the payments under the Covid Restrictions Support Scheme (or for their variation) in defined circumstances;

(iv) to take account of the need to reflect changes in circumstances of persons who, as businesses, are persons in respect of whom payments under the Covid Restrictions Support Scheme are being made, in cases where such persons avail themselves of other financial supports provided by the State;

(v) to take account of changes in the State's economic circumstances and the demands on its financial resources which may occur in the remainder of the current financial year and thereafter.

(d) It shall be the duty of the Minister for Finance to monitor and superintend the administration of the Covid Restrictions Support Scheme (but this paragraph does not derogate from the function of the care and management conferred on the Revenue Commissioners by section 485(21)).

(e) Without prejudice to the generality of paragraph (d), the Minister for Finance shall cause an assessment, at such intervals as he or she considers

appropriate but no less frequently than every 3 months beginning on 13 October 2020, of the following, and any other relevant matters, to be made—

(i) up-to-date data compiled by the Department of Finance relating to the State's receipts and expenditure,

(ii) up-to-date data from the register commonly referred to as the 'Live Register' and data related to that register supplied to the Department of Finance by the Department of Business, Enterprise and Innovation (whether data compiled by that last mentioned Department of State from its own sources or those available to it from sources maintained elsewhere in the Public Service),

(iii) such other data as the Minister for Finance may consider relevant in relation to the impact from, and effects of, Covid-19 or the fact (should that be so) of there not being an agreement of the kind referred to in paragraph (a)(ii),

and, if the following is commissioned, by reference to an assessment, on economic grounds, of the Covid Restrictions Support Scheme that may be commissioned by the Minister for Finance and any opinion as to the sustainability of the scheme expressed therein.

(f) Following an assessment under paragraph (e), it shall be the duty of the Minister for Finance, after consultation with the Minister for Public Expenditure and Reform, to determine whether it is necessary to exercise any or all of the powers under subparagraphs (i) to (vi) of subsection (2)(a) so, as appropriate, to—

(i) fulfil, better, the objectives specified in paragraph (a), or

(ii) facilitate the furtherance of any of the purposes specified in paragraph (c), and, if the Minister for Finance determines that such is necessary, the powers under one, or more than one, as provided in that subsection (2)(a), of those subparagraphs (i) to (vi) shall become and be exercisable by the Minister for Finance.

(2) (a) Where the Minister for Finance makes a determination of the kind lastly referred to in subsection (1) (f), the Minister for Finance shall, as he or she deems fit and necessary—

(i) make an order that the reference in the definition of 'Covid restrictions' in section 485(1) to restrictions provided for in regulations made under sections 5 and 31A of the Health Act 1947 that are for the purpose of preventing, or reducing the risk of, the transmission of Covid-19 and which have the effect of restricting the conduct of certain business

activity during the specified period shall be limited in such respects as are specified in the order (including, if the Minister for Finance considers appropriate, by the specification of a requirement, with respect to the restriction of certain business activity, that particular business activity must be affected by the restriction to a specified extent) and an order under this subparagraph shall make such additional modifications to the provisions of section 485 as the Minister for Finance may consider necessary and appropriate in consequence of the foregoing limitation,

(ii) make an order that the day referred to in the definition of 'specified period' in section 485(1) as the day on which the period there referred to shall expire shall be such day as is later than 31 March 2021 (but not later than 31 December 2021) as the Minister for Finance considers appropriate and specifies in the order,

(iii) make an order that the percentage specified in section 485(4) (b) (i) shall be such a percentage, that is greater or lower than the percentage specified in that provision, as the Minister for Finance—

(I) considers necessary to—

(A) fulfil, better, the objectives specified in subsection (1)

(a), or

(B) facilitate the furtherance of any of the purposes specified in subsection (1) (c),

and

(I) specifies in the order,

(iv) make an order that the percentage specified in subparagraph (i) (I) or subparagraph (ii)(I) of section 485 (7) (a) shall be such a percentage, that is greater or lower than the percentage specified in that subparagraph (i)(I) or subparagraph (ii)(I), as the Minister for Finance—

(I) considers necessary to—

(A) fulfil, better, the objectives specified in subsection (1)

(a), or

(B) facilitate the furtherance of any of the purposes specified in subsection (1) (c),

and

(II) specifies in the order,

(v) make an order that the percentage referred to in subparagraph (i) (II) or subparagraph (ii)(II) of section 485 (7) (a) shall be such a percentage, that is greater or lower than that percentage specified in that

subparagraph (i)(II) or subparagraph (ii)(II), as the Minister for Finance—

(I) considers necessary to—

(A) fulfil, better, the objectives specified in subsection (1)

(a), or

(B) facilitate the furtherance of any of the purposes specified in subsection (1) (c),

and

(II) specifies in the order,

(vi) make an order either that subsection (8) of section 485 shall cease to be in operation on and from such day, or that the election referred to in paragraph (b) of that subsection, which that subsection enables a qualifying person to make, shall not be exercisable save in such circumstances, as the Minister for Finance—

(I) considers necessary to—

(A) fulfil, better, the objectives specified in subsection (1) (a), or

(B) facilitate the furtherance of any of the purposes specified in subsection (1) (c),

and

(III) specifies in the order,

and any matter that is provided for in the preceding subparagraphs is referred to in section 485(3) as a ‘modification’.

(b) Where an order under subparagraph (i), (ii), (iii), (iv), (v) or (vi) of paragraph (a) is proposed to be made, a draft of the order shall be laid before Dáil Éireann and the order shall not be made unless a resolution approving of the draft has been passed by that House.

Section 485 TCA 1997, “Covid Restrictions Support Scheme” provides:

(1) In this section—

“applicable business restrictions provisions” shall be construed in the manner provided for in the definition of ‘Covid restrictions period’ in this subsection;

“business activity”, in relation to a person carrying on a trade either solely or in partnership, means—

(a) where customers of the trade acquire goods or services from that person from one business premises, the activities of the trade, or

(b) where customers of the trade acquire goods or services from that person from more than one business premises, the activities of the trade relevant to each business premises,
and where customers of the trade acquire goods or services from that person other than through attending at a business premises, that portion of the trade which relates to transactions effected in that manner shall be deemed to relate to the business premises or, where there is more than one business premises, shall be apportioned between such business premises on a just and reasonable basis;

“business premises”, in relation to a business activity, means a building or other similar fixed physical structure from which a business activity is ordinarily carried on;

“chargeable period” has the same meaning as in section 321 (2);

“claim period” means a Covid restrictions period, or a Covid restrictions extension period, as the context requires;

“Covid-19” has the same meaning as it has in the Emergency Measures in the Public Interest (Covid-19) Act 2020;

“Covid restrictions” means restrictions provided for in regulations made under sections 5 and 31A of the Health Act 1947, being restrictions for the purpose of preventing, or reducing the risk of, the transmission of Covid-19 and which have the effect of restricting the conduct of certain business activity during the specified period;

“Covid restrictions extension period” has the meaning assigned to it in subsection (2);

“Covid restrictions period”, in relation to a relevant business activity carried on by a person, means a period for which the person is required by provisions of Covid restrictions to prohibit, or significantly restrict, members of the public from having access to the business premises in which the relevant business activity is carried on (referred to in this section as ‘applicable business restrictions provisions’) and is a period which commences on the Covid restrictions period commencement date and ends on the Covid restrictions period end date;

“Covid restrictions period commencement date”, in relation to a relevant business activity, means the later of—

(a) 13 October 2020, or

(b) the day on which applicable business restrictions provisions come into operation (not having been in operation on the day immediately preceding that day);

“Covid restrictions period end date”, in relation to a relevant business activity, means the earlier of—

(a) the day which is three weeks after the Covid restrictions period commencement date,

(b) the day that is specified in the Covid restrictions (being those restrictions in the terms as they stood on the Covid restrictions period commencement date) to be the day on which the applicable business restrictions provisions shall expire,

(c) the day preceding the first day following the Covid restrictions period commencement date, on which the applicable business restrictions cease to be in operation (by reason of the terms in which the Covid restrictions stand being different from how they stood as referred to in paragraph (b)),
or

(d) 31 March 2021,

and, for the purposes of paragraph (c)—

(i) the fact (if such is the case) that regulations made under sections 5 and 31A of the Health Act 1947 are revoked and replaced by fresh regulations thereunder (but the applicable business restrictions provisions continue to apply to the relevant business activity) is immaterial, and

(ii) the first reference in that paragraph to the terms in which the Covid restrictions stand is a reference to their terms as provided for in those fresh regulations;

“partnership trade” has the same meaning as in section 1007;

“precedent partner”, in relation to a partnership and a partnership trade, has the same meaning as in section 1007;

relevant business activity” has the meaning assigned to it in subsection (4);

“relevant geographical region” means a geographical location for which Covid restrictions are in operation;

“specified period” means the period commencing on 13 October 2020 and expiring on 31 March 2021;

“tax” means income tax or corporation tax;

“trade” means a trade any profits or gains arising from which is chargeable to tax under Case I of Schedule D.

- (2) *(a) Subject to subsection (8), where, in relation to a relevant business activity carried on by a person, applicable business restrictions provisions continue to apply, by reason of regulations made or amended under sections 5 and 31A of the Health Act 1947, to the relevant business activity on the day after the end*

of a Covid restrictions period, the period for which those restrictions continue to so apply is referred to in this section as a 'Covid restrictions extension period', which period commences on the foregoing day (referred to in this section as a 'Covid restrictions extension period commencement date') and ends on the Covid restrictions extension period end date.

(b) In this section, 'Covid restrictions extension period end date', in relation to a relevant business activity, means the earlier of—

(i) the day which is three weeks after the Covid restrictions extension period commencement date,

(ii) the day that is specified in the Covid restrictions (being those restrictions in the terms as they stood on the Covid restrictions extension period commencement date) to be the day on which the applicable business restrictions provisions shall expire,

(iii) the day preceding the first day, following the Covid restrictions extension period commencement date, on which the applicable business restrictions provisions cease to be in operation (by reason of the terms in which the Covid restrictions stand being different from how they stood as referred to in subparagraph (ii)), or

(iv) 31 March 2021,

and, for the purposes of subparagraph (iii)—

(i) the fact (if such is the case) that regulations made under sections 5 and 31A of the Health Act 1947 are revoked and replaced by fresh regulations thereunder (but the applicable business restrictions provisions continue to apply to the relevant business activity) is immaterial, and

(ii) the first reference in that subparagraph to the terms in which the Covid restrictions stand is a reference to their terms as provided for in those fresh regulations.

(c) Where, in relation a relevant business activity carried on by a person, applicable business restrictions provisions continue to apply, by reason of regulations made or amended under sections 5 and 31A of the Health Act 1947, to the relevant business activity on the day after the end of a Covid restrictions extension period, the period for which those restrictions continue to so apply is also referred in this subsection as a 'Covid restrictions extension period' which period commences on the

foregoing day and ends on the Covid restrictions extension period end date.

(3) *The following provisions made in this section, namely:*

(a) the reference in the definition of ‘Covid restrictions’ in subsection (1) to restrictions provided for in regulations made under sections 5 and 31A of the Health Act 1947 that are for the purpose of preventing, or reducing the risk of, the transmission of Covid-19 and which have the effect of restricting the conduct of certain business activity during the specified period;

(b) the specification of 31 March 2021 in the definition of ‘specified period’ in subsection (1) as the date on which the period there referred to shall expire;

(C) the specification of 25 per cent in subsection (4) (b) (i);

(d) the specification of 10 per cent in subsection (7)(a)(i)(I) or (ii)(I);

(e) the specification of 5 per cent in subsection (7) (a) (i) (II) or (ii)(II);

(f) subsection (8) and the election referred to in paragraph (b) of it which a qualifying person is, by virtue of that subsection, enabled to make, shall, together with any other provision of this section that the following modification relates to, be construed and operate subject to any modification that is provided for in an order made under section 485(2)(a) and which is in force.

(4) *(a) In this section—*

“average weekly turnover from the established relevant business activity” means the average weekly turnover of the person, carrying on the activity, in respect of the established relevant business activity for the period commencing on 1 January 2019 and ending on 31 December 2019;

“average weekly turnover from the new relevant business activity”, means the average weekly turnover of the person, carrying on the activity, in respect of the new relevant business activity in the period commencing on the date on which the person commenced the business activity and ending on 12 October 2020;

“established relevant business activity” means, in relation to a person, a relevant business activity commenced by that person before 26 December 2019;

“new relevant business activity” means, in relation to a person, a relevant business activity commenced by that person on or after 26 December 2019 and before 13 October 2020;

“relevant business activity”, in relation to a person, means a business activity which is carried on by that person in a business premises located wholly in a relevant geographical region;

“relevant turnover amount” means—

- (i) where a person carries on an established relevant business activity, an amount determined by the formula—*

$$A \times B$$

where—

A is the average weekly turnover from the established relevant business activity, and

*B is the total number of full weeks in the claim period,
or*

- (ii) where a person carries on a new relevant business activity, an amount determined by the formula—*

$$A \times B$$

where—

A is the average weekly turnover from the new relevant business activity, and

B is the total number of full weeks that comprise the claim period.

(b) Subject to subsections (5) and (6), this section shall apply to a person who carries on a relevant business activity and who—

- (i) in accordance with guidelines published by the Revenue Commissioners under subsection (22), demonstrates to the satisfaction of the Revenue Commissioners that, in the claim period, because of applicable business restrictions provisions that prohibit, or significantly restrict, members of the public from having access to the business premises in which the relevant business activity of the person is carried on—*

- (I) the relevant business activity of the person is temporarily suspended, or*

- (II) the relevant business activity of the person is disrupted,*

such that the turnover of the person in respect of the relevant business activity in the claim period will be an amount that is 25 per cent (or less) of the relevant turnover amount, and

*(ii) satisfies the conditions specified in subsection (5),
(hereafter referred to in this section as a 'qualifying person').*

(5) The conditions referred to in subsection (4) (b) (ii) are—

(a) the person has logged on to the online system of the Revenue Commissioners (in this section referred to as 'ROS') and applied on ROS to be registered as a person to whom this section applies and as part of that registration provides such particulars as the Revenue Commissioners consider necessary and appropriate for the purposes of registration and which particulars shall include those specified in subsection (14),

(b) for the claim period, the person completes an electronic claim form on ROS containing such particulars as the Revenue Commissioners consider necessary and appropriate for the purposes of determining the claim and which particulars shall include those specified in subsection (14),

(c) for the claim period, the person makes a declaration to the Revenue Commissioners through ROS that the person satisfies the conditions in this section to be regarded as a qualifying person for that claim period,

(d) the person has complied with any obligations that apply to that person in respect of the registration for, and furnishing of returns relating to, value-added tax,

(e) the person is throughout the claim period eligible for a tax clearance certificate, within the meaning of section 1095, to be issued to the person, and

(f) the person would, but for the Covid restrictions, carry on the business activity, that is a relevant business activity, at the business premises in a relevant geographical region, and intends to carry on that activity when applicable business restrictions provisions cease to be in operation in relation to that relevant business activity.

(6) Where a relevant business activity of a qualifying person does not constitute a whole trade carried on by that person, then, for the purposes of determining whether the requirements in subsection (4)(b) (i) are met, the relevant business activity shall be treated as if it were a separate trade and the turnover of the whole trade shall be apportioned between the separate trade and the other part of the trade on a just and reasonable basis, and the amount of turnover attributed to the separate trade during the claim period shall not be less than

the amount that would be attributed to the separate trade if it were carried on by a distinct and separate person engaged in that relevant business activity.

- (7) *Subject to subsections (10) and (11), on making a claim under this section, a qualifying person shall, in respect of each full week comprised within the claim period, be entitled to an amount equal to the lower of—*

(a)(i) where the qualifying person carries on an established relevant business activity, an amount equal to the sum of—

(I) 10 per cent of so much of the average weekly turnover from the established relevant business activity as does not exceed €20,000, and

(II) 5 per cent of any amount of the average weekly turnover from the established relevant business activity as exceeds €20,000,

Or

(iii) where the qualifying person carries on a new relevant business activity, an amount equal to the sum of—

(I) 10 per cent of so much of the person's average weekly turnover from the new relevant business activity as does not exceed €20,000, and

(II) 5 per cent of any amount of the person's average weekly turnover from the new relevant business activity as exceeds €20,000,

and

(b) €5,000 per week,

and any amount payable under this section is referred to in this section as an 'advance credit for trading expenses'.

- (8) (a) *Where, in relation to a relevant business activity carried on by a person—*

(i) applicable business restrictions provisions were in operation such that a qualifying person made a claim under this section in respect of a claim period and that claim, taken together with any claims made by the person immediately preceding that claim, is in respect of a continuous period of not less than three weeks, and

(ii) those applicable business restrictions provisions cease to be in operation, then, where that qualifying person, within a reasonable period of time from the date on which the applicable business restrictions provisions cease to be in operation, resumes or continues, as the case may be, supplying goods or services to customers from the business premises in which the qualifying person's relevant business

activity is carried on, that qualifying person may make an election under paragraph (b).

(b) Where no part of the week immediately following the date on which the applicable business restrictions provisions ceased to be in operation in respect of a relevant business activity would otherwise form part of a Covid restrictions period or a Covid restrictions extension period, a qualifying person to whom paragraph (a) applies may elect to treat that week as a Covid restrictions extension period and may make a claim under this section in respect of that period.

(9) A claim made under this section in respect of an advance credit for trading expenses shall be made—

(a) subject to paragraph (b), no later than—

(i) eight weeks from the date on which the claim period, to which the claim relates, commences, or

(ii) if the date on which the qualifying person is registered as a person to whom this section applies (following an application which is made in accordance with subsection (5) (a) and within the period of eight weeks specified in subparagraph (i)) falls on a date subsequent to the expiry of the period of eight weeks so specified, three weeks from the date on which the person is so registered,

and

(b) in the case of a claim made under this section that is referred to in subsection (8), no later than eight weeks from the date on which the applicable business restrictions provisions concerned cease to be in operation.

(10) Where, for any week comprised within a claim period, a person is a qualifying person in relation to more than one relevant business activity carried on from the same business premises, and a claim is made in relation to each relevant business activity, the amount the qualifying person shall be entitled to claim under this section in respect of all of those relevant business activities for any weekly period shall not exceed the amount specified in subsection (7)(b) and subsection (7) shall apply with any necessary modifications to give effect to this subsection.

(11) (a) Where a relevant business activity in respect of which a person is a qualifying person is carried on as the whole or part of a partnership trade, then any claim made under this section for an advance credit for trading expenses

in respect of the relevant business activity shall be made by the precedent partner on behalf of the partnership and each of the partners in that partnership and the maximum amount of any such claim made in respect of the relevant business activity in any weekly period shall not exceed the lower of the amounts specified in subsection (7)(a)(i) or (a)(ii), as the case may be.

(b) Where a claim is made under this section by a precedent partner for an advance credit for trading expenses in respect of a relevant business activity carried on as the whole or part of a partnership trade then—

- (i) for the purposes of subsections (15) and (16), each partner shall be deemed to have claimed, in respect of that partner's several trade, a portion of the advance credit for trading expenses calculated as—*

$$A \times B$$

where—

A is the advance credit for trading expenses claimed by the precedent partner, and

B is the partnership percentage at the commencement of the claim period,

- (ii) the precedent partner shall, in respect of each such claim, provide a statement to each partner in the partnership containing the following particulars—*

(I) the partnership name and its business address,

(II) the amount of advance credit for trading expenses claimed by the precedent partner on behalf of the partnership and each partner,

(III) the profit percentage for each partner,

(IV) the portion of the advance credit for trading expenses allocated to each partner,

(V) the commencement and cessation date of the claim period, and

(VI) the chargeable period of the partnership trade in which the claim period commences,

- (iii) for the purposes of subsections (17) and (18), references to a person making a claim shall be taken as references to the precedent partner making the claim on behalf of the partnership and each of its partners, and*

- (iv) *for the purposes of subsection (19), section 1077E shall apply as if references to a person were references to each partner and the references to a claim were a reference to a claim deemed to have been made by each partner under subparagraph (i).*
- (12) *Any reference to 'turnover' in this section means any amount recognised as turnover in a particular period of time in accordance with the correct rules of commercial accounting, except for any amount recognised as turnover in that particular period of time due to a change in accounting policy.*
- (13) *Where a person makes a claim for an advance credit for trading expenses under this section, in computing the amount of the profits or gains of the trade, to which the relevant business activity relates, for the chargeable period in which the claim period commences, the amount of any disbursement or expense which is allowable as a deduction, having regard to section 81, shall be reduced by the amount of the advance credit for trading expenses and the advance credit for trading expenses shall not otherwise be taken into account in computing the amount of the profits or gains of the trade for that chargeable period.*
- (14) (a) *The particulars referred to in paragraphs (a) and (b) of subsection (5) are those particulars the Revenue Commissioners consider necessary and appropriate for the purposes of determining a claim made under this section, including—*
 - (i) *in relation to a qualifying person—*
 - (I) *name,*
 - (II) *address, including Eircode, and*
 - (III) *tax registration number,**and*
 - (ii) *in relation to a relevant business activity—*
 - (I) *name under which the business activity is carried on,*
 - (II) *a description of the business activity,*
 - (III) *address, including Eircode, of the business premises where the business activity is carried on,*
 - (IV) *where the business activity was commenced prior to 26 December 2019, the average weekly turnover of the qualifying person in respect of the business*

activity in the period commencing on 1 January 2019 and ending on 31 December 2019,

(V) where a trade is carried on in more than one business premises, the turnover of the qualifying person in respect of the business premises, to which the relevant business activity relates, in the period commencing on 1 January 2019 and ending on 31 December 2019,

(VI) where a business activity is a new relevant business activity, the date of commencement of the activity and the amount of turnover in respect of the new business activity beginning on the date of commencement and ending on 12 October 2020,

(VII) the average weekly turnover in respect of an established relevant business activity or a new relevant business activity, as the case may be,

(VIII) in respect of tax, within the meaning of section 2 of the Value-Added Tax Consolidation Act 2010, for the taxable periods comprised within the period of time referred to in clauses (IV) and (VI) the amount of tax that became due in accordance with section 76 (1) (a) (i) of the Value-Added Tax Consolidation Act 2010, (IX) such other total income excluding the relevant business turnover in respect of the total tax returned in respect of section 76 (1) (a) (i) of the Value-Added Tax Consolidation Act 2010, for the taxable periods comprised within the period of time referred to in clause (IV) or (VI),

(X) expected percentage reduction in turnover of the qualifying person in respect of the business activity in the claim period, and

(XI) such other particulars, as the Revenue Commissioners may require.

(b) Subsequent to receiving the information requested under this section, the Revenue Commissioners may seek further particulars or evidence for the purposes of determining the claim.

(15) Where a company makes a claim under this section in respect of a claim period and it subsequently transpires that the claim was not one permitted by this section to be made, and the company has not repaid the amount as required by subsection (17)(a)(II)—

(a) the company shall be charged to tax under Case IV of Schedule D for the chargeable period in which the claim period commences, on an amount equal to 4 times so much of the amount under this section as was not so permitted to be made, and

(b) an amount chargeable to tax under this subsection shall be treated as income against which no loss, deficit, credit, expense or allowance may be set off, and shall not form part of the income of a company for the purposes of calculating a surcharge under section 440.

(16) (a) Where an individual makes a claim under this section in respect of a claim period and it subsequently transpires that the claim was not one permitted by this section to be made, and the individual has not repaid the amount as required by subsection (17)(a)(II), the individual shall be deemed to have received an amount of income equal to 5 times so much of the amount under this section as was not so permitted to be made (referred to in this subsection as the 'unauthorised amount').

(b) The unauthorised amount shall, notwithstanding any other provision of the Tax Acts, be deemed to be an amount of income, arising on the first day of the claim period that is chargeable to income tax under Case IV of Schedule D.

(c) Where the taxable income of an individual includes an amount pursuant to paragraph (b), the part of the taxable income equal to that amount shall be chargeable to income tax at the standard rate in force at the time of the payment of the advance credit for trading expenses but shall not—

(i) form part of the reckonable earnings chargeable to an amount of Pay Related Social Insurance Contributions under the Social Welfare Acts, and

(ii) be an amount on which a levy or charge is required, by or under Part 18D.

(d) Notwithstanding section 458 or any other provision of the Tax Acts, in calculating the tax payable (within the meaning of Part 41A) on the unauthorised amount under this subsection, there shall be allowed no deduction, relief, tax credit or reduction in tax.

(e) In applying section 188 or Chapter 2A of Part 15, no account shall be taken of any income deemed to arise under this subsection or any income tax payable on that income.

(17) (a) Where subsequent to a person making a claim under this section, it transpires that -

- (i) the requirements in subsection (4) (b) are not met (and a claim in respect of which those requirements are not met is referred to hereafter in this subsection as an 'invalid claim'), or*
- (ii) the amount claimed exceeds the amount the person is entitled to claim under this section (and a claim to which this subparagraph applies is referred to hereafter in this subsection as an 'overclaim'),*

then the person shall, without unreasonable delay—

(I) notify the Revenue Commissioners of the invalid claim or overclaim, as the case may be, and

(II) repay to the Revenue Commissioners—

(A) in respect of an invalid claim, the amount paid in respect of that claim,

(B) in respect of an overclaim, the amount by which the amount paid in respect of that claim exceeds the amount the person is entitled to claim (hereafter referred to in this section as the 'excess amount').

(b) Where a person makes a claim under this section in respect of a claim period and it subsequently transpires that the claim is an invalid claim or an overclaim, as the case may be—

(i) then, subject to subparagraph (ii), the amount of the advance credit for trading expenses paid by the Revenue Commissioners in respect of the invalid claim, or the amount of the advance credit for trading expenses overpaid by the Revenue Commissioners in respect of an overclaim, as the case may be, shall carry interest as determined in accordance with section 1080 (2) (c) as if a reference to the date when the tax became due and payable were a reference to the date the amount was paid by the Revenue Commissioners, and

(ii) where the invalid claim or overclaim, as the case may be, was made neither deliberately nor carelessly (within the meaning of section 1077E) and the person complies with the requirements

of paragraph (a)(II), the amount repaid to the Revenue Commissioners in respect of the invalid claim or overclaim, as the case may be, shall carry interest as determined in accordance with section 1080(2)(c) as if a reference to the date when the tax became due and payable were a reference to the date paragraph (a) is complied with.

(c) Paragraph (b) shall apply to tax payable on unauthorised amounts under subsections (15) and (16) as it applies to overpayments arising on invalid or overclaims.

(18) (a) For the purposes of this subsection, 'claim' and 'overpayment' shall have the same meanings respectively as they have in subsection (1) of section 960H.

(b) In this subsection, a claim period is a 'reduced claim period' where—

(i) in the case of a claim period which is a Covid restrictions period, the claim period ends on a date as provided for (in relation to that Covid restrictions period) by paragraph (c) of the definition of 'Covid restrictions period end date' in subsection (1), and such date precedes the date that had been specified in the Covid restrictions (being those restrictions in the terms as they stood on the Covid restrictions period commencement date) to be the date on which the applicable business restrictions provisions shall expire, and

(ii) in the case of a claim period which is a Covid restrictions extension period, the claim period ends on a date as provided for (in relation to that Covid restrictions extension period) by subsection (2) (b)(iii), and such date precedes the date that had been specified in the Covid restrictions (being those restrictions in the terms as they stood on the Covid restrictions extension period commencement date) to be the date on which the applicable business restrictions provisions shall expire.

(c) Where a qualifying person makes an overclaim in respect of a reduced claim period, the Revenue Commissioners shall be entitled to recover the excess amount from the person in accordance with paragraph (d) where the following conditions are met:

(i) the claim is made before the end of the claim period; and

(ii) the claim is an overclaim solely by reason of the fact that the claim period is a reduced claim period.

(d) The Revenue Commissioners shall be entitled to recover the excess amount referred to in paragraph (c) by—

(i) setting the amount of an advance credit for trading expenses that the person is entitled to be paid in accordance with subsection (7) or (8) against the excess amount, or

(ii) where, after the end of the specified period, a repayment is due to the person in respect of a claim or overpayment, setting the amount of the repayment against the excess amount.

(e) Where the conditions referred to in paragraph (c) are met and the excess amount is recovered by the Revenue Commissioners in accordance with paragraph (d) within a reasonable period of time from the end of the specified period, the excess amount shall not be an unauthorised amount under subsection (15) or (16), as the case may be.

(f) Where the conditions referred to in paragraph (c) are met, the excess amount shall carry interest as determined in accordance with section 1080 (2) (c) as if the reference to the date when the tax became due and payable were a reference to the day after the day on which the specified period ends.

(19) Any claim made under this section shall be deemed for the purposes of section 1077E to be a claim in connection with a credit and, for the purposes of determining an amount in accordance with section 1077E (11) or 1077E (12), a reference to an amount of tax that would have been payable for the relevant periods by the person concerned shall be read as if it were a reference to a claim in respect of a claim period made in connection with subsection (7).

(20) 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 this section or the eligibility for the advance credit for trading expenses in relation to any person, 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 this section or the eligibility for the advance credit for trading expenses in relation to any person,

and

the provisions of subsections (3) to (10) of section 1078, and section 1079, 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.

(21) The administration of this section shall be under the care and management of the Revenue Commissioners and section 849 shall apply for this purpose with any necessary modifications as it applies in relation to tax within the meaning of that section.

(22) The Revenue Commissioners shall prepare and publish guidelines with respect to matters that are considered by them to be matters to which regard shall be had in determining whether—

(a) there are provisions of Covid restrictions that prohibit, or significantly restrict, members of the public from having access to the business premises in which the relevant business activity of a person is carried on in a Covid restrictions period, or Covid restrictions extension period, as the case may be, and

(b) as a result of the provisions referred to in paragraph (a), the turnover of the person in respect of the relevant business activity in the Covid restrictions period, or Covid restrictions extension period, as the case may be, will not exceed an amount that is 25 per cent (or less) of the relevant turnover amount.

(23) Notwithstanding any obligations imposed on the Revenue Commissioners under section 851A or any other enactment in relation to the confidentiality of taxpayer information (within the meaning of that section), the details referred to in clauses (I) and (III) of subsection (14) (a) (ii) shall, for all persons to whom an advance credit for trading expenses has been paid by the Revenue Commissioners under this section, be published on the website of the Revenue Commissioners.

(24) (a) Where a Revenue officer determines that a person is not a qualifying person within the meaning of subsection (4) (b), the Revenue officer shall notify the person in writing accordingly.

(b) A person aggrieved by a determination under paragraph (a), may appeal the determination to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date on the notice of the determination.

(c)Where the Appeal Commissioners determine that a person is a qualifying person within the meaning of subsection (4)(b), the 8 week period specified in subsection (9), shall commence in respect of such a person on the date that determination is issued.

(d)The reference to the Tax Acts in paragraph (a) of the definition of 'Acts' in section 949A shall be read as including a reference to this section.

Witness Evidence – The Appellant Director

16. The witness advised the Commission that he established the business in [REDACTED] following a career in the [REDACTED] industry. He stated pre-Covid that the business was very successful and it sold [REDACTED] and had a staff of 15 personnel. The witness advised that the business [REDACTED]

17. The witness explained that the Appellant's customers [REDACTED]

[REDACTED]. He explained that as [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

18. The witness advised that the [REDACTED]

[REDACTED]
[REDACTED] He explained there is a requirement to take payment [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

██████ "as a result of weather factors in Ireland, weather is a great one for keeping people away"¹.

19. The witness explained that the Appellant agrees a price for its commission with the

[illegible]

20. The witness explained after [REDACTED]

████ Upon receipt of this VAT invoice from the customer, the Appellant subsequently reclaimed the VAT charged against any VAT payable on its sales. In effect this equates to the Appellant retaining the commission element of the total price █████ and paying VAT on the commission element of the transaction if the underlying transaction is deemed liable to VAT.

21. The witness advised that the commission element the Appellant receives for its services incorporates its overheads including staff costs, stationery, [REDACTED] fees and postage costs. In addition, the witness advised that this commission includes a payment for customer support [REDACTED]

22. He continued that when [REDACTED]

¹ Page 21, lines 21 & 22 of the transcript (day 1).

27. The witness explained that despite this volume of work, no income was being received by the Appellant as [REDACTED] and that is where the Appellant derived its income from. The witness explained in an attempt to generate income the Appellant attempted to [REDACTED] and while this was moderately successful it was not enough to cover the Appellant's overheads.
28. The witness explained while the Appellant received a moderate grant from [REDACTED] to keep its business afloat, that this later worked against the business as it was initially prohibited from availing of subsequent grants from the [REDACTED] (as receiving a grant from [REDACTED] initially precluded the Appellant from receiving a grant from the [REDACTED] [REDACTED] under the terms of their assistance). Subsequently, in May 2022, following a period of successful lobbying, the witness advised that the [REDACTED] modified the terms of its grant assistance and a payment was made to the Appellant.
29. In a further attempt to keep the business operational, the witness advised that the Appellant sought the assistance of loans made available through the Strategic Banking Corporation of Ireland ("SCBI" –the SBCI was established in September 2014 following Ireland's exit from the European Union/International Monetary Fund programme, to ensure that businesses could access funding when the private sector could not or would not provide funding. During the period of Covid restrictions the SCBI lent money which was substantially guaranteed by the State in an attempt to assist businesses affected by Covid restrictions remain operational) and the Sustaining Enterprise Fund ("SEF" – this was an additional government backed loan scheme provided to certain businesses who were clients of Enterprise Ireland, such as the Appellant).
30. Despite successfully raising this finance, the witness stated that as the Covid restrictions persisted, the Appellant began to run out of funding and in an attempt to keep the business operational, it commenced discussions with a potential investor in [REDACTED] and signed heads of agreement with that investor in [REDACTED].
31. The witness advised that the investor subsequently withdrew their offer to invest in the Appellant's business owing to a requirement imposed by the loan providers (SCBI and SEF) that their loans be repaid in full within 30 days of the investment deal closing and separately, what the investor deemed to be a worsening economic outlook in Europe.
32. Subsequently the Appellant availed of a Small Company Administrative Rescue Process ("SCARP" - The SCARP scheme was introduced by The Companies (Rescue Process for Small and Micro Companies) Act 2021 to give help to certain companies

who are viable, yet insolvent. The scheme applies to small and micro companies and allows companies to restructure their debts, helps companies avoid liquidation and ensures that creditors get a better outcome than they would under a liquidation).

33. The witness advised as a result of entering the SCARP process, the Appellant managed to secure investment and restructure its business to the extent that it remains operational and profitable.

34. Under cross examination, the witness confirmed that the Appellant's staff consisted of sales and support staff, management and administration and software personnel, totalled 15 in 2019 and was evenly split between the three different divisions. The witness further confirmed that the Appellant's staff worked in two separate addressed offices located in the [REDACTED] area and that it only provided staff at an [REDACTED] on an *ad hoc* basis. The witness advised that these staff provided supervisory assistance to staff employed by the [REDACTED] who were responsible for [REDACTED].

35. In addition, the witness confirmed that the customer ordinarily provided all the equipment at the venue and that its largest customer [REDACTED]
[REDACTED]
[REDACTED]. The witness further confirmed⁴:

"[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]"

Submissions

Appellant

36. The Appellant's Counsel submitted as the Appellant provided services in respect of [REDACTED]
[REDACTED]. As such the Appellant's Counsel submitted that the Appellant's "business premises" are [REDACTED] The Appellant's

⁴ Page 91 *ibid.* at lines 16-24.

Counsel submitted as those [REDACTED] were closed by reason of the Covid restrictions, then it followed that the Appellant's business premises were also closed.

37. Counsel for the Appellant submitted while some of the Appellant's business activities were conducted in [REDACTED]

[REDACTED] The Appellant's Counsel submitted that as section 485 (1) TCA 1997 permits a split of turnover on a "just and reasonable basis" where business activities are conducted from more than one business premises, then this permitted the Commissioner to effectively allow the [REDACTED] [REDACTED] when computing the Appellant's turnover for the purpose of calculating the CRSS claim. The Appellant's Counsel submitted that this split was academic owing to the cap in payments provided under the legislation given that adequate turnover was derived from its largest customer which met those cap requirements.

38. The Appellant's Counsel submitted given this position, then the Appellant's "business premises" came within the meaning of "business premises" for the purposes of section 485 (1) TCA 1997 and as such the Appellant was entitled to avail of the CRSS.

39. In support of this submission, the Appellant's Counsel submitted that the place of supply of the Appellant's services under section 33 Value-Added Tax Consolidation Act 2010 ("VATCA 2010") [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

40. The Appellant's Counsel advised that paragraph 12 of that information leaflet states:

"[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]"

41. Thus, the Respondents Counsel submitted that while the Appellant offered its product, [REDACTED] for sale on both its website and through intermediaries, this did not alter the fact that the product being sold [REDACTED]

[REDACTED] Counsel submitted as the place of [REDACTED]

██████████, and as those premises were closed throughout the period of restrictions then the Appellant met the business premises requirements of the legislation and as such was entitled to avail of the CRSS.

42. The Appellant's Counsel submitted as it was uncontested that the Appellant's profits were chargeable to corporation tax under Schedule D Case I, that the Appellant held tax clearance at all times relevant and that it operated from a business premises, the only remaining condition it was required to fulfil to ensure CRSS eligibility was that the Appellant's turnover had decreased to 25% of its 2019 turnover in line with the requirements of section 485 (4) (b) TCA 1997.
43. The Appellant's Counsel referred the Commissioner to extracts from the Appellant's financial statements for the years 2019 and 2020. Those financial statements illustrated that the Appellant's turnover had been severely impacted during the Covid restrictions period when compared to the turnover generated in 2019, to the extent that it was a significantly higher percentile than the percentage reduction required under the legislation. Thus, the Appellant's Counsel submitted that the Appellant fulfilled the percentile reduction in turnover required under section 485 TCA 1997 to avail of the CRSS payments.
44. In summation, the Appellant's Counsel submitted that the Appellant satisfied the legislative requirements for CRSS eligibility and as such, the Commission ought to allow the Appellant claim CRSS payments for the entire period of lockdown computed in accordance with the provisions of section 485 TCA 1997.

Respondent

45. The Respondent's Counsel submitted that section 485 TCA 1997 is clear in its wording and intention and there is no ambiguity arising therefrom. As such in applying the accepted principles of statutory interpretation, Counsel submitted that the words used in section 485 TCA 1997 should be given their "plain and ordinary meaning".
46. Counsel for the Respondent submitted in so doing then it followed that in order for the Appellant to be entitled to payment under the CRSS, it was required to carry on a relevant business activity from a business premises. The Respondent's Counsel submitted it is clear from the wording of section 485(4) TCA 1997 that customers must be restricted from visiting the Appellant's business premises to purchase goods or services in order for it to be eligible to receive CRSS payments.
47. The Respondent's Counsel submitted while the Appellant contended that VAT legislation provided that the place of supply of the Appellant's services was at the point

of entry [REDACTED], those rules were VAT specific and had no relevance in determining whether the Appellant fulfilled the criteria under section 485 TCA 1997.

48. The Respondent's Counsel further submitted the Appellant was involved in the business of [REDACTED] and that this activity occurred at its premises in [REDACTED] or at third-party retail premises and not the [REDACTED] as alleged by the Appellant. Counsel submitted as the majority of [REDACTED] sold by the Appellant were through the Appellant's website (which was managed and controlled from the Appellant's premises' in [REDACTED]) or third-party retail outlets (the latter of which were considered essential services during the period of Covid restrictions and allowed to remain open) then the place where the Appellant's business was those locations. Counsel submitted as the Appellant's customers did not ordinarily attend the business premises in [REDACTED] and were free to attend retail stores then it was unable to satisfy the requirements of section 485 (4) (b) TCA 1997 and as such the Appellant did not fulfil the premises requirement of section 485 TCA 1997.

49. Counsel for the Respondent submitted in the event that the Commissioner determined that the Appellant's business activities were conducted from its largest customer's premises [REDACTED] and eligibility for CRSS payments denied. Counsel submitted that this position was encapsulated by paragraph 4.1.3 of the CRSS guidelines, dated 24th January 2022 [Appendix 1] which under the heading "*What is a business premises*" provides in a list of examples, the following narrative of what would not meet the definition of a business premises under the legislation:

"Outdoor activities even where customers purchase tickets for the activities in a ticket booth (which is in a building), on the basis that the activity being paid for is carried on outdoors, and not in the ticket booth."

50. The Respondent's Counsel further referenced example 6 of those CRSS guidelines, at page 19, to the Appellant's business. It states:

"Ms P runs an online gift store. She operated the website from her home in Bray Co. Wicklow and rents a small unit in a local warehouse for storing her stock. All of Ms. P's business is transacted through her website, and all of the products are delivered directly to the customer."

Although there are Government restrictions in place for Co. Wicklow, there are no restrictions on Ms. P running her business. Ms P does not have a fixed

business premises to which Covid restrictions apply and therefore does not meet the eligibility criteria to claim under the CRSS.”

51. The Respondent’s Counsel submitted as the Appellant sold the majority [REDACTED] online, then akin to the CRSS guidelines example, the Appellant did not meet the eligibility criteria under the CRSS legislation.
52. Further or in the alternative, the Respondent’s Counsel submitted in the event of the Commissioner determining that there is any doubt or ambiguity within the wording of section 485 TCA 1997, then the Commissioner ought to have regard to the “true intent” of the legislator when interpreting that provision. Counsel submitted as section 485 TCA 1997 is a mechanism to provide temporary financial assistance to qualifying persons during the global pandemic then it was akin to a relief from taxation. Counsel submitted given this position, then regard ought to be had by the Commissioner to the *dicta* in *Revenue Commissioners v Doorley* [1933] IR 750 where Kennedy C.J. held that reliefs from taxation must be given expressly in clear and unambiguous terms and sections of the taxes acts should not be interpreted in such a manner as to widen the intent of the Oireachtas.
53. The Appellant submitted regardless of whether all of the other qualifying conditions of section 485 TCA 1997 were met, as the Appellant was carrying on a business activity which is not ordinarily carried on from a qualifying business premises, then its claim for CRSS payments must be denied by the Commission.
54. In summation, the Respondent submitted that the Appellant was not eligible for inclusion on the CRSS as the business was not carried on from a business premises that was located in a region subject to restrictions introduced in line with the Government’s “Living with Covid-19 Plan” with the result that the business was not required to prohibit or significantly restrict customers from accessing its premises to purchase services. Given this position, the Respondent’s Counsel submitted that the determination notice which issued to the Appellant on 15th February 2021 should be upheld by the Commission and the Appellant denied eligibility for inclusion on the CRSS.

Material Facts

55. The Commissioner found the following material facts, which were not contested by the Respondent, and are required eligibility conditions for inclusion on the CRSS:
- (a) The Appellant carries out trading activities, the profits from which are chargeable to tax under Case I of Schedule D.

- (b) The Appellant intended to (and subsequently did) carry on business activities after the “Covid-19 restrictions” were lifted.
- (c) The Appellant had complied with all their VAT registration and return obligations.
- (d) The Appellant held a tax clearance certificate at all material times.

56. In addition, the Commissioner found the following material facts:

- (i) The Appellant’s main business is the [REDACTED].
- (ii) The Appellant primarily sells [REDACTED] online and through various retail outlets.
- (iii) While some [REDACTED], the Appellant did not own these [REDACTED].
- (iv) The [REDACTED] for which [REDACTED]
[REDACTED]
- (v) For the purpose of determining whether the Appellant was eligible for registration under the CRSS, the Appellant choose the address of its largest customer, [REDACTED] [REDACTED] for the purpose of providing an address where the Appellant’s business activity took place.
- (vi) Those premises are a [REDACTED]
[REDACTED]. In addition, [REDACTED]
[REDACTED]
[REDACTED].
- (vii) For the purpose of convenience, the Commissioner refers to the [REDACTED] as the [REDACTED]” and the [REDACTED]
[REDACTED]
- (viii) The Appellant is paid a [REDACTED]. This [REDACTED]
[REDACTED] (“commission”) which is retained by the Appellant for its services.
- (ix) The commission received by the Appellant covers its operational costs and profit. The service provided by the Appellant represents the [REDACTED]
[REDACTED]
- (x) The Appellant’s largest customer contractually provides [REDACTED]
[REDACTED]
[REDACTED].
- (xi) On occasion, the Appellant provides its staff [REDACTED]
[REDACTED]
[REDACTED].

- (xii) The Appellant's staff primarily work from the Appellant's premises' located in [REDACTED]
[REDACTED] For the avoidance of doubt [REDACTED] are sold physically occur at this venue.
- (xiii) The Appellant paid the sum of [REDACTED] in call centre fees in 2019. The service provided by these call centres was [REDACTED]
[REDACTED]
- (xiv) The Appellant's largest customer prohibits [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- (xv) Following a review of the Appellant's financial statements, it is evident that a significant reduction in turnover was recorded in the years 2020 and 2021 in comparison to the year 2019. In particular, the Appellant's turnover decreased in the years 2020 and 2021 to less than 25% of the turnover recorded in the Appellant's 2019 financial statements.

Analysis

57. The central issue to be determined by the Commissioner is whether the Appellant operates from a "business premises", and whether it was required because of applicable business restrictions provisions to prohibit, or significantly restrict, members of the public from having access to its business premises.
58. The rules for statutory interpretation are set out in the judgment of McDonald J. in *Perrigo Pharma International DAC v John McNamara, the Revenue Commissioners and ors.* 2020 IEHC 552 ("*Perrigo*") where he summarised the fundamental principles of statutory interpretation at paragraph 74 as follows:

"The principles to be applied in interpreting any statutory provision are well settled. They were described in some detail by McKechnie J. in the Supreme Court in Dunnes Stores v. The Revenue Commissioners [2019] IESC 50 at paras. 63 to 72 and were reaffirmed recently in Bookfinders Ltd v. The Revenue Commissioner [2020] IESC 60. Based on the judgment of McKechnie J., the relevant principles can be summarised as follows:

(a) If the words of the statutory provision are plain and their meaning is self-evident, then, save for compelling reasons to be found within the Act as a whole, the ordinary, basic and natural meaning of the words should prevail;

(b) Nonetheless, even with this approach, the meaning of the words used in the statutory provision must be seen in context. McKechnie J. (at para. 63) said that: "... context is critical: both immediate and proximate, certainly within the Act as a whole, but in some circumstances perhaps even further than that";

(c) Where the meaning is not clear but is imprecise or ambiguous, further rules of construction come into play. In such circumstances, a purposive interpretation is permissible;

(d) Whatever approach is taken, each word or phrase used in the statute should be given a meaning as it is presumed that the Oireachtas did not intend to use surplusage or to use words or phrases without meaning.

(e) In the case of taxation statutes, if there is ambiguity in a statutory provision, the word should be construed strictly so as to prevent a fresh imposition of liability from being created unfairly by the use of oblique or slack language;

(f) Nonetheless, even in the case of a taxation statute, if a literal interpretation of the provision would lead to an absurdity (in the sense of failing to reflect what otherwise is the true intention of the legislature apparent from the Act as a whole) then a literal interpretation will be rejected.

(g) Although the issue did not arise in Dunnes Stores v. The Revenue Commissioners, there is one further principle which must be borne in mind in the context of taxation statute. That relates to provisions which provide for relief or exemption from taxation. This was addressed by the Supreme Court in Revenue Commissioners v. Doorley [1933] I.R. 750 where Kennedy C.J. said at p. 766: "Now the exemption from tax, with which we are immediately concerned, is governed by the same considerations. If it is clear that a tax is imposed by the Act under consideration, then exemption from that tax must be given expressly and in clear and unambiguous terms, within the letter of the statute as interpreted with the assistance of the ordinary canons for the interpretation of statutes. This arises from the nature of the subject-matter under consideration and is complementary to what I have already said in its regard. The Court is not, by greater indulgence in delimiting the area of exemptions, to enlarge their operation beyond what the statute, clearly and without doubt and in express terms, except for some good reason from the burden of a tax thereby imposed generally on that description of subject matter. As the imposition of, so the exemption from, the tax must be brought within the

letter of the taxing Act as interpreted by the established canons of construction so far as possible”.

59. Business premises are defined by section 485 (1) TCA 1997 as “... a building or other similar fixed physical structure from which a business activity is ordinarily carried on”.
60. As the term “building” is not defined by the legislation, in applying the principles promulgated in *Perrigo*, and in giving the word “building” its “ordinary and everyday meaning” the Commissioner defines the word “building” as “a structure with walls and a roof, such as a house or factory⁵”.
61. In noting that the Appellant elected to use the address of its largest customer, [REDACTED] as its address for the purpose of determining CRSS eligibility, and as [REDACTED], it follows that the Commissioner is required to consider whether a [REDACTED] is considered a “building” for the purpose of determining eligibility for CRSS.
62. As a [REDACTED] is not a house or a factory, the Commissioner is required to consider, having regard to the provisions of section 485 TCA 1997, as to whether the [REDACTED] in question, [REDACTED], is a structure with walls and a roof. Having had the benefit of attending the [REDACTED] personally and having further viewed photographs of the [REDACTED] online, the Commissioner notes that the [REDACTED] where the [REDACTED] is only partially covered by a roof and as such does not qualify as a building or “similar physical structure” of a type required under section 485 (1) TCA 1997.
63. The Commissioner is reassured that this is the correct interpretation by consideration of the Appellant Director’s evidence outlined at paragraph 18 above where he stated that “...weather is a great one for keeping people away”. Given these comments which support the Commissioner’s views [REDACTED] in question, the Commissioner determines that those premises do not qualify as a “building” as defined in the legislation and are more properly considered an outdoor premises. It follows as outdoor activities are precluded from inclusion in the CRSS, then the Appellant’s claim must fail.
64. Furthermore, for the reasons following the Commissioner does not consider that the Appellant’s business activities are conducted from that [REDACTED]
65. The term “business activity” is defined by section 485 (1) TCA 1997 as:

⁵ Source Cambridge Dictionary online - <https://dictionary.cambridge.org/dictionary/english/building>

“(a) where customers of the trade acquire goods or services from that person from one business premises, the activities of the trade, or

(b) where customers of the trade acquire goods or services from that person from more than one business premises, the activities of the trade relevant to each business premises...”

66. It was undisputed by the parties during the course of the hearing that the Appellant's primary business activity was [REDACTED]. While Counsel for the Appellant submitted as the place of supply for VAT purposes of such goods [REDACTED] then it followed that the customers acquired the goods or services at that same point. The Commissioner disagrees with this submission as the **place of supply** of a product and **where a customer acquires those products from** can as illustrated in the instant facts be separate and distinct. This interpretation is supported with other aspects of VAT law such as natural gas and electricity supplies which are deemed to be supplied not where the energy in question originates from but rather the location where the energy is consumed⁶. Furthermore, the Commissioners agrees with the Respondent's submissions that the place of supply of goods and services as defined in the VATCA 2010 is confined to that legislation and is of no tangible support to applications under section 485 TCA 1997.

67. Accordingly, as the [REDACTED] but also from third party retail outlets, it follows that they acquire the goods either from where the online activity is managed and controlled i.e. [REDACTED] or directly from where the third party retailers have their premises situate.

68. Section 485 (1) TCA 1997 supports this finding as it places emphasis in defining “business activity” as being referable to the location where customers of a business acquire the goods from. For the Appellant's submissions to succeed, it is likely that the word “acquire” would have to be replaced by the word “consume” or similar.

69. The Commissioner is further assured that this is the correct interpretation in noting that the [REDACTED] where the Appellant stated it supplied its product [REDACTED] and as such the Appellant's business activity did not and could not take place at the location favoured in its submissions.

⁶ Section 31 VATCA 2010.

70. The Commissioner also reviewed the Appellant's activities outside the direct selling of [REDACTED] having regard to Appellant's own website and the submissions received from its Counsel. Following this review, the Commissioner notes that the website advocates contacting the Appellant via a phone number or "contact us" section for any queries in relation [REDACTED]. As the "contact us" section of the website refers to the Appellant's own website it is likely that such queries are dealt with by the Appellant's staff in situ at the [REDACTED] premises and any telephone queries are dealt with similarly or through the third party support referred to at paragraph 24 of this determination. Furthermore, the address of the Appellant on its website is shown as a Post Office Box virtual address. These additional considerations support the Commissioner's view that [REDACTED] do not ordinarily attend the business premises situated on [REDACTED].

71. The Commissioner additionally notes while the Appellant submitted it provided staff [REDACTED] contractually provides its own staff [REDACTED]. The Commissioner therefore determines that any work conducted at [REDACTED] by the Appellant is ancillary in nature to its main business activity which, as stated, [REDACTED]

72. As the business activity is operated from the Appellant's premises in the offices situated in [REDACTED] and third-party retail outlets, the Commissioner is required to consider whether because of applicable business restrictions provisions the Appellant was required to prohibit, or significantly restrict, members of the public from having access to its business premises. The Commissioner finds that he is not required to apply the same test to the third party outlets who sold [REDACTED] as those outlets were primarily considered "essential services" and thus permitted to open during the period of Covid restrictions. The Commissioner therefore confines his findings to the Appellant's business premises located at [REDACTED]

73. Section 485 (4) (b) (i) provides:

"In accordance with guidelines published by the Revenue Commissioners under subsection (22), [where the Appellant] demonstrates to the satisfaction of the Revenue Commissioners that, in the claim period, because of applicable business restrictions provisions that prohibit, or significantly restrict, members of the public from having access to the business premises in which the relevant business activity of the person is carried on—

(1) the relevant business activity of the person is temporarily suspended, or

(II) the relevant business activity of the person is disrupted, such that the turnover of the person in respect of the relevant business activity in the claim period will be an amount that is 25 per cent (or less) of the relevant turnover amount...

74. “Applicable business restrictions” is defined by section 485 (1) TCA 1997 as “a period for which the person is required by provisions of Covid restrictions to prohibit, or significantly restrict, members of the public from having access to the business premises in which the relevant business activity is carried on”.

75. Section 485 (22) provides:

“The Revenue Commissioners shall prepare and publish guidelines with respect to matters that are considered by them to be matters to which regard shall be had in determining whether—

(a) there are provisions of Covid restrictions that prohibit, or significantly restrict, members of the public from having access to the business premises in which the relevant business activity of a person is carried on in a Covid restrictions period, or Covid restrictions extension period, as the case may be,...”

76. Paragraph 4.2.1 of those guidelines under the heading “What are the Covid restrictions?” states:

“On 15 September 2020, the Government published “Resilience and Recovery 2020-2021 – Plan for Living with Covid-19” for managing the Covid-19 pandemic in the short to medium term. Included in the publication is a “Framework for Restrictive Measures” which was developed based on a five “Levels” approach. Each level contains guidelines which are intended, collectively, to contribute to lowering the risk of transmission of Covid-19 and which aligns with the deemed risk level at the time. The various measures apply to society as a whole with many also having direct impact on the business community. In certain instances, the public health restrictive measures introduced by the Government may result in businesses having to close completely for a period of time and, in other instances, they may significantly restrict how customers may access a business premises, and they may impact the goods and services offerings that can be provided by a business from its business premises.....

The CRSS scheme is targeted at those businesses which, under the specific terms of public health restrictions, introduced in line with the Living with Covid-

19 Plan, are required to prohibit or considerably restrict customers from accessing their business premises [emphasis added] such that the business is required to temporarily suspend its activities or its business is significantly disrupted. Generally, this refers to restrictions at Level 3, 4 or 5 of the Government's Plan for Living with Covid-19 but certain businesses may qualify for the support where lower levels of restrictions are in operation, and as a result they have had to temporarily suspend their business or they have been significantly disrupted as a result of having to prohibit or considerably restrict customers from accessing their business premises."

77. Paragraph 4.2.4 continues:

"The business must meet the requirement that it ordinarily operates from a fixed business premises and, under the specific terms of the Covid restrictions announced by the Government, customers of the business are prohibited, or significantly restricted, from accessing those business premises. It is not sufficient that the trade of a business has been impacted because of a reduction in customer demand as a consequence of Covid-19, or that the business supplies goods or services to another business that qualifies for the support because, under the Covid restrictions, that other business is required to temporarily close, or significantly reduce, its business activity."

78. It is evident from the foregoing that it is not sufficient in determining eligibility under the CRSS that the trade of the Appellant was impacted because of a reduction in customer demand as a consequence of Covid-19 **but rather the reduced turnover was caused under the specific terms of the Covid restrictions announced by Government whereby customers were prohibited or significantly restricted from accessing the Appellant's business premises [Emphasis added].**

79. In considering if the reduction of the Appellant's turnover was caused under the specific terms of Covid restrictions, regard must be had not only to the nature of the restrictions in place but also the activities of the Appellant.

80. As is noted in paragraphs 70 and 71 the Appellant's activities are [REDACTED] and these activities are conducted from its premises located in [REDACTED].

81. As the Appellant did not illustrate any examples of customers attending those premises and in noting that those premises remained open in any event, the Commissioner finds that the Appellant was not required as a result of Covid restrictions to prohibit or

significantly restrict customers from attending its premises. Accordingly, the Appellant's appeal as to its eligibility and entitlement to receive payments under the CRSS cannot succeed.

82. The burden of proof lies with the Appellant. As confirmed in *Menolly Homes v Appeal Commissioners* [2010] IEHC 49, the burden of proof is, as in all taxation appeals, on the taxpayer. The Commissioner finds that the Appellant has not discharged the burden of proof in this appeal and finds that the Appellant has not shown that they were entitled to avail of the provisions of section 485 TCA 1997.

Determination

83. For the reasons set out above, the Commissioner determines that the Appellant has failed in its appeal and has not succeeded in demonstrating its eligibility for inclusion in the CRSS. Accordingly, the entitlement to receive payments of ACTE is denied and the Respondent's determination notice is upheld.
84. It is understandable that the Appellant and its director might be disappointed with the outcome of his appeal but the Commissioner has no discretion to deviate from the legislation. The Appellant was correct to avail of its right of appeal and to check its legal entitlements.
85. This Appeal is determined in accordance with Part 40A TCA 1997. This determination contains full findings of fact and reasons for the determination. Any party dissatisfied with the determination has a right of appeal on a point of law only within 42 days of receipt in accordance with the provisions set out in the TCA 1997.

Andrew Feighery
Appeal Commissioner
28th February 2023

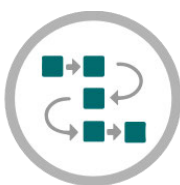


Covid Restrictions Support Scheme



Guidelines on the operation of the Covid Restrictions Support Scheme

24 January 2022



CRSS Guidelines – 24 January 2022

What's New

A number of additions and amendments have been made since the last version of the guidelines were issued on 12 January 2022.

Where required, any noted changes to the scheme applicable from 20 December 2021 will be underpinned by legislation in the coming weeks.

The main additions and amendments included on 24 January 2022 are:

- Inclusion of a new section 1.1 to confirm that, with the removal of public health restrictions requiring businesses to significantly restrict how they operate with effect from Saturday 22 January 2022, businesses will cease to qualify for the CRSS (refer to section 4.2.2 and section 8.8 for details). However, as noted below, they will generally be entitled to claim a “restart week payment”.
- Clarification that, for businesses established between 13 October 2020 and 26 July 2021 (“Category B New Businesses”), the claim will be based on their average weekly turnover in the period between the date of commencement and 1 August 2021. Please refer to section 4.3.2 and section 6.2.2 for details.
- Clarification that a business which is permitted to resume normal trading activities from 22 January 2022, will be entitled to a single “restart week payment” for the week beginning Monday 24 January 2022 where they meet the relevant criteria. Please refer to section 7.4 for details.
- An update to Appendix III – “Public Health Restrictions” – to note the removal of public health restrictions with effect from 22 January 2022.

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1. Overview of the CRSS

The Covid Restrictions Support Scheme (“CRSS”) was introduced by Finance Act 2020. The CRSS is a targeted support for businesses significantly impacted by restrictions introduced by the Government under public health regulations to combat the effects of the Covid-19 pandemic.

The key features of the scheme are:

- The CRSS will provide support for companies, self-employed individuals and partnerships carrying on a trade or trading activities, the profits from which are chargeable to tax under Case I of Schedule D, from a business premises located in a region subject to restrictions introduced in line with the public health regulations to combat the effects of the Covid-19 pandemic, with the result that the business is required to prohibit or considerably restrict customers from accessing their business premises. From 20 December 2021, the scheme will also be available to certain charities and sporting bodies who carry on a trade, the profits from which would be chargeable to tax under Case I of Schedule D but for available income and corporation tax exemptions, where the trade is required under specific terms of the public health regulations to prohibit or considerably restrict customers from accessing their business premises.
- Where a company, self-employed individual or partnership is either forced to temporarily close their business, or the business operates at significantly reduced levels, because of the restrictions, the company, self-employed individual or partnership will qualify for the support. Certain charities and approved sporting bodies may also qualify for the support from 20 December 2021 where they meet the eligibility conditions.
- To qualify under the scheme post 20 December 2021, a business must be able to demonstrate that, because of the Covid restrictions, the turnover of the business in the period for which the restrictions are in operation, and for which a claim is made, will be no more than **40%** of an amount equal to the average weekly turnover of the business in a reference period multiplied by the number of weeks in the period for which a claim is made. For most businesses the reference period will be 2019. For businesses established between 26 December 2019 and 26 July 2021, the reference period will depend on the date on which the business was established (see section 6.2).
- To qualify under the scheme prior to 20 December 2021, a business must be able to demonstrate that, because of the Covid restrictions, the turnover of the business in the period for which the restrictions are in operation, and for which a claim is made, will be no more than **25%** of an amount equal to the average weekly turnover of the business in 2019 (or average weekly turnover in 2020 in the case of a new business) multiplied by the number of weeks in the period for which a claim is made.
- A qualifying person will be able to make a claim to Revenue under the CRSS for a cash payment known as an “Advance Credit for Trading Expenses”. This payment will be equal to 10% of their average weekly turnover in 2019 up to €20,000 and 5% thereafter, subject to a maximum weekly payment of €5,000, for each week that their business is

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affected by the Covid restrictions. For businesses established between 26 December 2019 and 12 October 2020, the claim will be based on their weekly average turnover in the period between the date of commencement and 12 October 2020 (subject to a maximum the weekly payment of €5,000). For businesses established between 13 October 2020 and 26 July 2021, the claim will be based on their weekly average turnover in the period between the date of commencement and **1 August 2021** (subject to a maximum the weekly payment of €5,000).

- A qualifying person who recommences their business activity within a reasonable period of time from the lifting or easing of Covid restrictions may, in certain circumstances, claim an additional week of support under the scheme (referred to in these Guidelines as the “restart week”).
- The qualifying person (which is the precedent partner in the case of a partnership) must register to claim on the Revenue Online Service (ROS), provide certain information and make a declaration that they satisfy the conditions to make a claim. Where Covid restrictions for a geographical region are extended beyond the date on which they were due to expire, a new claim may be made.
- To make a claim under the scheme, a number of other conditions must be satisfied including that the person (which is the precedent partner in the case of a partnership) has an up to date tax clearance certificate and has complied with their VAT obligations.
- Provision is made for the publication of the names of claimants on the Revenue website.

The scheme operates on a self-assessment basis. A person registering their details and the details of their business activity for the purposes of a making a claim should retain evidence supporting their basis for making a claim under the scheme, which may be requested by Revenue under future eligibility checks.

The scheme initially was intended to operate from 13 October 2020 to 31 March 2021 with a provision included for the Minister for Finance to vary aspects of the scheme by order, specifically the restrictions, the end date, the percentage rate payable and the turnover test to determine a person’s eligibility.

The Minister for Finance has announced that the scheme will be extended to 31 January 2022.

In this document, information is provided on how the CRSS operates, based on legislation contained in Section 11 of Finance Act 2020 and sections 3 and 4 of Finance (Covid-19 and Miscellaneous Provisions) Act 2021.

1.1. Businesses no longer eligible for the CRSS from 22 January 2022

The CRSS is a targeted support for businesses significantly impacted by restrictions introduced by the Government under public health regulations to combat the effects of the Covid-19 pandemic. With the removal of most public health restrictions from 22 January

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2022, all businesses will cease to be regarded as being significantly restricted from operating and will no longer be eligible for the scheme.

A business which is permitted to resume normal trading activities from the 22 January 2022, will be entitled to a restart week payment for the week beginning Monday 24 January 2022 where the business meets the qualifying criteria.

There may be circumstances where, due to a business having anticipated that it would, under public health regulations, continue to be significantly restricted from operating during the week beginning 24 January 2022, the business already made a claim for the standard CRSS payment for that week. However, following the Government's announcement about the lifting of public health restrictions from 22 January 2022, the business is not restricted and is permitted to resume normal trading activities from that date. This means that, instead of being entitled to the standard CRSS payment, an eligible business is entitled to a restart week payment for the week beginning Monday, 24 January 2022.

Where a business has already made a claim for the standard CRSS payment for the week beginning 24 January 2022, and the business recommences its trading operations (or will shortly) and is eligible for a restart week payment, the business does not need to take any further action because the payment received in respect of the week beginning 24 January 2022 will be netted off against the restart week payment. A business with this fact pattern should not submit a claim for a restart week payment.

A business who has already made a claim for the week beginning 24 January 2022 and who does not recommence its activities and is therefore not entitled to a restart week payment, should repay the amount overclaimed for the week of 24 January 2022. Refer to section 9 for details.

Where an eligible business has not submitted a claim for normal weekly CRSS payment for the week beginning 24 January 2022, and is eligible for a restart week payment, the business should follow the directions in section 7.5 on how to claim a restart week payment.

2. Who is eligible to make a claim under the CRSS?

2.1. Who is eligible to make a claim under the CRSS (from 20 December 2021)?

From 20 December 2021, companies, self-employed individuals, certain charities and approved sporting bodies and precedent partners on behalf of partnerships will be eligible to make a claim for an Advance Credit for Trading Expenses (“ACTE”) under the CRSS where:

- (a) the company, self-employed individual, charity, approved sporting body or partnership carries on a trade or trading activities from a business premises located wholly within a region of the country for which restrictions announced by the Government to combat the effect of Covid-19 are in operation – referred to as a **‘relevant business activity’** (refer to section 4.1), and
- (b) under the specific terms of the **Covid restrictions** in operation for the region in which the relevant business activity is carried on, members of the public are either prohibited or significantly restricted from accessing the business premises in which the relevant business activity is carried on (for these purposes, a restriction on accessing the business premises of a business in the hospitality and indoor entertainment sectors after 8pm will be regarded as a significant restriction on access where the business ordinarily operates later than 8pm – refer to section 4.2), and
- (c) as a result of the Covid restrictions, the company, self-employed individual, charity, approved sporting body or partnership’s **turnover from the relevant business activity** in the period for which the restrictions are in operation will be **no more than 40%** of an amount based on the average turnover of the business in a reference period. The reference period will be 2019 in the case of a business established prior to 26 December 2019. In the case of a business established in the period 26 December 2019 to 26 July 2021, the reference period will depend on the date on which the business was established (refer to section 4.3), and
- (d) the company, self-employed individual, charity, approved sporting body or the precedent partner on behalf of a partnership meets **certain other conditions** such as having a tax clearance certificate and having complied with obligations in relations to VAT (refer to section 4.4).

The above eligibility criteria must be met by claimants in respect of each period for which an ACTE is being claimed under the CRSS, which is referred to as a “claim period” (refer to section 5 for information on how a claim period is determined). Where a person meets the eligibility criteria, the person will be able to make a claim under the CRSS (section 4).

A person in receipt of other Government support is not restricted from availing of the CRSS where they meet the eligibility criteria.

2.2. Who is eligible to make a claim under the CRSS (Prior to 20 December 2021)?

Companies, self-employed individuals and precedent partners on behalf of partnerships will be eligible to make a claim for an Advance Credit for Trading Expenses (“ACTE”) under the CRSS where:

- (a) the company, self-employed individual or partnership carries on a trade or trading activities from a business premises located wholly within a region of the country for which restrictions announced by the Government to combat the effect of Covid-19 are in operation – referred to as a ‘**relevant business activity**’ (refer to section 4.1), and
- (b) under the specific terms of the **Covid restrictions** in operation for the region in which the relevant business activity is carried on, members of the public are either **prohibited from accessing or are restricted from accessing, the business premises** in which the relevant business activity is carried on (refer to section 4.2), and
- (c) as a result of the Covid restrictions, the company, self-employed individual or partnership’s **turnover from the relevant business activity** in the period for which the restrictions are in operation will be **no more than 25%** of an amount based on the average turnover of the business in 2019 (or in the case of a new business, an amount based on the average turnover of the business in 2020) (refer to section 4.3), and
- (d) the company, self-employed individual or the precedent partner on behalf of a partnership meets **certain other conditions** such as having a tax clearance certificate and having complied with obligations in relations to VAT (refer to section 4.4).

The above eligibility criteria must be met by claimants in respect of each period for which an ACTE is being claimed under the CRSS, which is referred to as a “claim period” (refer to section 5 for information on how a claim period is determined). Where a person meets the eligibility criteria, the person will be able to make a claim under the CRSS (section 4).

A person in receipt of other Government support is not restricted from availing of the CRSS where they meet the eligibility criteria.

3. How to make a claim

Where a company, self-employed individual, charity, approved sporting body or precedent partner on behalf of a partnership is eligible to make a claim under the CRSS, a **claim may be made through the Revenue Online System (ROS)** for an ACTE.

Detailed guidance on the eligibility criteria is provided in Section 4. The amount of an ACTE that a qualifying person can claim for a claim period will be calculated by reference to a weekly amount based on the qualifying person's previous turnover in respect of the business activity and subject to a weekly cap of €5,000. Further information on the computation of the amount of an ACTE that can be claimed is set out in section 5.

A claim may be made through ROS as early as the beginning of the claim period (see Section 5.2 for guidance on the term "claim period") and no later than eight weeks from the date on which the claim period commences. The eight-week time limit applies from the first day of a claim period, which in most cases will be the first day on which the Covid restrictions apply to the business concerned. Where Covid restrictions continue to apply to the business beyond a period of three weeks, the eight-week time limit applies from the first day of each three-week period for which the Covid restrictions continue to apply to the business.

In order to make a claim for an ACTE, a business must first register for CRSS and, as part of the registration process, must provide certain information (see section 3.1). In some cases, the registration may not be completed within the eight-week time period for making a claim for payment under CRSS. This might arise where the registration application is made towards the end of the eight-week time limit or where Revenue requests additional information in connection with the application. In these circumstances, to ensure that no business is adversely affected, provided the business applies to be registered within the eight-week time period and provides the required information as part of the registration process, the business will be able to make a claim within three weeks of being registered for CRSS where this is later than the expiry of the eight-week time limit.

As noted above, a two-step process is necessary to make a claim under the CRSS. The qualifying person must:

1. register for CRSS on ROS, and
2. then complete a claim in respect of a claim period or claim periods.

Where a qualifying person is satisfied that they are eligible to claim under the CRSS, having regard to the eligibility criteria outlined in Section 4 and will maintain the necessary supporting documentation to demonstrate that eligibility, they may register for the CRSS on ROS. Once successfully registered, it will be necessary for the person to complete a claim on ROS in respect of each claim period as outlined in Section 3.2. While supporting documentation is not required to be submitted with the claim, Revenue may request documentation to substantiate the claim at a later date (see Section 4.4.2 for details of the type of documentation Revenue will expect in support of a claim).

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3.1.Step 1: Registration

It is necessary to register for CRSS via the eRegistration system on ROS. It is important to note that the person must have an up to date tax clearance certificate in order to successfully register (see Section 4.4.1 for details on how to obtain a tax clearance certificate). In the case of a partnership, registration can only be made by the precedent partner, on behalf of the partnership. The precedent partner will register under the tax reference number of the partnership trade.

As part of the registration process, the person will be required to provide details in respect of the business premises from which the person carries on their relevant business activity or, if there is more than one, each business premises from which the person carries on a relevant business activity.

The following information is required for registration;

- Business / Premises Name (required for each business premises in which a relevant business activity is carried on and for which a claim will be made),
- Address including Eircode (required for each business premises in which a relevant business activity is carried on and for which a claim will be made),
- Business Sector,
- Confirmation required if the registration is on behalf of a Partnership
- Average weekly turnover in respect of 2019 (required for each business premises in which a relevant business activity is carried on and for which a claim will be made) for business established before 26 December 2019 (see Section 4.3.1 for details on how to calculate average weekly turnover in respect of 2019),
- Average actual weekly turnover for 2020 (required for each business premises in which a relevant business activity is carried on and for which a claim will be made) for businesses established on or after 26 December 2019 and before 13 October 2020 (referred to as a 'Category A new business') (see Section 4.3.1 for details on how to calculate average weekly turnover in respect of 2020),
- In the case of a business established between 13 October 2020 and 26 July 2021 (referred to as a 'Category B new business'), average actual weekly turnover for the period commencing on the date on which the business was established and ending on 1 August 2021 (required for each business premises in which a relevant business activity is carried on and for which a claim will be made) (see Section 4.3.1 for details on how businesses within this category should calculate average weekly turnover,
- Date of commencement for the Category A new business or Category B new business, as applicable,
- VAT in respect of T1 on VAT 3 (i.e. VAT on outputs),
- Other Income in respect of which VAT was charged.

See Appendix I for screen shots of the eRegistration system

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3.1.1. Registration Declaration

As part of the registration process, the person registering will be required to declare that they have read the eligibility criteria for the scheme and undertake that the business will abide by the terms and conditions of the scheme and will retain all records relating to the scheme, including the basis of eligibility, for review by Revenue. A declaration is also required to state that the information provided is correct and complete (See Appendix I).

3.2. Step 2: Making a claim for CRSS

A claim portal in respect of CRSS is available via the eRepayments system on ROS. It is important to note that the CRSS 'Tax Head' will only be visible to those persons who have successfully completed the CRSS eRegistration process.

Qualifying persons can make a claim for each claim period for which they meet the eligibility criteria and a **new claim should be made for each claim period**. Before any new claim, taxpayers should review the eligibility criteria in Section 4 and ensure they meet all conditions before making a claim for each claim period.

There are 4 steps to making a claim (see Appendix II for screen shots);

Step 1 – Details of the claim. The following information will be required;

- Business Premises (in which a relevant business activity is carried) in respect of which a claim is made,
- Claim period start week,
- Claim period end week.

Step 2 – Provide bank details.

Step 3 – Summary and declaration. A person making a claim will be required to make the following declarations;

- Acknowledgement that as a recipient of the CRSS, the name under which the business activity is carried on, a description of the business activity and the address, including Eircode, of the business premises, will be published on the website of the Revenue Commissioners.
- Confirmation that the business is significantly impacted by restrictions introduced by Public Health Regulations made under sections 5 and 31A of the Health Act 1947 for the purpose of preventing the transmission of Covid-19, such that customers are prohibited or significantly restricted from entering the business premises, and a declaration that the business has been forced to close or trade at significantly reduced levels **as a direct result of** those restrictions.
- A declaration that the average weekly turnover of the business in respect of the period being claimed does not exceed 40% of the average weekly turnover (prior to 20 December 2021, 25% of the average weekly turnover) as entered during the registration stage.
- A declaration that the return is correct and complete

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- A declaration that the person intends to recommence trading when the restrictions no longer apply.

Step 4 – Sign and submit.

The process for making a claim in respect of the restart week is set out in Section 7.5

4. Eligibility criteria for making a claim under the CRSS

4.1. Requirement 1 – Relevant business activity

To make a claim under the CRSS, a person must carry on a relevant business activity. A person for these purposes is a company, self-employed individual, charity, approved sporting body or a precedent partner on behalf of a partnership.

A **relevant business activity** is a **business activity** carried on by a person in a **business premises** located in a geographical region subject to Covid restrictions.

Where a person carries on a business activity from multiple business premises, then the business activity carried on from each business premises located in a geographical region subject to Covid restrictions will be regarded as a relevant business activity.

4.1.1. What constitutes a business activity?

A **business activity** is, depending on the circumstances, a person's trade or trading activities carried on from a business premises, the profits from which are chargeable to tax under Case I of Schedule D.

A charity or approved sporting body which carries on a trade the profits or gains arising from which would be chargeable to tax under Case I of Schedule D but for income and corporation tax exemptions contained in section 208(2)(b) TCA 1997 (in the case of a charity) and section 235(2) (in the case of an approved sports body) is regarded as carrying on a business activity for the purposes of the CRSS. Therefore, they may make a claim for support under the scheme from 20 December 2021, where they meet the relevant eligibility conditions.

Where customers of the person's trade acquire goods or services from the person from a single business premises, then the person's business activity is the trade carried on from that business premises. Where customers of the person's trade acquire goods or services from that person from multiple business premises, trading activities carried on from each of the business premises will be regarded as a business activity.

Example 1

Local Sports club Ireland operates a gastro pub in Dublin. Local Sports club Ireland holds an exemption from tax as an approved sporting body.

For the purposes of the CRSS, the gastro pub trade carried on by Local Sports club Ireland will be regarded as a relevant business activity because the profits or gains arising from the trade would be chargeable to tax under Case I of Schedule D but for an exemption available under section 235(2) of the Taxes Consolidation Act 1997.

As Government restrictions put in place from 20 December 2021 require the gastro pub to close at the earlier time of 8pm, the gastro pub trade is regarded as being significantly

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restricted from operating for the purposes of the CRSS scheme and will be eligible to make a claim from 20 December 2022 where it meets the relevant conditions.

For the purposes of the CRSS, it is only the turnover from the gastro pub trade that will be taken into account in determining entitlements under the CRSS.

Example 2

Charity Theatre Ireland operates in Limerick city centre. Charity Theatre Ireland holds an exemption from tax as a charity.

For the purposes of the CRSS, the theatre trade carried on by Charity Theatre Ireland will be regarded as a relevant business activity because the profits or gains arising from the trade would be chargeable to tax under Case I of Schedule D but for an exemption available under section 208(2) of the Taxes Consolidation Act 1997.

As a result of the Government restrictions put in place from 20 December 2021, the theatre must restrict customers from accessing the business premises, and close at the earlier time of 8pm, which results in the late show being cancelled. Charity Theatre Ireland is regarded as being significantly restricted from operating for the purposes of the CRSS scheme and will be eligible to make a claim from 20 December 2022 where it meets the relevant conditions.

Charity Theatre Ireland also receives cash donations from members of the public.

For the purposes of the CRSS, it is only the turnover from the theatre trade that will be taken into account in determining entitlements under the CRSS.

4.1.2. Online trade

Where customers of the trade acquire goods and services otherwise than by attending a business premises, for example, online shopping delivered to the customer or goods or services ordered by telephone, those transactions are deemed to be part of the trade relating to the business premises. If the person has more than one business premises, such customer transactions are apportioned to each business premises on a just and reasonable basis. This ensures that these sales are taken into account in determining whether the person's turnover from the relevant business activity (or each relevant business activity) in the claim period does not exceed 40% (prior to 20 December 2021, 25%) of the average weekly turnover in 2019 (or in the period 26 December to 12 October 2020 in the case of a Category A new business, or in the period 13 October 2020 to 1 August 2021 in the case of a Category B new business) (see section 6.2).

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4.1.3. What is a business premises?

For the purposes of the CRSS, a **business premises** is the building, or similar fixed physical structure, in which a business activity is ordinarily carried on. Mobile premises, or premises which are not permanently fixed in place, do not meet the definition of business premises.

‘Ordinarily carried on’ from a business premises requires that the business activity takes place in the business premises. However, it is accepted that a minor element of the activity may take place outdoors, for example a restaurant with an outdoor seating area connected to, or adjacent to, the restaurant.

Where a person is carrying on a business activity which is not ordinarily carried on from a business premises, as defined for the purposes of the scheme, then even if all other criteria are met, that person will not be entitled to make a claim under CRSS.

Examples of what would not meet the definition of a business premises for the purposes of CRSS include the following;

- taxis, vans, trucks or similar vehicles (including boats), on the basis that these are mobile,
- stalls such as market stalls or trade fair stalls on the basis that such stalls are not permanently fixed in place,
- circuses or fun fairs which are not permanently in place,
- outdoor activities even where customers purchase tickets for the activities in a ticket booth (which is in a building), on the basis that the activity being paid for is carried on outdoors, and not in the ticket booth.

A person carrying on a trade consisting of the operation of an outdoor activity generally does not qualify for CRSS on the basis that the outdoor activity is not ordinarily carried on from a business premises as defined for CRSS purposes. However, where as part of that trade, the person also has a relevant business activity being carried on in a business premises onsite (for example a café in a commercial park, or a shop or restaurant at an outdoor amusement park), that person may qualify for CRSS in respect of the relevant business activity carried on in that business premises, where all qualifying criteria are met (see Section 4.1.4).

The following outdoor activities would not be considered to be ordinarily carried on from a business premises;

- Outdoor theme and amusement parks
- Commercial visitor farms (petting zoos) and zoos generally
- Camping and caravan sites
- Commercial gardens and commercial parks
- Outdoor activity centres, for example paintballing, go karting, ziplining
- Golf courses, pitch and putt courses and driving ranges
- Clay-pigeon shooting / game shooting / falconry
- Outdoor water sport centres including surf schools, diving schools and other similar water-based activities
- Bus tours / bike tours

4.1.4. Trade carried on partly from a business premises

As noted above, a relevant business activity is a business activity ordinarily carried on from a business premises located in a region for which Covid restrictions apply. Where the whole trade is carried on from the business premises then the relevant business activity is the whole trade. Where only part of the trade of a business is carried on from the business premises then the **relevant business activity comprises those trading activities which are carried on from the business premises.**

Where a trade is carried on partly from a business premises and partly from an outdoor space, for example, in the case of an amusement or activity park (which is run as a single trade), for the purpose of CRSS, the relevant business activity is that portion of the trade carried on from a business premises. Shops, restaurants and indoor activities carried on from one or more business premises located on the site of the activity or amusement park may be eligible to claim the support where they meet all the qualification criteria. However, the outdoor activities would be excluded on the basis that they are not ordinarily carried on from a business premises as defined for CRSS purposes.

Example 3

Mr. B carries on a retail trade, a gift shop, from a premises in Westport, Co. Mayo. In this example, Mr. B's business activity is the trade carried on from that business premises.

Where Covid restrictions (see Section 4.2) apply for Co. Mayo, that business activity will be regarded as a relevant business activity.

Example 4

Ms. C carries on a retail trade consisting of the sale of Aran jumpers from two small shops, one in Co. Galway and the other in Co. Clare. For the purposes of the CRSS, Ms. C has two business activities, one relating to the trading activities carried on from her business premises in Co. Galway and the other relating to her trading activities carried on from her business premises in Co. Clare.

Where Covid restrictions are in operation for both Co. Galway and Co. Clare, Ms C will have two relevant business activities. Ms. C can make separate claims for each business premises from which she carries on a relevant business activity.

Example 5

SurfsUp Limited carries on a trade consisting of the operation of a retail shop and a surf school in Co. Donegal. The company has a business premises in which the shop is located and from which SurfsUp Limited sells surf boards, accessories and clothing. The company ordinarily provides group surf lessons at the beach (and not from its business premises). Because of Government Covid restrictions in force for Co. Donegal, which require the company to prohibit customers from accessing its business premises, SurfsUp Limited temporarily closed its shop.

For the purposes of making a claim under CRSS, SurfsUp Limited's relevant business activity consists of its trading activities which are ordinarily carried on from its business premises, i.e. the surf shop. The scheme does not extend to business activities that are ordinarily carried on outside of the business premises (i.e. the surf lessons carried on from the beach). This is the case even if bookings for surf lessons are paid for inside the business premises.

To make a claim under CRSS in respect of its relevant business activity (the surf shop), SurfsUp Limited must satisfy the turnover conditions and other qualifying criteria (see Section 4.4). During the period of restrictions, the company's turnover from the surf shop was nil. In determining the amount of CRSS payments the company is eligible to claim, the company will need to determine so much of its average weekly turnover in 2019 as relates to its relevant business activity (the surf shop). For these purposes, SurfsUp Limited should apportion its total turnover from the trade between the relevant business activity (the surf shop) and the remaining part of its trade (surf lessons) on a just and reasonable basis.

Example 6

Ms P runs an online gift store. She operates the website from her home in Bray Co. Wicklow and rents a small unit in a local warehouse for storing her stock. All of Ms. P's business is transacted through her website, and all of the products are delivered directly to the customer.

Although there are Government restrictions in place for Co. Wicklow, there are no restrictions on Ms. P running her business. Ms. P does not have a fixed business premises to which Covid restrictions apply and therefore does not meet the eligibility criteria to claim under the CRSS.

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4.1.5. More than one relevant business activity carried on from the same business premises

A person may carry on more than one relevant business activity from the same business premises, such as where the person carries on separate trades from that premises. Depending on the particular circumstances, some or all of those relevant business activities may qualify for an ACTE under the CRSS. However, where a person qualifies for an ACTE in respect of more than one relevant business activity carried on from the same business premises, the maximum amount of an ACTE that can be claimed in respect of all of them cannot exceed the cap of €5,000 per week (see Section 5).

Example 7

Mr. S operates two trades from the same premises in Rosslare, Co. Wexford – a pub and a supermarket (which is attached but with a separate entrance). The Government Covid restrictions in force for Co. Wexford are such that the pub must prohibit customers from entering the premises, although a takeaway and delivery service is allowed. There are no restrictions in place which would require Mr. S to significantly prohibit customers from entering the supermarket, although general public health advice does apply around social distancing and general protective measures. Mr. S is not set up to operate a takeaway or delivery service from the pub, so he is forced to temporarily close the pub, and although he continues to run the supermarket, he has noticed a significant drop in turnover.

Mr. S has two relevant business activities operating from the same business premises. However, only one relevant business activity, being the pub trade, is eligible for support under the CRSS. This is because, under the terms of the Covid restrictions, customers of the pub trade are prohibited from accessing the part of the premises in which the pub trade is carried on (see Section 4.2.1 below). No such restrictions apply in connection with the supermarket.

To make a claim under CRSS, Mr. S must satisfy the turnover conditions in relation to the relevant business activity (pub trade), and other qualifying criteria (see Section 4.4). Where Mr. S meets the qualifying criteria for the pub trade, Mr. S can register the business premises for CRSS using the turnover from the pub trade only.

4.2. Requirement 2 – Impact of Covid restrictions; access to the business premises

In order to be eligible to make a claim for an ACTE under the CRSS in a claim period, a person must be able to demonstrate to Revenue that, **as a direct consequence of Covid restrictions, customers are prohibited or significantly restricted from accessing their business premises** (see section 4.1.1 for what is regarded as a business premises for these purposes), and as a result, that person's relevant business activity in the claim period (see section 5) will either be temporarily suspended or disrupted, with the result that turnover for that claim period will be **no more than 40% of the average weekly turnover (prior to 20**

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December 2021, 25% of the average weekly turnover) in 2019 (or in the period 26 December to 12 October 2020 in the case of a Category A new business, or in the period 13 October 2020 to 1 August 2021 in the case of a Category B new business) (see section 6.2).

Covid restrictions applying to construction from 8 January 2021

Under the Regulations in place¹ in place from 8 January 2021, non-essential construction and development activities were required to temporarily close.

To qualify for CRSS, a business must, under specific terms of the Covid restrictions, be required to either prohibit or significantly restrict, customers from accessing their business premises to purchase goods or services, with the result that the business either has to temporarily close or to operate at a significantly reduced level.

Construction businesses not providing essential construction or development services, in general, will not qualify for CRSS. This is on the basis that any resultant reduction in turnover is not as a direct result of Covid restrictions which require the business to prohibit or restrict access to customers to their business premises to purchase goods or services. Such businesses are therefore not eligible to make a claim for an ACTE under CRSS.

4.2.1. What are the Covid restrictions?

On 15 September 2020, the Government published “[Resilience and Recovery 2020-2021 – Plan for Living with Covid-19](#)” for managing the Covid-19 pandemic in the short to medium term. Included in the publication is a “Framework for Restrictive Measures” which was developed based on a five “Levels” approach. Each level contains guidelines which are intended, collectively, to contribute to lowering the risk of transmission of Covid-19 and which aligns with the deemed risk level at the time. The various measures apply to society as a whole with many also having direct impact on the business community. In certain instances, the public health restrictive measures introduced by the Government may result in businesses having to close completely for a period of time and, in other instances, they may significantly restrict how customers may access a business premises, and they may impact the goods and services offerings that can be provided by a business from its business premises.

The public health restrictive measures, as referenced in the Level 1-5 Framework for Restrictive measures broadly apply to the following business:

- Commercial wedding venues
- Commercial indoor and outdoor events
- Commercial sporting events

1

Health Act 1947 (Section 31A- Temporary Restrictions) (COVID-19) (No. 10) (Amendment) Regulations 2021

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- Gyms, leisure centres and swimming pools
- Museums, public galleries and other similar cultural attractions
- Bars, cafes and restaurants (including Hotel bars, cafes and restaurants)
- Pubs, Nightclubs, discos and casinos
- Hotels, B&B's, guesthouses and similar accommodation providers
- Retail (inclusive of services)

See Appendix III for details of the public health Regulations.

The CRSS scheme is targeted at those businesses which, under the specific terms of public health Regulations, **are required to prohibit or significantly restrict customers from accessing their business premises** such that the business is required to temporarily suspend its activities, or its business is significantly disrupted.

Under Levels 3, 4 and 5 of the Living with Covid-19 Plan, domestic travel restrictions are imposed on society generally which mandate that people only travel outside their county for purposes of work, education, medical and other essential purposes. These are not the level of restrictions that give rise to eligibility for CRSS, neither are the general public health guidelines around social distancing and related protective measures which apply to society as a whole and are important and necessary measures for lowering the risk of transmission of Covid-19. To be eligible for CRSS, more targeted restrictions must apply in respect of a relevant business activity.

In relation to what constitutes a restriction for the purposes of CRSS, a “Covid restrictions period” is defined in the legislation as follows:

“the period for which the person is required by provisions of Covid restrictions to prohibit, or significantly restrict, members of the public from having access to the business premises in which the relevant business activity is carried on (referred to in this section as ‘applicable business restrictions provisions’) and is a period which commences on the Covid restrictions period commencement date and ends on the Covid restrictions period end date”.

As can be seen from the above, ‘**applicable business restrictions provisions**’ are provisions of Covid restrictions (Regulations made under the Health Act 1947) which require a person to prohibit or significantly restrict members of the public from having access to the business premises in which a relevant business activity is carried on.

4.2.2. What is a “significant restriction” on access to the business premises?

A significant restriction in this context will depend on the individual circumstances of the business, the relevant business sector, the geographical location of the business and the level of Covid-19 restrictions in place at a particular time. To be eligible for CRSS, it is not sufficient that a business premises is located within a region that is subject to Covid restrictions or that there is a general domestic restriction on inter-county travel in place.

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Significant restrictions for the purpose of CRSS are, as noted above, the ‘**applicable business restrictions provisions**’ which require a person to significantly restrict members of the public from having access to the business premises in which a relevant business activity is carried on. For example, where a restaurant is restricted to a maximum of 15 diners outdoors or where the operator of an 800-seat theatre has to limit access to the venue by a maximum of 50 patrons, these persons are considered to be significantly restricting access to the business premises. However, a small rural wedding venue which can accommodate a maximum capacity of 60 patrons for wedding receptions would not be considered as having to significantly restrict access where the Covid-19 restrictions in place allow wedding venues to open but imposes a formal limit on patrons of 50 persons per venue.

A reduction in customers due to domestic or international travel restrictions or due to the requirement to ensure social distancing are not significant restrictions for the purposes of qualifying for CRSS.

Example 8

Showtime Theatres Limited operates a large theatre in Dublin city centre. The business premises encompass a 1,000-seat theatre, a bar and cloakroom facilities. The Covid-19 restrictions in place in Co. Dublin in October 2020 prohibit all theatres from opening their doors to the public and as a result Showtime Theatres Limited has temporarily closed but does intend to re-open when allowed in the future.

As the company ordinarily operates from a fixed business premises and, under the terms of Covid restrictions, it is not permitted to allow customers to access its business premises, the company will be entitled to make a claim under CRSS provided all other criteria of the scheme are met.

Restaurants, bars and cafés are permitted to reopen to the public on 7 June 2021, for outdoor services only. Businesses in these sectors should consider when it may be most beneficial for them to make their claim for the enhanced restart payment. A business should assess whether they continue to be subject to significant restrictions having regard to their individual circumstances, including their capacity to provide outdoor services. Please see section 8.1 for further details.

From 26 July 2021, businesses in the hospitality sector, including restaurants, bars and cafés, may reopen for indoor hospitality services, which can be provided to individuals who are fully vaccinated, or have recovered from Covid-19 in the past six months, as well as to children under eighteen in their care. A business in the hospitality sector who was not in a position to provide outdoor services from 7 June 2021, or which could only do so to a limited extent, such that it continued to be significantly restricted from operating up to 26 July 2021, will, on the easing of restrictions from 26 July 2021, no longer be regarded as being significantly restricted from operating and may make a claim for the enhanced restart week where the business activity is recommenced. Please see section 7.3 and 8.2 for further details.

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From **6 September 2021**, businesses in the organised events sector may resume their business activities subject to certain conditions. There will also be a further easing of restrictions for cinemas and theatres from this date.

Organised indoor events, mass gatherings, cinemas and theatres may operate venues to a capacity of 60%, where services are provided to individuals who are fully vaccinated, or have recovered from Covid-19 in the past six months, as well as to children under eighteen in their care. Indoor events and mass gatherings include conferences, trade fairs and exhibitions and large-scale business events involving external audiences, and bingo venues. For indoor live music, drama, live entertainment and sporting events, the audience/spectators should be fully seated.

Businesses in these sectors will, on the easing of restrictions from 6 September 2021, no longer be regarded as being significantly restricted from operating and may make a claim for the enhanced restart week where the business activity is recommenced. Please see sections 7.3 and 8.3 for further details.

From **20 September 2021**, businesses in the organised group activity sector (sports, arts, culture, dance classes) may resume their business activities subject to certain conditions.

Organised indoor group activities (sports, arts, culture, dance classes) can take place with capacity limits of 100 people (with appropriate protective measures), to individuals who are fully vaccinated, or have recovered from Covid-19 in the past six months, as well as to children under eighteen in their care

Businesses in the above sectors will, on the easing of restrictions from 20 September 2021, generally no longer be regarded as being significantly restricted from operating and may make a claim for the enhanced restart week where the business activity is recommenced. Please see sections 7.3 and 8.4 for further details.

From **22 October 2021**, the remaining businesses in the hospitality, entertainment and night-time economy sectors may resume their business activities subject to adhering to certain public health measures, including requiring EU Digital Covid Certificates. These businesses will, on the easing of restrictions from 22 October 2021, no longer be regarded as being significantly restricted from operating and may make a claim for the enhanced restart week where the business activity is recommenced. Please see sections 7.3 and 8.5 for further details.

From **7 December 2021** the Government has introduced certain restrictive measures within the hospitality, entertainment and night-time economy sectors. As part of these measures, **nightclubs and discotheques, including those licensed under the Public Dance Halls Act 1935 (No. 2 of 1935)**, are required to close until 9 January 2022.

Businesses operating as **nightclubs and discotheques, including those licensed under the Public Dance Halls Act 1935 (No. 2 of 1935)**, would be considered significantly restricted from operating for the purposes of CRSS and, where they meet all of the relevant conditions, are eligible for support under the scheme.

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From **20 December 2021** the Government has introduced certain restrictive measures for businesses within the hospitality and indoor entertainment sectors. As part of these measures, an 8pm closing time has been imposed. Businesses operating within these sectors, who would ordinarily operate evening and night time trading hours, will be considered to be significantly restricted from operating for the purposes of the CRSS and will be eligible for support under the scheme where they meet the eligibility conditions.

From **22 January 2022**, a full return to normal trading activities is permitted for businesses in the hospitality and indoor entertainment sectors such as bars, restaurants, nightclubs, hotels as well as indoor entertainment venues such as cinemas and theatres. These businesses, on the easing of restrictions from 22 January 2022, are no longer regarded as being significantly restricted from operating for the purposes of the CRSS and may make a claim for the restart week payment where the business activity is recommenced. Please see sections 7.4 and 8.8 for further details.

4.2.3. What if a business is prohibited or significantly restricted from allowing customers to access parts of a business premises in which a trade is carried on?

There may be cases where, under the terms of Covid restrictions, customers of a relevant business activity may be restricted from accessing substantial elements of the business premises in which a relevant business activity is carried on, with the result that substantial parts of the relevant business activity will either be suspended or significantly disrupted. In those circumstances, provided that all other eligibility criteria are met (as outlined in this section 4) in relation to the entire relevant business activity, it will be accepted that the business will be eligible to make a claim under the CRSS.

Example 9

Large Hotels Limited operates a hotel in Kilkenny city. The hotel business premises incorporate 200 hotel rooms, a large banqueting hall used for weddings and conferences, a hotel bar and a restaurant. Whilst the hotel has separate revenue streams, these are all part of the one trade of hotel keeping.

Level 3 Government restrictions in place for Co. Kilkenny from 7 October to 22 October applied such that while the hotel may remain open, hotel services were restricted to residents only, conferences were prohibited, weddings were restricted to 25 patrons and restaurants and bar service to non-guests were restricted to takeaway and delivery only. As a result, Large Hotels Limited was significantly restricted from allowing customers into parts of its premises. Large Hotels Limited will be entitled to make a claim under CRSS provided all other eligibility criteria of the scheme are met. For these purposes, turnover from all trading activities carried on from the hotel will be taken into account for the purposes of determining eligibility.

Under Level 5 of the Living with Covid plan which applied nationwide from 22 October 2020 until 1 December 2020, there was an explicit restriction imposed on accommodation

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providers generally. Hotels, guesthouses and B&B's could only open for essential and non-social and non-tourist purposes and not to the public generally, and therefore where all other qualification criteria were met, Large Hotels Limited was eligible for CRSS.

A revised Level 3 applies to hotels from December 4th. Bars, cafes and restaurants (including hotel restaurants and bars) which operate as restaurants (and serve substantial meals which are prepared on site) may open for indoor dining to residents and non-residents. Other hotel services are restricted to residents only, conferences are prohibited, and weddings are restricted to 25 patrons.

In revised Level 3, Large Hotels Limited can reopen on December 4th and based on its capacity for guests and diners, it does not have to substantially restrict customers from accessing the hotel.

From December 4th, Large Hotels Limited no longer qualifies for CRSS, but may elect for an additional re-start payment on re-opening its business after the period of restrictions.

Nationwide restrictions came into operation from 3pm on Thursday 24 December 2020. Hotels may remain open for essential non-social and non-tourist purposes only. Hotels may provide food and bar services to guests only after 3pm on 24 December 2020 and, for a limited time, guests who already have a booking and are due to check in up to and including 26 December 2020.

As a result, Large Hotels Limited will be significantly restricted from allowing customers into parts of its premises from 24 December. Large Hotels Limited will be entitled to make a claim under CRSS provided all other eligibility criteria of the scheme are met. For these purposes, turnover from all trading activities carried on from the hotel will be taken into account for the purposes of determining eligibility.

In relation to Covid restrictions commencing on 24 December, Large Hotels Limited will be entitled to make a claim from Monday 21 December and will be entitled to a double payment for that week, the week beginning 28 December and for the week beginning 4 January 2021 (subject to weekly cap of €5,000). See section 6.4

4.2.4. What if a business is not prohibited or significantly restricted from allowing customers to access its business premises but its customer base has significantly reduced because of Covid-19?

The business must meet the requirement that it ordinarily operates from a fixed business premises and, under the specific terms of the Covid restrictions announced by the Government, customers of the business are prohibited, or significantly restricted, from accessing those business premises.

It is not sufficient that the trade of a business has been impacted because of a reduction in customer demand as a consequence of Covid-19, or that the business supplies goods or

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services to another business that qualifies for the support because, under the Covid restrictions, that other business is required to temporarily close, or significantly reduce, its business activity.

In the case of a business that supplies goods and services to other businesses which, under the terms of Covid restrictions, are required to prohibit or significantly restrict customers from accessing their business premises (for example, a restaurant) – this will not result in the supplier business being eligible to make a claim under the terms of the legislation. To be able to make a claim for an ACTE, the supplier business must meet the eligibility criteria in its own right; the business must be required by the specific terms of Covid restrictions to prohibit or significantly restrict customers from accessing its business premises, with the result that the business is either required to temporarily close or to operate at a significantly reduced level. This will generally not be the case in relation to a ‘supplier business’.

Example 10

StockUp Limited is a wholesaler to the catering and restaurant industry. The company operates from a premises in Clones, Co. Monaghan and delivers to customers nationwide. Under the restrictions in place across the country, many of the customers in the restaurant trade have cancelled their upcoming orders. While StockUp Limited has spotted an opportunity for additional business in the delivery and take-away sector, the company is experiencing a significant drop in turnover in the interim.

Whilst StockUp Limited has experienced a reduction in turnover as a result of Government restrictions impacting its customers, the business itself, is not subject to restrictions prohibiting or restricting customers to its business premises. Therefore, it does not meet the eligibility criteria.

4.2.5. Where a business chooses not to re-open after a period of Covid restrictions

Where a business is no longer subject to Covid restrictions which require them to prohibit or restrict customers from accessing their business premises, that business will not be eligible for CRSS for the periods where they choose not to open, for example a hotel that is permitted to open from 4th December but chooses not to open until Spring 2021 will not qualify from CRSS from 4th December. For some businesses, such as hotels, seasonal opening will be in line with their normal trading pattern (see Section 4.3.4).

The decision not to re-open will not affect any prior CRSS claims made by that business in respect of a period for which the qualification criteria were met, and it will not result in any inference that, in that period, the applicant did not intend to resume the carrying on of the business when restrictions were lifted (which is one of the eligibility requirements for CRSS).

Where the business chooses not to re-open after a period of Covid restrictions, that business will only be entitled to the additional re-start payment when they do re-open (and the claim must be made within 8 weeks of the lifting of the relevant Covid restrictions). See Section 7.

Covid restrictions applying to pubs from 4 December 2020 to 3pm on December 24

Pubs that serve food

Under Regulations² in place from 4 December 2020, a business that supplies or sells alcohol for consumption, is not required to prohibit or significantly restrict customers from accessing their premises to purchase and consume alcohol in circumstances where the alcohol is—

- ordered at the same time as a **substantial meal** is ordered, during the meal or after the meal has ended, and
- consumed by the customer during the meal or after the meal has ended.

What is a substantial meal?

A “**substantial meal**” is defined in the Regulations as a meal—

- which might be expected to be served as main meal/ main course at lunch or dinner, *and*
- for which it would be reasonable to charge a sum that is not less than €9, *and*
- other than a meal served at a wedding reception, is substantially prepared on the premises in a “**food preparation area**”.

“**Food preparation area**” is defined as an indoor part of a premises which is structurally adapted and used for the purpose of preparing food for consumption by customers on or off the premises. It does not include a tent, caravan, vehicle, storage container or other temporary structure.

Where a pub has a food preparation area (a kitchen) onsite where food is prepared for consumption by customers, and the food is ordered and consumed as outlined above, that pub is no longer subject to Covid restrictions for the purposes of qualifying for CRSS. Therefore, the pub will not meet the qualification criteria for CRSS.

Pubs that do not serve food

Pubs that do not serve food (as set out above) are required to ensure that members of the public are not granted access to their premises. These pubs will continue to be eligible for CRSS where all other qualification criteria are met.

Covid restrictions applying to pubs from 3pm on 24 December 2020

All pubs (whether they serve food or not) are required to ensure that members of the public are not granted access to their premises from 3pm on 24 December. Pubs are eligible for CRSS where all other qualification criteria are met.

² Health Act 1947 (Section 31a - Temporary Restrictions) (Covid-19) (No. 9) Regulations 2020
<http://www.irishstatutebook.ie/eli/2020/si/560/made/en/print>

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4.2.6. A business significantly restricted from operating from 20 December 2021 that does not trade during the period of Covid restrictions

There may be circumstances where it is not viable for a person carrying on a relevant business activity, which is significantly restricted from operating under specific terms of Covid restrictions in operation from 20 December 2021, to continue carrying on the relevant business activity during the period of restrictions. This might arise where, for example in the case of a restaurant, the bulk of the restaurant's trade occurs at night-time and usually after 8pm. In such circumstances, the person can make a claim for support under the CRSS in respect of the relevant business activity where the eligibility criteria are met. To qualify, the person must have actively carried on the relevant business activity up to the date of the latest Covid restrictions and have an intention to continue carrying on that activity when restrictions are eased.

Example 11 - Covid restrictions applying to restaurant from 20 December 2021

Under public health regulations in place from 20 December 2021, Mr. C is required to close his restaurant in Dublin City at 8pm and restrict customers from accessing his business premises. Mr. C normally opens at 5.30pm Tuesday to Sunday, and the restaurant would have 2 main evening sittings at 7pm and 9pm. The Government announcement in relation to the Covid restrictions in operation from the 20 December 2021 means that Mr. C cannot operate the 7pm or 9pm sittings.

Mr. C undertakes a review of his business model in light of the new restrictions, and evaluates his options. Mr. C determines that, based on his client base, it is not viable for him to operate the restaurant during the current restrictions and decides to close. He has traded right up to the period of restrictions and intends to recommence his restaurant activities when the restrictions are eased.

Mr. C will not be precluded from claiming support under the CRSS in circumstances where he has determined that it is not viable for him to operate. Provided he meets all of the relevant conditions, he may make a claim for the ACTE.

4.3. Requirement 3 - Impact of Covid restrictions; turnover requirements

To make a claim for an ACTE under the CRSS, the claimant must be able to demonstrate that, because of the Covid restrictions, the **turnover** of the relevant business activity in the claim period will be no more than 40% (prior to 20 December 2021, 25%) of the **relevant turnover amount** (see Section 4.3.2 below for the meaning of that term).

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4.3.1. Turnover of relevant business activity

For the purposes of the CRSS, turnover will include any amount recognised as turnover in a particular period of time in accordance with the correct rules of commercial accounting, with the exception of any amount recognised as turnover in that period due to a change in accounting policy. Where applicable, companies should have regard to the meaning given to turnover in the Companies Act 2014.

For the majority of claimants, turnover will simply be the total sales made by the person (exclusive of VAT) in respect of the relevant business activity in a particular period of time. Where the person is in receipt of other types of income, such as grants and public funding, whether that income is included in turnover will depend on the specific nature and terms of the funding arrangement, having regard to the applicable accounting standards and required recognition treatment of such income.

For the purposes of the CRSS, a self-employed individual in receipt of the Pandemic Unemployment Payment will not include the payment as part of turnover as the payment will form part of the individual's Schedule E income.

4.3.2. Relevant turnover amount

Relevant turnover amount will be calculated by reference to the claimant's average weekly turnover (VAT exclusive) for the relevant business activity in a **prior period**.

For **established businesses** (i.e. a business commenced by a person before 26 December 2019), the relevant turnover amount will be calculated by reference to turnover for the period from 1 January 2019 to 31 December 2019, as follows:

Average weekly turnover for 2019 x Number of weeks in claim period

For established businesses with an accounting period (companies) or basis period (individuals) ending on 31 December 2019, the relevant turnover amount will be based on the accounts made up to that date. The amount of the relevant turnover provided as part of the registration process (see Section 3.1) will be verified against information available on Revenue systems.

For established businesses with an accounting period or basis period that does not end on 31 December 2019 (or a business with an accounting period or basis period that ends on that date but it is less than 12 months in length), the calculation of the relevant turnover amount of the business may generally be determined on a pro-rata basis, by apportioning the turnover of the business included in two more sets of accounts that cover the period 1 January 2019 to 31 December 2019. The amount of the relevant turnover provided as part of the registration process (see Section 3.1) will be verified against information available on Revenue systems.

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Example 12

Co. R has been in business for a number of years and has an accounting period end of 31 January. The average weekly turnover for 2019 may be determined as the sum of: 1/12th of Co. R's turnover for the accounting period ended 31 January 2019, plus 11/12^{ths} of Co. R's turnover for the accounting period ended 31 January 2020, divided by 52.

Example 13

Co. M started a business on 1 July 2019 and has an accounting period end of 31 December. The average weekly turnover for 2019 may be determined as the sum of: Co. M's turnover for the 6-month accounting period ended 31 December 2019, divided by 26.

It is appreciated that for certain businesses, in particular those with an accounting period or basis period ending in March 2020 or later, the relevant turnover amount calculated on a pro-rata basis, as described above, may not appropriately reflect the business's turnover in 2019 because part of the accounting period or basis period includes a period for which the business may have been adversely impacted by Covid restrictions introduced by the Government. In those cases, taxpayers may choose to use the actual turnover figures for their business in the period from 1 January 2019 to 31 December 2019.

Example 14

Co. H has been in business for a number of years and has an accounting period end of 30 June. The Government restrictions in place has meant that the business was forced to close in mid-March 2020 and as a result the turnover for March to June was almost nil. The average weekly turnover for 2019 determined on the basis of 6/12^{ths} of the accounting period ended 30 June 2019, plus 6/12^{ths} of the accounting period ended 30 June 2020 is disproportionately affected by the closure of the business in 2020. Co. H calculates the average weekly turnover for 2019 using information from the books and records to reflect the actual turnover in the period 1 January 2019 to 31 December 2019.

Taxpayers who choose not to determine the relevant turnover amount by pro-rating turnover figures in accounts that cover the period from 1 January 2019 to 31 December 2019 must retain evidence supporting the basis for the actual turnover in the period from 1 January 2019 to 31 December 2019, and have this information available to Revenue should their registration be selected for verification.

For a **Category A new business** (i.e. a business commenced by a person between 26 December 2019 and 12 October 2020), the relevant turnover amount will be calculated by reference to turnover for the period commencing on the date on which the business commenced and ending on 12 October 2020, as follows:

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Average weekly turnover from commencement to 12 October 2020 x Number of weeks in claim period

Where a Category A new business was prohibited from operating due to Government restrictions in a week or weeks in the period from commencement to 12 October 2020, and can demonstrate to Revenue that the business received no turnover in that week or weeks, then that week or weeks can be excluded for the purposes of calculating the average weekly turnover.

For a **Category B new business** (i.e. a business commenced by a person between 13 October 2020 and 26 July 2021), the relevant turnover amount will be **calculated by reference to turnover for the period commencing on the date on which the business commenced and ending on 1 August 2021, as follows:**

Average weekly turnover from commencement to 1 August 2021 x Number of weeks in claim period

For Category B new businesses who were prohibited from operating due to Government restrictions in a week or weeks in the period from commencement to 26 July 2021, and can demonstrate to Revenue that the business received no turnover in that week or weeks, then that week or weeks can be excluded for the purposes of calculating the average weekly turnover.

Example 15

Mr. E has been operating a retail business since 2005. Most of the trade is carried on from a building in Galway city, however recently Mr. E launched his website and has started selling online and delivering direct to customers. For the purposes of the CRSS, Mr. E's relevant business activity is made up of the trade carried on from the premises in Galway city including that part of the trade carried on online.

His turnover from the clothes sales trade in 2019, was €115,700 (VAT exclusive), which means that his **average weekly turnover** for 2019 was €2,225.

Due to Government restrictions in place for Co. Galway prohibiting Mr. E from allowing customers on his premises, Mr. E is forced to temporarily close his shop for the 6 weeks the restrictions have been announced for. For the purposes of determining whether Mr. E is eligible to claim under the CRSS, on the basis that the turnover from his relevant business activity during the claim period will not exceed 25% of the average weekly turnover for 2019 over the same number of weeks, turnover from online sales in that period must be taken into account.

Based on his previous experience of the Government restrictions in place between March and June 2020, he expects that his turnover for this 6-week period will be approximately €2,700 from online sales, and nil from shop sales given that he will be closed to customers.

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To qualify for an ACTE, Mr. E must be able to demonstrate that, as a result of having to close his premises to customers for 6 weeks, the turnover of the relevant business activity in that period will be no more than 25% of the relevant turnover amount.

Relevant turnover amount = €13,350 (i.e. €2,225 x 6)

$$\frac{€2,700 \times 100}{€13,350} = 20.23\%$$

Based on the expected turnover amount, Mr. E satisfies the reduction in turnover condition and may proceed to make a claim for the ACTE, provided all other conditions are satisfied.

At the end of the claim period, Mr. E should review his actual turnover figure for that claim period to ensure that the reduction in turnover condition was met (See Section 4.3).

Example 16

Ms H. set up a café in January 2020 in Schull Co. Cork specialising in hand roasted coffees and home-made pastries. Ms. H rents a premises on the main street, and despite 10 weeks of complete closure (this is a hypothetical example) due to Government restrictions earlier on in the year, she was still operating her business until Government restrictions in place for Co. Cork from 22 October meant that her business is restricted to take-away service only. As a result, Ms. H must significantly restrict access to customers entering her business premises. As a relevant business activity set up in 2020, to be eligible to claim an ACTE under the CRSS, Ms. H must demonstrate that the turnover for the duration of the restrictions (the claim period) will not exceed 25% of the average weekly turnover for the same number of weeks, in the period from when she commenced to 12 October 2020.

Her turnover from the date of commencement to 12 October was €28,000, which means that her **average weekly turnover** during that period was €933 i.e. €28,000/30*

*There were 40 weeks since the date of commencement to 12 October. However, Ms H was prohibited from operating for 10 weeks due to Government restrictions and had no turnover in that period, so these weeks can be excluded from the calculation of the average weekly turnover.

Relevant turnover amount = €5,598 (i.e. €933 x 6)

Ms. H expects her turnover for this 6-week restricted period (the claim period) will be approximately €1,000.

$$\frac{€1,000 \times 100}{€5,598} = 18\%$$

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Based on the expected turnover amount, Ms. H satisfies the reduction in turnover condition and may proceed to make a claim for the ACTE, provided all other conditions are satisfied. At the end of the claim period, Ms. H should review her actual turnover figure for that claim period to ensure that the reduction in turnover condition was met (See Section 4.3).

Example 17 – Hospitality restrictions in place from 20 December 2021

Ms H. set up a pub on 28 June 2021 in Castletownbere Co. Cork specialising in night-time live entertainment. Ms. H rents a premises on the main street. As a result of the Government restrictions put in place from 20 December 2021, Ms. H must significantly restrict customers from accessing her business premises. As a relevant business activity set up in 2021, to be eligible to claim an ACTE under the CRSS, Ms. H must demonstrate that turnover from her business (which is a Category B new business) during the claim period will not exceed an amount equal to 40% of the average weekly turnover (calculated by reference to turnover in the period from when she commenced to 1 August 2021) multiplied by the number of weeks in the claim period.

Her turnover from the date of commencement to 1 August 2021 was €14,000, which means that her **average weekly turnover** during that period was €2,800 i.e. €14,000/5*

Relevant turnover amount = €8,400 (i.e. €2,800 x 3)

Ms. H expects her turnover for this 3-week restricted period (the claim period) will be approximately €3,300.

$$\frac{€3,300 \times 100}{€8,400} = 39.25\%$$

Based on the expected turnover amount, Ms. H satisfies the reduction in turnover condition and may proceed to make a claim for the ACTE, provided all other conditions are satisfied. At the end of the claim period, Ms. H should review her actual turnover figure for that claim period to ensure that the reduction in turnover condition was met (see section 4.3).

Example 18

Ms K. set up a bar and restaurant in May 2021 in Salthill Co. Galway. Ms. K rents a premises on the high street.

During 2021 Ms. K suffered 4 weeks of complete closure (this is a hypothetical example) due to Government restrictions imposed under public health regulations to combat the Covid-19 pandemic.

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Her ordinary trading hours for her business are from 3pm to 11.30pm daily Monday to Sunday each week.

Due to Government restrictions put in place from 20 December 2021, Ms. K is now required to close at 8pm each day, the bar and restaurant would normally be at its busiest after 8pm.

As a result, the business of Ms. K is deemed to be significantly restricted for the purposes of the CRSS scheme

As a 'Category B new business', to be eligible to claim an ACTE under the CRSS, Ms. K must demonstrate that the turnover for the claim period will not exceed an amount equal to 40% of the average weekly turnover (calculated by reference to turnover in the period from when she commenced to 1 August 2021*) multiplied by the number of weeks in the claim period.

*As Ms K was prohibited from operating for 4 weeks due to Government restrictions and had no turnover in that period, these weeks can be excluded from the calculation of the average weekly turnover.

4.3.3. Relevant business activity carried on as part of a wider trade

Where a person carries on a relevant business activity as part of a wider trade, that relevant business activity is to be treated as a separate trade for the purposes of determining the relevant turnover amount. The total turnover of the trade must be allocated between the separate trade and the wider trader on a just and reasonable basis.

Example 19

NewCars Limited runs two car dealerships in Co. Donegal and Co. Roscommon.

Government restrictions in place in Co. Donegal have meant that NewCars Limited is prohibited from allowing customers into its premises in Donegal, and as a result, NewCars Limited is forced to temporarily close the dealership. Similar restrictions are not in place for Roscommon (this is a hypothetical example), and that dealership can operate without restrictions.

In this case, the Donegal dealership is a relevant business activity which is part of the wider trade of NewCars Limited. To determine the relevant turnover amount of the Donegal dealership to establish whether NewCars Limited is eligible to make a claim under CRSS, that relevant business activity is to be treated as a separate trade, and the total turnover of NewCars Limited's trade must be allocated between the separate trade (the Donegal dealership) and the wider trader on a just and reasonable basis.

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NewCars Limited's total turnover in 2019 was €2,550,000 (VAT exclusive), of which 65% (€1,657,500) is attributable to the Donegal dealership. The **average weekly turnover** for 2019 for the Donegal dealership was €31,875.

Relevant turnover amount = €95,625 (i.e. €31,875 x3)

Due to Government restrictions in place for Co. Donegal, NewCars Limited expects that during the expected 3 weeks of restrictions that the Donegal dealership will be forced to be closed, turnover will be nil and therefore the company is eligible to make a claim under the CRSS in respect of that relevant business activity, provided all other conditions are satisfied.

4.3.4. Seasonal businesses

A relevant business activity which is "seasonal" in nature is not restricted from qualifying under CRSS where they are subject to Covid restrictions and as a result, are prohibited or significantly restricted from allowing customers access their business premises, and they meet all other qualifying criteria.

A seasonal business would have to demonstrate, that because of the Covid restrictions, the turnover of the business in the period for which the restrictions are in operation will be no more than 40% (prior to 20 December 2021, 25%) of an amount equal to the average weekly turnover of the business in 2019 (where that business is established by 26 December 2019). The CRSS scheme had been operative from 13 October and only businesses who are subject to Government restrictions from that day onwards are eligible to claim (subject to meeting the other eligibility criteria of the scheme).

In order to qualify under the scheme, a business must intend to resume trading when the restrictions are lifted (see Section 4.4). If a business can demonstrate that they do intend to resume trading, but not until the 2022 season, and that this is in line with historical trading patterns, that business will meet the 'intention to trade' criteria.

Example 20

Christmas Time Limited runs a business specialising in the staging of Christmas shows, with shows running at 8pm daily. For much of the year, the company would have very little turnover but is busy preparing for the Christmas period. The company rents a unit in Co. Dublin every year from October to January, and it is during this period that the company makes its annual turnover.

Government restrictions in place means that after only a few weeks of opening, Christmas Time Limited is forced to close its premises after 8pm in the evening, and is prohibited from allowing customers access its premises after this time. For the purposes of determining whether Christmas Time Limited is eligible to claim under the CRSS, the

company must be able to demonstrate that the turnover from its relevant business activity during the claim period will not exceed 40% of the average weekly turnover for 2019 over the same number of weeks (i.e. (total turnover in 2019/ 52) X number of weeks in the claim period). Christmas Time Limited, as a seasonal business, is not precluded from claiming under the CRSS where it meets all the qualification criteria.

4.3.5. Business amalgamations or reconstructions

Where a business amalgamation or reconstruction has taken place, this may result in the same trade being carried on in the same business premises but by a different person. In many of these cases, the ultimate beneficial owner of the relevant business activity remains unchanged.

Examples include;

- A sole trader or partnership who has incorporated
- A different corporate entity operating the trade as a result of an amalgamation or reconstruction
- A merger or division under the Companies Act 2014

In circumstances, after 1 January 2019, where a single trade was transferred in its entirety from one person to another as part of a reconstruction or amalgamation as noted above, Revenue accepts that in the following limited circumstances, a person making a claim for ACTE can use the relevant business turnover amount of the business for 2019, where all other qualification criteria are met:

- The relevant business activity constituted a single trade in the predecessor i.e. the entire trade³ was transferred as part of a business amalgamation or reconstruction,
- The relevant business activity has been carried on at the same business premises since 2019 (save for periods where the relevant business activity ceased due to Covid restrictions),
- The person has claimed or is eligible to claim CGT Relief in respect of the transfer of the trade under one of the following sections:
 - Section 600 TCA 1997 (Transfer of business to a company); or
 - Section 615 TCA 1997 (Company reconstruction or amalgamation: transfer of assets); or
 - Section 633D TCA 1997 (Mergers where a company is dissolved without going into liquidation) or
 - Section 617 TCA 1997 (Transfer of assets other than trading stock within group), and
- The ultimate beneficial ownership of the relevant business activity has remained unchanged since 2019.

³ If cash of the trade did not transfer, this will not preclude the treatment set out above from applying in respect of a particular transfer.

Persons making a claim for an ACTE in these circumstances will need to retain documentary evidence to demonstrate to Revenue, if requested, that

- i) the relevant CGT relief is available and the basis for the claim;
- ii) the trade was the whole of the trade carried on by the predecessor and, is the same trade being carried on by the person making the claim. This is to ensure that Revenue can carry out verification checks on the relevant turnover amount using the books and records of the predecessor
- iii) there has been no change in the ultimate beneficial ownership of the relevant business activity.

4.3.6. Relevant business activity carried on by a trust on behalf of an estate

There may be circumstances where due to the death of an individual who was carrying on a business, a business that meets the qualification criteria for CRSS is carried on by a trust on behalf of the estate of the deceased or by the beneficiaries of the deceased's estate. In these circumstances, whilst the business would be eligible to make a claim under CRSS, the person making the claim is not the person who operated the trade in 2019. Where a person (including a trust) takes over the operation of a business after 1 January 2019 the "relevant turnover amount" of the business would ordinarily not be by reference to the turnover for the period from 1 January 2019 to 31 December 2019. The amount of the ACTE due to the business may, depending on the particular circumstances, be less than the amount the business would otherwise be entitled to receive if the previous owner of the business was still alive.

For the purpose of making a claim for an ACTE under CRSS, where a person who was operating a business has died, such that the operation of the business was taken over by a person who is a trust on behalf of the estate, or a beneficiary of the trust ("the successor") after 1 January 2019, Revenue will accept that the person making the claim i.e. the successor, may use the "relevant turnover amount" of the business by reference to the turnover for the period from 1 January 2019 to 31 December 2019, where the following conditions are met;

- There has been no substantial change to the nature or operation of the business being carried on since 1 January 2019 or the death of the deceased, whichever is earlier;
- The trade is being carried on in the same business premises since 1 January 2019 or the death of the deceased, whichever is earlier;
- Where the person making the claim for an ACTE, i.e. the successor, is the beneficiary, that beneficiary has devoted (or intended to devote, but was restricted from doing so due to the Covid restrictions) at least 50 per cent of his or her normal working time to the service of the business in a managerial or technical capacity since 1 January 2019 or the death of the deceased, whichever is later;
- Where the person making the claim for an ACTE i.e. the successor, is a trust on behalf of the estate of the deceased, one or more of the beneficiaries of that trust

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has devoted or intended to devote, but was restricted from doing so due to the Covid restrictions) at least 50 per cent of his or her normal working time to the service of the business in a managerial or technical capacity since 1 January 2019 or the death of the deceased, whichever is later.

4.3.7. Inter-generational transfer of a family business

There may be circumstances where a business is transferred within the family such that the transferee is now carrying on the same trade in the same business premises with no substantial change to the nature or operation of the business.

For the purpose of making a claim for an ACTE under CRSS, Revenue will accept that, where the transfer occurs after 1 January 2019, the person making the claim i.e. the transferee, may use the “relevant turnover amount” of the business by reference to the turnover for the period from 1 January 2019 to 31 December 2019, where the following conditions are met;

- There has been no substantial change to the nature or operation of the business being carried on since 1 January 2019;
- The trade is being carried on in the same business premises since 1 January 2019;
- Where the person making the claim for an ACTE, i.e. the transferee has devoted (or intended to devote, but was restricted from doing so due to the Covid restrictions) at least 50 per cent of his or her normal working time to the service of the business in a managerial or technical capacity since 1 January 2019 or the date of transfer, whichever is later;
- The transferor has claimed or is eligible to claim CGT relief under section 599 TCA 1997 “Disposals within family of business of farm” on the inter-generational transfer of the business.

Persons making a claim for an ACTE in these circumstances will need to retain documentary evidence to demonstrate to Revenue, if requested, that the above conditions are met.

4.4. Requirement 4 - Other Qualification Conditions

A company, or self-employed individual, charity, approved sporting body or precedent partner on behalf of a partnership must meet certain other conditions in order to be eligible for an ACTE with respect to a claim period. The following other conditions must be met by the claimant for each claim period:

1. The claimant has been issued a **tax clearance certificate** (see Section 4.4.1) for the claim period and has complied with any obligations in relation to registering for and accounting for VAT;
2. The claimant intends to resume trading after the Covid restrictions are lifted;
3. The claimant has registered for the CRSS on ROS, providing all of the information requested by Revenue (see Section 3.1 above for further details);

4. The claimant applies for the ACTE on the Revenue Online Service (ROS), providing all of the information requested by Revenue and making a declaration that they qualify for the ACTE (see Section 3.2 above for further details).

4.4.1. Tax Clearance

Claimants must possess an up to date tax clearance certificate and continue to maintain tax clearance for the duration of the claim period. Claimants can check their current tax clearance status through ROS. After logging in, current tax clearance status is displayed in blue writing above the grey banner for “My Frequently Used Services”.

If a claimant does not currently hold tax clearance, an application can be made online and assessed in real-time through the ROS e-Tax clearance service by selecting “Manage Tax Clearance” under the “Other Services” section on the ROS home screen and following the online instructions.

Tax Clearance will be granted if the tax affairs of the claimant and, where applicable, their connected parties, are up to date. Connected parties for tax clearance purposes are as follows:

- Business Partners (not civil partner or spouse);
- Partnerships;
- Directors/Shareholders of a company;
- Previous Business Entity/Licence holder where the applicant is succeeding to the licenced trade;
- Employer where the applicant is SPSV Driver or CAB applicant; and
- VAT Group remitter if the applicant is a member of a VAT Group.

Further information can be found at <https://www.revenue.ie/en/online-services/services/manage-your-record/apply-for-tax-clearance-online-using-etc.aspx>.

If there are outstanding returns or debts for the claimant or any of their connected parties, tax clearance will be refused. Therefore, it is imperative that all tax returns are filed, and payments made, or payment arrangements entered into to cover all outstanding debts.

Claimants with Covid-19 related tax debts which are warehoused, or non-Covid-19 debts which are included in a phased payment arrangement (PPA), will not be prevented from qualifying for tax clearance. Further information on these initiatives and all Covid-19 related information and advice for taxpayers and agents, can be found at the following link on the Revenue website;

<https://www.revenue.ie/en/corporate/communications/covid19/index.aspx>

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4.4.2. Books and Records

Any person making a claim for an ACTE is required to maintain and have available such books and records as may be reasonably required for the purposes of demonstrating that the person is eligible to make a claim under the scheme and to fully support any amount claimed. Should the person's claim be selected for verification by Revenue, these books and records will be examined by Revenue to verify the person's entitlement to the ACTE.

To avail of the CRSS the person must be in a position to demonstrate:

- the link between the Covid restrictions in operation for a geographical region at the time the claim was made and their impact on that person's relevant business activity during the claim period, and
- that turnover of the relevant business activity in the claim period will not exceed 40% (25%, prior to 20 December 2021) of an amount equal to the average weekly turnover in the reference period multiplied by the number of weeks in the claim period (for most businesses the reference period will be 2019. For businesses established between 26 December 2019 and 26 July 2021, the reference period will depend on the date on which the business was established (see section 6.2).
- that the business intended to resume/ continue trading once the relevant Covid restrictions were removed, and
- that they would have operated the business in the claim period but for the Covid restrictions being in operation.

Where a person operates from a number of business premises, it will be necessary for the person to demonstrate the turnover directly attributable to each business premises. Example of records include till reports, copies of invoices, sales daybooks etc. Where a business carries on a number of different trades from one business premises it will be necessary to demonstrate the turnover of the trades separately. Where the person is trading through a partnership, the relevant partnership agreement(s) should be retained, specifying details of the partnership profit allocations.

Claimants should refer to Revenue's guidance on the requirement for persons who are registered for any tax to maintain proper books and records contained in [Tax and Duty Manual 38-03-17](#).

In addition to the usual types of books and records that a tax-registered person is required to maintain to complete their tax returns, claimants must be able to demonstrate that, during the claim period (see Section 5 for details), members of the public were either prohibited from accessing, or were restricted from accessing, the business premises in which the relevant business activity is carried on.

5. How to determine a claim period

5.1. Significance of a claim period and the period for which support may be claimed

A person carrying on a relevant business activity will be required to assess whether they are eligible for support under the CRSS with respect to a **claim period**. If the person does qualify for support with respect to a claim period, then the amount they are entitled to claim will be determined by the number of **full weeks** in that period.

While a claim for support under CRSS must normally be made in respect of the number of full weeks in a claim period, Revenue will accept that where, under public health regulations, a business is subject to a period of restrictions that amount to a certain number of full weeks plus a number of days (for example, four weeks and five days), the business can, in respect of that period of restrictions, round up the number of weeks for which a claim can be made (in the example, this is rounded up to five weeks).

As noted in Section 5.3, where a business becomes subject to restrictions, its first claim relating to that period of restrictions will always commence as if the restrictions began on the Monday of that week even if, as a matter of fact, the business became subject to restrictions on a different day (say, on Thursday of that week). In effect, the claim amount payable to the business for that first week is processed as if the business is subject to restrictions from the Monday of that week even if the business is subject to restrictions for only some of that week (a partial week). However, in determining the total amount of support available to a business in respect of a period of restrictions, the total period for which the business is subject to restrictions must be taken into account and the maximum support that can be claimed is that period of restrictions rounded up to the nearest full week. This means, for example, where restrictions begin on Thursday, 22nd October and end on 30th November, the business will be able to claim six weeks of support in total, with the business being able to make a claim for the six-week period from Monday, 19th October to 29th November. Therefore, while a business may be restricted on Monday 30th November, the option to claim for that week will not be available as the business will have received the entitlement for that day.

A person meeting the eligibility criteria will be able to make a claim for relief through the CRSS claims portal on ROS and will be able to make a claim as early as the first day of a claim period (see Section 3).

5.2. What is a claim period?

A **claim period** is a defined period of time during which a person carrying on a relevant business activity is required by provisions of Covid restrictions to prohibit, or significantly restrict, members of the public from having access to the business premises in which the relevant business activity is carried on (see Section 4.2). As Covid restrictions may provide for different levels of restrictions in different geographical areas, different claim periods may apply, depending on the type of business activity that is carried on and where it is carried on. Details of the start and end dates of claim periods are included in Section 5.5.

In cases where the relevant business activity has some turnover during the period of Covid restrictions, the claimant will have to consider each claim period individually. It may be the case that a business would not meet the reduction in turnover test if all periods of restrictions are considered as a whole. A claimant should assess their eligibility for each individual claim period separately so they can make a claim for each specific claim period where they meet the qualifying criteria. See examples in Section 5.5.

Where a relevant business activity has no turnover during the period of Covid restrictions, they may treat the entirety of the period of Covid restrictions as one claim period. See the example in Section 5.3. In this case as the relevant business activity has no turnover, a claimant does not have to consider the reduction in turnover test.

5.3. How to make the first claim

The first claim must be made no later than 8 weeks from the date on which the first claim period commences (see Section 3 in relation to cases where there has been a delay in a business being registered for CRSS). The first claim period will commence on the latest of the following dates:

- 13th October 2020 (the date the CRSS was announced)
- the date on which the Regulations providing for the provisions of Covid restrictions, which restrict the relevant business concerned, come into operation.

When making a claim on the CRSS claims portal the claimant enters the dates to which its relevant business activity is subject to Covid restrictions. The system automatically calculates the number of days within the claim period based on this inputted information.

The CRSS claims portal determines the total amount of support available to a business in respect of a period of restrictions, by assessing the dates inputted (being the total period for which the business is subject to restrictions) and calculates the maximum support that can be claimed in that period of restrictions with reference to the number of full weeks within that period along with partial days as rounded up to the nearest full week.

Where a claim period does not commence on a Monday, the CRSS claims portal assigns and processes the claim as if the claim period commenced on the Monday before the first day of the claim period (e.g. if the claim period commenced on Thursday 22nd October 2020, the claim is processed as if it commenced on Monday 19th October 2020). The exception to this is the day the scheme started, Tuesday 13th October. In this case the claim is treated as having been made from Tuesday 13th October 2020.

Where a relevant business activity has no turnover during the period of Covid restrictions, the claimant may treat the entirety of the period of Covid restrictions as one claim period.

Where a claim is made after the end of a claim period, the person should make the claim by reference to the actual end date of the claim period. In the case of relevant business activity that has no turnover, the end date is the date on which the Covid restrictions, which

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require the person to prohibit, or significantly restrict, members of the public from having access to the business premises, ceased to operate.

Where a claim is made before the end of a claim period, the person should make the claim by reference to the expected end date of the claim period (see examples at the end of this section).

Example 21 – Nightclub in Galway; restricted since March 2020

Since March 2020, Groove Limited, a company operating a nightclub from business premises in Galway City, has been closed for business on the basis that it has been required by provisions of Covid restrictions to prohibit members of the public from having access to the business premises.

On the 17th of November, when the CRSS claims portal opened, the company assessed that it qualified for support in respect of the period 13th October to 30th November 2020 (7 full weeks). A single claim can be made for those weeks.

On the 1st of December, the company may make a claim in relation to the next claim period where it continues to meet the qualification criteria.

5.4. How to make a subsequent claim

A person who meets the eligibility criteria will be able to make a claim as early as the first day of each subsequent claim period.

Where a subsequent claim period does not commence on a Monday, the CRSS portal again will assign and process the claim as if the claim period commenced on the Monday before the first day of the claim period. For example, if the claim period commenced on Thursday 18th March 2021, the claim is processed by the CRSS claims portal as if it commenced on Monday 15th March 2021. The portal will not allow a claim in respect of a week for which an amount of support under the scheme has already been paid, please see 0 for examples of error messages.

5.5. Start and end dates of claim periods

Where a relevant business activity has some turnover during the period of Covid restrictions, the claimant will have to consider each claim period individually to ensure that the eligibility criteria are satisfied for each individual claim period. To do so, the claimant will need to establish the start and end date of a claim period.

The start and end dates of a claim period⁴ are determined by reference to the Regulations (set out in Appendix III) providing for the Covid restrictions which require the person carrying on the relevant business activity to prohibit, or significantly restrict, members of the public from having access to the business premises in which the relevant business activity is carried on.

⁴ In the legislation, a claim period is a “Covid restrictions period” and a “Covid restrictions extension period”.

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To assist in determining the start and end dates of these periods, an overview of the various Regulations providing for such restrictions since the CRSS was announced on 13th October 2020 is set out in Section 14.3 of Appendix III. The design of a claim period by reference to the Regulations allows a person to make a claim as early as the first day of a claim period for the number of weeks that are expected to comprise the period in which Covid restrictions are in place.

A claim period will commence on the latest of the following dates:

- 13th October 2020 (the date the CRSS was announced)
- the date on which the Regulations providing for the provisions of Covid restrictions (which directly prohibit or significantly restricted customers from entering the business premises) come into operation

A claim period will end on the earliest of the following dates:

- 3 weeks after the claim period commences
- the date on which the Regulations providing for the Covid restrictions are due to end⁵
- the day before the date on which the terms of the restrictions are changed, with the result that the relevant business activity is subject to an increased, or decreased, level of restrictions⁶
- 31st January 2022 (the day the CRSS is due to expire)

Where, on the day after the end of a claim period, the person carrying on the relevant business activity is still required by provisions of Covid restrictions to prohibit, or significantly restrict, members of the public from having access to the business premises in which the relevant business activity is carried on (whether under the same Regulations or under new Regulations), a new claim period will commence.

As with the first claim period, the new claim period will end on the earliest of the following dates:

- 3 weeks after the claim period commences
- the date on which the Regulations providing for the Covid restrictions are due to end
- the day before the date on which the terms of the restrictions are changed, with the result that the relevant business activity is subject to an increased, or decreased, level of restrictions

⁵ Refer to the Regulations as they stood at the beginning of the Covid restrictions period for the end date.

⁶ Where the Regulations providing for the restrictions are revoked and replaced by fresh Regulations, this will not trigger the end of a claim period unless the relevant business activity is subject to an increased/decreased level of restrictions, e.g. a café that has an outdoor dining/service to a maximum of 15 people at Level 3 but cannot do so when the restrictions moves to Level 4 or 5.

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- 31st January 2022 (the day the CRSS is due to expire)

Where, on the day after the end of this further claim period, the person is still required by provisions of Covid restrictions to prohibit, or significantly restrict, members of the public from having access to the business premises in which the relevant business activity is carried on, a further claim period will commence, and so on, until the person is no longer required by provisions of Covid restrictions to prohibit, or significantly restrict, members of the public from having access to the business premises in which the relevant business activity is carried on.

A qualifying person is entitled to an advance credit for trading expenses (“ACTE”) for each **full week**⁷ comprised within a claim period. However, the Regulations providing for Covid restrictions can, and do, commence and end on various days of the week. This means that a claim period will not necessarily commence at the beginning of the week and will not necessarily comprise full weeks. To ensure that qualifying persons can benefit fully from the relief that is available under the CRSS, the following treatment will apply:

- Regardless of the day of the week on which a claim period commences, the first 7 days of the claim period and each 7-day period thereafter will each be a “full week” for the purpose of determining entitlement to the ACTE.
- On making a claim for the CRSS, the claimant enters on the CRSS claims portal the dates to which the relevant business activity is subject to Covid restrictions. This determines the number of days in the claim period. Where a claim period does not commence on a Monday, the CRSS portal will assign and process the claim as if the claim period commenced on the Monday before the first day of the claim period (e.g. if the claim period commenced on Thursday 22nd October 2020, the claim would be assigned and processed as if it commenced on Monday 19th October 2020). The exception is the day the scheme started, Tuesday 13th October. In this case, a claim is processed from Tuesday 13th October 2020.
- Where a claim period includes partial weeks, the excess days will be combined, and the CRSS claims portal will calculate a claim for five full weeks plus the restart week where for example the combined restrictions run for four weeks and five days. A person will not be eligible to make a claim for six weeks plus the restart week (i.e. partial weeks at either end of the claim that is a partial week at the commencement of the restrictions and partial week at the end of the restrictions).

Where a claim is made before the end of a claim period, the person should make the claim by reference to the expected end date of the claim period (see examples at the end of this section).

In the event that the claim period ends earlier than expected, which could occur where the restrictions are lifted early (and not replaced by other similar restrictions), the amount of

⁷ The Interpretation Act 2005 defines “week” as meaning “the period between midnight on any Saturday and midnight on the following Saturday”. Therefore, a full week is a period of seven days from Sunday to Saturday.

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the ACTE that has been paid to the person by Revenue in respect of the claim may exceed the amount the person was actually entitled to. This is because the amount of the ACTE would have been calculated by reference to the duration of the expected claim period, and not the actual claim period, which was shorter. Mechanisms are in place for Revenue to recoup this overpayment. Please refer to Section 8 for further details.

Where a claim is made after the end of a claim period, the person should make the claim by reference to the actual end date of the claim period.

Detailed examples on how to determine the start and end dates of a claim period are included below.

Example 22 – Claim periods for hairdresser in Co. Cork (restricted at Level 4+)

Ms. J, a self-employed individual, carries on a hairdressing trade from business premises located in Co. Cork. When the CRSS was announced on 13th October 2020, Level 3 restrictions were in place nationwide. Ms. J was not required to prohibit or significantly restrict customers from entering the premises. However, on 22nd October 2020, Level 5 restrictions were introduced nationwide, which required Ms. J to prohibit members of the public from entering the business premises. As a result, Ms. J had to temporarily cease trading from that date.

On the 30th November Level 5 restrictions were lifted and level 3 restrictions were reintroduced nationwide. Ms J recommenced trading on the 1st of December.

Ms. J can assess whether she qualified for support for the period 22nd October to 30th November (5 full weeks and 5 days), and a single claim can be made for 6 full weeks if she qualifies. Ms. J can make a claim from the first day of the claim period. She should claim for 6 weeks commencing on Monday 19th October.

In addition to these weeks, Ms. J can assess whether she can claim for the restart week. As Ms. J has claimed ACTE for the 3 weeks immediately preceding the week in which the relevant Covid restrictions were lifted, Ms. J may elect to claim the restart week. Ms. J. can claim for the restart week on the CRSS claim portal on the week beginning Monday, 30th November.

Example 23 – Claim periods for Yummy Nibbles café in Sligo town (restricted at Level 3+)

A partnership operates Yummy Nibbles Café from business premises in Sligo town.

As of 13th October 2020 (the date the CRSS was announced), Level 3 restrictions are in place nationwide. In this period of restrictions, the café can remain open only for take-away, delivery and outdoor dining/service to a maximum of 15 people (it is required to significantly restrict customers from entering the premises). The cafés outdoor area traded well during this period.

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On 22nd October 2020, Level 5 restrictions are put in place nationwide. In this period of restrictions, the café can remain open for take-away and delivery only (it is required to prohibit customers from entering the premises).

On the 4th of December, Level 5 restrictions are lifted for cafés and restaurants. Level 3 restrictions are in place nationwide which allows the café to return to indoor dining in addition to takeaway and delivery services.

The partnership assesses whether they qualify for support in respect of the following claim periods:

Claim period 1: 13th to 21st October 2020 (9 days)

- Start date 13th October 2020: the latest of 13th October 2020 and the date the regulations providing for the Covid restrictions came into operation.
- End date 21st October 2020: the day before the introduction of regulations providing for further Covid restrictions. At level 5, cafes can remain open for take-away and delivery only.

The partnership can assess where they are eligible for the full week of the 13th – 19th October. Having assessed their turnover, including the receipts from the takeaway, the partnership has determined that they do not qualify for CRSS as their turnover will not be less than 25% of the relevant turnover amount.

Claim period 2: 22nd October to 9th November 2020 (19 days)

- Start date 22nd October 2020: the day after claim period 1 ends as Regulations providing for restrictions in place on that day.
- End date 9th November 2020: the date on which the Regulations providing for the Covid restrictions were due to end, as specified in the Regulations as stood at the beginning of the Covid restrictions extension period, i.e. on 22nd October 2020.

The partnership can assess whether they are eligible for the claim period:

Week 1: 22nd October – 28th October

Week 2: 29th October – 4th November

If eligible, the precedent partner can make a claim on ROS through the CRSS claims portal and the claim would be processed in respect of the weeks beginning on Monday 19th October and Monday 26th October.

The remaining 5 days will be amalgamated with claim period 3.

Claim period 3: 10th to 30th November 2020 (21 days)

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- Start date 10th November 2020: the day after claim period 2 ends, as Regulations providing for restrictions are still in place on that day.
- End date 30th November 2020: This is 3 weeks after the beginning of claim period 3.

The partnership can assess if they are eligible for the following 3-week period:

Week 1: 5th – 11th November

Week 2: 12th – 18th November

Week 3: 19th – 25th November

If eligible, the precedent partner can make a claim on ROS through the CRSS claims portal which would be processed in respect of the weeks beginning on Monday 2nd November, Monday 9th November and Monday 16th November. As noted above, the precedent partner may combine claims for each of these claim periods within one claim if the partnership qualifies for support in respect of each claim period.

Claim period 4: 1st of December to 3rd December (3 days)

- Start date 1st December: the day after claim period 3 ends, as restrictions are still in place on that day.
- 3rd December: The actual end date of the claim period e.g. the date Regulations are lifted.

There are 5 days unclaimed brought forward from claim period 3 (26th November – 1st December). A claim may be made for the week 26th November – 2nd December through the CRSS portal for the week beginning on Monday 23rd November.

Therefore, the business has made a claim in respect of six full weeks from the 13th October.

Revenue will accept a claim for a full week in respect of the 3rd December as restrictions are in place on this day.

The partnership may elect to claim for the restart week (4th of December – 10th of December) if the partnership has made a claim for ACTE for a continuous period of at least 3 weeks immediately preceding the restart week. The partnership may elect to make this claim on the claim's portal for the restart week, on Monday the 7th December.

6. Amount that can be claimed under the CRSS

Companies, self-employed individuals, charities, approved sports bodies or precedent partners on behalf of a partnership that satisfy the eligibility criteria in relation to a relevant business activity for a claim period will be entitled to apply for an **ACTE** for the duration of that claim period. In the case of a partnership, a claim must be made by the precedent partner only, on behalf of the partnership.

Subject to a weekly cap of €5,000, the ACTE will be calculated by reference to a weekly amount based on the person's previous turnover in respect of the relevant business activity, as follows:

6.1. Established businesses

For **established businesses** (i.e. where a person commenced a business prior to 26 December 2019), the weekly amount will be calculated by reference to turnover for the business activity for the period from 1 January to 31 December 2019:

- 10% of average weekly turnover for 2019, so long as it does not exceed €20,000, and
- 5% of so much of average weekly turnover for 2019 that exceeds €20,000.

The ACTE will comprise this weekly amount multiplied by the number of weeks in the claim period (up to the €5,000 weekly limit).

Where a person carries on more than one relevant business activity in the same business premises, the amount of an ACTE that can be claimed in respect of all relevant business activities will be capped at €5,000.

6.2. New businesses

6.2.1. Category A new businesses

For **Category A new businesses** (i.e. where a person commenced a business between 26 December 2019 and 12 October 2020), the weekly amount will be calculated by reference to turnover for the period commencing on the date on which the business commenced and ending on 12 October 2020 (referred to as 'the reference period'):

- 10% of average weekly turnover for the reference period, so long as it does not exceed €20,000, and
- 5% of so much of average weekly turnover for the reference period that exceeds €20,000.

The ACTE will comprise this weekly amount multiplied by the number of weeks in which the restrictions are in place (up to the €5,000 weekly limit).

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Where a person carries on more than one relevant business activity in the same business premises, the amount of the ACTE that can be claimed in respect of all relevant business activities will be capped at €5,000.

6.2.2. Category B new businesses

For **Category B new businesses** (i.e. where a person commenced a business between 13 October 2020 and 26 July 2021), the weekly amount will be calculated by reference to turnover for the period commencing on the date on which the business commenced and ending on 1 August 2021 (referred to as 'the reference period'):

- 10% of average weekly turnover for the reference period, so long as it does not exceed €20,000, and
- 5% of so much of average weekly turnover for the reference period that exceeds €20,000.

The ACTE will comprise this weekly amount multiplied by the number of weeks in which the restrictions are in place (up to the €5,000 weekly limit).

Where a person carries on more than one relevant business activity in the same business premises, the amount of the ACTE that can be claimed in respect of all relevant business activities will be capped at €5,000.

6.3. Partnerships

Where a partnership meets the eligibility criteria to claim for an ACTE, the claim must be made by the precedent partner only on behalf of the partnership. Each partner is treated as having received a portion of the ACTE in accordance with the partnership profit sharing agreement.

The precedent partner shall provide a statement to each partner with the details of the amount and the apportionment of the ACTE.

6.4. December 2020 - Double Week for Christmas and New year period

On 4th December 2020, the Minister for Finance announced an additional seasonal support for businesses who cannot reopen during the Christmas and New Year period. Businesses who are eligible to make a claim for an ACTE in the week beginning 21 December, 28 December and 4 January will receive double the amount of the CRSS support payment due for those weeks, subject to the statutory maximum payment of €5,000 per week.

A qualifying business who is registered for CRSS and who is satisfied that they meet the eligibility criteria for the claim periods beginning 21 December, 28 December and 4 January should make those claims in the usual manner. Businesses do not need to provide any additional information or make a separate claim for the additional seasonal supports.

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Qualifying businesses who are satisfied that they are eligible to claim the CRSS for the weeks commencing 21 December and 27 December, can make the claim from 15 December and from 21 December in relation to claim period commencing on 4 January. See further detail on how to make a claim in section 0

Nationwide restrictions came into operation from Thursday 24 December. Where a business who meets the qualifying criteria for CRSS is subject to restrictions from Thursday 24 December, they can make a claim for an ACTE from Monday 21 December. The business will receive a double payment (subject to the weekly cap of €5,000) in respect of a claim for the weeks commencing 21 December, 28 December and 4 January, where they continue to be subject to restrictions.

Full Level 5 restrictions came into operation on Thursday 31 December. Where a business who meets the qualifying criteria for CRSS is subject to restrictions from Thursday 31 December, such as non-essential retail, gyms, leisure centres and swimming pools, they can make a claim for an ACTE beginning with the week commencing 28 December. The business will receive a double payment (subject to the weekly cap of €5,000) in respect of a claim for the weeks commencing 28 December and 4 January.

6.5.July 2021 - Double rate for two-week period

On 29 June 2021, the Minister for Finance announced that an enhanced rate of support under the CRSS would be available for a two-week period in July 2021. Businesses who are eligible to make a claim for an ACTE in the weeks beginning 5 July and 12 July 2021 will receive support calculated at double the normal rate of CRSS for those two weeks, subject to the statutory maximum payment of €5,000 per week. This enhanced rate of CRSS is available to all businesses who are prohibited or significantly restricted from operating in those weeks provided they meet the eligibility criteria to make a claim under the CRSS. This may include, for example, a restaurant with no outdoor seating area or a nightclub, both of which are either prohibited or significantly restricted from operating under public health restrictions.

A qualifying business who is registered for CRSS and who is satisfied that they meet the eligibility criteria for the claim periods beginning 5 July and 12 July 2021 should make those claims in the usual manner. Businesses do not need to provide any additional information or make a separate claim for the additional July 2021 supports.

6.5.1. Steps to take if a business has already claimed the restart week payment in anticipation of reopening on 5 July 2021

There may be circumstances where, due to a business having anticipated there would be a further easing of restrictions on 5 July 2021, the business already made a claim for the triple restart week payment, but, because of continuing public health restrictions, the business is unable to reopen or continues to be significantly restricted from operating on 5 July 2021. This means that, instead of being entitled to the triple restart week payment, an eligible business is entitled to remain on CRSS, including being entitled to the enhanced rate of CRSS

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for the weeks of 5 and 12 July 2021, with any entitlement to the triple restart week payment being deferred to when the business can reopen or when it ceases to be significantly restricted.

Where a business has already made a claim for the triple restart week payment and continues to be either prohibited or significantly restricted from operating on 5 July, they should contact Revenue to advise of the situation. Overpayments brought about by a restart week claim will be netted off against future CRSS payments.

To ensure the query is directed to the appropriate team please select the following in **MyEnquiries**:

Select **“Enquiry relates to”**, and

“COVID restrictions support scheme (CRSS)”, and

“More Specifically” – “CRSS”.

6.6.Examples of ACTE calculations

Illustrative examples of how an ACTE is calculated are set out below. Please note that the beginning and end dates of the claim periods referred to in these examples are hypothetical.

Example 24

Mr. A has been running a pub (that does not serve food) in Dublin City for many years. In the year ended 31 December 2019, his turnover from the business was €663,000 (excluding VAT). His VAT returns are up to date and he has tax clearance. On 15 March 2020, he closed the pub to customers in line with Government restrictions. The pub has remained closed for business since that time.

As of 13 October 2020 (the date the CRSS was announced), restrictions under the Living with Covid-19 Plan are in place for Co. Dublin and are expected to be in place for 6 weeks. The restrictions mean that the pub will have to remain closed until 3 December. As a result of these restrictions, Mr. A expects that he will have no turnover in the period 13 October to 2 December.

Based on:

- a) the fact that official Covid restrictions are in place which prohibit customers from accessing the pub, requiring him to temporarily close his pub between 13 October and 2 December, and
- b) Mr. A’s reasonable expectation that he will have no turnover between 13 October and 2 December,

he is entitled to apply to Revenue for an Advance Credit for Trading Expenses (ACTE) for the period 13 October to 2 December, which constitutes a claim period.

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The amount of the ACTE that he is entitled to for this claim period will be calculated by reference to his turnover for 2019 and the number of full weeks that comprise the claim period, as follows:

Average weekly turnover 2019	€12,750 (i.e. €663,000 / 52)
10% of €12,750	€1,275
Number of full weeks	7
€1,275 X 7	ACTE is €8,925

If the restrictions are extended, with the result that his pub remains closed and the pub will have no turnover, he can make a subsequent claim for the extended period of restrictions, which will constitute a new claim period, and on making a further claim he will be entitled to a payment of €1,275 for every week of the new claim period.

Example 25

Yummy Nibbles LTD carries on a café trade operating from separate business premises, one located in Letterkenny and the other in Sligo town. Because the cafes are operated from separate business premises, they are treated as separate relevant business activities for the purposes of the CRSS.

Yummy Nibbles Letterkenny café

In the year ended 31 December 2019, turnover for the Letterkenny café was €195,000 (excluding VAT). As of 13 October 2020 (the date the CRSS was announced), restrictions under the Living with Covid-19 Plan are in place for Co. Donegal are expected to stay in place until 3 December, at which point the situation will be reviewed by the Government. In this period of restrictions, the café can stay open for take-away and delivery only. However, the café has a thriving take-away service. As a result, Yummy Nibbles LTD expects that while turnover in period of restrictions will be reduced, it will not be less than 25% of the relevant turnover amount for the café.

Yummy Nibbles Sligo town café

In the year ended 31 December 2019, turnover for the Sligo town café was €221,260 (excluding VAT). As of 13 October 2020, restrictions under the Living with Covid-19 Plan are in place for Co. Sligo and are expected to be in place for 6 weeks. While the restrictions are in place, the café can operate on a take-away only basis. Yummy Nibbles LTD expects that in the 7-week period of restrictions, turnover will be approximately €4,900. This represents 16.45% of the relevant turnover amount for the café, i.e. 16.45% of €29,785 (average weekly turnover for the café in 2019 x 7).

Yummy Nibbles LTD claim

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Although both business premises from where the cafés operate are subject to Government restrictions, the company is not entitled to claim an ACTE in respect of the Letterkenny Café because turnover for the period during which the restrictions are in place will not be less than 25% for the comparable period in 2019. However, Yummy Nibbles LTD is entitled to apply to Revenue for an ACTE in respect of the Sligo Café for the claim period 13 October to 2 December. The amount of the ACTE that the company is entitled to for this claim period is calculated by reference to the Sligo town café's turnover for 2019 and the number of full weeks that comprise the claim period, as follows:

Average weekly turnover 2019	€4,255 (i.e. €221,260 / 52)
10% of €4,255	€425.50
Number of full weeks	7

€425.50 X 7 ACTE is €2,978.50

If the restrictions for Co. Sligo are extended, Yummy Nibbles LTD can make a new claim for the extended period of restrictions, where the Sligo business continues to qualify. Yummy Nibbles LTD will be entitled to a payment of €425.50 for every week of the new claim period.

If it later transpires that the Letterkenny café did not do as well as had been expected, the company may then be entitled to apply for an ACTE, as long as a claim is made within 8 weeks of the commencement of the restricted period. Similarly, the company may be entitled to make a claim for an ACTE in respect of the Letterkenny café for a later period of restrictions.

The company has filed VAT returns and has tax clearance.

Example 26

Ms. Y runs a small dance studio from premises in Co. Clare, from which she teaches contemporary dance to groups of children and teenagers on a part-time basis. Her turnover in 2019 was €35,100 and she is not registered for VAT. As of 13 October (the date the CRSS was announced), Level 3 restrictions under the Living with Covid-19 Plan are in place for Co. Clare and are expected to be in place until 2 December. As dance classes may not take place during the period of restrictions, she cancels all classes for the 7-week period in which the restrictions are in place and issues refunds to affected customers. As a result, she expects to have no turnover for the 7-week period.

Based on the foregoing, she is entitled to apply to Revenue for an ACTE for the claim period, 13 October to 2 December (she will need to apply for tax clearance) as follows:

Average weekly turnover 2019	€675 (i.e. €35,100 / 52)
10% of €675	€67.50

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Number of full weeks 7

€67.50 X 7 ACTE is €475.50

If the restrictions for Co. Clare are extended, Ms. Y can make a new claim for the extended period of restrictions, where her business continues to qualify. She will be entitled to a payment of €67.50 for every week of the new claim period.

Example 27

Style Ltd operates a clothing retail outlet from a business unit in the Cork Shopping Centre in Co. Cork.

The Covid restrictions in place require all non-essential retail outlets to close, Cork Shopping Centre will remain open for the period of these restrictions to the public as other essential retail outlets operate in the centre such as a pharmacy and food retail outlet.

Style Ltd is required to close as they are prohibited from allowing customers into the business premises, therefore Style Ltd may make a claim for the restricted period announced of 3 weeks.

Based on the foregoing, Style Ltd is entitled to apply to Revenue for an ACTE for the claim period, 8 November to 29 November (Style Ltd will need to apply for tax clearance) as follows:

Average weekly turnover 2019 €2,885 (i.e. €150,000 / 52)

10% of €2,885 €288

Number of full weeks 3

€288 X 3 ACTE is €864

7. Restart week

7.1. Overview

Businesses that have qualified for CRSS in respect of a period of restrictions will, in certain circumstances, be eligible to claim an additional week of support (ACTE) under the scheme – a “restart week” – where the business is recommenced on the lifting of Covid restrictions. The purpose of the additional week of support is to assist businesses with the costs of recommencing after a period of restrictions.

To qualify for the restart week, the following conditions apply –

- The relevant business must have been subject to restrictions, which required the business to either temporarily close or to significantly reduce its activities, such that the business was eligible to claim an ACTE, for a continuous period of not less than three weeks;
- The relevant business activity must be recommenced within a reasonable period of the lifting of the restrictions. What is a reasonable period of time will depend on the particular facts and circumstances, but the claim for the restart week should only be made when the business either is about to recommence its activities, or has recommenced those activities.

The amount of ACTE available to a business in the restart week will be calculated on the same basis as set out in section 5 of these Guidelines, and therefore is subject to the weekly cap of €5,000 per week.

For the purposes of determining eligibility for the restart week, it is not necessary to consider the turnover of the business in the restart week. The business will still be eligible for an ACTE in the restart week even where the turnover of the business in that week is higher than 40% (25% prior to 20 December 2021) of the average weekly turnover of the business—

- in 2019, in the case of a business established before 26 December 2019, or
- in the period 26 December 2019 to 12 October 2020, in the case of a Category A new business, or
- in the period 13 October 2020 to 1 August 2021, in the case of a Category B new business).

If more than one week after the lifting of restrictions, a business that has reopened becomes significantly restricted from operating again because of public health regulations, such that it meets the qualification criteria to make a CRSS claim, the business will be able to retain the restart week payment and can make a new claim for CRSS payments on becoming subject to further restrictions.

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7.2. Double restart week payments from 29 April 2021 to 1 June 2021

On 29 April 2021, the Government announced an increased level of support for businesses reopening following an easing of public health restrictions. Public health restrictions are expected to ease further over May/June 2021, resulting in the recommencing of businesses that had been required to either close or to operate on a significantly reduced basis. Businesses who qualified for CRSS and who, from 29 April 2021 to 1 June 2021, become eligible to claim a “restart week” payment (refer to 7.1 for the eligibility criteria), can claim double “restart week” payments for a period of two weeks to assist them with the additional costs of reopening. For example, a hairdresser reopening on 10 May can make a claim for a “restart week” payment, at double the normal rate, for each of the weeks commencing 10 May and 17 May. The amount that may be claimed in respect of each “restart week” is subject to the maximum weekly amount payable under the scheme of €5,000.

A qualifying business that reopens from 29 April 2021 and which becomes eligible to claim double restart week payments from 29 April or in May or June 2021, should make the claim in the same manner as claiming the normal restart week, with the facility for making a claim being available from 12 May. See further detail on how to make a claim in section 7.5.

7.3. Triple restart week payments from 2 June 2021

On 1 June 2021, the Government announced an increased level of support for businesses reopening from 2 June 2021 as public health restrictions continue to ease. Businesses who qualified for CRSS and who, from 2 June 2021, become eligible to claim a “restart week” payment (refer to 7.1 for the eligibility criteria), can submit a **single claim** for a “restart week” payment, that will cover a period of three weeks at double the normal rate, to assist them with the additional costs of reopening. For example, a B&B reopening on 2 June can claim a “restart week” payment, at double the normal rate, for three weeks commencing 7 June. The amount that may be claimed in respect of each “restart week” is subject to a maximum weekly amount payable under the scheme which has been increased to €10,000 per week specifically in relation to the triple restart week payments.

Eligible businesses in the hospitality sector (such as pubs and restaurants) which cease to be significantly restricted from operating from 26 July 2021, on being allowed to reopen to provide indoor hospitality services, may make a claim for the triple “restart week” payment referred to above from 26 July 2021.

Eligible businesses in the organised events, cinema and theatre sectors which cease to be significantly restricted from operating from 6 September 2021, on being allowed to reopen and resume the provision of services, may make a claim for the triple “restart week” payment referred to above from 6 September 2021.

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Eligible businesses in the organised group activity sector (sports, arts, culture, dance classes) which cease to be significantly restricted from operating from 20 September 2021, on being allowed to reopen to provide indoor hospitality services, may make a claim for the triple “restart week” payment referred to above from 20 September 2021.

Eligible businesses in the hospitality, entertainment and night-time economy sectors which cease to be significantly restricted from operating from 22 October 2021, on being allowed to reopen to provide services, may make a claim for the triple “restart week” payment referred to above from 25 October 2021.

7.4. Restart week payments for businesses subject to restrictions from 7 December 2021

With effect from 7 December 2021, the Government announced public health regulations which reintroduced certain restrictive measures within the hospitality, entertainment and night-time economy sectors.

Businesses operating as **nightclubs and discotheques, including those licensed under the Public Dance Halls Act 1935 (No. 2 of 1935)** would be considered significantly restricted from operating for the purposes of CRSS and, where they meet all of the relevant conditions, are eligible for support under the scheme. These restrictive measures have been initially imposed for the period from **7 December 2021 to 9 January 2022** but have since been extended to 31 January 2022.

From 20 December 2021, under public health restrictions, businesses within the hospitality and indoor entertainment sectors, who would normally trade later than 8pm, are required to close at 8pm and are therefore regarded as being significantly restricted from operating.

Where on the easing of public health restrictions, businesses within these categories cease to be significantly restricted from operating, and recommence their business activity within a reasonable period of time of the easing of restrictions, the business may make a claim for a “restart week” payment, subject to meeting all the relevant qualifying criteria.

From 22 January 2022, with the removal of all remaining public health restrictions, businesses within the hospitality and indoor entertainment sectors which are permitted to resume normal trading activities from the 22 January 2022, will be entitled to a “restart week payment” for the week beginning Monday 24 January 2022 where they meet the relevant criteria.

Where a business first satisfied the eligibility conditions for the CRSS scheme from the 20 December 2021 or where a qualifying business submitted a claim for an enhanced restart week payment on reopening previously, then the amount of ACTE available to a business for the restart week will be calculated at the normal rates for a period of one week, and subject to the normal weekly cap of €5,000 per week.

See further detail on how to make a claim in section 7.5 and some further information on the changing levels of Covid restrictions in section 8.

7.5. How to claim the restart week

As with claims for an ACTE during a period of restrictions, a claim for a restart week can be made via the claim portal in respect of CRSS, which is available via the eRepayments system on ROS. There is a 4-step process to making a claim for the restart week, as set out below.

Step 1 – Provide details of the claim

The following information will be required;

- The business Premises (in which a relevant business activity is carried) in respect of which a claim is made,
- A business must tick the appropriate box to indicate that they are entitled to claim the restart week,
- Select the restart week (It is important to note that, when applying for the restart payment, whether is for a normal restart week payment, the double payment for two weeks (available for businesses recommencing between 29 April and 1 June 2021) or the double payment for three weeks (available for businesses recommencing from 2 June 2021), a business should only submit **one restart claim** by reference to the week they recommence to trade. A business entitled to the double or triple restart week payments should only make one claim by reference to the week they recommence to trade and not also for the week (in the case of a double week claim) or the two weeks (in the case of a triple payment claim) following the week in which they recommence to trade. For example, if a business recommenced on 2 June, they should select the restart payment for the week commencing 7 June and the system will automatically calculate the restart payment due for the triple payment and issue one single payment).

Step 2 – Provide bank details

Step 3 – Summary and declaration

A person making a claim will be required to make the following declarations;

- Acknowledgement that as a recipient of the CRSS, the name under which the business activity is carried on, a description of the business activity and the address, including Eircode, of the business premises, will be published on the website of the Revenue Commissioners;
- A declaration that the return is correct and complete;
- A declaration that the person intends to recommence trading within a reasonable period of time from the date on which the applicable Covid public health restrictions are lifted;
- A declaration that the business will repay the restart week if they do not recommence trading with a reasonable period of the restrictions lifting.

Step 4 – Sign and submit

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Where a business is eligible to claim the restart week, the claim must be made no later than 8 weeks from the date on which the restrictions cease to apply to the relevant business. This means that the business should have recommenced its activity no later than that date.

In relation to the double and triple restart week payments (see 7.2 & 7.3), claims can be made via the claim portal in respect of CRSS, which is available via the eRepayments system on ROS. The portal went live on 12 May 2021 for the double restart week payment, with the **triple restart week payment** going live on **Friday 4 June**.

A claim for the double restart week payment will result in a single payment being made to the business covering their full 'restart week' entitlements. For example, Business A received a CRSS weekly payment of €600 since entering restrictions on 24 December 2020, on resuming trading activities following an easing of restrictions, Business A makes a single claim for their enhanced restart payment of two weeks at the double rate of payment on 17 May 2021. Business A will receive a single payment of €2,400 covering double restart week entitlements for a period of 2 weeks, normally within 3 days of the claim.

A claim for the triple restart week payment will result in a single payment being made to the business covering their full 'restart week' entitlements. For example, Business A received a CRSS weekly payment of €600 since entering restrictions on 24 December 2020, on resuming trading activities following an easing of restrictions, Business A makes a single claim for their enhanced restart payment in respect of three weeks at double the normal rate of payment on 7 June 2021. Business A will receive a single payment of €3,600 covering double restart week entitlements for these three weeks, normally within 3 days of the claim.

Please refer to Appendix II – eClaim Screens for screenshots relating to the claim process for the double and triple restart week payments.

7.6.Examples of the operation of the restart week

Example 28

Accessories Ltd runs a retail shop in Co. Galway and, because of Covid restrictions introduced countrywide, had to temporarily close its shop between 22 October and 1 December 2020.

During the period of restrictions Accessories Ltd met all of the eligibility requirements to make a claim for an ACTE under CRSS. The company's average weekly turnover in 2019 was €4,500 and on that basis, the company was able to claim €450 under CRSS for each week for which it was subject to restrictions (being 10% of €4,500).

Accessories Ltd reopened its shop on 2 December 2020. On ceasing to be subject to Covid restrictions and reopening its shop, Accessories Ltd is entitled to claim an amount of €450 in respect of a restart week. This amount is due irrespective of the amount of Accessories Ltd's turnover in the restart week.

Example 29

Family Hotel Ltd in Co. Donegal was significantly restricted from operating in the period 18 October to 4 December 2020 because of Covid restrictions introduced by the Government. Family Hotel Ltd satisfied the eligibility criteria for making a claim for an ACTE under CRSS, including having the intention to recommence its activities when restrictions are lifted, and therefore made a claim for CRSS payments in respect of that period.

Following the lifting of Covid restrictions on 4 December 2020, Family Hotel Ltd intends to recommence its activities. However, as the hotel ordinarily closes for the month of January each year, the company has decided to recommence its activities from 1 February 2021.

Family Hotel Ltd can make a claim for the restart week when it is about to recommence its activities. The claim must be made no later than 8 weeks from the date on which the restrictions, to which the restart week relates, are lifted (i.e. no later than 29 January 2021).

Example 30 – Double restart week payments

Purple Hairdressing Ltd in Co. Donegal was significantly restricted from operating since December 2020 because of Covid restrictions introduced by the Government. The business satisfied the eligibility criteria for making a claim for an ACTE under CRSS, including having the intention to recommence its activities when restrictions are lifted, and therefore made a claim for CRSS payments in respect of that period.

The Government announced the easing of restrictions within the hair and beauty sector from 10 May 2021. Following the lifting of Covid restrictions on 10 May 2021, the company intends to recommence its activities.

Purple Hairdressing Ltd are eligible to make a claim for two double restart week payments after exiting the period of restrictions. The claim must be made no later than 8 weeks from the date on which the restrictions, to which the restart week claim relates, are lifted.

The company's average weekly turnover in 2019 was €6,000 and on that basis, the company may claim restart week payments totalling €2,400. This amount is computed as follows ($€6,000 \times 20\%$ (double the normal rate)), which equates to €1,200 per week, and for 2 weeks the total amount due is €2,400. This amount is due irrespective of the amount of Purple Hairdressing Ltd's turnover in the restart week.

Example 31 – Triple restart week payments

Small Hotel Ltd in Co. Kildare was significantly restricted from operating since December 2020 because of Covid restrictions introduced by the Government. The business satisfied the eligibility criteria for making a claim for an ACTE under CRSS, including having the intention to recommence its activities when restrictions are lifted, and therefore made a claim for CRSS payments in respect of that period.

The Government announced the easing of restrictions within the hotel and accommodation provider sector from 2 June 2021. Following the lifting of Covid restrictions on 2 June 2021, the company intends to recommence its activities.

Small Hotel Ltd is eligible to make one claim for three double restart week payments after exiting the period of restrictions. The claim must be made no later than 8 weeks from the date on which the restrictions, to which the restart week claim relates, are lifted.

The company's average weekly turnover in 2019 was €6,000 and on that basis, the company may claim restart week payments totalling €3,600. This amount is computed as follows ($€6,000 \times 20\%$ (double the normal rate)), which equates to €1,200 per week, and for 3 weeks the total amount due is €3,600. This amount is due irrespective of the amount of Small Hotel Ltd's turnover in the restart week.

Example 32 – Restart week payments from 7 December 2021

Dance Time Nightclub Ltd in Co. Meath was significantly restricted from operating from 7 December 2021 to 31 January 2022 due to Covid restrictions introduced by the Government. The business satisfied the eligibility criteria for making a claim for an ACTE under CRSS, including having the intention to recommence its activities when restrictions are lifted, and therefore made a claim for CRSS payments in respect of that period.

The Government announced the easing of restrictions within the nightclub sector from 1 February 2022. Following the lifting of Covid restrictions on 1 February 2022, the company intends to recommence its activities within a reasonable period of time.

Dance Time Nightclub Ltd is eligible to make a claim for a restart week payment after exiting the period of restrictions. The claim must be made no later than 8 weeks from the date on which the restrictions, to which the restart week claim relates, are lifted.

The ACTE payment amount will be calculated based on the normal weekly restart payment amount and the usual weekly cap of €5,000 will apply as the company had previously made a claim for the "triple restart week" payment in October 2021.

The company's average weekly turnover in 2019 was €6,000 and on that basis, the company may claim a restart week payment totalling €600. This amount is computed as

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follows ($€6,000 \times 10\%$ (the normal rate)), which equates to €600 per week, for a period of one week – so an amount of €600 is payable in total.
This amount is due irrespective of the amount of Dance Time Nightclub Ltd's turnover in the restart week.

8. Changing levels of Covid restrictions

As set out in section 4.2.1, The Government's Covid-19 Resilience and Recovery 2021 – which are various levels of restrictions intended to contribute to lowering the risk of transmission of Covid-19. The restrictive measures are implemented by means of public health Regulations, and these Regulations provide detail of the restrictions which apply to different sectors of the economy and to citizens generally. Appendix III lists the various regulations which applied since the introduction of CRSS on 13 October 2020.

When determining eligibility for CRSS, a business must consider its own facts and circumstances under both the Regulations and the CRSS scheme qualification criteria.

Set out in Appendix IV is a decision tree to guide businesses in respect of CRSS claims in changing levels of Covid restrictions.

Example 33 – Claim periods for hairdressers in Co. Meath (changing levels of Covid restrictions)

Ms. T, a self-employed individual, carries on a hairdressing trade from a business premises located in Co. Meath. When the CRSS was announced on 13th October 2020, Level 3 restrictions were in place nationwide. Ms. T was not required to prohibit or significantly restrict customers from entering her business premises. However, on 22nd October 2020, Level 5 restrictions were introduced nationwide, which required Ms. T to prohibit members of the public from entering her business premises. As a result, Ms. T had to temporarily close her business from that date.

On the 30th November Level 5 restrictions were lifted and Level 3 restrictions were reintroduced nationwide. Ms. T was not required to prohibit or significantly restrict customers from entering the premises and therefore recommenced trading on the 1st of December 2020.

With effect from 24th December 2020 the Government are reintroducing Level 5 restrictions nationwide which again will require Ms. T to prohibit members of the public from entering the business premises. As a result, Ms. T will have to temporarily close her business from that date. The restrictions are due to be in place until 12 January 2021 initially.

Ms. T can assess whether she qualified for support for the period 22nd October to 30th November (5 full weeks and 5 days), and a single claim can be made for 6 full weeks if she qualifies. Ms. T can make a claim from the first day of the claim period. She should claim for 6 weeks commencing on Monday 19th October.

In addition to these weeks, Ms. T can assess whether she can claim for the restart week. As Ms. T has claimed ACTE for the 3 weeks immediately preceding the week in which the relevant Covid restrictions were lifted, Ms. T may elect to claim the restart week. Ms. T.

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can claim for the restart week on the CRSS claim portal on the week beginning Monday, 30th November.

As new restrictions are being introduced with effect from the 24th December 2020 Ms. T should now assess whether she will again qualify for CRSS support for the period from 25th December 2020 to 12th January 2021 and a single claim can be made for this period if she qualifies. Ms. T can make a claim from the first day of the claim period, being the week commencing on Monday 21st December 2020 and she will be eligible to claim double payments under CRSS (subject to weekly cap of €5,000) for each of the weeks commencing 21st December, 28th December and 4th January.

Full level 5 restrictions came into operation nationwide from midnight on 30th December which were due to remain in place until 31st January 2021. These restrictions were extended to the 5th April 2021. This means that Ms. T's business must remain closed until 5th April and, where the eligibility criteria are met, she can claim CRSS payments for the period of restrictions up to 5th April 2021.

As Ms. T's business will be subject to restrictions for more than 3 weeks she will again qualify for the restart week once her business can reopen.

8.1. Outdoor activities permitted for restaurants, bars and cafés from 7 June 2021

Restaurants, bars and cafés are permitted to reopen to the public on 7 June 2021 for outdoor services only. Businesses in these sectors should consider when it may be most beneficial for them to make their claim for the enhanced restart payment. Please see section 7.2, 7.3 and 7.4 for further details. A business should assess whether they continue to be subject to significant restrictions from 7 June 2021 having regard to their individual circumstances, including their capacity to provide outdoor services

For example, if the turnover of a restaurant reopening on 7 June for outdoor services only, is expected to exceed the eligibility threshold for CRSS, i.e. turnover will be more than 25% of the average weekly turnover in 2019 (or in the case of a new business, the average weekly turnover in 2020), the business should make a claim for the enhanced restart payment from 7 June.

On the other hand, if the turnover of a restaurant, reopening on 7 June for outdoor services only, is not expected to be more than 25% of the average weekly turnover in 2019 (or in the case of a new business the average weekly turnover in 2020), the business remains eligible for CRSS. This is the case as it would appear the business continues to be significantly restricted as a result of the Government restrictions. In this circumstance, the business may wish to continue claiming its normal weekly CRSS payments until indoor services are

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permitted to resume, at which time the business will be able to claim the enhanced restart payment⁸.

Example 34 – Restaurants (Limited capacity for outdoor activities)

Small Indoor Restaurant Ltd in Co. Kildare was significantly restricted from operating since December 2020 because of Covid restrictions introduced by the Government. The business satisfied the eligibility criteria for making a claim for an ACTE under CRSS, including having the intention to recommence its activities when restrictions are lifted, and therefore made a claim for CRSS payments in respect of that period.

The Government announced the easing of restrictions within the sector and from 7 June 2021 restaurants can reopen to the public for the provision of outdoor services only. Following the lifting of Covid restrictions on 7 June 2021, the company intends to recommence its outdoor activities.

Small Restaurant Ltd operates from a premises with a limited outdoor area which can accommodate a small number of patrons. As a result, Small Restaurant Ltd expects its business to continue to be significantly restricted for the purposes of the CRSS and continues to be eligible to make a claim for an ACTE under the CRSS. Small Restaurant Ltd would continue to receive support under the CRSS.

On the further easing of public health restrictions, bars and restaurants can reopen to the public for indoor and outdoor services.

On re-opening Small Restaurant Ltd would cease to be eligible for the CRSS but would be eligible to make a claim for an enhanced restart week payment, being a payment in respect of a 3-week period, with the weekly entitlement calculated at double the normal weekly CRSS rate. The claim must be made no later than 8 weeks from the date on which the restrictions, to which the restart week claim relates, are lifted.

In summary, in the circumstances as outlined, Small Restaurant Ltd should apply for the restart week payment from re-opening.

Example 35 – Bars (Large outdoor area)

Large Bar Ltd in Co. Louth was significantly restricted from operating since December 2020 because of Covid restrictions introduced by the Government. The business satisfied the eligibility criteria for making a claim for an ACTE under CRSS, including having the intention to recommence its activities when restrictions are lifted, and therefore made a claim for CRSS payments in respect of that period.

The Government announced the easing of restrictions within the sector from 7 June 2021, whereby bars can reopen to the public for the provision of outdoor services only. Following the lifting of Covid restrictions on 7 June 2021, the company intends to recommence its outdoor activities.

Large Bar Ltd operates from a premises with a large outdoor area which can accommodate a significant number of patrons. Large Bar Ltd expects that its weekly turnover from 7 June 2021 will exceed 25% of its average weekly turnover in 2019. From 7 June 2021, Large Bar Ltd would no longer be significantly restricted from operating for the purposes of the CRSS.

This means that, from 7 June 2021, Large Bar Ltd would cease to be eligible for the CRSS but would be eligible to make a claim for an enhanced restart week payment, being a payment in respect of a 3-week period, with the weekly entitlement calculated at double the normal weekly CRSS rate (subject to a weekly cap of €10,000 per week). The claim must be made no later than 8 weeks from the date on which the restrictions, to which the restart week claim relates, are lifted.

In summary, in the circumstances as outlined, Large Bar Ltd should apply for the restart week payment from 7 June 2021.

8.2. Indoor activities permitted for restaurants, bars and cafés from 26 July 2021

From 26 July 2021, businesses in the hospitality sector, including restaurants, bars and cafés, may reopen for indoor hospitality services, which can be provided to individuals who are fully vaccinated, or have recovered from Covid-19 in the past six months, as well as to children under eighteen in their care.

Businesses in the hospitality sector which had continued to be significantly restricted from operating up to 26 July 2021 (because they were not in position to provide outdoor hospitality services or could only do so to a limited extent from 7 June 2021 – see section 8.1), will no longer be regarded as being significantly restricted from operating from 26 July 2021 and therefore will no longer meet the eligibility criteria for the CRSS. However, to assist them with the costs of reopening, businesses resuming their business activities

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following the easing of public health restrictions will be able to claim an enhanced restart week payment (refer to section 7.3 for further details).

Businesses that can reopen without having to prohibit or significantly restrict access to their premises, as outlined in the relevant public health regulations, but decide not to do so, will not be eligible for CRSS payments (including the enhanced restart payment) for the periods where they choose to remain closed.

Example 36 – Bar & Restaurant

Small Bar & Restaurant Ltd in Galway city centre was significantly restricted from operating since December 2020 because of Covid restrictions introduced by the Government. The business satisfied the eligibility criteria for making a claim for an ACTE under the CRSS, including having the intention to recommence its activities when restrictions are lifted, and therefore made a claim for CRSS payments.

The Government announced the easing of restrictions within the sector from 7 June 2021, whereby bars and restaurants could reopen to the public for the provision of outdoor services only. Small Bar & Restaurant Ltd did not have any capacity to provide outdoor services so remained closed post 7 June 2021. The business continued to satisfy the eligibility criteria for making a claim for an ACTE under CRSS, including having the intention to recommence its activities when restrictions are lifted, and therefore continued to make claims for CRSS payments in respect of June and July 2021.

The Government announced a further easing of restrictions within the sector from 26 July 2021, whereby bars and restaurants can reopen for the provision of indoor services to vaccinated individuals, or individuals who have recovered from Covid-19 in the past six months, as well as to children under eighteen in their care.

Small Bar & Restaurant Ltd intends to reopen and resume the provision of indoor service to its customers.

From 26 July 2021, Small Bar & Restaurant Ltd would no longer be significantly restricted from operating for the purposes of the CRSS. This means that, from 26 July 2021, Small Bar & Restaurant Ltd would cease to be eligible for the CRSS but would be eligible to make a claim for an enhanced restart week payment, being a payment in respect of a 3-week period, with the weekly entitlement calculated at double the normal weekly CRSS rate (subject to a weekly cap of €10,000 per week). The claim must be made no later than 8 weeks from the date on which the restrictions, to which the restart week claim relates, are lifted.

Small Bar & Restaurant Ltd should apply for the restart week payment from 26 July 2021.

8.3. Activities permitted for organised events, cinemas and theatres from 6 September 2021

From **6 September 2021**, businesses in the organised events sectors may resume their business activities subject to certain conditions. There will also be a further easing of restrictions for cinemas and theatres from this date.

Organised indoor events, mass gatherings, cinemas and theatres may operate venues to a capacity of 60%, where services are provided to individuals who are fully vaccinated, or have recovered from Covid-19 in the past six months, as well as to children under eighteen in their care. Indoor events and mass gatherings include conferences, trade fairs and exhibitions and large-scale business events involving external audiences, and bingo venues. For indoor live music, drama, live entertainment and sporting events, the audience/spectators should be fully seated.

Businesses in these sectors will, on the easing of restrictions from 6 September 2021, no longer be regarded as being significantly restricted from operating and may make a claim for the enhanced restart week where the business activity is recommenced. Please see sections 7.3 and 8.2 for further details.

Businesses that can reopen without having to prohibit or significantly restrict access to their premises, as outlined in the relevant public health regulations, but decide not to do so, will not be eligible for CRSS payments (including the enhanced restart payment) for the periods where they choose to remain closed.

8.4. Activities permitted for organised group activities from 20 September 2021

From **20 September 2021**, businesses in the organised group activity sector (sports, arts, culture, dance classes) may resume their business activities subject to certain conditions.

Organised indoor group activities (sports, arts, culture, dance classes) can take place with capacity limits of 100 people (with appropriate protective measures), to individuals who are fully vaccinated, or have recovered from Covid-19 in the past six months, as well as to children under eighteen in their care

Businesses in the above sectors will, on the easing of restrictions from 20 September 2021, generally no longer be regarded as being significantly restricted from operating and may make a claim for the enhanced restart week where the business activity is recommenced.

Businesses that can reopen without having to prohibit or significantly restrict access to their premises, as outlined in the relevant public health regulations, but decide not to do so, will not be eligible for CRSS payments (including the enhanced restart payment) for the periods where they choose to remain closed.

8.5. Activities permitted for certain businesses within the hospitality, entertainment and night-time economy sectors from 22 October 2021

From **22 October 2021**, the remaining businesses in the hospitality, entertainment and night-time economy sectors (such as nightclubs and discos) may resume their business activities subject to adhering to certain public health measures, including requiring EU Digital Covid Certificates.

Businesses in the above sectors will, on the easing of restrictions from 22 October 2021, no longer be regarded as being significantly restricted from operating and may make a claim for the enhanced restart week where the business activity is recommenced.

Businesses that can reopen without having to prohibit or significantly restrict access to their premises, as outlined in the relevant public health regulations, but decide not to do so, will not be eligible for CRSS payments (including the enhanced restart payment) for the periods where they choose to remain closed.

8.6. Restriction of activities for certain businesses within the hospitality, entertainment and night-time economy sectors from 7 December 2021

From 7 December 2021 the government has introduced certain restrictive measures within the hospitality, entertainment and night-time economy sectors. As part of these measures, **nightclubs and discotheques, including those licensed under the Public Dance Halls Act 1935 (No. 2 of 1935)**, are required to close until 9 January 2022.

Businesses operating as **nightclubs and discotheques, including those licensed under the Public Dance Halls Act 1935 (No. 2 of 1935)**, would be considered significantly restricted from operating for the purposes of CRSS and, where they meet all of the relevant conditions, are eligible for support under the scheme.

8.7. Restriction of activities for certain businesses within the hospitality and indoor entertainment sectors from 20 December 2021

From 20 December 2021 the Government has introduced certain restrictive measures for businesses within the hospitality and indoor entertainment sectors. As part of these measures, an 8pm closing time has been imposed. Businesses operating within these sectors, who would ordinarily operate evening and night time trading hours, will be considered to be significantly restricted from operating for the purposes of the CRSS and will be eligible for support under the scheme where they meet the eligibility conditions.

Example 37 – Small Bar Ltd

Small Bar Ltd in a small village in Co. Kildare is required, under specific terms of Covid restrictions introduced by the Government, to close at 8pm daily. For the purposes of the CRSS, Small Bar Ltd is considered to be significantly restricted from operating from 20 December 2021 and is eligible to make a claim for an ACTE in respect of the period of restrictions where the company meets the turnover reduction and other qualification criteria.

Small Bar Ltd operates from 5pm to 8pm each day during the period of restrictions but its turnover during the claim period is less than an amount equal to 40% of its average weekly turnover in 2019 multiplied by the number of weeks in the claim period.

The amount of ACTE that the company is entitled to for the claim period will be calculated by reference to the average weekly turnover of the company for 2019 and the number of full weeks comprised within the claim period, as follows:

Average weekly turnover 2019	€3,654 (i.e. €190,000 / 52)
10% of €3,654	€366
Number of full weeks	3*
€366 X 3	ACTE is €1,098

*The maximum number of weeks in a claim period is 3 weeks. If restrictions are in operation for longer than 3 weeks, then a new claim period will begin at the end of the earlier (3 week) claim period. If Small Bar Ltd's turnover in that new claim period does not exceed an amount equal to 40% of its average weekly turnover in 2019 multiplied by the number of weeks in that new claim period, Small Bar Ltd can make a claim for a payment of €366 for each week of the new claim period.

Example 38 – Café (normal operating hours 8am to 8.30pm)

Coffee House café operates on the main street in a village in Co. Galway. Its normal trading hours are 8am to 8.30pm Monday to Saturday. Under public health restrictions in operation since 20 December 2021, Coffee House is required to close only 30 minutes earlier than normal. In these circumstances, Coffee House is not regarded as being significantly restricted from operating due to the Government restrictions introduced from 20 December 2021.

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8.8. Return to normal trading activities permitted for businesses within the hospitality and indoor entertainment sectors from 22 January 2022

From 22 January 2022, businesses in the hospitality and indoor entertainment sectors are permitted to resume their normal trading activities and are no longer required, under specific terms of public health regulations to either prohibit or significantly restrict customers from accessing their business premises. Businesses such as bars, restaurants, nightclubs and hotels, as well as indoor entertainment venues such as cinemas and theatres, are no longer required to close no later than 8pm. These businesses will no longer qualify for the CRSS from 22 January but, where they meet the relevant criteria, will be entitled to claim a restart week payment (refer to 7.4 for details).

9. Withdrawal and amendment of claims

9.1. Can a claim be withdrawn?

Where a person claims an ACTE and it later transpires that the person is not entitled to it, for example when the person's turnover for the claim period is greater than expected, the person can withdraw the claim by:

- notifying Revenue that the person is withdrawing the claim; and
- repaying the ACTE to Revenue.

Provided the person does so as soon as is reasonably practical, penalties and interest will not be applied.

9.2. Can a claim be reduced?

Where a person claims an ACTE and it later transpires that the amount claimed exceeded the amount that the person was entitled to, for example because the person miscalculated their average weekly turnover for the applicable reference period, the person can reduce the amount claimed by:

- notifying Revenue that the person is reducing the claim; and
- repaying to Revenue the amount that was claimed in error.

Provided the person does so as soon as is reasonably practicable, penalties and interest will not be applied.

9.3. Withdrawal of an ACTE by Revenue

Where a claim for an ACTE is subsequently found to be unauthorised or overclaimed, then there are implications relating to the following:

- Clawback of the additional tax due
- Interest
- Penalties
- Possible publication

Where a clawback arises on the ACTE amount, a Schedule D Case IV assessment will be made by Revenue. In the case of a partnership, amounts clawed back will be in respect of the portion of the ACTE attributed to each partner in accordance with the partnership profit sharing agreement.

Where the overclaim was only due to the fact that the Government restrictions were lifted earlier than expected, the overpayment will be dealt with as follows:

CRSS Guidelines – 24 January 2022

- The amount overclaimed may be offset against any amount claimed for the restart week;
- Where a balance remains, any further claim will be reduced by the amount overclaimed;
- Interest will only start accumulating on these overpayments after the specified period ends (i.e. after 30 June 2021).

9.3.1. Company clawback - Case IV of Schedule D

The clawback amount is calculated on the ACTE amount that is as unauthorised or overclaimed, which is an amount equal to 4 times the excess ACTE claimed. Where the ACTE is clawed back, a company is prohibited from offsetting any credits, losses, expenses or allowance against that tax liability. The clawback amount will not attract the close company surcharge.

Example 39

A company makes a claim for an ACTE in respect of a claim period. The amount of the ACTE for the year ended 31/12/2020 was €15,000. On a compliance review, the ACTE claim was amended to €5,000. The unauthorised claim related to the incorrect allocation of turnover from a business premises in a geographical location which was not significantly impacted by Government restrictions.

To recover this amount, an assessment is made under Case IV of Schedule D in the sum of 4 times the amount of the unauthorised amount [€10,000*4], which will be charged to corporation tax at 25%;

Assessed	
Case IV	€40,000
Charged to CT @ 25%	€10,000*

* This ensures that the amount that should not have been claimed is fully recovered. Interest and tax geared penalties will apply from the day the unauthorised claim was paid.

9.3.2. Individual clawback - Case IV of Schedule D

The clawback amount is calculated on the ACTE amount that is as unauthorised or overclaimed, which is an amount equal to 5 times the excess ACTE claimed. The unauthorised amount will not be subject to PRSI or USC. Where the ACTE is clawed back, no deduction, relief, tax credit or reduction in tax is permitted against that tax liability.

Example 40

An individual sole trader makes a claim for an ACTE in respect of a claim period. The amount of the ACTE for year ended 31/12/2020 was €10,000. On a compliance review, the ACTE claim was amended to €nil. The unauthorised claim related to a takeaway. The takeaway was not a relevant business as they were not restricted from customers attending their business premises under Government restrictions.

To recover this amount of tax, an assessment is made under Case IV of Schedule D in the sum of 5 times the amount of the unauthorised amount [€10,000*5], which will be charged at the standard rate of income tax;

Assessed

Case IV Income	€50,000
----------------	---------

Charged to standard rate of income tax @ 20%	€10,000*
--	----------

* This ensures that the amount that should not have been claimed is fully recovered. Interest and tax geared penalties will apply from the day the authorised claim was paid.

9.3.3. Penalty and publication application

Where a penalty is chargeable on the Case IV assessment, section 1077E of the Taxes Consolidation Act 1997 and the [Code of Practice for Revenue Audit and other Compliance Interventions](#) will apply. Publication on the list of tax defaulters under section 1086 of the Taxes Consolidation Act 1997 may also apply, where the criteria in relation to tax, interest and penalties are met.

9.4. Has a taxpayer a right to appeal?

Where a Revenue officer determines that a person is not a qualifying person for the purposes of the scheme, the Revenue officer will notify that person in writing.

The person can appeal the determination made by Revenue to the Tax Appeals Commission within 30 days of receiving the notice from Revenue.

Where an Appeals Commissioner determines that a person is a qualifying person for the purposes of the scheme, the 8-week time period (See Section 3) for making a claim will start from the day the determination is issued by the Appeal Commissioners.

Guidance on how to make an appeal to the Tax Appeals Commission is set out on www.taxappeals.ie

10. How is the ACTE treated for tax purposes?

An ACTE will be taken into account when calculating the taxable trading profits of a claimant by reducing the amount of deductible expenditure – expenditure which is revenue in nature, and incurred wholly and exclusively for the purpose of the trade – which would include all common business fixed costs such as rent, insurance, light, heat and wages.

In the case of a partnership, the ACTE is taken into account in the computation of the profits or losses of the partnership trade.

Whilst an ACTE will reduce the amount of trading expenses that are deductible in computing the taxable income of a business, it will not result in an additional tax liability unless that business has trading profits for the year. Where a business is in a loss-making position, an ACTE will have the effect of reducing the amount of trading losses available for offset against future or previous profits of the business.

In the example below, a CRSS payment of €1,000 will result in additional tax of €125 for the profitable business. For the business in a loss-making position, the CRSS payment will have the effect of reducing the amount of trading losses available for offset against future or previous profits of the business, again a reduction in available tax losses of €125 for every €1,000 CRSS payment received.

Example 41		
	Profit Making Company	Loss Making Company
Income	€	€
Turnover from operations	100,000	50,000
Expenses		
Rent	25,000	25,000
Rates	5,000	5,000
Insurance	25,000	25,000
Utilities	10,000	10,000
CRSS Payment	(1,000)	(1,000)
	64,000	64,000
Profit / (Loss) per accounts	36,000	(14,000)
Corporation Tax Charge:	4,500	NIL

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In the example below based on an individual, the CRSS payment will not result in additional tax unless the individual has trading profits for the year. In the example above, a CRSS payment of €1,000 resulted in additional tax of €240. This would increase for individuals at the marginal rate of tax.

Example 42		
	Profit Making Individual	Loss Making Individual
Income	€	€
Turnover from operations	30,000	50,000
Expenses		
Rent	2,500	25,000
Rates	500	5,000
Insurance	2,500	25,000
Utilities	1,000	10,000
CRSS Payment	(1,000)	(1,000)
	<u>5,500</u>	<u>64,000</u>
Profit / (Loss)	<u>24,500</u>	<u>(14,000)</u>
Standard rate of Income tax at 20%	4,900	
PRSI @ 4%	980	
USC*	405	
Less tax credits **	<u>(3300)</u>	
Tax liability	<u>2,985</u>	NIL
*based on rates applying from 1 January 2021		
** Single person credit plus Earned income credit (€1,650 from 1 January 2021)		

11. Contact Us

Any queries can be made through MyEnquiries using the following categories to ensure your query is immediately directed to the appropriate team thereby minimising delays:

eTax Clearance queries:

Select “Enquiry relates to” and “Tax clearance” and “More Specifically” – “Tax Clearance”

CRSS queries:

Select “Enquiry relates to” and “COVID restrictions support scheme (CRSS)” and “More Specifically” – “CRSS”

You can contact the Revenue Commissioners with queries in relation to CRSS on **01 738 3663**.

Call charges may vary depending on your telephone provider's service contract.

Telephone opening hours: 09.30 to 13.30 (Monday to Friday).

12. Appendix I – eRegistration Screens

To register for CRSS, a person will be required to provide details in respect of **each** business premises from which the person carries on their relevant business activity.

A person can register a business premises which is not subject to Government restrictions. Registering a business premises in advance will ensure that if the business premises is subject to Government restriction at a future date, the person will be in a position to make a claim once they meet all the qualification criteria.

The information required as part of the registration process is detailed in Section 3.1, and details and examples on how to calculate the average weekly turnover for 2019 is contained in Section 4.3.2

The information provided will be verified against information available on Revenue systems.

Registration for the CRSS scheme is done via ROS.

These steps will bring you to the registration screen:

Taxpayer registration:

- **log into ROS** and navigate to the **“Other Services”** section and select **“Manage Tax Registrations”**,
- navigate to **“COVID Restrictions Support Scheme”** and select **“Register”**.

Agent Registration:

- in ROS **select the client** you wish to register,
- in, **“Client Services”** tab, navigate to the **“Other Services”** section, and select **“Manage Tax Registrations”**,
- navigate to **“COVID Restrictions Support Scheme”** from the registration options and choose **“Select Action”**, and
- add a link to a new registration, and link this registration as their agent.

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12.1. Registration Details Screen

eRegistration

A guide is available on the Revenue website to assist with completing these details: [Guidelines on the Operation of CRSS](#)

Trade Details (per premises)

* Denotes a required field

Note: A business carried on in Partnership should only be registered by the precedent partner under the tax reference number of the Partnership trade

Address:

Business/Premises Name *

Address Line 1 *

Address Line 2 *

Address Line 3

County *

Please Select...

Eircode *

Business Sector *

Please select an option

Is this registration on behalf of a Partnership? If 'Yes', this form should only be completed by the precedent partner under the Partnership tax reference number * ☐ Yes ☐ No

Business Account Details:

Did your Business Operate prior to 26 December 2019? * ☐ Yes ☐ No

Add/Update >

Name	Address	Business Sector	Partnership	Year	Weekly Turnover	VAT on Sales	Other Income	Action
------	---------	-----------------	-------------	------	-----------------	--------------	--------------	--------

X Cancel

Next >

CRSS Guidelines – 24 January 2022

12.2. Registration Details – existing business

eRegistration

A guide is available on the Revenue website to assist with completing these details: [Guidelines on the Operation of CRSS](#)

Trade Details (per premises)

* Denotes a required field

Note: A business carried on in Partnership should only be registered by the precedent partner under the tax reference number of the Partnership trade

Address:

Business/Premises Name *

Address Line 1 *

Address Line 2 *

Address Line 3

County *

Please Select... ▼

Eircode *

Business Sector *

Please select an option ▼

Is this registration on behalf of a Partnership? If 'Yes', this form should only be completed by the precedent partner under the Partnership tax reference number *

☐ Yes ☐ No

Business Account Details:

Did your Business Operate prior to 26 December 2019? *

☒ Yes ☐ No

Average **Weekly** Turnover exclusive of VAT for 1 January 2019 to 31 December 2019 *

VAT on Sales (T1 Figure from the VAT Returns) for 1 January to 31 December 2019 *

Income Other than Trading Income for 1 January 2019 to 31 December 2019 *

Add/Update ➔

Name	Address	Business Sector	Partnership	Year	Weekly Turnover	VAT on Sales	Other Income	Action
------	---------	-----------------	-------------	------	-----------------	--------------	--------------	--------

✕ Cancel

Next ➔

CRSS Guidelines – 24 January 2022

12.3. Registration Details – Category A new business or a Category B new business

A guide is available on the Revenue website to assist with completing these details: [Guidelines on the Operation of CRSS](#)

Trade Details (per premises)

* Denotes a required field

Note: A business carried on in Partnership should only be registered by the precedent partner under the tax reference number of the Partnership trade

Address:

Business/Premises Name * 


Address Line 1 *

Address Line 2 *

Address Line 3

County *

Please Select...

Eircode * 

Business Sector *

Please select an option

Is this registration on behalf of a Partnership? If 'Yes', this form should only be completed by the precedent partner under the Partnership tax reference number *

☐ Yes ☐ No


Business Account Details:

Did your Business Operate prior to 26 December 2019? *

☐ Yes ☒ No

Average Weekly Turnover exclusive of VAT for 1 January 2020 to 12 October 2020 if established before 13 October 2020, or 13 October 2020 to 26 July 2021 if established on or after 13 October 2020 and before 27 July 2021 * 

VAT on Sales (T1 Figure from the VAT Returns) for 1 January 2020 to 12 October 2020 if established before 13 October 2020, or 13 October 2020 to 26 July 2021 if established on or after 13 October 2020 and before 27 July 2021 * 

Income Other than Trading Income for 1 January 2020 to 12 October 2020 if established before 13 October 2020, or 13 October 2020 to 26 July 2021 if established on or after 13 October 2020 and before 27 July 2021 * 

Add/Update >

Name	Address	Business Sector	Partnership	Year	Weekly Turnover	VAT on Sales	Other Income	Action
------	---------	-----------------	-------------	------	-----------------	--------------	--------------	--------

X Cancel

Next >

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12.4. Registration Declaration

eRegistration

Registration Declaration

☐ * I declare that I have read the eligibility criteria for the Covid Restrictions Support Scheme. I undertake that the business will abide by the terms and conditions of the scheme. I undertake that the business will retain all records relating to the scheme, including the basis of eligibility, for review by Revenue.

☐ * I declare that, to the best of my knowledge and belief, the information entered is correct and complete.

Next >

13. Appendix II – eClaim Screens

Overview

Submit a claim for Covid-19 Restrictions Support Scheme (CRSS)

Are you eligible?

- ✓ Are you trading as a company, self-employed individual or a partnership?
- ✓ Is your trade or trading activity chargeable to tax under Case I of Schedule D?
- ✓ Is your business premises located in a region subject to COVID restrictions?
- ✓ Is your business required to prohibit or considerably restrict customers from accessing the business premises?

More detailed information is available [here](#).

The sections are as follows

- Step One:**
Details of the Claim
- Step Two:**
Bank Details
- Step Three:**
Summary and Declaration
- Step Four:**
Sign and Submit

✕ Cancel

Continue →

13.1. Step One: Details of the Claim

eRepayment Claims

Claim Details

Submit a claim for Covid-19 Restrictions Support Scheme (CRSS)

Select eligible businesses from the drop-down list below. This list contains those businesses entered during the CRSS Registration stage. [i](#)

Business premises

Business premises #1

TESTER ▾

Start (dd/mm/yyyy)

End (dd/mm/yyyy)

Weeks available [i](#)

Please select ▾

Pre-Covid weekly turnover [i](#)

10000

☐ Continued CRSS eligibility

Please confirm that the expected average weekly turnover for the claim periods selected above does not exceed €2,500.

Calculate [↗](#)

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Prior to making a claim, any required amendments to the business premises or turnover details can be made through ROS as below:

The screenshot shows a web interface for the ROS 'My Services' page. A modal message box is displayed in the center, stating: "Prior to making a claim for CRSS, the business premises details and turnover figures can be amended through the 'Manage Tax Registrations' service on the ROS 'My Services' page." Below the message is a blue "Close" button. In the background, the "Business premises" section is visible, featuring a dropdown menu for "Business premises #1" (currently showing "TESTER"), and two date fields for "Start period" and "End period", both set to "19/Oct/2020".

Details are input for each qualifying business premises and the claim amount is calculated based on the information provided.

The screenshot displays the "eRepayment Claims" page, specifically the "Claim Details" section for the "Covid-19 Restrictions Support Scheme (CRSS)". The form includes the following fields and options:

- Business premises:** A dropdown menu for "Business premises #1" with "TESTER" selected.
- Start (dd/mm/yyyy):** A date field set to "11/01/2021".
- End (dd/mm/yyyy):** A date field set to "14/02/2021".
- Weeks available:** A dropdown menu with "Please select" chosen. A list of available weeks is shown in a dropdown menu:
 - 11/Jan/2021 - 17/Jan/2021
 - 18/Jan/2021 - 24/Jan/2021
 - 25/Jan/2021 - 31/Jan/2021
 - 01/Feb/2021 - 07/Feb/2021
 - 08/Feb/2021 - 14/Feb/2021
 - 15/Feb/2021 - 21/Feb/2021
 - 22/Feb/2021 - 28/Feb/2021
 - 01/Mar/2021 - 07/Mar/2021
 - 08/Mar/2021 - 14/Mar/2021
 - 15/Mar/2021 - 21/Mar/2021
 - 22/Mar/2021 - 28/Mar/2021
- Pre-Covid weekly turnover:** A text field containing "10000".
- Continued CRSS eligibility:** An unchecked checkbox with the label "Continued CRSS eligibility". Below it, a note states: "Please confirm that the expected average weekly turnover selected above does not exceed €2,500."
- Calculate:** A blue button with a right-pointing arrow icon.

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The pre-covid weekly turnover field will be prepopulated from information supplied during the registration process.

The claim screen requires the Customer to input the dates for which they are claiming. The 'Weeks available' section will provide a drop-down of the possible weeks for which the customer has not yet made a claim.

eRepayment Claims

Claim Details

Submit a claim for Covid-19 Restrictions Support Scheme (CRSS)

Select eligible businesses from the drop-down list below. This list contains those businesses entered during the CRSS Registration stage. ⓘ

Business premises

Business premises #1
TESTER

Start (dd/mm/yyyy) End (dd/mm/yyyy) Weeks available ⓘ

Pre-Covid weekly turnover ⓘ

10000

☐ Continued CRSS eligibility
Please confirm that the expected average weekly turnover selected above does not exceed €2,500.

Calculate

The start and end dates for any claim must be input, the drop-down list of 'weeks available' is not accessible for selection as it is merely a reference point for outlining available weeks

eRepayment Claims

Claim Details

Submit a claim for Covid-19 Restrictions Support Scheme (CRSS)

Select eligible businesses from the drop-down list below. This list contains those businesses entered during the CRSS Registration stage. ⓘ

Business premises

Business premises #1
TESTER

Start (dd/mm/yyyy) End (dd/mm/yyyy) Weeks available ⓘ

Pre-Covid weekly turnover ⓘ

10000

This dropdown list of available weeks is for illustrative purposes only. It shows the remaining available options that can be chosen as a lockdown period via the start and end date options.

The CRSS system will automatically define weeks being claimed based on the dates entered on the claim. This is in accordance with the CRSS guidelines.

Note: This list only shows possible weeks not already claimed. When deciding on weeks to claim, you must declare that the business premise is in lockdown and qualifies for any weeks chosen as part of the claim.

Close

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Based on the information entered for each qualifying business premises the claim amount is calculated

Business premises
Business premises #1
TESTER
Start (dd/mm/yyyy) 11/01/2021 **End (dd/mm/yyyy)** 07/02/2021 **Weeks available** Please select
Pre-Covid weekly turnover 10000
☒ **Continued CRSS eligibility**
Please confirm that the expected average weekly turnover for the claim periods selected above does not exceed €2,500.
Calculate

Claim amount calculation
Based on your information provided above, you are making a claim to receive the following amount from the CRSS scheme:

Business premises	Average weekly refund	No. of weeks	Claim amount
TESTER	€2,000.00	4	€8,000.00
Total claim:			€8,000.00

- Overview
- Claim Details
- Bank Details
- Review

Claim Details

Submit a claim for Covid-19 Restrictions Support Scheme (CRSS)

Select eligible businesses from the drop-down list below. This list contains those businesses entered during the CRSS Registration stage.

Business premises

Business premises #1

New Pub

Start (dd/mm/yyyy)

20/12/2021

End (dd/mm/yyyy)

26/12/2021

Weeks available

Please select

Pre-Covid weekly turnover

100

☒ Continued CRSS eligibility

Please confirm that the expected average weekly turnover for the claim periods selected above does not exceed €40.

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The system has a number of in-built checks which may prompt an error message to appear in the following circumstances:

- entered date is outside the allowable range for the scheme (below dates are for illustrative purpose only)

Entered dates belongs to a week which has already been claimed for.

Start date belongs to a week which has already been claimed for.

eRepayment Claims

Claim Details

Submit a claim for Covid-19 Restrictions Support Scheme (CRSS)

Select eligible businesses from the drop-down list below. This list contains those businesses entered during the CRSS Registration stage. ⓘ

Business premises

Business premises #1

TESTER ▾

Start (dd/mm/yyyy) **End (dd/mm/yyyy)** **Weeks available** ⓘ

08/03/2021 18/03/2021 Please select ▾

A claim has previously been made for the calendar week of the start day/date entered. Please select the subsequent Monday as a start date for this claim.

☐ Check this box if you are claiming a restart week for your business. To be eligible your business needs to be withdrawing from the scheme to re-commence trading following the lifting of restrictions. ⓘ

End date belongs to a week which has already been claimed for

CRSS Guidelines – 24 January 2022

Claim Details

Submit a claim for Covid-19 Restrictions Support Scheme (CRSS)

Select eligible businesses from the drop-down list below. This list contains those businesses entered during the CRSS Registration stage. [i](#)

Business premises

Business premises #1

TESTER ▾

Start (dd/mm/yyyy)

01/03/2021

End (dd/mm/yyyy)

08/03/2021

Weeks available [i](#)

Please select ▾

A claim has previously been made for the calendar week of the end day/date entered. Please select the previous Sunday as an end date for this claim.

☐ Check this box if you are claiming a restart week for your business. To be eligible your business needs to be withdrawing from the scheme to re-commence trading following the lifting of restrictions. [i](#)

13.2. Step Two: Bank Details

Bank Details

Submit a claim for Covid-19 Restrictions Support Scheme (CRSS)

Please fill in the bank details to be used by Revenue to make an electronic refund for this Claim.

Name of the account holder

Account Holder

BIC (Bank Identifier Code)

AIBKIE2D

IBAN (International Bank Account Number)

IE63AIBK93101200102493

✕ Cancel

⏪ Back


Continue →


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13.3. Step Three: Summary and Declaration

Summary

Submit a claim for Covid-19 Restrictions Support Scheme (CRSS)

 Personal Details
PPSN: 2398394Q
Name: Account Holder

 Claim Details Edit												
Business premises: Test12 Address: sfa, fasasf, sf , Dublin 9 , W344554 Type: Personal Services (Hairdressers, Beauticians, etc) Start period: 13/Oct/2020 - 18/Oct/2020 End period: 30/Nov/2020 - 06/Dec/2020 Continued CRSS eligibility declaration: Yes												
<u>Claim amount calculation</u> Based on your information provided above, you are making a claim to receive the following amount from the CRSS scheme: <table><tr><th>Business premises</th><th>Weekly refund</th><th>No. of weeks</th><th>Claim amount</th></tr><tr><td>Test12</td><td>€100.00</td><td>8</td><td>€800.00</td></tr><tr><td colspan="3">Total claim:</td><td>€800.00</td></tr></table>	Business premises	Weekly refund	No. of weeks	Claim amount	Test12	€100.00	8	€800.00	Total claim:			€800.00
Business premises	Weekly refund	No. of weeks	Claim amount									
Test12	€100.00	8	€800.00									
Total claim:			€800.00									

Please tick the checkboxes below if the declaration is correct.

- ☒ I acknowledge that as a recipient of the CRSS, the name under which the business activity is carried on, a description of the business activity and the address including Eircode, of the business premises, will be published on the website of the Revenue Commissioners.
- ☒ I confirm that my business is significantly impacted by restrictions introduced by Public Health Regulations made under sections 5 and 31A of the Health Act 1947 for the purpose of preventing the transmission of Covid-19, such that my customers are prohibited or significantly restricted from entering my business premises, and I declare that my business has been forced to close or trade at significantly reduced levels **as a direct result of** those restrictions.
- ☒ I declare that:
 - a. the weekly turnover of the business in respect of the period being claimed does not exceed 40% of the average weekly turnover as entered during the registration stage.
 - b. to the best of my knowledge and belief, this return is correct and complete.
 - c. I intend to recommence trading when the restrictions no longer apply.

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13.4. Updated E-Claim Screens for the double/triple restart week payments from 29 April 2021 and 2 June 2021

Submit a claim for Covid-19 Restrictions Support Scheme (CRSS)

Select eligible businesses from the drop-down list below. This list contains those businesses entered during the CRSS Registration stage. [i](#)

Business premises

Business premises #1

Business 1 


Start (dd/mm/yyyy)

15/03/2021

End (dd/mm/yyyy)

21/03/2021

Weeks available [i](#)

Please select 

☐ Check this box if you are claiming a restart week for your business. To be eligible your business needs to be withdrawing from the scheme to re-commence trading following the lifting of restrictions. [i](#)

Pre-Covid weekly turnover [i](#)

6000

☒ Continued CRSS eligibility

Please confirm that the expected average weekly turnover for the claim periods selected above does not exceed €1,500.

[Add another business](#)


Calculate 

Claim amount calculation

Based on your information provided above, you are making a claim to receive the following amount from the CRSS scheme:

Business premises	Average weekly refund	No. of weeks	Claim amount
Business 1	€600.00	1	€600.00
Total claim:			€600.00

 Cancel

 Back

Continue 

Please see above screen, this is an example of the average weekly claim for Business 1, when in a 'Covid restriction period'.

CRSS Guidelines – 24 January 2022

Claim Details

Submit a claim for Covid-19 Restrictions Support Scheme (CRSS)

Select eligible businesses from the drop-down list below. This list contains those businesses entered during the CRSS Registration stage. [i](#)

Business premises

Business premises #1

Business 1 [v](#)

Start (dd/mm/yyyy)

End (dd/mm/yyyy)

Weeks available [i](#)

Please select [v](#)

☐ Check this box if you are claiming a **restart week** for your business. To be eligible your business needs to be withdrawing from the scheme to re-commence trading following the lifting of restrictions. [i](#)

Pre-Covid weekly turnover [i](#)

6000

☐ Continued CRSS eligibility

Please confirm that the expected average weekly turnover for the claim periods selected above does not exceed €1,500.

[Add another business](#)

Calculate [↗](#)

If a business is submitting a claim for the double or triple week restart payment, the business must indicate this at the check box.

CRSS Guidelines – 24 January 2022

Claim Details

Submit a claim for Covid-19 Restrictions Support Scheme (CRSS)

Select eligible businesses from the drop-down list below. This list contains those businesses entered during the CRSS Registration stage. [i](#)

Business premises

Business premises #1

Business 1 ▾

Restart weeks available

24/May/2021 - ▾

☒ Check this box if you are claiming a restart week for your business. To be eligible your business needs to be withdrawing from the scheme to re-commence trading following the lifting of restrictions. [i](#)

[Add another business](#)

Calculate [↗](#)

Claim amount calculation

Based on your information provided above, you are making a claim to receive the following amount from the CRSS scheme:

Business premises	Average weekly refund	No. of weeks	Claim amount
Business 1	€2,400.00	1	€2,400.00
Total claim:			€2,400.00

✕ Cancel

⬅ Back

Continue ➡

The double restart week payment will result in a single payment of €2,400 for Business 1 as demonstrated on the claim screen above, the business submits a single claim to receive the payment.

The above example is based on a claim for the double restart week payment, but a similar claim mechanism and process is relevant for the triple restart week payment where applicable.

CRSS Guidelines – 24 January 2022

Summary

Submit a claim for Covid-19 Restrictions Support Scheme (CRSS)

Personal Details

PPSN: 0057942B

Name: Ivan Danko (sttu)

Claim Details

[Edit](#)

Business premises: Business 1

Address: Address line 2, Address line 3 , Galway

Type: Amusement Arcade

Restart week: 24/May/2021 - 30/May/2021

Continued CRSS eligibility declaration: No

Claim amount calculation

Based on your information provided above, you are making a claim to receive the following amount from the CRSS scheme:

Business premises	Average weekly refund	No. of weeks	Claim amount
Business 1	€2,400.00	1	€2,400.00
Total claim:			€2,400.00

14. Appendix III - Public Health Restrictions

The Government has developed a 'Framework for Restrictive Measures' to manage the ongoing risks of the COVID-19 virus on our society. The framework has been designed to allow individuals, families, businesses and services better understand, anticipate and prepare for any measures that Government may introduce to stop the escalation of transmission of the disease for a given period.

14.1. Resilience and Recovery 2020-2021: Plan for Living with COVID-19

Details of the framework document entitled "Resilience and Recovery 2020-2021: Plan for Living with COVID-19" can be found at the attached link:

<https://www.gov.ie/en/publication/e5175-resilience-and-recovery-2020-2021-plan-for-living-with-covid-19/>

14.2. Framework for Restrictive Measures: Levels 1 to 5

The framework is based on a five levels approach. The lower levels of the framework will be activated when there is low incidence of the disease, with isolated outbreaks and low levels of community transmission. The higher levels will be used to deal with higher incidences of the disease. It will be possible for different regions and counties to be at a different level to the national level, depending on the incidence of the virus in that particular region or county.

Details of the individual measures provided for under Levels 1-5 within the general framework can be found on the following webpages:

Level 1: <https://www.gov.ie/en/publication/6508e-level-1/>

Level 2: <https://www.gov.ie/en/publication/18e18-level-2/>

Level 3: <https://www.gov.ie/en/publication/ad569-level-3/>

Level 4: <https://www.gov.ie/en/publication/dc29a-level-4/>

Level 5: <https://www.gov.ie/en/publication/2dc71-level-5/>

14.3. Public Health Regulations

Based on the above risk management framework, the Government introduced formal public health Regulations in line with the measures outlined in the Level 1-5 approach. Since the introduction of the CRSS on 13 October, the following Regulations have been in operation;

Health Act 1947 (Section 31a - Temporary Restrictions) (Covid-19) (No. 6) Regulations 2020
<http://www.irishstatutebook.ie/eli/2020/si/413/made/en/print>

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- Came into operation on **7 October 2020** and were to remain in operation until **28 October 2020**.
- Revoked on 17 October 2020.
- Restrictions: Level 3 Nationwide.

Health Act 1947 (Section 31a - Temporary Restrictions) (Covid-19) (No. 7) Regulations 2020
<http://www.irishstatutebook.ie/eli/2020/si/442/made/en/print>

- Came into operation on **18 October 2020** and were to remain in operation until **9 November 2020**.
- Revoked on 21 October 2020.
- Restrictions: Level 3 Nationwide, Level 4 Cavan, Monaghan and Donegal.

Health Act 1947 (Section 31a - Temporary Restrictions) (Covid-19) (No. 8) Regulations 2020
<http://www.irishstatutebook.ie/eli/2020/si/448/made/en/print>

- Came into operation on **22 October 2020** and were to remain in operation until **9 November 2020**.
- Following the passing of the Health (Amendment) Act 2020, which came into operation on **26 October 2020**, these regulations are to remain in operation until **1 December 2020**.
- Restrictions: Level 5 Nationwide.

Health Act 1947 (Section 31a - Temporary Restrictions) (Covid-19) (No. 9) Regulations 2020
<http://www.irishstatutebook.ie/eli/2020/si/560/made/en/print>

- Came into operation on **1 December 2020** and are to remain in operation until **17 December 2020**.
- Restrictions: Revised Level 3 Nationwide. The revisions include that from 1 December, all non-essential retail and personal services can open, and on 4 December all restaurants, cafés and pubs operating as restaurants can open.

Restrictions came into operation from Thursday 24 December 2020 until 12 January 2021

On 22 December 2020 the government announced that from midnight on 24 December 2020 until 12 January 2021, Level 5 restrictions will apply nationally with a number of specific adjustments to Level 5 and, in addition, certain transitional arrangements applying during the Christmas period.

Details of the relevant restrictions imposed can be found at the attached link from the Gov.ie website:

<https://www.gov.ie/en/press-release/a1f21-ireland-placed-on-level-5-restrictions-of-the-plan-for-living-with-covid-19-with-a-number-of-specific-adjustments/>

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The regulations giving effect to these restrictions can be found at:

<http://www.irishstatutebook.ie/eli/2020/si/695/made/en/pdf>

Further restrictions come into operation from Thursday 31 December 2020 until 31 January 2021

On 30 December 2020 the Government announced full Level 5 restrictions would come into operation nationwide from midnight on 30 December 2020 until 31 January 2021. This means that businesses that were subject to the restrictions announced on 22 December and which were expected to expire on 12 January 2021 remained subject to restrictions until 31 January 2021. With a move to full Level 5 restrictions, some businesses which were not subject to the restrictions that came into operation on 24 December (for example, non-essential retail) became subject to restrictions from 31 December.

The regulations giving effect to these restrictions can be found at:

<http://www.irishstatutebook.ie/eli/2020/si/701/made/en/print>

The level 5 restrictions were extended by Health Act 1947 (Section 31A - Temporary Restrictions) (Covid-19) (No. 10) (Amendment) (No. 2) Regulations 2021

The current level 5 Nationwide restrictions are currently in the process of being gradually relaxed on a phased basis with effect from 12 April 2021 onwards.

Details of the current level 5 measures are available at:

<https://www.gov.ie/en/publication/2dc71-level-5/>

On 29 April 2021 the Government announced details of the new public health measures expected to take effect in May/June 2021 which will encompass a further graduated easing of restrictions for a number of business sectors during that period.

Details of the new measures are available at:

<https://www.gov.ie/en/press-release/0bd80-new-public-health-measures-announced-the-path-ahead/#your-quick-guide-to-the-changes>

The regulations giving effect to these restrictions can be found at:

<https://www.irishstatutebook.ie/eli/2021/si/217/made/en/pdf>

On 28 May 2021 the Government announced details of the new public health measures expected to take effect in June/July 2021 which will encompass a further graduated easing of restrictions for a number of business sectors during that period.

Details of the new measures are available at:

<https://www.gov.ie/en/press-release/7894b-post-cabinet-statement-resilience-and-recovery-the-path-ahead/>

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The regulations giving effect to these restrictions can be found at:

<https://www.irishstatutebook.ie/eli/2021/si/267/made/en/pdf>

On 25 July 2021 the Government finalised and announced details of the public health measures to take effect from 26 July 2021, which make provision for the reopening of activities within the hospitality sector.

Details of the new measures are available at:

<https://www.gov.ie/en/publication/41f70-reopening-hospitality/>

The regulations giving effect to these restrictions can be found at:

<https://www.irishstatutebook.ie/eli/2021/si/385/made/en/pdf>

In August 2021 the government agreed Ireland's plan for the next and final phase of the response to the COVID-19 pandemic and published the document: COVID-19: Reframing the Challenge, Continuing Our Recovery and Reconnecting.

Details of this publication are available at:

<https://www.gov.ie/en/publication/3361b-public-health-updates/#>

As part of this process the Government also finalised and announced the proposed details of the public health measures to take effect from September 2021, which make provision for the reopening of activities within the organised events, cinema, theatre and organised group activity sectors.

Details of the new measures are available at:

<https://www.gov.ie/en/publication/73a24-public-health-measures-that-will-come-into-place-in-september/>

The regulations giving effect to these restrictions can be found at:

<https://www.irishstatutebook.ie/eli/2021/si/452/made/en/pdf>

In October 2021 the Government announced further details of the public health measures to take effect from 22 October 2021, which make provision for the reopening of the remaining activities within the hospitality, entertainment and night-time economy sectors.

Details of the new measures are available at:

<https://www.gov.ie/en/publication/83946-public-health-measures-that-will-come-into-place-in-october/>

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In December 2021 the Government announced the details of the public health measures to take effect from **07 December 2021**, which make provision for the introduction of certain restrictive measures within the organised events and hospitality sectors.

Details of the new measures are available at:

<https://www.gov.ie/en/publication/3361b-public-health-updates/#>

In December 2021 the Government announced the details of the public health measures to take effect from **20 December 2021**, which make provision for the introduction of certain restrictive measures within the hospitality and indoor entertainment sectors.

Details of the new measures are available at:

<https://www.gov.ie/en/publication/4174f-new-public-health-measures-announced-friday-17-december/>

On **21 January 2022** the Government announced that the majority of the public health measures would be removed with effect from 22 January 2022, which means that businesses in the hospitality and indoor entertainment sectors are no longer significantly restricted from operating.

Details of the new measures are available at:

<https://www.gov.ie/en/press-release/0fc0d-government-announces-that-most-of-the-public-health-measures-currently-in-place-can-be-removed/#>

Under the various public health regulations that have been in operation since the introduction of CRSS on 13 October 2020, businesses may be subject to different restrictions depending on the Level 1-5 risk management framework, the geographical location of the business and the type of business activity being carried on.

14.4. Categories of businesses and relevant restrictions

Where a business carries on a trade or trading activities from a business premises located wholly within a region subject to restrictions which require the business to prohibit or significantly restrict members of the public from accessing the business premises in which the relevant business activity is carried on, the business may qualify for relief under the CRSS, subject to meeting the reduction in turnover test, and other scheme qualification criteria. See Section 2.

The business activity must be ordinarily carried on from a fixed business premises (See section 4.1.1) which is a building, or similar fixed physical structure.

Set out below is an indicative list of the businesses and sectors which are subject to Government restrictions under levels 1 – 5 of the framework for restrictive measures, which can be used as a general guide. However, when determining eligibility under CRSS, each

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business should consider its own facts and circumstances under both the Regulations and the CRSS scheme qualification criteria.

14.4.1. Level 1 & 2 – Businesses subject to restrictions

- Nightclubs
- Discos
- Casinos

14.4.2. Level 3 – Businesses subject to restrictions:

- Nightclubs
- Discos
- Casinos
- Wedding reception venues
- Conferences and indoor business events
- Sports events
- Museums
- Theatres
- Cinemas
- Art galleries
- Bars, restaurants & cafes (including hotel restaurants and bars)
- Pubs that do not serve food
- Ice and roller skating rinks
- Aquariums
- Leisure centres, amusement arcades, amusement halls, bowling alleys
- Dance studios and soft play areas

14.4.3. Level 4 – Businesses subject to restrictions:

- Nightclubs
- Discos
- Casinos
- Wedding reception venues
- Conferences and indoor business events
- Sports events
- Museums
- Theatres
- Cinemas
- Art galleries
- Gyms, leisure centres and swimming pools
- Bars, restaurants & cafes (including hotel restaurants and bars)

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- Pubs that do not serve food
- Ice and roller skating rinks
- Aquariums
- Leisure centre amusement arcades and bowling alleys
- Dance studios and soft play areas
- Hotels, B&B's, guesthouses and similar accommodation providers
- Barbers, hairdressers, beauticians and nail bars
- All other non-essential retail and other businesses - with exceptions for outdoor businesses

14.4.4. Level 5 – Businesses subject to restrictions

- Nightclubs
- Discos
- Casinos
- Wedding reception venues
- Conferences and indoor business events
- Sports events
- Museums
- Theatres
- Cinemas
- Art galleries
- **Gyms, leisure centres and swimming pools
- Bars, restaurants & cafes (including hotel restaurants and bars)
- Pubs that do not serve food
- Ice and roller skating rinks
- Aquariums
- Leisure centre amusement arcades and bowling alleys
- Dance studios and soft play areas
- Hotels, B&B's, guesthouses and similar accommodation providers
- Barbers, hairdressers, beauticians and nail Bars
- *All other non-essential retail and other businesses

*These businesses were not subject to restrictions under the revised Level 5 restrictions in place from 24 December to 30 December. They are subject to restrictions from 31 December.

**From 24 December to 30 December, these businesses were restricted to individual training. Under the full Level 5 restrictions in operation from 31 December, these businesses are required to close from close of business on 31 December.

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14.5. Essential and non-Essential Businesses (including Retail)

Businesses must follow government advice as to what constitutes essential retail and business services generally.

The latest guidance in this respect has been published on the following webpages:

List of Essential Services (effective 14 April 2021)

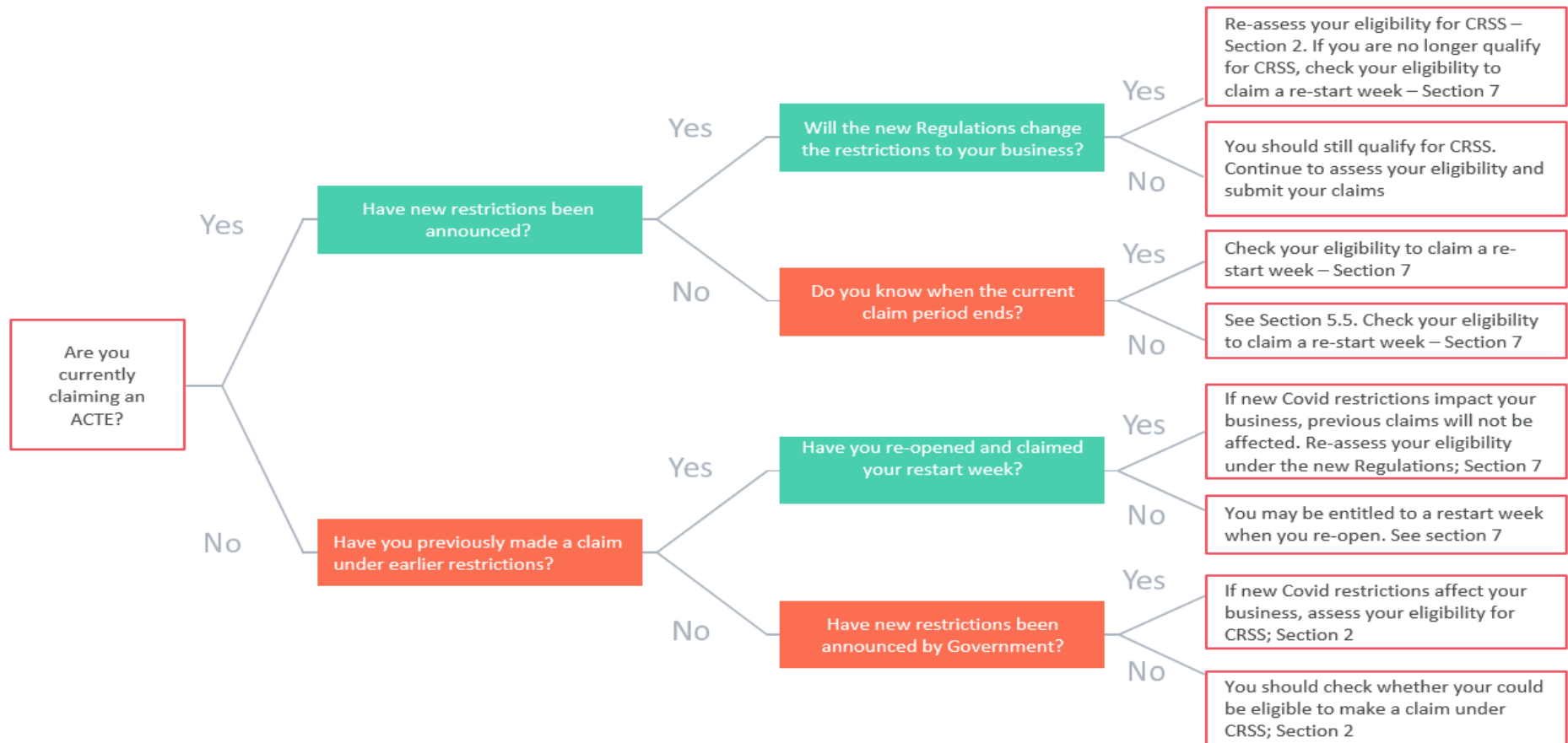
<https://www.gov.ie/en/publication/c9158-essential-services/>

List of Essential Retail Outlets (effective 12 April 2021)

<https://www.gov.ie/en/publication/60ecc-essential-retail-outlets-for-level-5/>

15. Appendix IV Changing levels of Covid restrictions

15.1. Decision Tree



15.2. FAQs on changing levels of Covid restrictions

Q1. Revenue has told me I don't qualify for CRSS under the new Level 3, but I qualified under the last Level 3. Has Revenue changed the rules for qualifying for CRSS?

A1. The legislative basis for CRSS is Section 11 of Finance Act 2020.

The guidelines are based on the terms and conditions of the scheme which are set out in the legislation. The purpose of the guidelines is to assist businesses in understanding the scope of the scheme, assessing their eligibility and making a claim. Revenue does not have the flexibility to extend the scheme beyond the terms of the legislation.

The scope, terms and qualification rules under the scheme have not changed, however, the restrictions in place under Level 3 in operation from 7 October until 21 October were different to the Level 3 restrictions in operation from 1 December.

Q2. I have a beauty salon business. I was closed in Level 5, but I reopened on 1 December. If I have to close again, will I have to repay the ACTE I received before? I also claimed a restart week. Will I have to repay that?

A2. No, where a qualifying business correctly claimed an ACTE during previous restrictions, including the re-start week, the amounts will not have to be repaid on recommencing, or if the business is subject to Covid restrictions again.

Q3. If I have to close again, will I be able to claim the restart week a second time?

A3. Yes, where a business meets the criteria to claim a restart week, a business can elect for a restart week after recommencing after each period of restrictions. See Section 7.

Q4. It doesn't make financial sense for me to open after another set of restrictions. I have decided to stay closed until June 2021 – can I claim CRSS?

A4. Where a business is no longer subject to Covid restrictions which require them to prohibit or significantly restrict customers from accessing their business premises, that business will not be eligible for CRSS for the periods they choose not to open. This is dealt with in more detail in section 4.2.5

Q5. I own a small ornament shop in a seaside town, the Government in the announcement on the 22 December stated non essential retail was allowed to continue to trade, but I expect little to no customers after Christmas and I am nervous of the virus, can I claim CRSS ?

A5. Where a business is no longer subject to Covid restrictions which require them to prohibit or significantly restrict customers from accessing their business premises, that business will not be eligible for CRSS for the periods they choose not to open. This is dealt with in more detail in section 4.2.5