

2021 COVID-19 micro-business grant – Terms and Conditions

SOURCE: <https://www.service.nsw.gov.au/2021-covid-19-micro-business-grant-terms-and-conditions>

1. Application and acceptance of Terms and Conditions

1.1. The Department of Customer Service, Service NSW and NSW Treasury are delivering the 2021 COVID-19 Micro-business Grant Program ('the Program'). Under the Program, businesses (including Non-employing Businesses) and not-for-profit organisations, impacted by the *Public Health (COVID-19 Additional Restrictions for Delta Outbreak) Order 2021* can apply for a fortnightly payment of \$1,500 to help meet unavoidable business costs incurred from 26 June 2021 until the Program ends (as notified on the Service NSW website).

1.2. Payments made under the Program will be made as act of grace payments under section 5.7(1) of the GSF Act. The conditions in clause 4.1 are conditions that will be imposed by the Minister for Customer Service or his delegate under section 5.7(2) of the GSF Act on the making of the payment under section 5.7(1) of the GSF Act. If any of the conditions in clause 4.1 are contravened, the payment may be recovered from the recipient by the Crown as a debt due to the Crown pursuant to section 5.7(3) of the GSF Act.

1.3. By applying to receive a payment under the Program, businesses and not-for-profit organisations agree to be bound by these Terms and Conditions.

1.4. Certain businesses are ineligible for the Program. Ineligible businesses are listed in Attachment A of the Program Guidelines available on the Service NSW website.

1.5. Additional information about the type of documentation and evidence required to apply for payments under the Program is available on the Service NSW website.

2. Definitions and interpretation

2.1. In these Terms and Conditions, unless the context otherwise requires:

2021 COVID-19 Business Grants means the scheme delivered by DCS, Service NSW, the Commonwealth Government and NSW Treasury to support businesses and not-for-profit organisations with a one-off payment to help meet business costs incurred from 1 June 2021 to 17 July 2021 due to the impacts of the Public Health Order.

ABN means an Australian Business Number.

Aggregated Annual Turnover means aggregated turnover as defined in section 328.115 of the *Income Tax Assessment Act 1997 (Cth)*.

For Registered Charities, gifts and Government grants should be included when calculating aggregated annual turnover.

For not-for-profit organisations that are not Registered Charities, gifts should be excluded and Government grants included when calculating aggregated annual turnover.

Business means an entity carrying on a business as per the *Corporations Act 2001 (Cth)* with an ABN.

Commonwealth COVID-19 Disaster Payment means the lump sum payment to support a worker who is unable to earn income having lived in, worked from or visited a Commonwealth declared COVID-19 hotspot and is adversely affected by a state public health order, for example due to a lockdown, hotspot or period of restricted movement of more than 7 days duration.

DCS means the Crown in the right of the State of NSW acting through the Department of Customer Service.

Eligible Expenses are costs that business and not-for-profit organisations incurred in meeting unavoidable business costs from 1 June 2021. Eligible Expenses include (but are not limited to) the following:

- (a) unavoidable business operating expenses, such as salaries, wages, utilities, or rent;
- (b) the cost of perishable goods that can no longer be used;
- (c) financial, legal or other advice to support business continuity planning;
- (d) marketing and communications activities to develop the business; and
- (e) other activities to support the operation of the business.

Employee has the same meaning as its ordinary or common law meaning.

For the purposes of this Program references to an Employee include a religious practitioner of a Religious Institution if the religious practitioner meets the following criteria:

- They are not employed by the Religious Institution;
- They are a minister of religion or a full-time member of a religious order and were undertaking activities in pursuit of their vocation as a member of the religious institution as at 13 July 2021 if the Religious Institution is receiving payments from the commencement of the Grant, or as at the day immediately prior to the fortnight in which the religious institution first experienced the decline in turnover;
- They receive from the Religious Institution a payment for undertaking activities in pursuit of their vocation as a religious practitioner and as a member of the Religious Institution;
- On 13 July 2021 if the Religious Institution is receiving payments from the commencement of the Grant, or on the day immediately prior to the fortnight in which the Religious Institution first experienced the decline in turnover, they were both:
 - aged at least 18 (or were 16 or 17, and were independent or not undertaking full-time study); and

- an Australian resident (within the meaning of section 7 of the Social Security Act 1991), or a resident for income tax purposes and the holder of a special category (Subclass 444) visa.

Employee Headcount means the number of persons who are employed in New South Wales and who are permanent (full time or part time), or casual staff that have been employed by the business for more than 12 months.

Employing Business means a business entity with Employees

Financial Hardship for the purpose of clause 3.25 means:

For an Employing business that it:

- is at imminent risk of closure;
- is unable to pay for operating expenses such as rent or employee-related expenses; and/or
- will be forced to reduce Employee Headcount.

For a Non-employing Business, a business that is:

- unable to provide themselves, or their immediate family, with a modest standard of living with food, shelter, clothing, medical treatment, and other basic requirements.

GSF Act means the *Government Sector Finance Act 2018 (NSW)*.

GST Act means the *A New Tax System (Goods and Services Act) 1999 (Cth)*.

Hardship Review Panel means the panel with members from Service NSW and NSW Treasury and chaired by the Chief Commissioner of State Revenue, established to assess businesses on a case-by-case basis that do not qualify for Micro-Business Grant. The factors considered by the panel are set out in the Guidelines and are available on the Service NSW website.

Highly Impacted Industries means the industries listed in Attachment A and as amended in the Program Guidelines from time to time.

Independent Practitioner means:

- a qualified accountant as defined in the *Corporations Act 2001*;
- a registered tax agent as defined under the *Tax Agent Services Act 2009*; or
- a registered BAS agent as defined in the *Tax Services Act 2009*,

who is not:

- (a) an Employee or director of the applicant;
- (b) an associated entity of the applicant; or
- (c) a director or Employee of an associated entity of the applicant.

Ineligible Hardship Review business or not-for-profit organisation means a business or not-for-profit organisation that:

- has an application currently being assessed by Service NSW;
- has already been assessed by Service NSW, and found to be eligible, but is seeking to reapply for a different amount based on changes to eligibility criteria (e.g. changes to the comparison periods);
- has previously applied to Service NSW and wishes to withdraw and resubmit their application based on changes to eligibility criteria (e.g. changes to the comparison periods);
- has previously submitted an application that has been identified by Service NSW as potentially fraudulent or where there are disputes about previous debts owed; and
- is a Non-Employing Business that has received the Commonwealth COVID-19 Disaster Payment for the same period.

Micro-business means a business that:

- (a) holds an Australian Business Number (ABN)
- (b) has aggregated annual turnover of less than \$75,000, and
- (c) has fewer than 20 FTE Employees as at 1 June 2021.

Micro-business Owner means a sole trader, partnership, private company or trust that carries on a business.

Non-employing Business means a business owner who does not have Employees. This may include a range of entity types, such as non-employing sole traders or any other businesses without Employees.

Not-for-profit organisation means an entity whose principal objective is not the generation of profit. A not-for-profit entity can be a single entity or a group of entities comprising the parent entity and each of the entities that it controls.

Public Health Order means the *Public Health (COVID-19 Additional Restrictions for Delta Outbreak) Order 2021* (previously named the *Public Health (COVID-19 Temporary Movement and Gathering Restrictions) Order 2021* replaced by *Public Health (COVID-19 Additional Restrictions for Delta Outbreak) Order No 2 2021*) made pursuant to section 7 of the *Public Health Act 2010* that commenced on 26 June 2021.

Primary Income Source means 50 per cent or more of total income.

Program Guidelines refers to the guidelines for business owners and non-profit organisations making an application under the Program available on the Service NSW website.

Registered Charity means an entity that is registered with the Australian Charities and Not-for-profits Commission (ACNC).

Religious institution means an entity that was:

(a) Registered Charity, registered under the sub-type ‘advancing religion’ as at 1 June 2021; and

(b) on 1 June 2021 was one of the following:

- a non-profit body that pursued its objectives principally in Australia, or
- a deductible gift recipient (DGR) endorsed, under the Overseas Aid Gift Deductibility Scheme (DGR item 9.1.1) or for developed country relief (DGR item 9.1.2), either as a public fund or for a public fund it operated.

Service NSW means the Crown in the right of the State of NSW acting through Service NSW.

Terms and Conditions means these Terms and Conditions for participation in the Program.

Turnover means the current GST turnover as defined by the *Income Tax Assessment Act 1997* (Cth) and the GST Act, subject to the following modifications:

- section 188-15 of the GST Act applies as if a reference to a month is a reference to a fortnight;
- subsection 188-15(1) of the GST Act is to be applied at the end of the fortnight;
- subsection 188-15(1) of the GST Act has effect as if the reference in that subsection to “, or are likely to make, during the 12 months ending at the end of that month,” were instead a reference to “during that fortnight”;
- subsection 188-15(2) of the GST Act (about members of GST groups) is to be disregarded;
- each external Territory is treated as forming part of the indirect tax zone (within the meaning of the GST Act).

Where a business is not registered for GST, it may use the same accounting method it uses for income tax purposes to determine decline in turnover.

- **Modifications – Registered Charities**

In calculating current GST turnover:

(a) for an entity that is a deductible gift recipient or a Registered Charity – each gift received by the entity in the period (other than from an associate) results in the following treatment:

- i. the entity is treated as making a supply in the period for consideration; and
- ii. the value (within the meaning of the GST Act) of the supply is treated as being equal to the amount of the gift (if the gift is money) or the market value of the gift (if the gift is not money).

(b) include, for the avoidance of doubt, any supply made by an entity to which paragraph (a) of this modification applies if consideration for the supply was provided by an Australian government agency, a local governing body, the United Nations, or an agency of the United Nations.

(c) for an entity covered by paragraph (a) – an amount or property received (unless received as consideration for a supply covered by paragraph (b)) by the entity from an Australian government agency, a local governing body, the United Nations, or an agency of the United Nations results in the following treatment:

- i. the entity is treated as making a supply in the period for consideration; and
- ii. the value (within the meaning of the GST Act) of the supply is treated as being equal to the amount (if money) or the market value of the property (if not money).

In calculating decline in turnover:

(a) Registered Charities, other than schools or universities, should include gifts (e.g. donations) and Government grants; and

(b) Not-for-profit organisations that are not Registered Charities, should include Government grants, but not gifts (e.g. donations).

2.2. Unless the context requires otherwise, the singular includes the plural and vice versa, reference to a gender includes all genders, reference to 'person' includes a natural person, company, body corporate or other form of legal entity, and reference to 'including' and 'includes' and 'for example' is to read as if followed by 'without limitation'.

2.3. If a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning.

3. Application to receive a payment under the Program

3.1. A business or not-for-profit organisation can apply for a payment under the Program via the MyServiceNSW Business Profile within the MyServiceNSW Account. An application may be made by:

- (a) an owner of the business or a person authorised to apply on their behalf, or
- (b) a person authorised to apply on behalf of a not-for-profit organisation.

3.2. A business or not-for-profit organisation may only submit one application for payment under the Program.

Eligibility

3.3. A business or not-for-profit organisation may be eligible for a payment under the Program if:

(a) they have an Australian Business Number (ABN) registered in, or can demonstrate they are primarily operating in, New South Wales, as at 1 June 2021;

(b) they had an Aggregated Annual Turnover of more than \$30,000 and less than \$75,000 for the year ended 30 June 2020;

(c) they experienced a decline in turnover of 30 per cent or more due to the Public Health Order over a minimum two-week period from 26 June 2021, compared to:

- i. the same period in 2019;
- ii. the same period in 2020; or
- iii. the period from 12 June 2021 to 25 June 2021.

(d) they have business costs for which there is no other government support available;

(e) they have not applied for either the 2021 COVID-19 Business Grant, or the JobSaver scheme;

(f) for Employing businesses, they maintain their Employee Headcount:

- i. as at 13 July 2021, if they receive payments from the commencement of the Program; or
- ii. as at the day immediately prior to the fortnight they first experienced the required decline in turnover in clause 3.3(c);

while they continue to receive payments under the Program;

(g) for Non-employing Businesses, the business receiving payments must be the Primary Income Source for the associated person;

(h) they are able to provide sufficient evidence to demonstrate that it meets the eligibility criteria set out in clause 3.3(a) to (g) and, where applicable, clause 3.4.

3.4. Where an individual owns more than one Non-employing Business, an application for payment must only be made in respect of one Non-employing Business.

3.5. Non-employing Businesses are not eligible to apply if persons associated with the business, and who derive income from it, have received a Commonwealth COVID-19 Disaster Payment.

3.6. Employees can receive Commonwealth COVID-19 Disaster Payments if their employer is receiving the Grant.

3.7. Certain entities, such as those primarily earning passive income (rents, interest, or dividends) or those with an ABN registered after 1 June 2021 are not eligible for this Grant.

Evidence requirements

3.8. A business or not-for-profit organisation, applying for payment is required to:

(a) if they are in Highly Impacted Industry, declare that they experienced a decline in turnover of 30 per cent or more due to the Public Health Order over a minimum two-week period from 26 June 2021, compared to:

- i. the same period in 2019;
- ii. the same period in 2020; or
- iii. the period from 12 June 2021 to 25 June 2021.

(b) if they are not in a Highly Impacted Industry, declare and submit evidence that they experienced a decline in turnover of 30 per cent or more due to the Public Health Order over a minimum two-week period from 26 June 2021, compared to:

- i. the same period in 2019;
- ii. the same period in 2020; or
- iii. the period from 12 June 2021 to 25 June 2021.

Evidence must be in the form of a:

- i. letter from an Independent Practitioner, or
- ii. business bank account statement (separate from any personal accounts), or
- iii. profit and loss statement from an accounting software together with an annotated personal bank statement.

(c) declare and submit evidence that they had an Aggregated Annual Turnover of more than \$30,000 and less than \$75,000 for the year ended 30 June 2020. This can be in a form of:

- i. a letter from an Independent Practitioner; or
- ii. a Business Activity Statement (BAS); or
- iii. a business bank account statement (separate from any personal accounts); or
- iv. an Australian income tax return (there is no requirement to disclose tax file numbers and businesses should redact their tax file number where possible); or
- v. a profit and loss statement from an accounting software for a minimum three-month period during the 2019-20 financial year together with either an annotated personal bank statement for the same three-month period or a 2019-20 personal income tax return (there is no requirement to disclose tax file numbers and applicants should redact tax file numbers where possible).

(d) if they do not have Employees, declare the business is the Primary Income Source for the owner of the business;

(e) if they do have Employees, declare their Employee Headcount and that they will maintain their Employee Headcount as at either:

- i. 13 July 2021; or

ii. the day immediately prior to the fortnight in which they first experienced the required decline in turnover;

for the period for which the business is receiving payments under the Program;

(f) declare that it has Eligible Expenses for which no other government support is available;

(g) provide details of its Independent Practitioner for possible compliance checking; and

(h) lodge other supporting documents, as required, to demonstrate that they meet the eligibility criteria.

3.9. A business or not-for-profit organisation will not be ineligible for a payment solely because its Employee Headcount reduces due to an Employee discontinuing their employment for reasons outside the control of the business or not-for-profit organisation, for example, if the Employee voluntarily resigns or retires.

3.10. DCS and/or Service NSW may require a business or not-for-profit organisation with a registered business address outside New South Wales to:

(a) provide evidence that they are operating in New South Wales to meet the eligibility criteria in clause 3.3(a). This evidence may include commercial rates notices or lease agreements and any other evidence required under the Program Guidelines on Service NSW's website. Where a rates notice or lease agreement is not available, DCS and/or Service NSW may accept one or more of the following documents:

i. utility bills,

ii. insurance papers,

iii. supply invoices,

iv. registration papers, or

v. contractor licences.

or

(b) provide evidence that they are and were operating in the Jervis Bay Territory on 1 June 2021 and meet all other relevant eligibility criteria.

3.11. Where a business or not-for-profit organisation does not submit a BAS to the Australian Tax Office, the business or not-for-profit organisation should contact Service NSW to discuss further.

3.12. Where a business or not-for-profit organisation operates through a trust structure, it will be required to provide additional information to demonstrate an Aggregated Annual Turnover of more than \$30,000 and less than \$75,000 is derived through the trust. The entity operating the business is eligible for the Grant, not other entities that are receiving passive income from the business.

3.13. A business or not-for-profit organisation that cannot meet the eligibility criteria in clause 3.3(b) may still be eligible to receive a payment under the Program, if it:

(a) commenced operating on or after 1 July 2019;

(b) has been impacted by acquisition, disposal or restructure that has affected its turnover;

(c) is a sole trader or small partnership impacted by sickness injury or leave; or

(d) has been affected by drought, bushfire, flood or other natural disasters;
and

(e) had the equivalent of an Aggregated Annual Turnover of more than \$30,000 and less than \$75,000 for the year ended 30 June 2020 and it provides supporting evidence, which must include:

i. a Business Activity Statement for at least one quarter; or

ii. an Australian Tax Return, annotated to indicate when the business commenced (however there is no requirement to disclose tax file numbers and businesses should redact their tax file number where possible); or

iii. if unable to provide a BAS or Australian Tax Return:

i. a letter from an Independent Practitioner; or

ii. business bank account statements (must be separate from any personal accounts) for a three month period, or if the business has been operating for less than three months, the entire operating period; or

iii. a profit and loss statement from an accounting software for a minimum three-month period during the 2019-20 financial year together with either an annotated personal bank statement for the same three-month period or a 2019-20 personal income tax return annotated to show when the business commenced during the financial year (there is no requirement to disclose tax file numbers and applicants should redact tax file numbers where possible).

3.14. Except as set out in clause 3.15, a business or not-for-profit organisation to whom clause 3.13 applies, must comply with all other applicable eligibility and evidence requirements, as set out in clauses 3.3 to 3.12.

3.15. A business or not-for-profit organisation that has been affected by drought, bushfire, flood or other natural disasters, and to whom clause 3.13 applies, may be eligible for a payment under the Program if it can demonstrate that it has experienced a decline in turnover of 30 per cent or more due to the Public Health Order over a minimum two-week period from 26 June 2021, compared to the same period in 2018.

3.16. Notwithstanding any other provision in these Terms and Conditions, DCS and/or Service NSW may require additional information or clarification from a business or not-for-profit organisation or from any other public entity or person, before determining whether the

eligibility criteria in clause 3.3, and where applicable clause 3.4, have been satisfied and whether the application should be approved. The additional information may include:

- (a) accountant's letter
- (b) prior Business Activity Statements
- (c) Australian tax returns (but there is no requirement to disclose tax file numbers, and these should be redacted where possible)
- (d) profit and loss statements prepared by a qualified accountant
- (e) receipts and invoices from sales
- (f) business bank account statements (separate from any personal accounts).

3.17. A Registered Charity is not eligible if they are receiving COVID-19 support from:

- (a) the NSW Department of Communities and Justice Social Sector Support Fund (SSSF); or
- (b) Commonwealth-funded Business Continuity Payments (e.g. in the early childhood education and care sector).

Hardship Review

3.18. A business or not-for-profit organisation may be eligible to apply to the Hardship Review Panel, if:

- (a) it is experiencing Financial Hardship;
- (b) it is not an Ineligible Hardship Review business or not-for-profit organisation; and
- (c) either:
 - i. it does not meet the eligibility criteria in clause 3.5, 3.6, 3.8 or 3.9, where applicable; or
 - ii. it has had an application for Micro Business Grant refused.

3.19. A business or not-for-profit organisation applying to the Hardship Review Panel must submit evidence to demonstrate:

- (a) that it has not engaged in excessive and non-essential expenditure;
- (b) its decline in revenue is due to the impact of the Public Health Order, and not the result of normal business operations; and
- (c) it is not practical to rearrange finances or draw upon non-essential assets to continue to operate.

3.20. Notwithstanding any other provision in these Terms and Conditions, the Hardship Review Panel, DCS, Service NSW, and/or NSW Treasury may determine that a business or not-for-profit organisation is eligible for a payment under the Program. Any such business or not-for-profit organisation that receives a payment under this Program must comply with these Terms and Conditions, except to the extent that any dispensation has expressly been given by DCS, Service NSW and/or Treasury.

3.21. Information provided by a business or not-for-profit organisation in its application or otherwise in accordance with these Terms and Conditions must be true and correct. It is a serious offence to provide false or misleading information to a public authority.

3.22. A business or not-for-profit organisation is not eligible to apply to receive payment under the Program if it has previously received a payment under this Program or under a previous program or Program, and:

(a) Service NSW, DCS and/or NSW Treasury (or another government agency in relation to this Program or a previous program or Program) have sought to recover the whole or part of that previous payment as a debt due to the Crown pursuant to s. 5.7(3) of the GSF Act or otherwise, and

(b) the amount sought has not been repaid.

3.23. Notwithstanding any other provision in these Terms and Conditions, DCS and/or Service NSW may refuse to progress an application for any reason, including if the business or not-for-profit organisation does not meet the eligibility criteria in clause 3.3 or clause 3.4.

3.24. By applying to receive a payment under the Program, a business or not-for-profit organisation consents to Service NSW, DCS and/or NSW Treasury disclosing information, including personal information, provided by the business or not-for-profit organisation to each other for the purposes of administering or reporting on the Program.

3.25. Where a business or not-for-profit organisation is unable to provide any documentation in support of their application, or where Service NSW is satisfied it has other suitable methods to determine eligibility, Service NSW may accept another form of documentation.

4. Conditions for payment under the Program

4.1. All payments to a business or not-for-profit organisation under the Program are made on the condition that:

(a) the business or not-for-profit organisation meets the eligibility criteria in clause 3.3, and where applicable clause 3.4, as modified by clause 3.13, 3.14 or 3.15 (where applicable) at the time when an application for payment is made;

(b) the application for payment complies with the requirements in clauses 3.1, 3.2 and 3.5 (where applicable), as modified by clause 3.13, 3.14 or 3.15 (where applicable);

(c) the business or not-for-profit organisation uses the payments to cover Eligible Expenses incurred since 1 July 2021

(d) a business or not-for-profit organisation complies with the law at all times, including public health orders and COVID-19 restrictions;

(e) the business or not-for-profit organisation immediately notifies Service NSW if, due to any actions of the business or not-for-profit organisation, the Employee Headcount declines over the period that payments are received;

(f) the application for payment is made before 11.59pm on 18 October 2021, and

(g) if requested by DCS, Service NSW and/or NSW Treasury, the business or not-for-profit organisation provides evidence of the Eligible Expenses for which a payment is sought under the Program.

4.2. A business or not-for-profit organisation must take all reasonable steps to ensure that the conditions in clause 4.1 are or have been satisfied at all relevant times.

4.3. Upon submission of application, a business or not-for-profit organisation declares that:

(a) to the best of its knowledge, the conditions in clause 4.1 are or have been satisfied at all relevant times, and

(b) it took and will take all reasonable steps to ensure that the conditions in clause 4.1 are satisfied.

4.4. Notwithstanding any other provision in these Terms and Conditions, DCS, Service NSW and/or NSW Treasury may take civil and/or criminal action (where appropriate), including referral to NSW Police, where DCS, Service NSW and/or NSW Treasury reasonably suspect that the business or not-for-profit organisation has failed to comply with the law or these Terms and Conditions.

4.5. A business or not-for-profit organisation must notify Service NSW immediately if the business or not-for-profit organisation ceases to trade, can no longer meet the eligibility criteria in clause 3, or can no longer comply with these Terms and Conditions.

4.6. A business or not-for-profit organisation must retain for 5 years all tax invoices, official receipts, bank statements or other records that demonstrate how payments made under the Program have been applied by the business or not-for-profit organisation.

4.7. A business or not-for-profit organisation may be audited or investigated by DCS and/or Service NSW to determine whether it is complying with these Terms and Conditions. A business or not-for-profit organisation must provide any information or documentation that is reasonably required for the purpose of any such audit or investigation.

4.8. A business or not-for-profit organisation consents to being contacted by DCS, Service NSW and/or NSW Treasury for a period of 24 months after receiving a payment under the Program for the purposes of reporting on and evaluating the Program. A business or not-for-profit organisation agrees to provide any information that is reasonably required under this clause.

5. Payments

5.1. Once an application has been approved, a business or not-for-profit organisation will receive automatic fortnightly payments of \$1,500 credited to a valid bank account (as identified in its application) until the Program ends (as notified on the Service NSW website). The first payment will be backdated to 26 June 2021 and, where possible, will be made within 10 business days of an approved application.

5.2. From 10 September 2021, to continue to receive fortnightly payments, a business or not-for-profit organisation will need to declare:

(a) that it continues to be impacted by the Public Health Order;

(b) that in the preceding fortnight it experienced a decline in turnover of 30 per cent or more compared to the period used by the business or not-for-profit organisation in clause 3.3(c); and

(c) that they continue to maintain their Employee Headcount.

5.3. If a business or not-for-profit organisation does not meet the requirements of clause 5.2(a), (b) or (c) then they must notify Service NSW.

5.4. Payments made in accordance with this clause will be made as act of grace payments under section 5.7(1) of the GSF Act.

6. Recovery of payments

6.1. If a business or not-for-profit organisation has received a payment under the Program and DCS, Revenue NSW, Service NSW and/or NSW Treasury is satisfied that the conditions in clause 4.1 were, or have been, contravened, the payment or part of the payment may be recovered from the business by the Crown as debt due to the Crown, pursuant to section 5.7(3) of the GSF Act.

7. Suspension or termination of the Program

7.1. Notwithstanding any other provision in these Terms and Conditions, NSW Treasury, DCS and/or Service NSW reserve the right to suspend or terminate the entirety or any part of the Program at any time.

7.2. Any action taken to suspend or terminate the Program will be notified on the Service NSW website.

8. Limitation of Liability

8.1. To the extent permitted by law, DCS, Service NSW and NSW Treasury (including their officers, employees and agents) will not be liable for any direct, indirect, incidental, special or consequential loss or damage or for any death, illness, personal injury, financial loss or property damage however caused (including by negligence) which may be suffered or

incurred by a business, organisation or any person arising directly or indirectly out of or in any way connected with the Program, including:

- (a) any decision to make or refuse to make a payment under the Program, including on the basis that funds are unavailable,
- (b) the fraudulent application for payments made under the Program,
- (c) any breach of these Terms and Conditions, and/or
- (d) any decision to suspend or terminate the entirety or any part of the Program.

9. Indemnity

9.1. A business or not-for-profit organisation agrees to indemnify and keep indemnified DCS, Service NSW and NSW Treasury (including their officers, employees and agents) from and against any liability or loss (including reasonable legal costs and expenses), which may be suffered or incurred by any of those indemnified by reason of or in connection with the business's or not-for-profit organisation's participation in the Program.

10. Contact

10.1. Any enquiry or complaint is to be directed to Service NSW by calling [13 77 88](tel:137788).

11. General

11.1. Businesses and not-for-profit organisations are responsible for obtaining their own independent legal and financial advice regarding these Terms and Conditions.

12. Variation

12.1. DCS, Service NSW and NSW Treasury reserve the right to amend, vary, delete or supplement these Terms and Conditions at any time.

12.2. These Terms and Conditions, as amended, varied, deleted or supplemented from time to time, apply to any future version of, or update to, the IT system that supports the delivery of the Program.

13. Waiver

13.1. Failure by DCS, Service NSW and/or NSW Treasury to enforce any of their rights at any stage does not constitute a waiver of those rights.

14. Severability

14.1. If any term in these Terms and Conditions is prohibited, void, voidable, illegal or unenforceable for any reason whatsoever, then that part is severed from these Terms and

Conditions but without affecting the continued operation of the remaining Terms and Conditions.

15. Governing Law

15.1. These Terms and Conditions shall be governed by and must be interpreted in accordance with the laws of NSW. A business, not-for-profit organisation, DCS, Service NSW and NSW Treasury submit to the exclusive jurisdiction of the Courts of NSW and any Court competent to hear appeals from those Courts.

16. Survival

16.1. Clauses 6, 8 and 9 contain continuing obligations and will survive termination of these Terms and Conditions.

Attachment A: List of highly impacted industries

Industry	ANZSIC code	Industry category
Accommodation and Food Services	4530	Clubs (Hospitality)
	4400	Accommodation
	4520	Pubs, Taverns and Bars
	4511	Cafes and Restaurants
	4513	Catering Services
	4512	Takeaway Food Services
Administrative and Support Services	7220	Travel Agency and Tour Arrangement Services
	7299	Other Administrative Services n.e.c.
Arts and Recreation Services	8910	Museum Operation
	8921	Zoological and Botanical Gardens Operation
	9201	Casino Operation
	9209	Other Gambling Activities
	9001	Performing Arts Operation
	9003	Performing Arts Venue Operation
	9139	Amusement and Other Recreational Activities n.e.c.
	9131	Amusement Parks and Centres Operation
	9111	Health and Fitness Centres and Gyms Operation
	9121	Horse and Dog Racing Administration and Track Operation
8922	Nature Reserves and Conservation Parks Operation	
9114	Sports and Physical Recreation Administrative Services	

	9112	Sports and Physical Recreation Clubs and Sports Professionals
	9113	Sports and Physical Recreation Venues, Grounds and Facilities Operation
	9002	Creative Artists, Musicians, Writers and Performers
Information Media and Telecommunications	6010	Libraries and Archives
	5513	Motion Picture Exhibition
Rental, Hiring and Real Estate Services	6720	Real Estate Services
	6611	Passenger Car Rental and Hiring
	6619	Other Motor Vehicle and Transport Equipment Rental and Hiring
	6639	Other Goods and Equipment Rental and Hiring n.e.c.
Other Services	9534	Brothel Keeping and Prostitution Services
	9511	Hairdressing and Beauty Services
	9512	Diet and Weight Reduction Centre Operation
	9531	Laundry and Dry-Cleaning Services
	9539	Other Personal Services n.e.c.
Retail (excluding food retailing)	3911	Car Retailing
	3912	Motor Cycle Retailing
	3913	Trailer and Other Motor Vehicle Retailing
	3921	Motor Vehicle Parts Retailing
	3922	Tyre Retailing
	4129	Other Specialised Food Retailing
	4211	Furniture Retailing
	4212	Floor Coverings Retailing
	4213	Houseware Retailing
	4214	Manchester and Other Textile Goods Retailing
	4221	Electrical, Electronic and Gas Appliance Retailing
	4222	Computer and Computer Peripheral Retailing
	4229	Other Electrical and Electronic Goods Retailing
	4231	Hardware and Building Supplies Retailing
	4232	Garden Supplies Retailing
	4241	Sport and Camping Equipment Retailing
	4242	Entertainment Media Retailing
	4243	Toy and Game Retailing
	4244	Newspaper and Book Retailing
	4245	Marine Equipment Retailing
	4251	Clothing Retailing
	4252	Footwear Retailing

	4253	Watch and Jewellery Retailing
	4259	Other Personal Accessory Retailing
	4260	Department Stores
	4271	Pharmaceutical, Cosmetic and Toiletry Goods Retailing
	4272	Stationery Goods Retailing
	4273	Antique and Used Goods Retailing
	4274	Flower Retailing
	4279	Other Store-Based Retailing n.e.c.
	4310	Non-Store Retailing
	4320	Retail Commission-Based Buying and/or Selling
Transport	4900	Air and Space Transport
	4820	Water Passenger Transport
	5010	Scenic and Sightseeing Transport
	5029	Other Transport n.e.c.
	4621	Interurban and Rural Bus Transport
	4622	Urban Bus Transport (including Tramway)
	4623	Taxi and Other Road Transport
Education and Training	8211	Sports and Physical Recreation Instruction
	8212	Arts Education
Professional, Scientific and Technical Services	6991	Professional Photographic Services
Health Care and Social Assistance	8531	Dental Services
	8532	Optometry and Optical Dispensing
	8533	Physiotherapy Services
	8534	Chiropractic and Osteopathic Services
	8539	Other Allied Health Services
	8790	Other Social Assistance Services
Other Health Care Services	8599	Other Health Care Services n.e.c.