

## **1. Introduction and Summary**

This note ('Supplementary Note') is the third in a sequence of notes supplementing guidance first published by the OGP on 12 February 2021.

On 5 March 2021, the government extended the application of the closure order<sup>1</sup> from 5 March 2021 to 5 April 2021. In consideration of the financial burden associated with the extension to the closure order, the OGP recommends that Employers consider extending ex gratia payments to Contractors for the period between 6 March 2021 and 5 April 2021.

This Supplementary Note has been drafted in order to assist Employers in extending the scheme of ex gratia payments previously recommended in OGP Guidance of 12 February 2021 until 5 April 2021. The guidance in this Supplementary Note applies to all standard forms of public works contract entered into either before, on, or after 14 April 2020.

## **2. Previous OGP Guidance**

Unless otherwise specifically amended or superseded by this Supplementary Note, Employers should continue to follow the guidance issued by the OGP on 12 February 2021 and subsequently expanded by Supplementary Notes 1 and 2.

Employers should note that the model forms of Covid-19 Site Closure Supplemental Agreement (published by the OGP on 26 February and 5 March) may be used, as set out in this Supplementary Note, to make further ex gratia payments for any applicable period of site closure between 6 March and 5 April 2021.

## **3. Extension of Relevant Closure Period**

For the purposes of clause 2.2 of the Covid-19 Site Closure Supplemental Agreement, the Relevant Closure Period (as defined in Supplementary Notes 1 and 2) may be adjusted to accommodate for the extension of the closure order until 5 April. This adjustment may be made by replacing section 3, sub-paragraph (b) (the cessation date) of Supplementary Notes 1 and 2 as follows:

*(b) cease to apply from the earlier of*

*(i) midnight on 5 April 2021; or*

*(ii) the permitted date of re-opening of the Site*

The commencement date of the Relevant Closure Period remains unchanged.

## **4. Calculation of Ex Gratia Payment**

The permissible costs for ex gratia payment for the period between 6 March and 5 April 2021 should be calculated according to the methodology in either Supplementary Note 1 or Supplementary Note 2, as determined by when the contract was made.

## **END NOTE**

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<sup>1</sup> The closure order, as defined in the OGP Guidance Note of 12 February 2021, commenced on 8 January 2021.