



DEPARTMENT OF TOURISM & LEISURE

VISITOR FACILITY IMPROVEMENT SCHEME 2007

1. Citation, commencement, expiry and revocation

- 1.1 This Scheme may be cited as Visitor Facility Improvement Scheme 2007.
- 1.2 This Scheme shall, if approved by Tynwald, come into operation on 1st July 2007 and shall expire on 30th June 2010.
- 1.3 The Tourism Development Fund Scheme 2000 (Government Circular No 29/00), the Tourism Development Fund (Amendment) Scheme 2001 (Government Circular No 47/01), the Tourism Development Fund (Amendment) Scheme 2002 (Government Circular No 19/02), the Tourism Development Fund (Amendment) Scheme 2003 (Government Circular No 30/03), and the Tourism Development Fund (Amendment) Scheme 2006 (Government Circular No 05/06) are revoked.

2. Interpretation

- 2.1 In this Scheme;

"accounts paid" means *received* invoices paid in respect of the eligible works for a particular project;

"applicant" means a person making an application under paragraph 4;

"approved" means approved by the Department in writing;

"approved contractors and sub-contractors" means contractors and sub-contractors employing certified craftsmen under the Department of Trade & Industry's Scheme for the Certification of Craftsmen 1990 (Government Circular No 90/90), except where such categories do not exist;

"associate" means –

- (a) in relation to any individual –
- (i) the father, mother, wife, husband, co-habitee, son, stepson, daughter, stepdaughter, brother or sister of the individual;
 - (ii) any body corporate of which that individual is a director; and
 - (iii) a partner or employee of that individual;
- (b) in relation to a body corporate –
- (i) any subsidiary of that body corporate; and

- (ii) any employee of any such subsidiary;

“completion” means eligible works completed inspected and approved in writing by the Department;

“cost” means the cost of the works approved by the Department;

“the Department” means the Department of Tourism and Leisure;

“eligible works” means those works approved in writing by the Department;

“financial assistance” means financial assistance under this Scheme;

“government” means The Isle of Man Government;

“government valuer” means The Treasury Government Valuer or the Assistant Government Valuer appointed from time to time;

“independent agent” means an agent unconnected with the applicant and/or contractor and/or sub-contractor, acting impartially and with expertise in a specific area, e.g. Chartered Surveyor, Building Consultants;

“ineligible works” means those works identified in paragraph 3.5;

“interest” means a legal or equitable interest in the approved contractor and sub-contractor and includes an associate of the approved contractor and sub-contractor;

“visitor” means persons travelling to and staying in places outside their usual environment for not more than one consecutive year for leisure business and other purposes and as defined in the Department of Tourism & Leisure, Tourism Strategy 2004-2008, “Fit for the Future” for the Isle of Man.

“visitor facility” means premises and / or businesses providing a facility (accommodation, convenience, amenity and/or service) for visitors for a period of not less than 30 weeks within every calendar year;

- 2.2 The Interpretation Act 1976 shall apply for the interpretation of this Scheme as it applies for the interpretation of an enactment.

3. Aim & Purpose of the Scheme

- 3.1 The Scheme is aimed at providing support for projects in visitor accommodation and / or visitor facilities and at the same time improving the quality of the visitor experience, in order to attract new visitors and / or increase visitor expenditure in the Isle of Man.
- 3.2 Projects that improve tourism developments that satisfy visitor needs, maintain or enhance the destination and environment and benefits residents, will also be considered.
- 3.3 The Scheme will be open to new and existing businesses falling under paragraph 5.3 (h).
- 3.4 The Department will periodically publish a Business Plan (which shall not be definitive) of the Department's objectives to improve tourism developments that satisfy visitor needs, maintain or enhance the destination and environment and benefit residents.
- 3.5 Works and payments considered ineligible under the Scheme include:-

- (a) the undertaking of repairs and maintenance of an existing visitor facility except in so far as they are incidental or connected with the project;
 - (b) any work(s), the total cost of which does not exceed £10,000;
 - (c) work(s) to be carried out by the applicant or any other organisation in which the Department considers the applicant has an interest, without consent under and subject to the conditions of paragraph 8;
 - (d) the provision of loose and/or cosmetic furnishings, fixtures and fittings; and
 - (e) works already commenced.
- 3.6 Subject to the provisions of this Scheme, the Department may in its absolute discretion provide financial assistance by way of a grant towards approved eligible works, subject to the funds being available, (excluding ineligible works as specified in paragraph 3.5), but:
- (a) the maximum amount of the grant will ordinarily not exceed 25% of the approved cost of the eligible works and the maximum grant payable is £1,000,000 per application;
 - (b) works to provide or improve facilities for the disabled, works by registered charities or other non profit making groups or organisations may, at the discretion of the Department, qualify for a grant not exceeding 50% of the approved additional works to provide disabled facilities, up to a maximum grant of £50,000 per application.
- 3.7 No assistance will be provided without the concurrence of the Treasury where the total assistance under this Scheme in respect of any applicant or visitor facility will exceed £100,000 in any period of 2 years ending on 31st March in any year.
- 3.8 The amounts of financial assistance referred to in this section exclude Value Added Tax.

4. Application Procedure

- 4.1 Applications for financial assistance shall be made by the owner or the tenant with the written consent of the owner on the form provided by the Department.
- 4.2 The application will not be considered unless it is accompanied by:-
- (a) subject to sub-paragraph (4.3 & 4.4), at least three current quotations or tenders from approved contractors and sub-contractors;
 - (b) where appropriate, a copy of the planning approval and building regulations consent for the works;
 - (c) a detailed specification of the proposed works independent from the quotations;
 - (d) if the total cost of the project exceeds £200,000, a schedule of costs appropriate to the scope and scale of the works (e.g. a detailed breakdown of costs, cost plan or Bill of Quantities) is required.
 - (e) financial accounts (if applicable) of the business concerned for the last three years or the period of trading, whichever is the lesser;
 - (f) a business plan for the current year (if applicable) and the next three years incorporating –

- (i) a cash flow forecast;
 - (ii) the sources and application of funding; and
 - (iii) a marketing plan, including the justification of the need for the improvements and how to maximise the business potential in order to attract new visitors and / or increase visitor expenditure in the Isle of Man.
- (g) an application fee in accordance with sub-paragraph 4.5 below;
- (h) a declaration stating whether the applicant or owner (if different) of the visitor facility has any interest in any of the approved contractors and sub-contractors quoting or tendering for the work;
- (i) details of title to the security to be provided by the applicant to ensure that it is adequate to secure the grant monies and may require a valuation thereof from the Government Valuer;
- (j) any other information as required by the Department.
- 4.3 The Department may with the consent of Treasury, and subject to paragraph 8, waive the requirement for three competitive tenders for projects under £100,000, if it considers that it is not practicable for the applicant to comply, subject to at least one tender being received. For projects over £100,000 the Department, with the concurrence of Treasury, may waive the requirement for three competitive tenders if it considers that it is not practicable for the applicant to comply, subject to at least one tender being received.
- 4.4 In waiving the requirement for 3 competitive tenders under sub-paragraph 4.3 above, the Department and the Treasury may impose such conditions as they consider appropriate.
- 4.5 There shall be paid with each application a non-refundable fee of £500. In addition, fees for any additional independent inspections required by the Department shall be paid by the applicant.
- 4.6 The applicant shall give to the Department such further information as it may reasonably require.
- 4.7 An application for financial assistance must be accompanied by letters of authority from the applicant to the Treasury and the Department of Health and Social Security to provide confirmation to the Department that no liabilities to the Government are outstanding. In addition a letter of authority for the Department to obtain a banker's reference must be provided.

5. Consideration of Application

- 5.1 The Department shall, upon receipt of a completed application form and the information specified in paragraph 4, give consideration to the application.
- 5.2 After consultation with such persons as it considers appropriate the Department shall notify the applicant in writing whether or not the application is approved, and if approved, the conditions of such approval.
- 5.3 The Department shall not approve an application for financial assistance unless:
- (a) it is satisfied that the application complies with priorities determined by the Department as described in paragraph 3.1;

- (b) it is satisfied as to –
 - (i) the financial viability of the planned investment;
 - (ii) the proposed quality of the finished product; and
 - (iii) the management ability of the operator;
- (c) the visitor facility will operate as a visitor facility as stated in the applicants business plan for a minimum of 30 weeks in every calendar year;
- (d) it is satisfied as to the security offered by the applicant (this will usually require a first charge on the security and it may therefore be necessary to arrange a Deed of Limitation with any Lender already securing, or proposing to secure, a charge on the secured property);
- (e) the Department is satisfied as to the title of the applicant and, if different, the owner of the visitor facility which is the subject of the application;
- (f) the applicant is the owner of the freehold interest in the visitor facility to which the application relates or holds a leasehold interest in that visitor facility of which not less than 15 years remain unexpired;
- (g) in the case of an application submitted by a tenant, the owner has agreed to the project;
- (h) the applicant is either:
 - (i) an individual;
 - (ii) a partnership;
 - (iii) a company, registered and trading in the Isle of Man;
 - (iv) a registered charity;or
 - (v) a non-profit making group or organisation.

- 5.4 The approval of an application shall be conditional upon the accuracy of the information submitted therein.
- 5.5 The approval of an application shall be subject to the conditions in this Scheme and may be subject to such further conditions as the Department may impose.
- 5.6 If the applicant does not accept an offer of financial assistance in writing within a period of 6 weeks from the date of the offer, the offer shall lapse.
- 5.7 The applicant shall authorise the Department to obtain from his bankers, and if the Department shall require, his professional advisors, references as to the financial standing of the applicant. Such authority shall also authorise the Department to discuss with bankers and professional advisors all matters relevant to the application.
- 5.8 No financial assistance shall be offered to any applicant for which the Department is unable to obtain a satisfactory bank reference.
- 5.9 No financial assistance shall be offered to any person who at the time of making the application has outstanding liabilities to Government or part of Government.

5.10 The Department in its discretion may refuse any application and any decision of the Department to approve or refuse any application or to impose any terms and conditions upon any approval is final.

6. Commencement of Works Prior to Formal Approval of the Application

6.1 The applicant shall not commence the works before he is notified in writing by the Department of the approval of the application under paragraph 5.2. The applicant must notify the Department in writing of the acceptance of the terms and conditions and the Department shall acknowledge the acceptance of the terms and conditions offered.

6.2 If the applicant commences the works before he is notified by the Department in writing of the approval of the application under paragraph 5.2, the Department will refuse the application and any offer of financial assistance which has been made in respect of that project will be null and void.

7. Payments & Security

7.1 The applicant shall execute an instrument of security satisfactory to the Department providing, amongst other things, a covenant to supply receipted invoices for the approved works, and any such other supporting documentation or evidence of payment and/or valuation for particular aspects of the approved work as it deems necessary to satisfy itself that the same are accurate before the payment of any monies.

7.2 For grants of £5,000 or less, the Department may at its discretion waive any requirement for security.

7.3 Payment of the approved grant will only be made in full on completion of the works :

- (a) after satisfactory inspection by the Department's appointed Chartered Surveyor;
- (b) submission of accounts paid;
- (c) written confirmation from the contractor that the accounts have been paid in full; and
- (d) the security referred to in paragraph 4.2(i) being completed and recorded.

7.4 The Department shall require details of title to the security as in paragraph 4.2 (i).

7.5 The Department shall not make any payment of financial assistance until it is satisfied that:

- (a) any instrument of security required to be executed under this scheme has been executed and recorded; and
- (b) an advocate's certificate that the title is in order has been received.

7.6 The Department shall not make any payment of financial assistance until it is satisfied that there is :

- (a) comprehensive insurance cover in respect of the visitor facility;
- (b) such contents insurance cover as the Department may require; and

- (c) insurance cover in respect of such other risks as the Department may require.
- 7.7 Any insurance under paragraph 7.6 must be for an amount to cover the full current market value of the insured property (inclusive of the cost of the works to be carried out under the Scheme) or the risk insured.
- 7.8 The insurance policies required under paragraph 7.6 must be produced to the Department with an endorsement thereon specifying the interest of the Department in the policy and stating that the payments are up to date.
- 7.9 Any insurance policy required under paragraph 7.6 shall be kept current from the date of the grant and for the duration of the grant.
- 7.10 The Department can withdraw any offer if the works are not completed as described in the applicant's business plan.
- 7.11 The Department can withdraw any offer if the claim is not submitted within 3 months of the notification of the completion of works, with the proviso that if the applicant should encounter unexpected delays outside its reasonable control, the Department may extend the offer letter, providing that the Department is advised in writing within 7 days of the occurrence of the delay.

8. Approved Contractors

- 8.1 The Department with the consent of Treasury, may consider an application from an applicant who has declared an interest, as defined in paragraph 2, in an approved contractor and sub-contractor, *PROVIDED THAT* the applicant takes part in the tender process for the work along with other approved contractors and sub-contractors and *PROVIDED THAT* if an applicant is in doubt, any relationships/connection *with the approved contractor or sub-contractor* should be declared on the application so that the Department can assess its relevance.
- 8.2 The tenders shall be dealt with by an independent agent with expertise in the relevant area and the costs thereof will be borne by the applicant.

9. Conditions

- 9.1 The amount of financial assistance shall, subject to paragraph 9.3 immediately become repayable in full if the premises are :-
- (a) sold, or
 - (b) cease to be used as tourist premises, or
 - (c) not used for the purpose or purposes stated in the approval notice for any continuous period of 12 months
- within the period of 15 years from the date of payment of the assistance.
- 9.2 In addition to repaying the assistance under paragraph 9.1, the applicant shall pay simple interest on the amount of any assistance that has not been repaid with effect from the date of payment of the assistance to the date of repayment at 3% above the Bank of England base rate from time to time having effect.
- 9.3 After the expiry of 10 years from the date of the payment of the assistance, the amount repayable under paragraph 9.2 shall be reduced by 20% for every complete year that has been elapsed since the expiration of the said 10 years.
- 9.4 The Department may, if the premises are sold after 5 years but continue to be used as tourist premises waive the requirements of paragraph 9.1, on the purchaser of the premises assuming, to the satisfaction of the Department, the obligations specified in paragraph 9.6.

- 9.5 In exceptional circumstances, where the physical management of the premises cannot be effectively maintained, the Department after consultation with the Treasury, may waive the repayment of some or all of the accrued interest.
- 9.6 The applicant shall execute an instrument of security satisfactory to the Department providing amongst other things, for the following matters:
- (a) a covenant to complete the approved works in accordance with the plans specifications and timetable submitted and approved within the period and such other conditions specified by the Department or such further period or conditions as may be specified by the Department;
 - (b) a provision to the effect that, if the applicant fails to observe any of the covenants entered into or terms agreed by him under the Scheme, the financial assistance shall, unless the Department otherwise directs, forthwith become repayable in full including accrued interests;
 - (c) a first charge (unless otherwise agreed by the Department) in favour of the Department on the whole of the visitor facility, or secured upon such other visitor facility or in such a manner as may be approved by the Department and containing such provisions as may be required by the Department to secure repayment of the financial assistance and interest.
 - (d) a provision that any works within the application or any part thereof shall not be removed or altered whilst any assistance may become repayable under this paragraph, unless approved in writing by the Department.
 - (e) a provision that the secured property will not be sold etc in accordance with paragraph 9.1 above.
- 9.7 All works in respect of which financial assistance is given shall be carried out by contractors and sub-contractors employing craftsmen certified under the Scheme for the Certification of Craftsmen 1990 (Government Circular No. 90/90), except where such categories do not exist.
- 9.8 The Department or a person authorised in writing by the Department, can carry out any necessary inspections of the visitor facility which is the subject of an application under this Scheme and of any work in progress or completed under this Scheme.
- 9.9 The Department shall have the right to refuse or withhold the grant in any case where, in the opinion of the Department, the work has not been carried out satisfactorily, or sufficient security provided, or satisfactory receipted invoices, or evidence of payments, or other information regarding the work have not been supplied.
- 9.10 The Department shall have the right to refuse or withhold the grant in any case where, in the opinion of the Department, there has been a failure to disclose an interest of the applicant in the contractor and sub-contractor, knowingly or unknowingly, and may result in the offer being withdrawn.
- 9.11 The approval or making of a grant under this Scheme shall not be deemed to imply that approval is granted under any enactment.
- 9.12 The insurance policy in 7.6 must be kept up to date and all premiums paid from the date of payment of the grant or the first instalment thereof, for a period of 10 years from the date of payment of the grant or last instalment thereof, or such longer period as referred to in the instrument of security, and can be inspected by, and/or a copy provided to the Department if requested.