



# **Games Development Sector Rebate (GDSR)**

## **Guidelines**



**CONTENTS**

- 1. ITERATIVE APPROACH TO THE SCHEME DESIGN..... 3
- 2. OVERVIEW OF THE GDSR ..... 4
  - a. Timeframe for GDSR ..... 4
  - b. In cases of annual over-subscription ..... 4
- 3. GDSR ELIGIBILITY ..... 4
  - a. Eligible Businesses..... 4
  - b. Applicant Must be Authorised, Own or Control the Rights ..... 5
  - c. Multi company operating structure..... 5
- 4. ELIGIBLE GAMES ..... 6
  - a. Ineligible games..... 6
  - b. Loot boxes ..... 7
- 5. ELIGIBLE EXPENDITURE ..... 7
  - a. Specific Inclusions ..... 7
  - b. Specific Exclusions..... 8
    - a. Funding from other Government Sources ..... 9
- 6. APPLICATION PROCESS..... 9
  - a. Registration..... 10
  - b. Letter of Acknowledgement ..... 10
  - c. Statement of Readiness ..... 11
  - d. Application ..... 11
  - e. Informing NZ On Air of Changes ..... 12
  - f. External Financial Assessment ..... 12
  - g. Notification ..... 12
- 7. OTHER REQUIREMENTS AND CONDITIONS FOR APPLICANTS ..... 13
  - a. Currency Exchange..... 13
  - b. Reviews of decisions ..... 13
  - c. Spot Audits ..... 14
  - d. Fraudulent claims..... 14
- 8. ACCREDITATION ..... 14
- 9. SCHEME GOVERNANCE ..... 14
- 10. CONTACT ..... 15

## 1. ITERATIVE APPROACH TO THE SCHEME DESIGN

We are adopting an iterative approach to designing and implementing this Scheme in practice, and these Guidelines in particular, to ensure their effectiveness for both the sector and for government. To achieve this goal, we will treat these Guidelines as a prototype document and will periodically update and refine them by incorporating feedback and insights from the games sector. This approach is crucial in the initial year of the Scheme, as we collaborate closely with game companies to ensure the processes are fit for purpose and working to the intent of the GDSR. Please consider the [GDSR Design Features document](#) on our website as the foundation document of the GDSR, as agreed by Cabinet in August 2023.

To remain informed about Guidelines updates, we encourage you to subscribe to our [GDSR newsletter](#). We are committed to engaging directly with the sector whenever possible to actively gather feedback as we progress. Your input is invaluable to us, and we look forward to evolving this Scheme together.

Version	Date	Rationale	Key Sections Added / Amended
1.0	29/01/2023		
1.1	27/10/2023		
1.2	28/3/2024	Updates have been made following the Pilot Phase application and assessment process to provide greater clarity regarding eligible expenditure.	<ul style="list-style-type: none"><li>• Section 3.c. (page 5) – The section on multi-company operating structures now includes expanded eligibility details.</li><li>• Section 4 (page 6) – Footnote 1 has been included, directing attention to the revised glossary entry for greater guidance on what constitutes a 'general public release'.</li><li>• Section 5.a.1. (page 7) – Footnote 2 has been added to offer additional clarification regarding the types of expenses that may be considered reasonable for inclusion within the definition of well-structured market-level remuneration packages.</li><li>• Section 5.a.1. (page 7) – Footnote 3 has been extended to provide additional clarity regarding the calculation of eligible meeting attendance.</li><li>• Section 5.a.1.vii. (page 8) – Footnote 4 has been added to provide clarification on the criteria for qualifying website expenditure.</li><li>• Section 5.5 – (page 8) The details regarding game engine expenditure have been revised to explicitly exclude royalties, as they constitute expenses related to sales rather than game development.</li></ul>

## 2. OVERVIEW OF THE GDSR

The Game Development Sector Rebate (GDSR) aims to support the ongoing development and growth of Aotearoa New Zealand’s game development sector. It seeks to catalyse growth and job creation in mid- to large-sized game development studios to strengthen the domestic sector.

In Budget 2023 the Government provided funding of \$40 million per annum for delivering and administering a rebate for the game development sector. It is a rebate on eligible expenditures of eligible firms, at a rate of 20%. A firm’s rebate payment is capped at \$3 million per annum and the minimum qualifying expenditure per annum is \$250,000 NZD.

### a. Timeframe for GDSR

The GDSR is effective as of 1 April 2023. This means eligible firms can count eligible expenditures from this date. The eligibility period for the GDSR is 1 April to 31 March.

The Ministry of Business, Innovation and Employment (MBIE) has policy responsibility for the GDSR and NZ On Air is the delivery agency. MBIE will review the GDSR after two years to gauge uptake and early impact. It will undertake a further review at around the four-year mark to assess whether the scheme provides net benefits to Aotearoa New Zealand and whether modifications should be pursued.

### b. In cases of annual over-subscription

There may be cases where eligible firms make applications that collectively over-subscribe the annual funding (\$40 million minus scheme administration costs, plus potentially roll-over of unspent funds from earlier years) available for the rebate. In such cases, NZ On Air will allocate funding on a pro-rata basis. NZ On Air will endeavour to indicate to the sector in advance the likelihood of over-subscription, based on information gathered in the registration process.

## 3. GDSR ELIGIBILITY

Eligibility criteria are a key tool for targeting the delivery of the GDSR to the right firms for the right activities. This will help the GDSR reach its goals and the game development sector to reach its potential.

### a. Eligible Businesses

The purpose of the GDSR is to strengthen the game development sector and support studios developing NZ-owned intellectual property. A business may be eligible to apply for the GDSR if, at the time the business makes its application and would be due to be credited a rebate:

- i. the business is a New Zealand resident that has a [New Zealand Company Number](#); or
- ii. the business is a foreign resident that has a permanent establishment in New Zealand and a New Zealand Company Number; and
- iii. the business undertakes relevant game development activity.

For clarity, the focus of the rebate is on game development businesses. However, businesses developing digital assets for the games sector may also qualify.

Businesses that are unsure of their eligibility may submit a registration for the rebate. NZ On Air will assess whether the business' activities are in the spirit of the rebate and support the ongoing development and growth of the sector.

**b. Applicant Must be Authorised, Own or Control the Rights**

The applicant company must have ownership or control over the rights, or have obtained the requisite licences and authorities, necessary for game development. Alternatively, they may have been commissioned by another entity, particularly in the case of a group's parent company, which possesses such rights, or have been sub-contracted to undertake fee-for-service work.

It's essential to note that a company engaged in unauthorised game development is not eligible to apply for the GDSR.

To substantiate ownership or control of the game's development rights, the applicant company may be required to provide relevant agreements and/or contracts as evidence of such ownership or control at the Final Application stage.

**c. Multi company operating structure**

If the company conducting the development activities is a part of a consolidated group in New Zealand, the New Zealand-based parent company of the group could be the company applying for the GDSR so long as it meets the GDSR eligibility criteria. Our expectation is that the company undertaking the game development expenditure being claimed for is the applicant (versus a holding company that has little to no eligible game development activity of its own).

Where a parent company applies for the GDSR, relevant documentation needs to be provided to demonstrate the relationship between the applicant company and the company that carried out the development activities. Note that businesses may not claim expenditures for which another business has already claimed.

A key piece of information we are seeking to ascertain is what the multi company operating structure is, and that eligible intercompany transactions are not being claimed for more than once.

To be eligible to independently claim for the rebate, subsidiary studios must be constituted as separate legal entities. Generally, this means a separately registered limited liability company.

As a separate legal entity, eligible studios can claim against eligible expenditure incurred only by that particular entity.

Example: Studio A sets up a spinoff studio, Studio B. Studio A and B are both eligible to claim for the GDSR if each studio meets the eligibility criteria based on their own finances and expenditure.

If Studio A only sets up Studio B after expenditure on a game has occurred, and Studio B does not have its own independent expenditure for the eligibility period in question, then Studio B will not be able to claim the GDSR.

#### 4. ELIGIBLE GAMES

For the purposes of the GDSR, a digital game comprises content, game mechanics (rules) and code, and player participation that changes the outcome. It is in an electronic form that is capable of generating a display on a portable electronic device or a computer monitor, TV screen, liquid crystal display or similar medium. Eligible formats include virtual reality (VR), augmented reality (AR), mobile, tablet, console, hybrid, installation, web browsers, PCs and multiplatform games.

The GDSR will apply to eligible expenditure on digital games that are intended for general public release<sup>1</sup> for entertainment or educational purposes (including serious games).

Under the GDSR, educational games are defined as those with the primary purpose of providing knowledge, skill development, or learning opportunities to a wide audience. They incorporate educational content, objectives, or themes into their gameplay, aiming to impart information, foster critical thinking, enhance problem-solving abilities, or promote learning in a fun and engaging manner. They cover various subjects or topics and are intended for individuals of different ages, backgrounds, and educational levels. They strive to combine entertainment and educational value to make learning enjoyable and accessible to a broad user base.

##### a. Ineligible games

The GDSR will not apply to expenditure on digital games that:

- are a gambling service, substantially comprised of gambling. or include game mechanics that allow real money winnings;
- contain material that would be refused classification by [Te Mana Whakaatu Classification Office](#);
- contain pornography;
- are gamified software primarily designed for another purpose (e.g. gamified quizzes, accounting software);
- are linear content with no or limited interactivity (e.g., a 360-degree movie played on a VR headset);
- are developed for industrial, corporate training or institutional purposes; or

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<sup>1</sup> Please refer to the expanded definition provided in the GDSR Glossary (page 5) for clarification on what qualifies as 'general public release'.

- are intended for commercial advertising purposes or to primarily commercialise a product, entity, or service.

#### **b. Loot boxes**

The presence of loot boxes in a game does not render that game ineligible for the GDSR, **unless the loot box involves game mechanics that allow real money winnings**. However, GDSR applicants will be asked about the use of loot boxes and this issue will be monitored, including in the context of the scheme reviews scheduled at the two- and four-year mark.

## **5. ELIGIBLE EXPENDITURE**

For the purposes of the GDSR, eligible expenditure is expenditure incurred by a business in, or in relation to, developing digital games. Such development may include post-launch content creation (i.e., game updates and downloadable content) and adaptation or porting of a game for use on particular platforms.

#### **a. Specific Inclusions**

For clarity, specific **inclusions** are:

1. well-structured market-level remuneration packages<sup>2</sup>, included in employment or contractor agreements, paid via regular payroll systems including PAYE and other taxes, to employees and independent contractors who are domiciled in New Zealand who perform work or services directly for the business that are attributable to the development of digital games and which include the following types of functions and tasks<sup>3</sup>:
  - i. **project management**;
  - ii. **development** including, for example, game design, software development and programming, engineering (including for audio, graphics, physics, software and backend and servers), prototyping and product management;
  - iii. **writing and story designing** including, for example, narrative design, world building, character design and cultural consulting (including on te ao Māori);
  - iv. **production** including, for example, artistic, creative and design direction, and production;

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<sup>2</sup> For the avoidance of doubt, a well-structured market-level remuneration package may comprise annual leave, KiwiSaver contributions, sick leave entitlements, incentives stipulated upfront in the employment agreement and aligned with the eligibility period, as well as training entitlements that are specifically set out, relate to game development, and are identifiable within eligible role remuneration packages.

<sup>3</sup> This task list recognises that individuals may play multiple roles in a business. All expenditures on eligible tasks may be counted. If a staff member is wholly assigned to game development, then they do not need to calculate their attendance at general meetings versus game development meetings. However, for executives and other staff whose roles are not wholly assigned to game development, the time allocated to game development meetings can be averaged over a three-month period to determine the total allocation across the eligibility period.

- v. **art and design** including, for example, drawing, painting, animation, performance (for music, voice and motion capture), song writing, composing, music and sound design;
  - vi. **marketing and community development** including, for example, go-to-market strategy, community management, influencer engagement, social media management and content creation, user acquisition management, and localising games for specific markets / languages;
  - vii. **live operations of an online game** including, for example, data science, business intelligence, metrics and analytics management, playtesting and build management / deployment<sup>4</sup>;
  - viii. **player research and game quality improvements** including, for example, user experience design and testing, behaviour analysis and quality assurance testing;
  - ix. and other people performing similar tasks or functions to those listed above.
2. expenditure on research for development of digital games;
  3. expenditure on prototyping;
  4. expenditure on user testing, debugging and collecting user data for digital games;
  5. expenditure on underlying game infrastructure such as game engines (excluding backend royalties tied to unit sales);
  6. expenditure on game production software as a service, and game production hardware and software depreciation costs incurred in the eligible period;
  7. expenditure on online hosting and distribution of the game;
  8. expenditure on obtaining or maintaining a classification from Te Mana Whakaatu Classification Office;
  9. expenditure on obtaining trademarks for intellectual property created (including costs of registering trademark overseas);
  10. expenditure on licensing of NZ material (for example music) when material is NZ-held copyright or created by a NZ supplier;
  11. expenditure on participation in game development conferences and event attendance, including reasonable travel costs;
  12. expenditure on auditing costs specifically related to a GDSR application.

#### **b. Specific Exclusions**

For clarity, specific **exclusions** are:

13. expenditure on general business overheads such as:

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<sup>4</sup> Please be aware that website expenses will only qualify if an eligible game is directly hosted on the website. If the website serves primarily as a marketing platform and does not host the game, associated costs (unless related to remuneration) are not considered eligible expenditure.



- i. office administration, insurance, human resources, legal services and general auditing;
  - ii. general travel (unrelated to game development conferences and event attendance), accommodation, catering and hospitality;
  - iii. visas or work permits;
  - iv. expenses incurred in relation to the financing of the business.
14. expenditure on, or in connection with, employees and independent contractors whose roles are not directly related to game development, such as administrative employees and general sales professionals (unrelated to marketing and community development activities as listed above in the inclusions section);
  15. expenditure on employees or independent contractors who are not domiciled in New Zealand at the time of the expenditure;
  16. expenditure on the use of land or premises;
  17. other depreciation expenses.

Businesses may not claim expenditures for which another business has already claimed. For clarity, when contractors are engaged, any rebate claim should only be made at the top-most, NZ-based company level - for example, the owner of the project, not at the contractor level. As noted above, if there is a multi company operating structure, intercompany transactions can only be claimed once and would need to relate to eligible expenditure.

Businesses may only claim expenditures incurred in the eligibility period for which an application is submitted.

In determining eligible expenditure, the expenditure is taken to exclude GST.

The initial \$250,000 expenditure (the minimum threshold) is considered to be claimable under the GDSR.

### **c. Funding from other Government Sources**

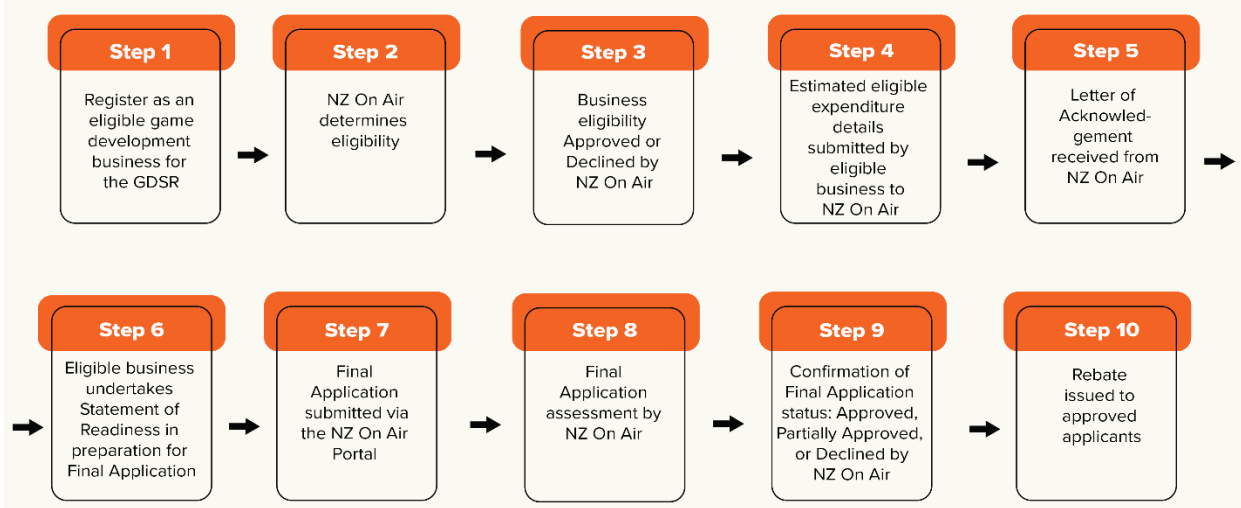
At times businesses may receive Government funding from other sources. The GDSR does not apply to expenditures that were already funded by other Government grants or subsidies (such as R&D grants, grants from CODE, NZTE, NZFC, MCH etc.). Businesses will be required to provide confirmation of any Government funding (other than the GDSR) applied for and/or received during the relevant eligibility period for which a GDSR application is submitted.

Firms are encouraged to access the R&D Tax Incentive and other relevant grants provided via Callaghan Innovation, for research activities that fall within the scope of those schemes. Note the GDSR will not apply to expenditures already funded by other government grants or subsidies (both local and international).

## **6. APPLICATION PROCESS**

The application process aims to minimise compliance costs and operate on a high trust model with the sector.

Please refer to the [GDSR Terms of Trade](#) for further information in respect of registration and application under the GDSR Scheme. All businesses registering with NZ On Air under the GDSR and applying for the GDSR will be required to agree to the GDSR Terms of Trade.



#### a. Registration

The eligibility period for the GDSR is 1 April to 31 March. Prior to an application, businesses must register with NZ On Air. Registration for the first year of the GDSR should occur no later than 30 November 2023. Businesses will be required to declare their type of business activity (previous, current, and planned) including the types of games being working on, roles in making games, information on current and planned eligible projects, and an estimate of eligible expenditure.

The information provided will help assess a business' eligibility and support planning by NZ On Air. NZ On Air may also establish an independent advisory function in Year One to support in its assessments, notably in the instance of "edge cases" where business, project or expenditure eligibility is less clear.

On the basis of its assessment, NZ On Air will then provide the business with a Letter of Acknowledgement indicating whether the business may submit a Final Application in respect of its activities. This letter is non-binding and does not give any guarantee that the business will receive a rebate or the amount of that rebate.

Businesses will be asked to verify their registration at each eligibility period (1 April – 31 March).

#### b. Letter of Acknowledgement

Businesses that have been deemed eligible following their registration under the GDSR Scheme will receive a Letter of Acknowledgement from NZ On Air confirming their registration for the

relevant eligibility period has been accepted. An approved registration under the GDSR Scheme or receipt of a Letter of Acknowledgement does not guarantee a Registered Business' Final Application for the GDSR in the relevant eligibility period will be successful, or partially successful.

**c. Statement of Readiness**

The Statement of Readiness (SoR) serves as a collaborative process through which NZ On Air will work with registered applicants to ensure the provision of necessary information that will support the quality and integrity of their Final Application. The GDSR Programme Coordinator will play a pivotal role in facilitating this process, particularly for smaller companies.

Given the GDSR's relatively tight timeframes for applications and claims processing, which occur annually between April and June, it is essential that registered applicants obtain a Statement of Readiness as a prerequisite before their application advances to the Final Application stage.

Specifically, registered businesses must, after receiving a Letter of Acknowledgement, confirm key information with NZ On Air. This information will allow NZ On Air to confirm that the business has robust processes in place, ensuring accurate determination of eligible expenditures and rebate claims in accordance with the GDSR's eligibility criteria. The SoR aims to support businesses in submitting high-quality applications and enhance the overall integrity of the GDSR.

**d. Application**

If a business has successfully registered and provided its SoR, it may submit a Final Application after the end date of the relevant eligibility period. Final Applications are to cover eligible expenditures incurred during the period 1 April to 31 March (eligibility period). These applications must be delivered to NZ On Air no later than 30 April; approximately four weeks after the conclusion of the eligibility period. Businesses may only make one application per year and there is one rebate payment per year to successful applicants.

In their application, applicants must declare any other government grants or subsidies received during the eligibility period. For transparency purposes, applicants will also be asked to indicate if the games on which they are seeking an expenditure rebate contain loot boxes as well as the general features of those loot boxes.

NZ On Air will carefully evaluate applications and may, if needed, request additional information or seek clarification from applicants. Applicants are expected to promptly respond to any such requests. NZ On Air may also seek external expert advice on applications, including matters related to accounting, legal, or sector-specific considerations. NZ On Air may conduct or commission independent financial assessments or audits of applications when deemed necessary to ensure the proper use of government funds.

Applicants should review these Guidelines before applying, to ensure that all required information is recorded and can be provided in the formats required. The SoR process will assist with this process for smaller companies. Applicants are encouraged to seek accounting advice from an accountant or auditor accredited in Aotearoa New Zealand, to ensure that expenditure

records are appropriately documented, and the relevant information can be extracted from the systems used.

It is vital that all sections of the Final Application form are completed, and all relevant documents are attached. Final Applications will not be assessed until all information is received.

Applicants should be aware that for the assessment of a final application a substantial amount of material is required to support an application. Applicants will be required to attach a range of documentation including, for example, the establishment of the applicant company, rights agreements, employment agreements and contracts for services to verify claimed expenditure. Applicants may also be required to attach relevant tax information such as the company's relationships to other entities.

NZ On Air may request any additional information it deems necessary. For instance, where a response is incomplete or unsubstantiated, NZ On Air may require the applicant to provide further detail.

**e. Informing NZ On Air of Changes**

Following the date of your registration for the relevant eligibility period, you are obligated to inform NZ On Air of any change in respect of your business that could materially affect your eligibility under the GDSR scheme. This includes, but is not limited to, your business ceasing to be an 'Eligible Business' as per the GDSR Guidelines, whether your business has been subject to liquidation or insolvency proceedings, whether you have been removed from the Companies Register or whether there has been a change to the ownership, control, or structure of your business.

**f. External Financial Assessment**

NZ On Air will typically seek the advice of one or more Independent Assurance Provider/s including an independent assessment of whether specific items claimed in an expenditure statement are eligible.

Applicants should expect to provide the financial information to an Independent Assurance Provider. This assessment will be undertaken on a strictly sensitive basis and the Independent Assurance Provider will be subject to a contractual duty of confidentiality.

The Independent Assurance Provider may contact applicants for additional information to substantiate the information within the Final Application and applicants are expected to respond to any such queries in a timely and helpful manner. This information may be required to assist the Independent Assurance Provider's assessment and advice to NZ On Air. The Independent Assurance Provider may seek information on the process and methodologies adopted by the applicant, for example to show that the amounts claimed are in accordance with the eligibility requirements.

Delays in providing information will result in an extended assessment period.

**g. Notification**

The process of assessing the application may take approximately 9-10 weeks, following receipt of all necessary attachments and information. Failure to provide all relevant documents or additional information requested by NZ On Air will result in the assessment process taking longer.

Upon approval of payment, the applicant company will receive written notification of the decision. NZ On Air reserves the discretion to adjust the approved rebate amount, potentially resulting in a sum lower than the initial application amount, after a thorough assessment of the application.

In cases where payment is denied, the applicant company will receive written notification of this decision, which will include the reasons for the denial. NZ On Air staff will be accessible to engage with and offer feedback to applicants should additional information be required or requested.

## **7. OTHER REQUIREMENTS AND CONDITIONS FOR APPLICANTS**

Businesses receiving payments under the GDSR must:

- acknowledge the support of the GDSR in relevant digital games where possible, for example in game credits or loading screens (see 7. Accreditation below);
- contribute information as required for the compilation of a catalogue of projects supported by the rebate, curated by NZ On Air; and
- take part in any evaluation activities or other information gathering exercises led by NZ On Air or MBIE that are required to assess the GDSR's performance against its goals.

No rebate will be provided to businesses that ceased to be eligible businesses during the eligibility period.

No rebate will be provided to businesses for which insolvency proceedings have been requested or opened in relation to their assets during the eligibility period.

At the end of each eligibility period, NZ On Air will publish the names of businesses who have received funding under the GDSR, and the aggregate amount of rebate funding disbursed. NZ On Air will also publish the amount of funding received by each business (in dollar bands to be determined by NZ On Air), two years after the end of the eligibility period to which the claim related. Publication of this information is key to transparency around the GDSR and its allocation of public funds.

### **a. Currency Exchange**

All eligible expenditure being reported on by GDSR applicants that is incurred in foreign currencies during the relevant eligibility period must be converted into New Zealand dollars. Conversion requires the average (daily or monthly – the applicant may choose) of the relevant exchange rates.

### **b. Reviews of decisions**

It is important to have clear processes for complaints and reviews of decisions made about applications and rebate payments. In the first instance, queries and complaints should be

directed to NZ On Air via [rebates@nzonair.govt.nz](mailto:rebates@nzonair.govt.nz). Where issues cannot be resolved, parties may seek further assistance from the Ombudsman.

**c. Spot Audits**

NZ On Air may, at its own cost, require the cost reporting and accounting processes and systems of businesses that have registered for, applied for, and accessed the GDSR to be independently assessed or audited in order to assess, or further assess, that business' eligibility under the GDSR Scheme during the relevant eligibility period. For further information on this, please refer to the [GDSR Terms of Trade](#).

**d. Fraudulent claims**

Any fraudulent claims may affect an applicant's future eligibility under the GDSR Scheme and will be pursued under the relevant legislation. Should a finding be made under C15 by an Independent Assurance Provider or Auditor that a business was deemed to have provided false or misleading information, it may be required by NZ On Air to repay any funding determined by NZ On Air at C15 plus interest calculated against the repayable figure. This interest rate is calculated based on IRD's Interest on overpayments and underpayments (UOMI). The interest rates are set by government and are based on market rates, so they vary over time. The interest to be applied to any repayable sum will be determined at the sole discretion of NZ On Air and based upon the most recent UOMI rate.

## 8. ACCREDITATION

If a final application made by a registered business is deemed successful by NZ On Air, there will be a requirement to acknowledge the support of the GDSR through NZ On Air. NZ On Air is still finalising the details of this accreditation but we would see this as being accreditation of the support of the scheme within a business' website and/or game credits. We will advise further on these accreditation requirements in due course and, once finalised, guidance will be found on the [NZ On Air website](#) and communicated to those registered businesses via newsletter updates from NZ On Air. You can sign up to those NZ On Air GDSR newsletter updates [here](#).

## 9. SCHEME GOVERNANCE

Governance of the GDSR aims to be light touch and use existing structures where possible, while retaining robust processes to ensure trust and credibility in the scheme and ensure proper use of public funds.

MBIE has policy responsibility for the GDSR and NZ On Air is the delivery agency. NZ On Air was chosen for its experience in administering large funds and its ability to draw on existing structures such as legal and auditing personnel. Delivering the rebate through a creative sector entity also provides an opportunity to align economic development and cultural policy goals by supporting sustainable employment, and to support arts and media in the digital environment.

NZ On Air will receive and process applications, make rebate payments and be the point of contact for businesses seeking rebate support. It will also assist in gathering information to inform reviews of the scheme and assessments of its effectiveness.

MBIE will work with NZ On Air to maintain governance of the GDSR. The overall aim will be to provide oversight of the efficient and effective delivery of the GDSR, and to retain focus on the overarching goals of the scheme – that is, to catalyse growth and job creation in mid- to large-sized game development studios to strengthen the domestic sector, and ultimately to contribute to creating a pipeline of developers and a sustainable ecosystem of domestic firms that develops homegrown intellectual property and puts talent development at the forefront.

As game development forms part of the Government’s Digital Technologies Industry Transformation Plans (ITP), the Digital Technologies ITP Partnership Board will receive regular reporting from MBIE on the implementation of the scheme (for example, six-monthly, with the provision for more frequent updates initially). The Partnership Board plays a key role in overseeing the implementation of the ITP (in which game development contributes to the export success pillar), steering the direction of future ITP priority areas, and providing strategic oversight and guidance for the ITP.

## 10. CONTACT

If you require information, please contact [gamesrebate@nzonair.govt.nz](mailto:gamesrebate@nzonair.govt.nz).

To sign up to GDSR newsletter updates from NZ On Air, just click [here](#).