

Coronavirus Advice for Business – 5 November 2020

CORONAVIRUS JOB RETENTION SCHEME (CJRS)

Please note that the following is our understanding of the scheme and how it works, it is therefore an indication at this stage and should not be relied on wholly. We will continue to update as and when the Government release more details, since the scheme is now changing each month:

The Government scheme has been protecting people's jobs during the crisis. The scheme is open to all UK businesses and sees the Government pay part of the wages of employees that would otherwise have been laid off. The scheme will close on 31 March 2021 and is subject to a review in early January 2021.

This is a grant from the Government, not a loan, so it will not need to be repaid.

Terms of the scheme

To access the scheme employees, or certain employees, need to be have been designated as "furloughed workers" for a designated consecutive period of time. The only exception to this rule is parents who have returned from maternity, paternity or adoption leave, who are also entitled to be placed on the Flexible Furlough scheme, provided that the company has used CJRS and made a successful claim for any employee previously.

At present, there is a cap on the reimbursement of 80% of the employee's wage costs up to a maximum of £2,500 per month. It is a matter of employment law whether an employer has to make up any shortfall. It is expected that the scheme will continue in its current form, reflecting the reimbursement which was available under the August 2020 Flexible Furlough Scheme, until March 2021.

Flexible Furlough Scheme

The flexible furlough scheme is designed to bring back employees where there may be some work for them to do, but not enough to satisfy their previous job role, so they are brought back on a part time basis. Whilst they are working part time, employees will remain on reduced pay; there is no legal obligation to resume their pay to 100%. The employer is required to pay for the period in which an employee works, and the job retention scheme will pay for 80% of hours not worked. Employer's national insurance contributions and auto-enrolment pension contributions will not be subsidised. An employee does not have to have previously been furloughed to be placed on the Flexible Furlough scheme now.

Employees who have been made redundant after 23 September can be rehired and placed on furlough. Further guidance will be released shortly.

The scheme closes on 31 March 2021, at which point employers may need to consider a redundancy process if they are still experiencing a reduced workflow.

It is worth noting that the Government is not changing employment law to allow this change in status. Therefore, making this change to an employee's status remains subject to employment law and your employees will have continuous employment but you would not be subject to any constructive dismissal claims by changing their salary. Employers do need to take care to avoid appearing to act in a discriminatory fashion, with regards to both furlough and redundancy. The rules for the grant will not displace the existing employment contract so it is expected that holiday and benefits will continue in the usual way. Furloughed employees still have the same redundancy rights as working employees. Any statutory redundancy payments should be based on 100% salary. Redundancy and returning to work procedures can be difficult and if you are unsure about any situation, especially if there is dispute, we strongly recommend you speak to an employment lawyer; our business advisory team are able to recommend experts in this field.

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HMRC Portal for making a claim

HMRC have developed a portal, through which employers can provide the relevant information to apply for a grant. The majority of businesses receive reimbursement within 6 working days of their claim being approved, via BACS transfer, so it is important that you enter the correct bank account details. Please note it is out understanding that you can submit a claim up to 14 days in advance of the payroll date, provided that you expect employees to be furloughed at that time. However, if you are using the Flexible Furlough scheme, it is recommended that a claim is made at the end of the pay period, so that businesses have the flexibility to increase or reduce working hours each week, as required, without having to change claims. HMRC communications have stated:

“Businesses, and agents that are authorised to act on behalf of clients for PAYE matters, will be able to claim. However, file only agents, including Payroll Bureaus, will not be able access the service due to data protection reasons.

The claim process

Please get in touch with our payroll or business advisory departments if you need assistance in applying for your grant through the portal. If we are preparing the claim for you then we will need further information from you including lists of who you have furloughed, and when, as well as your bank account details before we can start the claim application.

- You will login through your employer’s Government Gateway but you’ll need to also be registered for PAYE online and have an ePAYE number. Do this here: <https://www.gov.uk/payee-online/enrol>
- You can only make one claim per calendar month. You can upload your grant claim up to 14 days in advance of payday, though it is recommended to wait until after payday if cash flow allows.
- For employees on Flexible Furlough, make a note of their “usual hours” compared to actual hours worked.
- Get all your information ready for the claim – it may be easier to use a spreadsheet.
- You will need the National Insurance number of each furlough employee.
- You currently have to enter all furloughed employees individually if you have less than 100, you can bulk upload an excel spreadsheet if you have more than 100 employees to claim for.
- There is no ‘save and return’ option and you’ll be kicked off after 30mins of inactivity – so keep doing keystrokes to keep yourself on there, whilst you check information.
- Try and be as prepared as you can be before you logon. There is a calculator on the portal if you are stuck but we recommend working it out yourself on spreadsheet first, as that will be quicker.
- Prepare a reconciliation sheet of your grant claim & eventual payrolls - there may be some adjustments to make such as topping up apprentices to App Min Wage, topping up holiday pay, or pension contributions, for example;
- If there is anything you’re not sure about, make a judgement and note why you considered that to be the correct treatment. Then you can check in the coming days/weeks when things are clearer & adjust either grant claims and/or payrolls next time.

The worked examples in the HMRC handout are useful. They show how to calculate pro-rata pay and NIC for furlough/non-furlough days –you include all dates in the month, 7 days a week. If you are using average pay because they had uneven pay amounts, check what you can and cannot include (list on handout) and note that you need to average it for the tax year 2019/20 up to the date each employee was furloughed – using number of days from 6th April 2019 until the date they were furloughed (if not previously furloughed).

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Further Guidance

The government has released a guide which can be found [here](#). New guidance on the Flexible Furlough scheme can be found [here](#).

There are still some unanswered questions for HMRC, which the accountancy & tax professions are pushing for answers on and we will continue to update this guide as and when further information becomes available.

- HMRC will be the body that administers the grant scheme.
- Charitable and not for profit organisations will be eligible.
- Whilst the scheme can be backdated the grants will only be available when employers have agreed furlough terms with their employees and they have stopped work, subject to employment law in the usual way.
- Available to all employees on the payroll at 30 October 2020 with an RTI submission.
- The employer will pay the employee through payroll and as such RTI submissions will still be maintained.
- Relevant employees must be designated as furloughed employees
- The scheme will not cover dividends where directors/ shareholders of owner managed companies pay small salaries and the balance as dividends.
- The grant will cover salary costs only.
- Directors are able to furlough themselves under the Job Retention Scheme, for the PAYE element of their earnings only, if they only carry out activities which would ‘reasonably be judged necessary’ for the purpose of fulfilling statutory duties.
- Holiday Pay - you can allow holidays & it doesn’t break furlough, but you have to claim just 80% for the grant amount & then top up to 100% for your payroll; same for bank holidays, if they’re normally taken as leave. Or you can just assume it’s a working-furlough-day, claim the furlough amount & add their extra holiday days onto entitlement for ‘post lockdown’. Your decision probably depends on how much all these accrued holidays are going to cause you a problem later in the year.
- If you normally claim £4k NI employment allowance (based on your business’ last year’s Class 1 Employers NIC being less than £100k) then you still have to use that until it’s used up. You will probably need to do some working out of this on a spreadsheet, as the Employers NIC element of your grant must be the lower amount.

JOB RETENTION BONUS

The Job Retention Bonus was announced by the Chancellor in his summer statement. The bonus is a one-off £1,000 payment per every furloughed employee who is still employed with the company at 31 January 2021. Since the new announcement on 5 November 2020, this bonus has now been withdrawn, but a similar scheme may be considered at a later date.

Funding problems

Clearly, this is an enormous task for companies, accountants and HMRC and not all employers making an application will be able to receive the grant before salaries have to be paid. Therefore, managing cash during this intervening period is still crucial (see our link to advice about cash flows).

Whilst we can’t be sure this will apply for all businesses, Banks may be willing to extend or arrange overdrafts for a limited time for the amounts expected to be claimed.