

Coronavirus Advice for Businesses – 4 June 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 for advice, we will continue to update as and when the Government release more details:

The Government has announced a new scheme to protect people's jobs during the crisis. The scheme is open to all UK businesses and will see the Government pay part of the wages of employees that would otherwise have been laid off. The scheme will close on 31 October 2020.

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 designated as “furloughed workers” for a minimum of three consecutive weeks. You will need to notify these workers of the change, in writing (email will be fine). This needs to be in line with their contract of employment – which essentially means you will have to negotiate the situation with staff and get a signed temporary agreement to alter their T's & C's. This should be uncontentious in most cases as the alternative might be formal lay off with no pay or redundancy.

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, **plus** the associated Employer's National Insurance contributions and pension contributions on the subsidised pay. It should also be noted that the employee should be shown on the payroll as at 19th March and an RTI submission must have been made on or before this date. Claims can be backdated to 1 March 2020. It is a matter of employment law whether an employer has to make up any shortfall. The scheme will continue in its current form of reimbursement until 31 July.

Changes to the scheme

From 1 July the scheme will change to a “Flexible Furlough” scheme. The 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 80% pay; there is no legal obligation to resume their pay to 100%. The employer is then required to pay for the period in which an employee works, and the job retention scheme will top up the salary to 80%. It is our current understanding that an employee can only be transferred onto the Flexible Furlough scheme if they have been on the previous furlough scheme for a minimum of three consecutive weeks, and they do not have to still be furloughed at 30 June to qualify. Therefore, the final date by which an employee can be furloughed for the first time is 10 June 2020. Further guidance will be released on 12 June and we will update this page accordingly with the details.

What we do know

- From 1 July employers will still be able to make a claim in advance based on the work and payroll they anticipate, but they are no longer able to make claims for overlapping months.
- From 1 August, employers will not be able to claim for the Employer's National Insurance Contributions or auto-enrolment pension contributions.
- From 1 September, employers will be required to pay 10% of the furloughed employees' salary and the government will subsidise 70%.
- From 1 October, employers will be required to pay 20% of the furloughed employees' salary and the government will subsidise 60%.
- The cap of £2,500 will reduce accordingly in September and October. The cap may be substantially lower from July onwards for employees working flexibly and will be calculated proportional to hours *not worked*.

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The scheme closes on 31 October 2020, 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. 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. Please note that the word Furlough does not yet have legal status in employment law.

HMRC Portal for making a claim

HMRC have developed a portal which opened on the 20th April, through which employers can provide the relevant information to apply for a grant. They expect businesses to 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 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. 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 make one claim per pay period. You can upload your grant claim up to 14 days in advance of payday.
- Get all your information ready for the claim – it may be easier to use a spreadsheet.
- You will need the National Insurance number as well as the National Insurance and pension contribution information for each employee to be able to calculate the claim amount.
- 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.

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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 before 6/4/20).

Further Guidance

The government has released a guide which can be found [here](#). New guidance on the Flexible Furlough scheme will be announced on 12 June.

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 is backdated to the 1 March 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 19 March 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 all employment costs including; salary, employer pension contributions and employer NIC.
- 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 (which otherwise needs to be a min of 3 weeks each time); 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 take that in April, and 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.

Funding problems

Clearly, this is an enormous task for companies, accountants and HMRC and not all employers making an application would have been able to receive the March and/or April grants by 30th April and in some circumstances salaries have to be paid before the claim can be made 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.