

# Coronavirus Job Retention Scheme

Summary for employers



# Coronavirus Job Retention Scheme (CJRS)

The Coronavirus Job Retention Scheme is a temporary scheme open to all UK employers for at least three months, backdated to 1st March 2020.

HMRC are expecting the scheme to be running by the end of April. The scheme has been designed to support employers whose working operations have been severely affected by Coronavirus.

Employers will be able to use a portal to claim for 80% of furloughed employees' (employees on a leave of absence) usual monthly wage costs, up to £2,500 a month.

This will also include the associated Employer National Insurance contributions and minimum auto enrolment employer pension contributions on the wage.

The Coronavirus Job Retention Scheme is open to all UK employers operating a PAYE scheme on or before 28th February 2020.

Employers can use this scheme anytime during the period. It is expected to avoid potential fraud that cross checks will be made between the applications for grants against PAYE records for each employer.

Employers will be required to make one claim for the entire workforce, and record how many workers are

covered, and they will need to ensure that they keep the correct records in place.

Current estimation is the end of April for the portal to be up and running, businesses should look to the Coronavirus Business Interruption Loan Scheme to support cash flow in the meantime to provide the wage package.

The Coronavirus Job Retention Scheme will run for at least 3 months from 1st March 2020 but will be extended if necessary.

## What is a Furloughed Worker?

Furloughed workers are those whose employers cannot cover staff costs due to coronavirus, and as such they have been asked to stop working, but have not been made redundant. Such employers are now able to access support to continue paying part of their staff's wages, to avoid redundancies.

The overall objective is to keep people at home while enabling employers to retain staff who will be needed when they begin to rebuild their businesses in the future. This will enable work to begin again when the business is able to resume trading as normal.

Employers will need to consider their contracts held with employees and ensure the correct employment law procedure is abided by.

## Key Questions

**This is a complex area of legislation, and so companies are advised to seek proper advice before taking any action.**

### Am I eligible to claim?

Any UK organisations with employees can apply, including.

- Businesses
- Charities
- Recruitment agencies (agency workers paid through PAYE)
- Public Authorities

Employers must have created and started a PAYE payroll scheme on or before 28 February 2020 and have a UK bank account.

Where a company is being taken under the management of an administrator, the administrator will be able to access the Job Retention Scheme.

### What employers can claim?

Furloughed employees must have been on the PAYE payroll on 28 February 2020, and can be on any type of contract, including.

- Full Time employees
- Part Time Employees
- Employees on agency contracts
- Employees on flexible or zero-hours contracts

The scheme also covers employees who were made redundant since 28th February 2020, if they are rehired by their employer.

To be eligible for the subsidy, when on Furlough, an employee can not undertake work for or on behalf of the organisation/employer. This includes providing services or generating revenue for the business.

While on Furlough status, the employee's wages will be subject to usual income tax and other deductions.

If any employees are working, but on reduced hours, or for reduced pay, they will not be eligible for this scheme and you as the employer will have to continue paying the employee through your payroll and pay their salary subject to the terms of the employment contract the employer agreed.

Employers should discuss with their staff and make any changes to the employment contract by agreement.

**Please note** – Employers considering this, and deciding who to offer furlough to, equality and discrimination laws will apply in the usual way.

To be eligible for the subsidy, employers should write to their employees confirming that they have been furloughed and must keep a record of this

communication/should agree.

Any employees hired after 28th February 2020 cannot be furloughed or claimed for in accordance with the Job Retention Scheme.

### What if I have an employee on unpaid leave?

Any employee who is on unpaid leave cannot be furloughed, unless they were placed on unpaid leave after 28 February.

### What if I have an employee on Statutory Sick Pay?

Any employees on sick leave or self-isolating should get Statutory Sick Pay but can be furloughed after this.

Any employee who is shielding in line with public health guidance can be placed on furlough.

### What if an employee has more than one job?

If your employee has more than one employer, they can be furloughed for each job. Each job is separate, and the cap applies to each employer individually.

### What if my employee does volunteer work or training?

A furloughed employee can take part in volunteer work or training, as long as it does not provide services that generate any Revenue, for or on behalf of your organisation.

If workers are required to complete online training courses whilst they are furloughed, then they must be paid at least the National Living Wage and National Minimum Wage for the time spent training, even if this is more than the 80% of their wage that will be subsidised.

### What if an employee is on Maternity Pay?

Individuals who are on or plan to take Maternity Leave must take at least 2 weeks off work (4 Weeks if they work in a factory or workshop) immediately following the birth of their baby.

This is a health and safety requirement. In practice, most women start their Maternity Leave before they give birth.

If your employee is eligible for Statutory Maternity Pay (SMP) or Maternity Allowance, the normal rules apply, and they are entitled to claim up to 39 weeks of statutory pay or allowance.

Employees who qualify for SMP, will still be eligible for 90% of their average weekly earnings in the first 6 weeks, followed by 33 weeks of pay paid at 90% of their average weekly earnings of the statutory flat rate (whichever is lower).

The statutory flat rate is currently £148.68 a week, rising to £151.20 a week from April 2020.

If you offer enhanced (earnings related) contractual pay to women on Maternity Leave, this is included as wage costs that you can claim through the scheme.

The same principles apply where your employee qualifies for contractual adoption, paternity or shared parental pay.

## How do I work out what to claim?

Employers will receive a grant from HMRC to cover the lower of 80% of an employee's regular wage or up to £2,500 gross per month, plus the associated Employer National Insurance contributions and Minimum Automatic Enrolment Employer Pension contributions on that subsidised Wage.

The following are not included;

- Fees
- Commission
- Bonuses

At a minimum, employers must pay their employee the lower of 80% of their regular wage or up to £2,500 gross per month.

Employers can choose to top up an employee's salary beyond this but are not obliged to under this scheme.

More guidance from HMRC is due to become available on how employers should calculate their claims for Employer National Insurance Contributions and minimum automatic enrolment employer pension contributions.

## Claiming for full time employees

Full time and part time salaried employees – the employee's gross salary before tax as of 28th February should be used to calculate the 80%.

## Claiming for employees with variable pay

Employees who have been employed for a full twelve months prior to the claim, you can claim for the higher of either;

- The same months earning from the previous year
- An average monthly earnings from the 2019-20 tax year

If an employee has been employed for less than a year, you can claim for an average of their monthly earning since employment started.

If any employees only stated employment in February 2020 – you will need to use a pro-rata for their earnings so far as to claim.

## What about National Insurance and Pension Contributions?

All employers remain liable for Employer National Insurance Contributions and the Minimum Automatic Enrolment Pension Contributions on behalf of any Furloughed Employees.

Employers will be able to claim a grant from HMRC to cover wages for a furloughed employee equal to the lower of 80% of the employee's regular gross salary of up to £2,500 per month, plus the employer national insurance contributions and paying those wages.

You as an employer can chose to top-up the salary in addition to the grant.

Employer National Insurance Contributions and Automatic Enrolment contribution on any additional top-up salary will not be funded through this scheme.

Nor will any voluntary automatic enrolment contributions above the minimum contribution of 3% of income above the lower limit of qualifying earning (which is £512 per month until 5th April and will be £520 per month from 6th April 2020 onwards).

## What about the National Living Wage and National Minimum Wage?

Individuals are only entitled to the National Living Wage (NLW) or National Minimum Wage (NMW) for the hours they are working.

Furloughed workers, who are not working, must be paid the lower of 80% of their salary, or up to £2,500 gross per month, even if based on their usual working hours, this would be below NLW/NMW.

## What information do I need to make a claim?

Employers should discuss with their staff and make any changes to the employment contact by agreement. Employers may need to seek legal advice on the process.

To claim you will need the following::

- your ePAYE reference number
- the number of employees being furloughed
- the claim period (start and end date)
- amount claimed (per the minimum length of furloughing of 3 weeks)
- your bank account number and sort code
- your contact name
- your phone number

You will need to calculate the amount you are claiming. HMRC will retain the right to retrospectively audit all aspects of your claim

## When can I make a claim?

Claims can be for a minimum of three weeks and a maximum of three months, but this may be extended in dependent on how the situation relating to the outbreak of coronavirus evolves.

## **What do I do after I have made a claim?**

Once HMRC have received your claim, and you are eligible for the grant, you will be paid via BACS payment to a UK bank account.

You should make your claim in accordance with actual payroll amounts at the point at which you run your payroll or in advance of an imminent payroll.

You must pay the employee all the grant you receive for their gross pay, no fees can be charged from the money that is granted. You can choose to top up the employee's salary, but you do not have to.

## **What happens after the scheme ends?**

Once the Government scheme ends the scheme, you must make a decision depending on your circumstances, as to whether employees can return to their duties. If not, it may be necessary to consider termination of employment – redundancy.

## **What rights do my employees have who are Furloughed?**

Employees that have been Furloughed have the same rights as they did previously. This includes Statutory Sick Pay entitlement, maternity rights, other parental rights, rights against unfair dismissal and rights to redundancy payments.

Once the scheme has been closed by the government, HMRC will continue to process remaining claims before terminating the scheme.

## **What is the Tax Treatment of the Coronavirus Job Retention Grant?**

Payments received by a business under the scheme are made to offset these deductible revenue costs. They must therefore be included as income in the business's calculation of its taxable profits for Income Tax and Corporation Tax purposes, in accordance with normal principles.

Businesses can deduct employment costs as normal when calculating taxable profits for Income Tax and Corporation Tax purposes.

# Claiming for your employees

## The Government released new guidance regarding the CJRS.

### Who can claim

Those business eligible to claim for the scheme must have:

- Created and started a PAYE payroll scheme on or before 28th February
- Enrolled for PAYE online - this can take up to 10 days
- Have a UK bank account

Any entity with a UK payroll can apply - this includes businesses charities, recruitment agencies and public authorities

### Apprentices

Apprentices are able to be furloughed in the same way as other employees and can continue to carry out training whilst they are furloughed.

You must pay your apprentice at least the apprenticeship minimum wage, national living wage or national minimum wage as appropriate for any time they spend training.

This means employers must cover the shortfall between the amount claimable for their wages through the grant and their appropriate minimum wage.

### Individuals

Individuals are able to furlough employees for example nannies providing they pay them through PAYE and they were on the payroll on or before 28th February

### Administrators

Where a company is being taken under the management by an administrator, they are able to access the job retention scheme. It would be expected that an administrator would only access the scheme if there is a likelihood of rehiring workers.

### Employees you can claim for

Employers can only claim for furloughed employees that were active on the payroll on or before 28 February 2020

Any employees hired after 28 February cannot be furloughed and claimed for in accordance with the scheme

Employees can be on any form of employment contract including, full time, part time, agency, flexible or zero hours. Foreign nationals are eligible to be furloughed.

Any employees furloughed under the scheme cannot undertake work for or on behalf of the organisation. This includes, providing services or generating revenue. Employers are free to consider the allocation of any critical business tasks to staff that are not furloughed.

Employees who are on furlough the wage will be subject to the usual income tax and other deductions.

Employees made redundant or stopped working for the employer after 28th February

If employees have been made redundant or they have stopped working for you after 28th February 2020, employers can re-employ them and put them on furlough. Employers are able to claim for their wages through the scheme.

### Employees working reduced hours

Any employees working reduced hours or for reduced pay will not be eligible for this scheme

### Employees currently on unpaid leave

Employers are only able to claim for employees that started unpaid leave after 28th February

### Employees who are self-isolating or on sick leave

Employers cannot claim for employees while they are getting statutory sick pay, but they can be furloughed and claimed for once they are no longer receiving SSP

Employees are able to claim statutory sick pay if they are self-isolating or are on sick leave

### Shielding employees

Employers can claim for furloughed employees who are shielding in line with public health guidance or need to stay at home with someone who is shielding, if they are unable to work from home and would otherwise be made redundant.

### Employees who have caring responsibilities

Employees who are unable to work because they are caring responsibilities resulting from

Covid 19 can be furloughed. An example would be looking after their children

### Employees who have more than one job

If any employees have more than one employer, employees can be furloughed for each job as each is classed as separate and the cap would apply to each employer.

Employees can be furloughed in one job and receive a furloughed payment but can continue working for another employer and receive their normal wages

## Employees on fixed term contracts

Employees who are on fixed term contracts can be furloughed, the contract can be renewed or extended during the furloughed period without breaking the terms of the scheme. Where the fixed term contracts ends because it is not extended or renewed employers will no longer be able to claim the grant for them.

## Individuals who are eligible who are not employees

The grant can be claimed for any of the following groups if they are paid via PAYE

- Office holders (including company directors)
- Salaried members of a limited liability partnership
- Agency workers (including those employed by umbrella companies)
- Limb (b) worker

### Office holders

Office holders can be furloughed and receive grant through the scheme. The furlough, and any ongoing payment during the furlough period will

Need to be agreed between the office holder and the party who operates PAYE on income they receive for holding their office.

Where the office holder is a company director or member of a LLP the furlough arrangements should be adopted formally as a decision of the company or LLP

### Company directors

As office holders, salaried directors are eligible to be furloughed and receive support through the scheme.

Company directors owe duties to their company which are set out in the companies act 2006

Where a company (acting through its board of directors) consider that it is in compliance with the statutory duties of one or more of its individual salaried director, the board can decide that such directors should be furloughed.

Where one or more individual directors furlough is so decided by the board, this should be formally adopted as a decision of the company, noted in the company records and communicate in writing to the director or directors concerned

Furloughed directors need to carry out particular duties to fulfil the statutory obligations they owe the company, they may do so provided they do no more than would reasonably be judged necessary for the purpose for instance, they should not do work of any kind they would carry out in normal circumstances to generate commercial revenue or provides services to or on behalf of their company

## Salaried members of LLPS

Members of LLPs who are designated as employees for tax purposes ('salaried members') under the Income Tax (Trading and Other Income) Act (ITTOIA) 2005 are eligible to be furloughed and receive support through this scheme.

The rights and duties of a member of an LLP are set out in an LLP agreement and in the absence of an agreement, default provisions in the LLP Act 2000, based upon company and partnership law. Such an agreement may include separate agreement between the LLP and an individual member setting out the terms applicable to that member's relationship with the LLP.

To furlough a member, the terms of the LLP agreement (or any such agreement between the LLP and the member) may need to be varied by a formal decision of the LLP, for example to reflect the fact that the member will perform no work in the LLP for the period of furlough, and the effect of this on their remuneration from the LLP. For an LLP member who is treated as being employed by the LLP (in accordance with s863A of ITTOIA 2005), the reference salary for this scheme is the LLP member's profit allocation, excluding any amounts which are determined by the LLP member's performance, or the overall performance of the LL

### Agency workers (including umbrella company employees)

Where agency workers are paid through PAYE, they are eligible to be furloughed and receive support through this scheme, including where they are employed by umbrella companies.

Furlough should be agreed between the agency, as the deemed employer, and the worker, though it would be advised to discuss the need to furlough with any end clients involved. As with employees, agency workers should perform no work for, through or on behalf of the agency that has furloughed them while they are furloughed, including for the agency's clients.

Where an agency supplies clients with workers who are employed by an umbrella company that operates the PAYE, it will be for the umbrella company and the worker to agree whether to furlough the worker or not.

### Limb (b) Workers

Where Limb (b) Workers are paid through PAYE, they can be furloughed and receive support through this scheme.

Those who pay tax on their trading profits through Income Tax Self-Assessment, may instead be eligible for the Self-Employed Income Support Scheme (SEISS), announced by the Chancellor on 26 March 2020.

## Past overtime, fees, commission, bonuses and non-cash payments

Employers can claim for any regular payments employers are obliged to pay employees, this includes wages, past overtime, fees and compulsory commission payments.

However discretionary bonus (including tips) and commission payments and non-cash payments should be excluded.

## Benefits in kind and salary sacrifices

The reference salary should not include the cost of non-monetary benefits provided to employees, including taxable Benefits in Kind.

Similarly, benefits provided through salary sacrifice schemes (including pension contributions) that reduce an employee's taxable pay should also not be included in the reference salary.

Where the employer provides benefits to furloughed employees, this should be in addition to the wages that must be paid under the terms of the Job Retention Scheme.

Normally, an employee cannot switch freely out of a salary sacrifice scheme unless there is a life event.

HMRC agrees that COVID-19 counts as a life event that could warrant changes to salary sacrifice arrangements, if the relevant employment contract is updated accordingly

## Apprenticeship levy and Student Loan

Both should continue to be paid as usual. Grants from The job retention scheme do not cover these

## Making a Claim

Employers should make your claim using the amounts in your payroll - either shortly before or during running payroll. Claims can be backdated until the 1 March where employees have already been furloughed.

If appropriate, worker's wages should be reduced to 80% of their salary within your payroll before they are paid. This adjustment will not be made by HMRC.

## What is the Minimum furlough period

Any employees you place on furlough must be furloughed for a minimum period of 3 consecutive weeks. When they return to work, they must be taken off furlough. Employees can be furloughed multiple times, but each separate instance must be for a minimum period of 3 consecutive weeks.

## What happens after you claim

HMRC will check your claim, and if you're eligible, pay it to you by BACS to a UK bank account.

You must pay the employee all the grant you receive for their gross pay, no fees can be charged from the money that is granted.

## When the government ends the scheme

When the government ends the scheme, you must make a decision, depending on your circumstances, as to whether employees can return to their duties. If not, it may be necessary to consider termination of employment (redundancy).

HMRC will process all claims made before the scheme ends.

## When your employees are on furlough

You cannot ask your employee to do any work that:

- makes money for your organisation
- provides services for your organisation

They can take part in volunteer work or training.

## Employee rights

Employees still have the same rights at work, including:

- Statutory Sick Pay
- maternity and other parental rights
- rights against unfair dismissal
- redundancy payments

Grants cannot be used to substitute redundancy payments. HMRC will continue to monitor businesses after the scheme has closed.

## Working for a different employer

If contractually allowed, your employees are permitted to work for another employer whilst you have placed them on furlough.

For any employer that takes on a new employee, the new employer should ensure they complete the starter checklist form correctly. If the employee is furloughed from another employment, they should complete Statement C.

To be eligible for the grant employers must confirm in writing to their employee confirming that they have been furloughed. A record of this communication must be kept for five years.

The online service Employers will use to claim is not available yet. HMRC expect it to be available by the end of April 2020.



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