

Furlough and the Coronavirus Job Retention Scheme Guide



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Introduction

On 20th March 2020 the Government announced its introduction of the Coronavirus Job Retention Scheme (CJRS) in response to the difficulties many organisations were facing as a result of the impact the Coronavirus was having on employment. Many organisations at that time had already had to make the difficult decision to 'lay off' staff or make them redundant or were planning on doing this at some point in the foreseeable future. The Government recognised the huge impact COVID 19 was having on employees' job security and introduced this measure to support employers and their employees get through this time of crisis.

Terms of Coronavirus Job Retention Scheme

The CJRS is a grant paid out by Government to employers of staff who have been unable to maintain their workforce due to the severe impact the coronavirus has had on the operations of the business. For an employer to be eligible for the grant they need to have furloughed the individual and that individual will not be performing any work (services or work that provides revenue) for that employer.

Salary Costs

The grant, which is paid to the employer, will cover 80% of a furloughed employees wages (this can be topped up by the employer) up to £2500 per employee, per month. This amount will be subject to the usual income tax and national insurance deductions, associated costs for employer national insurance contributions and basic rate pension costs on the furloughed pay will also be covered by the grant. Initially, the scheme will be running for a period of three months from 1st March 2020.

For full time permanent staff the 80% will be based on the employee's salary as of 28th February 2020.

For staff who work irregular hours where the employee has been employed for 12 months or more, you can claim the highest of either the:

- same month's earning from the previous year
- average monthly earnings for the 2019-2020 tax year

If the employee has been employed for less than 12 months, claim for 80% of their average monthly earnings since they started work.

If the employee only started in February 2020, work out a pro-rata for their earnings so far, and claim for 80%.

A claim can be made for regular payments the employer is obliged to pay the employee. This therefore covers wages, past overtime, fees and compulsory commission payments. However, discretionary bonus (including tips) and commission payments and non-cash payments should be excluded

Who can claim and who can you claim for?

To claim an employer must have:

- created and started a PAYE payroll scheme on or before 28th February 2020
- enrolled for PAYE on line
- a UK bank account

Employees you can claim for:

- full time
- part time
- zero hours
- agency
- Other – individuals who are not employees but paid through PAYE, Office Holders (including company Directors), salaried members of LLP's, agency workers including those employed by umbrella companies and limb workers

To be eligible these staff must have been on the payroll before 28th February 2020 and be designated as a furloughed worker and be on furlough for at least 3 consecutive weeks.

Legal management of a furloughed employee

The Government are very clear that usual employment laws still apply. Organisations cannot force an employee to be furloughed and will need to gain agreement from the employee that they consent to being furloughed and the terms of the furlough arrangement e.g: 20% salary reduction (where the employers is not topping up the salary) capped at £2500 per employee per month; that they cannot work for their employer whilst on furlough; that they need to be available to return to their employer when the employer wants them back at work and that they are agreeing to a temporary change to their terms and conditions of employment. This agreement must be confirmed in writing and may be used as evidence to the furloughed agreed arrangement when claiming the grant funds.

Some furloughed employees may work for another employer and where this is the case each employer is regarded as separate and therefore an employee can be furloughed by each employer. Should a furloughed employee wish to work for another employer whilst they are furloughed the usual conditions found within the employment contract (usually conflict of interest) apply. In this case the employee may be required to gain consent to work for another employer and it must be made clear to them the terms around returning to work and that the usual laws around Working Time Regulations still apply.

Furloughed employees are still allowed to partake in training (as long as in undertaking the training the employee does not provide services to, or generate revenue for, or on behalf of, their organisation) which is particularly important for those professions where there is a requirement to undertake continuous professional development. Where training is required, at the request of the employer, the employee is entitled to be paid at least the appropriate national minimum wage for this time. In most cases, the furlough payment of 80% of an employee's regular wage, up to the value of £2,500, will provide sufficient monies to cover these training hours. Therefore, time spent training should attract at least minimum wage and where the 80% payment doesn't cover this employers will be required to top this up.

Employees not eligible for the scheme

Anyone employed from the 29th February 2020 will not be eligible for payment of the CJRS. As employees are not allowed to work where their employer is claiming the CJRS grant anyone who has reduced their hours will not be eligible, as is the case with employees who are self isolating. Where a work group or department has been furloughed but one of those employees is off sick or self isolating due to the Coronavirus, the employee will be required to complete the necessary period of self isolation before they can then be furloughed and their employer be eligible for the grant.

Employees on long term sick, shielding or off due to childcare responsibilities

Where a business decision has been made to furlough, for example, a group of staff or a department, employers are entitled to furlough employees who are on long term sick or who are shielding or who need to stay at home with someone who is shielding. Employees who are unable to work due to childcare responsibilities are also able to be furloughed.

What you will need to make a claim

To claim, you will need:

- your employer PAYE reference number
- the number of employees being furloughed
- National Insurance Numbers for the employees you want to furlough
- Names of the employees you want to furlough
- Payroll/works number for the employees you want to furlough
- your Self Assessment Unique Taxpayer Reference or Corporation Tax Unique Taxpayer Reference or Company Registration Number
- the claim period (start and end date)
- amount claimed (per the minimum length of furloughing of 3 consecutive 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.

Once the claim has been made and you are in receipt of the funds, 80% (up to the monthly cap of £2500) must be paid to the furloughed employee. Employers cannot enter into any arrangement with the furloughed employee where they receive less than this, this includes administration fees or any other charges the employer may wish to apply.

When the scheme ends

Currently the CJRS is available until 31st May 2020 although the Government have stated that they may extend this if necessary.

When the scheme does end employers need to decide whether their furloughed employees will be returning to work on their usual hours, whether they need to re negotiate terms with these employees to return on reduced hours or whether they will be asking the furloughed employee whether they agree to take a period of unpaid leave (all the usual employment laws apply when making these types of changes to the employment contract). Ultimately, and for some organisations, tough decisions on whether compulsory staff redundancies may need to be made. Again, employers will be expected to follow the usual laws on consultation and redundancy processes.

Disclaimer: This document was created on the 14/04/2020. As the situation in the UK is developing rapidly, always remember to check in with your HR Consultant or the gov.uk website for the latest updates.