

HR Elite



# Furlough and the Coronavirus Job Retention Scheme Guide

## Furlough and the Coronavirus Job Retention Scheme

### Introduction

On 20<sup>th</sup> 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.

The scheme was initially planned to be in place for three months, until 31<sup>st</sup> May 2020. It was subsequently extended until end October 2020, at which point it was to be replaced by a different scheme (Job Support Scheme).

However, as the UK was placed into a second lockdown, the Government again extended the CJRS scheme (and placed the JSS on hold). The new CJRS scheme is now in place until March 2021.

### 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.

The scheme initially required staff to be fully furloughed, and not undertake any work for the employer during this time.

### Flexible Furlough

Flexible furlough was introduced in July, which enables employees to be furloughed for some of their hours, whilst carrying out some work for you. You pay them in full for the hours they work, with the grant being claimed for any hours they are furloughed. Under the current scheme, flexible furlough can still be applied and staff can work part time and be furloughed for the remainder.

## 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.

Over the course of this year, there have been various amendments to the scheme, whereby organisations have been required to contribute towards the costs. However the current scheme does not require any employer contributions and the 80% is fully funded by the government. This will be reviewed in January 2021, and may be amended at that stage.

## 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 30<sup>th</sup> October 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 30<sup>th</sup> October 2020.

You do not need to have used the previous furlough, or flexible furlough schemes to place an employee on furlough from November 2020.

## 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 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. The agreement must be made in advance of the arrangement commencing.

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, which is particularly important for those professions where there is a requirement to undertake continuous professional development.

## Employees not eligible for the scheme

Anyone who was not on payroll (with an RTI submitted) by 30<sup>th</sup> October 2020 will not be eligible for payment of the CJRS. They could request to be placed on furlough by their previous employer (if applicable).

## Employees you have previously made redundant

If you have made employees redundant, or they stopped working for you on or after 23 September 2020 you can re-employ them and put them on furlough. This applies as long as the employee was employed by you on September 23 and you made a PAYE RTI submission to HMRC between 20 March 2020 and 30 October 2020, notifying a payment of earnings for that employee.

## 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.

## Employees who are working a notice period

From 1st December 2020, you can not claim the furlough grant to cover staff who are working either a statutory or contractual notice period. This means the full cost of any notice period will be the responsibility of the company to pay, and not eligible for the grant. Up until 30th November, notice periods can be claimed under the furlough scheme.

## 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
- 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

This scheme is currently in place until 31<sup>st</sup> March 2021, although the government are reviewing the contribution levels and details in January 2021, so there is likely to be a revision at this stage.

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 updated on the 17/11/2020. 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.*