

Everything you need to know about the

Coronavirus Job Retention Scheme

EVERYTHING YOU NEED TO KNOW ABOUT THE CORONAVIRUS JOB RETENTION SCHEME AKA FURLOUGH

KEY OBJECTIVES OF THE SCHEME

The main objective of the Job Retention Scheme is to enable people to stay at home, while allowing employers to retain staff who will be needed when they are able to begin to rebuild their businesses. This will facilitate work to begin again with a core team who have the skill and knowledge to achieve success.

The scheme will alleviate pressure on employers whose operations have been severely affected by Covid-19 by removing the need to make redundancies during this crisis period. It allows employers to "furlough" employees - to place them on a temporary period of leave during which time they do not have to work. Employers can then recover a proportion of their wage from HMRC as a grant. This amount is limited to **80%** of the employees wage up to the value of £2,500 per calendar month.

The Job Retention scheme can be backdated to **1 March 2020** provided that the employee was on the PAYE payroll on February 28 2020. The scheme will be open for at least three months, but may be extended beyond that period.



DETAILS OF THE CORONAVIRUS JOB RETENTION SCHEME

Who can apply?

Any UK organisation with employees can apply, including:

- Businesses
- Charities
- Recruitment agencies
- Public authorities

Your employees must have been on your PAYE payroll scheme on or before 28 February 2020, and you must have a UK bank account.

The period of furlough must be for a minimum of three weeks.

Employees covered by the scheme

Furloughed employees must have been on your PAYE payroll on or before 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-hour contracts
- Employees who were made redundant

The scheme also covers employees who were made redundant since 28 February 2020. An employer can choose to rehire staff made redundant due to coronavirus and place them on furlough with payment claims backdated to 1 March 2020.

Employees on unpaid leave

Employees who are on unpaid leave cannot be furloughed, unless that unpaid leave began after 28 February 2020.

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Employees on sick leave or who are shielding

Employees who are currently on sick leave or self-isolating should be given statutory sick pay. After they are better, they can be furloughed. Employees who are shielding in line with public health guidance can be placed on furlough.

Employees with multiple jobs

Employees can be furloughed from more than one job if they are employed by multiple businesses. Each furlough leave will be treated separately, and the reimbursement cap will apply to each employer individually.

There is nothing in the guidance to prevent a furloughed employee from seeking employment elsewhere during their furlough leave, as long as it is in line with the terms of their existing contract of employment.

Employees who undertake volunteer work or training

A furloughed employee can take part in training or volunteer work, so long as they do not generate revenue or provide services to, or on behalf of, your organisation. If workers need to complete online training, employers must ensure that they are paid at least the National Living Wage, or Minimum Wage for the time spent training. Employers will need to make up the shortfall on top of the 80% which will be subsidised.

Employees on Maternity Leave, contractual adoption pay, paternity pay or shared parental leave

Statutory Maternity Pay will still apply for women on Maternity Leave. If an employer offers enhanced contractual pay to women on Maternity Leave, this can be included in the wage costs and can be claimed through the scheme. The same is true when dealing with all types of family leave.

Employees returning from Maternity Leave

An employee returning from Maternity Leave who worked regular fixed hours can be offered furlough, and their pay should be calculated based on what she

would now be receiving, including any pay rises that have taken place during her leave.

Does annual leave accrue during a period of furlough?

It seems likely that under the Working Time Regulations 1998, that the 5.6 weeks of annual leave would continue to accrue during furlough leave. This has not been clarified in the guidance yet.



WHAT CAN THE EMPLOYER CLAIM BACK?

What is covered?

Employers can claim 80% of usual monthly wage costs up to £2,500 per employee. In addition, employers can claim the associated national insurance contributions and minimum auto-enrolment pension contributions for furloughed employees. This calculation should be based on the employee's gross salary on 28 February 2020.

Fees, commissions and bonuses cannot be included in any claim made.

Is the £2,500 subject to tax and NI?

The 80% payment to the employee is subject to income tax as well as National Insurance contributions in the usual way and employers must continue to make minimum auto-enrolment pension contributions for their furloughed employees.

Employers making top-up payments

Employers can choose to pay top-up salary to their furloughed employees in addition to the grant, but employer National Insurance Contributions and auto-enrolment pension contributions on any top-up salary will not be funded by the scheme. Nor will any voluntary auto-enrolment pension contributions above the minimum mandatory contribution of 3% of income above the lower limit of qualifying earnings.

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HOW IS 80% OF SALARY CALCULATED?

For those with irregular earnings

If the employee has been employed by the business for a full twelve months before the claim, the employer can claim for the higher of either:

The same month's earning from the previous year

The average monthly earnings from the 2019/20 tax year.

If the employee has been employed for less than a year, employers can claim for an average of the monthly earnings since they started work.

If the employee only started work in February 2020, a pro-rata calculation can be used for their earnings so far.



HOW TO IMPLEMENT FURLOUGH

Initial steps

Employers should discuss the proposal of furlough with their staff, and should only make changes to the employment contract by agreement. It is a condition of the scheme that the furlough leave has been confirmed to the employee in writing.

Collective consultation process

If an employer intends to furlough 20 or more employees, and plans to dismiss employees who do not consent to be placed on furlough, it may be necessary to engage in collective consultation to achieve agreement before amending the employment contracts terms. Any employees who do not consent to the terms of the furlough and are then dismissed will be classed as dismissed by reason of redundancy.

WHO SHOULD BE PUT ON FURLOUGH?

Non-discriminatory selection

Employers should ensure their decision on who to select for furlough leave is not based on discriminatory criteria, except where this discrimination is justified - for example - an employer may choose to furlough all staff over the age of 70 to achieve the overall aim of this scheme, to protect the health and safety of vulnerable employees as identified by the Government.

Is furlough unfair to employees who must continue working?

Provided that the employer has used an appropriate, non-discriminatory method to select those eligible for furlough leave, it is possible for an employer to select part of a workforce to be placed on furlough.

Can furlough be rotated between staff?

It is likely an employer will receive many requests or volunteers to be placed on furlough leave. An employer may choose to rotate furlough between employees to ensure no employee feels they have been denied the opportunity to take furlough leave. This is subject to the minimum three week period of furlough for each employee.

Can an employee request or volunteer to be put on furlough?

An employee may make a request or volunteer to be placed on furlough leave, but the employer does not have to agree.

Can an employee decline furlough?

If an employee declines furlough they are at risk of being made redundant or having their employment terminated, depending on the circumstances of the employer.

Can a furloughed employee be made redundant?

An employer can make an employee redundant whilst they are on furlough leave, or on their return to work following furlough leave. Employee rights are not affected by being placed on furlough leave.

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HOW TO CLAIM

What employers need to do to make a claim

The online claim portal is expected to be open from the end of April 2020. You will only be able to submit one claim at least every three weeks, which is the minimum length an employee can be furloughed for.

Employers will need to

- Decide which employees to place on furlough
- Notify furloughed employees in writing of the intended change
- Consider any need to consult with employee representatives or Trade Unions
- Agree contract changes with the furloughed employees
- Confirm the employees new status in writing
- Submit all relevant information to HMRC via the online portal
- Ensure furloughed employees do not carry out any further work on behalf of the employer during their furlough.

What employers need to make a claim

- Their PAYE reference number
- The number of employees being furloughed
- The claim period (start and end date)
- Amount to be claimed (per the minimum length of furloughing of three weeks)
- The bank account number and sort code
- A contact name
- A phone number

Employers will need to calculate the amount they are claiming. HMRC will retain the right to retrospectively audit all aspects of a claim.



After employers have made a claim

Once a claim has been received and an employer has been deemed eligible for the grant, HMRC will make a BACS payment to the UK bank account listed in the claim. Employers must pass the grant onto employees. No fees may be charged from the money that is granted. An employer may choose to top up an employees salary, but they do not have to.

Tax treatment of the Coronavirus Job Retention Grant

Payments received by a business under the scheme are to offset deductible revenue costs. The grants must be included as income in the business's calculation of taxable profits.

When the scheme ends

Employers will need to make a decision, depending on their circumstances, as to whether employees can return to their duties. If not, it may be necessary to consider redundancy.

Employees returning from furlough

Employees will continue to have the same rights as they did prior to furlough leave. That includes Statutory Sick Pay entitlement, maternity and family or parental rights, rights against unfair dismissal, and rights to redundancy payments.

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