

## **Coronavirus Job Retention Scheme**

The Coronavirus Job Retention Scheme is a temporary scheme open to all UK employers for at least three months starting from 1 March 2020. It is designed to support employers whose operations have been severely affected by coronavirus.

Employers can 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, plus the associated Employer National Insurance contributions and minimum automatic enrolment employer pension contributions (3%) on that wage. Employers can use this scheme anytime during this period.

The scheme is open to all UK employers that had created and started a PAYE payroll scheme on or before 28 February 2020 and have a UK bank account. The online service to make a claim is not available yet. The government expect it to be available by the end of April 2020.

### **Who can claim?**

Any UK organisation with employees can apply, including:

- Businesses, charities, recruitment agencies (agency workers paid through PAYE), public authorities

### **Employees who can be claimed for**

Furloughed employees must have been on the employer's 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-hour contracts

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

### **Scheme Rules**

To be eligible for the subsidy:

- When on furlough, an employee can not undertake work for or on behalf of the organisation. This includes providing services or generating revenue.
- While on furlough, the employee's wage will be subject to usual income tax and other deductions.
- The minimum length of furloughing of 3 weeks.
- If employees are working, but on reduced hours, or for reduced pay, they will not be eligible for this scheme and the employer will have to continue paying the employees through their payroll and pay their salary subject to the terms of the employment contract agreed.
- Employers should discuss with their staff and make any changes to the employment contract by agreement. When employers are making decisions in relation to the process, including 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 employee confirming that they have been furloughed and keep a record of this communication.
- Employees hired after 28 February 2020 cannot be furloughed or claimed for in accordance with this scheme.
- Employers do not need to place all their employees on furlough. However, those employees who are placed on furlough cannot undertake work for the employer.
- Employees who are shielding in line with public health guidance can be placed on furlough.

### **If the employee is on unpaid leave**

Employees on unpaid leave cannot be furloughed, unless they were placed on unpaid leave after 28 February.

### **If the employee is on Statutory Sick Pay**

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

### **If the employee has more than one job**

If the 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.

### **If the 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 to or generate revenue for, or on behalf of the organisation.

However, if workers are required to for example, complete online training courses whilst they are furloughed, then they must be paid at least the NLW/NMW for the time spent training, even if this is more than the 80% of their wage that will be subsidised.

### **Work out what can be claimed**

Employers need to make a claim for wage costs through this scheme.

The employer will receive a grant from HMRC to cover the lower of 80% of an employee's regular wage or £2,500 per month, plus the associated Employer National Insurance contributions and minimum automatic enrolment employer pension contributions on that subsidised wage.

- Fees, commission and bonuses should not be included.
- At a minimum, employers must pay their employee the lower of 80% of their regular wage or £2,500 per month. An employer can also choose to top up an employee's salary beyond this but is not obliged to under this scheme.
- The government will issue more guidance on how employers should calculate their claims for Employer National Insurance Contributions and minimum automatic enrolment employer pension contributions, before the scheme becomes live.

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### **Full time and part time employees**

For full time and part time salaried employees, the employee's actual salary before tax, as of 28 February should be used to calculate the 80%. Fees, commission and bonuses should not be included.

### **Employees whose pay varies**

If the employee has been employed (or engaged by an employment business) for a full twelve months prior to the claim, the employer can claim for the higher of either:

- the same month's earning from the previous year
- average monthly earnings from the 2019-20 tax year
- If the employee has been employed for less than a year, the employer can claim for an average of their monthly earnings since they started work.
- If the employee only started in February 2020, use a pro-rata for their earnings so far to claim.

Once the employer has worked out how much of an employee's salary it can claim for, it must then work out the amount of Employer National Insurance Contributions and minimum automatic enrolment employer pension contributions it is entitled to claim.

### **What is needed to make a claim?**

Employers should discuss with their staff and make any changes to the employment contract by agreement. Employers may need to seek legal advice on the process. If sufficient numbers of staff are involved, it may be necessary to engage collective consultation processes to procure agreement to changes to terms of employment.

To claim, what will be needed is:

- the 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)
- the employers bank account number and sort code
- the employers contact name and telephone number
- the employer will need to calculate the amount it is claiming
- HMRC will retain the right to retrospectively audit all aspects of any claim.

### **Claim**

The online service that needs to be used to claim is not available yet. It is expected to be available by the end of April 2020.

The employer can only submit one claim at least every 3 weeks, which is the minimum length an employee can be furloughed for. Claims can be backdated until the 1 March if applicable.

### **What to do after the claim has been made**

Once HMRC have received the claim and it is eligible for the grant, they will pay it via BACS payment to a UK bank account.

Employers should make their claim in accordance with actual payroll amounts at the point at which the payroll is run or in advance of an imminent payroll.

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

### **When the government ends the scheme**

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

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

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

### **Employee Tax, National Insurance and Pension Contributions**

Wages of furloughed employees will be subject to Income Tax and National Insurance as usual. Employees will also pay automatic enrolment contributions on qualifying earnings, unless they have chosen to opt-out or to cease saving into a workplace pension scheme.

Employers will be liable to pay Employer National Insurance contributions on wages paid, as well as automatic enrolment contributions on qualifying earnings unless an employee has opted out or has ceased saving into a workplace pension scheme.

### **Employer National Insurance and Pension Contributions**

All employers remain liable for associated Employer National Insurance contributions and minimum automatic enrolment employer pension contributions on behalf of their furloughed employees.

The employer can claim a grant from HMRC to cover wages for a furloughed employee, equal to the lower of 80% of an employee's regular salary or £2,500 per month, plus the associated Employer National Insurance contributions and minimum automatic enrolment employer pension contributions on paying those wages.

Employers can choose to provide top-up 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 mandatory employer contribution of 3% of income above the lower limit of qualifying earnings (which is £512 per month until 5th April and will be £520 per month from 6th April 2020 onwards).

### **National Living Wage/National Minimum Wage**

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

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

However, if workers are required to for example, complete online training courses whilst they are furloughed, then they must be paid at least the NLW/NMW for the time spent training, even if this is more than the 80% of their wage that will be

subsidised.

**If an employee is on Maternity Leave, contractual adoption pay, paternity pay or shared parental pay**

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

**Tax Treatment of the Corona virus 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.

**Public sector organisations**

The government expects that the scheme will not be used by many public sector organisations, as the majority of public sector employees are continuing to provide essential public services or contribute to the response to the corona virus outbreak.

Where employers receive public funding for staff costs, and that funding is continuing, it is expect employers to use that money to continue to pay staff in the usual fashion – and correspondingly not furlough them. This also applies to non-public sector employers who receive public funding for staff costs.

Organisations who are receiving public funding specifically to provide services necessary to respond to COVID-19 are not expected to furlough staff.

In a small number of cases, for example where organisations are not primarily funded by the government and whose staff cannot be redeployed to assist with the corona virus response, the scheme may be appropriate for some staff.

To see the detailed guidance issued by the government, please click here <https://www.gov.uk/guidance/claim-for-wage-costs-through-the-coronavirus-job-retention-scheme>