

Coronavirus Job Retention Scheme

As of 24 March 2020

Coronavirus Job Retention Scheme

The government has announced that all UK employers will be able to access support to continue paying part of their employee's salary for those employees that would otherwise have been made redundant during the crisis. The full text they've released so far can be viewed [here](#).

How to access the scheme

In order to apply you will need to:

Identify affected employees - establish those employees who have no work to undertake as a direct consequence of coronavirus. Please note that employees cannot designate themselves as furloughed, it is the employer who decides.

Change the status of employees and communicate to relevant individuals - you will need to change the designation of those affected employees to 'furloughed workers' – unless you have a clause confirming that you are able to vary the existing terms and conditions by notifying employees, this can only happen with the written agreement of your employees and will result in a change to existing terms and conditions of employment. Any changes will need to be clearly communicated to staff and ideally you should give them an opportunity to provide you with any comments or questions. Further information on this point can be found via the [Citizens advice website](#) and via [government guidance for employers](#).

Notify HMRC - you will require to submit information to HMRC about the employees that have been furloughed and their earnings through a new online portal. HMRC are due to set out further details on the **information** required and the system of reimbursement in the next few days but we would currently expect this to include evidence of employment and of income tax and National Insurance contributions going through PAYE payments. Coverage is also expected to apply for any workers who may have already been laid off after 29 February 2020.

1

Identify affected employees

2

Change the status of employees

3

Gather information

4

Notify HMRC (online portal)

Scheme benefit

Once the above is completed, HMRC will reimburse 80% of furloughed workers wage costs, up to a cap of £2,500 per month for wages lost since 1 March 2020. The scheme will be in place for an initial period of three months, but the Chancellor has indicated that he is prepared to keep it open for longer, depending upon the need.



Frequently Asked Questions

What does furloughed worker mean?

In UK employment law, the term 'furloughed' has no legal significance and therefore we'll need to see what specific guidance is given on this when further details are released. The strict meaning of the word is a temporary leave of absence from work. Unless the government confirms to the contrary, we should assume that all contractual benefits (e.g. holidays) continue to accrue.

Are employees allowed to complete other work whilst furloughed?

At present, details from HMRC remain vague however we would currently expect that employees could potentially undertake voluntary and other paid work via other sources but they could **not** complete **any** other work for you whilst classified as 'furloughed workers' and still claim the 80% payment. However, employees on furlough leave are still employees with obligations to the employer and contract clauses such as confidentiality and not working for others will remain in force. The frequency with which you can furlough and un-furlough an employee also remains unclear.

How to decide who should be designated as furloughed workers?

Employers should ensure that they any furloughed employees are identified in a fair, objective and a non-discriminatory way whilst ensuring they retain the skills they need within the business during this challenging time. For remaining employees, you should consider discussing the situation with them to identify preferences, attitudes and potential volunteers. For more complex or challenging situations we would recommend speaking to an HR or legal adviser for assistance in order to ensure the process is handled correctly.

Do employers need to top up the salary to 100%?

The government are encouraging employers to pay the unfunded 20% balance and/or amount above £2,500 for higher earners to employees, but this is entirely voluntary. However, concerns have been raised that technically if the employee is available to work, then they are entitled to be paid, so any reduction in salary may be regarded as an authorised deduction from wages, depending upon what is in their contract of employment.

Will Employers National Insurance be due for furloughed workers?

It appears that employers National Insurance will remain due for any 'furloughed workers' and therefore we would expect that these liabilities will need to be managed by applying for either a time to pay arrangement or through the use of a Coronavirus Business Interruption Loan.

How are claims calculated for employees with irregular earnings?

Uncertainty also remains in respect of employees with irregular earnings or zero-hour contracts however we expect that this will be based on a form of averaging earnings calculation like the calculation for statutory maternity pay qualifying earning or statutory redundancy pay.

Are directors and employed family members covered?

The current guidance indicates that the CJRS will be available to anyone who has a contract of employment and/or has suffered PAYE as at 29 February 2020. We are therefore hopeful that workers and employed family members will be covered. However, as it is unlikely that Directors can consider themselves as 'furloughed workers' it is doubtful that they will be able to qualify for the reimbursement whether paid via salary, dividends or a mixture of both. We appreciate that this is a concern for many clients and therefore will seek to obtain clarity as soon as possible on this point.

Can employers delay payment of wages until funding has been received?

It appears that businesses will need to make payments to employees in order to receive the repayment funding from the scheme. The government are aiming to have the first repayments processed before the end of April 2020. The government have recommended that businesses should consider applying for the Coronavirus Business Interruption Loan if any short-term cash flow shortages need to be addressed.

Contact Us

Please be aware that the government advice and detail surrounding the available options is changing on a daily basis. This document and the information presented is therefore accurate as of:

24 March 2020

For the latest news and advice please visit our Facebook, LinkedIn and website pages. If you have any immediate questions or if you would like to discuss any of the options further please contact us via email or give us a call on our usual office telephone numbers:

Bramley: 01483 898 400
Farnham: 01252 856 977
London: 020 7846 0084



We'd like to thank Mike Clyne of FeMan Consulting for his kind input into producing this document. Mike provides HR support and advice for small businesses. If you require any further informal assistance or support of this nature, including a Furlough Worker letter template, please feel free to contact Mike via the details noted below.

FeMan Consulting Limited

Mike Clyne

mike@femanconsulting.co.uk

