

## Coronavirus Job Retention Scheme

On 27 March 2020, the government provided an update for the *Coronavirus Job Retention Scheme*. First announced by the Chancellor on 20 March 2020, it provides temporary financial support for all UK employers severely affected by coronavirus (COVID-19). For at least 3 months from 1 March 2020, employers can apply for grants to cover 80% of furloughed employees usual monthly wage costs, up to a £2,500 a month, plus the associated Employer National Insurance contributions and minimum automatic enrolment employer pension contributions on that wage, provided they keep the worker employed.

The scheme is open to all UK employers that created and started a PAYE payroll scheme on 28 February 2020.

The government are urgently working to set up a system for reimbursement. Visit the GOV.UK website <https://www.gov.uk/guidance/claim-for-wage-costs-through-the-coronavirus-job-retention-scheme>

## Eligibility for the Coronavirus Job Retention Scheme

- All UK businesses small or large including **single director companies** and charitable or non-profit, recruitment agencies (agency workers paid through PAYE) and public authorities.
- For owner/managed companies, covers only salary relevant to the scheme and does not extend to dividends.
- 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, part-time, agency contracts or zero-hours contracts.
- Scheme only applicable if employers keep the worker employed.
- Covers employees who were made redundant since 28 February 2020, if they were rehired by their employer.
- This scheme is only for employees on agency contracts who are not working.
- Employees working, but on reduced hours, or for reduced pay, are not eligible for this scheme and must continue to be paid their salary subject to the agreed terms of their employment contract.
- Employees hired after 28 February 2020 cannot be furloughed or claimed for under this scheme.
- Only employees placed on unpaid leave after 28 February can be furloughed.
- Employees on sick leave or self-isolating should receive Statutory Sick Pay (SSP) but can be furloughed after this.
- Employees shielding in line with public health guidance can be placed on furlough.
- Employees with more than one job can be furloughed for each job. Each job is separate, and the cap applies to each employer individually.
- Employees eligible for Statutory Maternity Pay (SMP) or Maternity Allowance, the normal rules apply and they are able to claim up to 39 weeks of statutory pay or allowance. If you offer enhanced (earnings related) contractual pay to women on Maternity Leave, this is included as wage costs that you can claim through the scheme. Same principles apply where your employee qualifies for contractual adoption, paternity or shared parental pay.

## **What Wage Costs Are Covered by this Scheme and for How Long?**

- HMRC will reimburse 80% of furloughed workers wage costs, up to a cap of £2,500 per month, plus the associated Employer National Insurance contributions and minimum automatic enrolment employer pension contributions on that wage, provided they keep the worker employed.
- The wages cover relates to gross pay and will be backdated to 1 March 2020 for a period of at least 3 months.

## **How to Access Funds and Make a Claim Under the Coronavirus Job Retention Scheme**

- Designate affected employees as ‘furloughed workers,’ and notify your employees of this change. Changing the status of employees remains subject to existing employment law and, depending on the employment contract, may be subject to negotiation.
- Employers need to make a claim for furloughed workers wage costs through this scheme to receive a grant from the HMRC.
- A grant will be paid directly to the employer through a new HMRC online portal (currently under urgent construction). The employer will submit information to HMRC through this new online portal.
- HMRC will issue more guidance on how employers should calculate their claims before the scheme becomes live.
- For full-time and part-time salaried employees, the actual salary before tax, as of 28 February should be used to calculate 80%. Fees, commission and bonuses should not be included.

## **How to Furlough Workers**

To notify affected employees of this change, the following free templates are available to customise for your business use. Ensure that your processes are documented to provide a clear audit trail.

- At a minimum employers must pay furloughed employees 80% of their regular wage or £2,500 per month.
- Employers can choose to top up an employee’s salary (pay the 20% difference), but do not have to.
- All national insurance and pension contributions will continue at the normal percentages. Employees will remain on the employer’s payroll and continue to accrue holiday and service.
- Employees will not be required to carry out their usual duties nor attend their place of work until further notice or until:
- The government’s Coronavirus Job Retention Scheme ends.
- Either the company or the employee ceases to be eligible for funding under that scheme.
- The company decides to cancel Furlough Leave and bring the employee back to work.

- When the Furlough Leave ends, the agreement entitles businesses to place employees on short time or lay off without any pay except for statutory guarantee payments.
- Employees may not work for another organisation or on their own account.
- Employees currently on sick leave and or self-isolation, can only be furloughed once they have returned to work.

### **Duration of Coronavirus Job Retention Scheme**

- The first payments are expected to be made end of April.
- The scheme will be backdated to the 1 March 2020.
- The scheme should be up and running before the end of April 2020.
- The scheme will run for a maximum of 3 months but may be extended if necessary.

To view the government's **COVID-19: support for businesses** webpage

<https://www.gov.uk/guidance/claim-for-wage-costs-through-the-coronavirus-job-retention-scheme>

### **How Do You Pay Staff Under This Scheme**

- The Real Time Information reporting of payroll should continue as normal. Using the RTI, the employer will pay the agreed amounts as required by the employee's employment contract. This contract may be renegotiated, but that is a matter for employment law. This will involve paying the employee and HMRC the PAYE and both primary and secondary National Insurance Contributions.

### **What does the £2,500 Per Employee Maximum Monthly Grant Cover?**

- The £2,500 monthly grant covers all employment costs i.e. salary, employer pension contributions required by auto enrolment (if applicable) and employer NIC.
- The rules for the grant will not displace the existing employment contract and we would expect the entitlement to holiday and sick pay would also depend on the contract.

### **How to Work out what you can claim**

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

You 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.

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.

### **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, you 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, you 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 you've worked out how much of an employee's salary you can claim for, you must then work out the amount of Employer National Insurance Contributions and minimum automatic enrolment employer pension contributions you are entitled to claim.

The earnings period to be used to determine the maximum grant has yet to be clarified including what will be needed for new employees and seasonal staff. Options considered are likely to include:

- Average for a prior period such as 12 months to 1 March, or perhaps the month of February alone for a new employee.
- For seasonal workers, it may use the same period last year, such as 3 months March, April, May 2019.
- For those working irregular hours or on reduced pay (e.g. maternity or sick leave) a different previous period may be needed.

## Example to Demonstrate How to Calculate Payments Under Furlough Leave

ABC Ltd employs Mr X at an annual salary of £24,000, paying £2,000 per month. Mr X has opted out of auto enrolment. Each month, Mr X currently receives net pay of £1,665 which is after deducting PAYE of £191 and employees NIC of £144. On this salary, the employer pays employers' NIC of £174. The available grant for the employer is the lower of:

- 80% of (£2,000 + £174), and
- £2,500

The grant will be £1,739. The cash required by ABC Ltd to furlough based on maintaining the existing salary is £435 per month.

It is a matter for employment law whether the employer is required to pay this top up. Discussions with employees may have agreed that the employee has agreed to a different arrangement during their furlough.

### Notes

Based on an extended understanding of how the scheme will work:

- If Mr X had not opted out of auto enrolment, ABC Ltd would also be making pension contributions on his behalf. If so, the available grant is based on 80% of (gross salary + Employers' NIC + employers pension contributions paid), subject to the monthly cap of £2,500.
- We understand that the rules for the scheme are being designed with underlying reference to employment law. If the individual is still under contract, Mr X can expect to receive his salary in full. The £1,739 grant paid to ABC Ltd should not be taken as the new maximum cost of employment to the employer unless the contract has been redrafted.
- Subject to the employment contract and any amendment, the salary which the employer actually pays the employee during the furlough period may be different to the pay paid used as the reference period and upon which the grant figure is based.

*Please Note: We are not a legal advisory service and this article is for guidance only. This information is based on current Government Guidelines and advice. You should always check the Gov.UK website for any updated information.*