

## **Coronavirus Job Retention Scheme**

Under the Coronavirus Job Retention Scheme, the government will cover 80% of the salaries of workers who remain on payroll but are temporarily not working during the coronavirus outbreak, up to a total of £2,500 a month. This measure is designed to lessen the need to lay off staff.

Employers may claim a grant of up to 80% of the salaries of employees plus the associated Employer National Insurance contributions and minimum automatic enrolment employer pension contributions on that wage, provided they keep the worker employed who has been laid off during this crisis.

- This is subject to a cap of £2,500 per month.
- Only employees on the PAYE payroll as at 19<sup>TH</sup> March 2020 can be furloughed.
- Employers must designate affected employees as furloughed workers and notify the employees of this change.
- To qualify for this scheme workers should not undertake work while furloughed.
- Employers submit information to HMRC about the employees that have been furloughed and their earnings through a new online portal. Claims can be made every three weeks.
- HMRC are working urgently to set up a system for reimbursement. Existing systems are not set up to facilitate payments to employers.

### **What does the government mean by furloughing**

- "Furloughing" is an alternative to laying people off.
- Employees are kept on the payroll instead of dismissing them as redundant or laying them off without pay.
- It is relevant for employees who are not off sick or claiming other statutory employment benefits. Sick workers are instead eligible for government support under the Statutory Sick Pay (SSP) rules.



## Who can be furloughed?

- Any employee, apprentice, agency worker, salaried member of an LLP, or director or other office holder.
- Full time, part time or casual or zero hours workers.
- Provided that they were engaged under an existing employment contract on 28 February 2020.

## How does it work and how much can be claimed?

HMRC will reimburse the following.

- Up to 80% of the wage costs of furloughed employees, subject to a cap of £2,500 per month per employee.
- Plus Employer National Insurance contributions and minimum automatic enrolment employer pension contributions.

## What Wages are included?

Wages are your monthly or weekly earnings. If wages are of a fixed annual amount this is the amount paid in the month to 29 February.

If the employee's salary varies, then the following can be actioned.

The grant paid to your employer will be calculated based on your regular, contractual pay, such as wages, compulsory commission and past overtime.

The calculation will not include discretionary commission (including tips) payments or bonuses, non-cash payments or benefits in kind.

## How to make a claim from HMRC

- Payment is by a grant provided by HMRC to be paid by BACS directly into a UK bank account.
- Claims should be made in accordance with actual payroll amounts at the point at which you run your payroll or in advance of an imminent payroll. You should pay your furloughed employees through the payroll under Real Time Information (RTI) as normal but at the 80% adjusted amount unless you have agreed to top up their pay (see below).



- This measure applies for three months from 1 March 2020 but may be extended. There is a minimum furlough period of three weeks.

## What to pay?

As an employer you may need to renegotiate the employee's contract: the need to do this may well reflect your financial circumstances.

- It is up to you whether you pay the 20% difference so that your employees receive their full pay.
- Higher earners may be adversely affected.
- The amount paid to a worker when furloughed is a decision for you as an employer and may be a matter of negotiation with your employees.

You must pay the employee all the grant received for their gross pay; no fees can be deducted from the grant money.

The employees you furlough must not work for you during the furlough period; however, they remain your employees. They may undertake training during their furlough period.

It is not clear whether they are permitted to take temporary work elsewhere during the furlough period, but it may be that their employment contract currently forbids it. See below for how you might wish to deal with this.

## How to make a claim

The online portal for making claims is expected to be available by the end of April. Claims can only be made every three weeks but can be backdated to 1 March 2020.

To make a claim you will need the following information.

- PAYE reference number.
- The number of employees being furloughed.
- The claim period (start and end date, the start date cannot be before 1 March 2020).
- Amount claimed (the minimum length of furloughing is three weeks).
- Your bank account number and sort code.
- Your contact details.

You must calculate the amount to claim, HMRC will not do it for you. HMRC have said that they will retain the right to retrospectively audit all aspects of your claims.



## Tax treatment of the Job Retention Grant

Payments received under the scheme must 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. Employment costs may be deducted as normal when calculating taxable profits.

## Steps to take when furloughing workers

- Decide which employees are to be furloughed and designate them as such. If this is not all your employees, you should ensure you use a fair selection process.
- You could start with any employees who cannot work from home, if this is appropriate, or those who need to stay home to look after children.
- Ask for volunteers.
- You could adopt the same sort of process you would if making people redundant, using pooling and selection criteria.
- Decide whether you will top up the amount being reimbursed by HMRC and if so by how much.
- Decide whether you are furloughing employees for a fixed period e.g. the full three months or whether you need to keep it flexible. This means less certainty for everyone but allows you to call employees back if the situation changes and restrictions on working are lifted.
- Decide whether you would agree to employees taking temporary work elsewhere during the furlough period. You may wish to only address this if asked by your employees. If their contract currently forbids this, you should advise them of your decision in writing. If the contract does not forbid this it would seem, unless the government advises otherwise, that employees are free to do this.
- Monitor your cashflow position to ensure you have sufficient funds to pay your employees until the HMRC grant comes in, likely to be sometime before the end of April. If you do not, you may wish to consider a business interruption loan or deferring your VAT payment.
- Check the employment contract for each employee you intend to furlough.
- If you intend to top up their payments to maintain their normal pay you should not need the employees' consent as you are not deviating from their contractual terms.
- If you do not intend to top up their wages, then you will need the employees' consent unless their contract allows for you to reduce or stop their pay when there is no work for them to do. If in doubt you may wish to take legal advice.



- Notify the designated employees that they are furloughed. Tell them whether you are topping up their wages or whether they will just get the 80% amount reimbursed by HMRC/£2,500 per month, whichever applies. It is advisable to do this in writing.
- If required (see above) obtain consent from the employees, in writing, to be furloughed.
- Furloughed pay should go through the payroll as normal with tax, Employee NICs deducted in the usual way. It is not yet clear how the grant will work for employers who are unable to pay their furloughed workers until the grant comes in and whether they can delay wages payments until HMRC pay them.
- Submit information to HMRC about the employees that have been furloughed and their earnings through a new online portal. This is not yet available and there are currently no details of what information will be required.

Once information has been submitted it is assumed you will receive your grant from HMRC who are working to set up a system for reimbursement as existing systems are not set up to facilitate payments to employers.

