

## Coronavirus Job Retention Scheme and Furloughed workers

The Government has announced a package of measures to help support businesses through the unprecedented COVID-19 (or Coronavirus) pandemic.

One of the measures announced is the Coronavirus Job Retention Scheme, which aims to reduce the number of employees laid off as a result of reducing demand or restrictions on working practice due to safety concerns.

The scheme was first announced on Friday, 20 March. The government has published a short [overview for employers](#) and a separate [overview for employees](#), but there are still gaps – which have understandably caused uncertainty and confusion.

### How the scheme will work (overview)?

The scheme will be available to all UK employers, of any size and in any sector. It involves designating workers who would otherwise be laid off, as 'furlough'. This is not a term used frequently in the UK, but it means to grant leave of absence or temporary release.

Employers who designate their workers as furlough will receive a grant payment to cover 80% of their wages, to a maximum of £2,500 per employee. Employers can take the decision to top up pay above the 80% grant funding, if they want to do this. Topping up is not compulsory.

While a worker is designated furlough, they will remain in employment, but – importantly – they will not be able to do any work for their employer.

### How the scheme will work (process)?

The process of claiming a grant will be managed through an online portal that is currently being developed by HMRC. The scheme will be effective from 1 March 2020, running for an initial three months, but may be extended – depending on the duration of the Coronavirus outbreak.

As stated above, there is some uncertainty about how the scheme will work in practice. However, major news outlets (FT, BBC, etc.) have reported that businesses who designate their employees as furlough should continue to pay their employees through their normal payroll systems, deducting tax and national insurance under the PAYE scheme. The £2,500 grant funding would therefore be a gross amount.

The average median salary in the UK in 2019 was £36,611 – it therefore not surprising that the Government have set up a scheme where approximately 80% of this can be recovered through grant funding (i.e. the equivalent of £30,000 per year, or £2,500 per month).

### Key considerations for employers

- Employees need to be on the PAYE scheme to qualify. Short-term workers do not qualify.
- The [overview for employers](#) says that: *“changing the status of employees remains subject to existing employment law and, depending on the employment contract, may be subject to negotiation”*. It is therefore critical that employers look at the terms and conditions of their employee’s contracts to ensure they follow the necessary steps to vary its terms. Many construction-based contracts, including CIJC terms, include provision for lay-off and the

terms being offered as a furloughed worker are more favourable; nevertheless, it is considered that the safest way to furlough employees is to do so with their agreement.

- If you have already taken steps to lay-off employees, you can contact them and agree to change their status to furloughed workers. This would move them from their current contractual lay-off terms to 80% of their wages (or more if the company decides to top-up).
- If employers are not designating all workers as furlough, then some consideration needs to be given as to who (or which) workers are selected. Basing decisions on skills, vulnerability/risk, is one option – but consideration should be given to avoid discrimination claims (e.g. placing only pregnant or disabled workers on 80% wages could be discriminatory). Asking for volunteers may be one solution. Workers who cannot work from home, and currently have no work to do, would be one section of the workforce that would be good candidates for being designated as furlough.
- One outstanding issue is what happens to employers' national insurance contributions, which amount to approximately 13.8 per cent of most worker's salaries. This has not been decided yet and further guidance from the Government is being promised.