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The Coronavirus Job Retention Scheme is a temporary scheme which will run from the 1st March 2020 until at least the 30th June 2020. It has been backdated to cover those employees who have already been made redundant who can now be reinstated and put on furlough leave.

The scheme is open to all UK employers who

- 1) have a payroll scheme in place on or before 19th March 2020, and
- 2) have a UK bank account. Employers will be able to claim 80% of furloughed employees' basic gross monthly salary up to a maximum of £2,500 per month, plus the associated Employer National Insurance contributions and the minimum automatic enrolment pension contributions on that salary. The calculation should be based on the employee's last pay period prior to the 19th March 2020 and should NOT include fees, commissions and bonuses.

Employees must be furloughed for a minimum of three weeks.

For employees whose pay varies, employers can claim either –

- the higher of the same month's earnings from the previous year;
- their average monthly earnings from the 2019/20 tax year; or
- their average monthly earnings if employed for less than a year.

If paying 80% of their wage brings an individual below the National Living or National Minimum Wage (NLW/NMW), there is no requirement for the Company to make up the difference as the NLW and NMW are only payable for hours actually worked.

It is the employer's choice as to whether they make up the difference in the salary.

Employers must agree with and then write to their staff confirming they have been furloughed – I recommend a furlough agreement be drawn up between the employer and employee.

Which companies can claim?

Any UK organisation with employees on a PAYE scheme in place on 19th March 2020 including businesses, charities, recruitment agencies with agency workers paid through PAYE and public authorities and a UK bank account can claim. However, where employers receive public funding for staff costs which is continuing, they should use these funds to pay staff and not make a claim against this scheme and not furlough them.

Which employees can you claim for?

The scheme covers full-time and part-time employees, employees on agency contracts and flexible/zero-hours contract employees who were on a PAYE scheme on 19th March 2020 (meaning any employees taken on after 19th March 2020 are excluded from the scheme). Any employees who were placed on unpaid leave after 28th February 2020 are still eligible to be furloughed. You can also furlough any employees who are following the shielding guidance and therefore absent for 12 weeks.

Can the employee undertake work?

An employee cannot undertake any work during their furlough leave. If the employee has more than one job, and works for another employer, each job is separate and can be furloughed separately.

Does the employee pay tax, NI and pension?

The employee will be paid through the normal payroll and will be subject to the normal income tax, NI, pension and any other deductions.

Can an employee working shorter hours or on reduced pay be furloughed?

No. They should continue to be paid through the payroll for whatever hours they are working at the rate of pay agreed with them.

How do we decide who to furlough when there is work for some and not others?

Talk to staff and make any changes by agreement, however please remember that equality and discrimination law will apply as usual. You should consider each individual's specific circumstances – for example, whether they are living with someone in the high risk category or are themselves shielding in line with public health guidance. If so, it's reasonable to furlough them first, then ask for volunteers, and lastly follow an objective selection procedure as you would in a redundancy situation.

Can an employee on SSP be moved to furlough leave?

If they are on SSP because they are absent due to illness or self-isolating then they should continue to receive SSP until they are fit to return to work, at which point they can be furloughed.

Do employees accrue holiday entitlement whilst furloughed?

Employees continue to accrue holiday pay as per their employment contract, however you can agree to vary holiday pay entitlement as part of a furlough agreement (this cannot drop below the statutory annual minimum).

Can employees take holiday whilst furloughed?

Employees can take holiday whilst furloughed, although you can restrict when leave can be taken if there is a business need to do so. Any holiday pay needs to be paid at 100% of an employee's usual pay (as per Working Time Regulations). If you are only paying employees 80% of their salary whilst furloughed, you will need to pay the additional 20% above the CJRS grant.

Can I require an employee to use holiday entitlement whilst on furlough leave?

The guidance is still unclear on this. We will update this question as we receive further guidance from the Government.

What is the situation regarding holiday during furlough leave and bank/public holidays?

If your employees usually take bank holidays as leave you will need to top these up to 100% of an employee's usual pay or give them a day of holiday in lieu.

Can an employee be furloughed whilst volunteering or training?

Provided the volunteer work or training does not "provide service to or generate revenue for or on behalf of your organisation", an employee can be furloughed. However, if undertaking online training whilst on furlough leave and the 80% paid is less than the NLW or NMW, then they must be paid the difference (up to NLW or NMW) for the time spent on training.

What about employees on maternity leave?

The normal rules relating to maternity leave will continue to apply. If a Company offers enhanced pay to employees on maternity leave this element would be included as wage costs and can be claimed at 80%.

How can I claim the grant?

More guidance will be provided before the scheme becomes live. So far we know that employers can only submit one claim every three weeks and that HMRC will pay the grant via BACS to a UK bank

account.

What happens when the scheme ends?

The employer must make a decision based on their individual circumstances as to whether furloughed employees can return to work. If there is still no work for them to return to, then the normal redundancy procedures will apply.

The online service you will use to claim will be available on 20 April 2020.