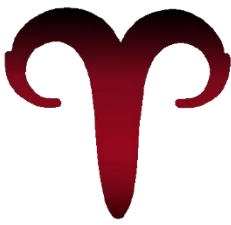




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Coronavirus Job Retention Scheme – Furloughed Employees

This article was partly written by Croner Taxwise and permission has been provided to share.

At this stage, until the full legislation around this scheme is released, we are unable to fully answer some of the more technical questions around this new facility. We will however endeavour to update this document frequently.

Our Question and Answers Section can be found at the end of this article.

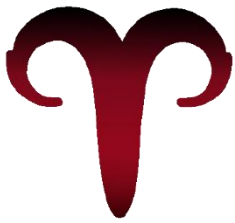
The Coronavirus Job Retention Scheme is a temporary scheme open to all UK employers for at least 3 months starting from 1 March 2020. It is designed to support employers whose operations have been severely affected by coronavirus (COVID-19).

As the coronavirus situation continues, your client may have had to consider making staff redundant, or laying them off, as a result. Last week, the government announced its plans for financial assistance to help employers in this situation retain employees for an extended period of time, despite offering no work, and avoid lay-offs. It is called the Job Retention Scheme and, whilst little information has been published as to how it will work, we have set out below what we do know.

The Scheme involves employers placing their employees on 'furlough'. This isn't a term we use in UK employment law, and it seems to originate in the USA. It essentially means putting employees on a temporary leave of absence where they do no work and receive no pay, but they are retained on the company's books to be brought back in when needed. Employers who do this will be able to obtain a grant from the Government to cover 80% of furloughed employees' wages, to a maximum of £2,500 per employee per month.

Your client may be concerned that their business, for whatever reason, will not be able to benefit from this. However, the government has confirmed that all employers can access it; there is no restriction on size or type. The guidance outlines that employers will need to designate which of their workforce will be furloughed employees and then submit that information to HMRC, along with each employee's earnings. Following this, they will receive the grant to cover the 80% wages. Although they can make up the remaining 20%, they do not need to.

More information is awaited from the government on the online portal to be used to submit the information and any other details that may be needed. Chancellor Rishi Sunak has stated that he hopes the first grants will be paid by the end of April 2020 and that they will be backdated to 1 March 2020. The scheme is initially intended to run for three months but may be extended.



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Theoretically, any employee can be furloughed, however, they need to be on a company's PAYE in order for that company to be able to claim the grant for their wages. The guidance states that the ability to furlough an employee depends on their contract. It is not likely that employment contracts will include a specific right to use furlough. However, contracts that contain a right to lay off employees on no pay already give employers the right to send employees home and not pay them for a temporary period and so can likely be used to furlough employees. The difference is that employees on lay-off will get, subject to service criteria, statutory guarantee pay (SGP) whereas furloughed employees will get 80% of their wages.

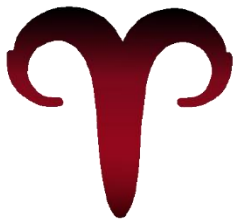
If contracts do not contain a right to unpaid layoff, employers can ask the employee to agree to furlough. Although 80% of wages may not be an initially attractive option next to full pay, it is likely to be more attractive than redundancy which may be the end result if alternative options cannot be found. It may also be useful for employees who are struggling to find childcare.

Your client may also question if this will apply to atypical workers and those on zero-hour contracts. Whilst we wait for further clarity on this, the Chancellor has indicated that the intention is to cover as broad a group of people as possible.

HMRC will set up a new online portal so that ALL UK employers, regardless of size, will be eligible for assistance where an employee has been designated as a 'furloughed worker.' HMRC will reimburse 80% of furloughed workers wage costs, up to a cap of £2,500 per month. The current plan is that this will be in place for 3 months, at which point it will be reviewed. Employers must set out which of their employees are 'furloughed workers' and inform the particular employees.

The current guidance states 'You will remain employed while furloughed. Your employer could choose to fund the differences between this payment and your salary, but does not have to'

Changing the status of employees remains subject to existing employment law and, depending on the employment contract, may be subject to negotiation.



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Here are some frequently asked questions:

Where do I go for official guidance on the Coronavirus Retention Scheme?

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

Other guidance available from HMRC, not covered in this article:

- If your employee is on Maternity Leave, contractual adoption pay, paternity pay or shared parental pay
- Employees whose pay varies
- Employer National Insurance and Pension Contributions
- National Living Wage/National Minimum Wage
- What to do after you have claimed
- When the scheme ends
- Employees that have been furloughed
- Tax Treatment of the Coronavirus Job Retention Grant

When will it apply?

The scheme is open to all UK employers who have created and started a PAYE payroll scheme on or before 28 February 2020. You can only submit one claim at least every 3 weeks, which is the minimum length an employee can be furloughed for. Claims can be backdated until the 1 March if applicable.

The online service you'll use to claim is not available yet. We expect it to be available by the end of April 2020.

When will it end?

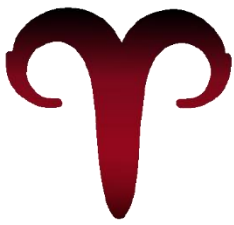
The scheme is in place for 3 months at present and it will be reviewed as and when that becomes necessary.

Does it apply to all employers?

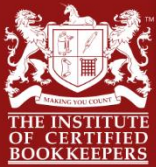
It applies to all UK businesses, regardless of their size. This applies to charitable and not for profit businesses too. Your employee can be on any type of contract, including:

- full-time employees
- part-time employees
- employees on agency contracts
- employees on flexible or zero-hour contracts

The scheme also covers employees who were made redundant since 28 February 2020, if they are rehired by their employer and is a grant which employers do not have to pay back.



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How will an employer apply for the reimbursement?

To claim, you will need:

- your ePAYE reference number
- the number of employees being furloughed
- the claim period (start and end date)
- amount claimed (per the minimum length of furloughing of 3 weeks)
- your bank account number and sort code
- your contact name
- your phone number
- You will need to calculate the amount you are claiming. HMRC will retain the right to retrospectively audit all aspects of your claim.

If your employee is on unpaid leave

Employees on unpaid leave cannot be furloughed, unless they were placed on unpaid leave after 28 February.

What is a 'furloughed' employee?

The word furlough generally means a temporary leave of absence from work. A furloughed employee is someone who rather than being dismissed for redundancy by their employer, is kept on the payroll during a period where the employer does not have any work for the employee.

There is an employment law aspect to this. Employers will need to consult and agree on which each employee that they are being furloughed.

How long can I furlough my employees?

The minimum length an employee can be furloughed for is 3 weeks. At the time of writing the scheme is in place for a period of 3 months.

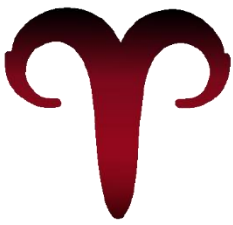
Can an employee work for an employer whilst they are furloughed?

To qualify for the scheme, employees must not undertake work for the employer while furloughed.

What will be covered?

The guidance refers to earnings and wages costs. It is not clear what is meant by 'wages.' Details of how and if bonuses and benefits will be taken into consideration have yet to be released.

There is currently no guidance as to whether it includes employer pension and national insurance contributions.



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If your employee is on Statutory Sick Pay already?

Employees on sick leave or self-isolating should get Statutory Sick Pay, but can be furloughed after this.

Employees who are shielding in line with public health guidance can be placed on furlough.

If your employee has more than one job

If your employee has more than one employer, they can be furloughed for each job. Each job is separate, and the cap applies to each employer individually.

If your employee does volunteer work or training

A furloughed employee can take part in volunteer work or training, if it does not provide services to or generate revenue for, or on behalf of your organisation.

Does it apply to all employees?

It is unclear to what extent this can apply to a director and personal service companies. However, we assume the guidance will apply to directors that are being paid through payroll on the qualifying date.

The 80% wage guarantee will not cover Zero-hour contracts or casual workers unless they work on the PAYE system.

The self-employed are not covered by this scheme.

Must an employer supplement employees' salary over the 80%?

No. Employers can if they wish to or if there is an employment contract in place which requires this.

For employees who have been furloughed employers can choose whether to: Only make the salary payment (80%, capped at £2,500) reimbursed by the government.

Pay all the difference between the grant and the employee's normal salary.

Pay part of the difference between the grant and the employee's normal salary.

Updated: 31 March 2020