

## Coronavirus Job Retention Scheme FAQs

The Coronavirus Job Retention Scheme (CJRS), is a complex support package which was first announced on 20 March, with further updates and guidance provided by the Government on Saturday 4 April, as summarised below.

### What is it and who is covered?

Essentially CJRS will be a government grant. The idea is to reimburse employers for 80% of a “furloughed worker’s” wages or salary, to a cap of £2,500 per month. Employers may choose to top up the remainder, but they are not required to do so.

The maximum grant is £2,500 plus the associated employment costs of employer’s national insurance and employer pension contributions. Full time, part time, employees on agency contracts and employees on flexible or zero hours contracts are eligible.

### Who is not covered?

Only employees who were employed by you and on the PAYE payroll on or before 19 March 2020. This means that the employee must have been notified to HMRC through an RTI submission notifying payment in respect of that employee on or before 19 March 2020.

### What information do I need to make a claim?

- The PAYE reference
- The number of employees being furloughed
- The claim period
- The amount claimed (minimum furlough length is three weeks)
- Your bank account and sort code
- Your contact name
- Your phone number

### Is the overall pot limited?

There appears to be no limit on the amount of funding available for the scheme. According to the Chancellor “We will pay grants to support as many jobs as necessary.” Grants will be back dated to 1 March and open initially for 3 months.

### Who is eligible for the scheme?

All UK businesses are eligible: small or large, charitable or non-profit will be eligible for the scheme. You can furlough staff for a minimum of three weeks. You must operate a UK PAYE scheme prior to 28 February 2020 and have a UK Bank account.

## Is it a loan?

No. It states that this is a grant to employers so although there is no guidance yet on this point, we presume you will need to pay the worker and process PAYE, NICs and employers costs as normal and then there will be a reimbursement up to the maximum amount. You can only furlough for a minimum of three weeks at a time and you can only submit one claim every three weeks. Claims will be backdated to 1st March.

## What is a furloughed worker?

Furloughed workers are “workforce who remain on the payroll but are temporarily not working during the Coronavirus outbreak”. Employers will need to notify employees of this change in their employment status so it will need to be handled carefully by HR specialists. We expect employers may be asked to justify the “furloughed” assessment, the most obvious examples being employees who would ordinarily have extensive contact with the public or those for whom work has dropped off due to lack of orders. You do not have to place all your workers on furlough, if there is work still to do, then you can continue to employ them and pay their wages and furlough those for whom there is not enough work or work has dropped off.

## Are directors eligible for the scheme?

The latest guidance says that, as office holders, salaried company directors are eligible to be furloughed, provided they only carry out statutory duties during the period of furlough leave.

Also directors of their own Personal Service Company and salaried partners of a Limited Liability Partnership can be furloughed.

For shareholding directors that receive a combination of salary and dividends, the salary part (that is subject to PAYE) of their remuneration will only be relevant for this scheme. Not dividends or share payments.

## Can I still claim if I have reduced the workers hours/pay, but still have work?

No, you cannot claim furlough pay and still have the worker engaged in work for you. If they agree to a reduced wage to carry on working, you will be responsible for paying that reduced wage and cannot claim it back. You cannot reduce a worker’s pay and hours without their agreement or a contractual right to do so.

## What if the 80% of wages falls below the National Minimum Wage (NMW) of London Living Wage?

If the employee is furloughed, they are not working and hence the minimum wages levels do not apply, because they are not worked. You must pay at least the NMW for any work-based training they undertake, however.

## Are temporary agency workers eligible for the scheme?

Temporary agency workers can be referred to as employees. We expect the scheme to only be eligible to individuals on a “contract of employment” with you. If an agency worker is on a contract of employment and you pay them wages or salary via your own PAYE Scheme, then they would be eligible.

## Is the 80% that the government is funding in respect of the gross salary or net salary?

The 80% is in respect of the gross salary **plus** the associated employment costs of employer’s national insurance and employer pension contributions.

## What is considered to be ‘wages or salary’?

The Government has clarified that this will include guaranteed overtime, guaranteed commission, but NOT tips, benefits in kind or non-guaranteed bonuses or commission.

If your workers have been employed (or engaged by an employment business in the case of agency workers) for a full year, then you can claim the higher of either:

- the amount you paid in the same month last year or
- an average of the monthly earnings from the last year

If you the worker has been employed for less than a year, you can claim for an average of their monthly earnings since they started work. The same arrangements apply if their monthly pay varies such as if they are on a zero-hour contract.

If they started work in February 2020, then you can pro-rata their earnings from that month.

## What do employers need to do?

Determine which employees are “furloughed workers” and submit information to HMRC as to who those employees are and their base earnings levels. This will be through a new online portal. (See list above under ‘What information do I need to make a claim?’)

The employer will need to pay the employee through payroll, using the Real Time Information (RTI) as usual. Once HMRC receive a claim and deem it eligible, they will pay it via BACS to your UK bank account.

You must pay the employee all the grant you receive for their gross pay, no fees can be charged for the money that is granted to the payment of furloughed wages.

## **As it may take a while for the Government to reimburse employers, what can they do in the meantime to support cash flow?**

Businesses can look to the Coronavirus Business Interruption Loan Scheme and the tax payment deferrals to assist with cash flow. Further details of these support packages can be found in our partner UHY Hacker Young's [COVID-19 section](#) of their website.

## **When will the new portal be open?**

HMRC will be ready to launch the portal on 20th April. HMRC will be contacting businesses to advise them on what they need to do. The service is designed to be self-service with guidance in place.

Businesses, and agents that are authorised to act on behalf of clients for PAYE matters, will be able to claim. However, file only agents, including Payroll Bureaus, will not be able access the service due to data protection reasons.

## **Can employees work for someone else whilst on furlough?**

The new updated guidance does not prohibit staff taking another job whilst on furlough leave (if their contract of employment allows for this).

## **What if the employee has more than one job?**

If they had two jobs prior to the 28th February 2020, they can be furloughed by either employer or both.

## **Can employees attend work-based training or study whilst on furlough?**

Workers can study while they are being furloughed and they can volunteer but they cannot do work that provides services or generates any revenue for or on behalf of the employer.

If they are completing work-based training whilst they are furloughed, then they must be paid at least the National Minimum wage for the time spent training, even if this is more than the 80% subsidy.

## **Can employers communicate with workers on furlough?**

Yes but not to ask them to do work.

## **How will the scheme work for those employees with irregular earnings?**

If the employee has been employed for 12 months prior to being furloughed, you can pay the higher of either the same months earnings from the previous year or the average month's earnings from the last tax year 2019/20.

## When will employers receive reimbursement under the CJRS?

We'd expect the scheme will be paying out by the end of April at the latest, and there's a suggestion on the Government website that employers should look to utilise the Coronavirus Business Interruption Loan Scheme (CBILS) in the meantime. This therefore probably answers a question we've had as to whether businesses can access more than one form of support.

## What is the interaction with PAYE and National Insurance?

Furloughed wages will be subject to PAYE and NI deductions as usual. Employees will also pay pension on qualifying earnings if applicable. Employers will be liable for Employers NI and Employers Pension unless the employee has opted out.

## How do I communicate with workers that I would like to furlough? What is the furlough process?

You will need to contact each employee and set out why you would like to put them on furlough leave. This will need to be followed up in writing and ask them to sign a variation to their contract agreeing to this. [You can download a furlough letter template here.](#)

We have also prepared an FAQ document that you can provide to your employees to help understand the process. This can be [downloaded here.](#)

## Does this right to furlough or lay off need to be in the contract of employment?

No, but you do need to get an agreement with each employee that they are agreeing to the furlough status and reduced pay. [You can download a furlough agreement template here.](#)

## Is the decision to furlough an employee a decision that the employee has to agree to? Can they refuse and ask for redundancy instead?

An employee does not have to accept furlough if offered, but the employer could then make the employee redundant or lay them off instead, after following the correct employment law procedure.

## Can an employer force someone to become a 'furloughed worker'?

In most cases the employee needs to accept. If the employer proposes to maintain full normal pay for furloughed workers (whilst claiming the grant from HMRC) then employers will not necessarily need worker consent to designate them as furloughed.

If the employer proposes to reduce pay for furloughed workers to the maximum HMRC grant, then they will need the worker's consent; reducing an employee's pay amounts to an unlawful deduction from wages unless there is prior written consent or contractual agreement. Legal advice should be obtained.

It is likely that in most cases the employee is likely to accept. In some instances the alternative might be that they will lose their employment entirely, owing to being at risk of lay-off or redundancy.

### **What about employees on zero hours contract?**

If they worked for you before the 28th February 2020, they would be eligible for furlough leave. You would need to work out the average of their monthly earnings and pay the higher of either the same months earnings from the previous year OR the average month's earnings from the last tax year 2019/20.

### **Can workers be moved in and out of being furloughed if work becomes available to an employer then ceases again?**

An employee can be furloughed multiple times but must be for a minimum of three weeks at a time. Once they resume working for you, you are obliged to pay their contractual pay and you cannot claim it back. If you wish to extend the furlough leave, you would submit another claim.

### **What are an employee's rights whilst on furlough leave?**

They continue to remain employed and are eligible for SSP, maternity, parental rights, rights against unfair dismissal and redundancy pay. They will accrue holiday which they can either take when they come back to work, or they can take whilst on furlough leave but this will need to be paid by the employer at 100% rather than 80% of salary.

### **Can an employee take annual leave whilst being furloughed?**

Yes they can book and take annual leave.

### **What about employees on or about to go on maternity leave?**

The employee can be furloughed up to the point they would have gone on maternity leave and then they are entitled to maternity pay and leave as normal.

### **What if an employee is off sick?**

Employees who are sick or who are self-isolating should still get Statutory Sick Pay and then they can be furloughed once their sick leave ends.

If an employee is shielding in line with public guidance (or need to stay at home with someone who is shielding), or they are unable to work because they have are required to care for someone as a result of Covid-19, e.g. they need to look after their children, they can be furloughed with their agreement.

## Is it possible to bring back workers to the business and place them on furlough where they have already been dismissed owing to a lack of work?

Yes, any employees who were made redundant, or who stopped working for you after 28 February 2020 can be re-employed, put on furlough and you can claim for their wages through the scheme.

## How does an employer ensure fair selection when considering furloughing workers?

Obvious candidates are employees who are simply unable to work from home due to their role. Where an employer concludes there is work but only enough for a proportion of the workforce employers may be faced with some tough decisions. Employers may need to consider a process of calling for volunteers, pooling and selection – as with a redundancy process. This could be a complex area so legal advice is recommended to reduce the risk of claims (including discrimination claims).

## How can HR Service Centre help?

### HR Service Centre

During these unprecedented times, HR Service Centre can provide you with HR consultancy advice. We can support you through these challenging times, helping you make the right decisions and ensure compliance with employment legislation. We can cover areas such as the government COVID-19 support package, redundancies and restructuring programmes. To find out more please visit to our website [www.hrservicecentre.co.uk](http://www.hrservicecentre.co.uk) or call 0845 606 9640.