



Coronavirus Job Retention Scheme

What is it?

All UK employers with a PAYE scheme will be able to access support to be able to continue paying part of their employees' salary for those that would otherwise have been laid off during the COVID-19 pandemic.

This applies to all employees who have stopped working but are kept on the payroll, known as 'furloughed workers'. HMRC will reimburse the company 80% of the monthly wage costs of furloughed workers, up to £2,500 per month, plus the associated employer national insurance contributions and minimum automatic enrolment employer pension contributions on that wage. This is to safeguard workers from being made redundant. Should employers wish they can top up the salaries further.

This scheme will cover cost of wages backdated to 1 March 2020 and is initially open until the end of June. Employers can use this scheme anytime during the three month period.

By designating an employee as a 'furloughed worker' they cannot do any work.

Who is eligible?

- Any UK organisation with employees can apply, including:
 - Businesses
 - Charities
 - Recruitment agencies (agency workers paid through PAYE)
 - Public authorities
- An organisation which had created and started a PAYE payroll scheme on or before 19 March 2020
- A business must have enrolled for PAYE online (this can take up to 10 days)
- An organisation must have a UK bank account

It should be noted that the government expects that the Scheme will not be used by many public sector organisations, as the majority of public sector employees are continuing to provide essential public services or contribute to the response to the coronavirus outbreak.

Where employers receive public funding for staff costs, and this funding is continuing, it is expected that this money be used to continue to pay staff and therefore not furlough the relevant employees.

Organisations who are receiving public funding specifically to provide services necessary to respond to Covid-19 are not expected to furlough staff. In a small number of cases, for example where organisations are not primarily funded by the government and whose staff cannot be redeployed to assist with the pandemic response, the scheme may be appropriate for some staff.

Who can I claim for?

Furloughed employees must have been on your PAYE payroll on or before 19 March 2020 and which were notified to HMRC on an RTI submission on or before 19 March 2020. Employees can be on any type of contract including:

- Full time employees
- Part time employees
- Employees on agency contracts
- Employees on flexible or zero-hours contracts

Employees who were made redundant or stopped working for that employer since 28 February 2020 and prior to 19 March 2020 can also qualify for the scheme if they are rehired by their employer.



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To reiterate, an employee who is designated as 'furloughed' cannot undertake any work on behalf of the organisation or any linked or associated organisation.

If an employee is working, but on reduced hours, they will not be eligible for the scheme.

Employers should discuss with their staff and make any changes to the employment contract by agreement. When employers are making decisions in relation to the process, including deciding who to offer furlough to, equality and discrimination laws will apply in the usual way. Employers may need to seek legal advice on the process. If sufficient numbers of staff are involved, it may be necessary to engage collective consultation processes to procure agreement to changes to terms of employment.

Employers will need to write to the affected staff confirming that they have been furloughed and keep a record of this communication.

The minimum length of furloughing is 3 weeks. When an employee returns to work they must be taken off furlough. Employees can be furloughed multiple times but each separate instance must be for a minimum period of 3 consecutive weeks.

What about employees on unpaid leave?

You can only claim for employees that started unpaid leave after 28 February 2020.

What about employees on Statutory Sick Pay (SSP)?

Employees on sick leave or self-isolating should get SSP and therefore cannot be furloughed during this time. They can however be designated as furloughed after this.

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

Employees who are unable to work because they have caring responsibilities resulting from Covid-19 can be furloughed, for example those that need to look after children. When an employee is on furlough you can only reclaim expenditure through the Coronavirus Job Retention Scheme and not the SSP rebate scheme.

What about employees who have more than one job or do volunteering or training?

If an employee has more than one employer they can be furloughed for each job. Each job is viewed separately and the cap applies to each employer individually.

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

However if workers are required to for example, complete online training courses whilst they are furloughed, then they must be paid at least the National Living Wage / National Minimum Wage for the time spent training, even if this is more than the 80% of their wage that will be subsidised.



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What about employees on a fixed term contract?

Employees on fixed term contracts can be furloughed and their contracts can be renewed or extended during the furlough period. Where a fixed term employee's contract ends because it is not extended or renewed an employer will no longer be able to claim a grant for them.

Eligible individuals who are not employees

There are a number of individuals who are paid via PAYE but are not 'employees' but are eligible for the Job Retention Scheme. These individuals include the following:

- Office holders (including company directors)
- Salaries members of a LLP
- Agency workers
- Limb (b) workers

The specific considerations for these individuals who are paid via PAYE, but who are not necessarily employees under employment law are set out below.

Office Holders

Office holders can be furloughed and receive support through this scheme. Where the office holder is a company director or member of a LLP the furlough arrangements should be adopted formally as a decision of the company or LLP.

As office holders, company directors are eligible to be furloughed and receive support through the scheme. Any decision by the company to furlough a director should be formally adopted as a decision of the company, noted in the company records and communicated in writing to directors concerned.

Where furloughed directors need to carry out particular duties to fulfil the statutory obligations they owe to their company, they may do so provided they do no more than would reasonably be judged necessary for that purpose, for instance they should not do work of a kind they would carry out in normal circumstances to generate commercial revenue or provides services to or on behalf of their company.

The above also applies to salaried individuals who are directors of their own personal service company (PSC).

Salaried Members of LLPs

Members of LLPs who are designated as employees for tax purposes under the Income Tax (Trading and Other Income) Act 2005 are eligible to be furloughed. To furlough a member, the terms of the LLP agreement may need to be varied by a formal decision of the LLP. For an LLP member who is treated as being employed by the LLP the reference salary for this scheme is the LLP member's profit allocation, excluding any amounts which are determined by the LLP member's performance, or the overall performance of the LLP.

Agency Workers

Where agency workers are paid through PAYE they are eligible to be furloughed.

Furlough should be agreed between the agency, as the deemed employer, and the worker. As with employees agency workers should perform no work for, through or on behalf of the agency that has furloughed them, including for the agency's clients.

Limb (b) workers

Where Limb (b) workers are paid through PAYE they can be furloughed. Those who pay tax on their trading profits through Income Self-Assessment may instead be eligible for the Self Employed Income Support Scheme.



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Employee transfers under TUPE and on a change in ownership

A new employer is eligible to claim under the JRS in respect of employees of a previous business transferred after 19th March 2020 if either the TUPE or PAYE business succession rules apply to the change in ownership.

Payroll Consolidation

Where a group of companies have multiple PAYE schemes and there is a transfer of all employees from these schemes into a new consolidated PAYE scheme after 19 March 2020, the new scheme will be eligible to furlough those employees and claim under the Job Retention Scheme.

What are the implications on tax and other deductions?

Wages of furloughed workers are subject to income tax and national insurance as usual. Employees will also pay automatic enrolment contributions on qualifying earnings, unless they have chosen to opt out.

Businesses are still liable to pay employer national insurance contributions as well as automatic enrolment contributions on qualifying earnings, unless an employee has opted out. Employer NI contributions and minimum pension contributions can be claimed on the lower of 80% of monthly wages or £2,500.

Working out what you can claim?

As noted above employers will receive a grant from HMRC for the lower of 80% of an employee's regular wage or £2,500 per month, plus the associated employer NI contributions and minimum automatic enrolment employer pension contributions on that subsidised wage.

Full & Part time employees

For full time or part time employees the employee's actual salary before tax as of 19 March 2020 should be used to calculate the 80%.

If based on previous guidance you have calculated your claim based on the employee's salary as at 28 February 2020 (and this differs from their salary in their last pay period prior to 19 March 2020) you can choose to still use this calculation for your first claim.

For staff where their pay varies

If they have been employed for at least 12 months prior to the claim then businesses can claim the higher of:

- The same month's earnings from the previous year
- The average monthly earnings from the 2019-20 tax year

If they have been employed for less than a year businesses can claim for an average of their monthly salaries since they started work.

If the employee only started in February 2020 businesses should use a pro-rata for the member of staff's earnings so far.

Past Overtime, Fees, Commission, Bonuses and non-cash payments

You can claim for any regular payments you are obliged to pay your employees. This includes wages, past overtime, fees and compulsory commission payments.

Discretionary bonus (including tips) and commission payments and non-cash payments should be excluded from calculations.



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Benefits in Kind and Salary Sacrifice Schemes

The Calculation of what you can claim should not include the cost of non-monetary benefits provided to employees, including taxable Benefits in Kind. Benefits provided through salary sacrifice scheme (including pension contributions) that reduce an employee's taxable pay should not be included in the calculation.

Normally an employee cannot switch freely out of a salary sacrifice scheme unless there is a life event. HMRC has agreed that Covid-19 counts as a life event that could warrant changes to salary sacrifice arrangements.

What about the Apprenticeship Levy and Student Loans

Both the Apprenticeship Levy and Student Loans should continue to be paid as usual. Grants from the Job Retention Scheme do not cover these.

How do I access support?

To claim businesses will need:

- PAYE reference number
- the number of employees being furloughed
- National Insurance Numbers for employees to be furloughed
- Names of employees to be furloughed
- Payroll/works number for employees to be furloughed (optional)
- Your Self Assessments Unique Taxpayer Reference or Corporation Tax Unique Taxpayer Reference or Company Registration Number
- the claim period (start and end date)
- amount claimed (per the minimum length of furloughing of 3 consecutive weeks)
- the businesses bank account details
- a contact name and phone number

If you have fewer than 100 furloughed staff you will be asked to enter details of each employee you are claiming for directly into the system.

If you have 100 or more furloughed staff you will be asked to upload a file with the information rather than input it directly into the system. The following file types will be accepted: .xls .xlsx .csv .ods. The file should include the following information for each furloughed employee: name, NI number, claim period, claim amount.

Calculations of the amount of the claim should be retained as HMRC will retain the right to retrospectively audit all aspects of the claim. Businesses can only submit one claim at least every 3 weeks. Claims can be backdated until the 1 March if applicable. Once the claim has been processed by HMRC the grant will be paid via BACS.

Tax treatment of the Coronavirus Job Retention Grant

Payments received by a business under the scheme are made to offset these deductible revenue costs. They must therefore be included as income in the business's calculation of its taxable profits for Income Tax and Corporation Tax purposes. Businesses can deduct employment costs as normal when calculating taxable profits for Income Tax and Corporation Tax purposes.

As further information is published by the government we will update our summaries. Should you have any initial queries either contact your usual CK contact or look at the governments dedicated business support website businesssupport.gov.uk.