



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 open until the end of October. The Chancellor has announced that there is no change to the rules and guidance noted below until the end of July. From August employers will need to contribute to the cost of the Job Retention Scheme, the costs for employers will gradually increase from August to October. A summary of employer contributions is noted below.

	Present – end of July	August	September	October
Government Contribution: Employer NICs and pension contributions	YES	NO	NO	NO
Government Contribution: Wages	80% up to £2,500	80% up to £2,500	70% up to £2,187.50	60% up to £1,875
Employer Contribution: Employer NICs and pension contributions	NO	YES	YES	YES
Employer Contribution: Wages	NIL	NIL	10% up to £312.50	20% up to £625
Employee Receives	80% up to £2,500 per month			

Changes from 1 July 2020

The rules of the scheme is changing from 1 July. From this date employers can bring furloughed employees back to work for any amount of time and any work pattern, while still being able to claim the grant for the hours not worked.

From this date the scheme will only be available to employers that have previously used the scheme in respect of employees that they have previously furloughed for a full 3 week period prior to 30 June. This means that the final date by which an employer can furlough an employee for the first time will be 10 June. Employees will have until 31 July to make any claims in respect of the period to 30 June. This may differ if you have an employee returning from statutory parental leave (see below for further guidance).



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What are the minimum furlough periods?

Until 1 July any employees placed on furlough must be furloughed for a minimum of 3 consecutive weeks. Employees can be furloughed more than once but they must be furloughed for a minimum of 3 consecutive weeks each time.

From 1 July, agreed flexible furlough arrangements can last any amount of time. Employees can enter into a flexible furlough agreement more than once.

Where a previously furloughed employee starts a new furlough period before 1 July this furlough period must be for a minimum of 3 consecutive weeks, regardless of whether the 3 consecutive week minimum period ends before or after 1 July. For example, a previously furloughed employee can start a new furlough period on 22 June which would have to continue for at least 3 consecutive weeks ending on or after 12 July. After this the employee can be flexibly furloughed for any period. However after 1 July employers cannot make claims that cross calendar months so the employer will need to make a separate claim for the period up to 30 June.

Who can claim?

You can claim for any employees you have furloughed if you have:

- Furloughed that employee for at least 3 consecutive weeks between 1 March 2020 and 30 June 2020
- A UK PAYE scheme started on or before 19 March 2020
- Enrolled for PAYE online
- Submitted a report under the RTI reporting system for that employee on or before 19 March 2020
- A UK bank account

For employees that meet the criteria above the number of people a business can claim for in any single claim period starting from 1 July cannot exceed the maximum number of employees claimed for under any claim ending by 30 June.

If a business has staff costs that are publicly funded (even if you are not in the public sector) you should use that money to continue paying staff and not furlough them. Organisations can use the scheme if they are not fully funded by public grants and they should contact their sponsor department or respective administration for further guidance.

Where a company is being taken under the management of an administrator the administrator can furlough and claim for employees who have been furloughed for at least 3 consecutive weeks taking place any time between 1 March 2020 and 30 June 2020. For information on working out how much you claim see our other detailed guidance on our website.

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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Up to 30 June if an employee is working, but on reduced hours, they will not be eligible for the scheme. From 1 July, as noted above, employers will be able to bring back employees part time.

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.

Further details on agreeing to furlough employees and what is required can be found [here](#).

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.

What are the rules regarding employees returning from maternity, shared parental, adoption, paternity or parental bereavement leave?

You can furlough an employee returning from statutory parental leave after 10 June even if you are furloughing them for the first time. You can do this provided that:

- You have previously submitted a claim for any other employee in your organisation in relation to a furlough period of at least 3 consecutive weeks taking place any time between 1 March and 30 June.
- The employee you wish to furlough for the first time started parental leave before 10 June and has returned from that leave after 10 June.
- The employee was on your PAYE payroll on or before 19 March 2020. This means an RTI submission notifying payment in respect of that employee to HMRC must have been made on or before 19 March 2020.

When calculating the maximum number of employees you can claim for the number of employees you are furloughing for the first time due to them returning from parental leave should be added to the maximum.

What about holiday pay?

Furloughed employees continue to accrue leave as per their employment contract. Employees can take holiday whilst on furlough, however Working Time Regulations require holiday pay to be paid at the employee's normal rate of pay or, where the rate of pay varies, calculated on the basis of the average pay received by the employee in the previous 52 weeks. Therefore if a furloughed employee takes holiday the employer should pay their usual holiday pay and employers will be obliged to pay additional amounts over the grant.

HMRC have confirmed in their guidance that employers will have the flexibility to restrict when holiday leave can be taken if there is a business need. This applies for both the furlough period and the recovery period.



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What if your employee's health has been affected by Covid-19?

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.

Furloughed employees retain their statutory rights, including their right to Statutory Sick Pay (SSP). This means that furloughed employees who become ill, due to Covid -19 or any other reason must be paid at least SSP. It is up to the employer to decide whether to move these employees onto SSP or to keep them on furlough at their furloughed rate.

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.



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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.

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.

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.

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.