

OUR STEP BY STEP GUIDE FOR EMPLOYERS USING THE JOB RETENTION SCHEME

We as a firm believe in providing the best support we can even more through such unprecedented circumstances. We have set up a step by step guide for all our clients to follow when opting to furlough any workers, this will allow us to efficiently process any claims made to the HMRC under the Coronavirus Job Retention Scheme.

WHAT IS THE CORONAVIRUS JOB RETENTION SCHEME?

If you cannot maintain your current workforce because your operations have been severely affected by coronavirus (COVID-19), you can furlough employees and apply for a grant that covers 80% of their usual monthly wage costs, up to £2,500 a month, plus the associated Employer National Insurance contributions and minimum automatic enrolment employer pension contributions on that wage.

STEP 1 – SELECT THE STAFF MEMBERS TO BE PLACED ON FURLOUGH LEAVE

The first step is to decide which staff you wish to furlough. You need to consider that the furloughed staff cannot do any work for you whilst on furlough and that furlough leave is for a minimum period of three weeks at a time. It may seem appropriate in reducing hours and pay for some staff you wish to retain whilst still operating but bear in mind that staff who are working albeit for limited hours shall be disqualified from applying for the scheme.

You can only claim for furloughed employees that were on your PAYE payroll on or before **28 February 2020**. Employees hired after 28 February 2020 cannot be furloughed and claimed for in accordance with this scheme. Employees can be on any type of employment contract, including full-time, part-time, agency, flexible or zero-hour contracts

STEP 2 – CONFIRM DATE ON WHICH FURLOUGH LEAVE HAS OR WILL BE EFFECTIVE FROM FOR EACH STAFF MEMBER

Under the scheme the claim for furlough leave can be backdated to 01 March 2020. The reason why the government has chosen this date is that some businesses were affected by Covid 19 from the start (e.g. Travel agents, Pubs, Restaurants) as a result staff were made redundant, government initiative is for those employers to place those staff members back on furlough leave with the option to rehire in the future when it will be business as usual.

It is very important for us to highlight that no employee can be placed on furlough from the 01 March 2020 and a claim made for 80% of their monthly wage made should they have been working as normal, this is against the HMRC guidelines and employers found guilty of such actions shall be penalised by the HMRC.

Majority of employers in the UK have been affected by government instructions on **Friday 20 March 2020**, where staff were unable to come into work. This is the date we are expecting majority of staff would have been placed on furlough leave.

STEP 3 – DOCUMENT THE NEW AGREEMENT

It is important that both you the employer and the furlough staff member are in agreement that they be placed on furlough leave. Should you fail to come to an agreement then you shall need to look into other means such as redundancy.

To be eligible for the grant employers must confirm in writing to their staff confirming that they have been furloughed. A record of this communication must be kept for five years. We have attached a template letter and a contract for your use. You only need to choose one of either depending on which you feel suits you best and **amend each letter accordingly for each staff member**. Please make sure to provide us a record of this letter so we can document this against your file.

STEP 4 – EMAIL US

In order to process your claim efficiently we shall require a email confirming the following details:

- Name of employees whom have been placed on Furlough leave with the furlough commencement date (please note we provided all our clients employee lists to review last week so you should be aware of the employees on the payroll)
- Bank details in which you would like the funds to be transferred to. (please note the HMRC shall forward the funds into you the employers account not the staff members)
- Confirmation that you are aware that all staff placed on furlough leave cannot or have not undertook any work from the date of furlough.
- Confirmation of whether you are paying the remainder 20% or not. HMRC have said that it is not compulsory that employers top up the remaining 20%

If you could please try to email us this as soon as possible, this will allow us to process your claim immediately once the systems is live. Delay in getting back to us shall result in a late claim

STEP 5 – FORWARD US YOUR HMRC ACTIVATION CODE

All claims shall be processed by us on your behalf on the HMRC new system which should be active by end of April 2020. We shall apply for a code which shall be sent to your trading address registered with the HMRC. Once you have received this code (HMRC have said process time is for you to receive is within 10 days) please forward to us immediately and we shall update our records.

By receiving this code this shall mean the process is underway, it will not indicate that either system is live or the claim has been made.

STEP 6 – THE FINAL STEP OF WAITING

We shall aim to upload the relevant information immediately to new system once live. HMRC have indicated that the system should be up and running by end of April 2020. Therefore, **we are strongly advising that it is high unlikely you shall have the funds from the HMRC come payday for April 2020**, so it is important to plan for any funds to pay the wage or have a agreement with all staff payment shall be made once funds have been provided.

Please NOTE we shall issue payslips as normal between the 25-28 April 2020 with the furlough pay reflected on each staff members payslips.

FREQUENTLY ASKED QUESTIONS

What if a member of staff refuses to go on furlough?

If you have no contractual lay off clause (see above), then you have two options:

- make them redundant instead, but bear in mind that this will involve the cost of redundancy payments and notice pay.
- impose the variation by means of a dismissal and an offer of re-engagement, but seek specialist advice on how to do this appropriately.

Can I rotate staff through furlough?

Yes, the minimum length of furlough is three weeks. You can put staff on furlough for three weeks, then take them off furlough and bring them back into the work place / ask them to work at home. This may well be a fair way of dealing with a team in circumstances where you are facing a longer shut down.

Can I ask staff on furlough to undertake work for me?

No, staff on furlough cannot provide services or generate revenue for you, even on a voluntary basis. However, during furlough they can undertake volunteering for other organisations (including pursuant to the NHS volunteering scheme announced on 24 March 2020 (8)). They can also undertake training for the purposes of their work for you, provided that if the training is of value to you, you must make sure that they are receiving at least the National Minimum Wage for the hours spent in training. The National Minimum Wage will not otherwise apply to furloughed staff.

What about holiday and sick pay during furlough?

The revised guidance does not deal with holiday but in our view holiday continues to accrue during furlough. The rate at which it is paid will depend on whether the member of staff works regular hours and whether the contract has been validly varied to reduce the rate of pay. The calculation will be more complex for someone who works variable hours.

There is no explicit guidance on what happens if a person falls sick during furlough, but the guidance does say that a person on furlough is still eligible for statutory sick pay. This implies that the person should be paid under the normal sick pay rules in the contract of employment and it may be that staff need to be switched out of furlough and onto sick pay if they fall ill. Further guidance on this is awaited.

Can I ask for volunteers for furlough?

We don't see why not as this is good practice in redundancy situations.

Can I reemploy staff who I have already made redundant?

Yes, if they were made redundant after 28 February 2020.

How will I receive the funds from the HMRC?

HMRC will pay the funds to you the employer by BACS to a UK bank account (which you provided to us in step 4). You must pay the employee all the grant you receive for their gross pay, no fees can be charged from the money that is granted.

What amount will be shown on payslips furloughed pay or original salary?

Some employers may opt to pay the normal wage with HMRC funding 80% and the remainder topped up by the employer. This is not compulsory

The payslips will have the amount of furlough pay only (80%) that is if the employer is not making any contributions, if they are topping up the remainder 20% then the payslips will be issued as normal with furlough and basic pay on separate lines.

What is the 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, in accordance with normal principles. Businesses can deduct employment costs as normal when calculating taxable profits for Income Tax and Corporation Tax purposes.

What if my staff 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. Employees can be furloughed in one job and receive a furloughed payment but continue working for another employer and receive their normal wages.

How much will my staff get paid?

If the employee has been employed for 12 months or more, you can claim the highest of either the:

- same month's earning from the previous year
- average monthly earnings for the 2019-2020 tax year

If the employee has been employed for less than 12 months, claim for 80% of their average monthly earnings since they started work. If the employee only started in February 2020, work out a pro-rata for their earnings so far, and claim for 80%.

What about employer national insurance and pension contributions?

You'll still need to pay employer National Insurance and pension contributions on behalf of your furloughed employees, and you can claim for these too.

You cannot claim for:

- additional National Insurance or pension contributions you make because you chose to top up your employee's salary
- any pension contributions you make that are above the [mandatory employer contribution](#)

What about employee taxes?

Your employees will still pay the taxes they normally pay out of their wages. This includes pension contributions (both employer contributions and automatic contributions from the employee), unless the employee has opted out or stopped saving into their pension.

What will be the employees' rights?

Employees still have the same rights at work, including:

- Statutory Sick Pay
- maternity and other parental rights
- rights against unfair dismissal
- redundancy payments

Grants cannot be used to substitute redundancy payments. HMRC will continue to monitor businesses after the scheme has closed.

What about company directors?

As office holders, salaried company directors are eligible to be furloughed and receive support through this scheme. Company directors owe duties to their company which are set out in the Companies Act 2006. Where a company (acting through its board of directors) considers that it is in compliance with the statutory duties of one or more of its individual salaried directors, the board can decide that such directors should be furloughed. Where one or more individual directors' furlough is so decided by the board, this should be formally adopted as a decision of the company, noted in the company records and communicated in writing to the director(s) 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.

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