



BRIEFING NOTE
6 April 2020

CORONAVIRUS JOB RETENTION SCHEME

HMRC published updated official guidance on the Coronavirus Job Retention Scheme on 4 April 2020. We have summarised the key points from the guidance below.

What is Furlough?

- 1) Where an employer does not have sufficient work for its workforce to complete, it may ask people to stay at home on a period of furlough.
- 2) Both the employer and the individual must agree for the individual to take a period of furlough.
- 3) During the period of furlough, the individual can undertake no work for the employer but they are kept on the employer's payroll.
- 4) The employer must pay 80% of the individual's regular wage subject to a monthly cap of £2,500 throughout the period of furlough. The employer can then recover this money from the government.
- 5) The employer is responsible for claiming through the Job Retention Scheme on the individual's behalf. Individuals cannot apply to the Scheme themselves.
- 6) The employer must continue to pay the individual and normal deductions are made from salary.

Eligibility

- 7) Any employer with a UK payroll and a UK bank account will be able to claim.
- 8) The following individuals can be furloughed:
 - a. Employees;
 - b. Agency workers;
 - c. Apprentices;
 - d. Company directors;
 - e. Salaried member of a Limited Liability Partnership;
 - f. Workers; and
 - g. Office holders if they are remunerated through PAYE.

- 9) The individual must have been on the employer's payroll on or before 28 February 2020.
- 10) The individual can be on any type of contract including zero-hours or fixed-term. For individuals on fixed-term contracts, the employer may extend the contract during a period of furlough without affect the claim under the scheme.
- 11) Foreign nationals can be furloughed provided their tax is paid through PAYE.
- 12) The employer must confirm in writing that the individual has been furloughed in order to be eligible to claim.
- 13) Grant payments to employers will start on the day the individual begins furlough and can be backdated to 1 March.

Furlough period and payment

- 14) Employers should pay a minimum to individuals of 80% of their regular monthly pay up to a maximum of £2,500. They cannot pay their individuals less than the grant under the scheme will pay.
- 15) The minimum period of claim is three weeks and the current maximum is three months but that may be extended by the Government at a later date. Employers can bring individuals back from furlough to work for a period and then subsequently furlough them again.
- 16) Employers are permitted to pay more than they will receive under the Job Retention Scheme but any additional payment cannot be recovered under the Scheme.
- 17) Individuals will still pay Income Tax, National Insurance contributions, Student Loan repayments and any other deductions (such as pension contributions) from your wage.
- 18) The grant payment is calculated in one of three ways, depending on how long the individual has worked for:
 - a. For individuals with over one year of service, the amount is the higher of the amount earned in either the same month last year or the average of their monthly earnings over the last year.
 - b. For individuals with less than one year of service, the average of their regular month wages since they started work.
 - c. For anyone who started work in February, the pro-rata earnings from February.
- 19) The grant is calculated based on the individual's regular, contractual pay such as wages, compulsory commissions and past overtime. The calculation does not include discretionary commission (including tips) payments or bonuses, non-cash payments or benefits in kind.

During Furlough

- 20) Individuals on furlough can do no work for their employer or for any linked or associated companies.
- 21) They can undertake training or volunteer work provided that it does not:
 - a. Make money for the employer or a company linked or associated to the employer;
 - b. Provide any service to the employer or a company linked or associated to the employer.
- 22) Anyone who is required to complete training for their employer during furlough must receive the relevant statutory minimum pay for that period even if that is more than the grant payment.

Redundancy

- 23) Individuals can be made redundant whilst they are on furlough and after it ends subject to the normal principles of employment law.
- 24) Individuals may refuse to be furloughed but that will likely place them at risk of redundancy or termination.

Sick Leave

- 25) If an individual is on sick-leave or self-isolating then furlough can start after that sickness period comes to an end.
- 26) If an individual is shielding in line with public health guidance or is required to stay at home because an individual in their household is shielding and the individual is unable to work from home then that individual can be furloughed.
- 27) If an individual is unable to work from home because of caring responsibilities (e.g. looking after children as a result of the school closures) then that individual can be furloughed.

Maternity Leave and other family friendly leaves

- 28) The normal rules for maternity and other forms of parental leave and pay apply.
- 29) If the an individual is pregnant and about to start maternity leave then a period of furlough may result in a reduced rate of SMP as a result of any reduced pay.

Multiple Employers

- 30) For individuals with more than one employer, they can be furloughed by each employer separately without that impacting on each employer's claim.

- 31) Where individuals undertake work for another employer, they must be permitted to do so under their employment contract and the work that they undertake must not prevent them from returning to work for the employer who placed them on furlough when the furlough period ends.

Agency Workers

- 32) Agency workers should be furloughed by the company that pays them through PAYE. Typically, furlough should be agreed between the agency, as the deemed employer, and the worker. If it is an umbrella company that operates the PAYE, it will be for the umbrella company and the worker to agree whether to furlough the worker or not.
- 33) During a period of furlough, the agency worker should perform no work for, through, or on behalf of the agency. This will include working for the agency's clients.

Apprentices

- 34) Apprentices can be furloughed in the same way as other individuals and continue to train. For any period of time spent training the apprentice must receive the Apprenticeship Minimum Wage, National Living Wage or National Minimum Wage as appropriate, even if this is more than 80% of their normal wages.

Public Sector

- 35) Where employers receive public funding for staff costs, and that funding is continuing, employers are expected to use that money to continue to pay staff in the usual fashion and should not furlough them. This also applies to non-public sector employers who receive public funding for staff costs. Organisations who are receiving public funding specifically to provide services necessary to respond to COVID-19 are not expected to furlough staff.

Office holders and directors

- 36) For office holders, the furlough, and any ongoing payment during furlough, will need to be agreed between the office holder and the party who operates PAYE on the income they receive for holding their office.
- 37) As office holders, salaried company directors are eligible to be furloughed and receive support through the scheme. 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 be judged reasonably necessary for the purposes.

The full Government guidance can be found on www.gov.uk/guidance/claim-for-wage-costs-through-the-coronavirus-job-retention-scheme.

If you require any specific advice regarding the Coronavirus Job Retention Scheme, or any other information regarding Coronavirus generally, please contact the Machins' Employment Department on 01582 514 000.