



COVID-19 UPDATE

Job Retention Scheme Update

MARCH 2020

26th

Latest Update as of Thursday 26th March

Detailed guidance has now been released on the Government's Job Retention Scheme which is due to be up and running by the end of **April 2020**. Here are the key points;

Questions and Answers

► Employees you can claim for

Furloughed employees must have been on your PAYE payroll on **28 February 2020**, and can be on any type of contract including casual and zero hours workers.

The scheme also covers employees who were made redundant since 28 February 2020, if they are rehired by their employer.

► What can an employer claim?

You will receive a grant from HMRC to cover the lower of 80% of an employee's regular wage or £2,500 per month, **plus** the associated Employer National Insurance contributions and minimum automatic enrolment employer pension contributions on that subsidised wage. **Fees, commission and bonuses should not be included.**

You can choose to top up an employee's salary beyond this but you are not obliged to under this scheme.

The government have said they will issue more guidance on how you should calculate your claims for Employer National Insurance Contributions and minimum automatic enrolment employer pension contributions, before the scheme becomes live.

► What about employees whose pay varies?

If an employee has been employed for a full twelve months prior to the claim, you can claim for the **higher of either:**

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

If the employee has been employed for less than a year, you can claim for an average of their monthly earnings since they started work.

If the employee only started in February 2020, use a pro-rata for their earnings so far to claim.

► What about employer National Insurance and Pension Contributions?

You will remain liable for the relevant employer NI contributions and minimum automatic enrolment employer pension contributions on behalf of furloughed employees.



MARCH 2020

26th

However, you can claim a further grant for the associated Employer National Insurance contributions and minimum automatic enrolment employer pension contributions on paying the element of the wages covered by the scheme.

If you choose to provide top-up salary in addition to the grant, then you cannot claim for the associated employer NI and pension contribution on any additional top-up salary.

Please also note that any pension contributions above the minimum mandatory employer contribution of 3% will not be funded.

► **Is there any change to Income tax and Employee National Insurance?**

Wages of furloughed employees will be 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 or to cease saving into a workplace pension scheme.

► **What if the 80% furlough rate takes an employee under the NMW?**

Individuals are only entitled to the National Living Wage (NLW)/National Minimum Wage (NMW) for the hours they are working.

Therefore, the *NLW/NMW will not apply* for the period that an employee is furloughed.

► **Is there a minimum or maximum time an employee can be furloughed?**

An employee must have been furloughed for a minimum period of 3 weeks to qualify for the scheme.

The current maximum period is 3 months from 1st March 2020, however the government have said they will keep this under review and may extend the period if necessary.

► **Can a furloughed employee carry out any work for the employer?**

To be eligible for the subsidy, when on furlough, an employee can not undertake work for or on behalf of the organisation. This includes providing services or generating revenue.

If an employee is working, but on reduced hours, or for reduced pay, they will not be eligible for this scheme and you will have to continue paying the employee through your payroll and pay their salary subject to the terms of the employment contract you agreed.

► **How do we change the status of an employee to furloughed?**

You need to discuss this with your employees and make any changes to the employment contract by agreement.

To be eligible for the subsidy you must **write to the employee** (*see our previous template letter*) confirming that they have been furloughed and keep a record of this communication.

Employees hired after 28 February 2020 cannot be furloughed or claimed for in



MARCH 2020

26th

accordance with this scheme.

► **Do all staff in the workplace need to be furloughed to be able to claim the grant?**

No, you do not need to place all your employees on furlough.

► **Will employees on SSP be covered by the Scheme?**

Employees on sick leave or self-isolating should get Statutory Sick Pay, but can be furloughed after this.

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

► **What if an employee 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.

► **Can an employee carry out volunteer work whilst on furlough?**

Yes, as long as it does not provide services to or generate revenue for, or on behalf of your organisation.

► **Can an employee be required to undertake training whilst on furlough?**

Yes, as long as it does not provide services to or generate revenue for, or on behalf of your organisation. However, any time spent on work-related training whilst they are furloughed, must be paid at the NLW/NMW rate, even if this is more than the 80% of their wage that will be subsidised.

► **What happens to employees on maternity/paternity leave?**

Their leave continues as normal and they must be paid at least the minimum statutory maternity/paternity pay.

If you offer enhanced contractual pay to women on maternity Leave, this is included as wage costs that you can claim through the scheme.

The same principles apply where your employee qualifies for contractual adoption, paternity or shared parental pay.

► **How do we make a claim?**

You need to ensure you make any changes to the furloughed employee's employment contract [by agreement](#). You should seek legal advice on the process.

The government have clarified that collective consultation processes would apply where relevant. To claim, you will need:

- your ePAYE reference number
- the number of employees being furloughed
- the claim period (start and end date)



MARCH 2020

26th

- amount claimed (per the minimum length of furloughing of 3 weeks)
- your bank account number and sort code
- your contact name
- your phone number

You will need to calculate the amount you are claiming. [HMRC will retain the right to retrospectively audit all aspects of your claim.](#)

► **What happens after a claim has been submitted?**

Once HMRC have received your claim and confirmed you are eligible for the grant, they will pay it via BACS payment to a UK bank account.

You should make your claim in accordance with actual payroll amounts at the point at which you run your payroll or in advance of an imminent payroll.

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 happens to the employees contracts when the government ends the scheme?**

When the government ends the scheme, you must make a decision, depending on your circumstances, as to whether employees can return to their duties. If not, it may be necessary to consider termination of employment (redundancy).

► **Will normal employment rights apply to employees that have been furloughed?**

Yes, all rights are the same as they did previously. That includes any SSP entitlement, maternity rights, other parental rights, rights against unfair dismissal and rights to a redundancy payment.