



# A E Accountancy

Services Ltd

## Coronavirus Job Retention Scheme

Firstly, it is important to remember we are not employment lawyers and you should always seek formal legal advice before taking any action.

Under the new Coronavirus Job Retention scheme, government grants will cover 80% of the salary of PAYE employees who would otherwise have been laid off during this crisis. The scheme, open to any employer in the country, will cover the cost of wages backdated to 01 March 2020 and will be open before the end of April. It will continue for at least three months and can include workers who were in employment on 28 February 2020.

<https://www.gov.uk/guidance/claim-for-wage-costs-through-the-coronavirus-job-retention-scheme>

### **To claim under the scheme employers will need to:-**

- Designate affected employees as ‘furloughed workers’ and notify employees of this change. Changing the status of employees remains subject to existing employment law and, depending on the employment contract, may be subject to negotiation.

We would recommend you take legal advice for this. If you are an A E Accountancy Services client, you can contact CronerTaxwise for free Employment Law advice, on 0844 892 2807 (quote ref TAX01)

- Submit information to HMRC about the employees that have been furloughed and their earnings through a new online portal. HMRC will set out further details on the information required.
- HMRC will reimburse 80% of furloughed workers wage costs, up to a cap of £2,500 per month.

While HMRC is working urgently to set up a system for reimbursement, we understand existing systems are not set up to facilitate payments to employers. Businesses that need short-term cash flow support, may benefit from the VAT deferral announced and may also be eligible to apply for a Coronavirus Business Interruption Loan.

### **Frequently Asked Questions...**

#### **What does “furloughed” mean?**

Furloughed means *allowing someone to be absent from work for a period of time.*

#### **Are the government going to pay my employees for me?**

There seems to be a common misconception that the government will subsidise 80% of your team costs while they work for you. Not so – it’s only for people who you would normally make

redundant in any other situation. They are in effect on “garden leave” and should not be doing any work during the “furloughed” period.

### **Surely they can do some odd jobs for me whilst they are off...?**

Absolutely not. Once you are on furlough you will not be able to work for your employer, but you can undertake training or volunteer subject to public health guidance, as long as you’re not:-

- Making money for your employer.
- Providing services to your employer.

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

### **Can they go part time and benefit from this?**

No. You’d be best making some of your staff full time and put others on garden leave.

### **Who qualifies?**

Anyone on your payroll as at 28 February 2020.

### **What happens if they started in February 2020?**

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

### **How do you work out what they get 80% of?**

Full time and part time:-

For full time and part time salaried employees, the employee’s actual salary before tax, as of 28 February 2020 should be used to calculate the 80%. Fees, commission and bonuses should not be included.

Variable (including Zero hours):-

If you’ve been employed (or engaged by an employment business in the case of agency workers) for a full year, employers will claim for the higher of either:-

- The amount you earned in the same month last year.
- An average of your monthly earnings from the last year.

If you’ve been employed for less than a year, employers will claim for an average of your monthly earnings since you started work. The same arrangements apply if your monthly pay varies, such as if you are on a zero-hour contract.

Bonuses, commissions and fees are not included as part of your monthly earnings.

### **Does the NMW apply?**

Individuals are only entitled to the NLW/NMW for the hours they are working.

Therefore, furloughed workers, who are not working, must be paid the lower of 80% of their salary, or £2,500 even if, based on their usual working hours, this would be below NLW/NMW.

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

### **Can I still pay full wages?**

An employer can choose to top up to 100% but does not have to (subject to employment law and renegotiating any contractual entitlements).

### **Can employees go in and out of Furlough?**

If your employer chooses to place you on furlough, you will need to remain on furlough for a minimum of 3 weeks. However, your employer can place you on furlough more than once, and one period can follow straight after an existing furlough period, while the scheme is open. The scheme will be open for at least 3 months.

### **Can I be furloughed for a short period of time, e.g. a week or a couple of days, and then re-employed?**

A worker must be furloughed for a minimum of 3 weeks for their employer to be eligible to claim under this scheme.

### **How will this work for those on zero-hour/flexible contracts/agency workers?**

See "How do you work out what they get 80% of?" above.

### **How will it work in practice?**

We understand that the employer will pay the contractually agreed amounts as required by the employment contract in the usual way. This will involve paying the employee, and HMRC the PAYE and both primary and secondary National Insurance Contributions. The grant will be paid directly to the employer.

Employers will claim the grant through a new separate portal currently being built by HMRC.

### **What will I need to make a claim?**

Employers should discuss with their staff and make any changes to the employment contract by agreement. 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.

To claim, you will need:-

- Your PAYE reference number.
- The number of employees being furloughed.
- The claim period (start and end date).
- Amount being 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.

You can only submit one claim at least every 3 weeks, which is the minimum length an employee can be furloughed for. Claims can be backdated until the 01 March 2020, if applicable.

**Are the grants taxable?**

Yes, but the wage costs are tax deductible, so will be tax neutral.

**Can we alter February's payroll to bump the figure up?**

No, this is fraud.

**Can directors' benefit from this?**

This is a "hot topic" in our profession and after much debate. It has been confirmed this evening by the HM Treasury that a director can be Furloughed.

*"With respect to Directors and owner managers, that does not disqualify them from being furloughed so long as they are on PAYE payroll.*

*I understand that they will have some statutory duties and obligations such as filling up their accounts and they will still be allowed to undertake those statutory duties whilst they are being furloughed so that would not count as doing work.*

*So one of the key conditions of the furlough scheme is that the employee is not allowed to work for the employer but if you are the owner-manager and you do have statutory duties then you can continued to undertake those duties while being on furlough".*

Ben Kerry, Head of Labour Markets, HM treasury. Quoted from [CBI.org.uk](https://www.cbi.org.uk), "Daily Coronavirus webinar", 27th March 2020