

Advice on Furloughing employees

Coronavirus Job Retention Scheme

Information correct as of 6th April 2020

Following reports that businesses were considering or actively laying off staff due to Covid-19 concerns, the Government introduced the [Coronavirus Job Retention Scheme](#) on the 20th March.

Under the scheme, **HMRC will pay 80% of the employee's usual wage costs up to £2,500 a month**, plus Employer National Insurance contributions and minimum automatic enrolment employer pension contributions – as long as the employee is not able to complete their normal tasks, or the business owner had considered laying them off due to business concerns arising from Covid-19.

During the time when the employee is receiving this money from HMRC, **they must be furloughed, which is mandated time off work** – meaning the employee cannot work for the business at all during this period.

Q&A – who is eligible / how to apply

Who is eligible?

- The scheme covers all employees on any type of contract, who are paid through an employers' payroll system, and were on the system as of 28 February 2020.
 - **The scheme also covers employees who have been made redundant since 28 February 2020, and can therefore be rehired, and furloughed, at the discretion of the business owner.**

Do I need to illustrate my business impact to be eligible?

- No, neither Government or HMRC will be seeking evidence that you are in business difficulties, or that staff are unable to work. To claim, you will need:
 - your ePAYE reference number
 - the number of employees being furloughed
 - the claim period (start and end date)
 - amount claimed (per the minimum length of furloughing of 3 weeks)
 - your bank account number and sort code
 - your contact name
 - your phone number
 - **Please be advised, you may retrospectively be audited by HMRC on this information.**

How long can I furlough staff for?

- Employers can furlough for a minimum three-week period, and up to three months – although, the Government may yet decide to extend this.

Can I un-furlough staff?

- Currently, the Government scheme does not give clarity on if you decide you need your employee to return to work during a furloughed period.
 - The working assumption is that, if you have furloughed an employee for three weeks, and in week two decide you want them to return to work – you must pay the three weeks wages (including the time the employee was not working) and you will not be eligible for the grant.

- That being said – the advice is that you rotate your employees anyway – i.e. if you have six employees, rotate three for three weeks, then the other three for the next three-week period.

What if my business is in a sector marked essential?

- You will be eligible for the scheme, like all other businesses – but it is advisable that you rotate your staff on furlough, and think carefully before placing them on, due to the difficulties with un-furloughing staff.

When will staff be paid?

- HMRC are currently designing the system – which is expected to be up and running by the end of April. Once payments begin to be processed, they will be backdated until the 1st March if applicable (or from when the staff were furloughed).
 - **It will be the employer who will be paid by HMRC, who will then pay their employees.**
- **It is worth noting this is a grant, not a loan – so does not need to be repaid.**

If HMRC are paying 80%, must I top up the rest?

- No, this is not an essential requirement – although employers are of course welcome to do so.

Must staff agree to being furloughed?

- Yes, the Government has been clear that furloughing is subject to existing employment law, meaning they must be consulted. If the employee does not agree, employers can dismiss, but this must meet standard procedure for redundancy.
 - **Once your employee has agreed to be furloughed, you must write to them – and keep a record.**

What about if my staff are already on reduced hours, or on reduced pay?

- If you have already agreed with staff that they take a pay cut or work reduced hours – you are not eligible for the scheme. The guidance does not clarify what would happen if you revoke this prior agreement.

Does the scheme apply to LLPs?

- Yes, the guidance has clarified that salaried members of Limited Liability Partnerships (LLPs), will be eligible, so long as they are paid via PAYE.

Does this apply to apprentices?

- Yes, the updated Government guidance clarifies that you can furlough apprentices in the same way. But you must ensure they are paid at least the Apprenticeship Minimum Wage. This means you must cover any shortfall between the scheme and the appropriate minimum wage.
- You can find further guidance on changes to apprenticeship learning arrangements because of Covid-19 [here](#).

Are there limitations on who I can furlough?

- No, you can furlough as many or as few employees as you like – you could furlough your whole workforce.

What about if 80% of wage is less than National Minimum Wage (NMW), must we top up?

- No, you do not need to ensure they are paid NMW.

- This however is not the case if the worker must undertake essential (and pre-arranged) training whilst furloughed – in this case, they must be paid NMW for hours taken undertaking training.

What if staff pay varies month-by-month?

- The pay will be calculated based on average monthly earnings in 2019-20 tax year, or the same month's earnings from the previous year – whichever is higher.

As a business owner, do my rights to redundancy remain the same?

- Yes, you can still make someone redundant by the usual procedure. This can be done whilst they are on furlough, and you are under no obligation to retain your employee once the furlough period ends.

Can I furlough staff who are self-isolating?

- No, those who are self-isolating must be paid statutory sick pay, but once they return to work, they can be furloughed.
- Those who received a letter from the Government marking them as vulnerable and told to shield themselves for 12 weeks – can be furloughed.