

# Claim for wage costs through the Coronavirus Job Retention Scheme

HMRC have published updated detailed guidance on the Job Retention Scheme (also known as 'furloughing').

## **The guidance covers:**

- Employer eligibility
- Employee eligibility
- How much can be claimed?
- Particular employee types
- Employer National Insurance and Pension contributions.
- The claim process
- The tax treatment of amounts paid and claimed
- Can owner-manager/Directors use it?

## **Eligible Employers:**

Employers can use a portal to claim for 80% of furloughed employees' (employees on a leave of absence) 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.

The scheme is open to all UK employers that had created and started a PAYE payroll scheme on 28 February 2020 and have a UK bank account.

## **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:

- full-time employees
- part-time employees
- employees on agency contracts
- employees on flexible or zero-hour contracts

The scheme also covers employees who were made redundant since 28 February 2020, if they are rehired by their 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. While on furlough, the employee's wage will be subject to usual income tax and other deductions.

This scheme is only for employees on agency contracts who are not working.

***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.***

To be eligible for the subsidy employers should write to their employee 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 accordance with this scheme.

## **How much can an employer claim?**

The grant from HMRC is 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.

At a minimum, employers must pay their employee the lower of 80% of their regular wage or £2,500 per month. An employer can also choose to top up an employee's salary beyond this but is not obliged to under this scheme.

NOTE – further guidance on how employers should calculate their claims for Employer National Insurance Contributions and minimum automatic enrolment employer pension contributions, will be issued before the scheme becomes live.

## **Full time and part time employees**

For full time and part time salaried employees, the employee's actual salary before tax, as of 28 February should be used to calculate the 80%.

## **Employees whose pay varies**

If the employee has been employed (or engaged by an employment business) 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.

## **Employer National Insurance and Pension Contributions**

All employers remain liable for associated Employer National Insurance contributions and minimum automatic enrolment employer pension contributions on behalf of their furloughed employees. You can claim a grant from HMRC to also cover these costs.

You can choose to provide top-up salary in addition to the grant. However, employer National Insurance Contributions and automatic enrolment contribution on any additional top-up salary will **not** be funded through this scheme. Nor will any voluntary automatic enrolment contributions above the minimum mandatory employer contribution of 3% of income above the lower limit of qualifying earnings (which is £512 per month until 5th April and will be £520 per month from 6th April 2020 onwards).

## **National Living Wage/National Minimum Wage**

Individuals are only entitled to the National Living Wage (NLW)/National Minimum Wage (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.

## **Employees – particular categories of staff:**

### **If your employee is on unpaid leave**

Employees on unpaid leave cannot be furloughed, unless they were placed on unpaid leave after 28 February.

### **If your employee is on Statutory Sick Pay**

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.**

### **If your 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.

### **If your employee does volunteer work or training**

A furloughed employee can take part in volunteer work or training, as long as it does not provide services to or generate revenue for, or on behalf of your organisation.

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.

### **If your employee is on Maternity Leave, contractual adoption pay, paternity pay or shared parental pay**

Individuals who are on or plan to take Maternity Leave must take at least 2 weeks off work (4 weeks if they work in a factory or workshop) immediately following the birth of their baby. This is a health and safety requirement. In practice, most women start their Maternity Leave before they give birth.

If your employee is eligible for Statutory Maternity Pay (SMP) or Maternity Allowance, the normal rules apply, and they are entitled to claim up to 39 weeks of statutory pay or allowance.

Employees who qualify for SMP, will still be eligible for 90% of their average weekly earnings in the first 6 weeks, followed by 33 weeks of pay paid at 90% of their average weekly earnings or the statutory flat rate (whichever is lower). The statutory flat rate is currently £148.68 a week, rising to £151.20 a week from April 2020.

If you offer enhanced (earnings related) 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.

### **Practicalities – discussions with staff**

Employers should discuss with their staff and make any changes to the employment contract by agreement. When employers are making decisions in relation to the process, including deciding who to offer furlough to, equality and discrimination laws will apply in the usual way.

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.

### **How to claim:**

Employers will submit claims using the new online portal that is being developed currently.

An employer will need:

- the 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)
- bank account number and sort code
- employer contact name
- employer 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.

### **Claim frequency**

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 1 March if applicable.

### **What to do after you've claimed**

Once HMRC have received your claim and 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.

### **When the government ends the scheme – the decision on furloughed workers**

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).

### **Employees that have been furloughed – employment rights**

Employees that have been furloughed have the same rights as they did previously. That includes Statutory Sick Pay entitlement, maternity rights, other parental rights, rights against unfair dismissal and to redundancy payments.

### **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.

Employers will be liable to pay Employer National Insurance contributions on wages paid, as well as automatic enrolment contributions on qualifying earnings unless an employee has opted out or has ceased saving into a workplace pension scheme.

### **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.

## Can owner-manager/Directors use it?

Interestingly, whilst the job retention scheme makes no specific mention of Directors, there is a note at the end of the self-employed support scheme that says: "If you're a director of your own company and paid through PAYE you may be able to get support using the Job Retention Scheme."

The challenge will be meeting the requirement that the Director is not doing any work for the business.

This will be easier in case where there is more than one Director and where perhaps not all are being furloughed. However, even in companies with a single Director, if it can be demonstrated that the business activity has come to a complete halt meaning the Director is no longer working, there is no reason in principle why the sole Director cannot be furloughed.

It is also noteworthy that the CBI has advised members that Directors or Managers will be able to continue undertaking their statutory duties while furloughed, such as filling out company accounts etc.

If you have any questions please [contact us at DTE](#) to discuss these measures further.

We expect further updates from HMRC in the upcoming days so stay tuned with us to be informed as new information is released.

This is a challenging time for all of us, but at DTE we believe that together we will get over it, and will continue to thrive in the future. As always, we are committed to be your partner for success, and if you have any questions about the information above, or need support for your business, please get in touch with us today.

### DTE Bury Office

The Exchange  
5 Bank Street  
Bury  
BL 9 0DN  
Tel: 0161 767 1200  
Fax: 0161 767 1201

### DTE Manchester Office

6<sup>th</sup> Floor, Royal Exchange Building  
St Ann's Square  
Manchester  
M2 7FE  
Tel: 0161 819 1910  
Fax: 0161 819 4749



[www.dtegroup.com](http://www.dtegroup.com)



[enquiries@dtegroup.com](mailto:enquiries@dtegroup.com)

