



The Coronavirus Job Retention Scheme: furlough guidance

This document is guidance at this point to give an indication of how the scheme will work.

Overall objective is to keep people at home while enabling employers to retain staff who will be needed when they begin to rebuild their businesses in the future. This will enable work to begin again with a critical core who have the necessary knowledge.

- o The scheme is available for employees on the payroll at 28 February 2020. *If they were hired later, they are not eligible. Anybody who was on the payroll on 28 Feb and has since been made redundant can be rehired and put on the scheme. This includes zero hour staff. The employee can hold a separate employment with a different and unconnected employer which will be unaffected.*
- o The employee must not be working at all. If they work for even an hour (presumably during their entire three week furlough period), they are not eligible. *However, they are able to undertake training and do volunteer work, provided they do not provide services to or make any money for their employer.*
- o Employees on sick pay or self-isolating cannot be furloughed but can be furloughed afterwards. Employees who are shielding can be placed on furlough.
- o Employees on maternity (or similar) leave can continue to draw SMP (or similar) payments. *The guidance does not prohibit women on maternity leave agreeing to return to work early and then being furloughed or electing to change to shared parental leave and then being furloughed.*
- o Furlough is from 1 March 2020, so is to be backdated. It will last for at least 3 months and will be extended if necessary. *Note that while the scheme is backdated to the beginning of March as it is intended to support all those employed then, a firm will only be eligible to claim the grant once they have agreed the furlough with their staff and staff have stopped working for the employer.*
- o All UK businesses are eligible, 'any employer on the country, small or large, charitable or non-profit' to use the Chancellor's words.
- o The scheme pays a grant (not a loan) to the employer.
- o The grant will be paid to the employer through a new online system which is being built for this purpose. *There is no detail about the application process at the moment.*
- o The employer will pay the employee through payroll, and report payments to HMRC using the Real Time Information (RTI) system as usual, as required by the employment contract. *This contract may be re-negotiated, e.g. agree a temporary different pay period from weekly to fortnightly via the Furlough Agreement.*



- o Employers can only claim once every three weeks, i.e. they cannot get weekly reimbursement.
- o The maximum grant will be calculated per employee and is the lower of:
 - 80% of 'an employee's regular wage' and.
 - £2,500 per month.

Plus the associated employers' national insurance contributions (NIC) on this amount and the minimum automatic enrolment employer pension contributions on that wage. Fees, commission and bonuses should not be included.

- o This gives a maximum cap of £2,500 + £245 (employers' NIC) + £59 (auto-enrolled pension contribution) = £2,804 of total possible grant that can be applied for per employee per month.
- o An employer can choose to top up to 100% but does not have to (subject to employment law and renegotiating any contractual entitlements) *Use Furlough Agreements to cover all terms.*
- o For employees whose pay varies, the employer can claim for the higher of (i) the same month's earning from the previous year (e.g. earnings from March 2019); or (ii) average monthly earnings in the 2019-20 tax year
- o Individuals are only entitled to the minimum wage for the hours they work. So if they are furloughed and do not work, and 80% of their normal earnings would take them below the minimum wage based on their normal working hours, they still only receive 80% as they are not working. *However, they are entitled to be paid NMW for any time spent training.*
- o Furlough leave must be taken in minimum blocks of three weeks to be eligible for funding. *There is nothing in the guidance which prohibits rotating furlough leave amongst employees, provided each employee is off for a period of at least three weeks.*



Examples: sourced from the ICEAW website

X Ltd employs Mr A at an annual salary of £24,000, so £2,000 per month. Mr A has opted out of auto enrolment.

Each month, Mr A currently receives net pay of £1,655 which is after deducting PAYE of £191 and employees NIC of £154. On this salary, the employer pays employers' NIC of £177.

The available grant for the employer is the lower of

(a) 80% of £2,000, and

(b) £2,500

Plus employers' NIC on this amount

So X Ltd claims a grant of £1,600 plus £177 = £1,777.

The net amount of cash required by X Ltd to furlough Mr A based on maintaining the existing salary is £2,000 + £177 - £1,777 = £400 per month.

If Mr A had not opted out of auto enrolment, X Ltd would also be making pension contributions on his behalf.

X Ltd employs Mr B at an annual salary of £42,000, so £3,500 per month. Mr B has opted out of auto enrolment.

Each month, Mr B currently receives net pay of £2,675 which is after deducting PAYE of £492 and employees NIC of £333. On this salary, the employer pays employers' NIC of £383.

The available grant for the employer is the lower of

(c) 80% of £3,500 = £2,800, and

(d) £2,500

Plus employers' NIC, £245, on this amount

So X Ltd claims a grant of £2,500 plus £245 = £2,745.

The net amount of cash required by X Ltd to furlough Mr A based on maintaining the existing salary is £3,500 + £383 - £2,745 = £1,138 per month.

If Mr A had not opted out of auto enrolment, X Ltd would also be making pension contributions on his behalf.



Pubco - a scenario

In the following illustration, the business has already closed as instructed by the government and is seeking clarification of our understanding of how the rules apply.

Mr & Mrs Fuller are the tenants of a pub. They have a substantial wet and food trade as the pub is in a coastal location and does good trade over the Summer. The pub is open all year round.

Mr & Mrs Fuller operate the pub through a limited company (Pubco). They take salaries of £8,600 each and withdraw profits of £10,000 each in the form of dividends. They live above the pub and work long hours being in the pub every day.

Pubco employs three permanent staff supplemented by extra seasonal staff in the Summer months and at Christmas.

The pub closed on 20 March as instructed by the Prime Minister. and following the Chancellor's announcement on 20 March, *Pubco* has furloughed its staff other than Mr & Mrs Fuller who are still living above the pub and dealing with the company administration.

The contracts of employment of the other staff have been varied to permit furloughing and the three permanent staff members have agreed to accept a pay reduction to 80% of the previous level. The seasonal staff for this year have not yet been hired.

It is likely that *Pubco* will be eligible to receive the government grant support under the Coronavirus Job Retention Scheme for the wages of the three permanent staff members.

The seasonal staff were not on the payroll at 28 February and so are not eligible. No grant support is available to support the living costs of Mr & Mrs Fuller.

Mr & Mrs Fuller will need to look for alternative support while the pub remains closed.