

COVID-19 – Coronavirus Job Retention Scheme Employer and Employee Guide

What is the Coronavirus Job Retention Scheme (CJRS)?

The CJRS is designed to help employers whose operations have been severely affected by coronavirus (COVID-19) to retain their employees and protect the UK economy.

This is a temporary scheme in place for 3 months starting from 1 March 2020, but it may be extended if necessary. Employers can use this scheme anytime during this period.

How does the CJRS work?

If an organisation cannot maintain their current workforce because their operations have been severely affected by coronavirus (COVID-19), they can furlough employees and apply for a grant that covers 80% of their usual monthly wage costs, up to £2,500 a month, plus the associated Employer National Insurance contributions and minimum automatic enrolment employer pension contributions. The reclaimable NI and Pension elements are on the furlough salary, not normal salary.

What does furlough mean?

The term itself is to “lay off or suspend temporarily”, usually without pay. It's not a recognised term in UK employment law, although it is commonly used in the US.

Which organisations can claim under the CJRS?

An organisation must have:

- Created and started a PAYE payroll scheme on or before 28 February 2020
- Enrolled for PAYE online
- A UK bank account

Any entity with a UK payroll can apply, including businesses, charities, recruitment agencies and public authorities.

Which employees can be funded through the CJRS?

Furloughed employees must have been on the PAYE payroll and were notified to HMRC on or before the 19 March. This was previously 28 February 2020. (updated 15th April 2020)

Employees can be on any type of employment contract, including full-time, part-time, agency, flexible or zero-hour contracts. Foreign nationals are eligible to be furloughed.

Employees who are currently off sick and moved from SSP to furlough pay. Previously, guidance said that the period of sick should conclude before being furloughed.

If an employee becomes sick while furloughed, it is up to the employer to decide whether to move them onto SSP or remain on furlough. Both cannot run concurrently.

An employee who is shielding in line with public health requirements, or who is at home with someone who is shielding can be furloughed. Previous guidance said 'if they are unable to work from home, you would have to make them redundant'

Can an employee work whilst furloughed?

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

Depending on the terms of the employment contract, a furloughed employee could work for a different employer whilst you have placed them on furlough.

Can a furloughed employee volunteer?

A furloughed employee can take part in volunteer work, if it does not provide services to or generate revenue for, or on behalf of their employer. New guidance had added 'or a linked or associated organisation'

Can a furloughed employee undertake training?

Furloughed employees can engage in training, as long as in undertaking the training the employee does not provide services to, or generate revenue for, or on behalf of their employer. New guidance had added 'or a linked or associated organisation'

Where training is undertaken by furloughed employees, at the request of their employer, they are entitled to be paid at least their appropriate national minimum wage for this time.

What if an employee is on maternity leave, adoption leave, paternity leave or shared parental leave?

The normal rules for leave and pay apply. Employers can claim through the CJRS for enhanced (earnings related) contractual pay for employees who qualify.

How do you furlough employees?

Employers should discuss with their employees 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.

To be eligible for the grant employers must have confirmed in writing to their employee confirming that they have been furloughed. A record of this communication must be kept for five years.

What is the minimum period of furlough?

Any employees placed on furlough must be furloughed for a minimum period of 3 consecutive weeks. Employees can be furloughed multiple times, but each separate instance must be for a minimum period of 3 consecutive weeks.

What rights do employees have during a period of furlough?

Employees still have the same rights at work, including:

- Statutory Sick Pay
- Maternity and other parental rights
- Rights against unfair dismissal
- Redundancy payments

It is currently thought that holiday entitlement will continue to accrue during a period of furlough.

The government has recently announced new rules which allow upto 4 weeks' annual leave to be carried over into the next two holiday years where an employee is unable to take it because of coronavirus.

What if an employee has resigned or been made redundant prior to the CJRS being put in place?

Employees who were on the payroll on 19 March – amended from 28 February 2020 and have since left, can be re-employed and furloughed, as long as the reason for them now being out of work is an economic knock-on effect of coronavirus.

Employers should be mindful of the fact that this may mean an employee could go on to have 2 years' service and therefore be entitled to a redundancy payment.

How much can be claimed under the CJRS?

An organisation can claim for 80% of their employees' wages up to a maximum of £2,500 plus employer national insurance and minimum automatic enrolment employer pension contributions.

An employer can choose to top up the employee's salary, but does not have to.

Claims should be started from the date that the employee finishes work and starts furlough.

For full or part time employees on a salary, claim for the 80% of the employee's salary, as of 19 March – previously 28 February 2020, before tax.

For employees whose pay varies, if they have been employed for 12 months or more, you can claim the highest of either the:

- same month's earning from the previous year
- average monthly earnings for the 2019-2020 tax year

If they have been employed for less than 12 months, claim for 80% of their average monthly earnings since they started work.

Any regular payments an employer is obliged to pay its employees can be claimed. This includes wages, past overtime, fees and compulsory commission payments.

Discretionary bonus and commission payments and non-cash payments should be excluded.

Employees will still pay the taxes they normally pay out of their wages, including pension contributions.

Both the Apprenticeship Levy and Student Loans should continue to be paid as usual. Grants from the Job Retention Scheme do not cover these.

How can a claim be made?

To claim, you will need:

- Your employer 'ePAYE' reference number
- The number of employees being furloughed
- National Insurance Numbers of employees being furloughed
- Names of Employees being furloughed
- The claim period (start and end date)
- Amount claimed (per the minimum length of furloughing of 3 consecutive weeks)
- Your bank account number and sort code
- Your contact name – name of the organisations processor
- Your phone number

Claims should be made shortly before or during running payroll via the HMRC portal currently being developed. The portal will be available from Monday 20th April and the first payments will be made from the 30th April, there is a 4 to 6 working day turn around.

If this date means that an organisation misses their payroll date, a business interruption loan can be applied for, or an agreement can be sought from employees that their April pay will be late.

Be prepared:

Check you have access via your gateway account

Make sure your government gateway includes PAYE on the services you can access

Prepare your submission now

HMRC will check your claim, and if you're eligible, pay it to you by BACS to a UK bank account.

HMRC will retain the right to retrospectively audit all aspects of your claim.

What happens when the CJRS ends?

When the government ends the scheme, employers must make a decision as to whether employees can return to their duties. If not, it may be necessary to consider termination of employment by following the redundancy process.

For further information and some great tools and articles on boosting your healthy lifestyle please visit www.carefirst-lifestyle.co.uk and ask your organisation for you username and password if you are not already registered.