

## **The Coronavirus Job Retention Scheme: furlough guidance.**

Updated 27 March 2020

The following is Ward Williams understanding of this policy and how this will work based on the information published so far, including the updated guidance provided by the Government on the evening of Thursday 26 March 2020.

This information should not be solely relied on for advice at this stage but is intended to give an indication of how the scheme should work. You should contact your usual Ward Williams partner for further details where required.

### **The objectives of the scheme**

Overall objective is to keep people at home while enabling employers to retain staff who would otherwise be made redundant and will be required 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.

### **Furlough**

In simple terms this is a paid leave of absence agreed by consultation between the employer and employee.



## Rules as outlined in official statements so far:

1. Furloughed members of staff must not work for the employer during the period of furlough. Furloughed workers are able to undertake training and/or do volunteer work, provided they are not paid. If furloughed workers have a separate job with another employer, this job is unaffected and they will be able to work for this separate employer.
2. Furlough applies from 1 March 2020, so can be backdated. It will last for at least 3 months and will be extended if required. While the scheme is backdated to the beginning of March, a company 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. This will of course be subject to employment law in the usual way.
3. Furlough leave must be taken in blocks of 3 weeks. There is nothing in the guidance which prohibits rotating furloughed leave but each furloughed worker must be off for a period of at least 3 weeks.
4. It is available to employees who were on the payroll on 28 February 2020. If employees were not on the payroll at this date, they will not qualify. Anybody who was on the payroll on 28 February 2020 and has since been made redundant can be rehired and put on the scheme
5. All UK businesses are eligible: any employer in the country, small or large, charitable or non-profit'. A PAYE scheme must have been in place on 28 February 2020.

6. The scheme pays a grant (not a loan) to the employer.  
Employers can only claim once every three weeks i.e. they cannot get weekly reimbursements.
  
7. The employer will pay the employee through payroll, using the Real Time Information (RTI) system as usual, as required by the employment contract. This contract may be renegotiated but that is a matter for employment law. So RTI system reporting of payroll will continue as normal, with Income Tax and National Insurance deducted on the employee's subsidised wage as normal.
  
8. The scheme will be administered by HMRC:
  - Relevant employees must be designated as furloughed employees.
  - Employers will submit information to HMRC through a new online portal.
  - As this portal will take time to build (HMRC have mentioned a date of end of April 2020 for the scheme to be operational), many businesses will be under significant cash flow pressure. The VAT deferment scheme will ease the pressure for some and the Coronavirus Business Interruption Loan Scheme may support cashflow (if it works more effectively than it has in these early stages).
  
9. Maximum grant will be calculated per employee and is 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.

10. For full and part time employees, the actual salary before tax, as at 28 February 2020 should be used to calculate the 80%.

Where employees receive pay which varies, if they have been employed for a full year, employers will claim for the higher of:

- the amount that the employee earned in the same month last year.
- an average of the employee's monthly earnings from the last year.

If the employee has been employed for less than a year, employers will claim for an average of the monthly earning since the employee started work. Bonuses, commissions and fees are not included as part of monthly earnings. An employer can choose to top up this grant to 100% of an employee's "regular" wage but does not have to (subject to employment law and renegotiating any contractual entitlements)



## Examples of scheme in practice (for illustration only)

### Example one:

Mr A is employed by X LTD and receives an annual salary of £24,000, (£2,000 per month). Mr A has opted out of auto enrolment.

Each month, Mr A currently receives net pay of £1,665 after deduction of PAYE of £191 and employees NIC of £144. On this salary, the employer (X LTD) pays employers' NIC of £174.

The available grant for the employer is the lower of:

(a) 80% of £2,000 plus employers' NIC and

(b) £2,500 plus the employers' NIC.

A grant of £1,719 would be available to X Ltd in this case - wages of £1,600 (80% of £2,000) and employers' NIC of £119. The cash required by X LTD to furlough based on maintaining the existing salary is £455 per month.



## Example Two

Mr B is employed by Z Ltd and receives an annual salary of £48,000, (£4,000 per month). Mr B has opted to make pension contributions via auto enrolment. Mr B makes contributions of 4% net (5% gross), with Z Ltd making a 3% (gross) contribution.

Each month, Mr B currently receives net pay of 2,884 after deduction of PAYE of £591, employees NIC of £385 and his personal auto enrolment pension contribution of £140. On this salary, the employer (Z Ltd) pays employers' NIC of £450 and the employers' auto enrolment pension contribution of £105.

The available grant for Z Ltd is the lower of (a) 80% of £4,000 plus the employers' NIC & auto enrolment contribution and (b) £2,500 plus the employers' NIC payable & auto enrolment pension contribution. A grant of £2,804 would therefore be available to Z Ltd in this case – the maximum wage reimbursement amount of £2,500 plus employers' NIC on this amount of £244 and employers' auto enrolment contribution of £60.

The cash required by Z Ltd to furlough based on maintaining the existing salary is £1,751 per month. This is the difference between the “normal” cost to the employer (£4,555 – gross wages of £4,000 plus employers' NIC of £450 & employers auto enrolment contribution of £105) less the grant amount of £2,804.

It is a matter for employment law whether the employer is required to pay this top up. Discussions with employees may result in a different arrangement being agreed during the furlough period.

Were Mr B to agree to a reduction in wages to the grant amount, his net pay would equal £1,925 – gross salary of £2,500 less PAYE of £291, employees NIC of £205 and his auto enrolment pension contribution of £79.

### **Further information based on how the scheme will work:**

We understand that the rules for the scheme are being designed with underlying reference to employment law. If the individual is still under contract, They can expect to receive his salary in full. The grant paid to the employer should not be taken as the new maximum cost of employment to the employer unless the contract has been varied by agreement.

Subject to the employment contract and any amendment, the salary, which the employer actually pays the employee during the furlough period, may be different to the pay used to determine the available grant.

**If you have concerns or questions, please contact us on 01932 830664 or through your usual client partner contact. As further details are announced, we will keep you informed.**

