



Coronavirus Job Retention Scheme (CJRS)

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On Friday 20 March the Chancellor announced the Coronavirus Job Retention Scheme (CJRS). This scheme was designed to help employers whose operations have been severely affected by coronavirus, reduce costs and protect employees from losing their jobs.

CJRS allows UK employers to temporarily lay workers off, still pay employees 80% of their wages up to £2,500 per month (plus some wage costs) and recover it from Government rather than lay workers off immediately when, other than for Coronavirus, they would have had some work.

The temporary lay-off is called “furloughing”. Employees do not have a statutory right to be furloughed. It is the employer’s decision to offer furlough but employees must agree to be furloughed.

Employers will claim the wages back through a new, yet-to-be-built Government portal, which should be available in late April. Claims can be made every three weeks and must be for the entire business.

To qualify:

- There are several criteria, but the main condition is that while on furlough employees cannot work for the company. If they do, the employer cannot claim the 80% wages recovery.
- Furloughed employees need to be notified in writing by the employer and accept furlough. Keep written records. There is a simple example letter at the end of this briefing sheet.
- Any UK business with employees can access CJRS. This includes companies, partnerships, sole-traders, charities, recruitment agencies or public authorities.
- To claim you must have a UK bank account and a payroll scheme that was in existence in February 2020.
- To qualify for “furlough” cost recovery, the employee had to be on the payroll in February 2020. So new payrolls and new employees from 1 March 2020 are not eligible.
- All full-time, part-time, agency, variable and zero hours employees can be furloughed.
- “Shielding” employees (in 12-week isolation) can be furloughed.
- Directors can put themselves on furlough. However, they cannot work for the company.
- Employees in 7 or 14-day self-isolation can be furloughed at the end of the isolation. While in isolation they qualify for Statutory Sick Pay (SSP) subject to the £118 per week minimum earnings limit.

Other criteria:

- The scheme can be backdated to 1 March.
- CJRS is running for three months – March, April and May 2020 but may be extended.
- The organisation recovers 80% of wages up to £2,500 per month per employee plus employer’s National Insurance and minimum autoenrollment pension contributions. “Wages” means 80% of basic pay; no commission or bonuses. You can pay staff more than 80% if you wish but you can only recover 80%.
- You must furlough for a minimum period of three weeks to qualify for a wage claim from Government. There is little guidance about

rotating employees on furlough but at the moment it looks like you could cycle employees in and out of furlough if you stick to the three-week minimum.

- Furlough is unique to each employer. So, employees can work for another employer, do self-employment or volunteer while furloughed, subject to what it says in your employment contracts about second jobs.
- When deciding who to furlough, equality and discrimination laws apply in the usual way.
- If you are furloughing 20 or more employees then you need to consider collective consultation.

Other measures for laid-off employees (announced previously):

- Laid-off employees that do not qualify for CJRS for whatever reason should apply for Universal Credit. The income floor has been removed making it available to more people.
- Housing benefit has been extended so that from April, Local Housing Allowance rates will pay for at least 30% of market rents in each area.

Other measures for businesses (announced previously):

- Coronavirus Business Interruption Loans Scheme (CBILS) loans are available to most businesses.
- VAT payments between 20 March and 30 June are automatically deferred. You will need to pay the VAT by 31 March 2021.
- "Time-to-pay" was already in existence for VAT, Corporation Tax and PAYE bills. Call HMRC and agree a payment plan; it is not interest free, and you must make the payments on time.
- Many businesses have been granted a 12-month business rates holiday.
- Businesses in receipt of small business or rural rate relief are eligible for grants of £10K.
- Small businesses in retail, hospitality and leisure may be eligible for a larger grant of £25K.

There are briefing sheets on these subjects including CBILS, SEISS, grants and cashflow available on our website.

Other things to think about:

- Although there is no government assistance for shorter hours or reduced pay, these may be the right routes for your business.
- Employees that work from home do not qualify for CJRS but home-workers can often be more effective than you may realise.
- Some clients have asked about staff cohesion when some are on furlough and some not. Samantha Clarke and Charlie HR have a great podcast that may help: <https://www.charliehr.com/culture-ops-podcast>
- We expect to see provisions introduced soon that will allow clawback of CJRS where there is fraud.
- Employment law is complicated and if you have anything but the most straightforward furlough situation then we encourage you to seek professional advice. This is a good legal briefing from Sophie at Penningtons <https://www.linkedin.com/posts/sophie-whitbread> accessed on (31 March 2020).

So, who is left out?

- New employees after 1 March 2020, including people that recently changed job are excluded from furlough claims.
- Directors' dividend income is not included.
- Contractors you use that operate as their own self-employed or limited company business should look at their own circumstances for SEISS or CJRS eligibility.

So, what does it all mean in practice?

Can an employee ask to be furloughed? It is the employer's decision, typically where the employer has no other work to offer but the employee has to agree. Where an employee is in "shielding" isolation or has to provide childcare you can furlough that employee. We do not see any advantage to not furloughing these employees, particularly as they probably have characteristics protected by employment law. It also may work out cheaper than paying contractual sick pay for shielders.

I closed parts of my business in mid-March, how do I calculate payroll? Pay employees 100% pro-rata to the closure date. Calculate their remaining pay pro-rata at 80%.

Variable or zero hours employees can be furloughed: To calculate furlough pay use whichever is the larger: March 2019 pay or the average of monthly pay in the April 2019-February 2020 period.

How do I backdate my claim to 1 March 2020? In practice most employees will have been furloughed after the scheme was announced on 20 March. We interpret this as meaning you can backdate to 1 March in circumstances where you laid employees off before 20 March and you have re-employed them because of CJRS.

Owner managed businesses: Many owners of limited companies pay themselves through a combination of payroll and dividends. Directors can furlough and claim 80% of the amount paid under PAYE (subject to all the scheme rules) but dividend income is not covered. Dividends are investment income. However, if they do so, Directors cannot work for the company. Directors may continue to carry out statutory duties, like filing company accounts and VAT returns on time but they must not engage in revenue generating activities. Our view is that revenue generating activities includes sales, marketing and actively contacting and supporting customers. You certainly cannot raise any invoices during the furlough period.

Directors on annual pay: To qualify for CJRS you must be on the February payroll. This will be a matter of fact. We think that you will qualify if you were on payroll in February even at £0 but we await clarification.

What about staff that continue to work? Some people have asked about team cohesion where some staff are working, and some are furloughed. You could rotate staff on and off furlough subject to the three-week minimum. You could re-deploy affected employees and simply offer everyone reduced hours. And in most cases furloughed employees are probably at greater long-term risk of redundancy than working employees. However, if you have employees that would rather be furloughed than working and supporting your business, unless they are already shielding or self-isolating, then I think you would have to ask yourself whether you really have the right people in the business.



Volunteering: Employees can do training while on furlough, but you must make sure that you pay them at least minimum wage *i.e.* for the training hours the 80% must not go below minimum wage. Employees can still work elsewhere if they have another job as the furlough is per company. Employees can also volunteer to work for someone else, including the NHS, but they must not provide services to or on behalf of the company that they are furloughed with.

Correcting February 2020 payroll: Technically you may still be able to re-file February 2020 payroll to make genuine corrections. This will be especially important for people that you accidentally missed off payroll because they need to be on February payroll to qualify for CJRS. HMRC is likely to take a dim view of re-filed payrolls that it does not perceive to be genuine corrections. It is highly likely that you will be inspected, so make sure that you keep proper records.

Sample furlough letter:

You should notify employees in writing and keep records. Depending on employment contracts the letter can be complicated but in practice it will be proportionate to the size of the company. If in doubt you should seek professional advice.

For small companies furloughing existing employees (not reemploying and furloughing workers already laid off), we like the short letter from ACCA adapted from ACAS guidance reproduced here.

I am not aware of any restrictions on its use but I am sure that they would appreciate a donation to a charity of your choice should you choose to use it.

Dear xxx

As discussed, and [agreed/under terms of contract] to keep our business running we are placing a number of members of our team into the government backed Coronavirus Job Retention Scheme. This will allow us to keep you on the payroll and as a business we receive a grant of 80% of workers' wages up to £2,500 a month. We will be paying a salary of £xxxx

The date you will be placed under the scheme is xxx and it will be reviewed with you at xxx. We will keep in contact during the period by [insert method].

During this period you will stay employed but a condition of the scheme is that you must not undertake work for our business.

Important: disclaimer

This information is prepared for general use to support and inform many people quickly. It was based on information available at the time of writing. The situation is changing fast and new updates may have already superseded this information. Guidance is being published in stages, so we are working with other accountants to try and make sensible interpretations of announcements about what is available. Your personal circumstances are individual to you. If you intend to rely on this information, please check the current Government advice, check with your professional adviser or call me on 07838 181637 to ensure that this remains relevant and is applicable to you.