

Employers & Employees

HMRC has now published guidance on the Coronavirus Job Retention Scheme (also known as the Furlough Scheme) which allows employers to claim back up to 80% of wage costs (up to £2,500 per month) of employees who have been put on a leave of absence ('furloughed')

- The Scheme is open to all UK employers that had a PAYE scheme in place on 28th February 2020;
- The scheme pays a grant (not a loan) to the employer;
- The grant will be paid through a new system that is being designed for this purpose;
- It applies to all employees who have been on the payroll since 28th February 2020 on any type of contract, therefore covering employees on part-time, agency, flexible and zero-hour contracts;
- If an employee has been made redundant since 28th February 2020, they can be rehired and furloughed;
- Furlough leave must be taken in minimum blocks of 3 weeks to be eligible for funding
- An employee must not carry out any work at all for the period they are on leave. If they work for even an hour they will not be eligible. This does not prevent an employee from undertaking training or volunteer work, as long as they do not provide services to or make money for their employer;
- During the period of furlough, the employer should pay the employee the lower of 80% of salary or £2,500;
- When calculating 80% of salary, fees, commission and bonuses are not included;
- For salaried employees, the employee's actual salary before tax as at 28th February 2020 should be used;
- For employees whose pay varies, the employer can claim the higher of:
 - o The same month's earnings from the previous year; or
 - o The employee's average monthly earnings in 2019/2020 tax year
- An employer can choose to top up the wages to 100% but is not obliged to;
- National Minimum Wage only applies to hours worked, and so if an employee is furloughed and not working, they are paid at the 80% rate, even if that takes them below National Minimum Wage. If they spend any time training, then this should be paid at National Minimum Wage rate;

- If employers are putting some, but not all, employees on furlough leave, they must be careful not to discriminate when deciding who to offer furlough leave to;
- Employees who are on sick leave or who are self-isolating cannot be furloughed, but can be once their sickness absence/self-isolation ends;
- Employees who are on maternity/paternity leave etc continue to receive their statutory (or contractual) payments, but they could agree to return to work early and be put on furlough leave;
- The employer will pay the employee through payroll and report payments through the Real Time Information (RTI) system as usual;
- Employers will be able to claim once every 3 weeks; and
- The scheme is expected to be up and running by the end of April
- In the meantime businesses should look to the Coronavirus Business Interruption Loan Scheme to support cash flow in the short term.

It is a difficult time for all, with everyone trying to find their feet. As such, if you are an employee unsure of your rights or option, or an employer unsure of your obligations or options, please get in touch with our employment team.