

Employer Guidance – The Job Retention Scheme

Please note that this non-exhaustive guidance is subject to change and review as we await the publication of additional more detailed guidance from the government and HMRC

On Friday 20th March 2020 the UK government announced that it was introducing a Coronavirus job retention scheme.

This will allow employers to apply to HMRC for a grant of up to 80 per cent of workers' pay for "furloughed" workers, who otherwise would have been made redundant.

Further details are still to be announced, with questions to be clarified on implementation, criteria and process to follow, and we expect that the Government will publish further detailed guidance in coming days.

HMRC is understood to be working urgently to set up a system for reimbursement, with plans to have this live by the end of April. We understand that meantime, existing systems are not yet in operation to facilitate grant payments to employers.

Details announced so far:

- Employers will be able to apply to HMRC for a grant to cover up to 80% of workers' pay (up to a maximum cap of £2,500 a month), for workers who are not working but are "furloughed" and kept on payroll, rather than being made redundant.
- This will cover all workers paid through PAYE, but not self-employed contractors.
- Eligible claims can be backdated to 1 March 2020.
- This will remain available for at least three months going forward.
- There will be no limit on the amount of funding available to the Scheme.

Eligibility

Government guidance has confirmed that all UK businesses are eligible.

Information available so far indicates that eligible workers for claims will be those who have been "furloughed" by their employer and who would otherwise have been laid off/made redundant during the crisis.

"Furlough" is not a status which has, until now, been recognised under UK employment law although the term is used in the US. Our understanding is that the UK Government intends furloughing of workers in this context to mean an agreed leave of absence as an alternative to redundancy.

No work would be carried out by the employee during the furlough period. Our understanding is that this would rule out workers who have agreed to work shorter hours and receive lower pay, as from the information available so far, this funding cannot be used to top up reduced hours/pay arrangements).

Procedural Requirements

So far we know that employers wishing to make a claim will be required to submit information to HMRC about the furloughed workers and their earnings through an online portal, with HMRC due to publish further details on what information will need to be provided in the coming days.

Employers will need to agree with affected employees that they have been designated ‘furloughed workers,’ and to notify employees of this change. It is likely this will require a variation to contract of employment, confirmed in writing.

Whilst employees will hopefully welcome this option as an alternative to redundancy, we would recommend documenting the agreement discussions carefully and ensuring any communications make it clear that contractual entitlements on this basis are subject to acceptance of the claim by HMRC.

Employers may choose to ‘top up’ the pay to 100% of normal pay at discretion however this is not a requirement of the funding.

Lisa Thomson, 23rd March 2020

Please contact lisa@purposehr.co.uk if you have questions in relation to the notes above.

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Further sources of information and reference:

<https://www.gov.uk/government/publications/guidance-to-employers-and-businesses-about-covid-19/covid-19-support-for-businesses>