

## Coronavirus Job Retention Scheme: Details

The government has published further details of the Coronavirus Job Retention Scheme (otherwise known as the Furlough Scheme).

It is unclear whether HMRC intends to rely on this guidance only, or whether there will be actual legislation.

The full guidance is [here](#). You need to read it; this summary is not going to be enough.

These are the key points, some of which had not previously been announced:-

- the scheme is open to all UK employers that had a PAYE scheme in place on 28 February 2020
- any organisation with employees can apply, including charities, recruitment agencies and public authorities; however, the government does not expect public sector employers to use it as long as central government continues funding wage costs in the normal way. With agency employees, the scheme is only available for agency employees who are not working.
- employers can reclaim up to 80% of wage costs up to a cap of £2,500 per month, plus (not including) the associated employer NICs and minimum autoenrolment pension contributions on that wage. Fees, commissions and bonuses are not included.
- an employer can choose to top up to 100%, but does not have to (subject to employment law and renegotiating any contractual entitlements)
- for employees whose pay varies, the employer can claim for the higher of (i) the same month's earning from the previous year (eg earnings from March 2019); or (ii) average monthly earnings in the 2019-20 tax year
- individuals are only entitled to the minimum wage for the hours they work. So if they are furloughed and do not work, and 80% of their normal earnings would take them below the minimum wage based on their normal working hours, they still only receive 80% as they are not working. However, they are entitled to be paid NMW for any time spent training.

- to be eligible, the employee must have been on the payroll on 28 February 2020. If they were hired later, they are not eligible. Anybody who was on the payroll on 28 Feb and has since been made redundant can be rehired and put on the scheme
- furlough leave must be taken in minimum blocks of three weeks to be eligible for funding
- there is nothing in the guidance which prohibits rotating furlough leave amongst employees, *provided* each employee is off for a period of at least three weeks
- the employee must not be working at all. If they work for even an hour (presumably during their entire three week furlough period), they are not eligible. However, they *are* able to undertake training and do volunteer work, provided they do not provide services to or make any money for their employer.
- when agreeing changes in hours (and acceptance of 80% pay), assuming the contract does not already allow for that, normal employment law applies. The employer must be careful not to discriminate in deciding who to offer furlough too. My view is that prioritising vulnerable workers is unlikely to be discrimination, as prioritising the over 70s (direct age discrim against those under 70) is almost certainly justifiable, and those who do not suffer from serious health conditions are not a protected class.
- employees on sickpay or self-isolating cannot be furloughed, but can be furloughed afterwards. Employees who are shielding can be placed on furlough.
- employees on maternity (or similar) leave can continue to draw SMP (or similar) payments. The guidance does not prohibit women on maternity leave agreeing to return to work early and then being furloughed, or electing to change to shared parental leave and then being furloughed.
- employers can only claim once every three weeks, ie they cannot get weekly reimbursement. Claims can be backdated to 1 March 2020.

The government will issue further guidance on the mechanics of claiming the payment in due course. It says it expects the scheme will be up and running by the end of April.

[Read full guidance.](#)