

The Government Coronavirus Job Retention Scheme

The Coronavirus Job Retention Scheme, which is designed to support employers whose operations have been severely affected by coronavirus, will end on 31 October 2020. Since 10 June 2020, no new employees may be placed on furlough other than parents returning from statutory maternity or paternity leave.

Until 31 July employers can claim 80% of furloughed employees' usual monthly wage costs, up to a cap of £2,500 a month, in addition to the associated Employer National Insurance Contributions and minimum automatic enrolment employer pension contributions. From 1 August until the scheme ends, employers will begin to resume the burden of employee costs as set out below. HMRC launched an online portal on 20 April, where employers can make one claim per pay period.

WHAT CAN YOU CLAIM?

- Until 31 July 2020, employers can reclaim up to 80% of wage costs (including compulsory commission and fees, but not including non-monetary benefits) up to a cap of £2,500 per month, in addition to associated employer NICs (on 80% of the salary reclaimable) and minimum auto-enrolment pension contributions. An employer can choose to top up salary to 100%, but does not have to, subject to employee rights under statute and contract.
- From 1 August, employers will have to pay employees' national insurance contributions and pension contributions and will no longer be able to reclaim those through the scheme.
- During September, the government will only reimburse 70% of salary (up to a cap of £2,187.50). Employers will have to top-up employees' salary to 80% or more, depending on what has been agreed between the employer and the employee, and subject to employee rights under contract and statute.
- During October, the government will only reimburse 60% of salary (up to a of £1,875). Employers will have to top-up employees' salary to 80% or more, depending on what has been agreed between the employer and the employee and subject to employee rights under contract and statute.
- Discretionary bonuses, tips and commission cannot be reclaimed. Non-cash benefits cannot be reclaimed.
- Where the employee's pay varies, the employer can claim for the higher of the same month's earning from the previous year or average monthly earnings in the current tax year.

HOW IT WORKS

- Until 30 June 2020:
 - > Furlough leave must be taken in minimum blocks of three weeks to be eligible for funding. Employees may be furloughed multiple times.
 - > The employee must not work for the employer who has furloughed him or her, however they may undertake training and do volunteer work, provided they do not provide services to or make any money for their employer. An individual can commence a new additional job while furloughed, and in that case may end up earning 80% of a previous salary and 100% of a new salary.
 - > It operates as an “all or nothing” scheme – employees cannot be partially furloughed by having their hours reduced. An employee is either furloughed or is not.
 - > The employer and employee must agree that the employee will be furloughed and cease all work. The employer should confirm in writing to the employee that they have been furloughed and should keep a record of that written communication for 5 years. Employers not wishing to pay their employees their full contractual pay must revise contracts providing for amended working hours and pay (to reduce to 80%) subject to contract and statutory provisions.
- From 1 July, employers can bring furloughed employees back to work part time for any part of their normal work hours and claim through the scheme for hours which are not worked.
- Employers must be careful not to discriminate in deciding who to furlough, and selection decisions must be reasonable and objectively justified.
- Employees on sick pay or self-isolating cannot be furloughed while they are receiving statutory sick pay, but they can be furloughed afterwards. The employer and employee can agree when the period of incapacity (and therefore entitlement to sick pay) ends, after which the employee can be placed on furlough. Employees who are shielding in line with public health guidance can be placed on furlough leave.
- Employees who are unable to work because they have caring responsibilities, such as children they need to look after, may be furloughed.
- Employees on unpaid leave cannot be furloughed, unless they were placed on unpaid leave after 28 February.
- Employees on maternity (or similar) leave can continue to draw SMP (or similar) payments. Employers can claim for enhanced contractual pay for employees who qualify for maternity, adoption, paternity or shared parental pay.
- Employers can only claim once for every pay period, but the claim can be made up to 14 days in advance.

HOW CAN CONEXUS LAW HELP?

Businesses and individuals will need legal advice to help them understand the risks they may face and the options that may be open to them.

We are available to assist in reviewing the laws in many jurisdictions across the world, and to review specific contracts. We are also available to provide practical, business-orientated advice on how to best protect yourself from the ongoing commercial effects of Covid-19.

Contact

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