

Furlough Scheme Extended

*Guidance Note
5 November 2020*



Furlough Scheme to be extended until March 2021

Chancellor Rishi Sunak has today confirmed that he will extend the Coronavirus Job Retention Scheme ('CJRS'), otherwise known as furlough scheme, until the 31 March 2021. This announcement follows the news over the weekend that the scheme had been extended during the period of the second National Lockdown.

The terms of the scheme are broadly the same as before but there are some changes. We therefore provide this updated note based on current guidance issued by the government but this is subject to change and so you should revert back to this website for regular updates.

What has changed since the most recent Government announcement?

The government's announcement over the weekend initially indicated that the CJRS would be extended and employees could be placed on furlough until 2 December 2020. This announcement delayed the introduction of the Job Support Scheme which had been set to replace the CJRS on 1 November 2020.

Following today's announcement, the Chancellor has acknowledged that the impact of coronavirus on business does not just last for the period of any restrictions and so it is hoped that by extending the CJRS and support of the government, that businesses cannot only make it through this second lockdown, but also the difficult winter months ahead.

The CJRS will now operate until **31 March 2020** but the government will review the

position leading up to 31 January 2020 to determine whether to maintain government funding of 80% (up to a maximum of £2,500 per month) of an employee's wage, or to require increased contribution from businesses as previously implemented in the months of September and October 2020.

Who qualifies for the extended CJRS?

As with the current CJRS scheme, all businesses with a UK bank account and UK PAYE system will qualify for the scheme.

The extended scheme will allow businesses who have not previously benefitted from the scheme to place employees on furlough, provided that the individual was on the PAYE system by 23.59 on 30 October 2020 and there had been a Real Time Information (RTI) submission to HMRC between 20 March 2020 and 30 October 2020.

If an employer had responded to reduced support from the government by making an individual redundant or otherwise terminating employment, they will be permitted to re-engage that individual and benefit from the scheme provided the individual was previously on the payroll as at 23 September 2020.

What is the Effect of Furlough?

The extended scheme allows an employer to place an employee on furlough on a flexible basis ('flexible furlough') or full time, either of which are to be **agreed with the employee in writing**.

It is possible for the furlough agreement to be reached retrospectively, but only where this is done by close of business on **13 November 2020**.

If the employer chooses to utilise full furlough, then the employee cannot undertake any work for the employer that makes money or provides services for the employer or linked associations.

If the employer chooses flexible furlough, then the individual can work hours as agreed between the employee and employer but during any period where they are designated as furloughed, they will not be permitted to do any work for the employer that makes money or provides a service.

The employees can:

- Take part in training;
- Volunteer for another employer or organisation; and
- Work for another employer (if contractually allowed).

Are there any other conditions or issues we should be aware of?

Yes.

There is no requirement on an employer to place an individual on furlough and it remains the discretion of the employer whether to utilise the scheme or not. Care should be taken when utilising the scheme to make sure that the employer complies with employment, equality and discrimination laws.

There is no minimum period of furlough.

When the scheme was initially announced there was a requirement to place the individual on furlough for a minimum period of 3 weeks, but this no longer applies.

However, employers will need to be careful as any claim for reimbursement through the HMRC portal must be for a minimum period of 7 consecutive calendar days.

The employer must retain a copy of the furlough agreement for a minimum period of 5 years and should also keep a record of how many hours their employees work, and the number of hours furloughed for 6 years.

What will the government pay?

Up to 31 October 2020 businesses have been dealing with changes to the CJRS with government contributions reducing from 80% to 60% between 31 August 2020 and 31 October 2020.

In announcing the extended CJRS the government confirmed that contributions will increase to 80%, subject to a maximum of £2,500 per month per employee, but the employer will be responsible for PAYE, NIC and pension contributions.

It is still at the discretion of the employer to increase the employees wage to 100%.

Has the calculation of furlough pay changed?

For employees that have already benefitted from the CJRS the calculation will remain the same and employers **must** use the same calculations for calculating reference pay and usual hours.

Where the employee has not previously benefitted from the scheme the calculation will take account of the updated reference periods:

- For employees with a fixed salary the calculation will be based on 80% of wages payable in the last pay period ending on or before 30 October 2020.
- For employees with variable pay it will be calculated based on 80% of the average pay between the start date of employment or 6 April 2020 (**whichever is later**) and the day before their CJRS extension furlough begins.

Further guidance on the calculation of furlough pay under this extended scheme is going to be shared on 10 November 2020.

If employers are utilising flexible furlough, then any time during which the employee is undertaking work, they will be entitled to their normal rate of pay.

Has the way I claim through the HMRC portal changed?

The HMRC portal will operate as the previous scheme did and so employers:

- will need to report and claim for a minimum period of 7 consecutive calendar days;
- will need to report actual hours worked and the usual hours an employee would be expected to work; and
- can make a claim in anticipation of an imminent payroll run.

Claims under the extended furlough scheme can be made from **8am on Wednesday 11 November 2020** and any claim for November 2020 **must be made** by **14 December 2020** and by the 14th of each month thereafter.

The closing date for claims up to and including 31 October 2020 remains at **30 November 2020**.

What about the JSS and the Retention Bonus?

In announcing the extended CJRS, the government also confirmed that the Job Support Scheme will be postponed, and the Job Retention Bonus will be deployed at the “appropriate time”. As such there will be no payment under the Job Retention Bonus in February 2021.

Should businesses have any questions as to the extension of the furlough scheme and their employee’s eligibility, they should contact our employment team on 01254 828 300.

Please note: This publication does not constitute legal advice

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