

Coronavirus Job Retention Scheme Q&A for Employers

This advice is based on the HMRC guidance and is accurate as at 9 April 2020

The UK Government has launched the Coronavirus Job Retention Scheme (CJRS), also known as the furlough scheme, to help employers avoid redundancies in the face of the COVID-19 crisis.

The basics

Under the CJRS:

- Employees who have no work to do can be asked to stay at home on furlough.
- Employers will be able to recover 80% of wage costs for furloughed employees up to a cap of £2,500 per employee per month.
- Employers can also claim employers' national insurance contributions and minimum employer auto-enrolment pension contributions in relation to the amount of furlough pay.

Q: What does furlough mean?	A: Furlough currently has no legal meaning, but the government is using it to describe a worker who is placed on leave by their employer and can therefore claim under the CJRS. To furlough someone you need to tell them that they must stop carrying out all work. While on furlough an employee must not provide any services or generate revenue for your business.
Q: What can an employee do while on furlough?	A: They can work for a different employer if the contract allows this or you give them permission. They can carry out training related to their employment with you but if they do you must ensure they receive at least national minimum wage for those days.
Q: Which of my employees can I furlough?	A: You can furlough part or all of your workforce and this includes those on work visas, agency and flexible or zero hours workers. You can only claim reimbursement under the CJRS for those who meet all of the following criteria: <ul style="list-style-type: none">• They were on your payroll as at 28 February 2020 on any type of contract.• They are paid via PAYE.• They have been told in writing that they are furloughed.• They were placed on furlough on or after 28 February.

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<p>Q: Can I furlough apprentices?</p>	<p>A: You can, and they can still carry out home based learning although you will have to ensure they receive at least national minimum wage for those days so will need to consider topping up pay where necessary. The government has published detailed guidance in relation to arrangements for apprenticeship training and learning during the COVID-19 crisis which you can access here.</p>
<p>Q: How do I furlough an employee?</p>	<p>A: Both the employer and the employee need to agree to furlough if it will involve a reduction in the employee’s pay and you do not already have agreement for this.</p> <p>If the contract of employment contains a “lay off” clause then you have likely already both agreed that you can reduce the employee’s pay, so you can rely on this to place them on furlough. If that is the case, then you can write to your employee to confirm that you are placing them on furlough.</p> <p>If the employment contract does not contain a lay off clause, you will need your employees’ agreement to place them on reduced pay unless you intend to top up the furlough amount to 100% pay.</p>
<p>Q: How do I communicate with employees about furlough?</p>	<p>A: We have produced template letters for you to send to your employees about furlough which are providing free of charge. We are asking for voluntary donations to the NHS emergency COVID-19 relief fund. Visit this link for more information: https://www.primed.co.uk/cjrsguidance/</p>
<p>Q: What if my employees don’t agree to be furloughed?</p>	<p>A: Employees only need to agree if you don’t already have the contractual right to reduce their pay. If that is the case, talk to your employees and try to explain the difficulties your business is facing. If they still don’t agree, you may need to consider other options. If you impose a reduction in pay without agreement, the employee could make claims against you in the employment tribunal.</p>
<p>Q: Do I have to re employ staff already made redundant?</p>	<p>A: The scheme allows you to re employ anyone you made redundant on or after 28 February, furlough them and claim for their wages. There is no obligation on you to do so however and the decision is one for the company to make.</p>
<p>Q: What about employees on sick leave?</p>	<p>A: You cannot furlough staff who are receiving SSP but once this ends you could furlough them. You can furlough employees who are shielding in line with public health guidance as well as those with caring responsibilities.</p>

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<p>Q: What can I claim from the government?</p>	<p>A: HMRC will give you a grant covering:</p> <ul style="list-style-type: none">• The lower of 80% of the employee’s monthly wage as at 28 February, or £2,500.• Employer national insurance and minimum pension contributions on that amount of furlough pay.• Wage costs backdated to 1 March for any employee you have instructed not to work because you had no work for them.• Wage costs for furloughed employees up to 31 May 2020, although the scheme might be extended.
<p>Q: Are there any conditions attached to the payments from HMRC?</p>	<p>A: The conditions are:</p> <ul style="list-style-type: none">• Claims must be for a minimum of 3 weeks.• You can only make one claim (for as many employees as you like) every 3 weeks.• You cannot include discretionary bonuses, commission or fees in the calculation of wages (but you can include these amounts if they are compulsory).• Your employees cannot carry out any work for you.
<p>Q: How do I claim reimbursement from the government?</p>	<p>A: HMRC are still working on an online portal to allow you to submit a claim. They hope it will be live by the end of April – rumour has it the system will go live on Monday 20 April.</p> <p>To claim, you will need:</p> <ul style="list-style-type: none">• To enrol for PAYE online – this can take up to 10 days so if you’re not already enrolled make sure you do this now.• Your ePAYE reference number.• The number of employees being furloughed.• The claim period (start and end date).• Amount claimed (per the minimum length of furloughing of 3 weeks).• Your UK bank account number and sort code.• Your contact name.• Your phone number.• To calculate the amount you are claiming. <p>HMRC will retain the right to retrospectively audit all aspects of your claim.</p> <p>You should make your claim in accordance with actual payroll amounts at the point at which you run your payroll or in advance of an imminent payroll. Once HMRC has received your claim and you are eligible, they will pay the grant into a UK bank account by BACS.</p>

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<p>Q: What do I pay my furloughed employees?</p>	<p>A: You must pay furloughed employees the full amount in respect of their wages which you claim from HMRC, i.e. 80% or £2.5k gross (whichever is lowest). That must be paid to your employees via payroll and is subject to PAYE deductions.</p> <p>You can choose to top up your employees' salary above the amount the government is paying but you do not have to. If the furlough amount of pay brings the employee's pay below national minimum wage that is fine and you do not have to top up unless they carry out any training.</p>
<p>Q: What happens to my employees while they are furloughed?</p>	<p>A: They remain your employees and subject to all of their contractual terms, other than carrying out work. They remain entitled to benefits and continue to accrue holiday.</p>
<p>Q: Can employees take holiday while they are furloughed?</p>	<p>A: Unfortunately there is still no clear answer to this from the Government. Acas has suggested that employees can take holiday and if they do employers have to top up pay to 100% in respect of those days. A tweet by HMRC has been circulated which states the same. This is not however reflected in the official HMRC guidance about the scheme. For further insight on this topic please see our Q&A.</p>
<p>Q: Is there any further information?</p>	<p>A: HMRC guidance on the Government Furlough Scheme for employers was first published on the evening of 26 March 2020. You should check regularly for any updates. The latest version can be viewed here: https://www.gov.uk/guidance/claim-for-wage-costs-through-the-coronavirus-job-retention-scheme</p> <p>There is also a version of the guidance for employees which you may wish to share with any employees who have questions you are unable to answer: https://www.gov.uk/guidance/check-if-you-could-be-covered-by-the-coronavirus-job-retention-scheme</p>

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In light of the current crisis, we have made our Primed online knowledge system available free of charge, allowing you to access the latest COVID-19 information and guidance as well as hundreds of template documents, policies and guidance covering employment law & HR, health & safety and information security.

Access your free support by clicking [here](https://www.primed.co.uk/cjrsguidance). Or visit [primed.co.uk/cjrsguidance](https://www.primed.co.uk/cjrsguidance)

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