

EMPLOYMENT UPDATE

Job Retention Scheme: Details

Further to [our update](#) earlier this week, the Government has now released further detail on the Job Retention Scheme and answered many of the questions arising from the original announcement. We set out a summary of the key points of the Scheme below.

Who can claim?

- › The Scheme is open to any UK organisation with a bank account and that had a PAYE payroll scheme in effect on 28 February 2020.
- › All employers, regardless of size or industry, will be eligible to enrol onto the Scheme.
- › Full-time, part-time, agency, flexible and zero-hours workers that were on the PAYE scheme on 28 February 2020 are all eligible to be furloughed.
- › Workers that have been made redundant since 28 February 2020 can be re-hired by their employer and then furloughed.
- › The guidance does not prohibit rotating furlough leave amongst workers. However, any furlough leave must be for a minimum of three weeks.

What can be claimed?

- › Employers will need to apply to HMRC to make a claim for furloughed workers' wage costs.
- › The grant from HMRC will cover the lower of 80% of 'regular wage' or £2,500/month (gross). Fees, commissions and bonuses are not included.
- › For those workers with variable pay who have worked for at least a year, 'regular wage' shall mean the higher of:
 - the same month's earnings from the previous year; or
 - average monthly earnings for the 19/20 tax year.
- › If a worker with variable pay has worked less than a year, 'regular wage' shall mean their average monthly earnings.
- › Employers will also be able to claim for the costs of Employer's National Insurance and minimum auto-enrolment pension contributions. (N.B. the sums paid to the worker will be subject to usual deductions).
- › Should an employer wish to do so, it can top-up a furloughed worker's salary above the grant from HMRC, but there is no obligation.
- › If an employer does 'top-up', any additional Employer's National Insurance and pension contributions cannot be claimed.

What can a furloughed worker do?

- › Furloughed workers have the same rights as they did previously, including Statutory Sick Pay, family-friendly rights, unfair dismissal and redundancy pay.
- › However, when on furlough, a worker cannot undertake any work for or on behalf of the employer.
- › This includes providing any services or generating revenue.
- › A furloughed worker can take part in volunteer work or training, providing they do not provide a service or generate revenue for the employer.
- › Only workers who are fully "furloughed" will be covered under the Scheme i.e. if any services are provided (even if only one day a week), that person will not be covered.

How do we utilise the Scheme?

- › Without an express right to vary terms, a worker will need to consent to a change in their status to "furloughed". Such consent should be in writing.
- › If more than 20 workers are being "furloughed", collective consultation obligations may arise.
- › To participate in the Scheme an employer will need to register through a portal with HMRC. The portal is not yet open. The portal will require:
 - ePAYE reference number.
 - the number of furloughed workers.
 - the claim period (start and end).
 - how much is claimed.
 - bank account number and sort-code.
 - contact name and number.
- › Employers will need to calculate the amount claimed.
- › A claim can only be made once every three weeks.

If you would like any further advice or assistance on these issues, please contact our Employment Lawyer, Jamie Feldman (jamie.feldman@northridgelaw.com)