

EMPLOYMENT UPDATE

COVID-19: Job Retention Scheme

Government announced the Job Retention Scheme on 20 March 2020. Whilst some of the detail is unclear, we set out the key points for employers and workers below.

Summary

- › The Job Retention Scheme has been introduced to avoid potential redundancy situations and protect employment during the COVID-19 crisis.
- › All employers, regardless of size or industry, will be eligible to enrol into the Scheme.
- › Only workers that are "furloughed" will be covered under the Scheme.
- › Workers must be told, and likely consent to, the change in their status to "furloughed".
- › HMRC will reimburse employers for 80% of a "furloughed" worker's salary, capped at £2,500/month.
- › The Scheme will be backdated to cover salary for "furloughed" workers from 1 March 2020.
- › The Scheme is intended to run for three months, although this will be extended if Government considers it necessary to do so.
- › Any worker that has already been laid off or made redundant will be covered if that worker was in employment/engagement on or before 28 February 2020.
- › An employer does not have to "furlough" its entire workforce. As such, an employer does not have to close down its operations to apply to the Scheme.
- › Should an employer wish to do so, it can top-up a "furloughed" worker's salary to 100% of earnings. However, there is no requirement to do so, nor any entitlement on an employee to request the same.
- › Existing terms and conditions not affected by "furlough" leave will continue to apply.

The Scheme

- › To participate in the Scheme an employer will need to register with HMRC.
- › Registration is not yet live, but the Government expects the first grants to be paid "within weeks" and for the Scheme to be fully operational before the end of April.
- › Once registered, an employer will need to ascertain which of its workforce are "furloughed", i.e. those workers who will be carrying out no work for their employer during the COVID-19 crisis.
- › A worker that is furloughed must be told about this change in their status.
- › DO REMEMBER:
 - A change in status is subject to the normal employment considerations regarding changing terms.
 - If there is no express right to vary an employment contract in this way, the employee's consent will be needed.
 - Consent should be documented in writing.
- › HMRC will require information about the "furloughed" workers, including salary.

What Next?

- › We await further detail from the Government and HMRC as to the precise mechanics of the Scheme.
- › It is not clear if employees absent on sick leave will also be entitled to be "furloughed". Those on Statutory Sick Pay could receive an increase in pay.
- › Government has yet to confirm if the contribution includes pension contributions and/or what happens to pension contributions during "furlough" leave.
- › There is no clarity on holiday and holiday pay for those workers that are "furloughed".

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