

6 November 2020

Employment – 20:20 vision

Providing clarity and insight on employment law matters

Extending the extension: Furlough scheme to continue until 31 March 2021



On 5 November 2020, the Chancellor announced that the Coronavirus Job Retention Scheme ("CJRS") will remain open until 31 March 2021 (rather than closing on 2 December 2020 as had previously been announced). More guidance is due to be published on 10 November 2020 and we'll keep you updated.

In the meantime, we set out the key facts below including the important point that if you want to claim for the CJRS retrospectively from 1 November 2020, you need to get your written agreements with employees in place by **13 November 2020**.

What are the key components of the CJRS?

- The CJRS will remain open until **31 March 2021**.
- Employers can:
 - **fully furlough employees** – this means the employee does no work for the employer (it's important to put in place measures so that staff do not inadvertently perform any work e.g. blocking any remote access to work emails); or
 - **flexibly furlough employees** – this means employees can work for any amount of time, and any work pattern. They can then claim the grant for the furloughed hours, with reference to hours the employee would usually have worked in that period.
- **Hours worked:** For hours worked employers will pay employee wages, as well as employer National Insurance contributions and pension contributions.
- **Hours not worked:**
 - For claim periods running to January 2021, employees will receive 80% of their usual salary for hours not worked, up to a maximum of £2,500 per month. The £2,500 cap is proportional to the hours not worked.

- There will be no employer contribution to wages for hours not worked. Employers will only be asked to pay National Insurance contributions and pension contributions for the hours not worked.
- In January 2021 the government will review the scheme to decide whether economic circumstances are improving enough to ask employers to contribute more.

Who can claim

- Employers do not need to have used the CJRS previously.
- Employers across the UK can claim, whether their businesses are open or closed.

Who can be furloughed?

- An employer can claim for employees who were employed and on their PAYE payroll as at 30 October 2020. (The employer must have made a PAYE Real Time Information (RTI) submission to HMRC between 20 March 2020 and 30 October 2020, notifying a payment of earnings for that employee).
- Employees that were employed and on the payroll on 23 September 2020 (the day before the Job Support Scheme announcement) who were made redundant or stopped working afterwards can be **re-employed** and claimed for

- but there is no obligation to re-employ them. The employer must have made an RTI submission to HMRC from 20 March 2020 to 23 September 2020, notifying a payment of earnings for those employees.
- Employees can be furloughed where they are unable to work because they:
 - are **shielding** in line with public health guidance (or need to stay at home with someone who is shielding); or
 - have **caring responsibilities** resulting from coronavirus, including employees that need to look after children.
- The CJRS is not intended for short-term sickness absences. If, however, employers want to furlough employees for business reasons and they are currently off sick, they are eligible to do so, as with other employees.

When can employers claim?

- Claims can be made from 8am on **Wednesday, 11 November 2020**.
- Claims made for November must be submitted by no-later than **14 December 2020**.
- Claims relating to each subsequent month should be submitted by **day 14** of the following month.

What else should employers be aware of?

- HMRC will publish details of employers who make claims from December 2020 onwards under the extended scheme.
- The **Job Retention Bonus will not be paid in February 2021** – but may be deployed in the future at an appropriate time.

What should employers do next?

- If employers want to take advantage of the extended CJRS they should **agree the furlough arrangements** with their employees, without delay. If you require assistance in getting documentation in place, please get in touch.
- Employers must have confirmed to their employee (or reached collective agreement with a trade union) **in writing** that they have been furloughed or flexibly furloughed.
- Employers must:
 - make sure that the agreement is consistent with employment, equality and discrimination laws

- keep a written record of the agreement for 5 years
- keep records of how many hours their employees work and the number of hours they are furloughed (for example, not working), for 6 years
- The employee does not have to provide a written response and employers do not need to place all their employees on furlough.
- The terms of any agreement must:
 - reflect the hours the employee will normally work or not work over the period of the agreement; and
 - allow the employer to satisfy the terms of CJRS so they can make a claim in relation to hours not worked.
- Any flexible furlough or furlough agreement made retrospectively that has effect from 1 November 2020, will be valid for the purposes of a CJRS claim as long as it is made according to the conditions above. Only **retrospective agreements put in place up to and including the 13 November 2020** may be relied on for the purposes of a CJRS claim.

We have a dedicated Covid-19 team of employment lawyers keeping up to date on the latest developments and who are available to answer any questions you may have. You can find more information [here](#).

If you require further information about anything covered in this alert, please contact Paul Reeves or Leanne Raven or your usual Stephenson Harwood contact.

Contact us



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