

Employment – 20:20 vision

Providing clarity and insight on employment law matters

Following furlough: Chancellor announces new Job Support Scheme (JSS)



On Thursday 24 September 2020, the Chancellor announced hotly anticipated measures that will be of importance to employers. Whilst we await detailed guidance, the key points of the announcement, and the accompanying [factsheet](#), are set out below.

What has been announced?

The furlough scheme will end on 31 October 2020 as planned, however the new JSS will take effect from 1 November 2020 for a period of 6 months. There is a shift in focus from keeping jobs open to supporting people who are working. The aim of the JSS is to protect 'viable' jobs in businesses facing lower demand over the winter months as a result of coronavirus.

Who is eligible?

Employers

- Employers must have a UK bank account and UK PAYE schemes
- All small and medium businesses (SMEs) are eligible however larger business will have to meet a financial assessment test which demonstrates that their turnover is lower now than '*before experiencing difficulties from Covid-19*'.
- Larger employers are expected to refrain from making capital distributions, such as dividend payments or share buybacks, whilst accessing the grant. More detail on this is expected in the guidance.

Employees

- Employees must be on an **employer's PAYE payroll on or before 23 September 2020**. As such, a Real Time Information (RTI) submission must have been made on or before 23 September 2020.

- The **employee must work at least 33% of their 'usual' hours** for the first 3 months. After 3 months, the Government will review the minimum hours threshold with a view to increasing this.
- Employees will be able to **rotate on and off the JSS**. There is no requirement to follow the same pattern each month but **each short-time working arrangement must cover a minimum of seven days**.

What does the JSS grant cover?

- For every hour not worked by the employee, the Government and the employer will pay **a third each of the 'usual hourly wage'** of that employee.
- The Government contribution will be capped at **£697.92 a month** and will be made in arrears, meaning the employer will continue to pay the employee directly and claim back the government grant as with the CJRS. Employers will be able to claim online from December 2020.
- 'Usual wages' should be calculated in a similar way to the CJRS but more details are expected to be released in official guidance shortly – we will update you on this once we know more.
- Employees who have previously been furloughed, will have their underlying usual pay and/or hours used to calculate usual wages, **not the amount they were paid whilst on furlough**.

What is excluded?

- The grant will not cover Class 1 employer NICs or pension contributions, these remain payable by the employer.

What about redundancies?

- Employees cannot be made redundant or put on notice of redundancy during the period within which their employer is claiming the JSS grant for that employee.

How do employers implement short-time working arrangements?

- Employers must **agree new short-time working arrangements** with employees, make any **changes to employment contracts by agreement**, and **notify the employee in writing**.
- This agreement must be made available to HMRC on request and we expect this will be required to be kept on file in the same way as variations must be for the CJRS.

HMRC checks

- Following wide reporting of abuse to the CJRS, HMRC has announced that they will check claims under the JSS and payments may be withheld or claimed back if a claim is found to be fraudulent or based on incorrect information.

Next steps for employers

- The Chancellor announced that further guidance on the scheme will be released shortly.
- In the meantime, employers may want to review any plans for redundancies and consider how this will be impacted by the JSS – whether the need for redundancies can now be avoided or if a lower number of employees will be impacted.
- Employers may also want to take this opportunity to review and consider any improvements to their processes for recording how many hours people work. If they take advantage of the JSS, and HMRC do check-up on them, it will be beneficial to have a robust recording system and reliable records in place.
- Employers may want to consider how they would go about implementing the short-time working arrangements, should they want to take advantage of the JSS. As this will involve contractual changes please speak to us on how to implement this.

For a worked example of the Job Support Scheme, see the Government's published factsheet, [here](#).

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](#).

Contact us



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