

Employment – 20:20 vision

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Furlough Continues: What next?



Following the government's announcement that England will enter a period of renewed lockdown from 5 November 2020, employers will welcome HM Treasury's announcement that the Coronavirus Job Retention Scheme ("**CJRS**"), known as the furlough scheme, will continue until December 2020 rather than ending on 31 October 2020 - and on slightly more generous terms than those that were previously on offer (as detailed, below). This means that the Job Support Scheme ("**JSS**"), which was due to apply from 1 November 2020 and which many employers have planned for (in accordance with our various alerts [here](#) and [here](#)), will be postponed until the extended CJRS period ends.

We are awaiting further government guidance on the finer details of the CJRS and how/when businesses can claim the November wage grants. In the meantime, employers are advised to act quickly to agree any necessary changes to work and pay arrangements with employees to reflect any new or continued furlough arrangements; and to consider how the extension to the CJRS may impact any potential redundancies or other staffing decisions.

Key points:

- **Furlough Extension:** The CJRS has been extended from 1 November 2020 until December 2020, although the specific end date is still to be confirmed. It is currently understood that the JSS will be implemented when the CJRS comes to an end, on the same terms as previously confirmed by the government.
- **Wage Contributions:** Under the extended CJRS, the government will cover 80% of employee wages up to a cap of £2,500/month, which is more generous than the 60% contribution up to a cap of £1,875/month, that was being offered in October. Employers will be free to "top-up" wages at their discretion, and at their own cost, and will continue to pay employer NIC and pension contributions.
- **Employee Eligibility:** The CJRS will be available to all employees who were on the employer's PAYE payroll at 23.59 on 30 October 2020. The employee does not need to have previously been on furlough leave, contrary to the previous position where employers were only able to furlough employees who had been furloughed for a full three-week period prior to 30 June 2020.
- **Employer Eligibility:** It is currently understood that the CJRS continues to be available to all employers whose operations have been affected by COVID-19; and is not dependant on whether the business has been forced to close as a result of government mandated restrictions, or on the employer previously benefitting from the furlough scheme.
- **Terms of Furlough:** Employees can be furloughed on a full time or flexible basis. If employees are working on a flexible or part-time basis, the employer will pay their wages for the hours that they work, and the CJRS will cover any hours that they are not required to work (by reference to their "usual" hours). It is understood that all of the other terms of the CJRS that applied up to 31 October 2020 will

remain the same (with the exception of the eligibility requirements, % contributions and cap on monthly payments as detailed, above) including the requirement to confirm arrangements with the employees in writing and get their agreement to the leave.

- **UK-wide Application:** The CJRS will be extended throughout the UK, despite restrictions in Scotland, Wales and Northern Ireland differing from the national lockdown being implemented in England.

Next steps for Employers:

- **Employee Communication and Agreement:** Employers should contact employees in writing as soon as possible to get their agreement to any furlough leave arrangement. Employers should consider whether each employee will be on full-time furlough or flexible furlough, and whether their wages will be "topped-up". Where businesses have already put in place agreements with employees to reflect the JSS they should communicate to employees that this scheme is being postponed and the furlough arrangements that will be put in place before the JSS commences.
- **Record-keeping and Claims:** The government is still to confirm when claims in respect of November wage costs can be made, however it has confirmed that there will be no gap in eligibility for CJRS support between October and November (subject to the relevant eligibility and notification requirements being met). In the meantime, employers should continue to document all worked and furloughed hours for each employee so that claims under the CJRS are accurate, and records can be produced if requested by HMRC in future (as per our alert, [here](#)). Employers need to report and claim for a minimum period of seven consecutive calendar days for each employee claim.
- **Potential Redundancies:** Employers should also consider the extent to which these changes will impact any imminent business decisions, and in particular whether any potential redundancies or other cost-cutting measures can or should be delayed.

Stephenson Harwood LLP has a dedicated team of employment lawyers who are available to answer any questions you may have on COVID-19 or otherwise. You can find more information [here](#).

If you require further information or advice please contact Paul Reeves, Laura Anderson or Leanne Raven (or your usual Stephenson Harwood contact).

Contact us



Paul Reeves

Head of employment, partner

T: +44 20 7809 2916

Email: [Paul](#)



Laura Anderson

Associate

T: +44 20 7809 2339

Email: [Laura](#)



Leanne Raven

Professional support lawyer

T: +44 20 7809 2560

Email: [Leanne](#)