

Job Retention Scheme

(most recent guidance first)

Job Retention Bonus – Treasury Direction

HM Treasury has issued a [Treasury Direction](#) under sections 71 and 76 of the Coronavirus Act 2020 to provide details on the Job Retention Bonus (“JRB”). See our previous news item [here](#). Government has also produced [guidance](#) to help businesses determine who will be eligible for the bonus.

- The JRB is a £1,000 one-off taxable payment to employers for each eligible employee that an employer furloughed and kept continuously employed until 31 January 2021
- To be eligible employees must not be serving a contractual or statutory notice (including serving notice of retirement)
- Employers will be able to claim the JRB between 15 February 2021 and 31 March 2021
- Employers do not have to pay the money to employees
- Employees must have been paid a salary of at least £1,560 between 6 November 2020 and 5 February 2021 (preventing employers from accessing a bonus for workers retained on the payroll and engaged on a zero-hour contract and paying them a small amount before 31 January 2021)
- The minimum income threshold (£1,560) must have been paid across the three-month period following the end of the Coronavirus Job Retention Scheme (CJRS) – 6 November 2020 to 5 February 2021 (“the 3-month relevant period”)
- Employers cannot claim the bonus for any employees that have not been paid using the CJRS, or for employees where the CJRS grant claimed has been repaid (regardless of why it was repaid)
- If an employer’s CJRS claim is still being checked by HMRC, the business can claim the JRB but payment may be delayed
- Employers will still be able to claim even if they are receiving support from the Job Support Scheme
- To claim the JRB for employees that have been transferred to a new employer through The Transfer of Undertakings (Protection of Employment) regulations (TUPE) or due to a change in ownership must have been furloughed and successfully claimed for under the CJRS by the new employer and meet all the relevant criteria for the JRB

Government have also published [examples](#) of employees who may be entitled to the JRB.

The Guidance in which the above refers can be found here:

- [The Treasury Direction](#)
- [Check if you can claim the Job Retention Bonus from 15 February 2021](#)
- [Example of employer deciding which employees will meet the minimum income threshold for the Job Retention Bonus](#)



Updates to Guidance

On the 16 September 2020, HMRC updated their Guidance pages on the Coronavirus Job Retention Scheme. The Guidance refers to paying CJRS grants back to HMRC where there has been an overpayment or mistake, including additional links to the CJRS repayment service.

Updates to the Guidance are:

- The guidance from 'If you've claimed too much or not enough from the Coronavirus Job Retention Scheme' has been moved to this guide. This guide has also been updated with links to the Coronavirus Job Retention Scheme repayment service.

The Guidance in which the changes above refer can be found here:

- [Pay Coronavirus Job Retention Scheme Grants Back](#)

Updated 1st October 2020

Updates to Guidance

On 11 September 2020, HMRC updated their Guidance pages on the Coronavirus Job Retention Scheme.

Updates to Guidance added:

- New subsection 'Work out your employee's usual hours and furloughed hours' to tell employers how to calculate the number of working and furloughed hours for an employee that comes off furlough or flexible furlough partway through a claim period. Employers using this calculation do not need to amend previous claims.
- A sentence added to example 3.3 to clarify that employers should calculate the amount they are claiming for each employee based only on days the employee was on furlough – even if they have to claim through the service for a longer period align their claims. Employers using this calculation do not need to amend any previous claims.

The Guidance in which the changes reflect can be found here:

- [Steps to take before calculating your claim using the Coronavirus Job Retention Scheme](#)
- [Calculate how much you can claim using the Coronavirus Job Retention Scheme](#)
- [Find examples to help you calculate your employees' wages](#)

Updated 1st October 2020



Further Guidance Updates

On 10 July 2020, HMRC updated further guidance pages on the Coronavirus Job Retention Scheme. Some of the changes relate to removing parts of the guidance that related to the application of the CJRS up to 30 June 2020.

Additional guidance has been added:

- on how an employer can calculate the amount it can claim where a fixed pay employee has worked overtime in the tax year 2019–20,
- to confirm that supply teachers are eligible for the CJRS,
- to confirm that a furloughed employee that has been made redundant must receive redundancy pay based on their normal wage, not their furloughed wage,
- asking employers to only contact HMRC to provide National Insurance Numbers if the employee has a temporary number or has never possessed one.

See HMRC's guidance here:

- [Claim for wages through the Coronavirus Job Retention Scheme](#)
- [Calculate how much you can claim using the Coronavirus Job Retention Scheme](#)
- [Check if your employer can use the Coronavirus Job Retention Scheme](#)
- [Find examples to help you calculate your employees' wages](#)
- [Check which employees you can put on furlough to use the Coronavirus Job Retention Scheme](#)

Updated 11 September 2020

Updates to Guidance

- On 4 August 2020, Government updated multiple pages of guidance to reflect the changes to the Job Retention Scheme as of 1 August 2020.
- HMRC have removed sections referencing the rules which applied prior to 1 August and are therefore no longer relevant.
- Information about the minimum furlough period requirement, contracts expiring before 28 February 2020/19 March 2020, working out claims/pension contributions on or before 30 June 2020, backdating claims to 1 March 2020, out of date eligibility criteria about RTI submissions before 19 March 2020, consolidating PAYE schemes and TUPE transfers after 28 February 2020, has all been removed.
- Examples relevant for claim periods ending before 30 June 2020 have also been deleted.
- The following pages of guidance have been updated to reflect the above:
 - [Check if your employer can use the Coronavirus Job Retention Scheme](#)
 - [Steps to take before calculating your claim using the Coronavirus Job Retention Scheme](#)
 - [Calculate how much you can claim using the Coronavirus Job Retention Scheme](#)
 - [Check if you can claim for your employees' wages through the Coronavirus Job Retention Scheme](#)



- [Individuals you can claim for who are not employees](#)
- [Find examples to help you calculate your employees' wages](#)
- [Check which employees you can put on furlough to use the Coronavirus Job Retention Scheme](#)

Updated 11 September 2020

New law to protect redundant furloughed employees

On 30 July 2020, Government announced that new legislation will be published to further protect furloughed employees who have been made redundant.

- The legislation "[The Employment Rights Act 1996 \(Coronavirus, Calculation of a Week's Pay\) Regulations 2020](#)" was published later the following day and took effect from Friday 31 July 2020.
- It is aimed at providing further protection to employees and will ensure that employees who are furloughed receive statutory redundancy pay based on their normal wages, rather than a reduced furlough rate.
- These changes will also apply to Statutory Notice Pay, which is where employees must be given a notice period before their employment ends, varying from at least one week's notice up to 12 weeks' notice, depending on how long they have worked for their employer.
- The Regulations set out how a week's pay is to be calculated in the case of an employee who has been furloughed under the Coronavirus Job Retention Scheme ("CJRS") for the purposes of calculating:
 - any statutory remuneration for time off to look for employment or arrange training
 - any statutory notice payment
 - any statutory sum resulting from a failure to provide a written statement of reasons for dismissal
 - any statutory sum resulting from a failure to comply with an order for reinstatement or re-engagement
 - any statutory compensation for unfair dismissal, and
 - any statutory redundancy payment
- Other changes coming into force will ensure basic awards for unfair dismissal cases are based on full pay rather than wages under the CJRS.
- HMRC have stated that the Regulations do not impact any enhanced redundancy pay that may be stipulated in the terms and conditions of an employee's individual employment contract but applies to the basic statutory redundancy pay entitlements.

See the policy paper [here](#).

Updated 30 July 2020

Penalties Factsheet

On 28 July 2020, HMRC published the "[CC/FS48 Coronavirus Job Retention Scheme – receiving grants you were not entitled to](#)" factsheet which confirms the following:



- HMRC will use their powers to recover overclaimed Coronavirus Job Retention Scheme (CJRS) grants and issue penalties accordingly.
- Payment of the amount assessed is due 30 days after the tax assessment is issued. Interest will be charged on late payments. Late payment penalties may also be charged if the amount remains unpaid 31 days after the due date.
- If you overclaimed a CJRS grant and have not repaid it, or received an assessment from HMRC, you should notify HMRC within the notification period. The notification period ends on the latest of whichever date applies below:
 - 90 days after you receive the CJRS grant you're not entitled to.
 - 90 days after the day circumstances changed so that you were no longer entitled to keep the CJRS grant.
 - 20 October 2020 (90 days after the Finance Act received Royal Assent).
- If HMRC have not made an assessment you must include the relevant details if the overpaid CJRS grant on the appropriate Corporation Tax return or on your 2020 to 2021 Self-Assessment tax return.
- HMRC will not charge a penalty if you;
 - did not know you had overclaimed the CJRS grant at the time you received it, or
 - at the time that circumstances changed meant that you stopped being entitled to it and
 - if you have repaid it within the relevant time period.
 - If you are a sole trader or a partner, the relevant period ends on 31 January 2022.
 - If you are a company, the relevant period ends 12 months from the end of your accounting period.
- If you fail to notify HMRC that you are chargeable to Income Tax on an overclaimed CJRS grant and you know that you were not entitled to the grant then the failure will be deliberate and concealed This means a penalty of up to 100% could be charged.
- HMRC will not actively look for innocent errors in their compliance approach.
- Directors of insolvent companies who deliberately abused the CJRS can be made personally liable where tax cannot be recovered from the company.
- Further information on what to do if you have made an error in your claim is available in the Coronavirus Job Retention Scheme [guidance](#).

See the full factsheet [here](#).

Updated 28 July 2020

Redundancy Clarification

- HMRC has updated its [guidance](#) to clarify that notice periods being served by furloughed employees include contractual notice periods.
- Employers can continue to claim for employees who are serving a statutory or contractual notice period.
- The guidance clarifies that grants cannot be used to substitute redundancy payments.

Updated 17 July 2020



Making Furloughed Employees Redundant

- On 10 July 2020, government updated the Coronavirus Job Retention Scheme (CJRS) guidance to reflect the changes for employers who plan to make a furloughed employee redundant.
- The [Employers guidance](#) has been amended to state the following:

“Where you must make redundancies, you should do so in accordance with the normal rules. This includes giving a notice period and consulting staff before a final decision is reached. You can continue to claim for a furloughed employee who is serving a statutory notice period, however grants cannot be used to substitute redundancy payments.”

- The [Employee guidance](#) has also been updated to reflect this.
- This confirms that employers can continue to claim under the CJRS for a furloughed employee who is serving a statutory notice period.
- This indicates that employers should not be penalised for failing to retain an employee’s job after placing them on furlough, consequently making them redundant.
- Nevertheless, this still begs the question of what should happen if an employee’s contractual notice period entitlement is longer than their statutory notice period.
- Many contracts of employment will state a longer contractual notice entitlement than the statutory notice entitlement, which is one week per every year of service up to a maximum of 12 weeks, as stated in section 86 of the Employment Rights Act 1996.
- The changes to the guidance should not cause confusion where an employee’s contractual notice entitlement matches their statutory notice entitlement.

Updated 10 July 2020

Updated Guidance

On 10 July 2020, government updated the following guidance pages:

- [Calculate how much you can claim using the Coronavirus Job Retention Scheme](#) – The calculator can now be used to work out what can be claimed for in a claim period ending on or before 31 August. A link has also been added to a new full example for August.
- [Reporting employees' wages to HMRC when you've claimed through the Coronavirus Job Retention Scheme](#) – The guidance is now clear that both employee and employer NIC have to be paid to HMRC on the full amount paid to the employee.
- [Claim for wages through the Coronavirus Job Retention Scheme](#) – The guidance now references how HMRC are developing a way in which to recover overclaimed grant amounts. It is specifically stated that legislation will be introduced to recover overclaimed grant amounts through the tax system.
- [Steps to take before calculating your claim using the Coronavirus Job Retention Scheme](#) – This guidance now states that HMRC will not decline or seek repayment of



any grant based solely on the particular choice between fixed or variable approach to calculating usual hours, as long as a *reasonable* choice has been made.

- [Check if you can claim for your employees' wages through the Coronavirus Job Retention Scheme](#) – The guidance now references that employers can continue to claim for a furloughed employee who is serving a statutory notice period. (See above for more information).
- [Check if your employer can use the Coronavirus Job Retention Scheme](#) – This guidance has been updated to reflect that employers can continue to claim for a furloughed employee who is serving a statutory notice period.

Updated 10 July 2020

Job Retention Bonus

- The Chancellor announced the introduction of a Job Retention Bonus during his [Economic Update](#) on 8 July 2020.
- The bonus scheme is a one-off payment of £1,000 to employers that have utilised the Coronavirus Job Retention Scheme (CJRS) for each furloughed employee who remains continuously employed until 31 January 2021.
- To be eligible, employees will need to:
 - Earn at least £520 per month (above the Lower Earnings Limit) on average for November, December, and January
 - Have been furloughed by you at any point and legitimately claimed for under the CJRS
 - Have been continuously employed by the employer up until at least 31 January 2021
- Employers will be able to claim the bonus from February 2021 once accurate RTI data to 31 January has been received.
- Further information on the bonus scheme will be available by 31 July and full guidance will be published in the Autumn

Updated 8 July 2020

Delete a Claim

On 3 July 2020, the CRJS guidance has been updated to tell employers they can use the online service to delete a claim within 72 hours of submitting it.

See the updated guidance [here](#).

Updated 3 July 2020

Updates to Guidance



On 1 July 2020, Government updated the following guidance:

- [Calculate how much you can claim using the Coronavirus Job Retention Scheme](#) – This page has been updated with information about how to treat statutory payments received in the claim period.
- [Steps to take before calculating your claim using the Coronavirus Job Retention Scheme](#) - This page has been updated with information on holiday pay that employees can be recorded as on furlough during time spent on holiday. Also added information on how to calculate furloughed hours for different sets of circumstances.
- [Check if your employer can use the Coronavirus Job Retention Scheme](#) - This page has been updated with information on eligibility for claims before 1 July 2020. Also added new information on holiday pay that tells employers that flexibly furloughed employees can be recorded as on furlough during time spent on holiday.
- [Check if you can claim for your employees' wages through the Coronavirus Job Retention Scheme](#) - This page has been updated with information that employee taxes and pension contribution payments must be paid directly to HMRC. Also added information on holiday pay that flexibly furloughed employees can be recorded as on furlough during time spent on holiday.
- [Changes to the Coronavirus Job Retention Scheme](#) – The information box has been updated to say you can now submit claims for periods starting on or after 1 July.
- [Claim for wages through the Coronavirus Job Retention Scheme](#) - The page has been updated with information about what to do if you have claimed too much and do not plan to make another claim.
- [Find examples to help you calculate your employees' wages](#) – This page has been updated with a new example of calculating an employee's average hours for a variable hours employee who takes statutory adoption leave in 2019/20.
- [Reporting employees' wages to HMRC when you've claimed through the Coronavirus Job Retention Scheme](#) - This page has been updated with information that employee taxes and pension contribution payments must be paid directly to HMRC.

Updated 1 July 2020

Flexible Furlough Scheme Legislation Published

On 26 June 2020, government published a new Treasury Direction (version 3) to govern the extended furlough scheme. The Direction replicates the previous Directions on the Coronavirus Job Retention Scheme ('CJRS') and mirrors the information set out in the government's recently updated guidance.

- The new Direction confirms that the original CJRS will end on the 30 June with the amended CJRS, which allows for flexible furlough arrangements, to apply from the 1 July. The scheme will close on 31 October 2020.



- The agreement between employer and employee to place the employee on flexible furlough must be in writing, or confirmed in writing, prior to the beginning of the flexible furlough period and must state that:
 - The employee will not carry out any work in relation to their employment; or
 - The employee will not carry out the full amount of their usual hours in relation to their employment.
- The agreement must be kept until 30 June 2025.
- The new Direction confirms that the 10 June 2020 cut-off will not apply to those returning from family leave or to armed forces reservists.
 - The exception for family leave will apply to employees who have been on adoption leave, maternity/paternity leave, parental bereavement leave or shared parental leave. The employee must have taken the period of family leave on or before 10 June 2020 and it must have ended after 10 June 2020.
 - The exception for armed forces leave will apply to employees who have been called out or recalled for service in accordance with the Reserve Forces Act 1996. The employee must have been called out on or before the 10 June 2020, with their return being after 10 June 2020.
- The Treasury Direction has been amended to state that “integral to the purpose” of the furlough scheme is that payments are to be used by employers to “continue the employment of employees” for whom claims have been made. It is unclear whether the implication of this is that employers will be unable to claim the grant for employees who are under notice.
 - This position appears to contradict the HMRC employee guidance which still states that “*your employer can still make you redundant while you’re on furlough*”.

View the new Treasury Direction [here](#).

Updated 26 June 2020

Further Updates

The CJRS [guidance](#) was updated on 22 June 2020 to reflect the following:

- 31 July 2020 is the last date to submit claims for periods ending on or before 30 June 2020
- If an employer is claiming for an employee with a temporary National Insurance number, they should contact HMRC
- For claim periods on or after 1 July 2020, employers are required to use a [new template](#) when claiming for more than 100 furloughed employees under this scheme
- For checking which employees can be put on furlough, [a new section](#) has been added where an employee is a military reservist returning to work after 10 June 2020
- Employees [guidance](#) has been updated with information on how the scheme is changing from 1 July 2020 and several other changes
- The [step-by-step guidance](#) was updated with more information about flexible furlough and overpayments



Updated 22 June 2020

Flexible Furlough

On 12 June 2020, Government published and updated guidance to include further detail on the Flexible Furlough Scheme and explains how the Coronavirus Job Retention Scheme is changing from 1 July 2020.

Employers

- From 1 July 2020, employers will be able to:
 - Claim the CJRS for employees who have previously been furloughed for at least 3 consecutive weeks taking place any time between 1 March 2020 and 30 June 2020
 - Flexibly furlough employees – this means an employer can bring employees back to work for any amount of time and any work pattern
 - Claim the furlough grant for the hours that flexibly furloughed employees do not work, compared to the hours they would normally have worked in that period
- There are some exceptions which are explained in guidance for [employees returning from parental leave](#) where a previous furlough period of 3 weeks may not be applicable. See our [news](#) on this.

Government contributions

- From 1 July 2020, the furlough grant is changing, and employers will begin to contribute to furloughed (and flexibly furloughed) employees' costs. See our news [here](#).

Flexible Furlough Scheme

- If employers decide to flexibly furlough employees, they will need to agree this with the employee (or reach collective agreement with a trade union) and keep a new written agreement that confirms the new furlough arrangement (albeit HMRC guidance states the employee does not have to provide a written response).
- Employers will need to:
 - make sure that the agreement is consistent with employment, equality and discrimination laws
 - keep a written record of the agreement for five years (however other guidance states records relating to claims for flexibly furloughed employees should be retained for six years)
 - keep records of how many hours your employees work and the number of hours they are furloughed (i.e. not working)
- Employees can enter into a flexible furlough agreement more than once and it can last any amount of time.
- However, the period that employers claim for must be a minimum of 7 calendar days.

Making a claim

- 31 July 2020 is the last day that employers can submit claims for periods ending on or before 30 June 2020.



- From 1 July 2020, the scheme rules will change each month, meaning that any claim period starting on or after 1 July must start and end within the same calendar month.
- The first time that employers will be able to make claims for days in July will be 1 July 2020.
- The number of claims in any single claim period starting from 1 July 2020 cannot exceed the maximum number of employees claimed for under any claim ending by 30 June 2020.
- Flexible furlough agreements can last any amount of time however the period employers must claim for is a minimum of 7 calendar days.
- New [guidance](#) has been published in relation to calculating how much you can claim using the CJRS as well as [guidance](#) setting out steps to take before calculation a CJRS claim
- Further new [guidance](#) gives a step by step example of how to calculate the amount employers should claim for an employee who is flexibly furloughed.
- Updated [guidance](#) provides examples of how to calculate wages, NICs and pension contributions.

HMRC investigations

- The new and updated guidance includes notifying HMRC of errors and information regarding misuse of the CJRS;
 - The full amount being claimed should be paid to the employee or used to fund associated NICs or pension contributions. Guidance states this should be the case even if your company is in administration.
 - If you do not use the full amount claimed in the prescribed manner than you will need to repay the money back to HMRC.
 - Employers cannot enter into any transaction with the employee which reduced wages below the amount claimed.
 - If you make an error when claiming which resulted in an overclaim, you must pay it back to HMRC. This can be reported as part of the next claim. For employers who have made an error and do not plan on submitting further claims, HMRC are working on a process to pay these back and guidance will be updated when this is available. Records of the adjustment should be kept for six years.
 - Guidance states CJRS grants cannot be used to substitute redundancy payments and “HMRC will continue to monitor businesses after the scheme has closed.”
- See Aspire’s [latest blog](#) as part of the Health Check series “HMRC investigations are coming”. New legislation will provide HMRC will powers to impose a 100% tax charge in relation to the CJRS to recover payments in which employers were not entitled.

Other guidance updated on 12 June 2020

- [Check if you can claim for your employees’ wages through the CJRS](#)
- [Check which employees you can put on furlough to use the CJRS](#)
- [Claim for wages through the CJRS](#)
- [Reporting employees’ wages to HMRC when you’ve claimed through the CJRS](#)

Updated 12 June 2020

Parents on statutory leave eligible for furlough post 10 June cut-off



- The Government has **announced** that parents on statutory maternity and paternity leave who return to work in the coming months will be eligible for furlough scheme even after 10 June cut-off date.
- Employers will only be able to furlough parents returning after a period of maternity or paternity leave *if they have previously furloughed other employees*.
- This will also apply to people on adoption leave, shared parental leave and parental bereavement leave.
- Coronavirus Job Retention Scheme (CJRS) will close to new entrants at the end of June with the last date an employee can be furloughed for the first-time being *10 June 2020* as new flexibilities are introduced to support economy
- The CJRS will be able to be used for the effected employees but will be subject to the taper which is set to take place from August 2020

Updated 9 June 2020

Taxation of Grants

On 29 May 2020, Government published a consultation on draft clauses to the Finance Bill 2020 “Draft legislation: Taxation of coronavirus (COVID-19) support payments”.

- The legislation ensures that grants made under the Coronavirus Job Retention Scheme (CJRS) and Self-Employed Income Support Scheme (SEISS) are within the scope of tax and included as revenue for income tax and corporation tax purposes.
- This will apply to the following support payments:
 - CJRS,
 - SEISS,
 - Any other scheme that is the subject of a direction given under section 76 of the Coronavirus Act 2020 (functions of Her Majesty’s Revenue and Customs in relation to coronavirus or coronavirus disease),
 - A Coronavirus Business Support Grant Scheme; and
 - Any scheme specified or described in regulations made under the draft legislation by the Treasury.
- Under the CJRS, the recipient of the grant is taxed if the employees are working in a UK taxable business (to ensure that any deduction for employee expenses met by the grant is matched by taxation of the grant covering those expenses).
- Grants paid under the CJRS in respect of employees not working for a business are outside the scope of tax.
- Under the SEISS, the recipient of the grant is taxed on the amount as if it were profits of the trade to which it relates in the 2020-21 income tax year.
- HMRC will have additional compliance and enforcement powers in relation to the CJRS and SEISS in order to recover payments in which recipients were not entitled. These powers can also be used in circumstances where a CJRS payment has not been used to pay employees, make pensions contributions, pay PAYE or National Insurance contributions.
- HMRC will have the power to recover payments, by imposing a 100% tax charge, from anyone who has received a payment under the Schemes to which they are not fully entitled or anyone who has not used a CJRS payment to pay employee costs, PAYE, NICs and make pension contributions.
- HMRC will charge a penalty if an individual’s behaviour is considered to have been deliberate.



- The provisions give HMRC powers to make an officer of an insolvent company jointly and severally liable for the Income Tax charge raised in relation to any CJRS payment to which the company was not entitled or any CJRS payment which was never intended to be used to pay employee costs, PAYE, NICs and make pension contributions in certain circumstances.
- The measure will be monitored through information collected from tax returns, receipts and compliance activity.
- The measure will have effect from Royal Assent of the Finance Bill 2020.
- The consultation will close on 12 June 2020.

View the consultation [here](#).

Updated 29 May 2020

Next steps

On Friday 29th May 2020, the Chancellor confirmed the next steps for the Coronavirus Job Retention Scheme (“CJRS”).

- Employers will be able to bring back furloughed employees part-time from 1 July 2020 – this flexibility is being introduced one month earlier than planned to help bring people back to work
- Employers will decide the hours and shift patterns their employees will work and be responsible for paying their wages while in work
- A new taper under the CJRS has been announced requiring employers to contribute to furloughed salaries from August
- The CJRS remains unchanged for June and July
- From August 2020 the Government will pay 80% of wages up to a cap of £2,500 but employers will be required to pay Employers National Insurance Contributions (“ER NICs”) and employer pension contributions (representing 5% of gross employment costs the employer would have incurred had the employee not been furloughed on average)
- From September 2020 the Government will pay 70% of wages up to a cap of £2,187.50 and employers will pay ER NICs and employer pension contributions and 10% of wages to make up to 80% total up to a cap of £2,500 (representing 14% of gross employment costs on average)
- From October 2020 the Government will pay 60% of wages up to a cap of £1,875. Employers will pay ER NICs and employer pension contributions and 20% of wages to make up to 80% total up to a cap of £2,500 (representing 23% of gross employment costs on average)
- Employers will be required to submit data on the usual hours an employee would be expected to work in a claim period and the actual hours worked
- Around 40% of employers have not made a claim for ER NICs or employer pension contributions and so will not be affected by the changes from August 2020
- Employment allowance will cover smaller employer’s NICs bills
- Around 25% of CJRS monthly claims are below thresholds where ER NICs and automatic enrolment pension contributions are due and so no employer contribution from these businesses will be required during August 2020
- Claims from July onwards will be restricted to employers currently using the scheme and previously furloughed employees. The scheme will therefore close to new entrants on 30 June 2020, with 10 June 2020 being the last day that employers can place employees on furlough



- From 1 July 2020 employers will be able to agree any working arrangements with previously furloughed employees
- When claiming the CJRS grant for furloughed hours, employers will need to report and claim for a minimum period of a week for grants to be calculated accurately across working patterns

Updated 29 May 2020

Updated Legislation

On Friday 22 May 2020, Government published version 2 of The Coronavirus Act 2020 Functions of Her Majesty's Revenue and Customs (Coronavirus Job Retention Scheme) Direction ("The Direction"). The publication has been backdated to 20 May 2020.

- In summary, the Direction rewrites clauses that appeared in the original Direction in a more clear and concise manner.
- The Direction now refers to the duration of the Coronavirus Job Retention Scheme ('CJRS') being until 30 June 2020 (as opposed to 31 May 2020).
- The Direction now includes the relevant law applying to Northern Ireland.
- Employers must have an agreement with their employees to state when a period of incapacity to work has ended. This applies in the case of employees who are "enjoying" an unpaid sabbatical or receiving statutory sick pay or an alternative statutory payment.
- The Direction requires that a formal agreement is in place between furloughed employees and their employers to cease work, which;
 - specifies the main terms and conditions upon which the employee will cease all work in relation to their employment,
 - is incorporated (expressly or impliedly) in the employee's contract, and
 - is made in writing or confirmed in writing by the employer (such agreement or confirmation may be in an electronic form such as an email)
- In accordance with HMRC guidance, agreements between employers and employees to place employees on furlough must be retained until at least **30 June 2025**.
- The Direction specifies further duties that furloughed directors are allowed to undertake, in addition to statutory duties-
 - making a CJRS claim in respect of an employee of the director's company, and
 - making a payment of salary or wages of an employee of the director's company.
- The Direction now includes reference to occupational pension schemes by virtue of section 1 of the Pensions Schemes Act 1993-
 - Work undertaken by a furloughed employee or director for the sole purpose of fulfilling their duties as a trustee or manager of a scheme must be disregarded.
- The Direction provides clarity on what can be included in the CJRS claim calculation in terms of what is "regular" salary or wages. The Direction states regular salary or wages are wages that cannot vary unless the variation arises from a non-discretionary payment. Clause 7.19 sets out that a non-discretionary payment includes (but isn't limited to) payments in respect of fees, commission or overtime, or a payment made in recognition of the employee undertaking additional/exception responsibilities. It must be a payment made as a legally enforceable agreement, understanding, scheme etc.



- The Direction now outlines the criteria for a claim to be made for employees who have had their contract of employment terminated by virtue of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE).
- A claim for payment under CJRS must be made in accordance with the updated Direction if the claim is made after the day on which this direction is first published (20 May 2020).

View the updated Direction [here](#).

See the original Direction [here](#).

Updated 22 May 2020

Wage Calculation Examples

Government have put together a list of examples for calculating 80% of an employee's wages, National Insurance contributions and pension contributions if claiming them through the Coronavirus Job Retention Scheme.

See the guidance [here](#).

Updated 22 May 2020

Volunteering

Whilst on furlough, employees can volunteer to work, subject to public health guidance, as long as they are not:

- making money for their employer or a company linked or associated to their employer
- providing services to their employer or a company linked or associated to their employer
- furloughed by their employer and volunteering for them in a different role

See the updated guidance [here](#).

Updated 13 May 2020

Furlough Extension

Today (12 May 2020), the Chancellor, Rishi Sunak, has announced:

- The furlough Scheme will be open until the end of October 2020.
- There will be no changes to the Scheme until the end of July 2020.
- Between August and October, there will be more flexibility with the Scheme. Employers who use the Scheme will be able to bring furloughed employees back part-time.
- Employers will be asked to start contributing to the cost of employees' wages.



- Further details will be announced at the end of May 2020.

See the announcement [here](#).

Updated 12 May 2020.

Additional links

HMRC have updated their employer and employee CJRS guidance.

Employer:

- Added links to apprenticeship learning arrangements for [England](#), [Scotland](#), [Wales](#) and [Northern Ireland](#).
- Added a link to [shared parental pay guidance](#).
- Maternity allowance has been clarified
 - If your employee is getting Maternity Allowance while they're on maternity leave, they should not get furlough pay at the same time.
 - If your employee has agreed to be put on furlough, tell them to contact Jobcentre Plus to stop their Maternity Allowance payments.
 - If your employee agrees to be put on furlough and end their maternity leave early, they will need to give you at least 8 weeks' notice and they will not be eligible for furlough pay until the end of the 8 weeks.

Employee:

- Whilst on furlough, you may still undertake union or non-union representatives' duties and activities for the purpose of an individual or collective representation of employees or other workers. However, in doing this, you must not provide services to or generate revenue for, or on behalf of your organisation or a linked or associated organisation.
- Added a link to [shared parental pay guidance](#).
- Maternity allowance has been clarified
 - If you're getting Maternity Allowance while you're on maternity leave, you cannot get furlough pay at the same time.
 - If you have agreed to be put on furlough, you must contact Jobcentre Plus to stop your Maternity Allowance payments.
 - If you agree to go on furlough and end your maternity leave early, you will need to give your employer at least 8 weeks' notice and you will not be eligible for furlough pay until the end of the 8 weeks.

See the updated [employer](#) and [employee](#) guidance.

Updated 1 May 2020

Further Updates

HMRC have provided clarification on the following areas:



- Whilst on furlough, employees who are union or non-union representatives may undertake duties and activities for the purpose of individual or collective representation of employees or other workers
- Directors who pay themselves once a year are, subject to certain conditions, eligible for furlough
- For employees on fixed pay, claims for full or part time employees furloughed on return from family-related statutory leave should be calculated against their salary, before tax, not the pay they received whilst on family-related statutory leave. The same principles apply where the employee is returning from a period of unpaid statutory family-related leave.

See HMRC's latest guidance [here](#).

Updated 30 April 2020

Version 7

New information has been added on collective agreement reached with a trade union. Clarified eligibility criteria, including for employees on fixed-term contracts.

Updated 23 April 2020

After Claiming

HMRC have confirmed that once you have made your claim, you will need to:

- keep a note or a print-out of your claim reference number – you won't receive a confirmation SMS or email
- retain all records and calculations for your claims, in case HMRC need to contact you about them
- expect to receive the funds six working days after you apply, provided your claim matches records that HMRC hold for your PAYE scheme. HMRC advise not to contact them before this time

Updated 20 April 2020

More Guidance

On 17 April 2020, Government published the guidance "[Work out 80% of your employees' wages to claim through the Coronavirus Job Retention Scheme](#)" as well as a "[Step by Step Guide for employers](#)" ahead of the online claim process going live on 20 April 2020.

Updated 20 April 2020

Legislation



On 15 April 2020, The Chancellor published a Treasury Direction, setting out the legislation behind the Coronavirus Job Retention Scheme (CJRS). On the same day, version 4 of the CJRS was released.

The Direction confirmed:

- Employees can be furloughed providing that they were on the PAYE payroll on or before the revised date of 19 March 2020.
- If a TUPE transfer takes place after 19 March 2020, the transferee will be eligible to claim under the Scheme even though the incoming employees were not on its payroll as at 19 March 2020.
- If an employee started unpaid leave after 28 February 2020, their employer can put them on furlough. However, if the employee was on unpaid leave, such as a sabbatical, on or before 28 February, the employer cannot furlough them until the date on which it was agreed they would return from unpaid leave.
- Employers are required to write to employees in order to confirm that they have been furloughed and that they must cease all work in relation to their employment and will need to receive acceptance in writing. This can be in an email format.
- The furlough period must be 21 calendar days or more.
- If an employee is receiving Statutory Sick Pay (SSP), they can be furloughed when this period ends. If they need to take further sick leave in the furlough period, the employer can decide whether to transfer them to SSP/sick pay or leave them on furlough.
- Furloughed directors will only be permitted to carry out very limited duties such as filing accounts.
- CJRS will not pay out in relation to anything that is not “a regular salary or wage”. This means that the Scheme will disregard payments such as:
 - Payments that are conditional on any matter
 - Related to the performance of the employee
 - Payable at the discretion of the employer
- The direction defines the key terms used throughout, such as an “employee”.
 - The legislation confirms that Personal Service Companies (PSCs) working in the public sector caught by IR35 and so, paid via PAYE are “employees” for the purposes of the CJRS.

Contradictory matters between the Direction and HMRC's guidance:

- The Direction doesn't provide a time period for which written correspondence issued to furloughed employees must be kept. HMRC's guidance states that written correspondence must be kept for 5 years.
- The Direction states that the furlough period is 21 calendar days or more, with no reference to these days being consecutive as is referenced in HMRC's guidance “3 consecutive weeks”.
- The Direction states that a furloughed employee cannot work for a “connected” employer. HMRC interpreted this to also include “associated” employers.
- The Direction makes no reference to claiming for regular payments such as “compulsory commissions” and “past overtime” referred to in the HMRC guidance. In fact, the Direction states that any payment that varies due to the performance of the employee should not be deemed as “regular” for the purposes of the calculation of the CJRS claim.

View the Direction [here](#).

Updated 20 April 2020



Date Update

HM Treasury has announced the Coronavirus Job Retention Scheme (the furlough scheme) has been extended from 31 May 2020 to the end of June.

Updated 17 April 2020

Fourth version of the guidance

- Employers can now furlough employees that were on the PAYE payroll on or before 19 March 2020 and which were notified to HMRC on an RTI submission on or before 19 March 2020.
- Employers must have created and started a PAYE payroll scheme on or before 19 March 2020.
- This has been updated from the initial announced date of 28 February 2020.
- An RTI submission notifying payment to that employee must have been issued to HMRC on or before 19 March 2020.
- Employees that were employed as of 28 February 2020 and on the PAYE payroll and were made redundant or stopped working for the employer prior to 19 March 2020, will be eligible for the scheme if the employer chooses to re-employ them and furlough them.

See the full guidance [here](#).

Updated 15 April 2020

Further update to guidance

On 9 April 2020, Government published updated guidance on the Coronavirus Job Retention Scheme (CJRS) “Claim for your employees’ wages through the Coronavirus Job Retention Scheme”, to clarify further areas that had not previously been considered or fully explained.

- If an employer wants to furlough an employee who is currently off sick, they are eligible to do so, and the employee would no longer receive sick pay and would be classified as a furloughed employee and entitled to payments as per the scheme.
- The guidance makes it very clear that the CJRS is *not intended for short-term absences* from work due to sickness or when self-isolating and the minimum period an employee must be designated as “furlough worker” is three weeks.
- If an employee is on furlough, you can only reclaim expenditure through the CJRS, and not the SSP rebate scheme.
- Employers are also entitled to furlough employees who are being asked to ‘[shield](#)’ or off on long-term sick leave.
- Foreign nationals are eligible to be furloughed and any grants paid under the CJRS will not be counted as “access to public funds”.
- A new employer is eligible to claim under the CJRS in respect of the employees of a previous business transferred after 28 February 2020 if either the Transfer of



Undertakings (Protection of Employment) regulations (TUPE) or PAYE business succession rules apply to the change in ownership.

- Government has clarified that the reclaimable Employer's National Insurance Contributions and pension elements are on the furlough salary and *not the employee's normal salary*.
- Where a group of companies have multiple PAYE schemes and there is a transfer of all employees from these schemes into a new consolidated PAYE scheme after 20 February 2020, the new scheme will be eligible to furlough those employees and claim the grants under the CJRS.
- Government confirmed that employees *must not undertake work* for or on behalf of the organisation *or any linked or associated organisation*.
- Guidance also confirms that no part of the grant received under the CJRS should be used to cover the provision of benefits (including taxable Benefits in Kind) or a salary sacrifice scheme and *all the grant received* to cover an employee's subsidised furlough pay *must be paid to them in the form of money*.
- Government consider that the COVID-19 pandemic constitutes a "life event" and so an employee may be able to switch out of any salary sacrifice schemes if the contract is updated accordingly.

See the full updated guidance [here](#).

Updated 10 April 2020

Further Guidance

On 4 April 2020, Government published updated guidance on the Job Retention Scheme (JRS) "Claim for your employees' wages through the Coronavirus Job Retention Scheme", to clarify many key areas that had not previously been considered or fully explained.

- Employers **must** notify employees of their furlough status in writing and keep the record of that written notification for five years.
- Employees who have been furloughed in their current job can start a new job (subject to their contractual terms with their original employer), allowing them to claim 80% of their wages and a further 100% in a new job.
 - Individuals will not be eligible to be furloughed in their second job if they were not on PAYE payroll on or before 28 February 2020.
- If an employer made an individual redundant, or they stopped working for the employer on or after 28 February 2020, they can be re-employed, put through on furlough and the employer can claim for their wages through the scheme.
- Employers will not be able to claim for employees while they're getting SSP, but they can be furloughed and claimed for once they are no longer receiving SSP.
- Employees who are unable to work because they have caring responsibilities resulting from COVID-19, such as childcare, can be furloughed.
- Providing an agency worker is being paid through PAYE they can join the JRS, including where they are employed by umbrella companies.
 - This should be agreed between the agency, as the deemed employer, or the umbrella company and the worker. It would be good practice to ensure the necessity to furlough workers is communicated with the end client in the supply chain.



- Limb (b) workers, i.e. those who have worker rather than employee status, who are paid via PAYE can be furloughed and access the JRS.
- Employers can claim for any regular payments such as wages, overtime, fees (although this is not defined) and compulsory commission payments. However, discretionary bonus (including tips) and commission payments and non-cash payments should be excluded.
- The reference salary for the application should not include the cost of non-monetary benefits provided to employees, including taxable Benefits in Kind.
- Employees can be furloughed multiple times meaning that they can be furloughed, brought back to work and then re-furloughed (subject to each furlough period being at least three consecutive weeks).

See the full updated guidance [here](#).

Updated 4 April 2020

Update

- 26 March 2020 update – Further Government guidance on the Job Retention Scheme (JRS)
- Businesses, Charities, Recruitment Agencies and Public Authorities eligible to use the scheme
- Employees eligible for JRS are:
 - Full Time,
 - Part-Time,
 - Employees on Agency Contracts and
 - Employees on Flexible or Zero Hours contracts whose contract of employment continues.
- The employee must have been on the PAYE payroll scheme on or before 28 February 2020.
- JRS also covers employees who were made redundant since 28 February 2020, if they are then rehired by their employer.
- To be eligible for Furlough the employee must not carry out any work for the employer, but they can volunteer as long as it does not provide services to or generate revenue for, or on behalf of the employer.
- Employers will receive a grant from HMRC to cover the lower of 80% of an employee's regular wage or £2,500 per month, plus the associated Employer National Insurance contributions and minimum automatic enrolment employer pension contributions on that subsidised wage. **However, fees, commission and bonuses should not be included.**
- Employees on sick leave or self-isolating should receive Statutory Sick Pay but can be furloughed after this.
- Employees who are shielding in line with public health guidance can be placed on furlough.
- Payments under the JRS should be based on:
 - the same month's earning from the previous year
 - average monthly earnings from the 2019-20 tax year or such shorter period as may apply to new employments
- The amount payable to furloughed workers does not need to meet NLW/NMW rates.



- Employers can only submit **one claim at least every 3 weeks**, which is the minimum length an employee can be furloughed for and claims can be backdated until the 1 March if applicable.

See the Government guidance [here](#).

Updated 26 March 2020

Initial Guidance

- Government announced the Coronavirus Job Retention Scheme on Friday (20 March 2020)
- All UK employers will be able to access support to continue paying part of their employees' salary for those employees that would otherwise have been laid off during the COVID-19 crisis who are designated as 'furloughed'
- HMRC will reimburse 80% of 'furloughed workers' wage costs, up to a cap of £2,500 per month. HMRC are working urgently to set up a system for reimbursement. Existing systems are not set up to facilitate payments to employers
- The scheme will be backdated to the 1 March 2020 and will be open before the end of April for at least three months
- Government have deferred Valued Added Tax (VAT) payments for 3 months. This is an automatic decision and will not require businesses to apply
- The deferral will apply from 20 March 2020 until 30 June 2020
- If you're self-employed, Income Tax payments due in July 2020 under the Self-Assessment system will be deferred to January 2021

Updated 20 March 2020

The information changes so rapidly and we will try our best to keep you updated but for full and accurate updates, we would recommend checking the Government website.