

## Coronavirus Job Retention Scheme (CJRS)

---

06 November 2020

As a result of the disruption caused by the ongoing COVID-19 pandemic the government has introduced a number of measures designed to protect employers and employees, one of which being the Coronavirus Job Retention Scheme (CJRS). Under this scheme, employees may be 'furloughed' to protect against them otherwise being made redundant.

The scheme is applicable to all UK employers who had a PAYE scheme in place on or before 19 March 2020, and applies for an initial period from 1 March to 30 June, which is now referred to as CJRS V1. The government announced an extension to the scheme, which applies from 1 July to 31 October 2020, referred to as CJRS V2. However, this is subject to a tapering of the grant available and to some important rules regarding the transition from CJRS V1.

Following the announcement that there will be a second national lockdown starting on Thursday 5 November, it was initially announced that CJRS would be extended until December 2020. It was subsequently announced that the scheme would be extended to 31 March 2021 with a review in January 2021.

The launch of the Job Support Scheme, which was announced as a replacement for CJRS, has been postponed and the published guidance for the Job Support Scheme has been withdrawn from the government website.

### **EMPLOYEES COVERED UNDER CJRS V1**

All employees on the PAYE payroll at 19 March 2020 are eligible for the scheme, as long as an RTI submission has been made in respect of them prior to this date. This covers employees who work full-time, part-time, flexible or zero-hours contract work and those hired via an agency.

Whilst in a period of furlough, employees must not undertake any work for the organisation. They may volunteer or complete training, provided they are not providing a service or generating revenue for the organisation.

Any employees made redundant between 28 February and 19 March may be rehired and subsequently will be eligible for the scheme. Employees hired after 19 March 2020 do not qualify for CJRS.

Staff employed by individuals, e.g. domestic staff, can be furloughed provided they are paid through the PAYE system.

Office holders, salaried company directors, salaried LLP partners, agency staff and Limb (b) workers are eligible to be furloughed under this scheme. Where a company director is furloughed, this must be agreed by the board and noted in the company records.

Apprentices can be furloughed; they are allowed to continue training during their period of furlough. Apprentices must be paid, at least, the National Minimum Wage for their time spent training, therefore employers in this circumstance must cover the shortfall between the grant received via the CJRS and the apprentice's appropriate minimum wage.

Employees on unpaid leave, as at 28 February, cannot be furloughed until the date at which it was agreed they would return to work. If an employee started unpaid leave after 28 February, they can be furloughed instead and must be paid a minimum of 80% of their usual wage.

If an employee is off sick at the point an employer chooses to furlough them, the employee must no longer receive SSP and will be paid in line with the CJRS furlough rules. Employees who become unwell during their period of furlough must be paid, at least, statutory sick pay (SSP). Employers can choose to move the employee on to SSP but this is not mandatory. SSP can be reclaimed for up to two weeks per employee. Employers may also choose to furlough employees who are on long-term sick leave and/or shielding, as opposed to placing these employees on SSP.

The usual rules apply to those on parental leave (maternity/paternity/adoption/shared parental). The CJRS will only cover contractual enhanced (earnings related) pay for those on parental leave.

Where a company has been put into administration, the administrators are able to claim a furlough grant, so long as the company complies with the normal furloughing rules. However, administrators should only use the scheme if there is a reasonable likelihood of rehiring the workers, for example because the company is likely to successfully come out of administration or because the business can be sold.

### **GRANT AVAILABLE UNDER CJRS V1**

This version of the scheme ran from 1 March to 30 June 2020.

For each furloughed employee, employers will receive a grant for the lower of 80% of their regular wage or £2,500, plus the

associated employer NICs and minimum automatic enrolment employer pension contributions (3%) on the subsidised wage. Bonuses, commissions, benefits, salary sacrifices and other fees are excluded from the scheme.

Where an employee's base wage varies, and they have been employed for twelve or more months, the grant will apply to the higher of the average monthly earnings in the 2019-20 tax year or the same month's earnings from the previous year.

Where an employee's base wage varies, and they have been employed for less than twelve months, the grant will apply to their average monthly salary since they started.

For furloughed salaried LLP members, the reference to salary for the claim is the member's profit allocation, exclusive of any performance-related amounts.

Employers remain liable for NICs and pension contributions during this period. The CJRS grant covers the employer NIC and minimum automatic enrolment pension contributions incurred on the subsidised wage claimed through the scheme. If the employer chooses to continue to pay employees their full wage, the NICs and pension contributions on wages that exceed the government grant cannot be claimed.

Where an employer pays National Living Wage (NLW) or National Minimum Wage (NMW), the CJRS claim is still based on 80% of the employees' salary. This may take an employee's pay below NLW/NMW based on their usual working hours (assuming the employer is only paying 80% of wages), however because furloughed workers will not be working, there is no breach of the NMW rules.

## WHAT HAS CHANGED UNDER CJRS V2?

CJRS V2 was to run from 1 July until 31 October 2020, but this has now been extended until March 2021 to cover the period of the second national lockdown and beyond. The government contribution to the cost of furlough pay gradually decreases until 31 October and the employer is required to make a contribution towards the cost of furloughing employees. However, from 1 November until 31 January 2021 the government and employer contributions will revert to the August 2020 level. There will be a review in January to determine the appropriate level of contributions for February and March 2021.

For periods up to 31 October 2020 (the originally intended duration of CJRS V2), the scheme will only be available for employees who have been furloughed for at least three weeks under CJRS V1, so employees being furloughed for the first time must have begun their furlough by 10 June so that the three-week minimum requirement can be met by 30 June. The

scheme is therefore closed to new entrants from 30 June to 31 October. Only current exceptions to this rule are for employees returning to work after a period of parental leave and military reservists.

The number of employees furloughed under CJRS V2 is capped by the maximum number of employees included in a single claim under CJRS V1. This is of most relevance where a rotational system has been used.

Under CJRS V2 furloughed employees will be able to do part time work for the employer, but the employer has to pay their salary for the period during which they are working. The government grant will apply only to the proportion of the employee's working week during which they are being furloughed. This will apply with effect from 1 July 2020. There is complete flexibility over working patterns, but accurate records must be maintained in hours and employment law must continue to be observed.

There are some important transitional rules where periods of furlough straddle 1 July 2020. The basic requirement is that a furloughed employee must have been furloughed under CJRS V1 for at least three weeks prior to 1 July in order to qualify under CJRS V2. If a previously furloughed employee starts a new three week period of furlough after 10 June 2020 in order to claim under CJRS V1 that furlough period must continue for three weeks under the CJRS V1 rules, before transferring to CJRS V2. However, they can move to flexible furlough from 1 July but a grant claim cannot be made under CJRS V1 for the period to 30 June.

The level of contribution required from the employer will change each month:

	July	August	September	October
Government contribution to NIC and pension contribution	Yes	No	No	No
Government contribution to furlough wages	80% up to £2,500	80% up to £2,500	70% up to £2,187	60% up to £1,875
Employer contribution to employer's NIC and pension contributions	No	Yes	Yes	Yes

Employer contribution to furlough wages	-	-	10% up to £312	20% up to £625
Employee receives (subject to income tax and employee's NIC)	80% up to £2,500	80% up to £2,500	80% up to £2,500	80% up to £2,500

HMRC have created an online calculator to help employers calculate the amounts they can claim, which can be found [here](#). The calculation of the amount claimable for flexible furloughed employees is not straightforward and may result in lower than expected claims

Businesses will need to take into account the contribution required from them in order to continue to furlough staff after 31 July when full government support for furloughed employees begins to wind down.

No special concessions have been announced for businesses that are not yet able to operate. The concern, therefore, is that when these businesses have to contribute towards the cost of furloughing staff there will be widespread redundancies in those sectors. However, businesses faced with this decision will need to take into account the costs associated with redundancies and the costs associated with rehiring staff when they are able to recommence their business.

## EXTENSION OF CJRS

Following the announcement of a national lockdown starting on 5 November 2020, the CJRS will not end on 31 October. Instead, it will continue for the period of the lockdown and until 31 January 2021, with the contribution required from the employer based on the level for August 2020. The level of contribution for the period 1 February to 31 March 2021 will be reviewed in January 2021.

This means that during this initial period the government will cover 80% of the employee's salary for periods not worked up to £2,500 a month, and the employer will cover the NIC and pension contributions. The employer can top up the employee's pay without affecting the level of the CJRS grant. The £2,500 cap is proportional to the hours not worked.

Neither the employer nor the employee needs to have previously used the CJRS, but the employee must be on the payroll by 23.59 on 30 October 2020, meaning that an RTI submission notifying payment for that employee must have been made on or before 30 October 2020. This means that

the cap which applied in relation to CJRS V2 for the period from 1 July to 31 October 2020 does not apply to the period of the extension.

The employer must pay the employee's normal pay for hours worked.

The Job Retention Bonus (JRB) will not be paid in February 2021. The purpose of this incentive was to encourage employers to retain employees until the end of January, but in view of the extension of the CJRS the policy intent no longer applies. A retention incentive may be deployed at a later date.

## MAKING A CLAIM UNDER V2

The claims process is very similar for both V1 and V2 and the majority of the information required is the same. The main differences relate to the period of the claim and the calculation of the amount claimable, which will be different for each month under V2. In addition, under V2 employers will need to report the usual hours of work for each employee and the hours actually worked.

Keeping accurate records of hours worked, is extremely important for employees who have been flexibly furloughed under CJRS V2. Details of hours worked and hours furloughed must be recorded and retained for six years.

Claims in relation to CJRS V1 and V2 cannot overlap, and because of the phasing of the grant under V2 claims must follow a strict pattern. The deadline for claims under V1 is 31 July 2020. Claims under V2 can be made from 1 July 2020.

The minimum claim period under V2 is one week (there is no longer a minimum furlough period). Claim periods cannot straddle calendar months. It is understood that claims for a period in one calendar month must be made before the end of the following calendar month.

To make a CJRS V2 claim employers must have made a claim under V1 and will need the following information:

- their PAYE reference number
- the number of employees being furloughed (the maximum number in any V2 claim is the maximum number in any single V1 claim)
- the claim period (start and end date)
- amount claimed
- their bank account number and sort code
- a contact name and phone number
- details of furloughed employees (name, NI number, claim period, claim amount, payroll/employee number (optional))

- Employees usual working hours and hours actually worked in the claim period

Once HMRC receive the claim, they will pay the amount into the nominated bank account. The money should be received within six days of making the claim.

HMRC retain the right to retrospectively audit all aspects of the claim.

Agents can file a CJRS claim on behalf of employers.

Employers must also maintain a record of the written communication to each employee confirming they are being furloughed. These records must be retained for five years.

Overclaims can now be repaid by reducing subsequent claims. A harsh penalty regime is proposed for furlough grant claims so it is important that any errors are corrected promptly.

## **DURING THE FURLOUGH PERIOD**

Employees must be paid no less than 80% of their reference pay, up to the monthly cap of £2,500.

Employees must not undertake any work for the organisation under CJRS V1, but this is allowed under CJRS V2, although the employer has to pay the employee for the proportion of their working week that they are working.

Under CJRS V1, company directors who are furloughed may undertake specific tasks to fulfil statutory obligations owed to their company, however they should not carry out work beyond these requirements.

Employers must continue to pay employees through their payroll system and settle PAYE related liabilities to HMRC as usual. The usual taxes will continue to apply to employers and employees, including student loan repayments and apprenticeship levies.

All employers have the choice to top up employees' salaries beyond the government grant, but are not obligated to do so except for the contributions that are required in September and October to top up the furlough pay to 80% of normal pay (however, see comments below about legal considerations).

HMRC have agreed that the COVID-19 pandemic constitutes a 'life event' therefore employees can change a salary sacrifice agreement in place, given their employment contract is updated accordingly.

## **TAX TREATMENT FOR THE BUSINESS**

For partnerships and organisations required to submit a Corporation Tax return, the payments received under the CJRS must be included as income in the calculation of taxable

profits. This income will be subsequently offset by the usual employment costs deducted.

Similarly, for unincorporated businesses the grants received must be included in taxable profits.

Amounts received by employers who are not in business will simply be offset against the amounts paid to the employee. This would apply to domestic staff such as nannies.

## **LEGAL CONSIDERATIONS**

A wide range of legal issues need to be addressed whenever employees are furloughed or working hours are varied, so employers must obtain specialist legal advice before putting employees on furlough or changing the terms of existing furloughs.

The information contained in this document is for information only. It is not a substitute for taking professional advice. In no event will Dixon Wilson accept liability to any person for any decision made or action taken in reliance on information contained in this document or from any linked website.

This firm is not authorised under the Financial Services and Markets Act 2000 but we are able in certain circumstances to offer a limited range of investment services to clients because we are members of the Institute of Chartered Accountants in England and Wales. We can provide these investment services if they are an incidental part of the professional services we have been engaged to provide.

The services described in this document may include investment services of this kind.

Dixon Wilson  
22 Chancery Lane  
London  
WC2A 1LS

T: +44 (0)20 7680 8100  
F: +44 (0)20 7680 8101  
DX: 51 LDE

[www.dixonwilson.com](http://www.dixonwilson.com)  
[dw@dixonwilson.co.uk](mailto:dw@dixonwilson.co.uk)