



## CORONAVIRUS (COVID-19) JOB RETENTION SCHEME (CJRS)

### Scheme Summary

The key announcement in the Government's response to support businesses financially during the COVID-19 crisis has been the Coronavirus Job Retention Scheme (CJRS). The scheme has been backdated to 1<sup>st</sup> March 2020 and is initially to last for a period of 3 months (although it can be extended where necessary).

This scheme has been setup for UK Employers to provide them with financial support to continue paying part of their employees' salary, particularly for **employees that would otherwise have been on unpaid leave, laid off (or made redundant) i.e.** it is an attempt to keep employees on the payroll until the business activities can start up once again.

As the Government has indicated that this is aiming to cover as broad a group as possible, it is therefore available to **all UK employers**, whether

1. a small or large Employer
2. a sole trader
3. an LLP or partnership
4. a charity or non-profit organisation etc.

**e.g. all of the above will all be eligible for the CJRS scheme.**

Under the scheme, HMRC will reimburse 80% of **'furloughed workers' 'wage costs'**, up to a maximum per employee of £2,500 per month e.g. the lower of:

- 80% of **'an employee's regular wage'** and
- £2,500 per month.

#### **Plus**

- the associated **Employers'** national insurance contributions (NIC) and the minimum automatic enrolment **Employer** pension contributions **on that wage.**

The reimbursement payment will be made by HMRC by BACS into a UK bank account i.e. the CJRS scheme is therefore for an entity with a UK payroll scheme **AND a UK bank account.**

In order to obtain the reimbursement, an Employer is required:

1. to identify impacted employees as **'furloughed workers'**
2. needs to submit the appropriate information to HMRC (via an online portal) about the employees that have been 'furloughed', and
3. then continue to make salary payments to these employees, **BUT** will then be reimbursed by the CJRS scheme.

**'Furloughed workers'** - this means employees or workers who remain on payroll but are temporarily not working during the coronavirus outbreak

The CJRS scheme is only available for employees that were on the payroll at 28 February 2020, and therefore does **NOT** extend to employees hired for the first time after 28 February 2020 **OR** employees on unpaid leave starting from 28 February or earlier.



HMRC has been appointed to administer the operation of the CJRS scheme, however the online portal is not available yet, but is **expected operational by the end of April 2020**.

## Key Operational Issues

In terms of the operation of the CJRS scheme for Employers, please note the following:

1. although the scheme is backdated to the beginning of March 2020, an Employer will only be eligible to claim the grant from the actual date the staff have been put on **'furlough'** i.e. **staff have stopped working for the employer**.
2. employees to be put on **'furlough'** by an Employer can be on any type of employment contract, **including full-time, part-time, agency, flexible or zero-hour contracts**.
3. foreign nationals are eligible to be put on **'furlough'** as well
4. once an employee has been included in the scheme as a **'furloughed' employee**, they are **NOT** able to carry out any work on behalf of the business e.g. this includes **providing services or generating revenue**. (Employers are free to consider allocating any critical business tasks to staff that are not furloughed)
5. for **full-time and part-time employees**, the base for the 80% calculation is the **employee's actual salary as of 28 February 2020**.
6. where employees pay varies from month to month, then
  - a. if the employee has been **employed for a full twelve months prior to the claim**, use the same month's earnings from the prior year or average monthly earnings for the year
  - b. if the employee has been **employed for less than a year**, claim for an average of their monthly earnings
  - c. if the employee **only started in February 2020**, use a pro-rata for their earnings so far to claim
7. **eligible employees** are those on the payroll on 28 February 2020, any employee who was employed at that date **BUT made redundant after that date**, can be re-employed and furloughed
8. **eligible employees** do **NOT** include employees hired for the first time **AFTER** 28 February 2020
9. an Employer can choose to top up an employee's salary, but there is **NO** requirement to do so i.e. employees must **NOT** work or provide any services for the business while furloughed, **even if they receive a top-up salary**.
10. the scheme applies to directors (where they are **'furloughed'**) but only to the extent of their salary through the PAYE scheme
11. where employees are working, but **on reduced hours, or for reduced pay**, they will not be **eligible employees** for the CJRS scheme
12. an Employer can only claim for employees that started unpaid leave after 28 February 2020
13. where any **employees are on sick leave or self-isolating**, it is only once employees return from sick leave that they can be furloughed as 'eligible employees' i.e. once they are no longer receiving Statutory Sick Pay (SSP))
14. where any employees **are shielding in line with public health guidance (or need to stay home with someone who is shielding)**, and are unable to work from home and would otherwise been made redundant, they can be put on 'furlough'
15. where any **employees are unable to work because they have caring responsibilities** resulting from coronavirus (COVID-19) e.g. need to look after children, they can be put on 'furlough'
16. where any employees **have more than one Employer** they can be furloughed for each job.
17. where any employees have more than one Employer, they can be furloughed in one job (and receive a furloughed payment), **BUT** continue working for another employer and receive their normal wages.

18. where employees are on fixed term contracts they can also be put on 'furlough' e.g. their contracts **can be renewed or extended during the furlough period** without breaking the terms of the scheme.
19. an employee that is put on 'furlough' can take part in volunteer work, if it does not provide services to or generate revenue for the Employer
20. an employee that is put on 'furlough' can engage in training, as long as in undertaking the training the employee does not provide services to, or generate revenue for the Employer.
21. any employees put on 'furlough', must be furloughed for a minimum period of **3 consecutive weeks** i.e. when they return to work, they must be taken off furlough, but can be put on 'furlough' again (for a minimum of 3 weeks)
22. the Employer needs **to submit information to HMRC about the employees** that have been 'furloughed', their earnings etc., through a new online portal
23. it is expected that the **Employer will continue to make salary payments to the 'furloughed' employees**, but will then be reimbursed by the CJRS scheme
24. an Employer is required to have written confirmation in place in respect of each employee ahead of being put on 'furlough'
25. when **the Government ends the CJRS scheme**, the Employer must then decide, depending on circumstances, as to whether employees can return to their duties (or to consider termination of employment where necessary)
26. where an employee is receiving a reduced salary as a result of these changes, they may be eligible for support through the welfare system, including Universal Credit.

### Calculation(s) of the reimbursement from the CJRS Scheme

Claims should be started from the date that the employee finishes work and is put on 'furlough', not when the decision is made, or when they written to confirming their furloughed status.

The process for calculating the various employees' wages (and therefore the value upon which the 80% or max £2,500 is based upon) will differ depending on what type of contract employees are working under and/or when they started work:

1. **Full or part time employees on a salary**
  - Claim for the 80% of the employee's salary, as of 28 February 2020 (before tax).
  
2. **Employees whose month to month pay varies**
  - If the employee has been employed for 12 months or more, you can claim the highest of either the:
    - same month's earning from the previous year
    - average monthly earnings for the 2019-2020 tax year
  - If the employee has been employed for less than 12 months, claim for 80% of their average monthly earnings since they started work.
  - If the employee only started in February 2020, work out a pro-rata for their earnings so far, and claim for 80%.
  
3. **Past Overtime, Fees, Commission, Bonuses and non-cash payments**
  - You can claim for any regular payments you are obliged to pay your employees. This includes wages, past overtime, fees and compulsory commission payments.
  - However, discretionary bonus (including tips) and commission payments and non-cash payments should be excluded.

#### 4. Benefits in Kind and Salary Sacrifice Schemes

- Non-monetary benefits provided to employees, including taxable Benefits in Kind are not to be included.
- Similarly, benefits provided through salary sacrifice schemes (including pension contributions) that reduce an employee's taxable pay should also not be included in the reference salary.  
**(Where the employer provides benefits to furloughed employees, this should be in addition to the wages that must be paid under the terms of the CJRS Scheme)**

#### 5. Apprenticeship Levy and Student Loans

- Both the Apprenticeship Levy and Student Loans should continue to be paid as usual.

#### 6. National Minimum Wage

- Employees are only entitled to the National Living Wage (NLW)/National Minimum Wage (NMW)/ Apprentices Minimum Wage (AMW) for the hours they are working or treated as working under minimum wage rules.
- This means that furloughed workers who are not working can be paid the lower of 80% of their salary or £2,500 even if, based on their usual working hours, this would be below their appropriate minimum wage.
- However, time spent training is treated as working time for the purposes of the minimum wage calculations and must be paid at the appropriate minimum wage, taking into account the increase in minimum wage rates from 1 April 2020.

There are a number of other considerations around the calculation of the reimbursement amount under the CJRS scheme, in addition to the 80% or £2,500 calculation, as follows:

1. Once you've worked out how much of an employee's salary, falls under the 80% or maximum of £2,500 per employee per month, then an **additional amount relating to the appropriate amount of Employer National Insurance Contributions and minimum automatic enrolment employer pension contributions** (on that salary calculation), can also be claimed for under the scheme
2. It should be noted that while on furlough, the **employee's wage will be subject to usual income tax and other deductions when being processed through the payroll**. This includes pension contributions (both employer contributions and automatic contributions from the employee), unless the employee has opted out or stopped saving into their pension.
3. An Employer **CANNOT claim** for additional National Insurance or pension contributions you make where the **employee's salary is 'topped up'** over and above the 80% grant under the CJRS scheme e.g. any pension contributions you make that are above the mandatory employer contribution
4. An Employer can add or 'top up' the reimbursed amount (80% or £2,500), but **MUST** ensure that the 80% of salary or £2,500 is paid to the employee i.e. at least the amount of the grant.
5. Grants **CANNOT** be used to substitute redundancy payments.
6. The CJRS reimbursement amount **will be pro rated** where an employee is only furloughed for part of a pay period.
7. Reimbursements received by an Employer under the CJRS scheme are made to offset deductible employee/staff deductible costs. These amounts **MUST** therefore be included as income in the Employer's calculation of its taxable profits **for Income Tax and Corporation Tax purposes**.
8. At the same time Employers can deduct employment costs as normal, when calculating taxable profits for Income Tax and Corporation Tax purposes.

**Please note** that the maximum claim for reimbursement that can be made by each employee (per month) is £2,500 +£245 (Employers' NIC) + £59 (Employer auto- enrolled pension contribution) = £2,804.



**Please note** that as an Employer is required to keep all employees on the payroll during the period and make payments to them **PRIOR** to being reimbursed by HMRC, and

- therefore where adjustments require to be made to an employee's salary i.e. to 80% as put on 'furlough' and **NOT being 'topped up'**
- this should be adjusted for in the payroll before payments are made to employees

### **Making a Claim for the Reimbursement from the CJRS scheme**

Any claim made by an Employer under the CJRS scheme will require to be made via a new HMRC online portal, **which is not yet operational**, however HMRC will announce once it is available and has stated that it will be in place by the end of April 2020.

As part of the CJRS claim process to HMRC by an Employer, the following information will be required:

- the employer's PAYE reference number
- the details of the employee(s) being furloughed
- the claim period (start and end date) for each employee
- calculation of the amount being claimed from HMRC e.g. amount of the 80% per employee **PLUS** Employers NI and pension contributions
- the Employer's bank account number and sort code (for receipt of the reimbursement)
- relevant contact name
- relevant contact phone number

**Please note** that all claims under the CJRS scheme will be need to be calculated for inclusion on HMRC's online portal, and **that HMRC will retain the right to retrospectively audit all aspects of claims.**

### **What SAKURA Are Doing in respect of the CJRS Scheme**

Currently the team is continuing to work with all of our existing clients as normal, and are also available to respond to issues from clients around the CJRS scheme and it's operation (**as best as possible given some of legal complexities around the 'furlough' process**) e.g.

1. we will aim to answer any questions you may have on the CJRS scheme and it's application to your business, where possible
2. we will be collecting the necessary information over the coming weeks, on the staff being put on 'furlough', as well as preparing the calculation of the reimbursement amounts for each Employer
3. we will be preparing the company secretarial paperwork necessary for Directors and office holders to confirm the **'furlough'** process (see Furlough section)
4. obtaining copies of the relevant formal documentation in connection with the staff being put on 'furlough', as this requires to be in writing and retained for up to 5 years i.e. **suggesting that it may be reviewed by HMRC in the future**
5. ensuring that the appropriate information is submitted to the HMRC online portal (when it becomes available), so that Employers can obtain the necessary reimbursements from HMRC as quickly as possible