

Employers

Changes from 1st July to Job Retention Scheme DETAILED

Employers please be aware a number of changes will apply to the Coronavirus Job Retention Scheme (CJRS) from 1st July. Whilst there will be new flexibilities, there are also more complexities if you are to continue to qualify for the government grant.

The position up to 30th June

- Any eligible employee who had not been furloughed before and the employer wants to furlough them after 30th June, has to be furloughed on or before 10th June and remain so for at least 21 days. *(See example 1)*
- An employee who has been furloughed before, but is presently back at work, can be furloughed at any time between now and 30th June and the CJRS claim can be made for the period up to 30th June, as long as the employee is furloughed for 21 days or more. *(See example 2)*
- The employer has until 31st July to make a claim for any period up to 30th June. That claim can cover more than one calendar month if you so wish.

The position from 1st July

- Businesses can bring employees on and off furlough on a flexible basis.
- Any working hours arrangement between the employer and employee must cover at least one week and be confirmed in writing to the employee.
- A claim period cannot straddle a calendar month *(see example 3)*.
- Claim periods from 1st July must 'usually' be a minimum of 7 calendar days.
- However, if the claim period the employer is claiming for includes, either the first day or the last day of the month, and the employer has claimed for a period immediately before it, then, the claim period can be less than 7 calendar days. *(See example 3)*
- Employers will pay wages in full for the period the employee is un-furloughed but can claim under CJRS whilst the employee is furloughed.
- Employers will need to provide details of the 'usual hours' an employee is expected to work, as well as the actual hours worked, in any given claim period.
- All employees who are either flexibly or completely furloughed in any given claim period must be reflected within that one claim, even if the employer pays employees at different times in that claim period.
- In July, the employer can still claim 80% of the eligible wages (up to a monthly maximum of £2,500), plus the relevant employer's national insurance and employer's pension contributions.

The position from 1st August

- From 1st August the CJRS claim remains at 80% of the salary/wages (up to a monthly maximum of £2,500). However, businesses will meet the employer's pension contributions and employers NIC.

The position from 1st September

- From 1st September the Government will meet 70% of the wages (up to a monthly maximum of £2,190). The remaining is to be met by the employer.

The position from 1st October

- From 1st October the Government will meet 60% of the wages (up to a monthly maximum of £1,875). Employers will need to meet the remaining amount.
- The Scheme comes to an end on 31st October.

Maximum number of employees that can be claimed for

From 1st July the maximum number of employees who can be claimed for must not exceed the highest number of employees who were in any claim up to and including 30th June.

There are exceptions for:

- Employees returning from parental leave who had not been included in a claim up to 30th June.
- Employees who have been moved to a new PAYE Scheme as a result of a scheme reorganisation after 10th June but had been in a claim under their previous PAYE scheme between 1st March 2020 and 30th June 2020.
- Employees transferred under TUPE rules into a business due to a change of ownership or a compulsory liquidation after 10th June, but who had been in a claim under their previous PAYE scheme between 1st March 2020 and 30th June 2020.
- Army, navy and air force reservists who have come back from active service who will be returning to work after 30th June.

There will be a facility to adjust the claim numbers to accommodate such employees *(See example 4)*.

What are the basics the employer needs to know when working out a claim?

- The length of their claim period.
- What to include when calculating the wages.
- Their employees' usual hours, their furloughed hours and the actual hours worked.

Deciding the length of the claim period

- You can't have a claim period which straddles two months.
- Claims cannot be made more than 14 days prior to the end date of the claim, so claims with an end date of 31st July cannot be made until after 18th July.
- Claim periods from 1st July must 'usually' be a minimum of 7 calendar days.
- However, if the claim period the employer is claiming for includes, either the first day or the last day of the month, and the employer has claimed for a period immediately before it, then, the claim period can be less than 7 calendar days *(See example 3)*.
- You can't have overlapping claim periods. All employees furloughed at any time in that claim period must be reflected within that claim.

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- Where you have employees, who are flexibly furloughed then you should not make a claim until you are certain about the hours being worked.

What to include when calculating the wages

- The employee's regular wages.
- Non-discretionary payments for hours worked including overtime.
- Non-discretionary fees and commissions.
- Piece rate payments.

How to work out an employee's 'usual' hours

- A) If the employee isn't contracted to work a fixed number of hours or the employee's pay depends on the number of hours worked, then use the variable hour's method of calculating it.
- B) If the employee's contract does not fit A) above, then use the fixed hour's method.
- C) Note that an employee's working pattern does not have to match their pay period. For example, the employee might be contracted to do 36 hours per week but is paid per calendar month.

How does the fixed method work?

- A) Start with the hours the employee was contracted for at the end of the last pay period ending 19th March 2020.
- B) Divide by the number of calendar days in the repeating working pattern, including non-working days.
- C) Multiply by the number of calendar days in the pay period (or partial pay period) you are claiming.
- D) Round up to the next whole number if the outcome isn't a whole number.
- E) If an employee was on annual leave, off work sick or on family related statutory leave at any time during the last pay period ending on or before 19th March, the 'usual' hours should be calculated as if the employee was on leave (*See example 5*).

How does the variable method work?

- A) Since April 2019 employers have had to show the number of hours worked if pay varies based on hours worked.
- B) The calculation will be on the higher of the average hours worked in the 2019/20 tax year or the corresponding calendar period in the 2019/20 tax year.

The average hour's calculation

- A) 'Average hours' include any hours paid for at the full contracted rate, such as annual leave and any non-discretionary overtime.
- B) Start with the number of hours worked (including paid leave) in the 2019/20 tax year or up to the date the employee was furloughed if earlier.
- C) Divide by the number of calendar days the individual was employed by the business in the 2019/20 or up to the date the employee was furloughed if earlier.
- D) Multiply by the number of calendar days in the pay period (or partial pay period) the business is claiming for.
- E) Round up to the next number if the outcome isn't a whole number (*See example 6*).

The corresponding calendar period calculation

- A) Identify the pay period(s) in the 2019/20 tax year that correspond to at least once calendar day in the pay period (or partial pay period) the business is claiming for.
- B) If the pay period (or partial pay period) the employer is claiming for starts and ends on the same calendar days as the identified period in the 2019/20 tax year, then, simply use the number of hours they worked in that pay period.
- C) If the pay period (or partial pay period) the business is claiming for does not start and end on the same calendar days as the identified pay periods in the 2019/20 tax year, then, the

employer will need to add together a proportion of the hours worked in each of the pay periods which have been identified (*See example 7*).

How to calculate the furloughed hours

Once you have worked out what the employee's usual hours are for a claims period, you simply subtract from that figure the number of hours the employee actually worked during that claims period. The net figure is the furloughed hours.

HMRC Penalties

HMRC will have the power, by way of a **100% tax charge**, to recover payments which were either:

- Not due
- Not used to pay wages and PAYE
- Not used to make pension contributions

Penalties will be imposed where there has been deliberate non-compliance.

- If an employer makes a voluntary disclosure to HMRC the **penalty would be from 30% to 100% of the overpayment.**
- If prompted by HMRC the penalty range would narrow to **between 50% and 100% of the overpayment.**

What if the employer over claims?

- HMRC takes the view that if an employer is going to flexibly furlough then a claim should not be made until the employer knows what hours will be worked in that claim period.
- However, if any over claim has been made, HMRC have updated the CJRS application process. The next time the business makes a claim they will be asked if they want to reduce the latest claim to take account of a previous error. The new claim will then be reduced to reflect that.
- If no further claim is to be made HMRC are setting up a process to enable the over claim to be paid back.
- HMRC have emphasised the importance of keeping all records pertaining to the CJRS claims for at least 6 years.

What if the employer under claims?

- You have to contact their CJRS helpline number 080 0024 1222.
- HMRC will process this 'further' claim and issue the employer with a reference number which they should retain along with employer's calculations and reasoning for at least 6 years.

Records to be kept

- Furlough agreements signed and dated by both employer and employee.
- The amount claimed and the claim period for each employee.
- The claim reference number for your records.
- Your calculations in case HMRC need more information about the claim
- Where an over claim was made, evidence of how the over claim came about and proof of when the repayment was made.
- Where an under claim was rectified, evidence of how that under claim arose. The amount of the 'repayment' and the reference number supplied by HMRC in respect of the claim.
- Details of the usual hours worked, including any calculations that were required, for employees you flexibly furloughed.
- Details of actual hours worked for employees your flexibility furloughed.

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