



Employment Law Newsletter - Coronavirus Job Retention Scheme update 15th June

On Friday 12th June 2020, the Government issued guidance about the amended Coronavirus Job Retention Scheme (CJRS) and how to calculate claims when the scheme changes on 1st July 2020.

When can you claim for July?

Previously you have been able to submit your claim in advance but the first time you will be able to make claims for days in July will be 1st July. Not before.

What will change?

From 1st July 2020, employees that you have previously furloughed can return to work while you can still claim the CJRS grant for the part of their normal hours that they do not work.

From 1st August 2020, the level of grant will be reduced each month but to be eligible for the grant you must pay furloughed employees 80% of their wages, up to a cap of £2,500 per month for the time they are being furloughed.

Only employees who started furlough on or before 10th June 2020 will be eligible for the new scheme with the exception of those who are returning to work following a period of statutory family leave.

You will need to report both hours worked and the usual hours an employee would be expected to work in a claim period.

How much must you contribute?

June and July:

The government will pay 80% of wages up to a cap of £2,500 as well as employer National Insurance (ER NICs) and pension contributions. As now, you are not required to pay anything.

August:

The government will still pay 80% of wages up to a cap of £2,500. However, you will be responsible for paying ER NICs and pension contributions

September:

The government will pay 70% of wages up to a cap of £2,187.50. You will be responsible for paying ER NICs and pension contributions and 10% of wages to make up 80% total up to a cap of £2,500.

October:

The government will pay 60% of wages up to a cap of £1,875. You will be responsible for paying ER NICs and pension contributions and 20% of wages to make up 80% total up to a cap of £2,500.

Must you top up furloughed hours to 100% of normal salary?

No. You must pay 80% of normal salary up to £2,500 for furloughed hours. That is, hours not worked, but you are not obliged to pay more. You must pay your employees for the hours they work in the normal way.

Are there restrictions on the number of hours for workers returning part time?

No. It will be for you to decide the appropriate number of hours or shift patterns that your employees will work when they return. You will need to consider a number of factors: the work available, your cash flow and any measures such as staggered start and end times. You will remain responsible for paying their wages while in work.

What about furloughing employees for the first time?

If you furloughed them by 10th June, they will complete the minimum period of three weeks on 30th June so they will be eligible for the amended scheme. You will have until 31st July to make any claims in respect of the period to 30 June.

What about employees returning from statutory parental leave?

If your employee is on maternity leave, adoption leave, paternity leave, shared parental leave or parental bereavement leave, the normal rules for maternity and other forms of parental leave and pay apply.

You can claim through the scheme for enhanced (earnings related) contractual pay.

If your employee agrees to be put on furlough and end their maternity leave early, they will need to give you at least eight weeks' notice and they will not be eligible for furlough pay until the end of the eight weeks.

Anyone returning from statutory family leave between 1st July 2020 and 31st October 2020 can be placed on furlough leave after 1st July 2020 in the same way as others although they do not need to have been previously furloughed (before 30th June 2020).

Must you still furlough employees for at least three weeks from 1st July?

No. Until 1st July, any employees you place on furlough must be furloughed for a minimum of three consecutive weeks.

From 1st July, agreed flexible furlough agreements can last any amount of time. Employees can enter into a flexible furlough agreement more than once.

There will be no minimum furlough period. However, any furlough arrangement agreed between you and your employees reported in a claim to HMRC must still cover a period of at least a week. Claim periods will no longer be able to overlap months.

What if a previously furloughed employee starts furlough again today, Monday 15th June?

A previously furloughed employee can start a new furlough period today, 15th June and would have to continue for at least three consecutive weeks ending on or after 5th July. After this the employee can be flexibly furloughed for any period. However, after 1st July, you cannot make

claims that cross calendar months, so you would need to make a separate claim for the period up to 30th June.

Are there restrictions on the number of employees for whom you can claim?

The number of employees for whom you can claim from 1st July cannot exceed the maximum number of employees for whom you claimed up to 30th June.

So, if you submitted three claims between 1st March and 30th June, for 30, 20 and 50 employees respectively, from 1st July, your claim would be limited to 50 employees for any single claim. Then the maximum number of employees that you could furlough in any single claim starting on or after 1st July would be 50.

This does not include those that you are furloughing after they have returned from statutory family leave (above).

How should you agree to furlough employees?

Discuss and make any changes to the employment contract by agreement. The normal law on fairness, equality and discrimination apply to your decision and process for agreeing furlough.

Confirm your agreement in writing and keep it for at least five years

Record how many hours your employees work and those for which they are furloughed.

Remember that your previous agreement prohibited employees from working but you may now be requiring them to work. That work will be for different hours, in a different way and perhaps in a different place than previously, so your agreement should reflect these changes.

Are there any practical examples for calculating your claim?

Yes, HMRC has a worked example showing how the new scheme works in practice at <https://www.gov.uk/government/publications/find-examples-to-help-you-work-out-80-of-your-employees-wages/example-of-a-full-calculation-for-an-employee-who-is-flexibly-furloughed>

If you would like to discuss these or any other issues facing your organisation please speak to your usual contact at Watershed or Keith Morgan on +44 161 703 5611

watershedhr.com

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