

How To Claim For Your Employees' Wages Through The Coronavirus Job Retention Scheme (CJRS)

Please note this is an abridged version of the full Government guidance which can be found at: <https://www.gov.uk/guidance/claim-for-wage-costs-through-the-coronavirus-job-retention-scheme#history>

The full version contains more specific guidance on Apprentices, public sector organisations, individuals, administrators, LLP's, eligible individuals who are not employees, office holders, company directors, agency workers, Limb(b) workers, contingent workers etc.

HOW TO CLAIM FOR YOUR EMPLOYEES' WAGES THROUGH THE CORONAVIRUS JOB RETENTION SCHEME (CJRS)

The Government recently provided more details on how the CJRS works. Please note the online service you will use to claim is not open yet – we will let you know when it is. We have the capability to calculate and submit your CJRS Claim so please let us know if we can help.

Overview of the scheme

The principle behind the CJRS is that if you cannot maintain your current workforce because your operations have been severely affected by coronavirus (C19), you can furlough employees and apply for a grant that covers 80% of their usual monthly wage costs, up to £2,500 a month, plus the associated Employer National Insurance contributions and minimum automatic enrolment employer pension contributions on that wage.

This is a temporary scheme in place for 3 months starting from 1 March 2020, but it may be extended if necessary and employers can use this scheme anytime during this period. It is designed to help employers whose operations have been severely affected by C19 to retain their employees and protect the UK economy. However, all employers are eligible to claim under the scheme and the government recognises different businesses will face different impacts from coronavirus.

Who can claim?

You must have created and started a PAYE payroll scheme on or before 28 February 2020, enrolled for PAYE online and have a UK bank account.

Any entity with a UK payroll can apply, including businesses, charities, recruitment agencies and public authorities.

Employees you can claim for

You can only claim for furloughed employees that were on your PAYE payroll on or before 28 February 2020. Employees hired after 28 February 2020 cannot be furloughed and claimed for in accordance with this scheme.

Employees can be on any type of employment contract, including full-time, part-time, agency, flexible or zero-hour contracts. Foreign nationals are eligible to be furloughed.

To be eligible for the grant, when on furlough, an employee cannot undertake work for, or on behalf, of the organisation. This includes providing services or generating revenue. Employers are free to consider allocating any critical business tasks to staff that are not furloughed. While on furlough, the employee's wage will be subject to usual income tax and other deductions.

Agreeing to furlough employees

Employers should discuss with their staff and make any changes to the employment contract by agreement. When employers are making decisions in relation to the process, including deciding who to offer furlough to, equality and discrimination laws will apply in the usual way. To be eligible for the grant employers must confirm in writing to their employee confirming that they have been furloughed. A record of this communication must be kept for five years. You do not need to place all your employees on furlough. However, those employees who you do place on furlough cannot undertake work for you.

How much you can claim

You will need to claim for:

- 80% of your employees' wages (even for employee's on National Minimum Wage) - up to a maximum of £2,500. Do not claim for the worker's previous salary.
- minimum automatic enrolment employer pension contributions on the subsidised wage

You can choose to top up your employee's salary, but you do not have to. Employees must not work or provide any services for the business while furloughed, even if they receive a top-up salary.

Grants will be prorated if your employee is only furloughed for part of a pay period.

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

The way you work out your employees' wages is different depending on what type of contract they are on, and when they started work.

Full or part time employees on a salary

Claim for the 80% of the employee's salary, as of 28 February 2020, before tax.

Employees whose 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%.

Employer National Insurance and Pension Contributions

You'll still need to pay employer National Insurance and pension contributions on behalf of your furloughed employees, and you can claim for these too.

You cannot claim for:

- additional National Insurance or pension contributions you make because you chose to top up your employee's salary
- any pension contributions you make that are above the mandatory employer contribution

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.

Benefits in Kind and Salary Sacrifice Schemes

The reference salary should not include the cost of non-monetary benefits provided to employees, including taxable Benefits in Kind. 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 Job Retention Scheme.

Normally, an employee cannot switch freely out of a salary sacrifice scheme unless there is a life event. HMRC agrees that COVID-19 counts as a life event that could warrant changes to salary sacrifice arrangements, if the relevant employment contract is updated accordingly.

Apprenticeship Levy and Student Loans

Both the Apprenticeship Levy and Student Loans should continue to be paid as usual. Grants from the Job Retention Scheme do not cover these.

National Minimum Wage

Individuals 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. As such, employers will need to ensure that the furlough payment provides sufficient monies to cover these training hours. Where the furlough payment is less than the appropriate minimum wage entitlement for the training hours, the employer will need to pay the additional wages to ensure at least the appropriate minimum wage is paid for 100% of the training time.

Where a furloughed worker is paid close to minimum wage levels and asked to complete training courses for a substantial majority of their usual working time employers are recommended to seek independent advice or contact Acas.

What you will need to make a claim

Employers should discuss with their staff and make any changes to the employment contract by agreement. Employers may need to seek legal advice on the process. If sufficient numbers of staff are involved, it may be necessary to engage collective consultation processes to procure agreement to changes to terms of employment.

To claim, you will need:

- your ePAYE reference number
- the number of employees being furloughed
- the claim period (start and end date)
- amount claimed (per the minimum length of furloughing of 3 consecutive weeks)
- your bank account number and sort code
- your contact name
- your phone number

It is the employer's responsibility to make the claim. Please contact us if you need help in calculating the claim. HMRC will retain the right to retrospectively audit all aspects of your claim.

The full guidance can be found at: <https://www.gov.uk/guidance/claim-for-wage-costs-through-the-coronavirus-job-retention-scheme#history>

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This leaflet has been written for the general interest of our clients. It provides only an overview of the regulations in force at the date of publication. It is therefore essential to take advice on specific issues. No responsibility for loss occasioned by any person acting or refraining from action as a result of the material contained in this leaflet can be accepted by the firm.

Please remember we are here to help as much as possible through these challenging times. Should you have any queries on any of the above government announcements, please contact your Partner contact.