

Coronavirus Job Retention Scheme (CJRS)

CORINTHIAN

1. What is the Coronavirus Job Retention Scheme?

The Coronavirus Job Retention Scheme is a temporary scheme open to all UK employers for at least three months starting from 1 March 2020.

The Government expect the scheme to be up and running by the end of April. It is designed to support employers whose operations have been severely affected by coronavirus (COVID-19).

Employers can use a portal to claim for 80% of 'furloughed employees' 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. Employers can use this scheme anytime during this period.

2. Who can claim under the Coronavirus Job Retention Scheme?

Any UK organisation with employees can apply, including:

- Businesses
- Charities
- Recruitment agencies (agency workers paid through PAYE)
- Public authorities

3. Which employees are covered?

Furloughed employees must have been on your PAYE payroll on 28 February 2020. They can be on any type of contract, including:

- Full-time employees
- Part-time employees
- Employees on agency contracts
- Employees on flexible or zero-hour contracts

The scheme also covers employees who were made redundant since 28 February 2020, if they are rehired by their employer. To be eligible for the subsidy, when on furlough, an employee can not undertake work for or on behalf of the organisation. This includes providing services or generating revenue. While on furlough, the employee's wage will be subject to usual income tax and other deductions.

This scheme is only for employees on agency contracts who are not working. If an employee is working, but on reduced hours, or for reduced pay, they will not be eligible for this scheme and you will have to continue paying the employee through your payroll and pay their salary subject to the terms of the employment contract you agreed.

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 subsidy, employers should write to their employee confirming that they have been furloughed and keep a record of this communication.

Employees hired after 28 February 2020 cannot be furloughed or claimed for in accordance with this scheme. 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.

For an employer to claim CJRS relief, an employee must be furloughed for a minimum of 3 weeks and for up to 3 months (although this may be extended) from 1 March 2020.

4. Does the employer have to continue to pay the Employee until the Furlough Scheme is set up?

Yes, it seems as though the Government will then reimburse the employer for this payment as opposed to the Employer ceasing payment to the Employee and demonstrating non-payment of this to HMRC.

The Government Guidance suggests Employers should seek alternative financial assistance in the interim (loan), as opposed to terminating employees' contracts by way of redundancy.

5. What about employees on Sick Leave?

Employees on sick leave or self-isolating should get Statutory Sick Pay but can be furloughed after this. Employees who are shielding in line with public health guidance can be placed on furlough.

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6. Could you prioritise the vulnerable or elderly when deciding who to place on Furlough Leave?

Yes. You should however be cautious that this does not give rise to any discrimination claims e.g. disability / age discrimination.

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7. Do directors qualify for CJRS?

Yes. Furloughing of any individual who has been subject to PAYE will be possible. Where directors who are using dividends to top up their income are included within the furloughed workers, then the dividend amounts are unlikely to form part of the CJRS calculation for the director, as dividends are not subject to PAYE.

A further concern is that a director must be non-active to be furloughed. However, given that they will continue to need to manage the business in some way, especially if they operate a personal service company, they are unlikely to be completely inactive and therefore may fail the CJRS requirements. Commercially businesses will need to make a choice between the cost saved by furloughing directors and the commercial disruption of not having that director performing an active role in the business.

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8. Do individuals have to pay tax on the payment received?

Yes, individuals will pay income tax and NI on any payments received through the CJRS.

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9. With regard to Pensions, what will be covered?

The Government furlough scheme will include an allowance for the 3% minimum employer Auto-Enrolment contributions, as well as Employer NI liabilities for salaries up to £2,500 a month (these will be based on the lower furloughed wage).

10. Can my employees opt out of their workplace pension?

Individuals will be expected to pay their minimum contributions from ongoing pay and while they can opt out, this would mean they lose valuable employer contributions – which are now being subsidised by the Government.

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11. What if as an employer we pay above minimum pension contribution?

While employers paying above the minimum will not be able to claim back these additional amounts, the Auto-Enrolment minimum job retention CJRS is a very welcome demonstration of the importance the Government places on ongoing retirement savings.

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12. Can the Company stop the pension scheme?

No, currently Auto Enrolment pension schemes are to be continued, in these uncertain times it is vital to try and keep valuable benefits running as close to normal.

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13. What happens if we use salary sacrifice?

Where a furloughed employee is a participant in a salary sacrifice scheme then, unless the employees' contractual terms are varied, the salary sacrifice is likely to continue from the furloughed pay and the benefits available to the employee are likely to continue (current guidance) does not specifically refer to this.

However, it may be possible to cancel the salary sacrifice and associated provision of a benefit as part of a contractual variation. As with all contractual variations, this should be discussed and agreed with the employee and if necessary, employment law advice taken by the business.

14. Where can I get more detailed information on how to make a claim?

www.gov.uk/guidance/claim-for-wage-costs-through-the-coronavirus-job-retention-scheme
