



# Ashfords Solicitor

## Guidance on Coronavirus

### Job Retention Scheme

#### On 26 March 2020 the Government published updated guidance on how the Coronavirus Job Retention Scheme will operate.

The scheme is designed to support employers whose operations have been severely affected by Covid-19, by allowing employers to place employees on "furlough" (a leave of absence) and claim 80% of their monthly wages, up to a cap of £2,500 a month, back from the government.

The updated guidance has clarified a number of aspects about how the scheme will function, including the following:

- **The scheme** is available to all UK employers that had an operating PAYE payroll scheme on 28 February 2020.
- **Any UK organisation** can apply under the scheme, including charities, recruitment agencies and public authorities. However generally speaking where public sector organisations receive public funding and there is no interruption to that funding, the government expects employers to continue to pay staff in the normal way and not to apply for a grant for wages under the scheme.
- **Furloughed employees** must have been on the employer's payroll as at 28 February 2020 for the employer to be eligible to recover their wages under the scheme. Any employees who have been made redundant since 28 February will also be covered under the scheme if they are rehired by their employer.
- **How much can be claimed:**
  - The grant from HMRC will cover the lower of 80% of an employee's usual wage, or £2,500 per month, plus the associated employer's NI contributions and automatic enrolment employer pension contributions on the subsidised wage. Fees, commission and bonuses are not included, and the grant can be backdated to 1 March 2020.
  - If an employer chooses to top-up employees' salaries in addition to the grant, employer's NI contributions and automatic enrolment pension contributions on this top-up of salary will not be funded through the scheme. Similarly, any pension contributions provided by an employer above the minimum mandatory automatic enrolment contribution will not be funded.
  - For salaried employees, their gross salary as at 28 February 2020 should be used to calculate the 80%.

- For employees whose pay varies, the employer can claim for the higher of (1) the same month's earnings from the previous year or (2) the employee's average monthly earnings from the 2019-20 tax year. For employees who have been employed for less than a year, the employer can use an average of their monthly earnings since their employment commenced.

- **Employees must be furloughed** for a minimum of 3 weeks, but employers can place employees on furlough more than once, and one period can follow straight after an existing furlough period. At the moment the government has said that the scheme will be open for at least 3 months.
- **Whilst on furlough**, an employee cannot undertake work for their employer, but can volunteer and undertake training. If they are required to complete training whilst on furlough, they must be paid at least the National Minimum Wage or National Living Wage for the time they spend training.
- **Employees who are "shielding"** in line with guidance issued by Public Health England can be furloughed, but employees who are on sick leave or self-isolating (in line with PHE guidance) should receive Statutory Sick Pay (and company sick pay, if applicable) and can only be furloughed after their period of sickness absence or self-isolation has ceased.
- **Employees with more than one employer** can be furloughed for both jobs, in which case the cap on recovery of wages applies for each employer individually.
- **If an employee is on maternity pay, adoption pay, paternity pay or shared parental pay** then the normal rules will apply in relation to the amount of statutory pay they are eligible to receive. Any contractual (enhanced) pay offered by employers to their employees during these periods of family leave is included as a wage cost that can be claimed under the scheme.



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## More guidance

Whilst this guidance answers a number of queries about how the Coronavirus Job Retention Scheme will operate, we hope that further clarification will be issued on points such as whether the grant will be available in respect of any employee placed on furlough, or only in respect of those employees who would otherwise have been laid off without pay or made redundant.

The guidance is vague on this point, and whilst we understand the intention of the scheme is to support the salaries of those who would otherwise have been laid off or made redundant during the coronavirus crisis, the updated guidance does not set out clear eligibility criteria in relation to this.

The full [guidance for employers](#) is available and the full [guidance for employees](#).

ARAG works in partnership with Ashfords' solicitors, the content of this article was written by Ashfords' Employment Team.

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