

Young Harrow Foundation

HR and COVID-19: Coronavirus Job Retention Scheme

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CONTRACT

Introduction

- The who/what/when/how/why of the Coronavirus Job Retention Scheme
- Tricky issues

Coronavirus Job Retention Scheme

- Why?

- Government support package to assist employers in maintaining stability of their workforces during the coronavirus pandemic
- Retain employees on payroll without the need for redundancies

Coronavirus Job Retention Scheme

- Who?

-A furloughed worker is defined as an employee who has been instructed by the employer to **cease all work** in relation to their employment, who has or will have ceased all work for the employer for at **least 21 calendar days**, and where the instruction is given *“by reason of circumstances arising as a result of coronavirus or coronavirus disease”*.

Coronavirus Job Retention Scheme

- What?

- to provide for payments to be made to employers on a claim made in respect of them incurring costs of employment in respect of furloughed employees arising from the health, social and economic emergency in the United Kingdom resulting from coronavirus and coronavirus disease.

Coronavirus Job Retention Scheme

- When?

- Eligibility for employees on payroll on 19 March 2020 (note: required to have been in RTI on that date)
- Can re-engage employees who have been made redundant or have resigned, and furlough them
- Scheme ends 30 June 2020

Coronavirus Job Retention Scheme

- How?

- Normal legal obligations apply – equality and discrimination
- Must reach agreement with employee to furlough – changed working arrangements and reduced pay
- Evidence required for reimbursement from HMRC

*Direction “only if the employer and employee have **agreed in writing** (which may be in an electronic form such as an email) that the employee will cease all work in relation to their employment”.*

*Guidance: “There needs to be a written record, but the **employee does not have to provide a written response...**”*

Arguably agreement required, but latest Guidance suggests HMRC will only require confirmation of Furlough, not agreement.

Tricky issues

- Shifting sands - changes to Government guidance (six iterations) and Treasury Direction
- Calculating reference salary
- Interplay between furlough leave and other forms of leave
- Eligibility - 19 March cut-off
- Scope of prohibition on work for employer

Reference salary

- Fixed rate employees
- Variable pay employees

Holidays and leave

- Interplay with sick leave
 - Direction - furlough period will only start once the employee's eligibility for statutory sick pay (**SSP**) has ended
 - For those who become 'sick' after being placed on furlough, they could remain on furlough and sick leave simultaneously.
 - Interplay with annual leave
 - Employees may take annual holidays during furlough leave
 - Employees entitled to **normal pay** (i.e. top up to 100%)

Eligibility

- Employees must have been on payroll as at 19 March 2020 **AND** notified to HMRC on a real time information (**RTI**) submission on or before 19 March 2020
 - **NOTE: many employees who were not on February payroll will not be eligible due to this RTI requirement**

Scope of prohibition on work

- Employee **must not do any** productive work for the employer (requires some practicality)
- Can undertake volunteer work or training or upskilling

50+

Offices

415

Partners

3,800

Total staff

2,200

Legal professionals

1,800

Lawyers

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