



# Job Retention Scheme & Job Retention Bonus

## Update 16 November 2020



Chartered Accountants

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### **Job Retention Bonus**

In the policy paper issued on 5<sup>th</sup> November 2020 it was announced that this will not now be paid in February 2021 but instead a retention scheme will be deployed at the appropriate time.

### **Job Retention Scheme**

HMRC has now provided updated guidance in relation to the Scheme extension effective from 1<sup>st</sup> November 2020 which was issued on the 10<sup>th</sup> November and further updated late evening on the 13<sup>th</sup> November 2020 and is now contained in 12 separate documents, the links to which are included below. If you wish to make a claim, you should read the guidance in detail to ensure your particular circumstances are covered and you have complied with the requirements in order to make a successful claim.

### **Old Scheme up to 31 October 2020**

30 November 2020 is the last day employers can submit or change claims for periods ending on or before 31 October 2020.

### **New Scheme from 1 November 2020 to 31 March 2021**

Much of the scheme remains as per the old JRS but relevant points which we think you should be aware of are:

#### **Names of Employers to be published**

HMRC intends to issue a list of employers' names who are using the scheme and the approximate value of their claims. Further detail on how HMRC will give an approximate detail of the claim are to be made available in late November.

HMRC will not publish details of employers claiming through the scheme if you can show that publicising these would result in a serious risk of violence or intimidation to certain individuals, or any individual living with them.

#### **The New Scheme in outline**

Up until 31 December 2020 the new Scheme will revert in effect to mirror the August JRS whereby employers can furlough eligible employees for any amount of time and on any work pattern, and can claim a grant of 80 per cent of an employee's usual salary for any hours not worked (up to a maximum of £2,500 per month) with employers being responsible for payment of employers NI and Employers pension contributions. The Government has advised this will be reviewed in January 2021.

You can claim for employees who were employed on 30 October 2020, as long as you have made a PAYE RTI submission to HMRC between the 20 March 2020 and 30 October 2020, notifying a payment of earnings for that employee. This may differ where you have made employees redundant, or they stopped working for you on or after 23 September 2020 and you have subsequently re-employed them.

## Reference Pay

There will be two categories of employees.

Those who were on an RTI submission before 19 March 2020 even if they were not furloughed during the previous JRS scheme. For these employees the reference pay will be calculated based on the old JRS rules.

For those who could not have qualified for JRS under the old scheme their reference pay will be based upon last pay period ending before 30 October 2020.

This could mean that for two staff working on minimum wage, one JRS claim might be calculated based upon the minimum wage that was in force at February 2020 and another might be calculated based upon the minimum wage in force at 30 September 2020.

## What work can be carried out during furlough or flexible furlough

As with the previous scheme, employees cannot work during any hours when they are on furlough (though they can take part in training or work/volunteer for another employer). However, flexible furlough – where an employee works some hours and is furloughed for the rest – will be possible. Employers will remain responsible for paying wages in full for any hours worked if an employee is flexibly furloughed. The 80 per cent rule will apply to the rest of the employee's normal working hours.

## Retrospective furlough agreements and Written Agreements

Furlough agreements can be backdated to 1 November 2020 (to ensure a seamless transition from the end of the previous JRS), but only if they are in put in place by 13 November 2020. This will require written confirmation from the employer by this date in accordance with the usual conditions of the scheme. **In the absence of this, employers will not be able to claim a grant for this period.**

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 have confirmed to their employee (or reached collective agreement with a trade union) in writing that they have been furloughed. You must:

- make sure that the agreement is consistent with employment, equality and discrimination laws
- keep a written record of the agreement for five years
- keep records of how many hours your employees work and the number of hours they are furloughed (i.e. not working)

The employee does not have to provide a written response and you do not need to place all your employees on furlough.

## Notice Periods

In November, employers can still claim a grant for furloughed employees who are serving a statutory notice period.

For claim periods starting on or after 1 December 2020, you cannot claim for any days on or after 1 December 2020 during which the furloughed employee was serving a contractual or statutory notice period for the employer.

This change does not prevent employers from making employees redundant, and a grant can still be claimed during a redundancy consultation process. However, no grant can be claimed once that redundancy is confirmed and notice is served.

## Limit on number of employees

From July to October 2020 there was a limit on the maximum number of employees you could claim for, in any single claim period. This limit has been removed, and from 1 November 2020 there is no maximum number of employees for which employers can claim.

## Holiday Pay

Employees can take holiday whilst on furlough. If an employee is flexibly furloughed, then any hours taken as holiday during the claim period should be counted as furloughed hours rather than working hours.

Employees should not be placed on furlough for a period simply because they are on holiday for that period. Working Time Regulations (WTR) require holiday pay to be paid at the employee's normal rate of pay or, where the rate of pay varies, calculated on the basis of the average pay received by the employee in the last 52 working weeks (twelve weeks in Northern Ireland). Therefore, if a furloughed employee takes holiday, the employer should pay their usual holiday pay in accordance with the Working Time Regulations.

Employers will be obliged to pay employees who are on holiday additional amounts over the grant received.

## Submitting a claim

Claims for furlough days in November 2020 must be submitted by 14 December 2020

## The Guidance

Links to the detailed guidance are below

1. **Check if you can claim** covers key dates, furlough agreements and what employees can do while on furlough. <https://www.gov.uk/guidance/claim-for-wage-costs-through-the-coronavirus-job-retention-scheme>
2. **Check which employees you can put on furlough** details the groups of employees who are eligible under the JRS, including those on family leave or those who have been made redundant after 23 September and so are eligible to be rehired. <https://www.gov.uk/guidance/check-which-employees-you-can-put-on-furlough-to-use-the-coronavirus-job-retention-scheme>
3. **Other types of employees you can claim for** – covers individuals who are not employees but who can still be furloughed as long as they are paid via PAYE.

<https://www.gov.uk/government/publications/individuals-you-can-claim-for-who-are-not-employees>

4. **Steps to take before calculating claims** – contains details on deciding on the length of a claim period and working out what to include when calculating an employee’s wages and usual hours. <https://www.gov.uk/guidance/steps-to-take-before-calculating-your-claim-using-the-coronavirus-job-retention-scheme>
5. **Calculate how much you can claim** – includes a calculator to help you work out how much you can claim. Note that the pay reference period may vary for different employees depending on whether they have previously been furloughed or not. <https://www.gov.uk/guidance/calculate-how-much-you-can-claim-using-the-coronavirus-job-retention-scheme>
6. **Claim for wages** <https://www.gov.uk/guidance/claim-for-wages-through-the-coronavirus-job-retention-scheme>
7. **Examples of how to calculate wages** <https://www.gov.uk/government/publications/find-examples-to-help-you-work-out-80-of-your-employees-wages/examples-of-how-to-work-out-80-of-your-employees-wages-national-insurance-contributions-and-pension-contributions>
8. **Reporting employees' wages to HMRC** using HMRC’s PAYE Real Time Information system. <https://www.gov.uk/guidance/reporting-payments-in-payee-real-time-information-from-the-coronavirus-job-retention-scheme>
9. **Full examples of calculating what you should claim** <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>
10. **Paying JRS grants back** if you have overclaimed or do not need the grant and want to make a voluntary repayment. <https://www.gov.uk/guidance/pay-coronavirus-job-retention-scheme-grants-back>
11. **Holiday entitlement and pay** <https://www.gov.uk/guidance/holiday-entitlement-and-pay-during-coronavirus-covid-19>
12. **Employee guidance – check if your employer can claim** <https://www.gov.uk/guidance/check-if-you-could-be-covered-by-the-coronavirus-job-retention-scheme>

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