

Expert Advice

for Life Sciences Companies on
Government Job Retention Schemes

Live Q&A with Panel of Legal Experts



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How the Government Job Retention Scheme can Help Life Sciences Companies and Employees

23rd April 2020



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- The CJRS is a temporary and targeted set of measures to support the employees of all businesses due to the disruption caused by COVID-19
- Originally stated to be in place until 31 May 2020 – now extended until **30 June 2020**
- Guidance originally published on 26 March and has been updated on 4, 9, 15 and 17 April 2020
- The intention of the CJRS is to provide support to enable employers to continue paying part of their employees' salary for those employees that would otherwise have been laid off. These employees will be on "furlough"
- The CJRS does not override existing employment law – **consent** to "furlough" employees will be required – employees remain employed but do not provide services
- Consent best evidenced in writing – keep a record for 5 years
- Employees can be on any type of employment contract, including full-time, part-time, flexible or zero-hour contracts

- Able to reclaim the **lower gross amount** of (a) up to 80% of basic wage costs and (b) £2,500
- Also included is employer National Insurance Contributions and minimum auto-enrolment employer pension contributions on the level of "furloughed" pay
- Discretion to "top up" but no obligation
- Able to claim for any regular payments you are obliged to pay to employees. This includes wages, overtime, fees and compulsory commission payments. It excludes discretionary and bonus and commission payments
- Furlough pay for those with **irregular earnings** can be based on a previous earnings average. For employees who have been employed for a full 12 months prior to the claim, the amount is the highest of:
 - the same month's earning from 2019; or
 - average monthly earnings from the 2019-20 tax year.

For employees who have been employed for less than 12 months, the 80% is based on an average of actual monthly earnings since the employee's start date. If an employee only started part way during February or March, a pro-rata calculation would need to be based on the earnings so far.

- Pay to employees whilst furloughed is treated as regular salary:
 - must be processed via PAYE for payroll as normal;
 - RTI applies as normal (reporting on or before date of payment);
 - deductions for income tax and employee national insurance apply; and
 - employer's national insurance (and the apprenticeship levy, if relevant) apply,

- The grant is taxable income for the employer,
 - but pay employee costs (including pay to furloughed employees) will be tax deductible as normal.

- Some employers will have already made payments to furloughed employees – no additional PAYE submissions are required when the grant is received.

- Only available to UK employers and employees on PAYE payroll on or before 19 March 2020 and which were notified to HMRC on an RTI submission on or before 19 March 2020. This means an RTI submission notifying payment must have been made on or before 19 March 2020
- **No work** whatsoever can be done during the period of "furlough" – employees cannot (a) generate revenue or (b) provide services
- Minimum period of "furlough" of **three consecutive weeks**. You cannot claim for a "furlough" period of less than three weeks. Rotation of employees on "furlough" is possible, provided the minimum period is met
- Arrangements should be put in place to evidence "furlough" (out of office and email redirection)
- Employees on furlough are still able to do **volunteer work** (for example, pharmacy drops, neighbourhood support) and **training** in connection with their employment, provided this training does not provide services or generate revenue.
- Where training is undertaken, employees are entitled to be paid **National Minimum Wage** ("NMW"). The furlough subsidy will usually be enough to cover NMW. However, employers are required to meet the NMW entitlement in excess of the "furloughed" amount

- Portal went live on 20 April 2020
- Visit this link - <https://www.gov.uk/guidance/claim-for-wages-through-the-coronavirus-job-retention-scheme>
- Can only make an application once every three weeks
- Claims can be backdated to 1 March 2020 in relation to employees who have already been furloughed. Grant only available from when an employee ceased work and started furlough
- Reference number is provided once claim has been made – expect to receive payments within **six days** of making the claim
- **Required information** for applications – registered for [PAYE online](#) , UK bank account number and sort code, employer PAYE scheme reference number, the number of employees being furloughed, each employee's National Insurance number, each employee's payroll or employee number the start date and end date of the claim, the full amount you're claiming for including employer National Insurance contributions and employer minimum pension contributions, your phone number, contact name

Online claim system

- Some practical points on the system:
 - no “save and return” option – employer (or agent) must complete the claim in one go;
 - may “time out” if 30 minutes of inactivity;
 - no possibility to correct, amend or re-submit completed claims;
 - less than 100 employees – complete in the system; and
 - more than 100 employees – completed in a spreadsheet, with additional details.

HMRC checks

- HMRC will conduct initial “red flag” checks when processing the payment.
- Further checks or audits may be conducted by HMRC in the future.
- Vital to retain documentation, including:
 - full details of calculations; and
 - copies of employee consent and notification.

- Employees can be furloughed and on holiday at the same time. Payment for statutory annual leave should be paid at the employee's usual holiday pay rate – this will therefore require a **top up** which cannot be reclaimed under the furlough scheme
- Employer retains discretion as to when holiday can be taken
- Position between sick leave and furlough currently remains unclear
- Most recent Government guidance provides that sick employees can be furloughed. This is inconsistent with the Treasury Direction which provides that it is not possible to put employees on furlough until a period of statutory sick pay has ended

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Expert Advice

for Life Sciences Companies on

Ensuring best use of the financial & tax
measures introduced to help during **COVID-19**

Live Q&A with Panel of Finance & Tax Experts



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<https://www.eventbrite.co.uk/e/best-use-of-covid-19-financial-tax-support-measures-expert-advice-qa-tickets-103270926120>