

Furlough – noun – a leave of absence

Recruiters and the Coronavirus Job Retention Scheme

The Chancellor announced his unprecedented job retention scheme on Friday 20th March 2020 and after much anticipation the Employer Guidance was published on 26th March 2020:

1. Recruitment agencies and agency workers paid through PAYE are specifically stated to be eligible to apply provided that they had created and started a PAYE payroll scheme on or before 28th February 2020 and have a UK bank account.
2. Furloughed employees must have been on your PAYE payroll on 28 February 2020.
3. Employees hired after 28 February 2020 cannot be furloughed or included in the Scheme for a grant payment.
4. Employees can be on any type of contract including full time, part time, agency contracts, flexible or zero hour contracts.
5. You should discuss with staff any proposed changes and make changes by agreement. When making decisions in relation to the Scheme equality and discrimination laws will apply in the usual way and collective consultation processes may apply depending on the numbers and circumstances.
6. To be eligible for the subsidy payment an employee cannot undertake work for or on behalf of the company. This includes providing services or generating income.
7. If an employee is working but on reduced hours, or for reduced pay, they will not be eligible for the Job Retention Scheme.
8. If an employee carries out any work during the furloughed period then they are entitled to receive pay subject to their terms of the employment contract.
9. If an employee is required to do any work whilst furloughed, including for example online training courses then you need to ensure that they have received NMW/NLW for the time that they are "working".
10. An employee can volunteer or participate in training provided that they do not provide services or generate revenue for, or on behalf of your company.

11. Shielding employees can be placed on furlough but employees who are sick or self isolating should receive SSP but can be furloughed after this.
12. If the employee has more than one employer each employer can be treated separately and the cap applies to each employer.
13. Furlough must last a minimum of three weeks and claims are processed on this basis.
14. The grant that will be paid in respect of furloughed employees will be the lower of 80% of their regular wage or £2,500 per month, plus the associated Employer National Insurance contributions and minimum automatic auto enrolment employer pension contributions on the wage paid.
15. You can top up salary but you don't have to.
16. For employees with fixed wages then the actual salary before tax, as at 28 February 2020 should be used to calculate the 80%. Fees, commission and bonuses should not be included.
17. For employees whose pay varies then if they have been employed for a full 12 months prior to the claim, you can claim the higher of either:
 - a. The same month's earning from the previous year
 - b. Average monthly earnings from the 2019-20 tax year
18. For employees whose pay varies and they have been employed for less than a year, you can claim for an average of their monthly earnings since they started work.
19. The grant that can be claimed covers the wages equal to the lower of 80% of an employee's regular salary or £2,500 per month, plus the associated Employer National Insurance contributions and minimum automatic employer pension contributions on paying those wages. More information on the calculation is to follow.
20. You must pay the employee all the grant you receive for their gross pay and no fees can be charged from the money that is granted.
21. At the end of the scheme you must make a decision about whether the employee can return or make them redundant.

What do you need to do:

- ***Identify who you need to furlough*** Decide how many people you need to furlough and who they are, remembering to abide by collective consultation requirements and make sure that you don't breach equality and discrimination laws in choosing who you decide to furlough.

- *Decide whether you will pay 80% of pay or whether you intend to top it up*
- *Identify whether you will need to access the interest free business interruption loan to fund the wages until the grant is paid*
- *Discuss with the employees affected and agree to any changes in their contracts of employment*
- *Write to the employees confirming that they have been furloughed and keep a record of this.*
- *Calculate pay and pay wages*
- *Make claim every 3 weeks' for grant payment*
- *At the end of the scheme decide whether employees are still required and if not then ensure fair termination of their employment*

For assistance please call the **Brabners Covid-19 helpline on 03330 433230** or contact me directly for further help and assistance.



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