

Coronavirus employment law update: Job Retention Scheme further extended, Job Retention Bonus dropped

[THIS IS AN UPDATE TO OUR PREVIOUS BULLETIN]

As expected, England is back in a nationwide lockdown until at least 2 December 2020. Yesterday's surprise was that the Coronavirus Job Retention Scheme ("CJRS"), more commonly known as the furlough scheme, has been further extended and shall continue until 31 March 2021. The Government has also confirmed that the new Coronavirus Job Support Scheme and associated Job Retention Bonus, which had originally been intended to replace CJRS, shall be postponed indefinitely.

The finer details of this latest version of CJRS are yet to be announced (with guidance expected next week), but in essence it is expected to mirror what was available in late summer:

1. For all hours spent on furlough, the Government will pay 80% of the employee's normal earnings, capped at £2,500 (i.e. the employer pays 100% for the time spent working, and the Government will pay 80% for any time spent on furlough that would usually be spent working otherwise).
2. Employers can choose to top up above the 80%/£2,500 if they wish, and in any case the employer will need to pay NICs and pension contributions regardless.
3. All employees that were on the payroll as at 30 October 2020 are eligible, and employees who were made redundant or stopped working after 23 September 2020 can be re-employed and claimed for.
4. There is a distinction between employees that have/have not previously been furloughed:
 - a. Staff who have previously been furloughed should be paid at the rate they were under the previous furlough rules, i.e. it's expected that their reference salary should be their March 2020 salary; whereas
 - b. For staff (on fixed wages) who have not previously been furloughed, it's expected that their reference salary should be their October payroll salary.
5. Normal employment law principles continue to apply otherwise (e.g. discrimination and the normal rules relating to changing terms of employment).
6. A written agreement placing staff on furlough must be in place, and retrospective agreements will not be accepted after 13 November 2020.
7. Employers must pay staff up front and claim payments under CJRS in arrears, using the CJRS portal – the first claims may be made from 11 November 2020, and claims in respect of each month must be submitted no later than the 14th of the next month (i.e. claims for November must be made by 14 December).
8. The scheme will be reviewed in January 2021, to assess whether employers should begin contributing more (as was the case with CJRS through this autumn).

As before, the devil shall of course be in the detail – while the Government has stated that the methodology shall be "broadly the same" as before, employers can expect changes to be made from the summer's rules and it would be sensible to keep a close eye on official guidance and regulations from the Government and HMRC as they are published.

If you have any queries relating to CJRS or any other employment matters, please get in contact with our employment specialist, [Alex Brooks](#).

This note has been prepared on 6 November 2020. Given the live and rapidly evolving nature of events, we will provide further updates in due course.