

## **Coronavirus employment law update: Job Retention Scheme extended, Job Support Scheme placed on ice**

As was widely reported over this weekend, England is almost certain to be placed back into a nationwide lockdown from Thursday of this week. As a result, the Government has decided that the Coronavirus Job Retention Scheme ("CJRS"), more commonly known as the furlough scheme, would not end on 31 October as originally planned and shall instead continue in a more generous guise than what had been available during the past two months. The Government has also indicated that the new Coronavirus Job Support Scheme, which had originally been intended to replace CJRS from 1 November, shall be postponed and is still expected to come into force in due course, most likely once the national lockdown has been lifted.

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

- Employees can be placed on 'flexible furlough', i.e. they can work some of their usual hours and be placed on furlough for the remainder – this would need to be done by way of agreement, as before
- 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% pay for any time spent on furlough that would usually be spent working otherwise)
- 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
- All employees that were on the payroll as at 30 October 2020 are eligible
- Normal employment law principles continue to apply otherwise (e.g. discrimination and the normal rules relating to changing terms of employment)
- Employers must pay staff up front and claim payments under CJRS in arrears, using the CJRS portal

As before, the devil shall of course be in the detail as to things like how reference hours and reference salary should be calculated, for the purposes of determining an employee's 'normal working hours' and 'normal pay' for CJRS purposes. In this respect, the Government has stated that the methodology shall be "broadly the same" as before, so employers should expect some 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 questions or concerns regarding these matters, please feel free to get in touch with our employment law specialist at Onside Law, [Alex Brooks](#).

*This note has been prepared on 3 November 2020. Given the live and rapidly evolving nature of events, we will provide further updates in due course.*