

Coronavirus Job Retention Scheme

5 November 2020

Extension of the furlough scheme until the end of March 2021

On 31 October, the government announced that it would extend the Coronavirus Job Retention Scheme aka “the furlough scheme” until the end of November. This extension was to reflect the second national lockdown which will remain in force until 2 December - the REC updated the Covid Hub to explain the [rules around the lockdown](#).

This afternoon the Chancellor announced that the government would in fact **extend the scheme until the end of March 2021**. Again, he confirmed that the scheme will pay up to 80% of a person's wage up to £2,500 a month for hours not worked whilst employers will pay employers' national insurance and pensions contributions on hours not worked.

In his announcement, the Chancellor reiterated that the furlough scheme applies across the whole of the UK – this was to address complaints from Scotland and Wales that the furlough scheme was extended only when England was in lockdown.

HMRC have published a [JRS extension policy paper](#) and we expect more detailed guidance next week.

Meanwhile you can find the full text of that paper from page 3 but here are **some key points**:

- Employers do not need to have used the CJRS previously.
- Employees do **not** need to have been furloughed under the CJRS previously. There are different calculations for those previously furloughed and those newly furloughed.
- Employers can re-employ and claim for employees that were employed and on the payroll on 23 September 2020 but have since been made redundant or stopped working for their employer. The employer must have made a PAYE Real Time Information (RTI) submission to HMRC from 20 March 2020 to 23 September 2020 for those employees.
- An employee who was on a fixed term contract, on payroll on 23 September, and that contract expired after 23 September can also be re-employed and claimed for, provided that the other eligibility criteria are met.
- Employer contributions during the CJRS extension until January will be the same as in August 2020. This means that for hours not worked by their employee, employers will only be asked to cover National Insurance and employer pension contributions. **The government will review the policy in January to decide whether economic circumstances are improving enough to ask employers to contribute more.**
- Employers will have to pay the employee's wages for the hours they work as normal, as well as employer National Insurance and employer pension contributions.

- **Job retention bonus** – the Chancellor added that the need for the job retention bonus to keep people in work until the end of January has now fallen away so this has been delayed. They will look at a retention incentive later.

Separately, the **Self-Employed Income Support Grant** for the period November to January will increase to 80% of average profits up to £7500.

See here for more information on the [national lockdown restrictions](#) and specific information on [extremely clinically vulnerable persons](#).

Text of HMRC CJRS Policy paper

1 Extension of the Coronavirus Job Retention Scheme

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This publication is available at <https://www.gov.uk/government/publications/extension-to-the-coronavirus-job-retention-scheme/extension-of-the-coronavirus-job-retention-scheme>

This policy paper applies for CJRS claims for the period starting on or after 1 November 2020 to 31 January 2021. Full guidance for the CJRS extension will be published on 10 November. The guidance for claim periods from February onwards will be published following the government's review.

The government is extending the CJRS to support individuals and businesses who are impacted by disruption caused by coronavirus (COVID-19) this winter. This is an extension of the CJRS and the scheme rules will remain the same except where we say otherwise.

The CJRS (also known as the furlough scheme) will remain open until 31 March 2021. For claim periods running to January 2021, employees will receive 80% of their usual salary for hours not worked, up to a maximum of £2,500 per month. The £2,500 cap is proportional to the hours not worked.

The government will review the policy in January to decide whether economic circumstances are improving enough to ask employers to contribute more.

Claims can be made by employers across the UK that meet the eligibility criteria.

This policy paper sets out updated details on:

- eligibility criteria for employers and employees
- what employers will need in order to claim
- updated information on reference data to calculate those claims

1. Employers who can claim under the CJRS extension

Employers do not need to have used the CJRS previously.

Employers across the UK can claim, whether their businesses are open or closed.

The government expects that publicly funded organisations will not use the scheme, as has already been the case for CJRS, but partially publicly funded organisations may be eligible where their private revenues have been disrupted. All other previous CJRS eligibility requirements also apply to these employers.

HMRC will publish details of employers who make claims under the extended CJRS scheme, starting from December. Full details will be included in full guidance which will be published on 10 November 2020.

2. Employees furloughed under the CJRS extension

2.1 Core employee eligibility criteria

Employers can claim for employees who were employed and on their PAYE payroll on 30 October 2020. The employer must have made a PAYE Real Time Information (RTI) submission to HMRC between the 20 March 2020 and 30 October 2020, notifying a payment of earnings for that employee.

Employers will have flexibility to use the scheme for employees for any amount of time or shift pattern, furloughing employees on either a full-time or part-time basis, and will be able to vary the hours worked in agreement with the employee.

As under the current CJRS rules, employees can be on any type of employment contract.

2.2 Employees not claimed for previously under CJRS

Employees do not need to have been furloughed under the CJRS previously.

For employees that meet the eligibility criteria, and were previously furloughed, employers must use the same calculations for calculating reference pay and usual hours as CJRS.

For an employee who meets the criteria of the extended scheme but was not previously eligible for CJRS, the alternative calculations of reference pay and usual hours must be used. For all other employees, employers must use the CJRS calculations for calculating reference pay and usual hours.

Employer contributions during the CJRS extension until January will be the same as in August 2020. This means that for hours not worked by their employee, employers will only be asked to cover National Insurance and employer pension contributions. The government will review the policy in January to decide whether economic circumstances are improving enough to ask employers to contribute more.

Employers will have to pay the employee's wages for the hours they work as normal, as well as employer National Insurance and employer pension contributions.

2.3 Employees whose health has been affected by coronavirus or other conditions

Employees can be furloughed where they are unable to work because they:

- are shielding in line with public health guidance (or need to stay at home with someone who is shielding)
- have caring responsibilities resulting from coronavirus, including employees that need to look after children

The CJRS is not intended for short-term sick absences. If, however, employers want to furlough employees for business reasons and they are currently off sick, they are eligible to do so, as with other employees.

Furloughed employees who become ill, due to coronavirus or any other cause, must be paid at least Statutory Sick Pay (SSP). As under the CJRS previously, it is up to employers to decide whether to move these employees onto SSP or to keep them on furlough, at their furloughed rate.

2.4 Employees re-employed by their employer

Employees that were employed and on the payroll on 23 September 2020 who were made redundant or stopped working for their employer afterwards can be re-employed and claimed for. The employer must have made a PAYE Real Time Information (RTI) submission to HMRC from 20 March 2020 to 23 September 2020, notifying a payment of earnings for those employees.

Similarly, an employee who was on a fixed term contract, on payroll on 23 September, and that contract expired after 23 September can be re-employed and claimed for, provided that the other eligibility criteria are met.

2.5 When employees are on furlough

As under the CJRS previously, during hours which employees are recorded as being on furlough, they cannot do any work for their employer that makes money or provides services for their employer or any organisation linked or associated with their employer.

Employees can:

- take part in training
- volunteer for another employer or organisation
- work for another employer (if contractually allowed)

2.6 Maintaining employee rights

Employees will retain their rights at work, including:

- SSP
- annual leave
- maternity and other parental rights
- rights against unfair dismissal
- redundancy payments
- to be paid at least statutory National Minimum Wage for hours worked

In addition, as with the current CJRS:

- the Working Tax Credits working hours easement will apply for the period of this CJRS extension
- for employees on statutory parental leave, there will be no change from CJRS

3. Other conditions of claiming CJRS

3.1 Paying employees' taxes

Employees will still pay the taxes they normally pay out of their wages.

Employers must deduct and pay to HMRC Income Tax and employee National Insurance contributions on the full amount that they pay the employee, including any scheme grant. The CJRS grant does not cover employers' National Insurance contributions or pension contributions.

Employers must also pay to HMRC the employer National Insurance contributions on the full amount that they pay the employee, including any scheme grant.

3.2 Employer – employee agreement

Employers do not need to place all of their employees on furlough and they can fully furlough employees if they wish. Employees cannot undertake any work for their employer during the hours that the employer records them as being on furlough.

There is no minimum furlough period. Flexible furlough agreements can last any amount of time. Employees can enter into a flexible furlough agreement more than once.

Although flexible furlough agreements can last any amount of time, unless otherwise specified the period claimed for must be for a minimum claim period of 7 consecutive calendar days.

Employers can:

- fully furlough employees – this means the employee does no work for the employer
- flexibly furlough employees – this means employees can work for any amount of time, and any work pattern and claim the grant for the furloughed hours, with reference to hours the employee would usually have worked in that 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 CJRS process, including deciding who to offer furlough to, employment, 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 or flexibly furloughed.

Employers must:

- make sure that the agreement is consistent with employment, equality and discrimination laws
- keep a written record of the agreement for 5 years
- keep records of how many hours their employees work and the number of hours they are furloughed (for example, not working), for 6 years

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

The terms of any agreement must:

- reflect the hours the employee has actually worked or not worked over the period of the agreement
- allow the employer to satisfy the terms of CJRS so they can make a claim in relation to hours not worked

Where consistent with employment law, any flexible furlough or furlough agreement made retrospectively that has effect from 1 November 2020 will be valid for the purposes of a CJRS claim as long as it is made according to the conditions above. Only retrospective agreements put in place up to and including the 13 November 2020 may be relied on for the purposes of a CJRS claim.

4. What employers can claim - calculations

This policy paper applies for CJRS claims for periods starting on or after 1 November 2020.

The closing date for claims up to and including 31 October remains 30 November 2020, using existing CJRS guidance.

All employees on an RTI submission on or before 19 March 2020 will be able to use the CJRS calculations as applied in August 2020 for reference pay and usual hours. However, for new employers claiming and new employees hired between 20 March 2020 and 30 October 2020 the CJRS methodology will update the reference pay and usual hours to take account of the period covered by the extension.

For employees on fixed pay employed on or after 20 March 2020, the last pay period prior to 30 October 2020 provides the basis for calculation. For employees on variable pay or hours, employed after 20 March, the average of tax year 2020 to 2021 up to the start of the furlough provides the basis for calculation.

4.1 For employees who were previously eligible for CJRS, the calculation rules will remain the same

The existing CJRS calculation of 80% of usual wages and of usual hours will apply to all employees who were eligible under CJRS even if a claim was not made in respect of that employee under CJRS to 31 October 2020.

Where an employee was not previously eligible for CJRS, the calculation will take account of updated reference periods. Full details of the calculation will be shared in guidance on 10 November 2020.

For claims between 1 November 2020 and 31 January 2021 employers will be able to claim a grant for 80% of usual wages up to a maximum government grant of £2,500 per month per employee for the time the employee spends on furlough. The £2,500 cap is proportional to the hours not worked.

The government will cover the cost of 80% of the salary of every eligible employee, up to a maximum government grant of £2,500 per month per employee for the time the employee spends on furlough.

Employers will need to:

- pay their employees for the time worked and the government grant for the time not worked;
- operate PAYE on behalf of their employees, as per CJRS
- pay employer National Insurance contributions and pension contributions for their employees on the full amount that they pay the employee, including any scheme grant

Employers will not be:

- required to contribute towards 80% of the employees' usual wages for the hours not worked
- able to claim for employer National Insurance contributions or pension contributions

Employers can top up employee wages above the maximum salary threshold at their own expense.

4.2 Reference pay: calculating 80% of wages

If an employee was not previously eligible for CJRS, 80% of wages must be calculated for employees:

- on a fixed salary - 80% of the wages payable in the last pay period ending on or before 30 October 2020
- whose pay varies - 80% of the average payable between (these dates are inclusive) the start date of their employment or 6 April 2020 (whichever is later) and the day before their CJRS extension furlough periods begins

80% of wages is capped at the maximum wage amount which will be calculated in the way it was for CJRS before the extension

4.3 Usual hours for an employee who is contracted for a fixed number of hours and whose pay does not vary according to the number of hours they work

If an employee was not previously eligible for CJRS, then usual hours for an employee who is contracted for a fixed number of hours and whose pay does not vary according to the number of hours they work, will be the contracted hours worked in the last pay period ending on or before 30 October 2020.

4.4 Usual hours for an employee who works variable hours

If an employee was not eligible for CJRS then the usual hours will be the average hours worked between (these dates are inclusive):

- the start date of the 2020 to 2021 tax year, (for example, 6 April 2020)
- the day before their CJRS extension furlough periods begins

Example

Working out usual hours for an employee not previously eligible for CJRS

Sam has been employed by A Ltd since April 2020. A Ltd was not eligible to claim a CJRS grant for Sam. Sam is paid weekly. Sam has always been contracted to work a fixed number of hours per week (30 hours), and their pay does not vary according to the number of hours they work.

For the claim period 16 November 2020 to 22 November 2020, Sam's usual hours will be 30 hours, being the number of hours Sam was contracted for on 25 October 2020, the end of the last pay period ending before 30 October.

5. How employers can claim under the CJRS extension

The extended CJRS will operate as the previous scheme did, in several respects:

- employers must report and claim for a minimum period of 7 consecutive calendar days
- employers will need to report actual hours worked and the usual hours an employee would be expected to work in a claim period
- for hours worked, employees will be paid by their employer subject to their employment contract and employers will be responsible for paying the tax and NICs due on those amounts

The claim period must start and end within the same calendar month. If the pay period includes days in more than one month. Each of those claims will need to be calculated separately. Claim periods cannot overlap, and employees claimed for will need to be included in each separate claim made.

An employer can make a claim in anticipation of an imminent payroll run, at the point they run their payroll or after they have run their payroll. There will be a short period when the legal terms of the scheme and system are updated. Businesses will need to claim in arrears for this period. There will be no gap in eligibility of support between the previously announced end-date of CJRS on 31 October 2020 and this extension starting 1 November 2020.

Employers will be able to claim from 8am on Wednesday 11 November 2020. Claims can be made:

- in respect of an employee for a minimum 7 day claim window
- in advance
- in arrears for the period from 1 November 2020 to 11 November 2020, from the week commencing 9 November 2020

Claims relating to November 2020 must be made by 14 December 2020. Claims relating to each subsequent month should be submitted by day 14 of the following month, to ensure prompt claims following the end of the month which is the subject of the claim. The closing date for claims up to and including 31 October remains 30 November 2020.

Grants payments are anticipated 6 working days after the first claims.

Agents who are authorised to do PAYE online for employers will be able to claim on their behalf.

Claims can be made from 8am Wednesday 11 November 2020.

Full guidance will include further detail on how to claim and will be published on 10 November 2020.

[6. Interaction with other Coronavirus Job Schemes](#)

The launch of the Job Support Scheme has been postponed because of national developments related to the coronavirus pandemic.

The Job Retention Bonus (JRB) will not be paid in February 2021 and a retention incentive will be deployed at the appropriate time. The purpose of the JRB was to encourage employers to keep people in work until the end of January. However, as the CJRS is now being extended to 31 March 2021, the policy intent of the JRB no longer applies.