

COVID-19 Government Financial Access

Furlough Leave

The Chancellor has announced a package of measures to help businesses; one of those is the Coronavirus Job Retention Scheme, part of which is the introduction of Furlough Leave. This note explains our understanding of the scheme based on the guidance currently available.

What is Furlough Leave?

Furlough Leave has been introduced as a specific job retention measure in response to the COVID-19 crisis. Furlough Leave is intended to protect employees who would otherwise have been made redundant (or laid-off) due to the Coronavirus outbreak, by preserving their employment whilst the Government pays a proportion of their salary (and potentially benefits, such as pension).

How do we place someone onto Furlough Leave?

In order to take advantage of Furlough Leave, employers must designate employees as furloughed workers (COVID-19). The effective test is "If the employer is unable to operate or do they have no work for the employee".

The Government also made changes last week re eligibility, extending Furlough Leave to cover those with caring obligations for relatives and children. In such circumstances, the employee should approach the employer and request consideration be given to them being put on Furlough, although it is not clear if such an approach must be accepted by the employer.

Employees should be notified about and consulted on the proposals, with a view to reaching agreement (in the absence of an express pre-existing contractual right – for which, see more below).

The employer should explain the reasons for Furlough Leave, their understanding of how the leave is intended to operate, and the likely consequences for employees should they refuse.

Can an employee work whilst on Furlough Leave?

The Government specify in their guidance to employees that in order to qualify for the scheme, they should not undertake work for their employer while furloughed. Furlough leave must be applied fairly and adherence to the Equality Act provisions is a prerequisite.

Furloughed employees are however, permitted to do training (online or home study) whilst they are furloughed, provided they are not making money for their employer or providing services to their employer.

Furloughed employees may continue to work for another employer.

How do I /we reclaim salaries for Furloughed status individuals?

The scheme is open to all UK employers that are on the employers PAYE payroll scheme running as at 28 February 2020.

The scheme is open to and includes full-time employees, part-time employees, employees on agency contracts and employees on flexible zero-hour contracts.

Once a business has designated an employee as a furloughed worker, they will be required to submit information to HMRC through an online portal.

This portal is scheduled to become live at end of April. However at this time there are limited details on how it will operate.

How do we process claims under the COVID -Job Retention Scheme?

HMRC will review the claim and if eligible, pay it via BACS payment to the company's UK bank account. Employers can reclaim, up to 80% of gross wage costs up to a maximum cap of £2,500 per month, plus (not including) the associated employer NICs and minimum auto-enrolment pension contributions on that wage. Contractual commission payments are included. Discretionary commission payments, bonuses are not included.

How do we calculate entitlement?

The employee's actual salary as of 28 February should be used to calculate the 80% Furlough Leave which must be taken in minimum blocks of three weeks to be eligible for funding. There is nothing in the guidance which prohibits rotating furlough leave amongst employees, *provided* each employee is off for a period of at least three weeks.

SSP due to sick leave or self-isolating overrides being on furlough. Employees are required to supply evidence of any period of sick and /or isolation claims to the Company. Employees may be re-furloughed after illness or return to work if possible.

What else do we need to know?

Furloughed earnings are subject to Income Tax, National Insurance, and Pension contributions (if applicable) in the normal way.

Redundancies after 28 February 2020 can be negated if the employee is re-hired.

Company Directors can be furloughed. However, they are permitted to attend to statutory duties. Board minutes and resolutions must be kept recording Furlough Leave of a director. And in any event Furlough Leave must be clarified in writing and be retained for 5 years and annual leave continues to accrue whilst the employee is furloughed.

What if we don't have a big HR team who can help ?

At GreenKite we have put together a basic Furlough Toolkit for our clients aimed at supporting them with reaching, recommending and recording the decision to put employees on Furlough Leave. This pack is available from enquiries@greenkite.com for £195 plus VAT.

Our Head of Practice & HR Team – Paul Leach Chartered FCIPD, an experienced HR & OD Director, is already working alongside a number of organisations both large and small helping

them to continue operating through COVID 19. We are also able to help manage your process and support you, your business and your people at this unpredictable time at a reduced rate of £120 plus VAT per hour, which we can charge in 15 minutes blocks. Please contact us for further support at enquiries@greenkite.com