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## Coronavirus Job Retention Scheme (CJRS) Update 9 April 2020

### **Claiming the CJRS payment from HMRC in respect of Furloughed workers**

HMRC announced that the software to run the system entered Beta trials yesterday and they expect to have the system ready to accept claims by 20 April 2020.

Employers will claim directly from HMRC. This is likely to be available through their Government Gateway. It is hoped that accountants and payroll bureaus will, in some circumstances, be able to make the claim on behalf of clients, but this cannot be guaranteed so to avoid delays **we strongly recommend that all businesses immediately** make sure they have set up their Government Gateway account for their organisation and add PAYE as one of the services associated with that account. Registration can take 10 days so **please deal with this now**.

Click here: [HMRC Log-in](#) then click the **Sign in** button to either log in to your existing account or open a new account. If opening a new account, follow the link on the 2<sup>nd</sup> page to [Create sign in details](#). Use the business name and make sure you designate your new account as an organisation when asked, then add your PAYE details. You will need your:

- PAYE reference number (including the 3-character tax office number at the beginning)
- Accounts office number

Please have your business UTR to hand and Companies and LLPs should also have a note of their Companies House registration number.

### **Rules on Furloughing Staff**

For the employer to be eligible for the grant, a staff member must be furloughed for a minimum of 3 weeks at some point between 1 March and 31 May 2020. When on furlough, an employee can undertake work related training but cannot undertake work for, or on behalf, of the organisation. This includes providing services to or generating revenue for the employer. The employee may undertake voluntary work or, subject to the employment contract, undertake other paid employment for an organisation unrelated to the normal employer or even continue or start a self-employment as well as receiving the furlough payment. Employees who work for two or more unrelated employers can receive the furlough payment from each employment.

Please make sure you document the exact date from which each employee is furloughed, ideally with a letter or email.

### **Ongoing confusion over directors**

As with all employees, if a director is furloughed, their employer can claim back 80% of the actual salary and related pension and NI costs subject to an upper salary limit of £2,500 per month. Bonuses or commission are not included, and the salary level used is restricted to the one prevailing at 28 February 2020 even if the actual salary paid now is higher.

Many company directors receive only a small salary (often £719 per month in the year to 5 April 2020) plus dividends which depend on the company's profitability. If a director is entitled to be furloughed, then the dividends must be ignored, and the company can only base the reclaim on 80% of the salary.

But when can directors be furloughed? The latest government advice (updated 4 April) states:

*As office holders, salaried company directors are eligible to be furloughed and receive support through this scheme. Company directors owe duties to their company which are set out in the Companies Act 2006. Where a company (acting through its board of directors) considers that it is in compliance with the statutory duties of one or more of its individual salaried directors, the board can decide that such directors should be furloughed. Where one or more individual directors' furlough is so decided by the board, this should be formally adopted as a decision of the company, noted in the company records and communicated in writing to the director(s) concerned.*

*Where furloughed directors need to carry out particular duties to fulfil the statutory obligations they owe to their company, they may do so provided they do no more than would reasonably be judged necessary for that purpose, for instance, they should not do work of a kind they would carry out in normal circumstances to generate commercial revenue or provides services to or on behalf of their company.*

Therefore:

- a. if a director has no work at all for a period in excess of three weeks then (subject to documenting the decision) it appears that they can be furloughed.
- b. If a director needs to write up the company's accounting records, pay suppliers, chase money from customers, prepare and review management accounts, answer the company telephone or open and deal with company mail, then we believe that they would have reasonable grounds for believing this is part of their statutory obligations. However, the government has still not made this clear and we cannot guarantee that this would be the interpretation used by HMRC if a company's furlough claim was subsequently audited.
- c. If a director carries out work which earns money for the company or provides services to the company (such as carrying out work for a client, preparing quotes for new work or carrying out non-essential repairs to the company premises) then we believe this could prevent them from being furloughed.

We are available to answer any questions you may have about government support in these difficult times but in the first instance, please click [here](#) To see the latest updated advice from the UK government.