

Can I be furloughed?

What is the Coronavirus Job Retention Scheme?

This is a government scheme that allows your employer to keep you on the payroll even if there is no work for you to do because your workplace is currently closed and/or you cannot work from home. Your employer must have a UK payroll and UK bank account. It will pay 80% of your wages up to a maximum of £2,500 per month gross. It starts on the day you and your employer agree to the furlough and this can be backdated to 1st March 2020. You will need to be furloughed by 10 June to be part of the scheme. You will still be employed while you are “on furlough”. Your employer will continue to take tax and national insurance from you. Until July and the conditions are relaxed you cannot do any work for them, even on a voluntary basis. If you want to understand your employment rights while you are furloughed, you need to speak to an employment specialist; for example, Citizens Advice, ACAS or an employment solicitor.

Who can be put “on furlough”?

This scheme is for employees who have been on their employer’s payroll before or on 19 March 2020 and notified to HMRC on their employer’s RTI submission on or before 19 March 2020. It can include all the following:

- Full and part time employment contracts
- Zero Hours employment contracts
- Temporary employment contracts
- Fixed term employment contracts
- People from abroad who are able to work in the UK
- Employees who have been asked to Shield by the Government
- Employees who are staying home to protect others in their home who have been asked to shield themselves or who are self-isolating
- Employees with childcare responsibilities or who are caring for a vulnerable adult in their household. This can include employees who could work from home but are prevented from doing so due to their caring responsibilities.
- Apprentices
- Agency workers who are paid using PAYE

- Company directors who are paid using PAYE
- Salaried members of a Limited Liability Partnership who are paid using PAYE
- Limb (b) workers who are paid using PAYE
- Office holders who are paid using PAYE

However, remember that both you and your employer have to agree to this. Your employer cannot apply for you if you started work for them after 19 March 2020. Initially the Government announced that the “relevant date” for this scheme was 28 February, but this was later changed to 19 March.

Public Sector workers are unlikely to be furloughed as they will be continuing to provide public services or contributing to the COVID-19 response.

The scheme will close to new entrants from 30 June 2020. However, for an employee to qualify, they must have been furloughed for at least three weeks prior to that date. This means that employees must be furloughed by 10 June in practice. Employers will have until 31 July to make any claims in respect of the period to 30 June.

How do I apply to be put “on furlough”?

You cannot apply to be furloughed. Your employer will apply on your behalf after you have both agreed that you will be furloughed. Contact your employer if you think this scheme could apply to you but you haven’t heard from your employer.

How much will I be paid and when will payments start?

You will be paid 80% of your regular wages, up to a maximum of £2,500 per month. This is a gross figure and normal deductions will apply (for example tax, national insurance, pension contributions, student loan repayments). The payments start from the date it is agreed with your employer that you will be furloughed and this can be backdated to 1st March. The furlough must last at least 3 weeks. The scheme was initially planned to end at the end of June 2020 but it has been extended until the end of October 2020. There will be no change to the present scheme before the end of June, but from 1 July employers using the scheme will be able to bring furloughed workers back part time. Employers will be able to continue to claim for hours not worked if an employee returns to work for only some of their hours. Also from August, employers will be asked to start sharing the costs of paying people's salaries.

Your employer can choose to pay you more than 80% of your wages at their discretion. They cannot pay you less than 80% of your wages.

If you've been employed (or engaged by an employment business in the case of agency workers) for a full year, your employer will pay the higher of either:

- the amount you earned in the same month last year or
- an average of your monthly earnings from the last year

If you've been employed for less than a year, your employer will pay an average of your regular monthly wages since you started work. The same arrangements apply if your monthly pay varies such as if you are on a zero-hour contract.

If you started work in early March 2020, your employer will pro-rata your earnings from that month.

The amount will be calculated based on your regular, contractual pay, such as wages, compulsory commission and past overtime. It will not include discretionary commission (including tips) payments or bonuses, non-cash payments or benefits in kind.

Can I be furloughed if I am sick, self-isolating or shielding?

In theory, yes you can. But remember, you and your employer must agree to take part in the Job Retention Scheme.

While you are off sick, self-isolating, or not going to work because you are a "shielded" person who has received a letter to this effect from the NHS, your employer must pay you SSP if you are entitled to it. Your wages will be paid under the Job Retention scheme once you are no longer receiving SSP.

If you are staying at home due to an individual in your household shielding and are unable to work from home, then you won't be eligible for SSP unless your GP has issued you with a medical certificate. You should speak to your employer about whether they plan to place staff on furlough and if you could be included in the scheme.

What happens if I am on maternity leave, adoption leave, paternity leave or shared parental leave?

The statutory rules are unchanged for maternity, adoption, paternity and shared parental leave. If you have additional rights in your contract of employment, your employer can apply to the Job Retention Scheme for help to pay these.

I am pregnant and due to go on maternity leave soon?

Your maternity leave will start as normal. However, your entitlement to, or the amount of your Statutory Maternity Pay may be affected if you have been put on furlough or been off sick before your leave starts. This is because SMP is based on your gross earnings in the eight- week period which runs from 23 weeks before your baby is due and ending 15 weeks before the baby is due. The government has amended the rules for SMP and MA so 100% of your wage up to the maximum £2500 per month is included in the calculation if you are furloughed even if your employer is only paying you 80%. If you were earning more than £2500 before being furloughed this may still affect your SMP and MA award.

This also applies to Statutory Adoption Pay, Paternity Pay and Shared Parental Pay.

I am self-employed - can I apply to the Job Retention Scheme?

No, this scheme is for employees. There is a separate government scheme for the self-employed. Further details can be found here: <https://www.swru.org/covid-19-updates/>

If you are not sure if you are employed or self-employed, seek advice from an employment specialist.

What do I do if my employer does not pay me?

If you think you have been furloughed and you don't get paid, you might want to seek employment advice. Further information can be accessed here:

www.citizensadvice.org.uk

<https://www.acas.org.uk/advice>

Can I do any work while I am furloughed?

Once you are on furlough with a particular employer you cannot do any work for that employer, paid or unpaid until July. This includes any activity that makes money for your employer or provides services to them or anyone associated with your employer. You cannot be asked to work for another linked or associated company by your employer. This is changing from July as the Government has indicated it would like employers to encourage employees back to work, possibly part-time at first. If your contract allows, you may undertake other employment while your current employer has placed you on furlough. We suggest that you seek employment advice if you want to do this.

You can undertake training or volunteer subject to public health guidance. If your employer asks you to do training, you must be paid at least your appropriate minimum wage for the time spent training, even if this is more than the 80% of your wage.

Your employer can still make you redundant while you are on furlough or afterwards.

Your rights as an employee are not affected by being on furlough, including redundancy rights.

If your employer chooses to place you on furlough, you will need to remain on furlough for a minimum of 3 consecutive weeks. However, your employer can place you on furlough more than once, and one period can follow straight after an existing furlough period, while the scheme is open. Currently the scheme is extended until the end of October 2020.

I started working for my employer after 19 March 2020 - What can I do?

If you were employed by a previous employer on or before 19 March 2020, ask that employer if they will agree to re-employ you and place you on furlough. They will still be able to claim a grant to cover 80% of your regular wages, up to a monthly cap of £2,500 if you were on their employer's PAYE payroll on 19 March 2020. This applies whether you left your previous employer voluntarily or due to redundancy.

If you don't have a previous employer, or your previous employer will not agree to re-employ you, you may be able to claim welfare benefit payments. For example:

- Universal Credit
- New Style Job Seekers Allowance
- Local Council Tax Support

For welfare benefit advice, take a look at the following websites

www.citizensadvice.org.uk

www.gov.uk

<https://www.swru.org/covid-19-updates/>

My employer says they are not a UK employer - can I still apply?

No, this scheme is for employers with a UK payroll and UK bank account only.

This information is correct on 1 June 2020. It will be updated if new information on this scheme is released.