

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, or your employer does not have enough work for you to work your full hours. Your employer must have a UK payroll and UK bank account. The scheme will pay, through your employer, 80% of your wages for hours not worked up to a maximum of £2,500 per month gross. It starts on the day you and your employer agree to the furlough. Your employer does not need to have previously claimed for you before October 30 2020 and currently the scheme will stay open until 30 April 2021. You will still be employed while you are “on furlough”. Your employer will continue to take tax and national insurance from you. Employers can furlough employees for any amount of time and with any working pattern, and can still claim the grant for hours not worked. You must be paid by your employer for the hours you work under your current employment contract and your employer can claim 80% of your usual salary for hours not worked, up to a maximum of £2500 per month. 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 were on their employer’s payroll on 30 October 2020 and whose employer has made a PAYE Real time Information submission to HMRC between 20 March 2020 and 30 October 2020. This may differ if you were made redundant, or you stopped working for them on or after 23 September 2020 and they then re-employed you.

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

How much will I be paid while on furlough?

You will be paid 80% of your regular wages for hours you are not asked to work, 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). Your employer is responsible for claiming through the scheme on your behalf and for paying you what you are entitled to. You cannot apply for the scheme yourself.

From 1 July 2020 employers using the scheme were able to bring furloughed workers back part time. If you are asked to return to work part time after 1 July 2020 and this increases your income, you should let the DWP or local authority know your new income figures if you are claiming means tested benefits, for example Universal Credit or Housing Benefit. Employers will be able to continue to claim for hours not worked if an employee returns to work for only some of their hours. They must keep records of how many hours you work and the number of hours you are furloughed.

Your employer must pay you in accordance with your current contract for the hours you are working. They can choose to pay you more than 80% of your wages for the hours you are furloughed at their discretion. They cannot pay you less than 80% of your wages for the hours you are furloughed.

For further detail on how your wages will be calculated see link below

<https://www.gov.uk/guidance/calculate-how-much-you-can-claim-using-the-coronavirus-job-retention-scheme#work-out-80-of-your-employees-usual-wage>

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.

The Coronavirus Job Retention Scheme is not intended for short term absences from work due to sickness. Short term illness or self-isolation should not be a consideration in deciding whether to furlough you. 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. If there is a health condition for which your GP can give you a medical certificate you could continue to receive SSP on that basis. If your employer wants to furlough you for business reasons and you are currently off sick, they are eligible to do so, with your agreement, as with other employees. In these cases you should no longer receive sick pay and would be considered a furloughed employee. 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.

What happens if I am sick while furloughed?

You retain your statutory rights, including your right to SSP. This means that if you become ill, due to Coronavirus or any other cause, you must be paid at least as much as you would receive under SSP.

What happens if I am on a fixed term contract?

If your fixed term contract has not already expired, it can be extended or renewed. Your employer can put you on furlough as long as you were employed by them on 30 October 2020. If you were on a fixed term contract which expired after 23 September 2020, your employer can re-employ you and claim for you as long as you were employed by them on 23 September. To claim for you, your employer must have made a PAYE RTI submission for you to HMRC between 20 March 2020 and 30 October 2020.

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. The government has amended the rules for Statutory Maternity Pay and Maternity Allowance so 100% of your wage is included in the calculation if you are furloughed even if your employer is only paying you 80%. 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
www.acas.org.uk/advice

Can I do any work while I am furloughed?

Once you are on furlough with a particular employer you could not do any work for that employer, paid or unpaid until July 2020. This included any activity that makes money for your employer or provided 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 has changed from July 2020 as the Government would like employers to encourage employees back to work, possibly part-time at first. If your employer asks you to return to work part time, and this means an increase in your income, you should tell the Departments who are paying your means tested benefits such as UC or Housing Benefit. 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 contracted 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.

Currently the scheme is extended until the end of April 2021.

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.

I don't want to go on furlough - do I have to?

If your employer asks you to go on furlough and you refuse, you may be at risk of redundancy or termination of employment, depending on your employer's situation. However, this must be inline with normal rules and protections for redundancy.

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

www.citizensadvice.org.uk

www.swru.org/covid-19-updates/

This information is correct on 7 January 2021. It will be updated if new information on this scheme is released.