

Coronavirus (COVID-19) Update – Including 13th May 2020 Updates

We understand that many of our florist members will be very concerned about what they should do at this time to try and keep their business and staff safe as well as keeping the business going in the longer term. We have therefore asked our legal advisors to provide a short summary on the situation as we understand it at this time.

You will appreciate that this is a fast changing landscape at the moment and different provisions are being announced by the UK government all the time. Our advisors have updated the guidance notes below to take account of the slight relaxation of the lockdown rules on 13th May 2020.

Do to the circumstances of the coronavirus measures change quickly and all the advice that is provided is qualified as being subject to change at any time.

Closure of Shops

Do we need to close our florist?

As you will be aware, the Government announced on Monday 23rd March 2020 that all retail shops that were non-essential must close with immediate effect.

This has been slightly varied on 13th May 2020 but not in a way that will affect most of our members who will still be forced to close their shop to the public. The exception is that now you are able to offer click and collect type services and people are permitted to leave their home to collect items they have ordered remotely – you must keep the shop premises closed though and operate social distancing.

The legislation to enforce the closure is called The Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 . If you are a member florist which is part of a wider retail store such as a supermarket or corner shop and the florist is just one part of the wider business you are likely to be able to stay open at this time. The revised guidance (27th March 2020) on the closure of shops lists the exclusions to the retail closure as follows. You should consider these exceptions and whether your business falls within them. If it does not you should close your retail business to the public:

Retail	Exceptions
All retail with notable exceptions	Supermarkets and other food shops
	Health shops

	· Medical services (such as dental surgeries, opticians and audiology clinics, physiotherapy clinics, chiropody and podiatry clinics, and other professional vocational medical services)
	· Pharmacies and chemists
	· Petrol stations
	· Bicycle shops
	· Hardware shops
	· Veterinary surgeries and pet shops
	· Corner shops and newsagents
	· Off-licences and licenced shops selling alcohol, including those within breweries
	· Laundrettes and dry cleaners
	· All Post Offices
	· Car parks in towns, cities and near to takeaways may remain open, to facilitate essential activity (e.g. where they are supporting hospitals, supermarkets or takeaways)
	· High street banks, building societies, short-term loan providers, credit unions and cash points
	· Storage and distribution facilities, including delivery drop off points
	· Public toilets
Outdoor and indoor markets, shopping centres	Market stalls which offer essential retail, such as grocery and food. Shopping centres should stay open if they contain units which are not required to close.

What is likely to happen if we don't close our florist?

The legislation gives the police, police community support officers and the local authority the power to enforce the lockdown. This can be through the issuing of Prohibition Notices, fixed penalties or prosecutions for non-compliance with unlimited fines (if prosecuted in the magistrates Courts). Those penalties relate to the business owner where a business owners does not close a business as required. However, individuals being out of their home in contravention of the regulations (which a visit to a stand alone florist as a customer would probably be) may also face a fixed penalty, fine, prosecution or can be removed and taken home by reasonable force.

Can we still take online orders for flowers for delivery to the customer/recipient?

At this time the guidance from the Government is that **online retail is still permitted and is to be encouraged**. Delivery and postal services are still to run as close to normal as possible so it will still be possible for you to carry on trading as an online retailer only using the direct2florist platform.

From 13th May 2020 you are able to offer click and collect type services as people are permitted to leave their home to collect items they have ordered remotely – you must keep the shop premises closed though and operate social distancing.

If I am operating my business as an online retail business only can staff still come in to work to help prepare the orders?

At this moment in time if your staff are unable to prepare flowers etc from their own home and would need to come into your premises to do so then that is permitted. However, if this is the case you must adhere to the Public Health guidelines on social distancing and ensure that you put all measures possible in place for the safety of your staff. This will include workers being at least 2 metres apart, hand washing practises and reducing contact to a minimum. You must also make sure that the public have no access to the building and the shop itself remains closed. If you are operating a click and collect service you must come up with a mechanism of socially distanced collection without entry to the shop by the customer.

You should consider whether you could implement ways of staff working from home if at all possible. For example, could you have flowers delivered to your staff for them to then prepare into bouquets etc at home and have the delivery pick up from them to take to the customer? There is no right or wrong answer here and you will need to review your own business and what is and isn't feasible.

However, whilst it is important that you try to keep your business going and keep the economy going your primary concern at this time must be the health of your staff and customers. Failure to demonstrate this consideration and an appearance for only economic rewards could be damaging later should something go wrong.

Staffing Problems

Statutory Sick Pay

If members of staff are diagnosed with COVID-19 or those who are unable to work because they are self-isolating, SSP will be available from day 1 rather than day 4. Usually this would come at the expense of the employer, however, the Government has stated it will refund the cost of SSP (currently £94.25 per week) in full for a total of 14 days (Including directors if they are paid a salary).

If your staff are self-isolating due to a family member showing symptoms and they are able to work from home then they can continue to be paid as normal and are not required to be paid SSP. If they are unable to work from home as their job cannot be safely carried out from home then the absence should be treated as sick leave as above.

This improved SSP scheme is available to employers with fewer than 250 employees on 28 February 2020. (which will be most of our members).

It is important that employers maintain good records during this time to demonstrate the reason for absence was COVID-19 related and that they made the payment. However, employees will not need to provide a GP fit note. If you do require your staff to provide evidence of their absence those with symptoms of coronavirus can get an isolation note from NHS 111 online. For those with a relative showing signs they can get a note from the NHS website.

The practical methods of payments being made to employers to reimburse the costs of the SSP has not yet been finalised and will be confirmed in the coming weeks. This will mean that in the short term employers will have to pay this out before reimbursement from the Government.

Staff Lay-Off/Short-Time Working, Redundancy and Furlough

We understand that at this time you may find it difficult to keep all your staff on whilst the retail shops are closed and the country is in effective lock down. If you have a need to reduce your headcount at this time due to lack of work and/or income you have a number of options.

Lay Off or Short-Time Working

If your contracts of employment allow, you could consider laying off staff. This does not dismiss them and keeps them on your payroll, however, it does not require them to come into work and allows you to not pay them.

An alternative is short-time working where the employee's hours are reduced or pay reduced to less than half a week's pay.

However, if the lay off period is for 4 weeks or more there is provision for staff to claim a statutory guarantee payment of a maximum of £25 per day for up to 5 days in any 3 month period and, dependant on their length of service, they may also be entitled to a redundancy payment after 4 weeks in a row or 6 weeks in a 13 week period.

You must have a provision in the contract of employment to impose a lay off or short-time working. If you don't you would have to have an agreement with the employee to enter into this. You cannot unilaterally force the employee to do this.

You should take care when making decisions to lay off to make a considered decision rationalising why certain groups of people who are included and are not. As always, you must be mindful of the suggestion that you have chosen someone due to a protected characteristic under the Equality Act 2010.

Redundancy

You may wish to consider redundancy of staff if the position with your business appears terminal or you cannot see a place for the role in question in the future. This is where you effectively dismiss the employee as you don't have work for them anymore.

Redundancy is a legitimate reason to dismiss someone, provided it is justifiable and you have gone through a fair process to reach the decision. This can include creating groups of people who may be affected and going through a consultation process. This can be lengthy and may involve trade unions dependant on how many staff you have. It will depend on your business whether you have the time and scope to carry out such an exercise at this time. There may be possible ways to shorten the process using Settlement Agreements but this is not without risk and you should seek legal advice on the redundancy process if you are considering this.

If you do make redundancies you should be aware that if your staff have been employed by you (including any time with a previous employer if they were acquired as part of a business purchase) for 2 years or more you will need to make a redundancy payment. This is calculated based on their length of service, age and earnings.

Again, you should take care when making decisions to make redundancies rationalising why certain groups of people are included and are not. As always, you must be mindful of the suggestion that you have chosen someone due to a protected characteristic under the Equality Act 2010.

Furlough Leave (Coronavirus Job Retention Scheme)

A practical alternative for some businesses to the traditional options detailed above is the newly introduced Furlough Leave. This was announced by the Government on Friday 20th March 2020. Essentially the scheme is to assist businesses during the Covid-19 crisis to retain staff without dismissing them or laying them off and allow them to return to work when the pandemic is over. It also assists staff to maintain most of their income (up to certain limits) to allow them to pay their usual financial commitments. It is hoped that this will then allow the economy to spring back to life at the relevant time with everyone returning to their previous jobs.

The scheme is brand new and the detail is currently sparse. However, we have produced a separate leaflet about this which goes through the information available at the moment. You should consult that leaflet and decide if the scheme is relevant for you, although we anticipate a number of our members will probably decide to access the scheme.

Again, it is unlikely you will have provisions in employment contracts to impose this scheme on staff, but most are likely to agree if the alternative is lay off or redundancy.

The Furlough scheme does not currently apply to the self employed but there is a separate scheme for the self employed detailed below.

As with all employment law matters we would urge you to take your own specific legal advice on your individual situations as they arise.

Premises Issues

Business rates holiday for retail, hospitality and leisure businesses

The Government has announced that in England they are operating a 100% rates relief for the 2020-21 financial year for business premises in the retail, hospitality and leisure sectors.

It is anticipated that most of our members will be eligible for this relief as the scheme announced states that properties which will benefit from the relief will be occupied wholly or mainly for use as:

- as shops, restaurants, cafes, drinking establishments, cinemas and live music venues
- for assembly and leisure
- as hotels, guest & boarding premises and self-catering accommodation

Guidance for local authorities expands on the above to explain that it includes the following (amongst others) as the primary use for the property:

- Shops (such as: florists, bakers, butchers, grocers, greengrocers, jewellers, stationers, off licences, chemists, newsagents, hardware stores, supermarkets, etc)
- Charity shops
- Opticians
- Post offices
- Furnishing shops/ display rooms (such as: carpet shops, double glazing, garage doors)
- Car/caravan show rooms
- Second-hand car lots
- Markets
- Petrol stations
- Garden centres
- Art galleries (where art is for sale/hire)

It is anticipated the above list includes most of our members' business premises.

The scheme is being administered by local authorities and there is no action for you. The relief will be applied to your non-domestic rates bills from April 2020. If you have already received this the local authorities should reissue your bill as soon as possible.

Protection from eviction for commercial tenants

The Coronavirus Act 2020 contains a provision that Commercial tenants who cannot pay their rent because of COVID-19 will be protected from eviction. These measures, if introduced, will mean no business will automatically forfeit their lease and be forced out of their premises if they miss a payment up until 30 June.

There is likely to be the option to the government to extend the period if needed.

Moreover, the Courts have confirmed they will not continue with or accept any new possession claims for a period of 90 days from 27th March 2020.

Following a recent announcement by government it is anticipated that measures will be drafted into law in the coming days to prevent statutory demands and winding up petitions to be used to enforce unpaid rents on commercial premises until 30th June 2020. Restrictions on the use of the Commercial Rent Arrears Recovery scheme for unpaid rent of less than 90 days have also been announced.

However, you should still pay your rent if possible as it is not a rental holiday and you will still be liable for the rent.

Financial Support for Businesses

Cash Grants

Small Business Grant Fund

Businesses eligible for small business rates relief on their business rates will get a £10,000 cash grant which will be paid by local authorities. The payment is only available for businesses who operate from business premises.

Eligibility for this scheme is not connected to whether the business was able to continue trading during the coronavirus outbreak. The only condition of eligibility for this relief is that on the 11th March 2020 the business was eligible for relief under the business rates Small Business Rate Relief Scheme (including those who pay a small amount of business rates which receive tapered relief having a rateable value between £12,000 and £15,000). Eligible businesses will receive a payment of £10,000 per premises.

There are a small number of exclusions to the scheme which are where the property is used for personal use, for car parks and parking spaces and businesses in liquidation or dissolved on 11th March 2020. These exclusions are unlikely to apply to many of our members.

The Retail, Hospitality and Leisure Grant Fund

For any members whose rateable value for business rates is higher than £15,000 there may be another source of grant funding available to them, particularly if they operate a florist shop.

Businesses in England that would have been in receipt of the recently announced Expanded Retail Discount (the 100% rates relief detailed above) with a rateable value of less than £51,000 will be eligible for cash grants as follows:

- Rateable Value up to £15,000: £10,000 grant
- Rateable Value between £15,000 and £51,000: £25,000 grant

There is no pre-condition that the business must not have been operating during the coronavirus outbreak. Businesses just need to operate an eligible premises to get the grant.

If a business has received a payment under the Small Business Grant Fund above it will not receive another payment under this fund.

Again, there are a small number of exclusions to the scheme which are buildings used for personal use, car parks and parking spaces and businesses in liquidation or dissolved on 11th March 2020. Again, it seems unlikely these exclusions will apply to many of our members.

For both schemes the local authority should contact the person responsible for paying the business rates for the premises to ask them to confirm they are still the relevant person responsible for the rates payments and complete a declaration of that. However, a number of local authorities have now set up pages on their websites allowing businesses to apply directly for the grant. This is especially helpful for those who have closed their premises and are not getting the post at the moment. We would therefore recommend all our members check their local authority's website for this.

Unless there was an obvious error in the rateable value at the 11th March 2020 that the local authority should have known about, local authorities are being urged to ignore any subsequent changes to rateable value, even if they are backdated to before 11th March 2020. This would also mean that making changes now to correct errors which would make the property eligible are likely to be ignored as well.

If members don't know their rateable value this can be checked this by visiting <https://www.tax.service.gov.uk/business-rates-find/list-valuations-by-postcode> and inputting the property details.

VAT Deferment

The government are supporting businesses by deferring VAT payments for any payments due between 20th March 2020 to 30th June 2020. Any applicable payments must be made by 31st March 2021.

All UK businesses are eligible, but the deferral is not compulsory. HMRC will not charge interest or penalties on any amount deferred under the scheme provided it is paid by 31st March 2021.

You do not need to tell HMRC that you are deferring your payment, but you do need to still file your returns on time.

Government advice is that businesses who normally pay by direct debit should cancel their direct debit with their bank if they are unable to pay in sufficient time so that HMRC do not attempt to automatically collect on receipt of your VAT return.

VAT refunds and reclaims will be paid by the government as usual. The scheme does not cover payments for VAT MOSS or import VAT which should be paid in the usual way.

Please note that the VAT will still be payable but it will be paid at a later date. This allows you to use the money collected for VAT now for short term costs whilst the other schemes are being set up and start to pay out.

Bounce Back Loan Scheme

On 27th April 2020 Rishi Sunak announced the Bounce Back Loan Scheme to support small and medium sized businesses in England. The scheme went live on 4th May 2020.

Under the Bounce Back Loan Scheme the government will guarantee 100% of a loan for between £2,000 and £50,000. There won't be any fees or interest to pay for the first 12 months.

The amount you can borrow is capped at 25% of your turnover up to a maximum loan size of £50,000.

Loan terms are for 6 years with no repayments due during the first 12 months. The interest payable after that is fixed at 2.5% per annum and early repayments can be made at any time.

The scheme is delivered through a network of accredited lenders and is open to businesses based in the UK which have been negatively affected by coronavirus and not have been an 'undertaking in difficulty' on 31 December 2019.

You can't apply if you are a bank, insurer (not a broker), public sector body or state funded primary and secondary school, nor if you have claimed a Coronavirus Business Interruption Loan Scheme (although you can switch between the two up to 4th November 2020).

The scheme operates on a self-certification basis.

Full details of the scheme are available from the British Business Bank website www.british-business-bank.co.uk.

Coronavirus Business Interruption Loan Scheme (CBILS)

The temporary Coronavirus Business Interruption Loan Scheme supports small and medium businesses with access to loans, overdrafts, invoice finance and asset finance of up to £5 million and for up to 6 years with a Government backing.

Key Features of CBILS are:

- Up to £5m facility & maximum term of 6 years
- 80% guarantee: The scheme provides the lender with a government-backed, partial guarantee (80%) against the outstanding facility balance, subject to an overall cap per lender
- No guarantee fee for SMEs to access the scheme: No fee for smaller businesses. Lenders will pay a fee to access the scheme.
- Interest and fees paid by Government for 12 months: The Government will make a Business Interruption Payment to cover the first 12 months of interest payments and any lender-levied fees (if charged by the individual lender), so smaller businesses will benefit from no upfront costs and lower initial repayments.
- Finance Terms: Up to 6 years for term loans and asset finance facilities. For overdrafts and invoice finance facilities, terms will be up to 3 years.
- Security: The scheme may be used for unsecured lending for facilities of £250,000 and under and no personal guarantee will be taken for this. For facilities above £250,000, the lender may ask for a personal guarantee, but it cannot include a principle private residence and can only be for a maximum of 20% of the outstanding balance of the CBILS facility after the proceeds of business assets have been applied.

If the lender can offer finance on normal commercial terms without the need to make use of the scheme, they may do so, but other options need not be exhausted before the use of the CBILS.

You must appreciate that the borrower always remains 100% liable for the debt and your business will still be responsible for the repayment of the loan. Ultimately the idea is to ease cashflow at this difficult time by allowing more businesses to be eligible for emergency lending.

SMEs from all sectors can apply for the full amount of the facility. To be eligible for a facility under CBILS, an SME must:

- Be UK-based in its business activity, with annual turnover of no more than £45m
- Have a borrowing proposal which, were it not for the current pandemic, would be considered viable by a lender, and for which the lender believes the provision of finance will enable the business to trade out of any short-to-medium term difficulty

You can access the loans either by going direct to the 40 accredited finance providers or by contacting a broker. Brokers may charge fees, but these can often be added to the loan.

You will need to provide certain evidence to show that you can afford to repay the loan which is likely to include management accounts, cash flow forecasts, business plans, historic accounts, and/or details of assets, but will vary from lender to lender.

You should take financial advice before entering into a loan.

There is a scheme for business with a turnover from £45m - £500m but as we do not anticipate many of our members to fall in this category we have not expanded on this.

Time to Pay Service

Businesses in financial distress, and with outstanding tax liabilities, may be eligible to receive support with their tax affairs through HMRC's Time to Pay service.

These arrangements are to be agreed on a case-by-case basis and are tailored to the individual circumstances and liabilities.

If you have missed a tax payment or you might miss your next payment due to COVID-19, you should call HMRC's dedicated helpline: 0800 0159 559

Financial Support for Individuals and Self Employed Individuals

Many of our members will be self employed and won't be covered by the above schemes. However, the Government announced the Coronavirus (COVID-19) Self-employment Income Support Scheme on 26th March 2020 as well as having previously announcing some other measure to help.

Coronavirus (COVID-19) Self-employment Income Support Scheme

The scheme is very similar to that for employed furloughed worker offering a taxable grant of up to 80% of trading profits up to a maximum of £2,500 for the next three months. The scheme can be extended by Government should that be necessary.

Am I eligible for the scheme?

To be eligible for the scheme you need to be self employed (including being a member of a partnership) and have traded in the tax year 2019-20. You must also be trading when you apply for the scheme or have been prevented from trading by COVID-19.

You must have filed a tax return for the year 2018-19 to be able to claim and if you have missed the filing deadline in January you until 23rd April 2020 to submit it and be eligible for the scheme. Unfortunately, that means if you did not trade in the 2018-19 tax years you will not be eligible for the scheme, nor if your trading profits were below the tax return filing threshold.

The scheme is only open to those individuals who intend to keep trading in the tax year 2020-21 and have lost trading profits due to COVID-19.

There is a financial eligibility criteria to the scheme. Anyone who earns less than £50,000 in trading profits as an average over the tax years 2016-17, 2017-18, and 2018-19 AND earned less than £50,000 in trading profits in the tax year 2018-19 is eligible providing this income forms more than half of your taxable income in the same periods. This means that if you have had a rise in profits last year that takes you over the £50,000 threshold last year even though the average is not over £50,000 you will not be eligible. Also, if you have other earnings through employment which are higher than your self employed income you will not be eligible for the scheme.

How much will be paid under the scheme?

The amount paid will be calculated based on an average of your trading profits declared on your SA302 self assessment tax returns in the tax years 2016-17, 2017-18 and 2018-19. If you have not traded in all of these periods it will be averaged over the period you have submitted returns for.

Once the amount of your average trading profits over the above period have been calculated you will be eligible for a grant of the lower of either 80% of that average or £2,500 which will be a taxable grant and will be declarable on your future tax returns.

When will I be paid under the scheme?

The Government anticipates that a single payment will be made into your bank account at the beginning of June. They have explained that it will take time to set up the scheme and have allowed some time for late filers as well. The single payment made will cover all three months of eligibility so could be up to £7,500 depending on your average earnings over the assessment period.

How do I apply?

HMRC will have contacted you or your accountant if you are eligible for the scheme. As this is a scheme based on your filed tax returns HMRC can identify those eligible without you contacting them. You are then required to complete online forms and declarations confirming you want the grant and that you remain eligible for the scheme. The application scheme opened on 13th May 2020 and applicants will be advised of a window during which they should submit their response.

I am a Director of my Company what can I apply for?

If you are a director of your own company and pay yourself through the PAYE system and don't intend to do any work you may be able to apply for Furlough Leave as above in relation to the employed income. It unlikely this self employed scheme covers dividend income as the announcements refer to trading profit and not dividends (which is classed as investment income).

Deferral of Self-Assessment Income Tax Payments for July 2020

Given the delay in the above self employment support scheme paying out there is an automatic deferral of income tax payments until January 2021 and there is no need to apply. Be aware that this is only a deferral of the tax and it will still be payable at the end.

Time to Pay Service

The same principle as applies to tax payments for businesses applies to self employed individuals and you can call the same number for assistance.

Mortgage holidays

Homeowners and landlords affected by coronavirus can apply for a three-month mortgage payment holiday. It is the discretion of the lender whether this is allowed. Most residential lenders seem to be allowing this, but not all buy to let lenders.

You will still owe the bank the same capital amount as you do now and interest will continue to accrue on this. This means it will take you longer and cost you a little more to clear your mortgage so you may be better not to use this facility if you don't need to.

Rental holidays

Tenants in either social or private accommodation who are struggling to pay their rent due to coronavirus are able to speak to their landlord about a payment plan for up to 3 months. There is no guarantee that the landlord will agree, but given they may also be able to apply for a mortgage holiday they may be agreeable.

At the end of any rental holiday period, landlords and tenants will be expected to work together to establish an affordable repayment plan, taking into account tenants' individual circumstances.

Other benefits

Currently the self-employed are not entitled to sick pay. Instead they would have to claim employment and support allowance (ESA) and or Universal Credit. The weekly payment of ESA is typically £73.10 or £57.90 for people under the age of 25.

However, The Chancellor has said that he is raising the payments of universal Credit so that the self-employed receive the same amount as someone on statutory sick pay (£94.25 a week).

You should take financial advice on any of the loans before entering to them as you will be taking on debt.



local florists worldwide

Please note that some of the provisions in this leaflet have currently only been legislated for in England, but we expect similar provisions to be announced in Scotland, Wales and Northern Ireland.

This is a rapidly developing area and therefore if you require any further details then please do not hesitate to contact us. We will update our information as we receive it from our advisors:

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