

Furlough leave and what this means for employers

We understand that many of our florist members are self employed, however, many of you will also employ staff to work for you in the florist. We have therefore asked our legal advisors to provide a short summary on the Furlough leave provisions announced by the Chancellor in case he can assist you in continuing your business. Please note that this only applies to people on the PAYE system.

The Government has announced extraordinary measures to help keep businesses afloat during the global COVID-19 pandemic. One of these measures is the 'Coronavirus Job Retention Scheme' which allows employers to claim up to 80% of the employees' wage for all employment costs up to a maximum of £2,500 per month. We are still awaiting further definitive guidance however here is a summary of what we know so far.

What is the Coronavirus Job Retention Scheme?

The scheme allows all employers in the UK regardless of size or sector to claim 80% of an employee's wage per month. Employees must be part of the PAYE system. It has been set up to help businesses manage during the pandemic and crucially keep employees who otherwise would have to be made redundant or be placed on unpaid layoff, in employment. These individuals are being 'furloughed' and HMRC will reimburse employers 80% of furlough workers' wage costs up to a maximum of £2,500 per month. It is unclear whether this is gross or net pay however we are assuming that this represents gross salaries.

What do employers need to do?

For the scheme to apply, employers must keep employees on their payroll instead of making them redundant or place them on unpaid layoff.

Employers should firstly identify which employees are going to be furloughed and agree with affected employees that they are going to become furloughed workers.

The government has said that employment law rules will apply and therefore the employer should check the employment contracts to see if there are provisions which allow the employer to stop pay or reduce pay if there is reduction in work.



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We understand that in most cases, if given the options of taking unpaid leave, redundancy/unpaid layoff or receiving 80% of their wage, most employees will opt for the scheme.

Once employees have agreed to be furloughed, the employer should insert their details on the government portal page (more details about this to follow) to make a claim for the grant.

What period of time does the scheme cover?

The scheme will be backdated to 1st March 2020 and run until 31st May 2020 and may be extended if necessary.

How does the employer select which employee to furlough?

If an employee is able to work from home, then clearly this should be encouraged. If an employee is unable to work from home or there is insufficient work for the employee to undertake, then the employer should adopt a fair selection process to identify its furloughed workers. Particular diligence needs to be taken with this in order to avoid allegations of discrimination during the selection process. Furloughed workers should not be carrying out any work for the employer during the furloughed period.

Does the employer need to top-up the wage to 100%?

The employer can top-up pay to 100% however it does not have to. The employer should take a consistent approach amongst all staff. The employer should ensure it has a clear agreement from its staff to the scheme and that it is clear to the staff whether the 80% will be topped up.

What about employees who have already been dismissed?

The government has backdated the scheme from 1st March 2020 therefore any employees who were dismissed after this date could be re-engaged by agreement. Some employers may be in discussion about layoff, redundancy and special leave with their employees already and we would advise that these negotiations continue until the employer has established if furloughing is applicable.



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What about sickness and other leave entitlement during furloughing?

We expect that employees will continue to accrue statutory and contractual annual leave during this period. The usual rules regarding maternity and paternity leave should remain unchanged. If an employee was to report sick during the furloughing period, then the usual statutory sick pay rules should apply. The rate of statutory sick pay may be lower than what is otherwise payable under the scheme. Employers should also check sick pay entitlement under the employment contract.

Which employees/workers are eligible under the scheme?

The Chancellor indicated that the scheme would apply to PAYE staff and therefore self-employed contractors are excluded. We expect those individuals who are on zero-hour contracts who are paid through the payroll system to be included in the scheme.

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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