

### Coronavirus Job Retention Scheme

The updated guidance is available at <https://www.gov.uk/guidance/claim-for-wage-costs-through-the-coronavirus-job-retention-scheme>, and provides further written clarity on who can be furloughed, what wage cost is covered by the scheme, confirmation that rotational furloughing is possible and that furloughed employees can work for a different employer. A summary of the additional guidance is set out below:

#### *Working for a different employer*

If contractually allowed, your employees are permitted to work for another employer whilst you have placed them on furlough. For any employer that takes on a new employee, the new employer should ensure they complete the “starter checklist” form correctly. If the employee is furloughed from another employment, they should complete Statement C.



#### *Period of furlough*

Employees can be furloughed multiple times, but each separate instance must be for a minimum period of 3 consecutive weeks.

#### *Who can be furloughed (additional guidance only)*

- ❖ **Company Directors:** Salaried company directors are eligible to be furloughed and receive support through this scheme. 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 any kind they would carry out in normal circumstances to generate commercial revenue or provides services to or on behalf of their company. This also applies to salaried individuals who are directors of their own personal service company (PSC).
- ❖ **Apprentices:** Apprentices can be furloughed in the same way as other employees and they can continue to train whilst furloughed
- ❖ **Employees with caring responsibilities:** Employees who are unable to work because they have caring responsibilities resulting from coronavirus (COVID-19) can be furloughed. For example, employees that need to look after children can be furloughed
- ❖ **Fixed term contract:** Employees on fixed term contracts can be furloughed. Their contracts can be renewed or extended during the furlough period without breaking the terms of the scheme. Where a fixed term employee’s contract ends because it is not extended or renewed you will no longer be able to claim grant for them.
- ❖ **Agency Workers (including those employed by umbrella companies):** Where agency workers are paid through PAYE, they are eligible to be furloughed and receive support through this scheme, including where they are employed by umbrella companies. Furlough should be agreed between the agency, as the deemed employer, and the worker, though it would be advised to discuss the need to furlough with any end clients involved. As with employees, agency workers should perform no work for, through or on behalf of the agency that has furloughed them while they are furloughed, including for the agency’s clients.
- ❖ **Limb (b) Workers:** Where Limb (b) Workers are paid through PAYE, they can be furloughed and receive support through this scheme. Those who pay tax on their trading profits through Income Tax Self-Assessment, may instead be eligible for the SEISS.
- ❖ **Salaried Members of Limited Liability Partnerships (LLPs):** Members of LLPs who are designated as employees for tax purposes (‘salaried members’) under the Income Tax (Trading and Other Income) Act (ITTOIA) 2005 are eligible to be furloughed and receive support through this scheme. To furlough a member, the terms of the LLP agreement (or any such agreement between the LLP and the member) may need to be varied by a formal decision of the LLP, for example to reflect the fact that the member will perform no work in the LLP for the period of furlough, and the effect of this on their remuneration from the LLP. For an LLP member who is treated as being employed by the LLP (in accordance with s863A of ITTOIA 2005), the reference salary for this scheme is the LLP member’s profit allocation, excluding any amounts which are determined by the LLP member’s performance, or the overall performance of the LLP.

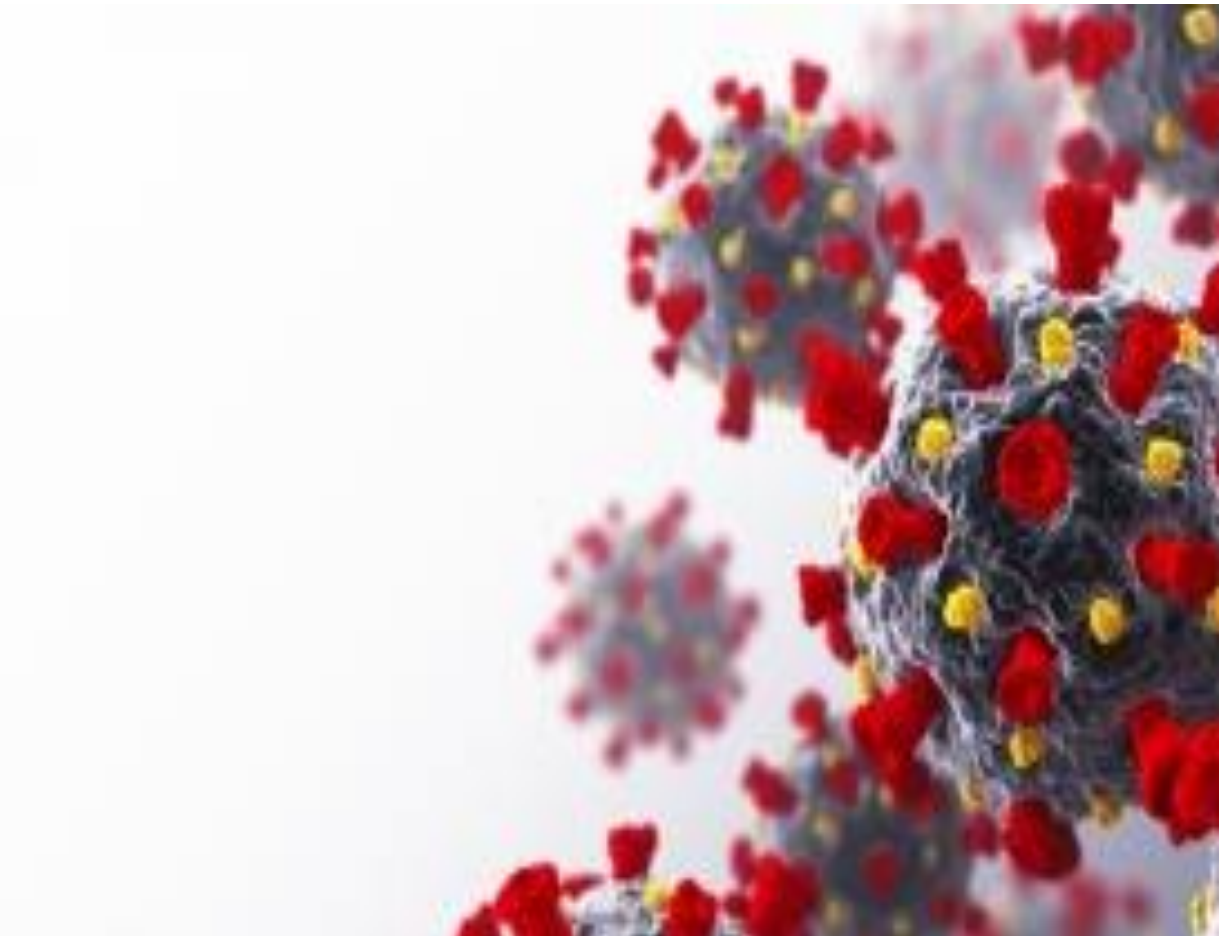
### Payments

- ❖ **Past Overtime, Fees, Commission, Bonuses and non-cash payments:** You can claim for any regular payments you are obliged to pay your employees. This includes wages, past overtime, fees and compulsory commission payments. However, discretionary bonus (including tips) and commission payments and non-cash payments should be excluded.
- ❖ **Apprenticeship Levy and Student Loans:** Both the Apprenticeship Levy and Student Loans should continue to be paid as usual. Grants from the Job Retention Scheme do not cover these.
- ❖ **Benefits in Kind and Salary Sacrifice Schemes:** The reference salary should not include the cost of non-monetary benefits provided to employees, including taxable Benefits in Kind. Similarly, benefits provided through salary sacrifice schemes (including pension contributions) that reduce an employee's taxable pay should also not be included in the reference salary. Where the employer provides benefits to furloughed employees, this should be in addition to the wages that must be paid under the terms of the Job Retention Scheme. Normally, an employee cannot switch freely out of a salary sacrifice scheme unless there is a life event. HMRC agrees that COVID-19 counts as a life event that could warrant changes to salary sacrifice arrangements, if the relevant employment contract is updated accordingly.

### Coronavirus Statutory Sick Pay Rebate Scheme

As noted above further guidance was released yesterday in relation to the Coronavirus Statutory Sick Pay Rebate Scheme which enables employers to reclaim employee's coronavirus-related Statutory Sick Pay (SSP) for up to 2 weeks. The guidance is detailed at <https://www.gov.uk/guidance/claim-back-statutory-sick-pay-paid-to-employees-due-to-coronavirus-covid-19>, and noted that the online service used to reclaim SSP is not available yet.

The update also provided clarity on the eligibility criteria for employers to have fewer than 250 employees to claim from the scheme, noting that connected companies and charities can also use the scheme if their total combined number of PAYE employees are fewer than 250 on or before 28 February 2020.



## COVID-19 Support: 04.04.20

ASM is geared to continue operating at full capacity at present and are therefore available to assist your needs. We will continue to monitor the ongoing situation to provide our clients with the information we consider will support them and may benefit them at this time.

However, if you have any specific queries that you need assistance with, please do not hesitate to contact our offices and you will be directed to the appropriate person for help.

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