

MH COVID 19 EMPLOYMENT UPDATE

OCTOBER 2020

I. NEW JOBS SUPPORT SCHEME

The Coronavirus Job Retention Scheme (the “furlough scheme”) will finally come to an end, as planned, on 31 October but we now know more about its successor. The new ‘Jobs Support Scheme’ will help employers keep people in ‘viable’ jobs in work, even if they are on reduced hours.

The headline points for the new scheme are:

- as with the furlough scheme, this does not give employers a right to require their employees to work reduced hours. That will need to be agreed with each employee going on to the scheme;
- employees will need to work a minimum of 33% of their usual hours;
- for every hour not worked, the employer and government will each pay one third of the employee’s usual pay, with the government’s contribution capped at £697.92 per month (this means that, provided the government cap does not come into play, employees using the new scheme will receive at least 77% of their pay);
- the employer will be reimbursed in arrears for the government contribution;
- employees cannot be made redundant or put on notice of redundancy during the period within which their employer is claiming the grant for that employee (a noticeable shift from the position under the Coronavirus Job Retention Scheme);
- it will run from 1 November 2020 for six months; and
- all small and medium sized businesses are eligible, as will some large businesses, depending on their coronavirus-related losses.

Employees must have been on the employer’s PAYE payroll on or before 23 September in order to be eligible for the new scheme. This means that a “Real Time Information” submission notifying payment to that employee to HMRC must have been made before that date.

Employees will be able to cycle on and off the scheme and do not have to work the same pattern each month, however each short time working arrangement must cover a minimum period of seven days to qualify for the employer and government top-up. The government has also indicated that the 33% threshold could be increased in 4-6 months and that the government’s contribution will not cover Class 1 employer NIC or pension contributions (the employer must still make these contributions).

The key short-term issue for employers to action is documenting the consent to a reduction of hours with the employee; this is a fundamental requirement to varying the terms of an employment contract.

2. JOB RETENTION BONUS

As a reminder, the Job Retention Bonus is a one-off payment to employers of £1,000 for every employee who they previously claimed for under the furlough scheme, and who remains continuously employed through to 31 January 2021.

It is important to note that the employee must not be serving a contractual or statutory notice period that started before 1 February 2021 for the employer making a claim.

Eligible employees must earn at least £520 a month on average between 1 November 2020 and 31 January 2021. Employers will be able to claim the Job Retention Bonus after they have filed PAYE returns for January 2021 and payments will be made to employers from February 2021.

Employers will need to present their claim for the bonus between 15 February and 31 March 2021. The Treasury has also issued a [direction](#) and [guidance](#) on the Job Retention Bonus containing [a set of worked examples](#) of eligible employees. If you have any queries on Job Retention Bonus eligibility or claims, please do get in touch.

3. NEW REQUIREMENTS FOR EMPLOYERS - EMPLOYEES & SELF-ISOLATION

New legislation came into force on 28 September in relation to self-isolation requirements for those either testing positive for coronavirus or being notified by the NHS Covid 19 app that they have been in close contact with a person who has contracted the virus.

Under these regulations, employers must not knowingly allow employees to attend any place (other than the place they are isolating) for the duration of their isolation period for the purposes of their employment.

In addition, employees must tell their employer if they have tested positive or been notified by the NHS Covid 19 app if they have to self-isolate, and they face fines of £50 if they fail to do so.

Contravention of this regulation without reasonable excuse will result in employers receiving fixed fines starting at £1,000 for the first offence, £2,000 for the second offence, £4,000 for the third offence and £10,000 for each subsequent offence. If an officer of any business consents to a breach of their obligations or if any breach is attributable to their negligence, then that individual officer and the business will have committed an offence.

This puts the focus very much on employers to take care when they are bringing employees back to work. The new regulations are likely to particularly impact on employers with lots of employees who cannot work from home.

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