

# Further Guidance Issued on Coronavirus Job Retention Scheme

Correct as of 17th April 2020

Details of the Coronavirus Job Retention Scheme continue to be released as the UK Government and HMRC continue to fine tune the scheme and provide further guidance on its operation ahead of its launch later this month. We have provided updates when the scheme was first announced, when further guidance was issued on [26 March 2020](#), on [6 April 2020](#), on [8 April 2020](#) as further details were announced and on [9 April 2020](#). Further guidance was released on 15th April before the scheme goes live next week. The key points of the updated guidance are summarised below.

The UK Government has also published Treasury Directions which are the relevant legislative provisions under sections 71 and 76 of the Coronavirus Act 2020. The legislation published largely mirrors what has already been communicated through the various iterations of the HMRC guidance.

On 17th April the Chancellor announced that the scheme would be extended and would now close at the end of June. This is an extension of one month as when originally announced it was anticipated that the scheme would close at the end of May.

Amongst the amendments, there is one key change to the previous versions of the guidance, in terms of the cut-off date for qualification, and one (perhaps unintentional) complication in terms of how furlough leave is to be documented.

## **Key change - Employees that can be claimed for – change of date**

Due to lobbying from various groups the Government has amended the criteria for employees eligible for the scheme significantly. Whilst previously the cut-off date was employees employed on or before 28th February this has been extended so SGBs can claim for furloughed employees that were on their PAYE payroll on or before 19 March 2020 and which were notified to HMRC on an Real Time Information (RTI) submission on or before 19 March 2020.

This means an RTI submission notifying payment in respect of that employee to HMRC must have been made on or before 19 March 2020. Employees that were employed as of 28 February 2020 and on payroll (i.e. notified to HMRC on an RTI submission on or before 28 February) and were made redundant or stopped working for the SGB after that and prior to 19 March 2020, can also qualify for the scheme if the SGB re-employs them and puts them on furlough.

## **Other clarifications made in respect of eligibility**

### **If SGBs made employees redundant or they stopped working for them after 28 February**

If a SGB made employees redundant, or they stopped working for the SGB on or after 28 February 2020, an SGB can re-employ them, put them on furlough and claim for their wages through the scheme. This applies to employees that were made redundant or stopped working for an SGB after 28 February, even if an SGB does not re-employ them until after 19 March. This applies as long as the employee was on the SGB's payroll as at 28 February and had been notified to HMRC on an RTI submission on or before 28 February 2020. This means an RTI submission notifying payment in respect of that employee to HMRC must have been made on or before 28 February 2020

If an employee has had multiple employers over the past year, has only worked for one of them at any one time, and is being furloughed by their current employer, their former employer/s should not re-employ them, put them on furlough and claim for their wages through the scheme.

### **If an employee is on unpaid leave**

If an employee started unpaid leave after 28 February 2020, you can put them on furlough instead. If you put them on furlough then you should pay them at least 80% of their regular wages, up to the monthly cap of £2,500.

If an employee went on unpaid leave on or before 28 February, you cannot furlough them until the date on which it was agreed they would return from unpaid leave.

### What SGBs need to make a claim

If a SGB has fewer than 100 furloughed staff they will be asked to enter details of each employee they are claiming for directly into the system - this will include their name, National Insurance number, claim period and claim amount, and payroll/employee number (optional).

If a SGB has 100 or more furloughed staff they will be asked to upload a file with the information rather than input it directly into the system. HMRC will accept the following file types: .xls .xlsx .csv .ods

The file should include the following information for each furloughed employee: name, National Insurance number, claim period and claim amount, payroll/employee number (optional).

SGBs should retain all records and calculations in respect of claims submitted.

HMRC cannot provide employees with details of claims SGBs make on their behalf. Therefore, SGBs are encouraged to ensure their employees come to them with any questions, rather than HMRC.

### And finally, the complication - agreement needs to be documented

The Treasury direction to HMRC states that an employee is furloughed "if the employer and employee **have agreed** in writing (which may be in an electronic form such as an email)". The previous Government guidance stated only that it had to be "**confirmed**" in writing to the employee. On a strict reading of the Treasury direction, more than just an employer intimation to the employee that they are furloughed is needed – with some acceptance of that requiring to be documented in order to show agreement. It remains to be seen if this is loose drafting or if such agreement requires to be evidenced.

## Get in touch

SGBs can access the **sportscotland** legal expert resource helpline by email at [sportscotlandinfo@harpermacleod.co.uk](mailto:sportscotlandinfo@harpermacleod.co.uk) or by calling 0141 227 9333.