

Flexible Furlough

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The Government published guidance on 12th June regarding flexible furloughing through the Coronavirus Job Retention Scheme. The guidance sets out the way forward for the scheme until it is phased out. It provides details of the complex mechanism under which flexible furloughing, sometimes referred to as part-work-part-furlough, will be allowed from 1st July 2020.

It is now no longer possible to add new entrants to the revised furlough scheme unless the employee is returning from maternity, paternity, adoption or shared parental leave or parental bereavement leave. From 1st July 2020, employers can bring furloughed employees back to work for any amount of time and any work pattern, while still being able to claim the grant for the hours the employee does not work. From this date, only employees for whom an employer has successfully claimed a previous grant will be eligible for more grants under the scheme.

This means the employee must have previously been furloughed for at least three consecutive weeks taking place any time between 1st March 2020 and 30th June 2020. For the minimum three consecutive week period to be completed by 30th June 2020, the last day an employee could have started furlough for the first time was 10th June 2020, unless the employee is returning from maternity or one of the other family leaves. The Government will allow these individuals to be furloughed on their return regardless of whether they have been furloughed previously.

The number of employees an employer can claim for after 1st July 2020 cannot exceed the number in any previous claim. For example, an employer that has claimed for 20 employees in April, 40 in May and 30 in June will not be able to claim for more than 40 employees in any claim after 1st July 2020.

The financial support will remain unchanged until 31st July 2020, although from 1st July 2020 there are changes to the way in which claims must be made and the new flexible furloughing of employees will be allowed.

From 1st July 2020, employees can return to work part-time (for full or part days) and be furloughed for the other days they are not working. For example, an employee could work on Monday and Tuesday and be furloughed on Wednesday, Thursday, and Friday. The cap on the furlough grant will be proportional to the hours not worked.

Any working pattern is permitted under the flexible furlough scheme and there is no restriction on the length of time it must last. Employers will need to pay employees their normal pay in full (i.e. their pre-furlough rate of pay) for any hours they work when flexibly furloughed. Employers will then be able to claim a pro-rated furlough grant for any hours which flexibly furloughed employees do not work. This is calculated based on an employee's 'usual hours' when not on furlough, minus the hours they actually work.

Where a previously furloughed employee started a new three-week furlough period after 10th June 2020, the flexible furlough cannot start until those three weeks have expired. This is most likely to affect employees who have been on a rotating furlough arrangement.

If an employee is flexibly furloughed, the employer will need to work out the employee's usual hours and record the actual hours they work as well as their furloughed hours for each claim period. There are two different calculations that can be used to work out employee's usual hours, depending on whether they work fixed or variable hours.



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