

# COVID-19

Coronavirus Job Retention  
Scheme (CJRS) legislation v3  
from 25th June 2020

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## No CJRS claims after 31st July 2020?

The Government have now issued the new legislation covering the 'original' CJRS scheme and the scheme for the period beginning 1st July 2020.

The new legislation has double the number of pages that version 2 did and includes some interesting new terminology and new ways of calculating furlough pay and National Insurance.

### The details worth noting for Employers are:

- A welcome new definition of the purpose of CJRS has been issued, which is "Integral to the purpose of CJRS" is that the amounts paid to an employer pursuant to a CJRS claim are used by the employer to continue the employment of employees in respect of whom the CJRS claim is made whose employment activities have been adversely affected by the coronavirus and coronavirus disease or the measures taken to prevent or limit its further transmission".
  - No claim for the 'original' CJRS will be accepted after 31st July. Employers need to make sure that they have claimed all amounts due, including under and overpayments for the period ending 30th June by 31st July.
  - Flexible furlough is where the employee is instructed not to work the full amount of the employees' usual hours during a CJRS claim period.
  - The flexible furlough agreement with the employee must be in place before the beginning of the period that the CJRS claim relates to, but can be varied.
  - The flexible furlough agreement must be made in writing or at the very least confirmed in writing.
  - All flexible furlough agreements must be retained until 30th June 2025.
- A flexible furlough period is either:
    - A period of 7 or more consecutive days, or
    - An orphan period – less than 6 days covering the start or end of a CJRS calendar month!
  - The number of employees claimed under flexible furlough must not exceed the 'high-watermark'. This is the maximum number of employees included in any single claim period prior to 30th June 2020.
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  - Usual hours for flexible furlough will be based on either:
    - Fixed hours basis
    - Variable hours basis
      - Relevant output work method
      - Averaging method
      - Calendar look-back method
      - Variable hours basis averaging
  - Furloughed hours for the flexible furlough scheme are arrived at by subtracting the worked hours from the usual hours.
  - The National Insurance claim for July is based on the furlough pay, less the secondary NIC threshold multiplied by 13.8% and then capped at the total NIC due in that period.

**There are therefore a number of fundamental changes to get to grips with and lots of detailed formulae to make the calculations also exists and so now is a good time to:**

1. Review claims for March to June 2020 to make sure that they are correct and make amendments by 31st July to avoid potential HMRC action, interest and penalties
2. Consider the 'Top 10' issues we have found below
3. Get the record keeping and agreements in place for the post 1st July scheme and changes to recording, calculations and claims



Also, from reviews we have been undertaking for clients, we have found that the top 10 issues from 'Phase 1' of CJRS have been:

1. Establishing the correct reference pay to ensure employees are correctly paid and CJRS claims maximised
2. Documenting the furlough consultation and 'agreement'
3. Keeping within the daily caps
4. Payroll based on paydays and furlough based on calendar days
5. NIC based on pro-rata of total for pay period, not NIC just on furlough pay
6. Pension claim on earnings above the Qualifying Earnings threshold
7. Your pension rate on Qualifying Earnings basis is different to the rate on Pensionable Earnings basis, and claim is always at 3%
8. SMP above the Statutory Pay can be furlough pay
9. Not moving shielding employees to furlough
10. Not moving employees with caring responsibilities to furlough

So there is a lot for Employers to get to grips with and think about, as well as large claims already received to protect. Please get in touch if you have ad hoc queries, want your claims reviewed or, like a number of others already, you want a full CJRS risk review undertaken.

This guidance is provided for your information and is our summary of the latest position as we see it. You should seek appropriate legal and technical advice in relation to your own specific circumstances before acting on the above.

Please also note that Government advice is being updated on a daily basis.

If you are concerned about being impacted financially due to the Coronavirus, we are here to support you or if you require more specific advice on your situation and how the COVID-19 pandemic may affect your business. Reach out to discuss how we can help. <https://www.macintyreHUDSON.co.uk/spotlight-on/covid-19-update>

If you have any queries, or would like to discuss your requirements for the next step, please contact:



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