

## UPDATES: Coronavirus Job Retention Scheme

**The government has updated its guidance on the Coronavirus Job Retention Scheme, which clarifies and confirms the following points:**

1. **When does the HMRC claim portal open?**

The portal will open on 20 April 2020.

2. **When will the first reimbursements be made?**

We understand HMRC intends to make the first reimbursements on 30 April.

3. **Can you start a new job whilst on furlough leave with your current employer?**

Yes. This was left open in the original guidance, but the new guidance now expressly permits it. This means an employee can potentially earn 80% of their original salary and 100% of a new one. For example, in the past week, the press has reported British Airways pilots becoming Tesco delivery drivers whilst on furlough leave!

Whilst permitted under the guidance, employees will still need to check their contracts of employment to ensure they are not prohibited from working for another employer, presumably employers will be willing to waive this requirement in the circumstances.

4. **Can an employer reclaim contractual commission earned as well as basic salary?**

Yes. The guidance confirms that commission can be claimed from HMRC; together with salary. Although the guidance uses the term "*compulsory*" commission, which we presume means contractual.

5. **Are non-monetary benefits such as the cash value of a car or medical insurance included?**

No. The 80% reclaim amount will not include these.

6. **Can company directors be furloughed?**

Yes, and they may still perform their statutory duties, but not other work for the company. However, what the guidance envisages as being 'statutory duties' is unclear.

### 7. Can employees be furloughed multiple times?

Yes. As stated in our earlier guide (available [here](#)), employees can be furloughed, brought back to work and then furloughed again (remembering that each period of furlough must be for a minimum of 3 weeks).

### 8. How should employers notify employees that they are on furlough leave?

An employee starting furlough leave must be given a written notification of their furlough status (the previous guidance did not mention it being in writing). Employers must also keep a written record of the notification for five years.

We expect that once the pandemic is over and the dust has settled, HMRC will review the furlough claims that were made and potentially ask employers for evidence of the notifications.

### 9. What about employees who TUPE into a business after 28 February?

We expect that employees in this position will be covered on the basis of the 'automatic transfer principle'; however, the guidance has not clarified this point yet.

### 10. Can employees take annual leave when on furlough and what should they be paid?

In the same way that employees accrue annual leave whilst on furlough leave, we expect that they would also be able to take it during a period of furlough leave and be paid full pay for those days taken (in the normal way) by their employer. HMRC has not clarified this in the guidance yet, but its Customer Support Team has Tweeted to that effect.

If you have any queries regarding furlough leave or any other employment matter, Rooks Rider Solicitors is open for business as usual and is on hand to assist. Please contact [Aaron Heslop](#) in our [Employment Team](#) for advice or assistance in preparing a furlough agreement.



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