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FLEXIBLE FURLOUGH UNDER THE JOB RETENTION SCHEME

Guidance Note as at 03 August 2020

The Coronavirus Job Retention Scheme has been in place since March 2020 in order to assist employers who could not maintain their workforce because their operations have been affected by coronavirus.

The mechanics of furloughing employees under the scheme until 10 June 2020 are covered in our separate guidance sheet “Furloughing under the Job Retention Scheme”.

This guidance note deals with the mechanics of flexible furlough which is in place from 1 July 2020.

FLEXIBLE FURLOUGH

From 1 July 2020, employers can bring furloughed employees back to work for any amount of time and any work pattern.

You are still able to claim the furlough grant for the hours your flexibly furloughed employees do not work, compared to the hours they would normally have worked in that period.

PUTTING EMPLOYEES ON FLEXIBLE FURLOUGH

From 1 July 2020, only employees that you have successfully claimed a previous grant for will be eligible for more grants under the scheme.

This means they must have previously been furloughed for at least 3 consecutive weeks taking place any time between 1 March and 30 June 2020. For the minimum 3 consecutive week period to be completed by 30 June, the last day an employee could have started furlough for the first time was 10 June.

You should have a discussion with employees who you wish to place on the flexible furlough scheme because you will need to agree the arrangements of their part time work. The agreement should be confirmed in writing and you must keep a written record of the agreement for five years.

You do not need to place all your employees on furlough. In addition, you can continue to fully furlough employees if you wish.

LENGTH OF FLEXIBLE FURLOUGH

Flexible furlough agreements can last any amount of time. This means that they do not need to last for a minimum of 3 weeks. However, the period that you claim for must be for a minimum period of 7 calendar days.

Employees can enter into a flexible furlough agreement more than once.

PAYMENT

You will pay the employee for the hours they work, along with national insurance contributions and pension contributions for those hours.

The scheme will allow you to recover the remainder of wages to a maximum cap which must be paid to the employee i.e. the employee must receive both full pay for the hours they work and 80% of their wage for their furloughed hours, subject to the maximum cap. Wage caps are proportional to the hours an employee is furloughed. For example, an employee is entitled to 60% of the £2,500 cap if they are placed on furlough for 60% of their usual hours.

The gradual phase out of the scheme began at the start of August; you must now cover all of the national insurance and pension contributions. The amount of wages that the scheme will cover



will begin to decrease from September 2020 when you will only be able to recover 70% of the employees' wage. In October, this will drop again to 60%. However, a furloughed worker must still receive 80% of their wage to a maximum of £2,500 per month which means you will need to contribute the rest. More information on the wage costs you can claim are contained in a separate note. "Furloughing under the Job Retention Scheme".

Claims under the new scheme were permitted from 1 July 2020.

When claiming for employees who are flexibly furloughed you should not claim until you are sure of the exact number of hours they will have worked during the claim period. This means that you should claim when you have certainty about the number of hours your employees are working during the claim period. If you claim in advance and your employee works for more hours than you have told HMRC about, then you will have to pay some of the grant back to HMRC.

KEEPING RECORDS

You'll need to keep records of how many hours your employees work and the number of hours they are furloughed during flexible furlough. For example, you will need to record that an employee who normally works for 37 hours a week is actually working for 15 hours and is furloughed for 22 hours.

WORKING DURING FLEXIBLE FURLOUGH

During flexible furlough, employees are not allowed to do any work for you or any linked or associated organisation during the periods that you record them as being on furlough.

Employees on flexible furlough can do training during the hours that they are recorded as being on furlough, but must be paid at least national minimum wage for those hours.

This also applies to those returning from paternity, adoption, shared parental and parental bereavement leave.

ANNUAL LEAVE AND FURLOUGH

Annual leave will continue to accrue, and can be taken, during furlough, including flexible furlough. When a flexibly furloughed employee is on annual leave, any hours taken as holiday during the claim period should be counted as furloughed hours rather than working hours, even if this is on days when it was agreed that the employee would work.

CALCULATING WORKING HOURS

If your employee is flexibly furloughed, you'll need to work out your 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 you can use to work out your employee's usual hours, depending on whether they work fixed or variable hours.

You should work out usual hours for employees who work variable hours, if either:

- your employee is not contracted to a fixed number of hours
- your employee's pay depends on the number of hours they work

Where the employee's working hours are fixed, or their pay does not vary with the amount of hours worked, the reference period for calculating their hours is the hours your employee was contracted for at the end of the last pay period ending on or before 19 March 2020.

Where an employee works variable hours, you will use the higher of:

- the average number of hours worked in the tax year 2019 to 2020
- the corresponding calendar period in the tax year 2019 to 2020.

JOB RETENTION BONUS

On 8 July, the Chancellor announced that employers will receive a £1000 'bonus' for every furloughed employee they bring back to work and continue to employ from the last time that



PENINSULA

you made a claim to the Job Retention Scheme for them to the end of January 2021. The employee must earn at least £520 per month on average in order for their employer to be able to claim the bonus in relation to them.

More details on the bonus were released on 31 July and are covered in our separate note, “Job Retention Bonus” which is available from the Advisory Service.