

Peter Lynn & PARTNERS

Solicitors

During these unprecedented times, we want to reassure people that no matter the legal need, we are here for you. Our staff are available remotely to continue offering expert legal advice, so contact us via the details below to make contact.

COVID-19 ADVICE FOR BUSINESSES: Furlough Leave FAQ's

Please note this is accurate at the point of writing. This is a fast-moving situation, and regular updates will be required.

Under the Coronavirus Job Retention Scheme, all UK employers will be able to access support to continue paying part of their employees' salary for those employees that would otherwise have been laid off during this crisis.

This support level is 80% of the furloughed workers wage costs, up to a cap of £2,500 per month and in the following article, we answer some of the questions we have received on 'Furlough Workers'.

What does it mean to be a furloughed worker?

It is essentially an alternative to redundancy and being laid off, whereby you will be paid whilst you are off work without work to be done. If you are able to carry out your duties, you will not be classed as a furloughed worker.

Who can claim it?

All employers in the UK can claim it.

Can an employer insist on it?

The employee's employment contract will largely dictate the answer to this. If there is a clause in the contract whereby the employee can be laid off, or where short-time working can be introduced, then the employer can insist on it.

Without such a clause, the consent of the employee is required.

The majority of employees will consent to such a change as the main alternative if they do not is redundancy. If this is the case, the employer must follow a fair redundancy procedure.

Employees cannot elect to be a furloughed worker without their employer's agreement.

Is there a selection process?

It is advised that an objective criterion similar to that of a redundancy situation is used.

Such a criterion to include can be appraisals or work records.

If an employee refuses to be categorised as a furloughed worker, then they could then be selected for redundancy based on the criteria above.

What about the additional 20% wage?

There is no obligation on the employer to top up the remaining 20%. Although in essence, this would then be a deduction of wages (and thus potentially a breach of contract) it is unlikely that an employee would succeed. To alleviate this, it is advisable to get written consent.

What will be included in the 80%

The Coronavirus Job Retention Scheme allows for 80% of wage costs to be recovered up to £2,500 per month per employee. There is no limit on the number of employees or the duration for as long as the scheme is available. Although we don't have specific guidance, we anticipate that wage costs will include wages, pension contributions and Employer NI contributions.

What do employers need to do?

1. Employers and employees will need to agree to the employee being designated as a 'furloughed worker'. This should be straightforward because this will no doubt be more attractive to employees than redundancy, lay off, unpaid leave or a reduction in pay.
2. It is then recommended that employers send a letter or email to the employee concerned and get them to agree to the change in status in writing (and the salary change from 100% – 80% if they are not going to be topped up)
3. Employers will then need to submit details to HMRC through a new online portal which is being set up urgently to get the funds.

For advice on furlough workers or any other employment law question you may have, contact senior solicitor Nia Godsmark on 01792 450010 or email Employmentlaw@plandp.co.uk

We are able to offer advice, review existing employment contracts and help you through this challenging period without the need for a face-to-face meeting, so get in touch and arrange a free initial consultation.

"Preventing Legal Problems"

01792 450010 www.peterlynnandpartners.co.uk Advice@plandp.co.uk



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