



# COVID-19 Coronavirus Job Retention Scheme update

**20<sup>th</sup> April 2020**

Today sees the system to claim the Coronavirus Job Retention Scheme (CJRS) go live. Full details of the scheme are available [here](#), a step by step guide of how to make a claim is also [available](#), this includes a link to guidance in the form of a recorded [webinar](#).

For those already familiar with the scheme it's worth noting that there were some important developments over the past few days that you should be aware of.

## **Change in the eligibility dates**

Eligibility for the scheme has been changed to 19<sup>th</sup> March 2020 so employees who were on your payroll on or before 19<sup>th</sup> March and who are furloughed can now be claimed for, backdated to 1<sup>st</sup> March. What you can claim for should be calculated based on wages earned in the full pay period ending on or before 19<sup>th</sup> March, or other date if employees receive variable pay (see government's detailed guidance for details). If you've already made the calculation based on 28<sup>th</sup> February you can still use this calculation.

It's also been announced that the scheme will now run until at least 30<sup>th</sup> June, which I'm sure will be welcomed.

## **Confirmation of the how the grant will work with salary sacrifice**

At a meeting Aviva attended on 17<sup>th</sup> April, the Treasury confirmed that in all instances where employers operated salary sacrifice in the pay period being used as reference pay for the CJRS you will only be able to claim 80% of post-sacrifice pay.

Even if an employee asks to stop pension saving or you agree to stop the salary sacrifice arrangement you will not be able to claim more than 80% of the post-sacrifice pay received in the reference pay period.

Pension contributions based on your salary sacrifice contract with the employee will continue to be payable where salary sacrifice is in place and the employee remains in the pension scheme. The statutory minimum that must be paid will be 8% of qualifying earnings based on the wage paid to the employee but will only be able to claim a maximum of 3% of qualifying earnings based on 80% of post sacrifice paid from the CJRS.

You cannot make a deduction from the amount paid as wages under the CJRS to cover additional employer contributions due under a salary sacrifice arrangement.

This is confirmed in guidance recently issued by the [Pensions Regulator](#).

Treasury have confirmed that they are aware this means you will need to pick up some employment costs, but unfortunately the inability of HMRC to check amounts being claimed on a pre-sacrifice salary meant that they had to limit claims to taxable pay only.

This is a disappointment, but we now have the benefit of clarity.

## What does this mean in practical terms?

It's probably best to illustrate the practical aspects with an example:

Assumptions are:

- Pre sacrifice reference pay in the pay period prior to 19<sup>th</sup> March (or other CJRS reference period) was £2,000.
- Pension contributions of 5% of pay were paid via salary sacrifice
- Post sacrifice pay was therefore £1,900

## If the salary sacrifice remains in place

You will be able to claim  $£1,900 \times 80\% = £1,520$  to cover wages and must pay this to your employee as a minimum wage.

Employer pension contributions will be a statutory minimum of  $(£1,520 - £520) \times 3\% = £30$ . This is what you will receive from CJRS, but you may be contractually obliged to pay more. You will also be contractually liable to cover the employee contributions and pay the amount sacrificed.

If the employees furloughed salary has been reduced to 80% of post sacrifice pay, the amount sacrificed is effectively £80 (the employee has received £1,520 as opposed to £1,600) i.e. the sacrifice is 5% of 80% of the salary sacrifice reference pay.

$$(£2,000 \times 80\%) \times 5\% = £80$$

You will not be able to deduct anything to cover the cost of the £80 pension contribution from the employee's pay assuming you only pay the £1,520 received from the CJRS as wages.

## If you top up the employees pay

You can make a deduction from the top up to account for salary sacrifice:

e.g. If you intend to top up pay to the £2,000 salary sacrifice reference pay you can:

- Pay £380 as pay on top of CJRS, to increase pay to £1,900, plus
- £100 as pension contribution on top of your statutory or contractual contribution.

In this case statutory minimum pension contributions would be 3% of qualifying earnings based on £1,900. Although contractually you may have agreed to a different % and to base employer contributions on the salary sacrifice reference pay of £2,000.

## If the salary sacrifice is stopped

HMRC have confirmed that “COVID-19 counts as a life event that could warrant changes to salary sacrifice arrangements, if the relevant employment contract is updated accordingly.”

This would only seem to be of benefit to employees who are not furloughed, but are perhaps suffering hardship as a result of a reduction in household income. They could choose to stop pension contributions or other sacrifice benefits, for example child-care vouchers and receive increased salary from you instead.

For furloughed workers the amount paid to you from CJRS in respect of wages will not change if the salary sacrifice agreement ends.

Should an employee agree to end the salary sacrifice, employee pension contributions will become payable by deduction from the employee’s pay as shown in the example below:

Amount claimed from CJRS and which must be paid to the employee as a minimum is still  $£1900 \times 80\% = £1,520$

Assuming the minimum is paid, the employer pension contributions will be:

- a statutory minimum of  $(£1,520 - £520^*) \times 3\% = £30.00$  (this is what you will receive from CJRS), or
- The amount agreed in the contract with your employee.

\*post 6<sup>th</sup> April 2020

Employee pension contributions will be deducted from employee pay of £1,520, either:

- As the gross amount due before tax, but after NICs, where the scheme is a net pay arrangement scheme (typically an occupational scheme)
- As an amount net of basic rate tax from pay, after tax and NICs, where the scheme is a relief at source scheme (typically a workplace personal pension scheme)

The amount payable by the employee will depend on what you have agreed with them but will be a minimum of 5% of qualifying earnings if you pay 3% of qualifying earnings.

## If a furloughed worker comes out of the pension scheme

If a furloughed worker chooses to cease membership of the pension scheme you will not be liable to pay their sacrificed contributions to pension and would not be liable for your pension contributions either (although if this was 3% of qualifying earnings the cost would be covered by CJRS in any event).

You will not receive anything more in CJRS grant to cover wages, but it’s likely the employee will expect you to top up their salary to the same amount as the sacrificed employee pension contribution. You will become liable for employer NICs on these earnings if you choose to make this top up payment, these will not be covered by the CJRS.

This is clearly a complex area and we recommend that employers seek legal advice before making any changes to contracts of employment, pay and benefits.