



A round-up of 2020's key law changes, plus essential updates coming next year



With:
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Today we'll cover...

- **The Job Retention Scheme Continues**
- **Self-isolation and SSP**
- **Shielding**
- **Annual Leave**
- **Modern Slavery Statements**
- **Gender Pay Gap Reports**
- **New IR35 rules**
- **Kickstart Scheme**
- **Post-Brexit immigration**
- **Good Work Plan**
- **Parental Bereavement Leave**
- **Increases to statutory rates**

Current coronavirus restrictions

England

- National lockdown 5 November to 2 December
- Returned to three-tiered system from 3 December– higher restrictions depending on location

Scotland

- Five-level system – higher restrictions depending on location

Wales

- National restrictions in place
- Had 'fire-break' national lockdown last month.

Furlough scheme extension

- In March 2020, as a result of business closures due to coronavirus restrictions, the government introduced the Job Retention (furlough) Scheme (JRS).
- The scheme was designed to help employers whose operations were affected by the coronavirus outbreak with employee wage assistance.
- Originally, the scheme was supposed to end on 31 October, to be replaced by the new Job Support Scheme from 1 November.
- However, on 31 October, Prime Minister Boris Johnson announced the scheme was to be extended.

Where are we now?

Current position:

The Job Retention Scheme is currently expected to end on 31 March 2021.

The Job Support Scheme, which was set to replace it, has been postponed indefinitely.

There will be no gap in eligibility for support between the previously announced end-date of JRS and this extension.

These announcements came as part of plans to place England in a second national lockdown from 5 November to 2 December.

Which employers can use the extended JRS?

Employers can use the extended JRS even if they have not used furlough before.

All employers with a UK bank account and UK PAYE schemes can claim the grant.

The Government expects that publicly funded organisations will not use the JRS but partially publicly funded organisations may be eligible where their private revenues have been disrupted.

Which employees can be furloughed?

- Employees must be on an employer's PAYE payroll by 23:59 30 October 2020.
- This means a Real Time Information (RTI) submission notifying payment for that employee to HMRC must have been made on or before 30 October 2020.
- As a result, the employee does not have to have been furloughed before.
- Employees can be on any type of contract, including workers, agency workers, office holders (including company directors) and salaried members of Limited Liability Partnerships (LLPs) etc.

Full and flexible furlough

The extended JRS permits both full and flexible furlough – an employer's circumstances dictate which one they use.

Full furlough is a period where employers provide no working hours to an employee.

Flexible furlough is where employees work part-time and are furloughed for the remainder of the time.

The JRS grant

- Eligible employers who furlough eligible employees will be able to obtain a grant to cover 80% of furloughed employees' wages for unworked hours.
- This is subject to a cap of £2,500 per employee per month.
- When an employee is on full furlough, no wage contribution is needed from the employer.
- When an employee is on flexible furlough, the employer pays the employee for the hours worked and can claim 80% of wages for unworked hours, to a maximum which is proportionately reduced in accordance with the number of unworked hours.
- Employers can choose to top up furlough pay to the amount the employee would normally receive but they do not have to.
- Employers will need to pay National Insurance and auto-enrolment pension contributions.
- When claiming the grant for furloughed hours, employers will need to report and claim for a minimum period of 7 consecutive calendar days.

Key differences between 'old' & extended schemes

March - October	November
19 March 2020 PAYE eligibility	30 October 2020 PAYE eligibility
30 June cut off date	All employers/employees can use JRS
By October, 60% wage grant available	80% (capped) wage grant available

Self-isolation & SSP

SSP is payable from day one of absence where absence is because of coronavirus but 4 day PIW must still be formed.

SSP is not payable when an employee needs to quarantine on return from overseas.

Self-isolation types:

- 10 days when employee has positive test or symptoms
- 14 days when employee lives with, or is in a bubble with, someone who has a positive test or symptoms
- 14 days when employee has received notification from tracing service that they have had close contact with someone with a positive test
- Up to 14 days when employee notified by NHS to self-isolation before surgery

Shielding

- Shielding is where those considered most vulnerable by the virus are instructed to 'shield' themselves by the government.
- Shielding returned in England temporarily as a result of the national lockdown.
- It remains paused in Scotland and Wales, however those who are extremely clinically vulnerable may receive further advice.
- Individuals in this position should work from home or, if this is not possible, provided statutory sick pay (if eligible) from day one of their absence.
- Employers can also agree other ways to cover the absence, such as providing contractual sick pay or agreeing with staff that they should take annual leave.

Annual leave

- Usually, 4 weeks of annual leave is exclusive to the leave year in which it is accrued i.e. cannot be carried over subject to limited exceptions
- The law was relaxed in response to coronavirus and the 4 weeks can be carried forward to the next two years where it was not reasonably practicable to take it in the leave year
- As usual, the remaining 1.6 weeks of leave can be carried over to the next leave year subject to the employer's agreement
- An employer's usual rules will apply to any enhanced contractual element above 5.6 weeks

Modern slavery statements

- The Government has relaxed the rules around compliance with modern slavery requirements.
- An updated Government guide makes clear that businesses must continue their activity to identify and address risks of modern slavery in their operations and supply chains but recognises the challenges presented by the virus in publishing their statement within the usual timeframe.
- It notes 'reduced staff capacity' as one such challenge. It states that "businesses which need to delay the publication of their modern slavery statement by up to 6 months due to coronavirus related pressures will not be penalised". The reason for any delay to the publication should be set out in the delayed statement.

Gender pay gap reports

- Usually, employers with 250+ employees have to submit a gender pay gap report every April.
- Due to the coronavirus outbreak, the government suspended the production of 2020 reports, meaning reporting has now been delayed until 2021. However, employers can still submit a report if they wish to.
- The Government Equalities Office continued to provide support to employers who still submitted a report in 2020.

New IR35 rules

New IR35 rules, which were due to come into place in April 2020, have now been delayed until 6 April 2021.

Currently, those working in the private sector are solely responsible for determining employment status of contractors they use. This has previously provided companies the opportunity and incentive to pay the wrong amount of tax.

From April 2021, eligible large and medium sized organisations engaging contractors through intermediary companies will also be responsible for assessing the employment status of those contractors.

Organisations will need to meet at least two of the below to have to do this:

- have over 50 employees
- have a net turnover in excess of £10.2m
- have over £5.1m on their balance sheet.

Kickstart scheme

- Aimed at creating new high-quality jobs to help 16-24 year-old unemployed people on Universal Credit who are at risk of long term unemployment.
- Employers can apply for funding to cover 25 hours work per week paid at the National Minimum Wage (NMW) and a grant for ancillary costs.
- Employers can advertise roles as Kickstart roles with minimum 25 hours per week for minimum 6 month placement but must commit to providing training on employability skills e.g. team work, attendance and punctuality, CV and interview skills.
- Minimum 30 roles must be created in order to be eligible for funding, or employer can team up with other employers to reach minimum number threshold.

Post-Brexit immigration

- EU citizens in the UK by 31 December 2020 can apply to the EU Settlement Scheme to obtain permission to stay after 30 June 2021
- Right to work checks on EU citizens will not change until after 30 June 2021. Employers should still ask for passport, national identity card etc
- You cannot insist on production of Settlement Scheme status before 30 June 2020
- Those arriving in the UK from 1 January 2021 will need a visa which should be checked alongside their passport etc.
- Entry to the UK to work will be authorised in accordance with a points based system under the 'Skilled Worker Route'. Employers must become a sponsor

Good Work Plan

Some 'Good Work Plan' laws came into place on 6th April 2020. This includes:

- Entitlement to receive written statement setting out the main terms of employment by no later than the beginning of employment.
- Workers entitled to an equivalent of the written statement.
- A requirement to include more detailed information in your written statement.
- If there is a need to average pay for holiday pay (where pay varies) this average changed from a 12 week average to a 52 weeks average.
- Swedish Derogation Model contract banned.
- Agency workers now need to receive a key facts page outlining specified information on each engagement.

Parental bereavement leave

- Introduced on 6 April 2020, this provides a day one right for workers to take a period of leave if they lose a child under the age of 18, or suffer a still-birth after 24 weeks.
- This permits two weeks of leave overall.
- Leave can be taken in blocks of one or two weeks within 56 weeks following the death. This could mean that staff take one week immediately following the death and then another week some time after.
- Staff may be entitled to receive statutory parental bereavement pay (currently £151.20) per week if they have worked for a company for 26 weeks or more at the time of the death.

Increases to statutory rates

National minimum wage increases for April 2021	Other current rates to note (from April 2020)
£8.91 per hour for workers aged 23 and over	Family leave pay, including maternity pay: £151.20 per week.
£8.36 per hour for workers aged 21-22	Statutory sick pay: £95.85 per week.
£6.56 per hour for workers aged 18-20	The lower earnings limit: £120 per month.
£4.62 per hour for workers aged 16-17	
£4.30 per hour apprentice rate	



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