

Job Support Scheme – New Guidance Published 22.10.20

A policy paper setting out further provisions relating to the Job Support Scheme has been published [here](#) and incorporate Chancellor Rishi Sunak's announcements in relation to Government and employer contributions made earlier today.

Two types of scheme are defined under the guidance:

1. **JSS Open** – for employers to use where they face reduced demand and need extra support to help keep their employees attached to the workforce;
2. **JSS Closed** – for employers who are legally required to close their premises as a direct result of Coronavirus job restrictions.

Employers are permitted to claim from the JSS Open and Closed schemes at the same time for different employees.

Provisions applying to both JSS Open and JSS Closed

Eligibility

- ☐ Employees must have had an RTI submission made in respect of them between 6th April 2019 and 23rd September 2020;
- ☐ If employees ceased employment after 23rd September, they can be re-hired and claimed for;
- ☐ Employees on temporary or zero hours contracts are included; however, agency workers who are not employees of the agency are excluded;
- ☐ Employers are permitted to top up wages above minimum contributions if they wish;
- ☐ Employees are permitted to undertake training voluntarily in non-working hours.

Conditions of claiming

- ☐ Employers cannot claim for an employee who has been made redundant or is serving a contractual or statutory notice period during the claim period;
- ☐ NIC and pension contributions remain payable by the employer, on the full amount paid to the employee (including any amounts met by a grant);
- ☐ No agreement can be made to reduce wages below the amount claimed under the scheme. However, it appears possible to make deductions from net pay which were agreed prior to the scheme coming into effect.

Commercial. Decisive. Expert.

Making claims

- ❏ The first claims can be made from 8th December 2020 through the gov.uk website;
- ❏ There are enhanced measures in place to prevent fraudulent claims, such as penalties of up to 100% of any overclaim, publishing details of employers who are charged a penalty and publishing a list of employers who have used the scheme to allow employees to make it easier for the public to report fraud;

Other schemes

- ❏ Grants claimed under the Job Support Scheme can be used by employers to meet the Lower Earnings Limit of the Job Retention Bonus (£520 per month on average across November 2020, December 2020 and January 2021).

JSS Open

- ❏ Employees must work a minimum of 20% of their contracted hours and will be paid as normal for these hours. This can include training;
- ❏ For the hours not worked, the employer will pay 5% of reference salary up to a maximum of £125 per month, and the Government will pay 61.67% of reference salary up to a maximum of £1,531.75 per month;
- ❏ An employee will therefore receive at least 73% of their normal wages where they earn £3,125.00 per month or less;
- ❏ A financial impact test applies for large employers (those with 250 or more employees on 23 September) except for registered charities. Essentially, they must show their turnover has remained equal or fallen to be able to make use of the scheme;
- ❏ A written agreement must be reached with employees; the guidance states *“HMRC will publish further guidance on what to include in the written agreement by the end of October”*;

JSS Open – Reference salary

- ❏ Reference salary includes the same payments as under the CJRS – employers can take into account non-discretionary overtime, fees and commission;
- ❏ For salaried employees, the reference salary is the higher of the wages in the pay period prior to 23rd September 2020 or prior to 19th March 2020;
- ❏ For employees with variable pay, the reference salary is the higher of the wages earned in the same calendar period in the 2019/20 tax year, the average wages payable in the 2019/20 tax year, or the average wages payable from 1 February 2020 until 23rd September 2020.

Commercial. Decisive. Expert.

JSS Open – Usual hours

- ❏ For fixed hours workers, the usual hours are the higher of the hours contracted in the pay period prior to 23rd September 2020 or prior to 19th March 2020;
- ❏ For variable hours workers, the usual hours are the higher of the hours worked in the same calendar period in the 2019/20 tax year, the average hours worked in the 2019/20 tax year, or the average hours worked from 1 February 2020 until 23rd September 2020;
- ❏ The calculation then mirrors the flexible furlough calculation – the employer will need to calculate the repeating work pattern and the number of days in the relevant calendar month that the employee is eligible to be claimed for.

JSS Closed

- ❏ Employees are eligible if their primary work place is at premises which have been legally required to close as a direct result of coronavirus restrictions, and if their employer has instructed them to cease work for a minimum period of at least 7 consecutive calendar days;
- ❏ Again, a written agreement must be reached with the employee to stop working, and must be made available to view by HMRC on request;
- ❏ Further guidance on the reference salary to be used under the JSS Closed scheme will be announced by the end of October.