

NEW SUPPORT FOR BUSINESSES FORCED TO CLOSE UNDER TIGHTER RESTRICTIONS

The Chancellor of the Exchequer, Rishi Sunak, has outlined an expansion of the Job Support Scheme (JSS) to specifically target support to businesses across the UK that are legally mandated to close when tighter COVID-19 restrictions are introduced in their areas.

TEMPORARY BUSINESS CLOSURES EXPECTED

The Prime Minister is expected to announce tighter restrictions on Monday, in order to curb the accelerating infection rate of COVID-19. Many expect these restrictions to include the temporary closure of pubs and restaurants in areas with the highest infection rates, similar to the new restrictions imposed across the Central Belt in Scotland.

EXPANDED JOB SUPPORT SCHEME

From 1 November 2020, the expanded JSS will provide taxpayer grants to businesses that are temporarily shut down as a result of coronavirus restrictions to cover the cost of two thirds of the wages of employees who cannot work (up to a maximum of £2,100 per month). Employers will not be required to contribute towards the wages of employees who cannot work, but will need to cover National Insurance contributions (NICs) and pension contributions. This, however, represents a very small proportion of overall employment costs and the government estimates that around half of potential claims under the expanded JSS will not even incur employer NICs or auto-enrolment pension contributions.

Businesses will only be eligible to claim a grant under the expanded JSS while they are subject to restrictions. We understand that the expanded JSS will include not only businesses forced to close in their entirety, but also, for example, businesses forced to close their indoor restaurant or pub functions, but are permitted to provide delivery and collection services from their premises, or food and drink from outside their premises. Businesses required to close by local public health authorities as a result of specific workplace outbreaks are not eligible under the expanded JSS.

To be eligible, employees will need to be “furloughed” for a minimum of seven consecutive days at any given time, and have had a Real Time Information (RTI) submission notifying payment in respect of them made to HMRC on or before 23 September 2020. It is unhelpfully confusing that the government has chosen to use the term “furloughed” in relation to eligible employees under the expanded JSS, given that this term is so closely associated with the Coronavirus Job Retention Scheme (CJRS).

Payments of grants will be made to businesses monthly in arrears.

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The expanded JSS will run for six months. Further guidance on the JSS will be set out by HMRC in due course.

CLOSURE OF CORONAVIRUS JOB RETENTION SCHEME

Despite having previously refused to extend the popular CJRS, the Chancellor's expanded JSS appears to replicate many of the terms of the CJRS for applicable businesses (although we await further details of the expanded scheme). The CJRS, which is due to end on 31 October 2020, guarantees that those employees furloughed on a full time or flexible basis receive 80% of their normal wage for any furloughed hours. However, employers are now required to contribute at least 20% of the wages of furloughed employees under the CJRS, in addition to employer NICs and pension contributions, making it more onerous for employers than the expanded JSS. Employees to whom the relevant financial caps do not apply are, on the other hand, currently better off under the CJRS than they will be under the expanded JSS, as they receive at least 80% of their wages under the CJRS, but are only guaranteed 67% of their wages under the expanded JSS.

LIMITATIONS OF ORIGINAL JOB SUPPORT SCHEME

The original JSS was announced on 24 September 2020 as part of the Chancellor's Winter Economy Plan "to protect jobs and help businesses through the uncertain months ahead as we continue to tackle the spread of the virus". The original version of the JSS is intended to protect "viable jobs" by sharing "the burden of hours not worked" between the employer, the government (by way of a capped grant) and the employee (by way of a wage reduction). You can read our commentary on the original version of the JSS [here](#).

One criterion for support under the original version of the JSS is that the employee works at least 33% of their usual hours. It is unlikely that those businesses required to close will need many, or indeed any, of their employees to work even minimal hours. Such businesses would not have been eligible to access support under the original JSS, but will now be able to seek support under the expanded version of the scheme.

SUFFICIENT TO PREVENT LARGE-SCALE JOB LOSSES?

The expanded JSS is likely to be welcomed by many employers facing temporary closure of their businesses and goes some way to plug the gaps created by the closing of the CJRS and the limitations of the original version of the JSS. However, it remains to be seen whether this new relief will be enough to avoid large-scale job losses over the coming months.

The expanded JSS targets its support to businesses that are legally mandated to close some or all of their operations as a result of COVID-19 restrictions. It does not, however, offer support to other businesses that will be negatively impacted by such restrictions but not legally required to close.

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