



March 2020

COVID-19 SPECIAL

SSP now available for those self-isolating

The Statutory Sick Pay (General) (Coronavirus Amendment) Regulations 2020 came into force on 13 March, followed by the Statutory Sick Pay (General) (Coronavirus Amendment) (No.2) Regulations 2020 on 17 March (the "Regulations"). Together, the Regulations provide that Statutory Sick Pay (SSP), currently £94.25 per week (rising to £95.85 from 6 April 2020), will be payable to anyone who isolates themselves in accordance with guidance published by Public Health England (and effective on 16 March 2020), and who by reason of that isolation is unable to work.

Whilst SSP is usually only payable from day 4 of sickness, the waiting period has been temporarily removed for absence relating to coronavirus and the Coronavirus Act 2020 ("the Act") confirms 13 March as the effective date for this change. Regulations to implement this are expected soon.

It may be necessary for employers to relax requirements for evidence of illness. The government has now launched online "isolation notes", which can be used to provide evidence of the need to self-isolate when someone is absent for more than 7 days due to having symptoms of coronavirus or living with someone who has symptoms.

The Chancellor, Rishi Sunak, also announced on 17 March that the government will reimburse employers with fewer than 250 employees any coronavirus-related SSP they pay to employees for the first two weeks of sickness, backdated to 14 March. Power to make these changes has been included in the Act and implementing regulations are expected soon.

Detailed guidance published on the Coronavirus Job Retention Scheme

The government has finally issued official guidance for employers on the Coronavirus Job Retention Scheme (CJRS). The CJRS is designed to support employers affected by the COVID-19 crisis by paying a proportion of the salary of those employees who would otherwise have been made redundant.

Employers will be able to claim 80% of "furloughed" employees' usual wage costs, up to a cap of £2,500 (gross) per month per employee, plus the associated Employer National Insurance contributions (NICs) and minimum automatic enrolment employer contributions on that wage.

A furlough is essentially a temporary lay-off from work. The essence of the CJRS is that staff remain employed but there is a temporary suspension of their obligation to work while the employer is assisted in paying the employee. Employers (in most cases) will need to obtain their employee's express agreement to being furloughed.

The CJRS is open to all UK employers with a PAYE payroll scheme in place on 28 February 2020 and an employer will be able to furlough any employees on the payroll on this date. The CJRS also applies to employees who were made redundant on or after 28 February, provided they are rehired.

It is expected that the CJRS will be operational by the end of April at which point claims can be made through an HMRC online portal. The CJRS will be backdated to 1 March 2020 and the government intends for it to run for at least 3 months. To read more about the CJRS, please [click here](#).

Emergency volunteer leave

In addition to the SSP provisions noted above, the Coronavirus Act 2020 sets out additional emergency measures to deal with the COVID-19 outbreak. Of note is the introduction of a new form of unpaid statutory leave.

Employees and workers will be able to take emergency volunteer leave (to assist the NHS or social care sector) in blocks of two, three or four weeks' unpaid leave. A compensation fund will be established to compensate for some loss of earnings and expenses incurred for those who volunteer through an appropriate authority. For further information about the emergency measures introduced [click here](#).

Rules on carrying over annual leave to be relaxed

Business Secretary Alok Sharma announced on 27 March 2020 that the Working Time Regulations are to be amended to allow workers who have not taken all their statutory annual leave entitlement due to COVID-19 to carry it over into the next 2 leave years. The Working Time (Coronavirus) (Amendment) Regulations 2020 will allow up to 4 weeks of unused leave to be carried over and thereby seek to mitigate the pressure on businesses to ensure that workers take their statutory entitlement of annual leave in any one year.

New Employment Tribunal guidance issued

New guidance on how Employment Tribunal (ET) and Employment Appeal Tribunal (EAT) proceedings should take place during the coronavirus pandemic has been issued by the respective Presidents of the EAT and the ETs in England & Wales and Scotland.

All in-person ET hearings listed to commence on or before 26 June 2020 will be converted to case management hearings and will be conducted remotely, using either telephone or video conferencing. Hearings which cannot be heard by video or telephone and which cannot be delayed will be held in priority tribunal buildings, except in exceptional circumstances, from 30 March 2020.

Hearings listed in the EATs in London and Edinburgh up to and including 15 April 2020 have been postponed and will not take place remotely unless absolutely urgent. When hearings resume, parties should be prepared for them to be heard by telephone, skype or other form of video link.

IR35 reforms delayed until April 2021

On 17 March the Chief Secretary to the Treasury announced that the planned extension of the IR35 tax reforms to private sector large and medium-sized companies would be delayed by a year, to April 2021, in light of the COVID-19

crisis. For the private sector, this means that responsibility for determining the deemed employment status of workers provided via a professional services company will remain with the intermediary for the time being.

Though the delay does provide some respite, the announcement was for a delay, not a cancellation. Businesses should ensure they use the additional time wisely and that they know how the rules will apply to any new engagements with contractors that are expected to go on beyond 6 April 2021. For further detail about the planned reforms [click here](#).

Gender pay gap reporting obligations for 2019/20 suspended

Due to the COVID-19 crisis, the Government Equalities Office (GEO) and the Equality and Human Rights Commission (EHRC) announced on 24 March 2020 that they have taken the decision to suspend enforcement of the gender pay gap deadlines for this reporting year (2019/20). The decision means that employers will not be required to report their 2019 data by the 30 March public sector deadline and 4 April private sector deadline.

For more information on the items raised in this article please contact Nick Hall on 01604 463375 or [click here](#) to email Nick.

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