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Coronavirus Job Retention Scheme

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Rosemary Connolly is a Chambers UK and Legal 500 ranked leading lawyer in Employment and Equality Law

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WHICH EMPLOYERS?

All UK Employers large and small including:

- Charities
- Recruitment Agencies
- Public Authorities (limited)

WHICH EMPLOYEES

- Full-time
- Part-time
- Temporary
- Casual
- Zero Hours
- Agency Workers

WHAT IS COVERED?

- The lower of 80% of an employee's regular wage or £2,500 per month
- Employer National Insurance contributions (NICs) paid on the subsidized furlough pay
- Pension contributions paid on the subsidized furlough pay up to minimum automatic enrolment employer contributions

HOW SHOULD AN EMPLOYER DECIDE WHO TO FURLOUGH?

- Fair, objective, non-discriminatory criteria
- Business needs
- Availability of types of work
- Prioritising vulnerable employees
- Implementing a furlough rota
- Seeking volunteers

CONSENT TO BEING FURLOUGHED AND WRITTEN RECORDS

- Furlough: temporary variation of contract
- Written evidence of notification/agreement retained for 5 years (HMRC)
- Written evidence of consent to variation of contract specifically remuneration provisions (contractual)

WHAT CAN THE EMPLOYEE DO?

Employees cannot:

- Provide services, or
- Engage in income generating work

But can:

- Take part in volunteer work
- Training
- Or work for a different employer (provided this does not conflict with existing contractual terms)

HOW DOES FURLOUGH INTERACT WITH STATUTORY SICK PAY (SSP)

- Employees on sick leave or self-isolating should get SPP
- After this can be furloughed
- Employers may furlough employees being shielded or off on long term sick leave

HOW DOES FURLOUGH INTERACT WITH HOLIDAY LEAVE AND PAY

- Holiday leave continues to accrue during furlough period
- Holiday pay is paid at normal rate of pay
- Employer can notify workers of requirement to take holidays at designated times
- Notification requirements Working Time Regulations 2016

CARRYING OVER OF ANNUAL LEAVE

- Temporary facility to carry over unused leave for two subsequent years where “not reasonably practicable for a worker to take leave as a result of the effects of Coronavirus...”
- Working Time (Coronavirus) (Amendment) Regulations (NI) 2020

ENDING FURLOUGH

- The CJRS will run until 30th June 2020
- Employees may be placed on and off furlough for minimum three week periods which can be consecutive
- A redundancy consultation process can be undertaken during furlough but the scheme cannot be used to pay redundancy compensation

DISCLAIMER

Nothing in this presentation constitutes legal advice.

Specialist legal advice should be sought for specific circumstances

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