

The UK's Job Support Scheme

27 October 2020

The UK government announced its Job Support Scheme (JSS Open) on 24 September and revised terms on 22 October. An expanded version of the Job Support Scheme (JSS Closed) is available for businesses that are required to close as a result of coronavirus restrictions.

Both JSS schemes will run for six months from 1 November 2020, when the Job Retention Scheme (JRS) comes to an end, until the end of April 2021, although the terms of the schemes will be reviewed in January 2021. Employers do not have to have claimed under the JRS in order to access the JSS. Employers who have accessed the JRS will still be able to claim Job Retention Bonuses under that scheme if they are eligible, while using JSS.

JSS Open is designed to support viable jobs in businesses that are still experiencing lower demand as a result of COVID-19. It is different from the JRS because in order to qualify for the scheme, employees must be carrying out a minimum level of work for their employer. Essentially the JSS is designed to top up wages to at least 73% of normal earnings (subject to a cap) for employees who are working a minimum of 20% of their normal hours.

Employees must be paid for the hours that they are actually working in the normal way. Their pay will then be “topped up” to reflect the hours that they are not working. Both the government and employers will contribute to that top up pay.

Further details of the JSS Open and Closed schemes (referred to collectively as JSS) are set out below. We are expecting more detailed guidance in due course and we will update this note when that is available.

Employer eligibility

All employers are potentially eligible for the JSS if they have a PAYE payroll scheme and a UK bank account, although fully publicly funded organisations are not expected to use the JSS.

All small and medium employers qualify for JSS Open. Large employers (those with 250 or more employees) can access JSS Open if they complete a Financial Impact Test to show that their turnover has remained equal to or decreased from that in the previous year. Broadly this involves comparing VAT returns from the relevant period this year with the same period in 2019. The relevant period will depend on whether the business submits VAT returns monthly or

quarterly. The Financial Impact Test only has to be applied once, before an employer's first claim under JSS Open.

The government expects that large employers will not make capital distributions such as dividend payments while accessing the JSS Schemes.

All employers who have to close their business premises as a direct result of coronavirus restrictions are in principle eligible to claim under JSS Closed while the relevant restrictions are in place. The government has said that it will announce further eligibility requirements by the end of October.

JSS Closed does not apply if a business is required to close because of a workplace-specific outbreak of coronavirus.

Eligible employees

Employees must have been in the employer's employment on 23 September 2020 and notified to HMRC in a real time information submission between 6 April 2019 and 23 September 2020 to qualify for JSS. They do not have to have been furloughed under the JRS in order to be eligible.

Employees must work or be engaged in training for which they are paid at their normal rate for at least 20% of their normal hours for a claim to be made under JSS Open. The proportion of normal hours employees must be working to be eligible for the JSS will be reviewed after three months and may be increased at that point.

Employees do not have to be placed on JSS Open permanently, provided that any short-time working arrangement lasts a minimum of seven days. This would allow employees to work for different periods each week for example, or alternate between full time and part time working.

Employees in respect of whom a JSS Closed grant is claimed must be instructed not to work for a minimum period of at least seven consecutive days.

How the JSS Open grant operates

Employers will have to pay their employees for the hours they are working (or engaging in training that counts towards the 20% threshold) in the normal way.

The employee will also receive two-thirds of their normal pay for the hours that they are not working. The employer is liable for 5% of normal pay for those hours to a maximum of £125 per month, with the government paying the remaining 61.67%, up to a maximum of £1,541.75 per month. The employer will make the full payment to the employee and then reclaim the government's contribution through the JSS.

Employers are permitted to pay employees more than the 5% minimum contribution if they choose to do so.

Employers remain liable for employer NICs and pension contributions on the full amount paid to the employee, including in relation to any top-up, and cannot reclaim these from the government.

Further details of how to calculate an employee's reference salary and usual hours will be set out in the further guidance but will broadly reflect the approach taken under the JRS.

How the JSS Closed grant operates

Employees who cannot work because of business closures will receive two-thirds of their normal pay to a maximum of £2,083.33, fully funded by the government. Employers are permitted to increase pay above that level at their own cost if they choose to do so.

Again, employers remain liable for employer NICs and pension contributions on the full amount paid to the employee, including in relation to any top-up, and cannot reclaim these.

Placing employees on JSS

Employers must agree short-time working or temporary non-working arrangements with staff in writing and make any changes to the employment contract by "written agreement". They must keep records of agreements for five years, including details of how many hours staff are working and would normally work in the case of JSS Open claims. HMRC can ask to see copies of the agreements.

Equality and discrimination laws apply to decisions about which employees to place on JSS in the normal way.

Redundancy

It will not be possible to make an employee redundant or put them on notice of redundancy during the period when an employer is claiming JSS (Open or Closed) for that employee.

Mechanics of claiming

Online claims will be possible through gov.uk from 8 December 2020. This reflects the fact that claims for JSS can only be submitted retrospectively in respect of a given pay period after an employee has been paid and the payment reported to HMRC through the real time information system.

HMRC will check claims and employers will have to repay payments that are fraudulent or based on incorrect information. Penalties of up to 100% may also be applied where appropriate and the government is considering implementing a "name and shame" approach to employers who are charged a penalty. Grants can only be used to reimburse wage costs that have been incurred. HMRC will also give full details of claims to employees, which it appears is as a safeguard against fraudulent claims.

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