The Job Support Scheme – what do we know so far?

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The Job Support Scheme – what do we know so far?

With the Coronavirus Job Retention Scheme closing on 31 October 2020, many were concerned that a cliff-edge ending to Government wage support would lead to a wave of redundancies. To moderate that cliff-edge, the Chancellor of the Exchequer has announced that a new, less generous, wage support scheme will run between 1 November 2020 and 30 April 2021. In this

briefing, we explain what we know so far about the new "Job Support Scheme".

What is the Job Support Scheme (JSS)?

The JSS is the successor to the Coronavirus Job Retention Scheme (**CJRS**) and is intended to "protect viable jobs in businesses who are facing lower demand over the winter months due to COVID-19". The emphasis is on providing support for "viable" jobs, meaning those which the employer still needs, albeit on a reduced basis for the immediate future.

Under the JSS the employee must work at least one third of their normal working hours but may work more than this if needed. The employer is responsible for paying the employee for all the hours actually worked. The burden of the **unworked** hours will be split three ways:

- the Government will pay a third of the wage cost (capped at £697.92 per month);
- the employer will pay a third of the wage cost; and
- the employee will suffer a wage reduction for the remaining third.

The Government's contribution extends to usual wage costs only, which is expected to be calculated in broadly the same way as under the CJRS (see here for our guidance note on the CJRS). It will not cover the cost of employer National Insurance Contributions (**NICs**) or employer pension contributions on the Government-backed portion of wages. Instead, the employer will be responsible for making these payments.

What does this mean for employees in practice?

The application of the Government's cap means that employees earning up to c.£37,688 per annum, will only suffer the wage reduction caused by the lost third of pay for the unworked hours. For example, this means they would receive c.78% of normal pay for working one third of their normal working hours (see Worked Example 1).

However, the cap means that higher earners will suffer the wage reduction caused by both the application of the cap on the Government's portion **and** the lost third of pay for the unworked hours (see Worked Example 2). The higher the salary, the greater the wage reduction.

Worked example 1: a full-time employee who normally works 35 hours per week and is paid an annual salary of £37,687.68 / monthly salary of £3,140.64: During the life of the JSS the employee works for one third of their normal hours (11.66 hours) and will be paid as follows: • Employer pays £1046.88 for 11.66 worked hours **and** £697.92 for 7.78 unworked hours; • Government pays £697.92 for 7.78 unworked hours; and • Employee suffers a wage reduction of £697.92 for 7.78 unworked hours. The result is that the employer pays a total of £1,744.80 per month (or c.55% of normal pay) in exchange for the employee working one third of their normal hours. The employee receives a total of £2,442.72 per month (or c.78% of their normal pay).

Worked example 2: a full-time employee who normally works 35 hours per week and is paid an annual salary of £120,000 / monthly salary of £10,000:

During the life of the JSS the employee works for one third of their normal hours (11.66 hours) and will be paid as follows:

- Employer pays £3,333.33 for 11.66 worked hours **and** £2,222.22 for 7.78 unworked hours;
- By virtue of the cap, the Government only pays £697.92 for 7.78 unworked hours; and
- Employee suffers a wage reduction of £2,222.22 for 7.78 unworked hours.

The result is that the employer pays a total of £5,555.55 per month (or c.55% of normal pay) in exchange for the employee working one third of their normal hours. The employee receives a total of £6,253.47 per month (or c.62% of their normal pay).

What does this mean for employers in practice?

As the worked examples above show, the employer is paying the employee for more hours than they have actually worked. The fewer the hours worked by the employee, the greater the excess wage cost to the employer – for example:

Hours worked by employee	33%	40%	50%	60%	70%
Wage cost to employer	55% (an excess cost of 22%)	60% (an excess cost of 20%)	67% (an excess cost of 17%)	73% (an excess cost of 13%)	80% (an excess cost of 10%)

In addition, the employer is responsible for paying employer NICs and employer pension contributions on **all** wages paid to the employee, including the Government-backed portion of wages.

Which employers are eligible?

All employers with a UK bank account and a UK PAYE scheme are potentially able to claim a JSS grant, regardless of whether or not they have claimed under the CJRS before.

However, large employers will have to pass a “financial assessment” test in order to make a claim. This means that the JSS will only be available to large businesses whose turnover is lower as a result of COVID-19. The Government has said that it is their expectation that large employers will not be making capital distributions (e.g. share buybacks or dividend payments) while accessing the JSS.

Further guidance on what is meant by “large employer” and what the financial assessment test will involve is expected shortly.

Which employees are covered?

In order to make a claim for wage support under the JSS the employee in question must:

- be on the employer’s payroll on or before 23 September 2020 (i.e. a Real Time Information submission notifying payment to that employee to HMRC must have been made on or before that date); and
- work at least one third of their usual working hours between 1 November 2020 and 31 January 2021 (after this date, the minimum hours threshold may be increased).

Claims may be made for previously furloughed employees, who will have their wages calculated by reference to their underlying usual rate of pay rather than the reduced furlough rate of pay.

What are the mechanics for putting a JSS arrangement in place?

The JSS arrangement involves a reduction in the employee’s usual working hours and pay. Employers will need to agree these changes with the employee and provide written notification of the same. A copy of that notification must be available for inspection by HMRC on request.

There is flexibility in that employees can cycle on and off the scheme and also do not have to work the same pattern each month (although each short time working arrangement must run for a minimum of seven days). However, where changes to the working pattern are required, this will need to be agreed with the employee each time and it is likely that further written notifications will be required.

Importantly, whilst the employer is claiming a JSS grant, the employee in question cannot be made redundant or given notice of redundancy. This contrasts with the position under the CJRS, where employers could give notice of redundancy and even claim for the cost of notice pay under the scheme.

How are JSS claims made?

Employers will be able to make JSS claims online from December 2020. Where a claim is successful, grants will be paid to the employer on a monthly basis.

Grants will be paid in arrears, meaning that a claim may only be submitted once payment has actually been made to the employee and has been reported to HMRC. This is in contrast the procedure under the CJRS, where grants could be claimed in advance of paying staff.

Why would an employer choose to participate in the JSS?

The JSS is significantly less generous than the grants available under the CJRS, but this reflects the change in emphasis to supporting only “viable” jobs. The Government’s intention is to offer limited wage support (in the hope of staving off some redundancies) but place the primary burden squarely on the employer.

Some employers may question the wisdom of participating in a scheme where they have to pay for more hours than are worked. At the extreme end, the employer is paying c.55% of normal pay in exchange for 33% of normal working hours, plus employer NICs and pension contributions on top. Further, they will need to have cashflow available to pay the wages upfront and they will lose the ability to make staff redundant (or serve notice of redundancy) during a claim period.

It seems that only those employers who are confident that their business will fully bounce back in due course are likely to make use of the scheme. Where an employer believes it will need employees to work their normal working hours again, it makes sense to save the cost of making redundancies now and recruiting in the future. Further, if they can use the JSS to hang on to previously furloughed employees until 31 January 2021, they may also qualify for the Job Retention Bonus of £1,000 per employee.

Employers who do not have that confidence may prefer to negotiate permanent reductions to working hours and not make a JSS claim. In that way, they will only have to pay employees for the hours they actually work, and they avoid the administrative burden of making claims. Where such changes are not achievable or viable, the employer may prefer to make reductions to the workforce now to save costs and then recruit again when needed.

Detailed guidance on the JSS is expected shortly.

Job Support Scheme Factsheet – 24 September 2020

BDBF is currently advising many employers and employees on the challenges presented by the coronavirus. If you or your business needs advice on the Job Support Scheme or other

coronavirus-related matter please contact Amanda Steadman (amandasteadman@bdbf.co.uk) or your usual BDBF contact.

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