

CLIENT NEWSLETTER: July 2020

PAYROLL

On 12 June 2020, the government announced changes to **Coronavirus Job Retention Scheme (CJRS)** as it starts its second phase. The final date for claiming under the first phase is 31 July 2020.

The main points of the second phase are:

- CJRS ends completely on 31 October 2020
- from 1 July 2020, workers may return part-time. They are paid 100% of their wages for the days they work, and 80% under CJRS for other days
- phase 2 is only available for workers furloughed before 1 July 2020
- there is no minimum furlough period (it was 21 days under phase 1)
- each claim made by an employer must be for at least one week
- no claim period may span the end of a calendar month.

Records must be kept of the number of *hours* worked by each furloughed (or partly furloughed) worker.

As before, the worker is paid through the payroll. Both furloughed pay and normal pay are subject to PAYE and national insurance. The employer make a separate claim under CJRS.

For July 2020, the maximum that may be claimed is 80% of normal salary or £2,500. This is the same as for the first phase. It restricts the amount that may be paid for workers who earn more than £37,500 a year. The July provisions broadly follow those for phase 1.

For August 2020, the employer is no longer able to claim for employer's national insurance or compulsory pension contribution. This applies regardless of whether the employee is furloughed. This introduces a cost to the employer.

For September 2020, the 80% is reduced to 70%. The maximum claimable for a single employee is £2,187.50 (which is 70/80 of £2,500).

For October 2020, the 70% is further reduced to 60%. The maximum claimable for a single employee is £1,875 (60/80 x £2,500).

HMRC has said that there is no tax consequence of a **salary sacrifice scheme** taxed under the optional remuneration arrangement (OpRA) rules, when the change arises because of coronavirus.

Military **reservists** returning to civilian work may access government support schemes, the government confirmed on 15 June 2020.

BUSINESS TAX

Non-resident corporate landlords have now generally been contacted by HMRC giving them a new Unique Taxpayer Reference (UTR) for corporation tax. This replaces the UTR for paying income tax before April 2020.

If a taxpayer or agent has not received the new UTR and must pay corporation tax before 30 June 2020, they should send HMRC a new agent form 64-8 with a covering letter to HMR Charities, Savings and International 1, BX9 1AU.

PERSONAL TAX

The earnings limit for **childcare payments** has been increased for coronavirus care workers from £100,000 to £150,000

Childcare payments were introduced under Childcare Payments Act 2014. Under the scheme the government generally contributes £2 for every £8 paid by the parents to an annual maximum of £2,000 per child. The scheme was originally called tax-free childcare.

One of the conditions is that the claimant does not earn more than £100,000 a year.

The change increases this to £150,000 for a critical worker, provided that the earnings above £100,000 are attributed to coronavirus work and that, without such work, their earnings would not exceed £100,000.

A critical worker has the same definition as someone who can send their children to school during the lockdown.

The increased limit applies for the 2020/21 tax year only.

The temporary provision that allows the charge for **carrier bags in Wales** to be temporarily waived for the delivery of groceries has been extended from 8 July 2020 to 31 December 2020.

VALUE ADDED TAX

The statutory instrument for the 5% **hospitality rate** adds new groups to the schedule of reduced rate supplies in Value Added Tax Act 1994 Sch 7A:

- group 14: course of catering
- group 15: holiday accommodation etc
- group 16: shows and certain other attractions.

The **flat rates** for supplies within the scope of the hospitality rate have been amended.

The flat rates are reduced thus:

- catering services including restaurants and takeaways: from 12.5% to 4.5%
- hotel or accommodation: from 10.5% to 0%
- pubs: from 6.5% to 1%.

These rates apply for supplies between 15 July 2020 and 12 January 2021.

A **pregnancy scan** was held to be an exempt supply for VAT as it was a supply of a medical service.

Where a **mobile phone** company offered two alternative payment plans, these were to be regarded as a separate schemes. One was not to be regarded a prompt discount payment for the other.

INHERITANCE TAX

The coronavirus has resulted in many informal **financial transactions**, particularly between family members.

It is important to establish whether financial help is in the form of a gift or a loan. They each have implications for inheritance tax.

A loan is only deductible from a person's taxable estate if it was for value. This means that the deceased must have received something for the loan. The law is Inheritance Tax Act 1984 1985 s5(5). Informal debts, such as a promise to make it a gift, are unlikely to reduce the estate. Even for informal family relationships, some paperwork should be generated.

OTHER TAXES

The government has said that **border controls of goods** will be introduced in three stages from 2021 when the EU transition period ends.

From 1 January 2021, Traders importing standard goods, covering everything from clothes to electronics, will need to prepare for basic customs requirements, such as keeping sufficient records of imported goods, and will have up to six months to complete customs declarations. While tariffs will need to be paid on all imports, payments can be deferred until the customs declaration has been made. There will be checks on controlled goods like alcohol and tobacco. Businesses will also need to consider how they account for VAT on imported goods. There will also be physical checks at the point of destination or other approved premises on all high risk live animals and plants.

From April 2021: All products of animal origin (POAO) – for example meat, pet food, honey, milk or egg products – and all regulated plants and plant products will also require pre-notification and the relevant health documentation.

From July 2021: Traders moving all goods will have to make declarations at the point of importation and pay relevant tariffs. Full Safety and Security declarations will be required, while for SPS commodities there will be an increase in physical checks and the taking of samples: checks for animals, plants and their products will now take place at GB Border Control Posts.

The government has said that it will take a flexible approach to **border checks** on goods from the EU from 1 January 2021 when the transition period should have ended. The government has again ruled out extending the transitional period, even though talks on a new trade deal with the EU are not going well.

The flexible period will last for six months. The EU has said that it will not reciprocate. UK exports will be treated as non-EU imports.

TAX ADMINISTRATION

The government promised a **mini-budget** in July 2020 to help stimulate the economy as the country emerges from lockdown. It has been suggested that this will include cuts in VAT and employer's national insurance.

From 1 November 2020, HMRC will make a charge when tax is paid by a **debit card** or business credit card.

The fee has not been specified but will cover the three charges made by the card companies to HMRC, namely the merchant acquirer fee, interchange fee and scheme fee.

A charge was introduced in 2016 when tax is paid using a personal credit card. Those charges are now replaced by the new charge.

There remains no charge when tax is paid by direct debit, online bank transfer or cheque.

A taxpayer was partially successful in arguing reasonable excuse because of "**brain fog**". He was appealing against penalties for late filing of two income tax returns.

The taxpayer suffered from chronic fatigue syndrome and depression. This led to "brain fog" where he was unable to concentrate. For long periods, he was unable to get out of bed.

On the facts of the case, the tribunal found the taxpayer had reasonable excuse for one late filing but not the other.

WELFARE

For means-tested social security benefits, some payments have been added to those that may be **disregarded** as capital or income in determining the amount of benefit payable.

The new disregards are:

- compensation payments in respect of the Grenfell Tower fire of 14 June 2017
- compensatory payments in respect of employment and support allowance
- all but 30% of postgraduate student loans.

The changes are made from 15 July 2020.

On 16 June 2020, the Scottish government announced that **free school meals** would continue for 175,000 children during summer.

On 3 June 2020, the Scottish government announced that many **carers** will receive an extra one-off payment of £230.10 as a coronavirus carer's allowance supplement. Claimants must have been receiving carer's allowance on 13 April 2020 to qualify.

The 29,000 young carers in Scotland will receive an annual grant of £305 a year (£5.86 a week) it was announced on 7 June 2020.

ACCOUNTING

The Financial Reporting Council (FRC) published guidance on 9 June 2020 in respect of annual **general meetings** and other general meetings of companies.

New provisions are contained in the Corporate Insolvency and Governance Bill introduced by the government on 20 May 2020. The legislation has retrospective effect to 26 March 2020.

Assuming that the Bill becomes law, and there is no reason why it should not, votes taken under the new provisions will be binding even if taken before the legislation is passed.

The Bill contains provisions to allow a company to override any provision in its own articles of association requiring a physical AGM. Companies are advised to review their articles.

Adjourned AGMs must be held by 30 September 2020 when these temporary provisions expire. The government does have the power to extend this deadline.

The government acknowledges that these provisions impinge on the rights of shareholders and the accountability of directors. The government therefore asks companies to find other ways to address any shareholder issues.

BUSINESS FINANCE

On 17 June 2020, the Supreme Court upheld decisions in lower courts that **credit card fees** charged to retailers breach competition law. Such fees breach both UK and EU law.

Retailers can now proceed to a hearing for compensation from Visa and MasterCard unless an agreement is reached between them.

The German payment processor **Wirecard** has become insolvent after reporting that €1.9 billion of funds was missing. The funds are suspected never to have existed. The company admitted the shortfall on 22 June 2020. The banks where these funds were supposedly held deny their existence.

Many large retailers have withheld **rent** due on Midsummer Day, 24 June 2020, one of the quarter days. The retailers include William Hill, J D Sports, Primark, Boots and Stonegate Pubs. Many other retailers have reach an agreement with landlords. Pret A Manger is paid 30% of its June rent.

Under current rules, landlords cannot evict commercial tenants nor issue a statutory demand before the end of September 2020.

The UK will have a V-shaped **recovery** from the lockdown, according to the Bank of England's chief economist Andy Haldane on 30 June 2020.

A V-shaped recovery means that the economy recovers as quickly as it fell. This rebound means that the coronavirus recession was likely to be less than half as bad as the Bank had expected in May 2020.

PERSONAL FINANCE

Self-employed people may qualify for a second **self-employment income support** scheme (SEISS) grant if they are adversely affected by coronavirus from 14 July 2020.

The second payment is calculated at 70% of the taxpayer's annual profits for three months. The maximum payment is £2,190. (The payment was 80% for the first payment.)

The term "adversely affected" has not been defined. HMRC suggests that it means that the business must either have stopped trading temporarily or the trading has been scaled back.

Either of these can arise from one or more of these three causes:

- the supply chain has been interrupted
- there are fewer or no customers or clients
- staff were unable to work.

Other reasons are possible, such as increased costs from cleaning premises. and providing personal protective equipment for staff.

A business could also be adversely affected if the owner cannot work because he or she is shielded, self-isolating, on sick leave for coronavirus, or has care responsibilities because of coronavirus.

Whatever the reasons, the self-employed must keep records, indicating the reason for the adversity and the dates when it applied.

A self-employed person may continue working, unlike workers under the Coronavirus Job Retention Scheme.

The first grant of SEISS must be claimed by 13 July 2020.

A tax agent cannot claim SEISS for a client, though the agent can explain it.

Both SEISS grants are taxable in 2020/21 and must be included in the tax return with the tax payable by 31 July 2022.

Workers subject to construction industry scheme (CIS) may receive the grant. There is no 20% or 30% tax deduction, so the subcontractor receives the whole amount regardless of his or her CIS status.

Children who qualify for **free school meals** will continue to receive the £15 a week supermarket voucher during the school holidays. These had already been issued during lockdown in term time. The government announced this on 16 June 2020 after a campaign led by footballer Marcus Rashford.

Nationwide, the UK's biggest building society, said on 17 June 2020 that it is restricting **mortgages** to those who have a deposit of at least 15%. Its decision is prompted by concerns that the lockdown could reduce house prices and thus increase the likelihood of negative equity. That is when a person owes more on their mortgage than the property is worth.

Windrush Compensation Scheme (Expenditure) Act 2020 received Royal Assent on 8 June 2020 and takes immediate effect.

The **Help to Buy (Scotland) scheme** was extended on 11 June 2020. The end date has been put back to March 2022.

The scheme was introduced in 2013. It assists people under 35 to buy property with a value up to £220,000. It bridges the gap between lower loan-to-value (LTV) mortgages for new builds and the smaller deposits many households now have.

LAW

Various **time limits** in Companies Act 2006 have been extended from 14 or 15 days to 42 days.

The six-month filing limit for accounts in s442 has been extended from six months to nine months. The equivalent limit for limited liability partnerships has been extended from nine months to twelve.

These temporary extensions apply from 27 June 2020.

The provisions of **Corporate Insolvency and Governance Act 2020** have been extended to co-operative societies and community benefit societies by SI 2020 No 744.

From 29 June 2020 to 30 September 2020, new rules prevent a right of re-entry or forfeiture under a **business tenancy** in respect of non-payment of rent.

The Court of Appeal is obliged to follow the Supreme Court's definition of **dishonesty**, even though that definition was given in obiter. (That means the comments did not go to the heart of the issue but were comments more in passing.)

The courts had followed the definition set out in the case *R v Ghosh [1982]*. This applied a two-part test:

- was the conduct dishonest by the standards of reasonable people
- did the defendant appreciate that his conduct was dishonest by those

standards.

In the case *Ivey v Genting Casinos (UK) Ltd t/a Crockfords Club [2018]*, the Supreme Court explained that the law had taken a wrong turn in the *Ghosh* case. The change was that dishonesty was determined by society's standards and not the defendant's state of mind.

Divorce, Dissolution and Separation Act 2020 has received Royal Assent 2020 and is now law. Its provisions are commenced by statutory instruments.

The main changes are to:

- replace the current requirement to evidence either a conduct or separation fact. Instead a person can state that the marriage has irretrievably broken down. This may be a joint statement

- remove the right to challenge such a statement. The issue of such a statement by one party is itself evidence that the marriage has broken down
- introduce a minimum period of 20 weeks for a conditional order of divorce.

This allows couples to agree practical arrangements where reconciliation is not possible.

Under the new law, either party or both parties, may seek a "divorce order" accompanied by a statement that the marriage has irretrievably broken down. The court must regard the statement as conclusive evidence and make a divorce order.

A divorce order is regarded as conditional for six weeks. The court then asks the applicant if they wish to proceed. If either or both parties say yes, confirmation is given 20 weeks from the start of proceedings. These periods may be varied by statutory instrument.

There are similar changes to judicial separation and ending of civil partnerships.

Mandatory **MOT tests** resume for cars, motorcycles and vans from 1 August 2020. MOT tests due on or after that date will take place as normal. MOT tests due before 1 August 2020 will automatically be extended by six months.

Same sex marriages and civil partnerships are allowed in Northern Ireland. Protection is provided for churches and religious bodies who do not wish to participate in such ceremonies.

A new criminal penalty known as a **restitution order** may be made in Scotland for the offence of impeding police or firefighters. The maximum penalty is £1,000.

According to *The Times* of 15 June 2020, the Ministry of Justice has asked the Law Commission to provide recommendations for reintroducing fees for using the **employment tribunal**.

From 22 June 2020, an English local council may fine a motorist £130 for parking in a **cycle lane**.

The Scottish government introduced a **European Union (Continuity) (Scotland) Bill** on 19 June 2020. This will allow Scotland to keep its law harmonised with EU in those areas of devolved responsibility.

Payments of **home loss compensation** in England are increased from 1 October 2020. These payments are made when a person is displaced from their home because of a compulsory purchase order (CPO). This payment is in addition to the payment for any property a person is forced to sell under a CPO. A home loss payment is compensation for inconvenience, stress and upset. It may also be possible to claim a disturbance payment to cover the cost of a move.

Home loss compensation is paid under Land Compensation Act 1973, as amended. The payment is a percentage of the market value of the interest subject to maximum and minimum figures.

From 1 October 2020, the maximum figure increases from £64,000 to £65,000. The minimum figure increases from £6,400 to £6,500.

In Wales, the home loss payments increase from a maximum £59,000 to £62,000; and the minimum from £5,900 to £6,200.

OTHER MATTERS

All **shops** may reopen from Monday, 14 June 2020. Previously only “essential” shops, such as chemists and supermarkets, could open.

Shops must comply with coronavirus safety provisions, such as maintaining social distancing, controlling the number of customers on the premises, and erecting screens.

Pubs, bars, restaurants and hairdressers are not expected to open before 4 July 2020 at the earliest.

Since 23 March 2020, only essential shops, such as supermarkets and pharmacies have been allowed to open.

Cinemas, art galleries, museums may reopen from 4 July 2020, the government announced on 22 June 2020. Also, members of two households may meet indoors, provided they maintain social distancing.

Face masks are compulsory on **public transport** in England from 15 June 2020. There are exemptions for young children and those with breathing difficulties.

From 14 June 2020, all incoming travellers from UK (other than from Irish Republic) must **quarantine** for 14 days. This includes British citizens returning from overseas.

Scotland relaxed some coronavirus restrictions in June 2020.

On 3 June 2020, the Scottish government provided £5 million to help 128 companies in the seafood business.

From 8 June 2020, new measures are introduced for travellers to Scotland. This includes 14-day quarantine for overseas visitors, similar to English provisions.

From 22 June 2020, face coverings are mandatory on public transport in Scotland.

On 25 June 2020, it was announced that care home residents can receive visitors from 3 July 2020, provided strict criteria are met.

On 29 June 2020, retail businesses were allowed to re-open subject to safety measures. House moves were allowed. Laboratories and research facilities could resume work.

From 29 June 2020, on-campus university research and home moves were student were able to resume.

Cervical cancer screening resumed on 29 June 2020.

Micheál Martin was appointed **Taoiseach** (prime minister) of the Irish Republic on 27 June 2020, following the country's general election. Martin has been leader of The Fianna Fail party since 2011.

Green number plates will be introduced for environmentally friendly electric vehicles from autumn 2020, the government said on 16 June 2020. This is intended to encourage drivers to switch to electric vehicles, and to make it easier for local authorities to enforce provisions such as reserved parking for environmentally friendly vehicles and exemption from emission zone charges.

The number plates themselves will not be green, which would cause problems for automatic number plate recognition, but would have a green flash beside the number.

On 23 June 2020, the Scottish government said that **mixed sex couples** will be able to form a civil partnership, as they already can in England.

Rented **e-scooters** are allowed on roads from 4 July 2020, the government announced on 30 June 2020. Privately owned e-scooters remain banned.