

## What Actually is a Furlough? Top Q&A

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The COVID-19 pandemic has wide-ranging implications for UK businesses. Katten is helping you stay ahead of the changes with the following Q&A on furloughs.

1. **What is it?** “Furlough” does not have a legal definition in the UK, but it essentially means paying someone to not work, for at least three weeks.
2. **Who can apply?** All UK employers who had a Pay As You Earn (PAYE) payroll scheme on 28 February 2020, and have a UK bank account.
3. **What is the starting position on Pay?** Employers must pay full salary, taxed in the normal way, and the government will reimburse the lower of 80% of usual monthly wage costs or £2,500, plus employer’s National Insurance (NIC) costs on this reimbursed wage and the minimum employer pension auto-enrolment contribution.
4. **What is the negotiated position on Pay?** Unless or until there is an actual change to the legislation to allow employers to make a unilateral change to pay, employers must have employees agree (either directly or by inferred consent) if they want to reduce their salary below 100%. To be eligible for reimbursement under the scheme, employers must pay at least 80% of the regular wage (up to the cap).
5. **What is the ‘usual monthly wage cost’ for employees who work irregular hours?** If the employee has been employed for 12 months, the employer can claim for the higher of either: the same month’s earnings from the previous year or the average monthly earnings from the 2019-2020 tax year. If the employee has been employed for less than a year, the employer can claim for an average of their monthly earnings since they started work.
6. **What about those on zero hours contracts?** Employers could simply refrain from offering work. However, the aim of the scheme is to protect all workers’ income during the crisis, so consider furloughing casual workers too where possible.
7. **What can employees do whilst on furlough?** Employees cannot work for the employer while on furlough. They must not provide services to or generate revenue on behalf of the employer. Employees can do volunteer work (as long as it’s not for the employer). Employees can undertake training but they must be paid the national minimum wage in respect of the training. If their employment contract allows, theoretically employees can work for another employer while on furlough.
8. **How will we get reimbursed?** Reimbursement will be paid via the Bankers Automated Clearing System (BACS) payment to the employer’s nominated bank account.

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