

COVID-19: PEOPLE: RESOURCES FOR EMPLOYERS AND SICK PAY CHANGES (UPDATED 20 MARCH) (UK)

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Legal Briefings - By **Tim Leaver and Anna Henderson**

UPDATE 20 March 2020: the Chancellor has announced a Coronavirus Job Retention Scheme available to any employer (of whatever size) to apply to the HMRC for a grant of 80% of the wages of employees who are kept on payroll but without work and designated as ‘furloughed workers’, up to a maximum of £2,500 a month (just above the median income). This will be backdated to 1 March and be open for at least 3 months and longer if necessary, and there is to be no limit to the overall funding of the scheme. HMRC expect to start making grants within weeks and for the scheme to be up and running fully before the end of April. Employers are urged to contact HMRC and review the support available before deciding to make redundancies.

The [announcement](#) is here and further details of the scheme and other business support measures will be available shortly.

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All employers will clearly be concerned about the impact on their staff and business of the COVID-19 outbreak. Employers will be formulating contingency plans to facilitate remote working where possible and to deal with possible resourcing and supply chain issues. Communication with staff on travel and absence policies along with advice on hygiene and support will be key.

Employers should ensure they are monitoring the government's [daily updated advice](#); a list of all its relevant publications is [here](#) and includes specific [guidance for employers](#).

SICKNESS/SELF-ISOLATION

Prior to 12 March, Public Health England was advising that returning travellers – even those without symptoms – self-isolate for 14 days if returning from specified high risk zones, and those returning from other listed countries self-isolate if showing symptoms. That advice has now been superseded by the Stay-at-home Guidance [here](#). This states that people with symptoms or a diagnosis of COVID-19 infection should remain at home and self-isolate for 7 days. If still unwell after 7 days, people should continue to self-isolate and contact [NHS 111](#). The [statement from the Prime Minister](#) on 16 March advised that whole households should isolate for 14 days if any member has a high temperature or a new and continuous cough, now confirmed in the guidance [here](#).

With the first change in advice, the Government website originally included an explanation that “The 14 day period is for those who have had exposure to a confirmed case but have not shown symptoms. The 14 days represents the potential incubation period (the time it takes for symptoms to show if you have been infected). Most people will no longer be likely to transmit the virus 7 days after the onset of symptoms”. Although this explanation was then removed, for a period the 10 March guidance for employers remained current and continued to note that individuals who have had close contact with a confirmed case or travelled from the original high risk areas should self-isolate for 14 days. That guidance has now been removed. It may be that it was thought to have declining relevance given restrictions on international travel and reduced testing, but if applicable it would seem prudent to continue to follow this advice, particularly given the analogous advice on household members.

The Statutory Sick Pay (General) (Coronavirus Amendment) Regulations 2020 were made on 12 March and came into force on 13 March; they apply for eight months. They provide that SSP will be available to anyone isolating themselves from other people in such a manner as to prevent infection or contamination with COVID-19, in accordance with the digital guidance published on 12 March (since amended to 16 March) by Public Health England, NHS Scotland or Public Health Wales, and who by reason of that isolation is unable to work. (Although the deleted advice to self-isolate for 14 days for asymptomatic returning travellers or those who have had close contact with a confirmed case is not covered, it nevertheless seems that people following that medical advice at the time will also have qualified for SSP. This is due to regulations made in February designating COVID-19 as a relevant infection for SSP purposes, with the effect that asymptomatic individuals who received ‘written notice’ to self-isolate were deemed to be sick. The SSP position for those applying that previous advice now (but not required to self-isolate under the current guidance) is less clear.

On 11 March 2020 the Chancellor of the Exchequer, Rishi Sunak, announced that for businesses with fewer than 250 employees, the government will reimburse in full the cost of 14 days of SSP per employee (where eligible due to COVID-19). A repayment mechanism will be set up as soon as possible. Employers should maintain records of staff absences, but should not require employees to provide a GP fit note – an “[isolation note](#)” can be now obtained online to provide evidence if required by employers. It was announced that the scheme will commence “from the day on which the regulations extending SSP to self-isolators come into force”, therefore 13 March 2020. This will be in regulations to be made under the [emergency bill](#) introduced to parliament this week.

The government has also announced that it will temporarily extend statutory sick pay to cover from day one of absence rather than day four, seemingly just in respect of COVID-19-related absence. This will be in regulations to be made under the [emergency bill](#) and again is expected to be retrospective, from 13 March 2020. Employers should of course also comply with any pay obligations in contractual absence policies and will want to ensure that their absence policies do not discourage appropriate self-isolation. Where employers choose to instruct individuals to stay at home when this is not medically advised, they will normally need to provide full pay even if it is not possible to require the individual to perform their work remotely.

SOCIAL DISTANCING

The Prime Minister’s 16 March statement also asks that everyone start working from home where they possibly can, and that individuals at higher risk (pregnant women, those aged 70 and over, and those with certain underlying health conditions) are strongly advised to do so (see guidance on [social distancing](#)). Employers may therefore want to direct that employees performing roles that can be done remotely do work from home as the default arrangement, at least for all individuals at higher risk and for others who wish to do so. Where roles cannot be performed from home, individuals at higher risk should be directed to remain at home, either working on other tasks which can be done remotely if appropriate, suspended on full pay if pregnant, or on leave (during which SSP would presumably be payable under the new temporary SSP arrangements).

OTHER STEPS

Employers may also need to take steps to prevent employees being subjected to racial harassment arising from the outbreak.

The [emergency bill](#) will also allow enable employees and workers to take two, three or four consecutive weeks’ (per 16 week period) unpaid Emergency Volunteer Leave from their usual jobs in order to work temporarily in health or social care and establish a UK-wide compensation fund to compensate for loss of earnings and expenses incurred at a flat rate for those who volunteer through an appropriate authority.

[Acas guidance](#) (updated 17 March) is available covering health and safety precautions, entitlement to sick pay, dealing with sick or concerned staff, and workplace closure; the World Health Organisation has also published [guidance for employers](#).

The Herbert Smith Freehills hub on navigating the COVID-19 outbreak is [here](#).

Please do get in touch with your usual contact if you would like to discuss this issue further.

KEY CONTACTS

If you have any questions, or would like to know how this might affect your business, phone, or email these key contacts.



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