

**2021 No. 487**

**EMPLOYMENT**

**The Employment Rights Act 1996 (Coronavirus, Calculation of a Week's Pay) (Amendment) (No. 2) Regulations 2021**

<i>Made</i>	- - - -	<i>20th April 2021</i>
<i>Laid before Parliament</i>		<i>21st April 2021</i>
<i>Coming into force</i>	- -	<i>30th April 2021</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 228(4) and 236(5) of the Employment Rights Act 1996(a).

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Employment Rights Act 1996 (Coronavirus, Calculation of a Week's Pay) (Amendment) (No. 2) Regulations 2021 and come into force on 30th April 2021.

(2) These Regulations extend to England and Wales and Scotland.

**Amendment of the Employment Rights Act 1996 (Coronavirus, Calculation of a Week's Pay) Regulations 2020**

2. The Employment Rights Act 1996 (Coronavirus, Calculation of a Week's Pay) Regulations 2020(b) are amended as follows.

**Amendment of regulation 2 (interpretation)**

3. In regulation 2(1), in the definition of "Coronavirus Job Retention Scheme", for "30th April" substitute "30th September".

**Amendment of regulation 3 (calculation of a week's pay in relation to furloughed employees)**

4. In regulation 3(2)(a), for "30th April" substitute "30th September".

**Amendment of regulation 8 (calculation of a week's pay in relation to employee with no normal working hours)**

5. For regulation 8(4)(b), substitute—

“(b) “Scheme cap” means the amount of—

(i) £2,500 per month (or the appropriate pro-rata), or

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(a) 1996 c. 18.

(b) S.I. 2020/814, as amended by S.I. 2020/1296 and 2021/177.

(ii) £576.92 per week,  
as applicable, specified in relation to qualifying costs in the Coronavirus Job Retention Scheme(a).”.

20th April 2021

*Paul Scully*  
Parliamentary Under Secretary of State  
Department for Business, Energy and Industrial Strategy

### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

The Employment Rights Act 1996 (Coronavirus, Calculation of a Week’s Pay) Regulations 2020 (“the principal Regulations”) set out how a week’s pay is to be calculated in the case of an employee who has been furloughed under the Coronavirus Job Retention Scheme (“the CJRS”), for the purposes of calculating:

- a) any statutory remuneration for time off to look for employment or arrange training,
- b) any statutory notice payment,
- c) any statutory sum resulting from a failure to provide a written statement of reasons for dismissal,
- d) any statutory sum resulting from a failure to comply with an order for reinstatement or re-engagement,
- e) any statutory compensation for unfair dismissal, and
- f) any statutory redundancy payment,

to which in each case they are entitled. They also set out how a week’s pay is to be calculated for the purpose of deciding whether an employee is taken to be on short-time for statutory purposes.

The CJRS was established by the Coronavirus Act 2020 Functions of Her Majesty’s Revenue and Customs (Coronavirus Job Retention Scheme) Direction, given by the Treasury under sections 71 and 76 of the Coronavirus Act 2020 on 15th April 2020, and has been modified by the following directions given by the Treasury under those provisions:

- a) the Coronavirus Act 2020 Functions of Her Majesty’s Revenue and Customs (Coronavirus Job Retention Scheme) Direction given on 20th May 2020;
- b) the Coronavirus Act 2020 Functions of Her Majesty’s Revenue and Customs (Coronavirus Job Retention Scheme) Direction given on 25th June 2020;
- c) the Coronavirus Act 2020 Functions of Her Majesty’s Revenue and Customs (Coronavirus Job Retention Scheme) Direction given on 1st October 2020;
- d) the Coronavirus Act 2020 Functions of Her Majesty’s Revenue and Customs (Coronavirus Job Retention Scheme) Direction given on 12th November 2020;
- e) the Coronavirus Act 2020 Functions of Her Majesty’s Revenue and Customs (Coronavirus Job Retention Scheme) Direction given on 25th January 2021;
- f) the Coronavirus Act 2020 Functions of Her Majesty’s Revenue and Customs (Coronavirus Job Retention Scheme) Direction given on 15th April 2021.

These Regulations make minor amendments to the principal Regulations consequent on the extension of the CJRS by the Direction given on 15th April 2021.

Copies of the Directions can be found at: <https://www.gov.uk/government/publications/treasury-direction-made-under-sections-71-and-76-of-the-coronavirus-act-2020>. Hard copies are available

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(a) See, in particular, paragraphs 9.5 to 9.7 and 9.12 of the Schedule to the Coronavirus Act 2020 Functions of Her Majesty’s Revenue and Customs (Coronavirus Job Retention Scheme) Direction given on 15th April 2021.

for inspection, free of charge, at the offices of HMRC at 10 South Colonnade, Canary Wharf, London E14 4PH.

No impact assessment has been prepared for these Regulations.

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