

UK job support scheme (JSS): Closed - what it means for employers

26 OCTOBER 2020

CATEGORY:
[ARTICLE](#)



UPDATE 9 November 2020: The JSS has been put on hold because the Coronavirus Job Retention Scheme (CJRS) has been extended until 31 March 2021 (announced 5 November 2020). This page – which is now out of date – will be updated if and when the JSS is implemented by the Government.

The Government published a policy paper giving more details on the eligibility criteria, conditions and timescales for making claims under the Job Support Scheme on 22 October. This note concerns the extension to that scheme, which takes effect from 1 November 2020 and is now called **'JSS Closed'** ('closed' being a reference to businesses being legally required to close their premises).

Also on 22 October, the Government increased the level of financial support available under the original Job Support Scheme. This original scheme, which also takes effect from 1 November 2020, is now called **'JSS Open'** ('open' being a reference to businesses not being legally required to close their premises). For more information on JSS Open, [click here](#).

Job Support Scheme: 'JSS Closed'

The stated intention of the original JSS Open was to protect 'viable jobs'; in practice, this means jobs where, although the employer is facing decreased demand, there is currently sufficient work to occupy the employee for at least 20% of their normal hours.

By introducing JSS Closed, the Government has gone further: giving financial support to protect jobs where employees cannot work at all because their employers have been legally required to close their premises as a result of coronavirus restrictions. These employers will be eligible to receive slightly larger grants than those available under JSS Open.

Further guidance is expected in due course. In the meantime, answers to some of the most frequently asked questions can be found below.

When does JSS Closed start and for how long will it run?

As with JSS Open, JSS Closed will start on 1 November and will run for six months, until the end of April 2021. However, the Government has stated there will be a review point in January 2021.

In line with JSS Open, employers will be able to claim payment under the scheme in arrears. Claims can be made from 8 December.

Which employers can claim under JSS Closed?

Under JSS Closed, all employers whose premises are legally required to shut as part of local or national Covid-related restrictions are potentially eligible to claim grants to pay the wages of staff who cannot work. The policy paper says 'this includes premises restricted to delivery or collection only services from their premises and those restricted to provision of food and/or drink outdoors'. (However, businesses closed by local public health authorities because of specific workplace outbreaks of Covid-19 will not be eligible.) Additional conditions may be introduced when further guidance is published at the end of October.

In line with JSS Open, the employer must have a UK (or Channel Island or Isle of Man) bank account and be enrolled for PAYE Online.

Unlike for JSS Open, no Financial Impact Test applies to claims under JSS Closed made by large employers. It is taken for granted that employers

who are forced to close will face a financial impact, irrespective of their size.

However, the Government's expectation (as with JSS Open) is that large employers (250 or more employees) – and their corporate groups – will not make capital distributions whilst using the scheme (eg dividends or profit distributions to partners). This is not a legal requirement but the Government says it 'encourages businesses to reflect on their responsibilities and that taxpayers should be able to rely on public money only being claimed where it is really needed'.

The Government also says that organisations with staff costs that are fully publicly funded are not expected to claim under the scheme.

Which employees are covered by JSS Closed?

To be eligible for a grant under JSS Closed, the employee must not be working. (This is different from JSS Open, under which grants are only available if the employee works at least 20% of their usual hours.)

In line with JSS Open, the employee must have been:

- employed on 23 September 2020; and
- on the employer's PAYE payroll between 6 April and 23 September 2020. This flexibility in dates accommodates zero hours and temporary workers.

Businesses will only be eligible to claim the grant while they are subject to restrictions and the employee must be off work for a minimum of seven consecutive days. The employee's primary workplace must be the premises that have been forced to close (not another site). Additional eligibility requirements may be introduced when further guidance is published at the end of October.

Although employees must not be working for JSS Closed to apply, the Government will allow employees to undertake training voluntarily in their non-working time. If the grant does not cover the minimum wage requirements for this training, the employer will need to top up the grant payment.

What does the employer need to do to place employees on JSS Closed?

In addition to ensuring that the eligibility criteria are met, the employer must reach a written agreement with the employee to stop working (ensuring associated temporary contractual changes, eg to pay, are also agreed).

This agreement (which must cover at least seven consecutive days) must be made available to HMRC on request. Other record keeping requirements apply.

How much can employers claim per employee and how much does the employee receive?

In line with JSS Open, the employee will receive up to 2/3 of their usual hourly wage for every hour they do not work. (Income tax and employee NICs will be deducted in the usual way.)

However:

- this 2/3 contribution will come exclusively from the Government (which differs from JSS Open, under which businesses that are not legally required to close must contribute a small proportion towards this 2/3);
- this 2/3 contribution from the Government will be capped at £2,083.33 per month (which is equivalent to the caps applicable under JSS Open, which use a reference salary of £3,125 per month).

The employee will therefore be agreeing to no pay for the remaining 1/3 (or more if the cap applies) unless the employer tops up their wages at its discretion.

Although JSS Closed does not require the employer to make a contribution towards the employee's basic wage cost, the employer will still have to pay Class 1 employer National Insurance contributions and any pension contributions in respect of them.

How are claims calculated?

The Government has promised to publish, at the end of October, details of calculations that employers will need to do to work out their claims.

When can claims be made and when will grants be paid?

In line with JSS Open, the scheme will be open for claims from 8 December. Grant payments will be made in arrears, by way of reimbursement to the employer. The Government has promised further guidance on the claims process by the end of October.

Can an employer claim under JSS Closed for an employee who is to be made redundant?

In line with JSS Open, the answer is 'no' – at least in relation to an employee who serves a contractual or statutory notice period during the claim period. It is not yet wholly clear (for JSS Closed or Open) whether a claim is permitted for an employee who is under consultation for possible

redundancy; however this would not appear to fit with the spirit of the scheme (to protect viable jobs). Further guidance might clarify this point.

When the premises re-open, can employees be transferred to JSS Open if only reduced hours are available to them?

Yes, there is nothing preventing a claim under JSS Open in this situation if the eligibility requirements are met (including the Financial Impact Test for large employers).

Are there any other rules to be aware of?

The Government has said employers may top up their employees' wages above the Government grant.

HMRC intend to publish the name of employers who have used the scheme, and employees will be able to find out if their employer has claimed for them. HMRC will continue to operate a hotline for individuals to make reports of fraudulent claims.

The Government has said it will introduce parental pay legislation as soon as possible to avoid parents on maternity / adoption / paternity / shared parental / parental bereavement leave losing out on parental pay because of being put on the Job Support Scheme during the relevant assessment period.

The Government has said further guidance will be available at the end of October 2020.

If you need further explanation or help with the Job Support Scheme, please speak to a member of [our employment team](#).

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