Covid-19 measures: to 27 April 2020

Changes since last bulletin on 20 April 2020

- Bounce back loan scheme launched with 100% government guarantee.
- Possible shape of Coronavirus Job Retention Scheme after the end of June.
- Abandonment of requirement for forward-looking financial information or business plans when applying for business interruption loans.
- Temporary ban on use of statutory payment orders and winding up orders for non-payment of commercial rents.
- Government's business support finder tool introduced.
- FCA confirms three-month payment freeze for motor finance, buy-now pay-later, rent-to-own) and pawnbroking agreements.
- One month interest-free payment freeze for high cost short term credit ordered by FCA.
- Promise from Chancellor of more detail on Self-employed Income Support Scheme in week commencing 27 April.

New material is shown in green.

Background

The 11 March Budget from the Chancellor, Rishi Sunak, included £7 billion of expenditure targeting the impact of Covid-19 on employees, the self-employed and businesses. On 17 March a further raft of measures was announced, amounting to an additional £20 billion of support expenditure plus £330 billion of loan guarantees.

Between 20 March and 26 March, the Chancellor made three separate rounds of announcements, including measures to support retention of employees, a range of financing options and an income replacement scheme for the self-employed. In many instances, the devolved governments have followed suit, with funds provided from Westminster under the Barnett formula.

Guidance on measures have regularly been issued as queries have been raised and clarifications sought. As a result, what was originally announced could well differ from what now applies, for example, in the cut-off date for the job retention scheme.

We have pulled together a round-up of the various announcements so far for businesses and individuals including useful links to government sites and added new details where released, including announcements through to 27 April.

Measures for business

Coronavirus Job Retention Scheme (CJRS)

Some form of job support scheme had been expected after the 17 March announcement and the CJRS is similar to schemes that have already been set up elsewhere in Europe. Under the CJRS, "HMRC will reimburse 80% of a furloughed worker's wage costs, up to a cap of £2,500 per month', provided the worker was on the employer's PAYE payroll on or before 19 March 2020 *and* was notified to HMRC on an RTI submission by that date (something which generally rules out March 2020 recruits unless they are paid weekly). The cut-off date was originally announced as 28 February but was subsequently changed to 19 March (the day before the Chancellor announced the CJRS).

The time frame for payments covered by the CJRS was extended to the end of June on 17 April. The scheme opened for applications on 20 April and a week later over 500,000 businesses, large and small, had applied for payments covering over four million furloughed workers. However, the latest estimate is that "just shy of 30 million" employees *could* benefit from the CJRS.

In this context 'furloughed workers' are non-working employees (including part timers and employees on agency, flexible or zero hours contracts) who are kept on the payroll, rather than being laid off. The employee must be furloughed for at least three consecutive weeks. The employer has to designate these employees and submit relevant information to HMRC via a "new online portal" available "by the end of April". The HMRC payments will cover 80% of "usual monthly wages" plus the associated Employer National Insurance contributions and minimum automatic enrolment employer pension contributions on that wage.

Employees who left or were made redundant after 28 February can be re-employed and placed on furlough, with the (former) employer then claiming under the CJRS for their wages through the scheme. This applies even if re-employment does not start until after 19 March.

The CJRS is available to one person companies whose director/owner furloughs themselves. However, only salary is covered, not dividends, and like all other furloughed workers, the director "cannot undertake work for or on behalf of the organisation". According to press reports the Treasury nevertheless accepts that the director may continue with their statutory obligations in that role. Despite much lobbying, the Treasury continues to resist any relaxation of the CJRS's focus on salary alone.

NEW

The question of what happens to the CJRS after 30 June is coming to the fore, with business leaders pointing to the 45-day redundancy process meaning that clarity is required by mid-May. The Treasury is reported to be in discussions on the issue and rumoured solutions include a gradual phasing down of coverage (e.g. to 60%, then 40% of pay) and/or narrowing the scheme's focus to concentrate on sectors that will not reopen in the early stages (e.g. hospitality).

Statutory sick pay (SSP)

Businesses with fewer than 250 employees as at 28 February 2020 will be refunded the full cost of providing SSP to any employee off work for up to 14 days because of coronavirus.

Loan guarantees

A government-backed loan guarantee scheme announced in the Budget has since been regularly extended and enhanced. What started as two schemes on 11 March has become five with the announcement of Bounce Back Loans on 27 April (see below). The Government will provide loan guarantees up to "an initial" £330 billion for *all* sizes of businesses. In all instances businesses remain responsible for repaying any facility they may takeout – any guarantees are for the lender:

- **For large firms (with more than £45million turnover)**, the Bank of England has launched a Covid Corporate Financing Facility (CCFF), which "will provide funding to businesses by purchasing commercial paper of up to one-year maturity, issued by firms making a material contribution to the UK economy". The company must satisfy Bank of England lending criteria, which originally meant having an investment grade credit rating from a ratings agency but has since been changed to also allow lending banks to judge credit worthiness. However, the ultimate decision remains with the Bank of England. As at 27 April, over £14 billion had been provided under the CCFF.

- **For medium sized businesses (turnover between £45 million and £500 million)** On 3 April the Chancellor announced the Coronavirus Large Business Interruption Loan Scheme (CLBILS). The scheme is due to launch later in April and will fill a finance gap that had emerged between the two existing loan support schemes. The CLBILS will have a loan ceiling of £25 million and is targeted at businesses that are too large for the CBILS (see below) but fail to meet the criteria for the CCFF. The new scheme will provide a government guarantee of 80% on individual loans and other forms of finance (e.g. overdrafts) for businesses.

  The aim is to provide support for businesses that were viable before the Covid-19 pandemic but now face significant cash flow difficulties that would otherwise make their business unviable in the short term. Lenders will be expected to conduct their usual credit risk checks and charge commercial rates of interest.

- **For small and medium sized businesses (turnover up to £45m)** The loan limit on the Coronavirus Business Interruption Loan Scheme (CBILS) is £5 million (originally

£1.2 million), with no interest charged for the first twelve months and lender-levied fees will be covered. The scheme is delivered over 40 accredited commercial lenders, backed by the British Business Bank. Eligible SMEs must be UK-based and meet "the other British Business Bank eligibility criteria". The government has made clear that this now means the CBILS is available to all SME businesses affected by Covid-19 and not just those unable to secure regular commercial financing elsewhere. Finance under the scheme can take the form of term loans, overdrafts, invoice finance and asset finance.

Lenders cannot require personal guarantees on borrowing of under £250,000, nor can primary residential property be taken as security under the scheme. When a personal guarantee is required, it is capped at 20% of the outstanding value of the loan. As at 27 April, the CBILS had provided £3.4 billion of loans to 20,000 businesses. Applications received had reached over 60,000, although initial inquiries had exceeded 300,000. The current acceptance rate is over 80%, according to the Chancellor in his statement made on 27 April.

NEW

- **For small business** On 27 April the Chancellor announced a new Bounce Back Loan Scheme (BBLS). This will provide micro loans of between £2,000 and £50,000 (subject to a ceiling of 25% of turnover) with the government supplying a 100% guarantee for lenders. No interest will be charged in the first 12 months and 'for most firms, loans should arrive within 24 hours of approval'. There will be no forward-looking tests of business viability, nor will there be any "complex eligibility criteria".

  The BBLS will be run by the **British Business Bank** and will be open for business from 9.00am on Monday 4 May. The standard application form will be two pages long. Guidance on how to apply when the time comes can be found here.

NEW

In his statement of 27 April, the Chancellor said that for both the CBILS and CLBILS, "A statement will be issued shortly by UK Finance confirming that banks will not require from businesses the provision of forward-looking financial information or business plans". This addresses the problem many businesses, particularly in the hospitality sector, had found when applying for finance, given that there is as yet no government guidance on how and when lockdown will be unwound. The Chancellor also removed a constraint which had hindered some banks: there will no longer be a 60% ceiling on the amount of a lender's business interruption scheme loan book covered by government guarantees.

Support package for innovative firms

On 20 April the Chancellor announced a two-part support package for 'innovative firms', which means mainly start-ups and other venture capital backed business that would be unable to raise CBLIS or CLBILS finance.

- **The Future Fund** will launch in May and be delivered with the British Business Bank. The fund will provide loans between £125,000 and £5 million, with private investors at least matching the government commitment. These loans will automatically convert into equity on the company's next qualifying funding round, or at the end of the loan if they are not repaid.

  To be eligible, a business must be an unlisted, UK registered and UK based company that has previously raised at least £250,000 in equity investment from third party investors in the last five years. To begin with the government is committing £250 million to the scheme. It will initially be open until the end of September, with its scale kept under review.

- **Targeted Support for Research and Development (R&D)** £750 million of targeted support for the most R&D intensive small and medium size firms will be made available through a grants and loan scheme operated by Innovate UK, the national innovation agency.

- Innovate UK will accelerate up to £200 million of grant and loan payments for its 2,500 existing customers on an opt-in basis. An extra £550 million will also be made available to increase support for existing customers and £175,000 of support will be offered to around 1,200 firms not currently in receipt of Innovate UK funding. The first payments will be made by mid-May.

Deferral of VAT and Income Tax Payments
For the period between 20 March 2020 and 30 June 2020, businesses will not be required to make a VAT payment. Instead they will be able to defer this payment until the end of the 2020/21. VAT refunds and reclaims will be paid by the government as normal. No applications will be required as the process will be automatic.

Self assessment income tax payments due on the 31 July 2020 (the second payment on account for 2019/20) will be deferred until the 31 January 2021. This also will not require an application and is *not* limited to just the self-employed, although the Treasury says "If you are still able to pay your second payment on account on 31 July you should do so". Penalties and interest for late payment will not be charged in the deferral period.

Business Rates Retail Discount
All shops, cinemas, restaurants, music venues and business operating in the leisure and hospitality sectors will have **no** business rates to pay in 2020/21.

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Grant Funding Schemes

There are two grant schemes based on rateable values:

- *Small Business Grant Fund* All eligible businesses in England in receipt of either Small Business Rates Relief (SBRR) or Rural Rates Relief (RRR) in the business rates system will be eligible for a payment of £10,000.
- *Retail, Hospitality and Leisure Grant Eligibility* All eligible businesses in England in receipt of the Expanded Retail Discount (which covers retail, hospitality and leisure) with a rateable value of up to than £15,000 will be eligible for a cash grants of £10,000 per property and those with a rateable value of more than £15,000 but less than £51,000 will be eligible for a cash grant of £25,000 per property.

Nursery businesses that pay business rates

For nursery school businesses based in England, there will be a business rates holiday for 2020/21. The nursery property must be:

- occupied by providers on Ofsted's Early Years Register
- wholly or mainly used for the provision of the Early Years Foundation Stage.

Commercial insurance

The question of the extent to which any insurance policy provides cover for the Covid-19 outbreak has proved contentious. Pandemic cover is not a feature of most business disruption cover, a point underlined by the Association of British Insurers (ABI) in a statement it issued on 17 March. The ABI has since launched an information hub dealing with the impact of the virus on a range of insurance policies, from trade credit to private health.

On 15 April the Financial Conduct Authority (FCA) issued a 'Dear CEO' letter to insurers, setting out its expectations of regulated firms and a reminder that for some SMEs, complaints will fall within the remit of the Financial Ombudsman Service.

Off-payroll working in the private sector (IR35)

On 17 March, the Chief Secretary to the Treasury, Steve Barker, said in a statement to the House of Commons that the start date for the new IR35 tax rules would be deferred to 6 April 2021.

Time to Pay (TTP)

In the Budget, the Chancellor announced that HMRC would scale up its Time to Pay service, giving businesses and the self-employed the chance to defer tax payments. As at 27 April, over 60,000 businesses and individuals had agreed TTP arrangements with HMRC.

Protection from property forfeiture, winding up orders and statutory demands
Commercial tenants who cannot pay their rent because of Covid-19 are protected from forfeiture of their business property if they miss a payment up until 30 June 2020. Reports suggest that to date only about half of the commercial property rents due on Lady Day (25 March) have been paid.

On 23 April the government announced that landlords would not be able to make statutory demands between 1 March and 30 June or present winding up petitions between 27 April and 30 June "where a company cannot pay its bills due to coronavirus". The government also promised secondary legislation to prevent landlords using Commercial Rent Arrears Recovery (CRAR) unless they are owed 90 days of unpaid rent.

The next quarter day for rental payment is Midsummer Day, 24 June 2020.

Going concern
The Financial Reporting Council (FRC) has issued financial guidance in conjunction with the Financial Conduct Authority (FCA) and Prudential Regulatory Authority. This includes extensive information for auditors covering areas such as how to deal the question of whether a business is a going concern.

Wrongful Trading and business restructuring

On 28 March the UK Business secretary announced changes to insolvency law "to enable UK companies undergoing a rescue or restructure process to continue trading, giving them breathing space that could help them avoid insolvency".

The wrongful trading law is being temporarily suspended, retrospective from 1 March 2020. for three months. This gives company directors the ability to keep their businesses in being without risking personal liability.

Scotland, Wales and Northern Ireland
Some elements of business support are devolved:

- Guidance for Scotland is here
- Guidance for Wales is here
- Guidance for Northern Ireland is here

Government guidance for employers and businesses is here.
The government's business support finder tool is here.

Measures for individuals

Mortgage holidays
For people who find themselves in financial difficulties because of coronavirus, mortgage lenders will offer at least a three-month mortgage holiday. This holiday extends to buy-to-let landlords.

Personal loans, credit cards and overdrafts
The FCA announced temporary measures, effective from 14 April, which expect firms providing consumer finance to:

- Offer a temporary payment freeze on loans and credit cards for up to three months, for consumers negatively impacted by Covid-19.
- Allow customers who are negatively impacted by Covid-19 and who already have an arranged overdraft on their main personal current account, up to £500 charged at zero interest for three months.
- Make sure that all overdraft customers are no worse off on price when compared to the prices they were charged before the recent overdraft pricing changes came into force.
- Ensure consumers using any of these temporary payment freeze measures will not have their credit file affected.

NEW
Motor finance and high cost credit
On 24 April the FCA introduced a package of measures covering how companies providing motor finance and 'high cost finance' (for example, payday loans and pawnbroking) should treat customers. There is now a requirement to grant those facing financial difficulties because of Covid-19 a three-month payment freeze for motor finance, buy-now pay-later (BNPL), rent-to-own (RTO) and pawnbroking agreements. The FCA say that firms offering motor finance should not alter Personal Contract Purchase (PCP) or Personal Contract Hire (PCH) agreements in a way that is unfair.

For high cost credit, including payday loans, a one month interest-free payment freeze applies to affected borrowers.

FCA consumer guidance is available here.

Protection from eviction
Private and social landlords will not be able to start proceedings to evict tenants for the period to 30 September 2020.

Statutory sick pay (SSP)
SSP is currently paid at the rate of £95.85 a week. It is now available to employees from day one, instead of day four, for those who are suffering from the virus or who have been

advised to self-isolate. There has been no change in the minimum earnings threshold for SSP (£120 a week in 2020/21).

Individuals ineligible for SSP
Self-employed and gig economy workers generally do not qualify for SSP. Instead they may be entitled to Contributory Employment and Support Allowance.

Covid-19 sufferers and self-isolators will be able to claim the benefit from day one instead of day eight. The Minimum Income Floor in Universal Credit (UC) has been temporarily removed to ensure that time off work because of sickness is reflected in benefits.

For 12 months from 6 April 2020, the standard allowance in Universal Credit (UC) and the basic element in Working Tax Credit (WTC) for will be increased by the equivalent of about £20 a week over and above annual uprating (which were to £323.22 per month for UC for age 25 and over and £1,995 a year for WTC for 2020/21). This effectively brings UC into line with the rate of SSP. The change applies to all new and existing UC claimants and to existing WTC claimants.

Housing benefit
Housing benefit and the housing element of UC will be increased so that the Local Housing Allowance will cover at least 30% of market rents.

Hardship Fund
The Chancellor announced in the Budget a £500 million Hardship Fund, which would be distributed to Local Authorities so that they could support the vulnerable.
Government guidance for employees is here.

Government guidance on claiming benefits is here.

Main provisions for the self-employed

On Thursday 26 March, Chancellor Rishi Sunak made his long-awaited statement about the Covid-19 government support scheme for the self-employed, called the Self-employment Income Support Scheme (SEISS). Reports suggest that the announcement had been slow to arrive because of the greater difficulty in structuring and running a scheme that relied on annual information (via tax returns) and could not operate via the PAYE system.

SEISS provisions
The SEISS will pay a directly payable taxable grant to the self-employed (including members of partnerships) based on 80% of profits averaged over the last three tax years (or shorter periods if self-employment started after 2016/17), subject to a maximum of £2,500 a month.

- The initial payment term of the SEISS grant will be “at least three months”.

- The payment of the grant will not prevent the claimant from continuing to work.

Restrictions on the SEISS

The SEISS will be restricted in five ways:

1. Self-employment must provide the majority of the claimant's income (based on the period used for the £50,000 test set out below).
2. Trading profits either:
    - were no more than £50,000 in 2018/19; or
    - trading profit were no more than £50,000 averaged over the three tax years from 2016/17. If trading started between 2016-19, HMRC will only use those years for which a Self-Assessment tax return has been filed.

   According to the Chancellor, these thresholds mean the scheme covers 95% of the self-employed. The corollary is that it creates a cliff edge at £50,000, a figure that appears elsewhere in the tax system (e.g. the higher rate tax threshold).
3. The claimant must have submitted a 2019 tax return (covering the 2018/19 tax year). As a concession, any later filer will have four weeks to submit their overdue return if they wish to be included in the scheme.
4. The claimant must have traded in 2019/20 and still be trading when making the application (unless affected by Covid-19)
5. The claimant must have lost trading profits due to Covid-19.

HMRC will use their existing information to assess eligibility and contact individuals directly, requesting completion of "a simple online form". A gov.uk webpage gives more details, but is somewhat confusingly headed "Claim a grant through the coronavirus (COVID-19) Self-employment Income Support Scheme". The "don't call us, we'll call you" approach is aimed at preventing HMRC being overwhelmed with telephone queries, as has happened with the DWP's Universal Credit system. HMRC are aiming to contact eligible people "by mid May 2020". More detailed guidance is due to be issued in the week commencing 27 April.

Timing of payments

Payments from HMRC should start at the beginning of June. The initial sum will represent three months' cumulative payments. Until then the self-employed can claim Universal Credit. In his statement the Chancellor said Universal Credit could give a self-employed person with a non-working partner and two children, living in the social rented sector, support of up to £1,800 a month.

Anyone whose self-employment started after 5 April 2019 and thus has no self-employed earnings recorded with HMRC cannot benefit from the scheme and must rely on Universal Credit.

One-person companies

Those who operate through one person companies are not covered by the scheme as, despite the media label often given to them, they are not self-employed. The Treasury press release states that such people “will be covered for their salary by the Coronavirus Job Retention Scheme if they are operating PAYE schemes”. The use of the word ‘salary’ is key here, as many one person companies route the bulk of their employee’s remuneration via dividends to reduce National Insurance liabilities (see CJRS above).

In his closing remarks the Chancellor noted that “…in devising this scheme … it is now much harder to justify the inconsistent contributions between people of different employment statuses”. This was a subtle way of suggesting that National Insurance contributions will have to rise for the self-employed once the crisis is over.

UPDATED

Reports have suggested that the Small Business Minister is lobbying for a change on the approach to dividends, but meeting Treasury resistance. One potential problem appears to be that HMRC cannot easily distinguish between ‘remuneration’ dividends and dividends originating from normal investment. In his comments following his statement on 27 April the Chancellor remained unwilling to extend the CJRS to cover dividend payments.

Coronavirus Act

The day before the Chancellor’s latest statement, the Coronavirus Act 2020 received Royal Assent. This 348-page Act deals with a broad range of Covid-19 related measures (many of which exclude Scotland because of its devolved powers), including:

- Food supply.
- Statutory Sick Pay (SSP) modifications, e.g. funding of the employer’s liabilities.
- Suspension of the complex abatement rules that either reduce or suspend NHS pensions on an individual’s return to work.
- Uprating of working tax credit.
- Protection from eviction for residential tenancies to 30 September 2020.
- Protection from forfeiture for commercial tenancies to 30 June 2020.

The explanatory notes for the original Bill (introduced on 19 March) are here.
Updated government Covid-19 guidance on business support is here and for employees is here.

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