

Reporting implications of Covid-19

UK Government Job Retention Scheme and impact on salaried directors

On 11 March 2020, the World Health Organisation declared the spread of coronavirus (“Covid-19”) a global pandemic and the UK government has taken unprecedented steps to protect the economy, businesses, and jobs during these very difficult times.

One major aspect of UK government support is the Coronavirus Job Retention Scheme where eligible employers can claim to cover the wages of employees who are on temporary leave (“furlough”) due to the impact of coronavirus (“Covid-19”).

Businesses are electing to either not use the scheme, employ the scheme in full or apply the scheme in part. It is possible that companies may need to temporarily furlough one or more salaried directors during the coronavirus crisis.

This article focuses on the implications of the scheme from the perspective of salaried directors of companies incorporated under the Companies Act 2006 (“the Act”).

Special considerations regarding directors

Salaried company directors are eligible for furlough and can be supported through the scheme however there are important considerations to be made given the statutory duties of directors under s172 Companies Act 2006.

Firstly, boards must consider whether furloughing one or more salaried directors goes against the statutory duties of directors. This will depend on the day to day responsibilities of a director.

Where a board decides to furlough one or more directors this should be formally adopted as a board decision of the company, noted in the company records, and communicated

in writing to the director(s) concerned. As is the case with employees, furloughed directors should not do work that they would carry out in normal circumstances including the generation of commercial revenue or provision of services to, or on behalf of, their company.

However, furloughed directors are not relieved of their statutory duties under the Act and therefore might need to carry out some duties to fulfil the statutory obligations they owe to their company.

We recommend that boards that are considering furloughing salaried directors should obtain legal advice.

Disclosures in financial statements

Under the Companies Act 2006 in our view where furlough payments to directors are made to secure future qualifying services they should be treated as directors’ remuneration and disclosed as such. Furlough payments are in connection with retaining a person as an employee and director and are not in respect of ceasing office.

In accordance with both FRS 102 Section 33 and IAS 24 (Related Party Disclosures), furlough payments are disclosable as part of short-term employee benefits paid to key management personnel.

Otherwise, where furlough payments to directors are not treated as remuneration, they are instead disclosed as a related party transaction.

Appendix

What are the statutory duties of a director?

Under s172 CA 2006 a director of a company must act in the way he considers, in good faith, would be most likely to promote the success of the company for the benefit of its members as a whole, and in doing so have regard **(amongst other matters) to:**

- a** the likely consequences of any decision in the long term,
- b** the interests of the company's employees,
- c** the need to foster the company's business relationships with suppliers, customers and others,
- d** the impact of the company's operations on the community and the environment,
- e** the desirability of the company maintaining a reputation for high standards of business conduct, and
- f** the need to act fairly as between members of the company.

Additional duties include:

- To act in accordance with the company's constitution and to only exercise powers accordingly
- To exercise independent judgement
- To exercise reasonable care, skill and diligence
- To avoid conflicts of interest
- To not accept benefits from third parties
- To promote the success of the business for the benefit of its members
- To declare interests in a proposed transaction or arrangement.

Contact us

For further information please contact your local office.

E: info@mooreandsmalley.co.uk

Follow us on:



mooreandsmalley.co.uk

 @MooreandSmalley

 Offices in: Preston, Blackpool, East Midlands, Kendal, Kirkby Lonsdale, Lancaster, Liverpool, Manchester and Southport

Moore and Smalley LLP is a limited liability partnership that is registered in England and Wales under registration number OC313896 whose registered office is Richard House, 9 Winckley Square, Preston, Lancashire, PR1 3HP. The term "partner" indicates a member of the LLP who is not in partnership for the purposes of the Partnership Act 1890 and a list of members is available from the registered office. The LLP trades as MHA Moore and Smalley and is registered to carry on audit work in the UK by The Institute of Chartered Accountants in England and Wales and is authorised and regulated by the Financial Conduct Authority. Moore and Smalley LLP trading as MHA Moore and Smalley is a member of MHA, an independent member of Baker Tilly International Limited, the members of which are separate and independent legal entities. Baker Tilly International Limited is an English company. Baker Tilly International provides no professional services to clients. Each member firm is a separate and independent legal entity, and each describes itself as such. Moore and Smalley LLP is not Baker Tilly International's agent and does not have the authority to bind Baker Tilly International or act on Baker Tilly International's behalf. None of Baker Tilly International, Moore and Smalley LLP, nor any of the other member firms of Baker Tilly International has any liability for each other's acts or omissions. Arrandco Investments Limited is the registered owner of the UK trade mark for the name Baker Tilly. The associated logo is used under licence from Baker Tilly International Limited.

Moore and Smalley C.A. Limited is a limited company that is registered in England and Wales under company number 5373155. Its directors are Deborah Wood FCA and Christine Wilson FCA and its registered office is Richard House, 9 Winckley Square, Preston, Lancashire, PR1 3HP. Moore and Smalley C.A. Limited is a wholly owned subsidiary of Moore and Smalley LLP and trades as MHA Moore and Smalley.

Moore and Smalley LLP (Blackpool) is a member of AISMA, Association of Independent Specialist Medical Accountants.

Moore and Smalley C.A. Limited (Nottingham) is a member of AISMA, Association of Independent Specialist Medical Accountants.

Now, for tomorrow

