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JobKeeper Payment

FREQUENTLY ASKED QUESTIONS

JobKeeper Payment – Frequently Asked Questions

On 30 March 2020, in response to the COVID-19 pandemic, the Prime Minister announced the 'JobKeeper' Payment arrangements. Businesses significantly impacted by the Coronavirus will be able to access a subsidy from the Government to continue paying their employees.

How much is the JobKeeper Payment?

Affected employers will be able to claim a fortnightly payment of \$1,500 per eligible employee from 30 March 2020, for a maximum period of 6 months. The subsidy will start on 30 March 2020, with the first payments to be received by employers in the first week of May. The payment will be available until 27 September 2020.

What Businesses' are able to gain the JobKeeper Payment?

Employers will be eligible for the subsidy if:

- Their business has a turnover of less than \$1 billion and their turnover has fallen by more than 30 per cent (of at least a month); or
- Their business has a turnover of \$1 billion or more and their turnover has fallen by more than 50 per cent (of at least a month); or
- They are a registered charity or not-for-profit organisation and their turnover has fallen by more than 15 per cent (of at least a month); and
- The business is not subject to the Major Bank Levy.

Self-employed individuals (businesses without employees) that meet the turnover tests are eligible to apply for the JobKeeper Payment.

In order to establish that a business has suffered either a 30 (or 50) per cent fall in their turnover, it is required to establish that their turnover has fallen in the relevant month or three months (depending on the business activity statement reporting period of that business) relative to their turnover in a corresponding period a year earlier.

If a business is less than a year old or where their turnover a year earlier was not representative of their usual or average turnover due to certain circumstances, the Tax Commissioner will have discretion to consider additional information that may establish that they have been significantly affected by the impacts of the Coronavirus.

Further, the Tax Commissioner will have discretion to consider alternative tests in order to establish a business's eligibility in certain circumstances. There will be some tolerance where employers, in good faith, estimate a greater than 30 (or 50) per cent fall in turnover but actually experience a slightly smaller fall.

What type of entities won't be eligible?

All business types, including not-for-profits, will be eligible with the exception of those listed below.



The following entities will not be eligible:

- Australian Government and its agencies,
- State and Territory governments and their agencies,
- Foreign governments and their agencies;
- Local council governments;
- Wholly-owned corporations of any of the above; and
- A business subject to the Major Bank Levy.

Additionally, a Company that is in liquidation, or a partnership, trust or sole trader in bankruptcy, will not be eligible.

Some sectors may not be eligible if they are separately provided with support from the Government that explicitly requires them to forgo access to the JobKeeper Payment.

How does a Business apply for the JobKeeper Payment?

Businesses will be able to register their interest in participating in the Payment from 30 March 2020 on the ATO website.

Businesses will need to provide information to the ATO on eligible employees. This includes information on the number of eligible employees engaged as at 1 March 2020 and those currently employed by the business (including those stood down or rehired). For most businesses, the ATO will use Single Touch Payroll data to pre-populate the employee details for the business.

Businesses will need to ensure that each eligible employee receives at least \$1,500 per fortnight (before tax), and notify all eligible employees that they are receiving the JobKeeper Payment.

Which employees are eligible for the JobKeeper Payment?

Eligible employees are employees who:

- Are currently employed by the eligible employer (including those stood down or re-hired)
- Were employed by the employer at 1 March 2020
- Are full-time, part-time, or long-term casuals (a casual employed on a regular and systematic basis for longer than 12 months as at 1 March 2020)
- Are at least 16 years of age
- Are an Australian citizen, the holder of a permanent visa, a protected special category visa holder, a non-protected special category visa holder who has been residing continually in Australia for 10 years or more, or a special category (subclass 444) visa holder
- Are not in receipt of a JobKeeper Payment from another employer

It is noted that receipt of the JobKeeper Payment is reportable as income so may affect an employee's ability to claim other Government benefits.

Employees are entitled to receive the payment whilst on paid leave unless they are in receipt of the Government Paid Parental Leave or Dad and Partner Pay. They will not be eligible for JobKeeper during the period whilst they are receiving these other Government payments.



Can a business receive the JobKeeper Payment for employees in receipt of WorkCover?

Employees will not be eligible for the JobKeeper payment if they are fully incapacitated, unable to work and being supported by a workers compensation scheme.

In other cases, such as an employee on reduced hours, they would be eligible as they are in an employment relationship with their employer, provided their employer has an obligation to pay some component of their salary or wages.

Are my fixed term contract employees eligible to receive the payment?

Employees engaged on fixed term contracts are eligible for the payment if they were employed at 1 March 2020 and meet the other eligibility criteria for the Job Keeper Payment.

What if I am a sole-trader?

Sole traders are able to apply for the entire JobKeeper Payment.

Do Businesses still pay superannuation?

The employer is required to pay superannuation on any wage that is ordinarily paid to the employee. If an employee is performing work and receiving wages which are subsidised by the Payment then superannuation should be paid on these wages.

Where an employee is paid more than \$1,500 per fortnight, the employer's superannuation obligations will not change. Where an employee is having their wages topped up to \$1,500 per fortnight by the JobKeeper Payment, it will be up to the employer if they want to pay superannuation on any additional wages paid by the JobKeeper Payment.

Are there any ongoing obligations for Employers?

Eligible employers will need to identify eligible employees for JobKeeper Payments and must provide monthly updates to the ATO.

People who are self-employed will need to provide a monthly update to the ATO to declare their continued eligibility for the payments.

Information will be provided from the ATO to those in receipt of the JobKeeper Payment regarding the monthly information required.



Are there record-keeping obligations for employers covered by this scheme?

Yes, eligible employers will be required to create and retain for five years records substantiating information provided to the Commissioner in relation to their eligibility for and ongoing entitlement to JobKeeper payments.

How will payments be received?

Payments will be made to the employer monthly in arrears by the ATO.

What happens when an employee ordinarily earns more than \$1,500 per fortnight?

If an employee ordinarily receives \$1,500 or more in income per fortnight before tax, they will continue to receive their regular income according to their prevailing workplace arrangements. The JobKeeper Payment will assist their employer to continue operating by subsidising all or part of the income of their employee(s).

Example: John ordinarily earns \$2,000 before tax per fortnight. The business will continue to pay John his full-time salary of \$2,000 per fortnight before tax. The business will receive \$1,500 per fortnight from the JobKeeper Payment to subsidise the cost of his salary and will continue paying the superannuation guarantee on his income.

What if an employee ordinarily earns less than \$1,500 per fortnight?

If an employee ordinarily receives less than \$1,500 in income per fortnight before tax, the employer will still receive the whole \$1,500 amount however the employer must pay their employee, at a minimum, \$1,500 per fortnight, before tax.

Example: Jane ordinarily earns \$1,000 per fortnight before tax. The business will receive \$1,500 per fortnight before tax from the Job Keeper Payment. The business continues to pay Jane \$1,000 per fortnight before tax, plus an additional \$500 per fortnight before tax.

The business must continue to pay the superannuation guarantee on the \$1,000 per fortnight of wages that Jane ordinarily earns, and has the option to pay superannuation on the additional \$500 (before tax) paid to Jane under the JobKeeper Payment.

What if an employee has been stood down without pay?

If an employee has been stood down without pay, their employer must pay their employee, at a minimum, \$1,500 per fortnight, before tax.

Example: Jim has stood down 2 employees without pay. Jim will be eligible to receive the \$1,500 per fortnight before tax to pass onto each stood down employee. This will enable these employees and Jim to maintain a connection, and once able to, quickly resume the Business. It is Jim's choice if he pays superannuation on the JobKeeper payment.



Jim still needs to inform his employees that they have been nominated as eligible to receive the payment, and that the payment may affect any other Government payments they are receiving such as the Job Seeker payment.

What if an employee was stood down or made redundant after 1 March 2020, and then re-engaged?

If an employee was employed on 1 March 2020, subsequently their role was made redundant, and then has been re-engaged by the same eligible employer, the employee will receive, at a minimum, \$1,500 per fortnight, before tax.

Example: Jenny was made redundant on 22 March 2020 in response to the Government directive that the business she worked for would be required to close. Jenny was not entitled to redundancy pay due to her length of service. In response to the announcement of the JobKeeper Payment, the business decides they want to re-engage Jenny so they are able to quickly resume business when able to do so. If Jenny chooses to be re-hired, under the JobKeeper Payment she will receive \$1,500 a fortnight before tax whilst stood down.

Some of my employees are on unpaid or paid leave. Are they eligible to receive the payment?

Yes, unless the employee is in receipt of Government Paid Parental Leave or Dad and Partner Pay. Employees on paid and unpaid leave are eligible to receive the JobKeeper payment.

Example 1: Jean has been asked by her employer to take Long Service Leave while the business is closed. Jean's employer is still eligible to seek the JobKeeper payment, but must notify her that they have been nominated as eligible to receive the payment.

Example 2: Joel has been on unpaid parental leave since December 2019. His employer has had to close due to Government restrictions. Joel's employer is able to seek the JobKeeper payment for the period that Joel does not receive Government Paid Parental Leave or Dad and Partner Pay.

Can an employer reduce an employee's hours, days and change an employee's location of work, and still receive the JobKeeper Payment?

Yes, an employer can direct an employee to change days of work or hours of work during the JobKeeper stand-down period because of changes to business attributable to COVID-19. The employer will continue to receive the JobKeeper payment if they make a 'JobKeeper Enabling Direction.'

There are certain requirements to implement a 'JobKeeper Enabling Direction,' including:

- The employer requests the employee to do so in writing and with 3 days notice.
- The request must be reasonable.
- The employee must consider and not unreasonably refuse the request.
- The employer had already qualified for the JobKeeper payment.
- The proposed hours or days of work are safe having regard to the nature and spread of COVID-19.
- The performance of the duties on those days is reasonably within the scope of the employer's business operation, and the employee's qualifications.
- The proposed work location does not require the employee to travel a distance that is unreasonable, in all circumstances including COVID-19.



If an employer implements a 'JobKeeper enabling direction' they are still required to pay the employee:

- Their usual hourly rate for the hours of work performed; and
- At least the JobKeeper Payment of \$1,500 per fortnight.

If a direction to change hours or days is given, the employee continues to accrue leave entitlements as if the direction had not been given. Redundancy pay and payment in lieu of notice of termination are to be calculated as if the direction had not been given.

Can an employer direct an employee to take annual leave and still be eligible for the JobKeeper payment?

An employer can request an employee to take paid annual leave subject to the following requirements:

- The request will not result in the employee having a balance of paid annual leave of fewer than 2 weeks.
- The employee must consider such request, and not unreasonably refuse the request.
- The employer had already qualified for the JobKeeper payment.

Payment for the leave is based on the rate of pay that applied before the JobKeeper legislation operated.

The employer and employee can agree in writing to taking twice as much annual leave at half the employee's rate of pay. If an employee takes paid annual leave in accordance with this agreement, the employee accrues leave entitlements, and redundancy and payment in lieu of notice of termination entitlements, as if the agreement had not been made.

The employer will still be able to receive the JobKeeper payment if the employee is on annual leave.

What is the entitlement for long-term, regular casual employees?

If a casual employee has been engaged on a regular and systematic basis for over 12 months as at 1 March 2020 they will be eligible for the JobKeeper Payment.

Example: James is 17 years old and has a casual job working in a fast food business. He has regularly worked a 6 hour shift on a Saturday for the last 14 months and gets paid \$150 per week. James has been stood down without pay. James will be entitled to receive the full \$1,500 per fortnight JobKeeper payment from his employer.

What happens if an employer receives the JobKeeper payment but doesn't pay their employees?

If an employer is in receipt of the JobKeeper payment, they are required to ensure the total amount payable to a particular employee each fortnight is either:

- The amount of the JobKeeper payment, or
- If a greater amount is payable to the employee for the performance of work during the fortnight, that amount in full.

A failure to do so can result in penalties and compensation orders.



What happens if there is a dispute between an employer and an employee about the JobKeeper payment?

Any disputes about the JobKeeper payment between employees and employers will be dealt with by the Fair Work Commission.

Note: the information contained in this FAQ is for general information only it is not to be considered professional advice and no person should act or refrain from acting on the basis of the information provided. Appropriate professional advice should always be sought based on your particular circumstances.