



Australian Government COVID-19 Initiative

JOBKEEPER PAYMENT

Please be advised, all information provided throughout this document is general in nature and if you wish to seek advice based on your specific circumstances you should contact our office on (08) 8361 0200.

GENERAL

WHAT IS THE JOBKEEPER PAYMENT?

The JobKeeper Payment is a payment made to eligible businesses and not-for-profits affected by the Coronavirus to support them in retaining employees.

Eligible businesses that elect to participate will receive a payment of \$1,500 per fortnight per eligible employee to support the people they employed as at 1 March 2020 who are retained in employment. Businesses must have paid their employees before they are entitled to receive the JobKeeper payment. Where an employee's total remuneration is less than \$1,500 per fortnight (before tax), or has been stood down, the employer must provide the employee at least \$1,500 per fortnight (before tax). Where an employee earns more than \$1,500 per fortnight, employers can use the payment to subsidize the employee's wages.

Self-employed individuals (including partnerships and trusts) will also be eligible to receive the JobKeeper payment.

WHEN WILL THE JOBKEEPER PAYMENT COMMENCE?

The JobKeeper Payment will be available from the fortnight beginning 30 March 2020.

HOW LONG WILL THE JOBKEEPER PAYMENT LAST FOR?

The JobKeeper Payment will be available for the period until the fortnight ending 27 September 2020.

EMPLOYERS

IS MY BUSINESS ELIGIBLE?

Employers (including not-for-profits) will be eligible for the subsidy if:

- their business has a turnover of less than \$1 billion (and if part of a group for income tax purposes, the group has a combined turnover of less than \$1 billion) and estimate their turnover has fallen or will likely fall by 30 per cent or more; or
- their business has a turnover of \$1 billion or more (or if part of a group for income tax purposes, the group has a combined turnover of \$1 billion or more) and estimate their turnover has fallen or will likely fall by 50 per cent or more; or
- their business is not subject to the Major Bank Levy.

For charities registered with the Australian Charities and Not-for-profits Commission (ACNC), they will be eligible for the subsidy if they estimate their turnover has fallen or will likely fall by 15 per cent or more relative to a comparable period. JobKeeper Payments are paid in respect of each

eligible employee who was employed at 1 March 2020 and is currently employed by the business (including those who are stood down or re-hired).

An employer that was not carrying on a business in Australia or was not a non-profit body pursuing its objectives principally in Australia on 1 March 2020 – for example, because it ceased before that date or because it commenced after that date – is not a qualifying employer for the purposes of the JobKeeper scheme.

WHAT TYPE OF ENTITIES ARE 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 businesses 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.

IF MY BUSINESS IS ELIGIBLE, DO I HAVE TO PARTICIPATE?

No. The JobKeeper scheme is not compulsory. Employers are not required to register for JobKeeper support for their employees, even if they are eligible to do so. It is a voluntary scheme intended to help maintain contact between employers and employees during the downturn in business associated with COVID-19.

IF I CHOOSE TO PARTICIPATE, DO I NEED TO PAY JOBKEEPER TO ALL ELIGIBLE EMPLOYEES?

If a business chooses to participate, it must register all eligible employees that remain on its books. Where the employer has previously let go employees due to a downturn in business (since 01/03/2020), there is no obligation to reinstate these employees, even if they would be eligible for JobKeeper payments. However, a business can choose to reinstate these employees in order to register them for JobKeeper, even if the business offers them no work (but keeps them on the books).

If participating, the employer must notify all employees that the employer has elected to participate in the scheme. Employees must then provide notice to the employer that they agree to be nominated and that they haven't been nominated by another employer.

IF I REGISTER FOR JOBKEEPER AND THEN CHANGE MY MIND, CAN I WITHDRAW MY ELECTION TO PARTICIPATE?

An employer is not entitled to the JobKeeper payment if they notify the Commissioner that they no longer wish to participate in the JobKeeper scheme. This notification must be made in the form approved by the Commissioner. An employer does not need to consult with or obtain the consent of its eligible employees if it no longer wishes to participate in the JobKeeper scheme.

HOW DO I ENROL FOR PARTICIPATION?

Eligible employers need to determine if they want to participate in this program by electing into it through the following steps:

- Register interest & subscribe to [JobKeeper payment](#) updates
- Establish whether the business is eligible for JobKeeper payments, including reviewing which employees are eligible
- Notify your eligible employees that you are intending to claim the JobKeeper payment on their behalf, check they are not claiming through another employer or nominated business
- Send the [JobKeeper employee nomination notice](#) to your nominated employees to complete and return to you by the end of April, provide a copy to your tax agent
- **From 20 April, you can enrol for the JobKeeper payment using the Business Portal and authenticate with myGovID. This must be done by the end of April to claim JobKeeper payments for April**
- Complete the online form to provide business details and number of eligible employees for first two fortnights
- From 4 May, businesses will be able to identify eligible employees through an application form available for submission on the business portal

If you have difficulties setting up the business portal, we anticipate Tax Agents will have the ability to enrol clients through the agent portal.

HOW DO I WORK OUT WHICH OF MY EMPLOYEES ARE ELIGIBLE EMPLOYEES?

You will only be able to claim the JobKeeper payment for eligible employees that were in your employment on 1 March 2020, and continue to be employed while you are claiming the JobKeeper payment.

An eligible employee is an employee who:

- is currently employed by the eligible employer (including those stood down or re-hired);
- is a full-time or part-time employee, or a casual employed on a regular and systematic basis for longer than 12 months as at 1 March 2020;
- was aged 16 years or older at 1 March 2020;
- was an Australian citizen, the holder of a permanent visa, or a Special Category (Subclass 444) Visa Holder at 1 March 2020;
- was a resident for Australian tax purposes on 1 March 2020; and
- is not in receipt of a JobKeeper Payment from another employer.

You can only claim JobKeeper payment for eligible employees if you pay the \$1,500 per fortnight (before tax) to each eligible employee.

These payments should be made using your payroll system and reported to the ATO via Single Touch Payroll. This will support the online claim process when it is available.

If you do not report through Single Touch Payroll, you can still claim the JobKeeper payment; however there will be a manual claim process. You will be required to advise your employees whether you have nominated them as an eligible employee for the purposes of the payment.

Employees are not eligible for JobKeeper payments if they are currently receiving Parental Leave Pay from Services Australia. However employees on parental leave from their employer will be eligible.

WHEN WILL I RECEIVE THE FIRST PAYMENT?

The first payments by the ATO will be received by employers in mid-May.

WHEN DO I NEED TO BEGIN PAYING ELIGIBLE EMPLOYEES THE JOBKEEPER PAYMENT?

The fortnightly payments of \$1,500 will need to be made to employees on the conclusion of each period with the first ending 12 April. However, the ATO will allow the first two fortnights (30 March – 12 April, 13 April – 26 April) to be paid late, **provided they have been paid by the end of April.**

This means two fortnightly payments of at least \$1,500, or a combined payment of at least \$3,000 can be paid before the end of April. If the business has not made these minimum payments by the end of April, they will not be eligible for JobKeeper to be reimbursed for the first two fortnights of the scheme.

HOW OFTEN WILL THESE PAYMENTS BE MADE?

The payments will be made by the ATO monthly in arrears.

The Commissioner must pay the JobKeeper payment no later than the later of:

- 14 days after the end of the calendar month in which the fortnight ends; or
- 14 days after the Commissioner is satisfied if the employer is eligible

For example, a participating employer with one eligible employee who qualifies for both fortnights in June 2020 will generally receive \$3,000 by 14 July 2020.

The payment will be made via a direct credit to the employer's nominated bank account.

WHAT ARE THE ELIGIBLE PAYMENT PERIODS FOR REIMBURSEMENT FOR A JOBKEEPER SUBSIDY?

Employers will need to satisfy payment requirements for their eligible employees in respect of each 14 day period covered by the scheme. The first period starts on Monday 30 March 2020 and ends on Sunday 12 April 2020.

The payment requirement is that they pay their eligible employees a minimum of \$1,500 per fortnight in the scheme payment periods. Where an employer pays their staff monthly, the ATO will be able to reallocate payments between periods. However, overall an employee must have received the equivalent of \$1,500 per fortnight.

The final period will start on Monday 14 September 2020 and end on Sunday 27 September 2020.

IF I HAVE STOOD DOWN MY EMPLOYEES AFTER 1 MARCH 2020, AND ARE NO LONGER PAYING THEM, DO I NEED TO PAY THEM, FOR WHAT PERIOD AND BY WHEN?

Yes. You can claim JobKeeper for employees that were stood down after 1 March 2020. To be eligible in relation to these employees, you will need to pay them a minimum of \$1,500 per fortnight (before tax) for the payment periods of the JobKeeper Scheme.

The first payment period under the scheme is from 30 March 2020 to 12 April 2020. Where an employer pays their staff monthly the monthly payment must be equivalent to the required fortnightly payment.

For all following payment periods you will need to continue to pay your employees a minimum of \$1,500 per fortnight (before tax), before the end of the payment period.

At present, there is a transitional discretion to pay the subsidy for the first 2 fortnights. The Commissioner can choose to pay JobKeeper for the first two JobKeeper fortnights if he is satisfied it is reasonable in the circumstances, even if he is not yet satisfied the entity is eligible. However, the employer could be required to repay the amount if subsequently found to be ineligible.

TURNOVER TESTS

WHAT IS THE DEFINITION OF TURNOVER?

Turnover (for the purpose of determining how much turnover has declined by) will be defined according to the current calculation for GST purposes and is reported on Business Activity Statements.

GST turnover is broadly defined for GST purposes, but limited to the employer entity's expected or actual turnover for GST purposes occurring in the turnover test period. GST grouping is disregarded.

GST turnover is calculated as the sum of:

- Your actual supplies to date in the relevant month or quarter, plus
- The supplies you are likely to make for the rest of the month or quarter, less
- supplies excluded.

Supplies that are excluded in the calculation of projected GST turnover are:

- supplies that are input taxed
- supplies that are for no consideration
- supplies that are not made in the course of your enterprise
- supplies that are not connected with Australia
- supplies that are made by transfer of capital assets, or
- supplies that are made when an enterprise is ceased or is substantially and permanently reduced in size or scale.

HOW DO I SATISFY THE REDUCTION IN TURNOVER TEST?

The decline in turnover test needs to be satisfied before an entity becomes eligible for the JobKeeper payment. Once this occurs there is no requirement to retest in later months. If an entity does not qualify for the month of April 2020 because its turnover has not been sufficiently affected, it can test in later months to determine if the test is met. This allows entities that only become affected part way through the six month period of operation of the JobKeeper scheme to continue to monitor for any decline in turnover until they qualify for the scheme in a later period.

The JobKeeper scheme aims to assist entities that have a significant decline in turnover due to the economic impacts of the Coronavirus. Accordingly, to properly target the JobKeeper payment to affected employers, section 8 of the Rules establishes a decline in turnover test that must be satisfied at the end of a fortnight for an employer to qualify. Once an entity satisfies this test it does not need to retest its turnover in later months.

The Rules specify two ways in which a business can satisfy the decline in turnover test: the basic test and the alternative test.

A business will satisfy the basic decline in turnover test if its projected GST turnover for a test period falls short of the entity's GST turnover for the corresponding period in 2019 (the comparison period) by:

- 15 percent - ACNC registered charity
- 50 percent - Applicable where entity's aggregated turnover for the income year in which the test time occurs is likely to (or does) exceed \$1 billion
- 30 percent - Other entities

It is important to note that whether the 30 percent or 50 percent test applies depends on aggregated turnover (i.e. includes connected entities and affiliates). A small business that forms part of a group that is a large business must have a 50 percent decline in turnover to satisfy the test.

To gain the full six months' JobKeeper payments, it must be estimated that turnover will fall by the relevant above percentage in the first test period. Comparing any of the following periods can be used for the first test:

- GST turnover for March 2020 with GST turnover for March 2019
- Projected GST turnover for April 2020 with GST turnover for April 2019
- Projected GST turnover for the quarter starting April 2020 with GST turnover for the quarter starting April 2019.

How it is chosen to project the fall in turnover is not dependent on whether the entity reports a quarterly or monthly BAS.

If this initial test is satisfied, later periods are then not tested (i.e. even if turnover subsequently improves, the business will still be eligible for JobKeeper payments for the full period).

Predicting the supplies that a business is likely to make in the month or quarter may be a difficult exercise where things are changing on a daily basis. It is important that businesses keep records evidencing how they calculated their likely supplies for the month or quarter. There will be some tolerance where employers, in good faith, estimate a greater than 30% (or 50% or 15%) reduction in turnover but actually experience a slightly smaller fall. However, employers need to be aware that this discretion was not codified in the draft rules (i.e. is a 25% fall a 'slightly smaller fall?'). As such, it is crucial for businesses to keep evidence about how they have calculated their projected turnover.

An entity will not be entitled to the JobKeeper payment if it does not comply with the record keeping requirements, which generally require the entity to keep records to substantiate the information it provides to the Commissioner. Under the legislation, the Commissioner has the power to issue a written determination, by legislative instrument, that specifies the types of records and how those records should be kept, in order for an entity to satisfy the record keeping requirements. No determination has been made as yet, but we expect this will be issued in the coming weeks.

Turnover Test Example:

Burke Industries assesses its eligibility for JobKeeper payments on 11 May 2020 based on a projected GST turnover for May 2020 of \$10 million from its business activities. The corresponding period is the month of May 2019 for which it had a current GST turnover of \$20 million. The alternative turnover test does not apply as the month of May 2019 is an appropriate relevant comparison period. The May 2020 turnover falls short of the May 2019 turnover by \$10 million, which is 50% of the April 2019 turnover. This exceeds the specified percentage of 30% that applies to business entities with less than \$1 billion aggregated annual turnover, so the decline in turnover test is satisfied.

Where the comparison period in the prior year is not representative of the business' usual average turnover, an alternative test may apply (see below). Alternatively, the ATO may set out alternative tests that would establish eligibility in specific circumstances (e.g. eligibility may be established as soon as a business has ceased or significantly curtailed its operations).

WHEN IS A BUSINESS ENTITLED TO A JOB KEEPER PAYMENT?

In general terms, an employer is entitled to a JobKeeper payment for a fortnight if:

- the fortnight is a JobKeeper fortnight;
- the employer qualifies for the scheme on or before the end of the fortnight;
- the payment is for a person who is an eligible employee of the employer;
- the employer has satisfied the wage condition by making payments to the eligible employee equal to or greater than the amount of JobKeeper payment (less PAYG withholding and salary packaging) that the employer will receive for the employee for the fortnight; and
- the employer has notified the Commissioner of a range of matters, including notification of its election to participate in the scheme.

The JobKeeper scheme operates on a prospective basis only. Entitlement only arises for those JobKeeper fortnights and later fortnights in which eligible employers are registered under the scheme prior to the end of a JobKeeper fortnight. The only exception to this is for the month of April 2020. In April 2020 employers may register prior to the end of April and if they meet the eligibility rules receive JobKeeper payments for eligible employees for JobKeeper fortnights in the two JobKeeper fortnights commencing from 30 March 2020.

MY BUSINESS HAS ONLY JUST STARTED OR MY BUSINESS HAS "LUMPY" INCOME. HOW CAN I SELF-ASSESS THAT MY TURNOVER HAS FALLEN 30 PER CENT?

To establish that a business has faced or is likely to face a 30 per cent or more or 50 per cent or more fall in turnover, most businesses would be expected to establish that their turnover has fallen in the relevant month or quarter relative to their turnover in a corresponding period a year earlier.

Where a business was not in operation a year earlier, or where their turnover a year earlier was not representative of their usual or average turnover, (e.g. because there was a large interim acquisition, they were newly established, were scaling up, or their turnover is typically highly variable), the Tax Commissioner will have discretion to consider additional information that the business can provide to establish that they have been adversely affected by the impacts of the Coronavirus.

The Tax Commissioner will also have discretion to set out alternative tests that would establish eligibility in specific circumstances (e.g. eligibility may be established as soon as a business ceases or significantly curtails its operations).

Alternative Test Examples:

The alternative test does not apply

Nguyen Industries assesses its eligibility for JobKeeper payments on 3 July 2020 based on a projected GST turnover for the quarter beginning on 1 July 2020 of \$80 million from its business activities. The corresponding period is the quarter beginning on 1 July 2019 for which it had a current GST turnover of \$100 million. The alternative turnover test does not apply as the quarter beginning on 1 July 2019 is an appropriate relevant comparison period. The July 2020 quarter turnover falls short of the July 2019 quarter turnover by \$20 million, which is 20% of the July 2019 quarter turnover. **This does not exceed the specified percentage for such entities of 30%, so the decline in turnover test is not satisfied.**

Satisfying the alternative test – Primary Production

Camille's Farms carries on a farming business and retail flower sales in Australia. It was subject to a severe drought from 2018 until September 2019 that reduced the amount of flowers it could grow. It returned to normal crop output in January 2020. Its retail flower sales became significantly affected in March 2020. It assesses its eligibility for JobKeeper payments on 3 July 2020 based on a projected GST turnover from its farming activities for the quarter beginning on 1 July 2020 of \$2,000,000. The corresponding period is the quarter beginning on 1 July 2019 – a period in which Camille's Farms was severely affected by drought. Because of the effects of the drought, Camille's Farms had a much lower than usual current (2019) GST turnover of \$2,500,000. The July 2020 quarter turnover falls short of the July 2019 quarter turnover by \$500,000, which is 25% of the July 2019 quarter turnover. This does not exceed the specified percentage of 30%, so the decline in turnover test is not satisfied.

However, because of the effects of the drought on farming businesses, the Commissioner is satisfied that there is not an appropriate relevant comparison period for an entity that carried on a farming business. Instead, for these entities, the Commissioner determines an alternative test for which the relevant comparison period is the corresponding quarter in 2017. The Commissioner determines that the alternative test will be satisfied in these circumstances where the entity can show a 30% shortfall in turnover (for entities with less than \$1 billion aggregated annual turnover) when compared to one of these alternative periods.

In the quarter beginning on 1 July 2017, Camille's Farms had a current GST turnover of \$4,000,000. This represents a shortfall of 50% when compared to its projected GST turnover for the quarter beginning on 1 July 2020. **This exceeds the specified percentage of 30%, so the alternative decline in turnover test is satisfied.**

Satisfying the alternative test – Start-Up Company

Seb Tech is a start-up technology company that began carrying on a business on 1 October 2019 selling its product to a range of businesses including cafes and restaurants. Despite strong initial sales, its sales declined substantially from March 2020. It assesses its eligibility for JobKeeper payments on 15 April 2020 based on a projected GST turnover for April 2020 of \$15,000 from its technology business. However, because Seb Tech did not begin to carry on a business until 1 October 2019, there is no corresponding period in 2019 that applies.

As there is no corresponding comparison period in 2019, the Commissioner determines an alternative test under which the relevant comparison period is the average of the actual GST turnover in all of the months in which the business was being carried on prior to the turnover test period.

In October 2019 to March 2020, Seb Tech had an average monthly current GST turnover of \$30,000. This represents a shortfall of 50% when compared to its projected GST turnover for April 2020 of \$15,000. **This exceeds the specified percentage of 30%, so the alternative decline in turnover test is satisfied.**

MY TURNOVER HAS NOT DECREASED BY 30 PER CENT THIS MONTH, BUT I BELIEVE IT WILL IN THE COMING MONTH. AM I ELIGIBLE?

You can apply for the payment if you reasonably expect that your turnover will fall by 30 per cent or more (or 50 per cent or more for businesses with a turnover of \$1 billion or more) relative to your turnover in a corresponding period a year earlier. The ATO will provide guidance about self-assessment of actual and anticipated falls in turnover.

IT IS UNLIKELY THAT MY TURNOVER WILL DECREASE BY 30 PER CENT IN THE COMING MONTH, BUT CAN I APPLY LATER IF MY TURNOVER DECREASES IN ONE OF THE SUBSEQUENT MONTHS?

If a business does not meet the turnover test at the start of the JobKeeper scheme on 30 March 2020, the business can start receiving the JobKeeper Payment at a later time once the turnover test has been met. In this case, the JobKeeper Payment is not backdated to the commencement of the scheme. Businesses can receive JobKeeper Payments up to 27 September 2020.

REMUNERATING EMPLOYEES

MY BUSINESS IS STILL OPERATING AND MY EMPLOYEES ARE STILL WORKING. HOW WILL MY PAYMENTS TO THEM BE AFFECTED?

In many cases, your payments and obligations to eligible employees will not change. Your business, if eligible, will receive a \$1,500 per fortnight subsidy to support their continued employment. However, if any eligible employee currently earns less than \$1,500 before tax per fortnight, you will need to pay them \$1,500 per fortnight before tax to receive the JobKeeper payment.

WHAT IF I PAY MY EMPLOYEES LESS THAN \$1,500 PER FORTNIGHT BEFORE TAX?

To be able to claim the JobKeeper payment for an eligible employee, that employee must be paid a minimum of \$1,500 income per fortnight, before tax is withheld. If you want to claim the subsidy for an eligible employee and they have not been paid \$1,500 per fortnight since 30 March 2020, employers must pay a 'top-up' payment to employees so that they are eligible. The ATO will provide further guidance on how this will work.

The employer will be reimbursed \$1,500 per fortnight for each eligible employee. Employers cannot pay their employees less than \$1,500 per fortnight and be entitled to a payment for that employee.

WHAT IF I PAY MY EMPLOYEES MORE THAN \$1,500 PER FORTNIGHT BEFORE TAX?

If the eligible employee is paid more than \$1,500 a fortnight before tax, the employer will only be reimbursed \$1,500 per fortnight.

IF I HAVE STOOD DOWN MY EMPLOYEES WITHOUT PAY AFTER 1 MARCH 2020 CAN I 'BACK PAY' THEM TO 30 MARCH 2020?

Yes. If you want to claim the JobKeeper Payment for your employees you will need to confirm your eligible employees want to be part of the scheme and arrange for them to be paid a minimum of \$1,500 per fortnight before tax from 30 March 2020.

I LET MY EMPLOYEES GO AFTER 1 MARCH 2020. IF I REHIRE THEM, AM I ELIGIBLE TO RECEIVE THE PAYMENT?

Yes. You can receive the payment if you rehire any eligible employees you had at 1 March 2020. You can receive the payment even if you then need to immediately stand them down, so long as they remain employed.

At present, the amendments to the Fair Work Act do not appear to address what should occur when an employer re-hires a previously retrenched worker in order to make them eligible for JobKeeper support. It is unclear, for instance, whether any severance payments to the worker could be reclaimed.

WHAT HAPPENS IF I DON'T HAVE THE MONEY TO CONTINUE PAYING MY ELIGIBLE EMPLOYEES UNTIL THE PAYMENTS ARE MADE?

The JobKeeper Payment is a reimbursement scheme that will be paid by the ATO monthly in arrears. In cases where this may present cash flow difficulties, those businesses may want to speak to their bank to discuss their options. The banks have said businesses may be able to use the upcoming JobKeeper payment as a basis to seek credit in order to pay their employees until the scheme is making its first payments.

AM I REQUIRED TO PAY PAYGW AND SUPERANNUATION ON THE JOBKEEPER PAYMENT?

You must pay a minimum of \$1,500 per fortnight to your eligible employees, withholding income tax as appropriate. The \$1,500 per fortnight per employee is a before tax amount.

The regulations will ensure that an employer will only need to make superannuation contributions for any amount payable to an employee in respect of their **actual employment**, disregarding any extra payments made by the employer to satisfy the wage condition for getting the JobKeeper payment.

Therefore, if the employee's hours have been reduced to nil, there will be no superannuation obligation for that period where no work was performed by the employee. Where an employee is paid more than \$1,500 per fortnight, the employer's superannuation obligations will not change. This is displayed in the table below:

| Employee's Wage | Subject to Superannuation Guarantee | |
|---|-------------------------------------|----|
| | YES | NO |
| Employee still working – earning \$1,500 or more | ✓ | |
| Employee still working – earning less than \$1,500 <ul style="list-style-type: none">- Normal Wage (OTE)- Top Up Wage (JobKeeper) | ✓ | ✓ |
| Employee is only receiving JobKeeper | | ✓ |

WHAT HAPPENS IF MY EMPLOYEE RESIGNS?

If an employee for whom you are receiving the JobKeeper Payment resigns, you must notify the ATO. You may need to refund some money to the ATO.

I HIRED AN EMPLOYEE AFTER 1 MARCH 2020. CAN I RECEIVE THE JOBKEEPER PAYMENT FOR THEM?

No. The employee must have been engaged as of 1 March 2020.

I PURCHASED A BUSINESS IN THE LAST 12 MONTHS AND RETAINED SOME CASUAL EMPLOYEES WHO WORKED FOR THE PREVIOUS BUSINESS OWNER. ARE THE CASUAL EMPLOYEES ELIGIBLE?

Employers must assess whether their casual employees satisfy the test of working for 12 months on a regular and systemic basis. A casual may still meet this condition even if the entity operating the business has changed recently.

I ACCEPTED SOME CASUAL EMPLOYEES FROM ANOTHER MEMBER OF MY CORPORATE GROUP. ARE THE CASUAL EMPLOYEES ELIGIBLE?

Employers must assess whether their employees satisfy the test of working for 12 months on a regular and systematic basis. A casual employee will still meet this condition even if they were they were transferred from another member of a corporate group within the last 12 months.

WHAT SHOULD I DO IF I WANT TO REHIRE AN ELIGIBLE EMPLOYEE WHO RECEIVED A REDUNDANCY PACKAGE?

If an eligible employee has received a redundancy package and you wish to re-hire them, you will need to consult with the employee and consider prevailing workplace arrangements to settle redundancy terms.

DO EMPLOYEE LEAVE ENTITLEMENTS ACCRUE WHILST THEY ARE RECEIVING THE JOBKEEPER PAYMENT?

During the period when an employee is subject to a JobKeeper enabling direction, the period counts as service. An employee who is subject to a JobKeeper stand down direction accrues leave and entitlements as if the direction had not been given, and any entitlements to redundancy pay and payment in lieu of notice of termination are to be calculated as if the direction had not been given.

An employee who takes annual leave at half pay accrues leave entitlements as if the direction had not been given.

WILL THE ATO USE THE JOBKEEPER PAYMENTS TO OFFSET A BAS DEBT?

The payment will generally be paid directly to the employer and not used to offset tax liabilities, as the intent is that it is a payment that facilitates employers to pay their employees.

I RUN A LABOUR HIRE COMPANY. WILL EMPLOYEES BE ELIGIBLE IF THEIR 'HOST EMPLOYER' CLAIMS THE JOBKEEPER PAYMENT?

Employees are only eligible in respect of their direct employer.

MY EMPLOYEE WORKS FOR MORE THAN ONE EMPLOYER. WHICH EMPLOYER IS THE 'PRIMARY EMPLOYER' FOR THE JOBKEEPER PAYMENT?

Employees who are permanently employed will not be eligible for JobKeeper at another place of work where they are casually employed or as a Sole Trader regardless of whether their employer qualifies for JobKeeper payments or not.

Employees with one or more full time or part time jobs are free to nominate any one of those full time or part time jobs. Similarly, employees with multiple long term casual jobs can nominate any one of those casual jobs.

SOME OF MY EMPLOYEES ARE NOT ELIGIBLE EMPLOYEES FOR THE JOBKEEPER SCHEME. WHAT SUPPORT IS AVAILABLE FOR MY BUSINESS SO I CAN TRY AND RETAIN ALL OF MY EMPLOYEES?

The Government is providing a range of support to businesses to address the significant economic consequences of the Coronavirus. The Government is boosting cash flow for employers by providing up to \$100,000 to eligible small and medium-sized businesses, and not-for-profits, that employ people, with a minimum payment of \$20,000. These payments will help businesses with their cash flow so they can keep operating, pay their rent, electricity and other bills and retain staff.

Other measures to support businesses include temporary relief for financially distressed businesses, increasing the instant asset write-off and backing business investment. Further information on the economic response to the Coronavirus is available on the Treasury website at treasury.gov.au/coronavirus.

SELF-EMPLOYED AND OTHER ELIGIBLE BUSINESSES

ELIGIBLE BUSINESS PARTICIPANTS

Sole traders, partnerships, trusts & companies may be entitled to receive the JobKeeper Payment for **one** non-employee individual under the business participation entitlement if they satisfy the criteria for eligible entity.

In this case, the entity receives the JobKeeper payments and not the individual themselves.

The non-employee individual is an eligible business participant if they meet all of the following:

- Individual not employed by entity
- Actively engaged in the business (at 1 March 2020 and for the fortnight claiming)
- One of the following (at 1 March 2020 and for the fortnight claiming)
 - a sole trader
 - a partner in the partnership
 - an adult beneficiary of the trust
 - a shareholder or director in the company
- Aged 16 or over at 1 March 2020
- Australian Resident at 1 March 2020
- Not receiving government parental leave pay, dad and partner pay
- Not totally incapacitated for work and receiving payments under an Australian workers' compensation law in respect of this

An entity cannot claim JobKeeper payments for an eligible business participant if this individual is already receiving another JobKeeper payment. An eligible business participant cannot be an employee of another entity unless it is in a casual capacity.

I RECEIVE RENTAL INCOME AS A LANDLORD BUT AM NOT REGISTERED AS A BUSINESS. AM I ELIGIBLE?

No. Only businesses with employees or self-employed people are eligible for the JobKeeper Payment.

OTHER PROGRAMS

WILL THE JOBKEEPER PAYMENT BE INCLUDED IN MY CHILD SUPPORT ASSESSMENT?

The JobKeeper Payment is included in adjusted taxable income. Parents should continue to report any change to their income or wages as they normally would. A key principle of the child support scheme is that children are supported by their parents in accordance with their financial capacity to do so.

CAN EMPLOYERS RECEIVE BOTH THE JOBKEEPER PAYMENT AND THE SUPPORTING APPRENTICES AND TRAINEES WAGE SUBSIDY?

Eligible small businesses can receive the 50 per cent wage subsidy for apprentices and trainees in the Supporting Apprentices and Trainees measure from 1 January to 31 March 2020, and the JobKeeper Payment. Where small businesses receive the JobKeeper Payment, they are not eligible to receive the apprentice and trainee wage subsidy from 1 April 2020 onwards. Further information on the Supporting Apprentices and Trainees measure is available on the Treasury website at treasury.gov.au/coronavirus/businesses.

COMPLIANCE

WHAT WILL BE DONE TO ENSURE COMPLIANCE?

This program will be subject to ATO compliance and audit activities. There will be a positive obligation on employers to establish their eligibility and that of their employees. In addition, the ATO will cross-check payments with Services Australia data, and data from other government agencies, and undertake activities designed to identify multiple or ineligible payments to individuals.

WHAT IS THE GOVERNMENT GOING TO DO TO ENSURE COMPANIES DON'T MANIPULATE THEIR TURNOVER TO ENSURE THEY QUALIFY?

The ATO will provide guidance to help businesses self-assess their eligibility. This will include for circumstances that do not fit neatly into more general circumstances that the majority of businesses are in.

The Government will include appropriate integrity rules to prevent employers from entering into artificial schemes in order to get inappropriate access to payments.

There are serious consequences, including large penalties and possible imprisonment, for those trying to illegally get benefits under the scheme.

WHAT IMPACT DOES THE JOBKEEPER PAYMENT HAVE ON WORKPLACE ENTITLEMENTS AND OBLIGATIONS?

Amendments have been made to the Fair Work Act to allow employers to issue 'JobKeeper Enabling Directions' for eligible employees. This will allow for greater flexibility to manage employee's hours, location and duties without their consent. It also allows employers to more readily reach agreement with employees on the taking of annual leave.

Considering the specific nature of employee contracts and award acts, if you require further advice on these matters you can engage the services of LMC Human Resource Consulting through contacting our office on (08) 8361 0200.