

JobKeeper 2.0

Employer Guide Addendum

An addendum to ACCI's JobKeeper Payment Employer Guide following the announcement of phase two of the Federal Government's JobKeeper wage subsidy

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JobKeeper is the Federal Government's wage subsidy payment which enables eligible employers to access a subsidy to continue paying their employees. It is currently being utilised by almost a million businesses, supporting 3.5 million Australians.

The following addendum intends to answer some common employer questions around the Federal Government JobKeeper extension announcement made on 21 July 2020, **and further eligibility changes announced on 7 August 2020**. Please note that legislation giving effect to this announcement has not yet been released. For further detail around current JobKeeper eligibility and payment requirements we recommend reading [ACCI's JobKeeper Payment Guide](#).

Employers should at all times be conscious of their particular legal obligations applicable under the Fair Work Act 2009, their respective State and Territory WHS legislation and workers compensation legislation, as well as enterprise agreements, awards, contracts and policies and should seek further advice where necessary.

The content of this publication has been prepared based on material available to date (7 August 2020). The material in this guide is of a general nature and should not be regarded as legal advice or relied on for assistance in any particular circumstance or situation. In any important matter, you should seek appropriate independent professional advice in relation to your own circumstances. The Australian Chamber of Commerce and Industry accepts no responsibility or liability for any damage, loss or expense incurred as a result of the reliance on information contained in this guide.



JobKeeper 2.0

1. Introduction

1.1 What changes were announced ~~on 21 July 2020~~ in relation to JobKeeper Phase 2?

JobKeeper was originally due to end on 27 September 2020. Following [Treasury's review](#) of the scheme, the Government on 21 July 2020 announced it is extending the JobKeeper Payment by a further six months to March 2021.

The second phase of JobKeeper, to begin from 28 September 2020 targets support to businesses and not-for-profits that continue to be significantly impacted by COVID-19. JobKeeper will now continue to be available to eligible businesses (including the self-employed) and not-for profits until 28 March 2021, albeit with a lower payment rate.

1.2 Do the changes affect businesses currently using JobKeeper?

If your business currently utilises JobKeeper, the current arrangements remain in place until 27 September 2020. In order to continue receiving JobKeeper Payments beyond 27 September 2020 both an employer and employee (or business participant) must qualify and meet the eligibility criteria (set out below).

2. Employer Eligibility Criteria

2.1 I am already currently receiving JobKeeper will my business need to requalify for Phase 2?

Yes. To be eligible post 27 September businesses will need to requalify. Businesses and not-for-profits seeking to claim the JobKeeper Payment will be required to demonstrate that they have suffered an ~~ongoing significant~~ a decline in turnover using actual GST turnover (rather than projected GST turnover) in the ~~June and~~ September quarters 2020 to be eligible for the JobKeeper Payment ~~from 28 September 2020 to 3 January 2021. for the December quarter.~~

Businesses will again need to reassess their ~~eligibility from 4 January 2021, by demonstrating they have met the relevant decline in turnover in the December quarter 2020 to be eligible for JobKeeper from 4 January 2021 to 28 March 2021. for the March quarter.~~

2.2 Which employers are eligible or JobKeeper 2.0?

To be eligible for JobKeeper 2.0 business (including companies, partnerships, trusts, sole traders, partnerships, unincorporated associations and individuals) and not for profits will need to demonstrate that they have experienced the

following decline in turnover (which remains the same percentages as the existing rules):

- **30%** or more (in the relevant quarter) for businesses with an aggregated turnover of less than \$1 billion (for income tax purposes);
- **50%** or more (in the relevant quarter) for businesses with an aggregated turnover of \$1 billion or more (for income tax purposes);
- **15%** or more (in the relevant quarter) for charities registered with the Australian Charities and Non-for-profits Commission (excluding schools and universities)

Aggregated turnover is an entity's annual turnover from carrying on a business plus the annual turnover from carrying on a business of any business or individual connected with or affiliated with the entity (whether based in Australia or overseas).

2.3 How does an employer establish the % ongoing decline in turnover (30%, 50% or 15%) for Phase 2?

In the second phase of JobKeeper there will be two periods during which an employer will need to be able to prove that their turnover has declined by the relevant % in order to be eligible to continue to receive JobKeeper.

First requalification period: From 28 September 2020, businesses and not-for-profits will be required to reassess their eligibility with reference to their actual GST turnover in the ~~June and~~ September quarters 2020 (~~July, August, September~~) ~~relative to a comparable period (generally the corresponding quarter in 2019)~~. They will need to demonstrate that they have met the relevant decline in turnover test (~~see above at 2.2) in both of these for the September quarters~~ to be eligible for the JobKeeper Payment from 28 September 2020 to 3 January 2021.

Second requalification period: From 4 January 2021, businesses and not-for-profits will need to further reassess their turnover to be eligible for the JobKeeper Payment. They will need to demonstrate that they have met the relevant decline in turnover test (see above at 2.2) with reference to their actual GST turnover in the ~~each of the June, September and~~ December quarters 2020 (~~October, November, December~~) ~~relative to a comparable period (generally the corresponding quarter in 2019)~~ to remain eligible for the JobKeeper Payment from 4 January 2021 to 28 March 2021

2.4 Will JobKeeper Phase 2 be open to new recipients or is it only for those already using JobKeeper?

During Phase 2 of JobKeeper, payments will continue to remain open to new recipients, provided both employers and employees meet the eligibility requirements and the decline in turnover tests during the extension period.

Other eligibility rules for businesses and not-for-profits and their employees remain unchanged - see [ACCI's JobKeeper Payment Employer Guide](#) for more information on eligibility.

2.5 What if there are circumstances making it difficult to compare actual turnover?

The Commissioner of Taxation will **continue to** have discretion to set out alternative tests in specific circumstances where it is not appropriate to compare actual turnover in a quarter in 2020 with actual turnover in a quarter in 2019.

See [ACCI's JobKeeper Payment Employer Guide](#) for existing alternative turnover tests determined by the Commissioner.

2.6 My business has met the current decline in turnover test. Will the new requirements for Phase 2 affect my business prior to 28 September?

No. If a business or not-for-profit does not meet the additional turnover tests for the extension period, this does not affect their eligibility prior to 28 September 2020.

2.7 My Business Activity Statement (BAS) for the September quarter is due to be lodged in late October. Do I have to assess eligibility and pay my employees before the BAS deadline?

Treasury has advised that as the deadline to lodge a Business Activity Statement (BAS) for the September quarter is late October, and the December quarter (or month) BAS deadline is in late January for monthly lodgers or late February for quarterly lodgers, business will need to assess their eligibility in advance of the BAS deadline in order to meet the wage condition. The 'wage condition' requires employers to pay their eligible employees in advance of receiving the JobKeeper payment in arrears from the ATO.

The Commissioner of Taxation will have discretion to extend the time a business has to pay their employees in order to meet the wage condition, so that they first have time to confirm their eligibility for the JobKeeper Payment.

What if my business is not required to lodge a BAS?

Alternative arrangements will be put in place for businesses and non-for-profits that are not required to lodge a BAS (for example, if the entity is a member of a GST Group).

CASE EXAMPLE – RETESTING TURNOVER UNDER JOBKEEPER PHASE 2

Dean owns and runs a wedding photography business, Happy Smiles. Dean started claiming the JobKeeper Payment for his eligible staff and himself as a business participant when the JobKeeper scheme commenced on 30 March 2020.

At the time, Dean estimated that the projected GST turnover for Happy Smiles would be 65% below its actual GST turnover in April 2019. To be eligible for the JobKeeper payment from 30 March 2020 to 27 September 2020, Dean needed to show the turnover for his business was estimated to decline by at least 30%.

As a monthly BAS lodger, Dean submitted his BAS in ~~April~~July, ~~May~~August and ~~June~~September. His actual turnover declined 61% for the ~~June-September~~ quarter. ~~From July to September, actual turnover improved, with turnover declining 32% for the September quarter.~~

As the actual turnover decline for ~~both the June and September 2020 quarters~~ was still greater than 30%, Happy Smiles was eligible for the JobKeeper Payment for the period of 28 September 2020 to 3 January 2021.

With restrictions easing, business ~~continued to~~ improved for Happy Smiles, and actual turnover for the December 2020 quarter was 20% less than the December quarter 2019, so Happy Smiles was no longer eligible to claim JobKeeper for the second extension period starting from 4 January 2021.



3. Employee Eligibility

3.1 Will the eligibility rules for employees change for Phase 2 of JobKeeper?

The eligibility rules for JobKeeper 2.0 have been slightly amended. Employees are eligible for the JobKeeper 2.0 extension period payment if they: ~~The eligibility rules for employees remain unchanged for JobKeeper Phase 2. This means employees are eligible if:~~

- they were employed by the employer at 1 ~~July~~ ~~March~~ 2020;
- are currently employed by an eligible employer (including those stood down or re-hired);
- are full-time or part-time (including fixed term), long-term casuals (casual employees who have been with their employer on a regular and systematic basis for at least the previous 12 months as at 1 ~~March~~ ~~July~~ 2020 and not a permanent employee of any other employer) or a sole trader;
- ~~were~~ at least 18 years of age on 1 ~~July~~ ~~March~~ 2020 (16 and 17 year old's can also qualify if they are independent or not undertaking full time study);
- ~~were~~ either
 - an Australian citizen, the holder of a permanent visa or a special category holder who is a protected special category visa holder OR
 - an Australian resident for the purposes of the Income Tax Assessment Act 1936 AND the holder of New Zealand citizen subclass 444 (Special category) visa for as at 1 ~~March~~ 2020. All other temporary visa holders are not currently eligible;
- ~~were an Australian resident for tax purposes on 1 March 2020 AND~~
- ~~were not in receipt of any of these payments during the JobKeeper fortnight:~~
 - ~~government parental leave or Dad and partner pay under the Paid Parental Leave Act 2010 OR~~
 - ~~a workers compensation payment for an individual's total incapacity for work.~~
- are not in receipt of a JobKeeper Payment from another employer.

Employees will continue to receive the JobKeeper Payment through employers during the period of the extension provided both they and the employer are eligible and the employer is claiming the JobKeeper Payment. However, the amount of the JobKeeper Payment will change during Phase 2 (see section 4).

4. JobKeeper Payment Rate

4.1 What changes will be made to the JobKeeper payment rates in the second phase?

The current \$1,500 per fortnight JobKeeper payment will be reduced over two periods.

From 28 September 2020 - 3 January 2021, the two payment rates will be:

- \$1,200 per fortnight for all eligible employees who, in the four weeks of pay periods before either 1 March 2020 or 1 July 2020, were working for 20 hours or more a week on average, and for eligible business participants who were actively engaged in the business for 20 hours or more per week on average ~~in the month of February 2020~~; and
- \$750 per fortnight for other eligible employees and business participants (e.g. employees who were working less than 20 hours a week ~~on average throughout February~~).

From 4 January 2021 to 28 March 2021 the two payment rates will be:

- \$1,000 per fortnight for all eligible employees who, in the four weeks of pay periods before either 1 March 2020 or 1 July 2020, were working for 20 hours or more a week on average and for business participants who were actively engaged in the business for 20 hours or more per week on average ~~in the month of February 2020~~; and
- \$650 per fortnight for other eligible employees and business participants (e.g. employees who were working less than 20 hours or less a week ~~on average throughout February~~).

~~Where an employee has been eligible for JobKeeper since 1 March 2020, the fortnightly period with the highest number of hours worked will be used.~~

4.2 Are employers required to nominate the pay rate?

Yes. Businesses will be required to nominate which payment rate they are claiming for each of their eligible employees (or business participants).

4.3 What if the employee or business participant's hours were not usual during February 2020?

The Commissioner of Taxation will have discretion to set out alternative tests where an employee's or business participant's hours were not usual during the February 2020 reference period.

For example, this will include where the employee was on leave, volunteering during the bushfires, or not employed for all or part of February 2020. Guidance will be provided by the ATO where the employee was paid in non-weekly or non-fortnightly pay periods and in other circumstances the general rules do not cover.

4.4 Are there any changes to how the JobKeeper payment is paid?

The JobKeeper Payment will continue to be made by the ATO to employers in arrears.

Employers are still required to make payments to employees equal to, or greater than, the amount of the JobKeeper Payment (before tax), based on the payment rate that applies to each employee.

CASE EXAMPLE – CALCULATING THE JOBKEEPER PAYMENT RATE

Rita owns and runs the Tasty Restaurant. After retesting her turnover, she has calculated that she will remain eligible for JobKeeper for the period of 28 September 2020 to 3 January 2021. She now needs to work out how much to claim for each of her staff, and for herself as a business participant.

Rita was working full-time at her restaurant during February 2020, so she is entitled to claim \$1,200 per fortnight from 28 September 2020 to 3 January 2021, as an eligible business participant.

She has two full-time employees who all worked 38 hours per week throughout February 2020, so are each eligible to be paid \$1,200 per fortnight.

She has two part-time employees who worked on average 22 hours per week throughout February 2020. These employees are also eligible to be paid \$1,200 per fortnight, given that it is over the required average of 20 hours or more per week threshold.

Rita has another part time employee Tom whose hours vary each week, so Rita looks at his pay records for the 4 weeks prior to 1 February 2020 and 1 July 2020. She sees that in both instances he was employed on average for less than 20 hours per week, so Rita claims \$750 per fortnight for Tom.

Rita has a long term casual Sarah who she has employed since 1 June 2020. Rita looks at her pay records for the four weeks prior to 1 March 2020 and sees that she didn't work more than 20 hours, so she looks to the four weeks prior to 1 July 2020. Sarah did work more than 20 hours on average during this period, so Rita claims \$1,200 per fortnight for Sarah.

Rita also started employing Amelia on 15 May 2020 to assist with pivoting her business in response to the COVID-19 restrictions. As Amelia was employed at Tasty Restaurant on 1 July 2020, Rita can claim the JobKeeper payment for Amelia. Amelia was employed on average less than 20 hours per week for the four weeks prior to 1 July 2020, so Rita claims \$750 per fortnight for Amelia, from 28 September 2020 to 3 January 2021.



5. Interaction with JobSeeker

How does JobKeeper 2.0 interact with JobSeeker?

In addition to the JobKeeper 2.0 changes, the JobSeeker coronavirus supplement will also be reduced from September from \$550 to \$350 a fortnight, meaning the total payment for an individual will go from \$1,115 to \$815 per fortnight.

Importantly however, after September individuals on Jobseeker will also be able to earn \$300 a fortnight, instead of the previous \$106, before their payment is affected. For every dollar of income above \$300, their income will be affected by 60c.

This means that for the first time it will be possible for some individuals to receive both JobKeeper and JobSeeker at the same time because JobSeeker is available to anyone earning less than \$1256 a fortnightly income (who also meet the JobSeeker assets test) and both new JobKeeper rates will drop below this threshold on 28 September 2020.

The government hopes that in doing this, individuals will be encouraged to seek out work without worrying about their JobSeeker payments being cut.

The following table sets out the potential income change that could apply to an employee currently receiving JobKeeper where the employee also subsequently becomes eligible for JobSeeker.

	April - Sept	October – December			
	JobKeeper Income	JobKeeper Income	JobSeeker Income	Gross income	Gross change
Part-Time	\$1,500	\$750	\$554	\$1,304	-\$196
Full-Time	\$1,500	\$1,200	\$554	\$1,484	-\$16

*Part-time equates to a worker performing less than 20 hours on average per week

*Grattan institute calculations, based upon single household only. Also assumes no private employment income; ignores access to Rent Assistance or family payments. Include energy supplement.

6. Fair Work Act Changes

5.1 Will I still be able to use the JobKeeper Directions (e.g. reduction in hours, changing a worker's duties)?

While there has been no formal announcement, the Prime Minister has recently said the Government will seek to extend the temporary changes to the Fair Work Act under JobKeeper phase 2. These currently include:

- Enabling businesses to issue a JobKeeper Enabling Direction (e.g. to reduce days/hours, perform alternative duties and perform work at an alternative location)
- Allowing employers to make requests of employees (e.g. to work different days/times, take annual leave)
- Taking double annual leave at half pay (by agreement).

The Prime Minister said these provisions should be available to both those who remain eligible for JobKeeper post-September, and those which were on the first JobKeeper package but will not qualify for the second ('legacy businesses').

Labor has indicated it would support an extension to the changes for employers who remain or become eligible for the JobKeeper scheme post-September. It would consider supporting an extension for 'legacy businesses' if further detail and justification was put forward.

7. Where and who to contact for further information and assistance?

Have a question or situation that isn't covered by this guide? The Australian Chamber of Commerce and Industry is here to help and answer any questions you might have on (03) 9668 9950.

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A list of ACCI member organisations in each state and territory and representing major industries can also be accessed [here](#), or you can call ACCI on (03) 9668 9950 to be referred to our members.



