

Q&A COVID-19 JobKeeper Eligibility and Employer Options Webinar

22/4/20

We received several questions seeking clarification on the eligibility application and the monthly reporting. For example: How often do I prove that our turnover has decreased by 30%?

Testing

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

The basic decline in turnover test works by comparing the **projected GST turnover** of the entity for a period (the turnover test period) with its current GST turnover as calculated for a relevant comparison period (the comparison turnover). In effect this compares a month or quarter in the period the JobKeeper scheme applies with the corresponding period in 2019. For most businesses this will be an appropriate comparison to identify if turnover has declined significantly. An alternative test applies in certain circumstances (see below). The quarter that includes March cannot be tested quarterly. March must be tested as the month on its own comparable to March 2019. The quarters involving April and July can be tested as whole quarters, as the projected GST downturn for that quarter comparable to the same quarter last year.

A business will satisfy the test where the GST turnover in the turnover test period falls short of the comparison turnover and the shortfall is 30 per cent or more.

One-Time Application

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 to receive reimbursement for that fortnight onwards, until the end of the JobKeeper period (September 2020). **Once an entity satisfies this test it does not need to retest its turnover in later months.**

Monthly Business Declaration

Each month, you must reconfirm your reported eligible employees. This can be done through the Business Portal or via your registered tax or BAS agent. If your eligible employees change or leave your employment, you will need to notify us through the business monthly declaration report.

You must also provide information as to your current and projected GST turnover. **This is not a retest of your eligibility**, but rather an indication of how your business is progressing under the JobKeeper Payment scheme.

We have received several enquiries regarding the Employee Nomination Notice – indicating some confusion about which form and where it should be submitted or held by the applicant:

There is also a requirement that eligible employees have provided a notice to their employer agreeing:

- to be nominated by the employer as an eligible employee under the JobKeeper scheme as the employer with which the employee will participate in the JobKeeper scheme;
- that they confirm they have not agreed to be nominated by another employer; and
- that they do not have permanent employment with another employer if they are employed as a casual employee with this employer.

The JobKeeper Employee Nomination Notice is **attached** and is to be completed by eligible employees. The form does not need to be submitted to the ATO, however employers must keep a record of the completed form for a minimum 5 years.

Are Business Owners eligible?

Yes, if they are actively engaged in the operation and activities of the business.

Partnerships

In a partnership only one person can be nominated (as the entrepreneur) to receive the JobKeeper allowance, along with any eligible employees, noting a partner cannot be an employee.

The other partner may be entitled to some other form of income support from Services Australia (e.g. JobSeeker allowance).

Annual Leave, Personal Leave, Superannuation: Where the \$1500 JobKeeper payment is greater than a part-time employee's normal fortnightly pay

If your employee's normal wage before tax is less than \$1,500, the business must pass on the full \$1,500 before tax. You will also need to pay the normal superannuation guarantee amount based on the employee's pre-JobKeeper wage.

Sources

- <https://www.legislation.gov.au/Details/F2020L00419/Explanatory%20Statement/Text>
- <https://www.ato.gov.au/general/jobkeeper-payment/employers/enrol-for-the-jobkeeper-payment/>

Q & A's from Webinar

1. **What is to stop businesses holding off from invoicing, to later periods to ensure they qualify for the 30% reduction in revenue?**

ATO warns against gaming the system and they do have audit powers. There is to be an 'integrity' test that will seek to detect where steps have been taken with the sole or dominant purpose of gaining access to the measure (or increasing the amount to be received under the measure).

2. **Two questions received regarding maternity leave:**

If an employee is currently actively employed and eligible for the JobKeeper payment, when they go on maternity leave at the end of May, are they still eligible? Maternity leave is not to be paid by us to the employee so assuming no longer eligible as of start of June?

I have a Male employee due in June for a baby, I will be claiming the job keeper for him, but he will most likely have some time off with government support, do I need to know this from him to temporarily stop the jobkeeper allowance?)

Yes, you are correct - you can't double dip if the employee is receiving a maternity payment from another source, you can't claim JobKeeper. Employees who are in receipt of Government Parental Leave Pay or Dad and Partner Pay will not be eligible for the JobKeeper payment. However, if you qualify for the payment and the employee is an eligible employee, they may be eligible for the JobKeeper payment while on unpaid parental leave (i.e. not receiving Government Parental Leave Pay or Dad and Partner Pay).

When completing the JobKeeper employee nomination form, the employee must agree that they are not in receipt of Government Parental Leave Pay or Dad and Partner Pay. Otherwise, they must indicate that they do not wish to be nominated. If this changes, they may complete a separate nomination form.

3. **Reclaiming for one Director... we have one Director on payroll who we have included in our group of eligible employees. Does this mean we have already made a claim for a Director, or can we also claim for the Director who is not on payroll?**

An eligible business can nominate only one director to receive the payment, as well as any eligible employees. Only one person in a director capacity may receive the payment and that individual may not receive the payment as an employee.

4. **If you have a number of divisions / subsidiaries in your business, are you able to claim JobKeeper by each division?**

Depends on the legal structure. The ATO advises that if businesses are grouped for GST purposes, the entity should de-group the GST and only claim for the entities that have an eligible downturn of 30%.

5. **Through the eyes of an employee..... I was working casual two days per week in admin, I have been stood down, but my boss is reluctant to claim JobKeeper for me because it's just something else he has to deal with. What can I do?**

Your employer does not have to participate in the JobKeeper scheme. If they do decide to participate, they must nominate all your eligible employees. However, individual eligible employees can choose not to participate.

6. **Questions regarding ongoing eligibility:**

Lesley - So to be clear if we meet the basic eligibility test in April but see a recovery in May and beyond (to less than a 30% reduction in GST turnover year over year) we will still receive the JKP payments for all eligible employees up until 27th September?

If you have a bad month then next month is better, do you still have JobKeeper until the end of the program?

Regarding your comment about proving your 30% decline once and the fact once you have proved a decline the payment continues till September. So, if we had a good March due to carry over work from prior bookings, but our 30% decline started in April is April the start date we can claim the JobKeeper allowance? And does this JobKeeper payment then continue until September or do we still have to prove a 30% decline for each month after April?

Yes that is correct. See the more comprehensive explanation above and we have included the links from the ATO to further confirm eligibility test and ongoing requirements.

7. **Can you reduce a permanent 38 hour employee to 30 hours or to keep with the JobKeeper payment only?**

& A number of similar questions received:

- **Did I just hear that we cannot reduce a full time employees hours? We are down to 6 hr days instead of 7.6 hrs. I'm paying their usual rate per hour and they have no leave to top up to 38 hrs. Is this legal**
- **hours reduced from 80 per fortnight to 40 but gross wage is still in excess of \$1500 pf is that okay**
- **What happens if an employee does not agree to a reduction in their work days / hours / pay in order to suit the decreased business operation and turnover, and reduced trading hours?)**

New provisions of the Fair Work Act allow employers who qualify for the Jobkeeper scheme to direct eligible employees to work less hours or days in certain circumstances. Such directions are called JobKeeper enabling stand down directions.

Importantly, there are strict notice periods (3 days in writing) and consultation requirements that apply. See our article on JobKeeper Amendments to the Fair Work Act for more information or contact Employer Assist.

If you do not qualify for JobKeeper, other solutions may be available including genuine agreements in writing to vary hours.

Yes, you can start from April and continue through to September - see general advice.

8. If you are using JobKeeper to help top up employees' wages do we pay their super as normal or is it just on the top up amount?

You pay superannuation as normal. However, you can elect to pay superannuation on the top up amount.

9. When I applied, I could only choose 1 month for the downturn test. If I chose April and the turnover wasn't down 30% but it is in May, can I reapply for May?

Yes - you can reapply for May

10. If I have a part time employee currently earning \$1200 a fortnight for April as their normal wage and I intend to claim the JobKeeper allowance for them for April and beyond, do I already need to be paying them \$1500 a fortnight? Or can I back pay them the extra when we are successful with our JobKeeper application? This is very important as we are almost at the end of April and still learning about the scheme!

- **If an employee has earned less than \$1500 in the first fortnight, can I just top up in the next fortnight to make it up to the \$1500?**
- **We have reduced hours for our two technicians from 5 days to 3 days (by agreement). Their pay now being less than the \$1500, a fortnight, what have we got to pay them now? Do we add hours to make their pay up to the \$1500 or show only hours at work and additional entry for top up to the JobKeeper?**

I know this is tough on cash flow and risk management, but you need to be paying employees before 30 April to claim the JobKeeper payment for April. You must pay your eligible employees in each JobKeeper fortnight (i.e. each 14-day period covered by the scheme commencing 30 March and ending on 27 September) to claim the JobKeeper payment for that fortnight. The ATO has said that for the first two fortnights (30 March – 12 April, 13 April – 26 April), they will accept the minimum \$1,500 payment for each fortnight has been paid by you even if it has been paid late, provided it is paid by you by the end of April. This means that you can make two fortnightly payments of at least \$1,500 per fortnight before the end of April, or a combined payment of at least \$3,000 before the end of April.

11. Alternative Test for eligibility - high growth businesses. April 19 or April 18 are almost irrelevant. Thoughts?

You should use April 2019 but if that is not a suitable comparison you can apply to use an alternative test and that alternative could be April 2018, if you are able to prove that it is a more suitable comparison.

12. Does the JobKeeper payment apply to international students?

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;
- is a permanent employee of the employer, or if a casual employee, not a permanent employee of any other employer;
- 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.

13. If pays have been processed for April as normal with Superannuation applied, (assuming JobKeeper Payments will be received), will these need to be reprocessed & resubmitted to the ATO with the Superannuation component amended to "NIL"?

Yes, you may need to make changes in the STP system - please seek advice from ATO on this one.

14. If someone is a director of 2 businesses, and in one business they are claiming the JobKeeper payment as an employee (as they actively work in the business) is he able to also claim as a director in the 2nd business?

Our understanding is that there can be only one claim per person, regardless of which category they claim.

15. If we haven't already paid the \$1500 per fortnight to employees, but will be making application, can we back pay the employee the difference?

You must make payment (or top up payment) by 30 April if you are claiming to start JobKeeper from the first two fortnights.

16. If you only had 5 employees in Mar19 but 8 in Mar 20, can you adjust your turnover per employee to show a 30% reduction?

The assessment is for business turnover, not turnover per employee.

17. What if an employee applies for JobSeeker before the employer has applied for JobKeeper? Do they cancel their JobSeeker application?

If the employee agrees to receive the JobKeeper payment, they will need to cancel their JobSeeker payment.

- 18. If you have a casual employee who works for you and someone else can you claim for them?**
When completing the JobKeeper Employee Nomination Notice form, the employee must confirm that they have not agreed to be nominated by another employer. The employee can only be nominated by one employer.
- 19. I have an employee booked for annual leave in May, while they're on leave can still claim the JobKeeper?**
If you qualify for the JobKeeper scheme, you will be able to claim the subsidy for eligible employees who have agreed to be nominated regardless of whether they are working, on leave, or have been stood down. However, they must be paid at least \$1,500 gross per fortnight.
- 20. We are planning to claim from beginning of April and are forecasting the downturn over the quarter instead of a month (because April is ok but May and June will be down). But we do our BAS monthly so can we use the quarterly forecasting method?**
Yes
- 21. When do we prove our business downturn? Or is it done automatically through our BAS? Our April figures will be down but not March. Will JobKeeper pay the month of April?**
If you go onto the ATO website, the JobKeeper application process will provide you with a step by step process to ensure that you can claim for the correct month.
- 22. Can an apprentice claim for JobKeeper or do they only get the government wage subsidy?**
You can claim JobKeeper for an apprentice but not the wage subsidy at the same time - there is a slide in the [presentation](#) that explains this further.
- 23. Does ATO consider instalment income or just GST income?**
Go to the JobKeeper site and register - the ATO does provide a good explanation and a step by step guide.
- 24. Can you clarify monthly v quarterly reporting? I report IAS monthly and BAS quarterly. I'm claiming 30% for April..... but expect order June... arghh**
If you achieve a 30% downturn in April and begin claiming from then, you will continue to be eligible for JobKeeper from that point onward until the end of the JobKeeper period (September). You will not be re-tested.
- 25. Can we please obtain a copy of the slides from tonight's webinar?**
Lesley Yates Slides are available [HERE](#)
Emma Dalley Slides are available [HERE](#)

Note: Whilst every endeavour has been made to ensure that the information is accurate at time of print and that any subsequent updates from Government have been included, readers are encouraged to conduct additional research prior to making business decisions to ensure their specific circumstances are addressed completely.