

JobKeeper Extension – New Rules Apply From 28 September 2020

The Government announced on 21 July 2020 that due to the ongoing COVID-19 crisis, the JobKeeper Payment scheme will be extended by six months until 28 March 2021, from the original end date of 27 September 2020.

The existing JobKeeper Payment will remain in place until 27 September 2020. The rules for accessing the payment under existing eligibility requirements remain unchanged for periods up until 27 September 2020.

To be eligible for JobKeeper Payments under the extension, businesses and not-for-profits will still need to demonstrate that they have experienced a decline in turnover of:

- 50 per cent for those with an aggregated turnover of more than \$1 billion;
- 30 per cent for those with an aggregated turnover of \$1 billion or less; or
- 15 per cent for Australian Charities and Not for profits Commission-registered charities (excluding schools and universities).

Summary of changes – from 28 September 2020

- a two-tier payment rate will apply based on eligible employees or business participants average weekly work hours in February 2020.
- the current \$1,500 per fortnight payment rate will be reduced on 28 September 2020 (phase 1) to a maximum of \$1,200 and reduced further on 4 January 2021 (phase 2) to a maximum of \$1000.
- the decline in turnover will be retested on a quarterly basis.
- the decline in turnover test will be based on "actual" GST turnover as disclosed on the business activity statements.
- ATO will continue to pay in arrears.
- The requirement for employers to pay employees before receiving JobKeeper payments will continue.

Phase 1 - from 28 September 2020 to 3 January 2021

- eligibility based on "actual" GST turnover having fallen in both the June 2020 and September 2020 quarters compared to the corresponding quarters in the previous year per the business activity statements.
- Payments will be made in two tiers:

Tier 1 – Eligible employees or business participants work an average of 20 hours or more during the 4 weeks prior to 1 March 2020 - paid \$1,200 per fortnight.

Tier 2 – Eligible employees or business participants work an average of less than 20 hours during the 4 weeks prior to 1 March 2020 – paid \$750 per fortnight.

Phase 2 - from 4 January 2021 to 28 March 2021

- eligibility based on "actual" GST turnover having fallen in the June 2020, September 2020 and December 2020 quarters compared to the corresponding quarters in the previous year per the business activity statements.
- Payments will be made in two tiers:

Tier 1 – Eligible employees or business participants work an average of 20 hours or more during the 4 weeks prior to 1 March 2020 - paid \$1,000 per fortnight.

Tier 2 – Eligible employees or business participants work an average of less than 20 hours during the 4 weeks prior to 1 March 2020 – paid \$650 per fortnight.

Example – retesting turnover for business with an annual turnover of <\$1B

	June	September	December
	Quarter	Quarter	Quarter
2019 Actual Turnover	\$300,000	\$300,000	\$300,000
Situation 1			
2020 Actual Turnover	\$150,000	\$175,000	\$200,000
% fall	50%	42%	33%
Situation 2			
2020 Actual Turnover	\$175,000	\$225,000	\$175,000
% fall	42%	25%	42%

Phase 1 eligibility

Situation 1 - business has suffered a reduction in turnover of at least 30% in the June 2020 and September 2020 quarters compared to the previous year – eligible

Situation 2 - business has not suffered a reduction in turnover of at least 30% in both the June 2020 and September 20 quarters compared to the previous year – not eligible

Phase 2 eligibility

Situation 1 - business has suffered a reduction in turnover of at least 30% in the June 2020, September 2020 and December 2020 quarters compared to the previous year – eligible

Situation 2 - business not eligible as it has already failed phase 1 eligibility

There will also be many situations where a business suffers a decline in turnover of more than 30% in the June and September 2020 quarters and therefore is entitled to phase 1, but is ineligible for phase 2 as turnover has not fallen by at least 30% for the December 2020 quarter compared to the same period last year.

Commissioner's discretion

The commissioner has the discretion to:

- provide alternative tests where the employee works unusual hours during the February 2020 reference period - where the employee was on leave, volunteering during the bushfires, or not employed for the whole period.
- provide guidance where the employee was paid in non-weekly or non-fortnightly pay periods and in other circumstances.

- set out alternative tests in circumstances where it is not appropriate to compare actual GST turnover in a quarter in 2020 with actual GST turnover in the comparative quarter in 2019.
- extend the time to pay wages so that businesses have time to first confirm their JobKeeper eligibility.

Comments

- where businesses fail the turnover test in the June 2020 quarter, they will be automatically excluded from receiving phase 1 and phase 2 JobKeeper extension payments. Therefore, many businesses will know well in advance whether or not they will be entitled to the JobKeeper extension payments.
- labour intensive businesses that are currently eligible for JobKeeper payments, but will potentially not be eligible from 28 September 2020, will need to plan ahead and assess their ongoing viability - these businesses should consider restructuring and where possible, automating their operations.
- while the JobKeeper Scheme turnover thresholds will remain the same, businesses will need to apply and satisfy them again at the beginning of October 2020, and then again at the beginning of January 2021 - this imposes additional compliance obligations on businesses.
- the reapplication of the JobKeeper Scheme turnover tests on a retrospective basis may be problematic for many businesses that were on the verge of recovery but forced back into lockdown in the coming months, as is presently the case in Victoria - the commissioner may need to set out alternative turnover tests for businesses in this situation.
- the catch in the extended JobKeeper for those seeking the Tier 1 (higher) rate of subsidy is the 20+ worked hours test, determined by looking back to average hours worked in February 2020 - this imposes additional compliance obligations on many businesses, particularly those that have many part-time and casual staff.
- employees that have had their work hours decreased to from at least 20 hours per week (average) to less than 20 hours per week after February 2020 will still remain entitled to the full payment rate (Tier 1) regardless of the hours they actually work in a fortnight from 28 September 2020.
- the deadline to lodge the September 2020 quarter BAS is due either in late October or late November and the December 2020 quarter BAS is due in late February 2021 for all businesses. Therefore businesses will need to assess their JobKeeper eligibility in advance of the BAS deadline in order to meet the wage condition.
- there is no good news for start-up businesses that commenced shortly before the pandemic or even once COVID-19 emerged. These businesses will continue to be ineligible as they generally have no turnover reported on business activity statements.