

JobKeeper Update

Current as at 23 April 2020

DISCLAIMER: The information contained in this update is by way of general comment only and is not intended as a substitute for specific advice that addresses your particular circumstances.

It feels like forever but it's been less than a month since the Federal Government first announced the JobKeeper program for eligible employers and employees. Below is a brief summary of what's happening now with JobKeeper and is written primarily for you (as the employer) in mind:

Key dates

- **From 2 April 2020 – Register** for JobKeeper (the act of registration itself was only the start).
- **From 20 April 2020 – Enrolment commences** for JobKeeper via the ATO Portal. ¹
- **30 April 2020 – Deadline** to enrol for JobKeeper (for payments in the month of April)
- **From 4 May 2020 (and each month thereafter) onwards** – You must advise the ATO of:
 - a) Your (monthly) eligible number of employees; and
 - b) Information regarding your current and projected turnover.

Obtaining the JobKeeper payments

- **Step 1** – Register your interest (and since 20 April 2020 - enrol for JobKeeper).
- **Step 2** – Confirm that your business and your employees meet the eligibility requirements.
- **Step 3** – Continue to pay at least \$1,500 (before tax) to each eligible employee in accordance with the JobKeeper fortnightly period/s. ²
- **Step 4** – Notify your eligible employees that:
 - a) You are intending to claim the JobKeeper payment on their behalf; and
 - b) Confirm that they are not claiming and/or nominating for JobKeeper with another employer. ³
- **Step 5.1** – Send the JobKeeper Employee Nomination Form ⁴ to your eligible employees to complete and return to you by 30 April 2020 if they want to receive the JobKeeper payment for April 2020. ⁵
- **Step 5.2** – (If self-employed) Complete the JobKeeper Eligible Business Participant Form. ⁶
- **Step 6** – Enrol for the JobKeeper payment using the **ATO Business Portal** ⁷. You must do this by 30 April 2020 to claim the JobKeeper payments for April 2020.
- **Step 7** – When enrolling, you will be required to answer questions relating to:
 - a) Your turnover test eligibility;
 - b) Specify the number of employees who will be eligible for the first JobKeeper fortnight (30 March – 12 April) and the second JobKeeper fortnight (13 April – 26 April); and
 - c) Provide your bank details.

¹https://www.ato.gov.au/general/jobkeeper-payment/employers/enrol-for-the-jobkeeper-payment/?=redirected_URL#RegisterfortheJobKeeperpayment

² The first JobKeeper fortnight is the period commencing from 30 March to 12 April 2020.

³ If an employee does not want to receive the JobKeeper payment, they are allowed to opt-out.

⁴ <https://www.ato.gov.au/Forms/JobKeeper-payment---employee-nomination-notice/>

⁵ You are NOT required to send the completed nomination form/s to the ATO – keep it on file and send us a copy too.

⁶ <https://www.ato.gov.au/Forms/JobKeeper-nomination-notice-for-eligible-business-participants---excluding-sole-traders/>

⁷ <https://bp.ato.gov.au/>

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Is my business eligible?

This is the \$64,000 question (or in this case, the \$1,500 question – pardon the pun) and there's no simple answer as each case is unique.

However, in general terms, the ATO has determined that you will be an eligible employer, if **all** of the following conditions apply to you:

- On 1 March 2020, you carried on a business in Australia.
- You employed at least one eligible employee on 1 March 2020.
- Your eligible employees are currently employed by your business for the fortnight/s that you will be claiming JobKeeper for (including those who are stood down or re-hired).
- Your business has faced a:
 - 30% fall in turnover (for small businesses);
 - 50% fall in turnover (for large businesses); or
 - 15% fall in turnover (for non-profits).

(Self-employed) businesses

(Self-employed) businesses in the form of a company, trust or partnership can also qualify for JobKeeper payments where a business owner (a director, shareholder, adult beneficiary or partner) is actively engaged in the business. This is limited to one entitlement for each entity even if there are multiple business owners or participants.

Companies with shareholders who provide labour/services but receive dividends in lieu of wages can also be nominated for JobKeeper payments.

A (self-employed) business is eligible if:

- On 1 March 2020, it carried on a business in Australia.
- It satisfies the fall in turnover test for the relevant income test period
- It satisfied certain conditions as at 12 March 2020, being:
 - a) It had an ABN on 12 March 2020, and
 - b) It had lodged, on or before 12 March 2020, at least one of:
 - i) A FY2019 income tax return showing that it had an amount included in its assessable income in relation to it carrying on a business; or
 - ii) An activity statement or GST return for any tax period that started after 1 July 2018 and ended before 12 March 2020 showing that it made a taxable, GST-free or input-taxed sale.

In respect of the 12 March 2020 lodgment date, the ATO does have the discretion to vary it, but only in limited circumstances, based on whether the business:

- Did not have a requirement to lodge the FY2019 tax return until after 12 March 2020;
- Have a later lodgment date arising from being included in a registered agent's lodgment program;
- Have an automatic ATO lodgment deferral in place due for bushfire affected locations; or
- Was not required to be registered for GST (so will not have lodged a BAS before 12 March 2020).

What about sole traders?

Sole traders are also eligible for JobKeeper. In essence, the sole trader is treated as an "employee" of the business.

Sole traders must have included the assessable income from their business in their 2018-19 tax return and lodged taxable supplies between 1 July 1 2018 and 12 March 2020. This is basically an integrity test to ensure a sole trader applicant has been operating a trading business.

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Sole traders must have had an ABN on or before 12 March 2020, and have been “actively engaged” in their business.

Eligible sole traders must also meet the same age, citizenship and visa status requirements as employees (as further explained below).

Sole trader payments will be made monthly to a nominated bank account.

Other than this, the same eligibility criteria apply to sole traders as other businesses regarding turnover decline and ATO discretion.

(And for completeness... **Ineligible employers**)

An employer is not eligible for the JobKeeper payment if:

- The Major Bank Levy was imposed on the entity or a member of its consolidated group for any quarter before 1 March 2020
- The entity is an Australian government agency (within the meaning of the Income Tax Assessment Act 1997)
- The entity is a local governing body
- The entity is wholly owned by an Australian government agency or local governing body
- The entity is a sovereign entity
- The entity is a company in liquidation
- The entity is an individual who has entered bankruptcy

What's the turnover test

The turnover test, also being called the “basic test”, is a five-step process.

1. Identify the turnover test period (monthly or quarterly – starting from March 2020).
2. Identify a relevant comparison period (starting from March 2019).
3. Determine the relevant JobKeeper GST turnover (actual or projected).
4. Determine which turnover reduction applies to you (30% for small businesses).
5. Determine if your turnover (step 1,2,3) has fallen by the required amount (step 4).

Are my employees eligible?

- Are they employed by you (including those stood down or re-hired)?
- Have they agreed to be nominated by you as an eligible employee?
- Were they either a permanent full-time or part-time employee at 1 March 2020?
- Are they a long-term casual employee (employed on a regular and systematic basis for at least 12 months) as at 1 March 2020?
- Were they at least 16 years of age on 1 March 2020?
- Were they an Australian resident as at 1 March 2020 within the meaning of the *Social Security Act 1991* (which requires that they reside in Australia), and are one of an Australian citizen, the holder of a permanent visa, or a Protected Special Category Visa Holder? ⁸
- They were not receiving any of the following payments during the JobKeeper fortnight:
 - a) Government parental leave or Dad and partner pay;
 - b) Payments in accordance with Australian worker compensation law for an individual's total incapacity for work.

⁸ For more information – refer to the Services Australia website under [residence descriptions](#). Your employee can also be an Australian tax resident who is a Special Category (Subclass 444) Visa Holder. Employees who are not permanent residents of Australia must notify you of their visa status to determine their eligibility.

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How do I nominate my eligible employees?

Broadly, there are two (2) different ways to officially nominate eligible workers with the ATO - whichever option chosen by you will be determined by whether or not you are currently using single touch payroll (STP).

Option 1: Businesses already using STP reporting

You can identify your eligible employees for JobKeeper participation directly through your payroll software (assuming that your software provider has updated its systems with this new functionality.)

Otherwise, you can use the ATO's Business Portal, which should contain pre-filled payroll information from previous STP pay reports.

Option 2: Businesses not yet using STP reporting

You will need to manually identify employees through the Business Portal and ensure this information is kept up to date each month.

What do my employees need to do?

You need to give your eligible employees the JobKeeper Employee Nomination form.

These forms must be completed and signed by the employee. You should keep a copy of it for your records (and send a copy to our office). The form does **not** need to be sent to the ATO.

The form itself requests the basic contact information of the employee and commits them to declare their eligibility for the JobKeeper program.

If your employee also works for other employers:

Employees with multiple employers are allowed to choose which employer will nominate them for JobKeeper payments. If they're working as a long-term casual in one role and part-time in another, the part-time employer will (must) take precedence.

Workers who are receiving or have applied for Services Australia income support will need to contact them and provide notice that their employer has nominated them for JobKeeper.

IMPORTANT NOTE!

The ATO has said that if an employee does not report to Centrelink that they are receiving JobKeeper payments and/or don't cancel their JobSeeker payments – they may incur debts which you (as the employer) will be required to pay back.

What information do I need to provide?

When enrolling for the JobKeeper program - the ATO wants you to prove your eligibility for it in addition to providing your contact and bank details. You should have your BAS and turnover eligibility information handy at the time of enrolment.

In addition, the ATO will require you to make ongoing monthly declarations through the Business Portal about your eligible employees and turnover.

Each month you must re-confirm the number of your eligible employees and notify the ATO of any change in employment circumstances.

Information must also be provided about current and projected GST turnover throughout the six (6) months period of the JobKeeper program.

JobKeeper Employee Nomination Notice



JobKeeper Employee Nomination Notice

When to use the form

Employers

Before you enrol to receive JobKeeper payments, complete **section A** and provide this form to your eligible employees (refer to criteria below).

This form will be used to:

- notify eligible employees that you (their employer) intend to participate in the JobKeeper scheme
- ask eligible employees if they agree to be nominated by you as their employer so that you can receive JobKeeper payments for them.

You do not need to send this form to the ATO. You will, however, need to keep the completed version of this form (generally for 5 years) to document that your employee has agreed to be nominated by you to receive JobKeeper payments for them.

! Employers must ensure they comply with any *Privacy Act 1988* (Cth) obligations when using this form.

Employees

Complete **section B, C and D** of this form and return this form to your employer as soon as possible.

Important:

- If you have not returned this form to your employer, they **cannot** include you as an eligible employee to receive JobKeeper payments for you.
- If your employer intends to enrol to participate in the JobKeeper scheme for a fortnight beginning on 30 March 2020 or 13 April 2020, you should return this form to your employer **before the end of April 2020** to ensure that your employer is eligible to receive JobKeeper payments for those fortnights.

- If your employer intends to enrol to participate in the JobKeeper scheme for a subsequent fortnight, you should return this form as soon as possible after they give the form to you to ensure that your employer is eligible to receive JobKeeper payments.
- Only one employer or eligible business can receive the JobKeeper payment for you. If you have multiple employers, you must choose an employer who has employed you on a permanent or fixed term basis. If you are a long-term casual employee that is eligible with no permanent or fixed term employer, you can nominate your casual employer.
- If you have already agreed for another employer or eligible business to receive JobKeeper payments for you, you cannot nominate this employer.

Taxation law authorises the ATO to collect information and to disclose it to other government agencies. For information about your privacy, go to ato.gov.au/privacy

What is the JobKeeper payment?

Under the JobKeeper payment, businesses impacted by the Coronavirus are able to access a subsidy from the government to continue paying their employees. Affected employers are able to claim a fortnightly payment of \$1,500 per eligible employee, or for one eligible business participant from 30 March 2020, for a maximum period of 6 months.

> Find out more:
ato.gov.au/jobkeeper

Section A: Employer to complete

Employer details

1 Employer name

2 Employer Australian business number (ABN)

Section B: Employee to complete

Employee details

1 Full name

Title: Mr Mrs Miss Ms Other

Family name

First given name

Other given name

2 Date of birth**3 Address**

Street address

Suburb/town/locality

State/territory

Postcode

4 Phone**5 Email**

Section C: Nomination**Employee eligibility requirements**

To be an eligible employee, you need to meet these requirements:

- You are currently employed by the employer outlined in section A (including those stood down or re-hired).
- You were employed by the employer outlined in section A at 1 March 2020.
- As at 1 March 2020, you were a permanent or fixed term employee, or a casual employee employed on a regular and systematic basis during the period of 12 months ending on 1 March 2020.
- If you are a casual employee as mentioned above, you are not employed by any other employer on a permanent or fixed term basis, or you are only employed by any other employer on a casual basis.
- You were at least 16 years of age as at 1 March 2020.
- As at 1 March 2020 you were:
 - residing in Australia and an Australian citizen or permanent resident, or
 - an Australian resident for income tax purposes and a Subclass 444 (Special Category) visa holder.
- You are not in receipt of a JobKeeper payment as a sole trader, nor is another employer or eligible business in receipt of a JobKeeper payment for you.
- You are not currently receiving parental leave pay or dad and partner pay, and
- You are not currently totally incapacitated for work and receiving payments under an Australian workers' compensation law in respect of your total incapacity to work.

Yes, I agree to be nominated by the employer outlined in section A for the purpose of the JobKeeper scheme.

In making this nomination I:

- (i) agree that I meet the eligibility requirements listed above, and
- (ii) confirm that I have not agreed to be nominated by any other employer/entity and have not given another entity a nomination form for the purpose of this scheme.

OR


No, I do not agree to be nominated by the employer outlined in section A for the purpose of the JobKeeper scheme.

Section D: Declaration

I declare that the information I have provided is true and correct.

Signature (electronic/email is OK)

DD/MM/YYYY
Date

 There are penalties for deliberately making a false or misleading statement.

JobKeeper UPDATE

JobKeeper nomination notice

(For eligible business participants – excluding sole traders)



JobKeeper nomination notice for eligible business participants – excluding sole traders

When to use the form

Use this form if you are a:

- partner in a partnership
- adult beneficiary of a trust, or
- a shareholder in or director of a company

to record that you have agreed to be nominated to receive JobKeeper payments through an eligible business.

Sole traders do not use this form.

If you are a sole trader, you will need to make this nomination in ATO Online Services or the Business Portal or your registered tax or BAS agent can do this on your behalf in Online Services for Agents. If you cannot nominate electronically you can call **13 28 66**.

Your eligible business can only nominate to receive JobKeeper payments for you with your agreement. This form allows you to record that you have provided that agreement. You must also specify that you are not employed by another employer (other than as a casual), that you meet all the eligibility requirements for nomination and have not given a nomination notice to another business, employer or the Commissioner.

You do not need to send this form to the ATO. You will however, need to keep the completed version of this form in business records (generally for 5 years) to document that you have agreed to be nominated by the business to receive JobKeeper payments for you.

Taxation law authorises the ATO to collect information and to disclose it to other government agencies. For information about your privacy, go to ato.gov.au/privacy.

Important:

- If you have not completed this form, your eligible business **cannot** receive JobKeeper payments for you. You should complete this form before the business registers to participate in the JobKeeper scheme to ensure that the business is eligible to receive JobKeeper payments for you.
- Only one business or employer can receive the JobKeeper payment for you. If you work in multiple businesses you need to choose one business that will receive the JobKeeper payment. If you are employed by another employer (other than as a casual), you cannot receive JobKeeper payments through a business, but you may be an eligible employee for that employer to receive JobKeeper payments for you.
- If you have already agreed for another business or employer to receive JobKeeper payments for you, you should not complete this form.
- An eligible business can only nominate one participant (who is not an employee) to receive JobKeeper payments for.
- If the business has eligible employees, it may also be eligible to receive JobKeeper payments for them. The business can use the 'JobKeeper employee nomination notice' to ask employees if they agree to be nominated by the business as their primary employer so that it can receive JobKeeper payments for them.

What is the JobKeeper payment?

Under the JobKeeper payment, eligible businesses impacted by the Coronavirus are able to access a subsidy from the government to continue paying their employees. Eligible employers and eligible businesses are able to claim a fortnightly payment of \$1,500 per eligible employee, and/or for one eligible business participant from 30 March 2020, for a maximum period of 6 months.

[Find out more:
ato.gov.au/jobkeeper](https://ato.gov.au/jobkeeper)

Section A: Business Details

- 1 Entity name
- 2 Business name
- 3 Australian business number (ABN)

Section B: Participant Details

1 Full name

Title: Mr Mrs Miss Ms Other

Family name

First given name

Other given name

2 Date of birth**3 Address**

Street address

Suburb/town/locality

State/territory

Postcode

Section C: Nomination**Business participant eligibility requirements**

To be an eligible business participant, you need to meet these requirements:

- As at 1 March 2020, and for the fortnight, you were actively engaged in the business carried on by the business named in Section A, but not as an employee.
- As at 1 March 2020, and for the fortnight, you were either:
 - a sole trader (do not use this form – as above, you should nominate electronically)
 - a partner in the partnership
 - an adult beneficiary of the trust, or
 - a shareholder in or director of the company that carries on the business.
- You were at least 16 years of age as at 1 March 2020.
- You are not currently employed by another entity (other than on as a casual).
- As at 1 March 2020 you were:
 - residing in Australia and an Australian citizen or permanent resident, or
 - an Australian resident for income tax purposes and a Subclass 444 (Special Category) visa holder.
- You have not given a notice either to any other entity to be nominated as an eligible business participant for another business.
- You are not currently receiving parental leave pay, or dad and partner pay, and
- You are not currently totally incapacitated for work and receiving payments under an Australian workers' compensation law in respect of your total incapacity to work.

Yes, I agree to be nominated by the business outlined in Section A for the purpose of the JobKeeper scheme.

In making this nomination I:

- (i) agree that I meet the eligibility requirements listed above; and
- (ii) confirm that I have not agreed to be nominated by any other employer/entity and have not given another entity a nomination form for the purpose of this scheme.

Section D: Declaration*I declare that the information I have provided is true and correct.*

Signature (electronic/email is OK)

Date

DD/MM/YYYY

- There are penalties for deliberately making a false or misleading statement.