

## JOBKEEPER SCHEME – WHAT, HOW AND WHEN?

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This article summarises the newly implemented JobKeeper scheme, which helps Australians to stay in their jobs amidst the COVID-19 pandemic. Fortnightly salary payments of \$1,500.00 are made to each eligible employee, starting from 30 March 2020 until 27 September 2020.



### A. INTRODUCTION

The advent of COVID-19 and the strict restrictions that follow – including the closing of pubs, casinos, massage parlours – have caused job losses for thousands of Australians. The Australian Federal Government has implemented the JobKeeper Payment scheme (a type of stimulus or survival package) that enables businesses to continue paying and maintaining their employees.

Under this the JobKeeper scheme, the Federal Government will provide a fortnightly payment of \$1,500.00 for each eligible employee until 27 September 2020.<sup>1</sup>

Those wishing to apply for this scheme have until 31 May 2020 to register (extended from the original deadline of 30 April 2020).

### B. WHO IS ELIGIBLE FOR JOBKEEPER BENEFITS?

Employees are eligible to be paid through the JobKeeper scheme if they comply with the following requirements<sup>2</sup>:

- Employed by an eligible employer as at 1 March 2020;
- Must be a permanent full-time or part-time employee, or a casual employee that has been employed regularly for longer than 12 months as at 1 March 2020;
- Aged 18 years or older as at 1 March 2020 (employees who are 16 or 17 qualify if they are independent or not undertaking full-time study);
- Must be an Australian Citizen, Permanent Citizen or holder of a Special Category (Subclass 444) Visa (for New Zealand citizens) as at 1 March 2020; and
- Must be a resident for Australian tax purposes as at 1 March 2020.

An eligible employee can go under the JobKeeper scheme via one employer only (eg a part-time employee shall choose one employer from two or three). This part-time employee may get more than their usual salary.

Hardworking university students for example who work say two days a week, would be paid five days a week of salary during this COVID-19 pandemic – ‘extra money to spend to revive the economy’.

<sup>1</sup> [Coronavirus Economic Response Package \(Payments and Benefits\) Rules 2020](#) (Cth) s 5.

<sup>2</sup> Australian Taxation Office, ‘Eligible employees’, <https://www.ato.gov.au/General/JobKeeper-Payment/Employees/Eligible-employees/>.



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Employees who have been stood down (ie still employed but unable to work – eg no work to do due to a closed shop) or re-hired are still eligible to be paid under the JobKeeper scheme. The idea is to allow the businesses to ‘stay alive’, by keeping their usual employees, for a ‘September 2020 re-opening’.

In order for employers to be eligible, their business must have an aggregated turnover (annual turnover of the business and any other affiliated entities in Australia and overseas) of less than \$1 billion with the expectation that their Goods and Services Tax (GST) turnover will fall by at least 30%. Larger entities with an aggregated turnover of over \$1 billion may still be eligible if a 50% decline in turnover can be shown. A monthly reporting to the Australian Taxation Office is necessary. The 30% or 50% test applies in this way – ‘for the month of April only’ or ‘for the month of May only’, and so on; OR ‘for the quarter of April to June’; or ‘for the quarter of July to September’. Nothing is planned for after 27 September 2020 at this time – it would depend on how virile COVID-19 still is at that time – and how Australia is coping.

Registered charities are also eligible if their GST turnover is estimated to fall by at least 15% (compared against an ordinary period).

### C. HOW JOBKEEPER PAYMENTS ARE MADE

Eligible employees are to complete and sign a [Job-Keeper employee nomination notice](#), to be kept by the employer for their accounting records.

Employers would need to pay in advance the \$1,500.00 (before tax) fortnightly payment to each of their eligible employees, using the Single Touch Payroll (STP) system which would report ‘the payments made’ to the Australian Taxation Office (ATO).

Eligible employers will begin receiving JobKeeper payments or compensation from the Government (ATO) starting from the first week of May 2020.

The ATO will continue to make the payments to the employers on a monthly basis.

Every month, employers are required to report to the ATO through the [Business Portal](#) as a business monthly declaration. This declaration involves reconfirming which eligible employees are receiving JobKeeper payments, and information about their current and expected GST turnover.

Superannuation is not required to be paid on additional payments made to the employees (received from the JobKeeper scheme).

### D. EMPLOYMENT LAW

In allowing businesses more flexibility, the *Fair Work Act 2009* (Cth) was amended on 9 April 2020 to take into account the JobKeeper scheme. New provisions allow employers to stand down an employee, change an employee’s normal duties, or change an employee’s location of work.<sup>3</sup>

During this difficult time, some employers in adapting to a ‘new world and economic environment’ have begun to make some staff redundant (as opposed to standing down staff who could be considered employed and be eligible for JobKeeper payments). These businesses consider that they have to change and no longer see a need to maintain these employees. The employees made redundant would go under a separate scheme called JobSeeker. Fortnightly payment received by the unemployed adult under the JobSeeker scheme during this pandemic would be about \$1,115.70 (which is higher than normal; COVID-19 ‘special’ of \$550.00 has been added – this is to take into consideration it is very hard to find the next job during this time).

In making staff redundant, care must be taken not to ‘discriminate’ between the employees – the normal termination of employment law still applies, such as not

<sup>3</sup> [Coronavirus Economic Response Package Omnibus \(Measures No. 2\) Act 2020](#) (Cth) Schedule 1.

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terminating based on race, age or sex, and not because of a harsh or unjust reason.

### E. STATE ASSISTANCE SCHEMES

Although the JobKeeper scheme has been implemented by the Australian Federal Government, individual States and Territories may have their own additional schemes or stimulus packages.

In New South Wales, a [financial stimulus package](#) for small businesses has been implemented, which includes tax incentives, deferral of rent for some commercial tenants, waiving licence and registration fees, as well as a grant of up to \$10,000.00 for some small businesses.

Additionally, the City of Sydney Council has implemented its own crisis relief package of \$25 million, allowing for rent relief, refunds for venue fees and covering costs of closed facilities.<sup>4</sup>

Further information on JobKeeper can be found from these sites: the [Australian Taxation Office](#), the [Fair Work Ombudsman](#) and the [Treasury](#).

On related issues, you may wish to read the following articles:

1. [\*\*Employment Law – Termination of Employment:\*\*](#) The requirements for lawful termination of employment.
2. [\*\*Employment Law and the Fair Work Act 2009:\*\*](#) Discusses the impact and implications of the Australian Federal legislation *Fair Work Act 2009* for both employers and employees.

3. [\*\*Federal Unfair Dismissal Laws and Termination of Employment:\*\*](#) Brief information for employees under the Australian federal award system.
4. [\*\*Employment Contracts – Checklist of the Main Provisions:\*\*](#) Discusses the main provisions in an employment agreement.

Comasters can advise and assist clients on the workings of the JobKeeper scheme and on other employment law issues, including 'hiring and firing'.

<sup>4</sup> The Sydney Morning Herald, 'Unprecedented emergency: City of Sydney unveils crisis relief package for businesses', Matt Bungard, 20 March 2020, <https://www.smh.com.au/politics/nsw/unprecedented-emergency-city-of-sydney-unveils-crisis-relief-package-for-businesses-20200320-p54cf4.html>.

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