

## JobKeeper extension – changes now implemented

On 15 September 2020, Treasurer Josh Frydenberg registered the legislative instrument which implements the announced changes to the JobKeeper scheme over the extended period from 28 September 2020 to 28 March 2021.

For an entity to continue to receive the JobKeeper payments over the extended period, the entity must satisfy the 'actual decline in turnover test'.

Entities are now required to reassess their decline in turnover over two set periods. There are two tier payment rates for JobKeeper based on an 80-hour work/actively engaged test over a specified 28-day period.

The extension of JobKeeper applies to qualifying entities in respect of their eligible employees, business participants or religious practitioners.

The changes in the Rules build more flexibility into the JobKeeper scheme recognising that circumstances can change quickly. The requirement is to reassess an entity's actual decline in turnover for the two set periods, and there is a two-tiered payment based on hours of work or engagement.

The changes do not affect any entitlements payable under the original JobKeeper scheme prior to 27 September 2020. Neither do the changes provide the opportunity for entities to change any elections they have previously made under the JobKeeper scheme.

### Reassessing a decline in turnover

For an entity to continue to receive the JobKeeper payments over the extended period, the entity must satisfy the 'actual decline in turnover test'.

For JobKeeper fortnights beginning before 4 January 2021, this test must be satisfied for the quarter ending on 30 September 2020, and

For JobKeeper fortnights beginning from 4 January 2021 onwards, this test must be satisfied for the quarter ending 31 December 2020.

This means entities on JobKeeper do not have to satisfy the 'actual decline in turnover test' for both the September quarter and December quarter to be able to receive payments for the JobKeeper fortnights beginning 4 January 2021. An entity that drops out of the JobKeeper scheme after 28 September 2020 and then requalifies in the next period, does not need to notify the Commissioner again that it elects to participate in the scheme.

## Actual decline in turnover test

The actual decline in turnover test applies the same thresholds for the original\* decline in turnover test but uses current GST turnover rather than projected GST turnover.

In an important departure from previous practice, please be aware that GST Turnover now also includes proceeds from the sale of Capital Assets.

Entities can still use the Commissioner's alternative decline in turnover test, where using the 2019 period as a comparison is not appropriate, and the modified decline in turnover test for group structures with employer entities, in assessing whether they qualify for the JobKeeper scheme. For both these tests, current GST turnover is to be used in place of the projected GST turnover. The ATO has provided guidance on its website on the actual decline in turnover test.

Please do contact Warnocks if you think that there are grounds for measuring a decline over another period, or in a different way.

\*Original decline in turnover test was as follows: the percentage decline for the quarter must be equal to or greater than 15% for certain ACNC registered charities, 30% for entities with \$1 billion or less aggregated turnover and 50% for entities with over \$1 billion aggregated turnover.

## New participants

Entities that have not previously participated in the JobKeeper scheme are required to satisfy both the original decline in turnover test and the new decline in turnover test. However, if you are enrolling in JobKeeper for the first time from either 28 September 2020, or from 4 January 2021, you will satisfy the original decline in turnover test if you satisfy the actual decline test.

The ATO has provided guidance on the application of the decline in turnover tests for new participants.

## Two-tiered payment rate

The Rules set out two tiers of payment rates which have not changed from the Government's announcement. To recap:

**Higher rate \$1,200** per fortnight from 28 September 2020 – 3 January 2021, then \$1,000 per fortnight from 4 January 2021 – 28 March 2021.

**Lower rate \$750** per fortnight from 28 September 2020 – 3 January 2021, then \$650 per fortnight from 4 January 2021 – 28 March 2021.

Whether an individual is eligible for the higher rate depends on whether the individual worked or was actively engaged for 80 hours or more for a period called a 'reference period'. Otherwise, the individual is eligible for the lower rate.

**Reference period** for an eligible employee, means – the 28-day period at the end of the most recent pay cycle for the employee that ended before 1 March 2020 or 1 July 2020.

For an eligible business participant – reference period means the month of February 2020, and for an eligible religious practitioner – the month of February 2020.

Entities applying the 80-hour test for eligible employees – aggregate hours of work, paid leave and paid public holidays.

Eligible business participant – work out the time spent 'actively engaged in the business'; the individual must provide a written declaration (approved form) to the entity to confirming the 80 hours, and if the entity is a sole trader, a notification via the business monthly declaration.

If the standard reference period is not suitable, The ATO has published guidance on the alternative reference period for the 80 hour test for particular employees.

The Commissioner has also made a determination which specifies circumstances in which the higher rate of an entity's JobKeeper payment applies to an eligible employee because the hours of work are not readily ascertainable as a result of no (or incomplete) records.

The ATO has published guidance on the application of the 80 hour test and the notification requirements. Employers already on JobKeeper and who are eligible for the first extension period can notify the ATO whether their eligible employees are on the higher rate or lower rate in their business monthly declaration in November 2020.

The ATO has allowed employers until 31 October 2020 to meet the wage condition for all employees on JobKeeper for JobKeeper fortnights starting on 28 September and 12 October 2020 (see ATO JobKeeper key dates, below).

The following information has been extracted from the ATO published data re Key Dates.

**31 October 2020** – wage condition for JobKeeper extension 1

For the JobKeeper fortnights starting 28 September 2020 and 12 October 2020 only, we are allowing employers until 31 October 2020 to meet the wage condition for all employees included in the JobKeeper scheme.

**30 September 2020** – enrolments close for September fortnights

To claim payments for the September JobKeeper fortnights, you must enrol by 30 September.

**28 September 2020** – JobKeeper extension 1 starts

From 28 September 2020, the JobKeeper scheme is extended. The first extension covers the JobKeeper fortnights between 28 September 2020 and 3 January 2021.

To claim JobKeeper payments for this period, you will need to:

1. show that your actual GST turnover has declined in the September 2020 quarter relative to a comparable period (generally the corresponding quarter in 2019). See the actual decline in turnover test.

2. have satisfied the original decline in turnover test. However, if you were entitled to receive JobKeeper for fortnights before 28 September, you have already satisfied the original decline in turnover test. If you are enrolling in JobKeeper for the first time from 28 September 2020, if you satisfy the actual decline in turnover test, then you will also satisfy the original decline in turnover test (except for certain universities). You can enrol on that basis.

3. pay your eligible employees at least the JobKeeper amount that applies to them each JobKeeper fortnight. For JobKeeper extension 1, this will be either \$1,200 for tier 1 or \$750 for tier 2.

4. tell us whether the tier 1 (higher) or tier 2 (lower) payment rate applies to each eligible employee, eligible business participant or eligible religious practitioner. If you are already enrolled in JobKeeper and eligible for the extension, you do this in your business monthly declaration in November.

5. You must also tell your eligible employees, eligible business participant or eligible religious practitioners which payment rate applies to them within 7 days of notifying us of their payment rate.

(numbering added by Warnocks)

### **Business monthly declaration**

You must identify your eligible employees, eligible business participant or eligible religious practitioners each month before making your business monthly declaration.

Make your business monthly declaration between the 1st and 14th of each month to claim JobKeeper payments for the previous month. For example, to be reimbursed for JobKeeper payments paid to your employees in August you should complete your declaration by 14 September.

### **Enrolling after September**

You can enrol for JobKeeper until the program closes, provided you meet the eligibility requirements. You will need to enrol by the end of each month to claim reimbursements for JobKeeper fortnights in that month.

Acknowledgement: Warnocks gratefully acknowledges the information provided by Chartered Accountants ANZ, upon which the above newsletter is based.

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