



What is the JobKeeper Payment?

The JobKeeper Payment is a temporary payment designed to help businesses affected by the Coronavirus to cover the costs of their employees' wages, so that more employees can retain their job and continue to earn an income.

The JobKeeper Payment is proposed to commence from 30 March 2020 and will apply for a period of six months.

The JobKeeper Payment involves an employer paying at least \$1,500 per fortnight to eligible employees, and receiving a \$1,500 subsidy per eligible employee from the ATO.

JobKeeper Payment is also available to eligible self-employed individuals who do not have employees¹. In this case, the ATO will pay the individual directly.

Employers who pay the JobKeeper Payment to eligible employees from 30 March, are proposed to receive the first subsidy from the ATO (backdated to 30 March) in the first week of May.

Payments from the ATO are made monthly, in arrears.

Eligibility for JobKeeper Payment program

Which employers are eligible to participate?

Employers will be eligible to participate in the JobKeeper Payment program if their turnover will reduce by certain levels relative to a comparable period a year ago (of at least a month).

- For employers with a turnover of less than \$1 billion, turnover must reduce by more than 30%.
- For employers with a turnover of \$1 billion or more, turnover must reduce by more than 50%.

Not for profit employers (including charities) and self-employed individuals (without employees¹) can also apply subject to meeting the turnover tests above.

For which employees can an employer claim JobKeeper Payment?

To be eligible, an employee must:

- Have been employed by the employer on 1 March 2020

- Be currently employed by the employer (including if stood down or rehired since 1 March 2020)
- Be employed full-time, part-time, or long-term casual (a casual employee is only eligible if employed on a regular basis for at least 12 months at 1 March 2020)
- Be at least 16 years of age
- Not be receiving JobKeeper Payment from another employer
- Be an Australian citizen, permanent resident, protected special category visa holder, non-protected special category visa holder who has been residing continually in Australia for 10 years or more, or a subclass 444 visa holder.

Employer / employee notification obligations

Employers are required to notify employees that they are receiving a subsidy for them under the JobKeeper Payment program.

While most employees don't need to do anything further, the following action is required where relevant:

- Where an employee has multiple employers, they must notify that an employer is their primary employer (this will generally be the employer for whom the employee claims the tax-free threshold, although it is unclear if this will apply by default).
- Where an employee is not an Australian citizen, they must notify the employer of their visa status to help determine eligibility.

JobKeeper Payment for self-employed individuals

Self-employed individuals (eg, sole traders) without employees are also eligible for the JobKeeper Payment provided the relevant turnover reduction test is met (eg. their turnover has reduced by more than 30%).

Where a self-employed individual is eligible, the ATO will directly pay an amount equal to \$1,500 per fortnight to their bank account (paid monthly in arrears).

It is unclear at this stage from the Government's announcement whether self-employed sole traders will also be eligible to receive JobKeeper Payment in respect of themselves where they also employ staff.

How much will eligible employees receive?

Eligible employees will always receive at least \$1,500 per fortnight under the JobKeeper Payment program.

Eligible employees who are currently receiving more than \$1,500 per fortnight before tax from their employer will continue to receive their existing pay, unless there is a change to their employment arrangements. The employer will receive a \$1,500 per fortnight subsidy to assist with the cost of paying the employee.

Eligible employees receiving less than \$1,500 per fortnight must receive the full \$1,500 in order for the employer to receive a subsidy for them. This will include:

- active employees who earn less than \$1,500 per fortnight
- employees that have been stood down by the employer, and
- employees that were terminated by their employer after 1 March 2020 but have subsequently been re-engaged by their employer.

Employees currently being paid less than \$1,500 per fortnight may therefore receive a pay rise due to the JobKeeper Payment.

Example: Multiple employees

XYZ Co employs:

- Anna, working full time earning \$4,000 per fortnight
- Jess, who has been stood down since 1 March and is not currently being paid.

XYZ Co is eligible for the JobKeeper Payment due to reduced turnover and all employees are eligible. XYZ Co registers for JobKeeper Payment effective from 30 March 2020. XYZ Co must:

- Continue to pay Anna \$4,000 per fortnight as per existing employment arrangements.
- Start to pay Jess \$1,500 per fortnight.

The ATO will then pay XYZ Co a subsidy of \$3,000 per fortnight for the two eligible employees (monthly in arrears with payments starting from 1 May, backdated to 30 March).

Example: part time employee

123 Co employs Paul, who works on a part-time basis earning \$800 per fortnight. 123 Co is eligible for the JobKeeper Payment due to reduced turnover and Paul is an eligible employee. 123 Co registers for JobKeeper Payment effective from 30 March 2020. 123 Co must increase payments made to Paul from \$800 per fortnight to \$1,500 per fortnight.

The ATO will then pay 123 Co a subsidy of \$1,500 per fortnight for the eligible employee (monthly in arrears with payments starting from 1 May, backdated to 30 March).

Example: self-employed individual

Fran is a sole trader with no employees. Her turnover in March 2020 compared with March 2019 has reduced by more than 30% and she is therefore eligible for JobKeeper Payment.

Fran registers for JobKeeper Payment effective from 30 March 2020. The ATO will directly pay Fran an amount equal to \$1,500 per fortnight (monthly in arrears with payments starting from 1 May, backdated to 30 March).

Employees with multiple employers

An eligible employee with multiple employers can only receive JobKeeper Payment for their employment with their primary employer.

However, income earned from their other employment does not impact on their JobKeeper Payment.

Example:

Jim works:

- Part time for Gardening Supplies PTY Ltd, earning \$1,200 per fortnight.
- Part time for Landscape Solutions PTY Ltd, earning \$600 per fortnight.

Both employers are eligible for the JobKeeper Payment program and Jim is an eligible employee. Jim claims the tax free threshold with Gardening supplies PTY Ltd and it is his primary employer.

Gardening Supplies PTY Ltd registers for JobKeeper Payment effective from 30 March 2020. It must increase payments made to Jim from \$1,200 per fortnight to \$1,500 per fortnight.

The ATO will then pay Gardening Supplies PTY Ltd a subsidy of \$1,500 per fortnight for the eligible employee (monthly in arrears with payments starting from 1 May, backdated to 30 March).

Landscape Solutions PTY Ltd cannot claim the JobKeeper Payment in respect of Jim. However, Jim can continue to work part-time for Landscape Solutions PTY Ltd and receive \$600 per fortnight, with no impact on the \$1,500 JobKeeper Payment received from Gardening Supplies PTY Ltd.

Is JobKeeper Payment taxable?

Yes. The payments made to eligible employees (whether a continuation of the same amount of normal salary and wages, or a topped up amount to meet the required \$1,500 per fortnight JobKeeper Payment requirement) are taxable for the employee, with the employer withholding an estimate of tax as normal.

The subsidy received by an employer under the JobKeeper Payment program is also assessable income of the employer, however this is offset by the fact that the salary and wages paid to employees (including due to the JobKeeper Payment) are tax deductible.

JobKeeper Payment paid to eligible self-employed individuals is also taxable.

Does the employer have to keep paying Super Guarantee?

Superannuation Guarantee (SG) obligations continue as normal for existing salary and wages (that are ordinary time earnings) payable to employees.

However, where the amount paid to an employee was less than \$1,500 per fortnight, and is then increased to \$1,500 per fortnight to meet JobKeeper Payment requirements, it is not compulsory for the employer to pay SG in respect

Example:

Kim is employed on a part time basis earning \$1,000 per fortnight with ABC Co (which is eligible for the JobKeeper Payment). To receive the subsidy for Kim, ABC Co must increase her pay to \$1,500 per fortnight. While ABC Co must keep paying SG on \$1,000 per fortnight, it is not required to (but can voluntarily) make SG contributions for the additional \$500 per fortnight in increased pay.

How does JobKeeper Payment interact with social security benefits?

JobKeeper Payment received by an employee or self-employed individual is treated as income for social security purposes.

People who have already applied for or are receiving a social security payment such as JobSeeker Payment (eg, as a result of being stood down from work) will need to advise Centrelink of their change in circumstances where JobKeeper Payment commences to be received.

The JobKeeper Payment ensures that eligible employees and self-employed individuals will receive income of at least \$1,500 per fortnight. This means that a person will not be able to receive both JobKeeper Payment and most social security payments (eg, JobSeeker Payment / Youth Allowance / Parenting Payment) as income of \$1,500 per fortnight will reduce their social security payment to nil under the income test.

However, people who have registered to claim for a social security payment do not need to cancel their registration, or contact Centrelink to advise of their change in circumstances, until they commence to receive JobKeeper Payment.

Where an individual had their employment terminated since 1 March, they may be in a position to re-engage with their employer to receive JobKeeper Payment, or instead qualify for a social security payment such as JobSeeker Payment. It appears that in the majority of cases, JobKeeper Payment at \$1,500 per fortnight will provide more overall financial support than the alternative social security payment.

JobKeeper Payment and \$10,000 early access to super

Under the Government's economic response to the coronavirus pandemic, eligible members can make two withdrawals of up to \$10,000 of preserved / restricted non-preserved superannuation.

To be eligible for early release a member must satisfy any one or more of the following requirements:

- they are unemployed, or
- they are eligible to receive a JobSeeker Payment, Youth Allowance for jobseekers, Parenting Payment (which includes the single and partnered payments), Special Benefit or Farm Household Allowance, or
- on or after 1 January 2020:
 - they were made redundant, or
 - their working hours were reduced by 20 per cent or more, or
 - if they are a sole trader — their business was suspended or there was a reduction in their turnover of 20 per cent or more.

Prior to the introduction of JobKeeper Payment, an employee who had been made redundant, stood down by their employer, or had their working hours significantly reduced, could qualify for early access to super.

However, it is unclear at this stage whether an employee who is paid JobKeeper Payment (of at least \$1,500 per fortnight) could still be considered to have suffered a reduction in working hours of 20 per cent or more to be eligible for early access to super. of this additional amount.

It is also unclear whether a self-employed person who receives JobKeeper Payment is required to include this payment when considering whether their business has been suspended or turnover reduced by 20 per cent or more.

Important considerations for employers under JobKeeper

Before employers apply for the JobKeeper Payment and start making salary payments to employees under this scheme (including employees who have been re-hired by an employer), it is important for an employer to consider the following potential consequences of JobKeeper:

- Whether JobKeeper payments made to an employer will be assessable to the employer – In the absence of any specific exemption, such payments could be assessable to an employer under S.6-5 or S.15-10 of the ITAA 1997.
- Whether PAYG withholding will apply to JobKeeper payments – In the absence of any specific withholding exemption/variation, JobKeeper subsidies paid to an employer which are then used to 'top-up' an employee's existing salary may be subject to the normal PAYG withholding rules.
- Whether Superannuation Guarantee ('SG') contributions are required in respect of JobKeeper payments – The Government has indicated that an employer will have the option of choosing whether or not to make SG contributions in respect of any additional salary income paid to an employee (to the extent it relates to the JobKeeper Payment).
- Whether potential Payroll tax obligations may arise – This will ultimately depend on the relevant legislation of each State and Territory. In light of the Coronavirus pandemic generally, most States and Territories have indicated that they will waive or defer liabilities for Payroll tax for the 2020 (and possibly for the 2021) financial years. However, employers who re-hire staff may end up breaching Payroll tax relief thresholds.
- Whether a potential liability for WorkCover premiums will arise – This will also ultimately depend on the relevant legislation of each State and Territory.
- Whether leave entitlements (e.g., annual leave, sick leave and long service leave) can accrue in respect of employees who receive the JobKeeper Payment from their employer (potentially resulting in additional liabilities for employers).

In some cases, employers have also contacted employees who had recently lost their job and have been receiving the JobSeeker Payment whilst not working. In these situations, where a former employee is re-hired, the JobKeeper Payment could offer the employee a greater fortnightly payment when compared to the JobSeeker Payment, for example, as follows:

- Under the JobKeeper Payment scheme – an eligible employee will receive (through their employer) minimum fortnightly salary income of \$1,500.
- Under the JobSeeker Payment scheme – an eligible employee (assuming they are single with no children) would be expected to receive a fortnightly payment of up to \$565.70 plus the \$550 Coronavirus supplement (resulting in a total fortnightly payment of up to around \$1,115). However, JobSeeker recipients may also be eligible for other Government entitlements.

How does an employer register?

Eligible employers and self-employed individuals will need to complete an online registration form once it becomes available **(not yet available)**.

Employers will need to identify eligible employees and provide monthly updates to the ATO. It is expected that many eligible employees will be pre-filled in the online application due to single touch payroll information.

Eligible self-employed individuals will need to provide an ABN for their business, nominate an individual and provide their TFN, and provide a declaration regarding recent business activity.