

The JobKeeper Payment

The government introduced a \$130 billion JobKeeper Payment scheme to support businesses significantly affected by the coronavirus to help keep more Australians in jobs.

The JobKeeper payment is open to eligible employers to enable them to pay their eligible employee's salary or wages of at least \$1,500 (before tax) per fortnight.

Eligible employers will be reimbursed a fixed amount of \$1,500 per fortnight for each eligible employee.

Employers can determine if they are eligible to participate in the Job Keeper payment scheme by accessing the ATO website <https://www.ato.gov.au/general/JobKeeper-payment/>

Some of the commonly asked questions in relation to the Job Keeper payment scheme include;

JobKeeper Applications

Q1. How do I register for the JobKeeper payment subsidy?

Step 1 – Register your interest and subscribe for JobKeeper payment updates.

Step 2 – Check you and your employees meet the eligibility requirements.

Step 3 – Continue to pay at least \$1,500 to each eligible employee per JobKeeper fortnight (the first JobKeeper fortnight is the period from 30 March to 12 April).

Step 4 – Notify your eligible employees that you are intending to claim the JobKeeper payment on their behalf and check they aren't claiming JobKeeper payment through another employer or have nominated through another business.

Step 5 – Send the JobKeeper employee nomination notice to your nominated employees to complete and return to you by the end of April if you plan to claim JobKeeper payment for April. Keep it on file and provide a copy to your registered tax agent if you are using one.

Step 6 – From 20 April 2020, you can enrol with us for the JobKeeper payment using the Business Portal and authenticate with myGovID. You must do this by the end of April to claim JobKeeper payments for April.

Step 7 – In the online form, provide your bank details and indicate if you are claiming an entitlement based on business participation, for example if you are a sole trader.

Step 8 – Specify the estimated 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).

Q2. Can I register after 01 May?

A. From 4 May onwards you (or your registered tax agent) will be able to apply for the JobKeeper payment for your eligible employees.

Step 1 – Apply to claim the JobKeeper payment by logging in to the [ATO Business Portal](#)

Step 2 – Ensure you have paid each eligible employee a minimum of \$1,500 per JobKeeper fortnight before tax.

Step 3 – Identify your eligible employees in the application form by

- selecting employee details that are prefilled from your STP pay reports if you report payroll information through an STP enabled payroll solution, or

- manually entering employee details in ATO online services or the Business Portal if you do not use an STP enabled payroll solution, or
- using a registered tax agent who will submit a report on your behalf through Online services for agents.

Step 4 – Submit the confirmation of your eligible employees online and wait for the confirmation screen.

Step 5 – Notify your eligible employees you have nominated them.

Step 6 – The ATO will pay you the JobKeeper payment for all eligible employees after receiving your application.

JobKeeper Eligibility

Q3. Once I have registered my eligible employees with the ATO for the Jobkeeper payment do I need to do anything else?

- A. Yes, each month, you will need to reconfirm that your reported eligible employees have not changed through ATO online services, the Business Portal or via your registered tax agent. This will ensure you will continue to receive the JobKeeper payments from the ATO. You do not need to retest your reported fall in turnover, but you will need to provide some information as to your current and projected turnover. This will be done in your monthly JobKeeper Declaration report.

Q4. Do I need to apply for the Jobkeeper payment for all of my eligible employees?

- A. Yes, if you decide to make an application for the jobkeeper payment you must include all 'eligible' employees. You may only exclude those employees who are ineligible.

Q5. Do employees need to complete the jobkeeper eligibility notice form?

- A. Yes, if an employee does not agree to participate, you cannot nominate them as an eligible employee.

Q6. Are employees who hold a visa eligible for the jobkeeper payment?

- A. If your employee is an Australian citizen, the holder of a permanent visa, or a Special Category (Subclass 444) Visa Holder at 1 March 2020 (and they meet all other criteria) they will be eligible to claim the jobkeeper payment

Q7. My part time employees, do not earn \$1,500 a fortnight, can I pay them a pro-rated amount?

- A. No, if you apply for the Job Keeper Payment and it is an approved you must pay the full \$1,500 per fortnight

Q8. I stood down my employees without pay after the 01 March, can I back pay their wages to the effective date when the subsidy applies (30 March 2020) and apply for the jobkeeper payments?

- A. Yes, if they are eligible employees and you want to claim the jobkeeper payment, you can arrange to have these employees back paid to 30 March at a minimum of \$1,500 per fortnight, ie employees must have been paid throughout April to be able to claim the Job Keeper payment for this period.

Q9. Even with the Jobkeeper subsidy I cannot afford to pay full wages?

- A. If you need to drop an employee's pay and they are an eligible employee who you are receiving JobKeeper for, you can reduce the amount of wages by reducing the number of hours they are working via an enabling direction. You cannot reduce their hourly rate of pay.

For more information on eligibility and application for Jobkeeper refer to the ATO website
<https://www.ato.gov.au/General/JobKeeper-Payment/>

Leave

Q10. If an employee is on personal sickness leave are they eligible to receive the jobkeeper payment?

- A. Yes, if an employee is on personal or carers leave, they can receive the jobkeeper payment as long as they are an eligible employee.

Q11. Are employees on Parental leave eligible to receive the jobkeeper payment?

- A. Yes, as long as they are not receiving the government paid parental leave or Dad & Partner pay leave and are an eligible employee.

Q12. Does annual leave accrue whilst receiving JobKeeper Payments?

- A. Yes, entitlements such as annual leave and personal/carers leave will continue to accrue for employees who are receiving JobKeeper Payments, even if the employee has been stood down.

JobKeeper Enabling Directions

Q13. What are 'Job Keeper Enabling Directions'?

- A. The Fair Work Act has been amended as a result of the JobKeeper scheme. As part of this, **employers receiving JobKeeper payments** can give eligible employees "JobKeeper enabling directions" to vary certain terms of the employee's employment, such as reducing their hours of work, duties and location of work, without the employee's consent. **Employers should confirm that they are entitled to JobKeeper payments for their employees before issuing a direction** or making an agreement under the new provisions. Certain conditions must be met, including:
- the direction must be responsive to business changes attributable to COVID-19 or government initiatives to slow the transmission (eg. government shut-downs of businesses or less patronage)
 - providing the direction only where the employee cannot be usefully employed for their normal hours
 - giving the direction to an employee who you have received a JobKeeper payment for
 - consulting with the employee about the direction to explain the nature of change and reason
 - the direction must be reasonable in the circumstances and aligned to the business needs and carer responsibilities of the employee
 - **the employee's rate of pay cannot be reduced**
 - the full JobKeeper payment must continue to be passed onto the employee
 - providing the employee with at least three days' notice of the intention to give the direction and
 - providing the direction in writing to the employee

Q14. I have complied with all of the jobkeeper enabling criteria but one of my employees is refusing to follow the enabling direction, how can I resolve this?

- A. The best way is to find out why the employee is refusing and seek to clarify any misunderstandings the employee may have. If the request is reasonable and the employee continues to refuse you can apply to the Fair Work Commission to deal with the dispute <https://www.fwc.gov.au/about-us/coronavirus-covid-19-updates-advice/jobkeeper-disputes>

Termination and Redundancy

Q15. What if an employee who is receiving Jobkeeper resigns?

- A. If your eligible employees change or leave your employment, you will need to notify the ATO through your monthly JobKeeper Declaration report.

Q16. One of my employees left the business on the 26 February 2020 and I hired them back in the second week of March, can I claim the jobkeeper payment for them?

- A. No, to be eligible an employee must have been a current employee as at 01 March 2020.

Q17. I terminated an eligible employee through redundancy, after the 01 March can I rehire them?

- A. Yes, you can re hire an employee and as they were employed as at the 01 March, they will be eligible for the jobkeeper payment. Under the JobKeeper Payment they will receive \$1,500 a fortnight before tax. If your employee is now eligible to receive the JobKeeper Payment, they must report that income to Services Australia if they had been receiving jobseeker payments. If they do not report the income or cancel your JobSeeker Payment, they may incur a debt that they will be required to pay back.

Q18. I terminated an employee through redundancy, and since rehired them, can I claim the redundancy payment back?

- A. When you terminated the employee through a redundancy they became eligible for the redundancy payment. You do not have a legal right to recover the redundancy payment.

You will need to provide the employee with a new employment contract. You will also need to check the applicable long service leave Act as depending on the gap between the termination and re-hire, they may be eligible for continuity of service.

Q19. Can I make an employee who is not receiving the jobkeeper payment redundant, such an employee on a visa who does not meet the jobkeeper eligibility criteria?

- A. You should proceed with caution on this to avoid potential discrimination claims. An employee could potentially claim that they have been discriminated against on the basis of their race or nationality. It is strongly recommended that you seek advice and discuss the particular circumstances. You would also need to demonstrate that the redundancy is genuine and follow a strict redundancy process to minimise the risk of a successful discrimination claim.

Q20. If I am receiving the jobkeeper payment for an employee who is under performing and on a performance improvement plan. If their performance does not improve, can I terminate them for performance reasons?

- A. If you choose to terminate an employee who is receiving the jobkeeper payment, you may do so but you must ensure you are following all of the processes and requirements in accordance with your company policies, any applicable Award, Registered Agreement and other industrial instruments and the Fair Work Act.