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Description	Key Actions and Deadlines
<p>1. Overview</p> <p>In general terms, an employer is entitled to a JobKeeper payment for a fortnight if:</p> <ul style="list-style-type: none"> the fortnight is a JobKeeper fortnight (see Item 2); the employer qualifies for the scheme on or before the end of the fortnight (see Items 3 for employees or Item 7 for eligible business participants); the payment is for a person who is an eligible employee of the employer, or an eligible business participant (self-employed circumstance) (see Item 4, 5 & 6); the employer has satisfied the wage condition by making payments to the eligible employee equal to or greater than the amount of JobKeeper payment (less PAYG withholding and salary packaging) that the employer will receive for the employee for the fortnight (see Item 7); and the employer has notified the Commissioner of a range of matters, including notification of its election to participate in the scheme (see Item 8 & 9). <p>Each of these requirements is described in greater detail below.</p>	
<p>2. JobKeeper Fortnight</p> <p>The fortnight beginning on 30 March 2020 and each subsequent fortnight, ending with the fortnight ending on 27 September 2020. (Up to 26 fortnights).</p>	
<p>3. Eligible Employer re Employees</p> <p>An employer will qualify for the scheme for a particular fortnight if it satisfies the following requirements:</p> <ul style="list-style-type: none"> on 1 March 2020, it carried on a business in Australia or was a non-profit body pursuing its objectives principally in Australia (International Aid Organisations that are endorsed under the Overseas Aid Gift 	

<p>Deductibility Scheme or for developed country relief will be deemed to meet the “principally in Australia” requirement);</p> <ul style="list-style-type: none"> • before the end of the fortnight, it met the decline in turnover test (see Item 5); and • none of the following applies: <ul style="list-style-type: none"> ○ on 1 March 2020, it (or a group member) had been subject to the levy imposed by the Major Bank Levy Act 2017; ○ it is a government body of a particular kind, or a wholly-owned entity of such a body; or ○ o at any time in the fortnight, a liquidator has been appointed to the business or a trustee in bankruptcy had been appointed to the individual’s property. 	
<p>4. Decline in Turnover Test</p> <p>The decline in turnover test needs to be satisfied before an entity becomes eligible for the JobKeeper payment. Once this occurs there is no requirement to retest in later months. If an entity does not qualify for the month of April 2020 because its turnover has not been sufficiently affected, it can test in later months to determine if the test is met and qualify for the scheme in a later period.</p> <p>There is a basic test and an alternative test:</p> <p>Basic Test <u>Projected GST turnover of the entity for a turnover test period</u> Comparison GST turnover for corresponding period in 2019</p> <p>GST turnover generally excludes input taxed supplies. Special rules apply in relation to the turnover of ACNC-registered charities and deductible gift recipients. Core Commonwealth government financial assistance provided to universities will also be included in the JobKeeper turnover tests. Note that the formula above and the GST definitions apply even if the entity is not registered for GST.</p> <p>Projected GST turnover includes the value of all the supplies that an entity has made or is likely to make in the period.</p>	<p>These tests must be applied ASAP to determine whether the employer qualifies.</p> <p>Aggregated turnover test to decide the relevant decline in % of turnover required</p> <p>First there is the need to identify what fall in turnover percentage applies (50%/30%/15%) and for this you must consider aggregated turnover.</p> <p>The aggregated turnover test requires aggregation of taxpayers that are grouped, connected entities and their affiliates. It is based on an income tax test and includes Australian and foreign based entities.</p> <p>Comparison turnover v projected turnover</p> <p>Secondly there is the need to make the relevant comparisons to determine if there is sufficient decline in turnover to qualify.</p> <p>The periods for the turnover test period being compared by can be periods of one month or three months, where:</p> <ul style="list-style-type: none"> • if a one-month turnover test period is being used, it must be one of the following months: <ul style="list-style-type: none"> ○ March, April, May, June, July, August or September 2020; or • if a three-month period is being used it must be one of the following periods:

On 6 May 2020 the ATO issued **Law Companion Ruling LCR 2020/1** on the decline in turnover test that sets out steps to assist in working out if an entity has met the decline in turnover test, which cover the following:

- what supplies are relevant when calculating projected GST turnover and current GST turnover
- how to allocate supplies to relevant periods
- how to determine the value of each supply that has been allocated to a relevant period, and
- the ATO compliance approach, which effectively allows the working out of the previous two steps at the same time.
- The ruling is binding on the Commissioner and applies from 9 April 2020.

A business with **less than \$1b aggregated turnover** will satisfy the test where the shortfall is **30% or more**. That would be where the % in the above formula is 70% or less.

Larger businesses with \$1b or more aggregated turnover will satisfy the test where the shortfall is 50% or more. That would be where the % in the above formula is 50% or less.

An entity that is an ACNC-registered charity or gift deductible recipient only needs to demonstrate a shortfall of 15%. However, this lower shortfall percentage does not apply to ACNC-registered charities that are public or private universities or are schools within the meaning of the GST Act (excludes Government schools).

Basic Test – Alternate test for Employee service entities

On 24 April 2020 it was announced that where business structures use a special purpose entity to employ staff rather than staff being directly employed by an operating entity, there will be an alternate decline in turnover test for the eligibility of special purpose service entities that have not met the basic test for decline in turnover and that provide employee labour to group members that carry on a business deriving revenue from unrelated third parties. The alternate test will be by reference to the combined GST turnovers of the related entities using the services of the

- the quarter that starts on 1 April 2020;
- the quarter that starts on 1 July 2020.

The projected GST turnover must be determined during the relevant period. Therefore, to satisfy the test at the end of the JobKeeper fortnight from the outset, either the months or March or April must be chosen or the quarter commencing on 1 April 2020.

The **Basic and Alternative tests** are considered on a taxpayer by taxpayer basis, **ignoring GST groups and ignoring aggregation rules, though each external territory is treated as forming part of the indirect tax zone when working out both comparison GST turnover and projected GST turnover**. In this way businesses within a larger group that have suffered a decline in turnover may be entitled to qualify that would not qualify if examined on an aggregated or GST grouped basis.

employer entity. More detail will be included in the actual amendment to the rules in due course.

Alternative Test

If the Basic Test is not satisfied an Alternative Test can apply in limited circumstances. The Rules required that any Alternative Test had to be created by Legislative Instrument (LI) and that the Commissioner must be satisfied that there is **not an appropriate relevant comparison period under the Basic Test** for the purpose of an **entity** in the class of entities satisfying the decline in turnover test. He does not have a general discretion in all cases.

The LI sets out 7 areas where the Alternative Test could apply to classes of entities to which the following circumstances apply:

1. An entity **commenced business after the relevant comparison period** in 2019 with the event or circumstance outside the usual business setting being that the business did not exist in the relevant comparison period and as a result there was no relevant comparison period in 2019. This applies to entities that were not operating any business, it does not apply to an entity that was operating one or more businesses and commenced a new additional business.
2. An entity **acquired or disposed of part of their business** after the relevant comparison period in 2019 including more than one acquisition or disposal and the acquisition or disposal, or acquisitions or disposals, changed their turnover. The event or circumstance outside the usual business setting being that the business was not the same business and as a result is not comparable after the acquisition(s) or disposal(s) to as it was in relevant comparison period in 2019
3. An entity has **restructured part or all of their business** after the relevant comparison period in 2019, including more than one restructure, and that restructure, or restructures, has changed the entity's turnover. The event or circumstance outside the usual business setting being that the business was not the same business

<p>and as a result is not comparable after the restructure(s) to as it was in relevant comparison period in 2019</p> <p>4. An entity has had an increase in turnover by 50% or more in the 12 months immediately before the applicable turnover test period, or 25% or more in the 6 months immediately before the applicable turnover test period, or 12.5% or more in the 3 months immediately before the applicable turnover test period. The event or circumstance outside the usual business setting being that as a result of undergoing such rapid growth the business of the entity is not comparable after the growth to the business as it was in the relevant comparison period in 2019</p> <p>5. An entity has been affected by a drought or other natural disaster in the relevant comparison period in 2019. The event or circumstance outside the usual business setting being the drought or other natural disaster which adversely affected the business and as a result the relevant comparison period in 2019 is not appropriate</p> <p>6. An entity has an irregular turnover that is not cyclical, such as can occur in the building and construction sector. The event or circumstance outside the usual business setting is the non-cyclical irregular turnover and as a result the relevant comparison period in 2019 is not appropriate. An entity with a cyclical turnover such as an entity that operates a seasonal business which generates most of its turnover at a particular time of year has an appropriate relevant comparison period – a cyclical turnover is within the usual business setting, and</p> <p>7. An entity is a sole trader or a small partnership and the sole trader or one of the partners did not work for all or part of the relevant comparison period because they were sick, injured or on leave during the relevant comparison period and those circumstances affects the turnover of the sole trader or partnership. The usual business setting is the sole trader or partner working in the business generating turnover and so their absence from work is an event or circumstance</p>	
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<p>outside the usual business setting resulting in the relevant comparison period in 2019 not being appropriate.</p>	
<p>5. Eligible employees</p> <p>An eligible employee of an employer for a JobKeeper fortnight is a person who satisfies the following requirements:</p> <ul style="list-style-type: none"> • On 1 March 2020: <ul style="list-style-type: none"> ○ the person was aged 16 years or over (from 24 April 2020 it has been announced that there will be an exclusion so that full-time students who are 17 years old and younger, and who are not financially independent, are not eligible for the JobKeeper Payment. This will apply prospectively, which would mean that an eligible employer that has already met the wage condition of paying such an employee \$1,500 for a fortnight could be entitled to a JobKeeper Payment in arrears for that fortnight); ○ the person was an employee other than a casual employee of the employer, or was a long-term casual employee of the employer; and ○ the person was an Australian resident (within the meaning of section 7 of the Social Security Act 1991), or was a resident of Australia for the purposes of the Income Tax Assessment Act 1936 and was the holder of a Subclass 444 (Special Category) visa. • At any time during the fortnight: <ul style="list-style-type: none"> ○ the person is an employee of the employer (Religious practitioners (with the exception of those that are students only) will be treated as employees for this purpose even if they are not “employees” of their religious institutions); ○ the person is not excluded from being an eligible employee. The exclusions relate to recipients of parental leave pay and dad and partner pay under the Paid Parental Leave Act 2010, and specified recipients of workers’ compensation. <p>A long-term casual employee is an individual that had been employed by the entity on a regular and systematic basis during the period of 12 months that ended at 1 March 2020.</p>	<p>There is also a requirement that eligible employees have provided a notice to their employer agreeing:</p> <ul style="list-style-type: none"> • to be nominated by the employer as an eligible employee under the JobKeeper scheme as the employer with which the employee will participate in the JobKeeper scheme; • that they confirm they have not agreed to be nominated by another employer; and • that they do not have permanent employment with another employer if they are employed as a casual employee with this employer. <p>This should be done ASAP (and in any event by end of April 2020) in response to an employer request so that the employer may elect to participate in the scheme in relation to its eligible employees from the outset. See Item 8 below and Appendix A ATO Form: JobKeeper employee nomination notice.</p> <p>A casual employee who is employed on a permanent basis (either full time or part time with an employer) must nominate their full time or part time employer under the scheme.</p> <p>Individuals with one or more full time or part time jobs are free to nominate any one of those full time or part time jobs. Similarly, individuals with multiple long-term casual jobs can nominate any one of those casual jobs.</p>

<p>6. Wage condition</p> <p>The wage condition requires that an employer pay each participating employee at least \$1,500 for each JobKeeper fortnight. This reflects the practical operation of the JobKeeper scheme in which the JobKeeper payment is essentially a reimbursement to an employer.</p> <p>The component amounts that together must equal or exceed \$1,500 are the various components that make up an employee's income before tax:</p> <ul style="list-style-type: none"> • After-tax amounts paid by the employer to the employee in the fortnight in respect of salary, wages, commission, bonus or allowances; • PAYG withholding amounts or amounts withheld for a HECS-HELP loan by the employer; • Salary sacrifice superannuation contributions (other than prescribed minimum super guarantee contributions); and • Other amounts forming part of other salary sacrifice arrangements. <p>The requirement that the component amounts be at least \$1,500 applies regardless of whether the employee ordinarily receives more or less than that amount.</p> <p>MO comment on tax treatment:</p> <ul style="list-style-type: none"> • The normal rules for deductibility apply in respect of the amounts a business pays to its employees where those amounts are subsidised by the JobKeeper payment. • All JobKeeper payments are assessable income of the business that is eligible to receive the payments. • The JobKeeper payment is not subject to GST. <p>Superannuation Guarantee</p> <p>Superannuation guarantee (SG) minimum prescribed payments do not form part of the \$1,500 minimum gross payment to an eligible employee. The SG rules are to be modified to ensure that superannuation contributions need only be made for any amount payable to an employee in respect of their</p>	<p>In terms of timing, the Explanatory Statement indicates that if an employer's ordinary arrangement is to pay its employees less frequently than fortnightly, then the payment can be allocated between fortnights in a reasonable manner. For example, if an employer's ordinary arrangement is to pay an employee every four weeks, it may be reasonable for the purposes of satisfying the wage condition if the employee is paid at least \$3,000 for every four-week period.</p> <p>On 14 April 2020 the ATO issued guidance on certain practical aspects:</p> <ul style="list-style-type: none"> • For the first two fortnights (30 March – 12 April and 13 April – 26 April), we will accept the minimum \$1,500 payment before tax has been paid for each fortnight even if it has been paid late, provided it is paid by the end of April. This means that they can make two fortnightly payments of at least \$1,500 per fortnight before the end of April, or a combined payment of at least \$3,000 before the end of April. <p>On 28 April 2020 the deadline for the April fortnights wage payments was extended to 8 May 2020.</p>
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<p>actual employment, disregarding any extra payments made by the employer to satisfy the wage condition for getting the JobKeeper payment.</p> <p>E.g. if the work done by an employee over a period entitled them to be paid \$1,000, but the employer instead paid them \$1,500 to satisfy the wage condition for a JobKeeper fortnight, then the employer will only be required to make superannuation contributions in relation to \$1,000.</p> <p>E.g. An employer will still be required to make the same superannuation contributions for an employee whose pay exceeds the JobKeeper payment. For example, if an employee is entitled to be paid \$2,000 for their work, the employer will continue to be required to make contributions irrespective.</p> <p>E.g. An employer will not be required to make superannuation contributions for an employee who is stood down. If an employer pays a stood down employee \$1,500 to satisfy the wage condition for receiving the JobKeeper payment, then the entire amount will be disregarded for superannuation guarantee purposes.</p> <p>Commissioner to verify JobKeeper payment information with authorised deposit-taking institutions (ADIs)</p> <p>Employers are required to make payments to employees in advance of receiving support under the JobKeeper payment program. Accordingly, ADIs will in some cases be providing bridging finance to businesses to assist them paying amounts to their employees before JobKeeper payments are made by the Commissioner.</p> <p>On 24 April amending rules created a temporary confirmation process so that ADIs can request the Commissioner to provide confirmation that the information about the entity’s election to participate in the JobKeeper payment program has been exchanged between the Commissioner and the entity. Such confirmation will only be provided to ADIs by the Commissioner on or before 22 May 2020.</p>	
<p>7. Eligible business participant</p> <p>The Rules extend eligibility to certain participants in a qualifying business. The entitlement to the JobKeeper payment applies to businesses and is not available to non-profit entities.</p>	<p>There is also a requirement that eligible business participants (other than sole traders) have provided a notice to their JobKeeper entity agreeing:</p> <ul style="list-style-type: none"> • to be nominated by the JobKeeper entity as an eligible business participant under the JobKeeper scheme;

Entitlement to a JobKeeper payment as a business participant operates similarly to entitlement to the payment as an employer with some additional integrity rules. Particularly:

- the fortnight must be a JobKeeper fortnight (see **Item 2**); and
- the business must qualify for the JobKeeper scheme on or before the end of the fortnight (see **Item 3 except cannot be a non-profit entity, & Item 4 re Decline in turnover**).

In other respects, entitlement to a JobKeeper payment as a business participant differs from the rules for employers:

Notification

An entity must notify the Commissioner of its election to participate in the JobKeeper scheme and the details of the nominated individual in the approved form.

No Wage Condition

There is no equivalent requirement for the entity to satisfy the Wage Condition in relation to an eligible business participant.

No more than one individual and one entity

A business is not entitled to a JobKeeper payment for more than one individual. It is up to the business to determine which individual is nominated as the eligible business participant.

Where an individual is an eligible participant of two businesses, only one of those businesses is entitled to the JobKeeper payment in respect of that individual. Also, for example, where an individual is an eligible participant of a business and is entitled to a JobKeeper payment as an employee of another business—the business is not entitled to a JobKeeper payment in respect of the individual.

Integrity rule

The JobKeeper payment for an entity in respect of business participants is intended to support active businesses only. The only entities that are entitled to a JobKeeper payment for business participants are those that had an **ABN on 12 March 2020**, or such later time that the Commissioner allows.

- that they confirm they have not agreed to be nominated by another JobKeeper entity; and
- that they were actively engaged in the business of the JobKeeper entity, though not as an employee.

This should be done ASAP in response to a JobKeeper entity request so that the JobKeeper entity may elect to participate in the scheme in relation to its eligible business participant. See **Item 9** below and **Appendix C** ATO Form: **JobKeeper eligible business participant nomination notice**.

On 1 May 2020 the ATO has issued **Practice Statement Law Administration PS LA 2020/1** to provide guidance on the exercising of the Commissioner’s discretion to allow an entity further time to register for an ABN.

Eligible business participant

The Rules require that the individual:

- is not employed by the business at any time in the fortnight (that is, because the individual is the owner of the business i.e. a nominated business participant not an employee of the business);
- satisfies the business participation requirements at any time in the fortnight;
- satisfies the 1 March 2020 requirements; and
- satisfies the nomination requirements.

The business participation requirements are that, at any time in the fortnight, the individual is actively engaged in the business carried on by the entity. Further, the individual must have a particular role within the business. In the case of an entity that is a:

- sole trader—the individual must be the entity;
- partnership—the individual must be a partner in the partnership;
- trust—the individual must be an adult beneficiary of the trust; and
- company—either a director or shareholder in the company.

The 1 March 2020 requirements are that, on that date, the individual:

- was aged 16 years or over;
- satisfied the business participation requirements (described above); and
- satisfied the Australian residency requirement (same as in **Item 5** re employees).

The nomination requirements are that the individual has agreed to be nominated by the entity as an eligible business participant and has not agreed to be nominated by another entity, in the approved form. Further, the individual must not have given a nomination notice to any other entity as an employee of an employer. Also, at the time of nomination as an eligible

<p>business participant the individual must not also be a permanent employee of an employer.</p> <p>A person is not an eligible business participant for a fortnight if parental leave pay is payable to the person, the person is paid dad and partner pay, or the person is incapacitated for work and an amount is payable to the person in accordance Australian workers' compensation law. These exclusions mirror those that apply in relation to determining whether a person is an eligible employee as described above at Item 5.</p>	
<p>8. Critical Employer steps and notifications</p> <p>There are a number of critical steps and notifications that an eligible employer must undertake:</p> <p>1. Decision to participate An employer must consider eligibility and decide to participate in the JobKeeper scheme. An employer should consider ongoing employees, stood down employees and potential re-hired employees (which can then be ongoing working employees or immediately stood down) and secure their eligible employees' agreement to be nominated by the employer (see above what must be agreed under 5. Eligible employees). The employer cannot select which eligible employees will participate in the scheme. This 'one in, all in' rule is a key feature of the scheme. Specifically, the rules now include a notification requirement to require that all employees of a participating entity must be given the opportunity to agree to be nominated.</p> <p>2. Elect into the scheme For April fortnights employers may elect to participate in the approved form prior to the end of April 2020. After that employers must have elected by the end of each JobKeeper fortnight to be eligible.</p> <p>On 14 April the ATO issued guidance on the process:</p> <ul style="list-style-type: none"> • Enrol for JobKeeper from 20 April 2020 using the ATO Business Portal/ATO Online services for agents and authenticate with myGovID. • In the online form: <ul style="list-style-type: none"> ○ Provide the employer's bank details; ○ Confirm if they are entitled to a business participation payment; 	<p>For Steps 1-3, see ATO detailed guidance on how to Enrol for the JobKeeper payment at, here.</p> <p>Step 1 needs to be undertaken immediately in preparation to participate in the scheme if appropriate.</p> <p>See Appendix A ATO Form: JobKeeper employee nomination notice.</p> <p>This is a required step in the process to qualify. The notice is not to be sent to the ATO, but it must be kept as a required record of who the eligible employees are that will participate. The ATO form also serves to notify eligible employees that the employer intends to participate in the JobKeeper scheme.</p> <p>Step 2 needs to be undertaken between 20 April and End of May 2020 to benefit from the outset.</p> <p>Step 3 must first be undertaken between 4 May and 31 May 2020</p> <p>Subsequent provision of information to the Commissioner:</p> <ul style="list-style-type: none"> • The Rules provide that if the information provided to the Commissioner does not subsequently change in the following JobKeeper fortnights, an employer is not required to provide the same information to the Commissioner again. • However, where there is a change of circumstances – for example, a person who was an eligible employee for the previous JobKeeper fortnight is no longer an eligible employee for the relevant JobKeeper fortnight – the employer must notify the Commissioner of this in the approved form before the end of the relevant JobKeeper fortnight to

<ul style="list-style-type: none"> ○ Specify the number of the employer’s employees who will be eligible for one JobKeeper fortnight and the number eligible for two JobKeeper fortnights; ○ Nominate the eligible employees and confirm that the employer has notified them and has their agreement. ○ Submit the form! <p>3. Notify Wages paid for a JobKeeper fortnight</p> <p>The employer must give information about the entitlement for the fortnight, including details of the individual, to the Commissioner in the approved form.</p> <p>On 14 April the ATO issued guidance on the process:</p> <ul style="list-style-type: none"> ● Apply to claim the JobKeeper payment by logging into the ATO Business Portal/Online services for agents between 4 May 2020 and 31 May 2020. ● Ensure the employer has paid their eligible employees [Mills Oakley: see 6. Wage condition – must be paid by 8 May 2020 for April fortnights and generally within each fortnight after that]. ● Ensure the employer has received their JobKeeper employee nomination notices. ● Identify their eligible employees by either selecting employee details that are prefilled from their STP pay reports if they report payroll information through an STP enabled payroll solution OR manually entering employee details in ATO Online services for agents or the Business Portal if they do not use an STP enabled payroll solution. ● Submit the application! <p>Once an employer has provided details of its eligible employees to the Commissioner, the employer must also notify each eligible employee within 7 days. This requirement is intended to keep eligible employees informed about the process.</p> <p>The ATO will pay the employer the JobKeeper payment for all eligible employees after receiving their application (see Item 10).</p>	<p>satisfy the notification requirements for entitlement to a payment for that fortnight.</p> <p>Notification to employees of information provided by an employer to the ATO about entitlement for JobKeeper fortnights, must be provided within 7 days of when it was provided to the ATO. See a template notification in Appendix B.</p> <p>Step 4 must be undertaken within 7 days of the end of each month, starting from 7 May 2020 for those that had JobKeeper fortnights in April.</p>
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<p>4. Monthly reporting</p> <p>An entity that is entitled to a JobKeeper payment for a fortnight must notify the Commissioner of:</p> <ul style="list-style-type: none"> • its current GST turnover for the reporting month; and • its projected GST turnover for the following month. <p>All ACNC-registered charities and gift deductible recipients that are eligible for the JobKeeper payment must also report under specific rules.</p> <p>The reporting month is a month in which there is a fortnight for which the entity is entitled to a JobKeeper payment. The report must be made to the Commissioner in the approved form and must be made within 7 days of the end of the reporting month. E.g. For April must be made by 7 May 2020.</p> <p>The Explanatory Statement states: “The information provided as part of this report does not affect an entity’s eligibility, including in respect of the decline in turnover test (which only needs to be satisfied once). It is also not intended to verify whether the projection given as part of the decline in turnover test was accurate. Rather, it is intended to ensure that there is good information on which to assess the economic impact of the Coronavirus on a monthly basis across Australia.”</p>	
<p>9. Critical Steps and notifications for Sole Traders/Entities regarding Eligible business participants</p> <p>There are a number of critical steps and notifications that a sole trader/entity must undertake:</p> <p>1. Decision to participate</p> <p>A sole trader/entity must consider eligibility and decide to participate in the JobKeeper scheme. A sole trader/entity should consider which Eligible business participant should be nominated and secure that individual’s agreement to be nominated (see above what must be agreed to under 7. Eligible business participants).</p>	<p>Step 1 needs to be undertaken immediately in preparation to participate in the scheme if appropriate.</p> <p>See Appendix C ATO Form: JobKeeper eligible business participant nomination notice</p> <p>This is a required step in the process to qualify. The notice is not to be sent to the ATO, but it must be kept as a required record of who the eligible business participant is that will participate. The ATO form also serves to notify the eligible business participant of the intention to participate in the JobKeeper scheme.</p> <p>Step 2 needs to be undertaken between 20 April and End of May 2020 to benefit from the outset. This is part of the same process as for an Election by an employer with eligible employees.</p>

<p>2. Elect into the scheme For April fortnights sole traders/entities may elect to participate in the approved form prior to the end of April 2020. After that sole traders/entities must have elected by the end of each JobKeeper fortnight to be eligible.</p> <p>On 14 April the ATO issued guidance on the process:</p> <ul style="list-style-type: none"> • Enrol for JobKeeper from 20 April 2020 using the ATO Business Portal/ATO Online services for agents and authenticate with myGovID. • In the online form: <ul style="list-style-type: none"> ○ Provide the entity’s bank details; ○ Confirm if they are entitled to a business participation payment; ○ Specify the number of the employer’s employees who will be eligible for one JobKeeper fortnight and the number eligible for two JobKeeper fortnights; ○ Nominate the eligible employees and confirm that the employer has notified them and has their agreement. ○ Submit the form! <p>This is the same process as described under 8 above as it also encompasses eligible employees.</p> <p>3. Notify Wages paid for a JobKeeper fortnight This step is not required in relation to Eligible business participants as the Wage condition does not have to be met.</p> <p>4. Monthly reporting</p> <p>An entity that is entitled to a JobKeeper payment for a fortnight must notify the Commissioner of:</p> <ul style="list-style-type: none"> • its current GST turnover for the reporting month; and • its projected GST turnover for the following month. <p>The requirement is as described for 4. Monthly reporting under Item 8 above.</p>	<p>Step 3 is not required in respect of an eligible business participant.</p> <p>Step 4 must be undertaken within 7 days of the end of each month, starting from 7 May 2020 for those that had JobKeeper fortnights in April. Same reporting for employers that have eligible employees.</p>
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<p>10. JobKeeper payment</p> <p>The Commissioner may accept, either in whole or in part, a statement in an approved form lodged with the Commissioner by the entity.</p> <p>If the Commissioner is satisfied of an entitlement to a JobKeeper payment, the Commissioner must pay \$1,500 to the employer for each eligible employee or to the business for its participating individual.</p> <p>The Commissioner must make the payment for a fortnight no later than the later of:</p> <ul style="list-style-type: none"> • 14 days after the end of the calendar month in which the fortnight ends; and • 14 days after the Commissioner is satisfied that the employer or business is entitled to the payment for the fortnight. <p>Therefore, the first lot of payments should occur on 14 May 2020 and monthly thereafter generally up until October 2020.</p> <p>Transitional rule for first JobKeeper payment</p> <p>The transitional rule allows the Commissioner to make an advance payment for the JobKeeper fortnights ending in the month of April without being satisfied that the entity is entitled to that payment. This is to ensure that initial payments can be made quickly to assist entities affected by the Coronavirus.</p> <p>If the Commissioner subsequently determines that the entity was entitled to a lesser amount or a nil amount in respect of the relevant JobKeeper fortnights, then the overpayment rules would apply and the entity would be required to repay the overpaid amount.</p>	<p>JobKeeper payments should be made to eligible entities within 14 days of each month end starting from 14 May 2020 up until 14 October 2020.</p>
<p>11. Anti-avoidance rule and fraudulent schemes</p> <p>Anti-avoidance rule</p> <p>The anti-avoidance rule applies if the Commissioner is satisfied that:</p>	

- one or more entities (a participant) entered into or carried out a **scheme** (within the meaning of the A New Tax System (Goods and Services Tax) Act 1999); and
- it would be concluded (having regard to a prescribed list of objective matters) that any of the participants entered into or carried out the scheme, or any part of the scheme, for the **sole or dominant purpose** of achieving either of the following:
 - **making an entity (the recipient) entitled** to a Coronavirus economic response payment (e.g. JobKeeper) in respect of a period;
 - **increasing the amount** of the Coronavirus economic response payment (e.g. JobKeeper) to which an entity (also the recipient) is entitled for the period; and
- the scheme or part of the scheme has achieved, or apart from this section would achieve, that purpose.

On 4 May 2020 the ATO released **Practical Compliance Guideline PCG 2020/4** providing guidance on how it will apply its compliance resources to such anti-avoidance schemes. In particular, the Commissioner will be concerned with an entity that accesses or increases JobKeeper payment entitlements:

- where the entity's business is not significantly affected by external environmental factors beyond its control, and/or
- in excess of those that would maintain pre-existing employment relationships.

However, the PCG does set out various ameliorating factors.

The Commissioner may determine that the entity was never entitled to the JobKeeper payment, or the amount to which the entity was entitled was always the amount specified by the Commissioner in the determination.

The Commissioner will be able to recover any overpayments and will have the power to impose significant penalties and interest. This specific integrity

provision is aimed at contrived and artificial arrangements that technically satisfy the eligibility requirements but have been implemented for the sole or dominant purpose of accessing a JobKeeper payment.

PCG 2020/4 provides **Examples** of schemes to obtain access to a JobKeeper payment:

- deferring the making of supplies to obtain the JobKeeper payment
- bringing forward the making of supplies solely to obtain the JobKeeper payment
- transfer without any decline in external revenue
- employer entity that reduces a service fee
- employer entity that stands down employees
- employer entity unable to pay
- parent company of a corporate group that reduces management fees, and
- parent company of a corporate group that manipulates timing of management fee.

Fraudulent schemes

The ATO and Tax Practitioners Board have warned tax agents and their clients that any attempt to change a business structure or change the characterisation of payments to access the government’s stimulus measures will be met with scrutiny and disciplinary action. In a joint statement by ATO second commissioner Jeremy Hirschhorn and TPB chair Ian Klug they said:

“We ask that tax agents and businesses be mindful that it is not acceptable to backdate or artificially change a business structure or employment arrangements, including changing the characterisation of payments, in order to obtain a benefit or payment that would not otherwise have been paid...The ATO and TPB will take firm and swift action should this be the case.”

APPENDIX A: 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 primary 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 a permanent employer. If you are a long-term casual employee that is eligible with no permanent 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/general/gen/JobKeeper-payment/

Section A – Employer to complete

Employer Details:

1. Employer name
2. Employer Australia business number (ABN)

Section B – Employee to complete

Employee Details:

1. Full name
2. Date of birth (DD/MM/YYYY)
3. Address
4. Preferred contact details
 - a. phone number
 - b. email address

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 employee, or a casual employee employed on a regular or 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 permanently employed by any other employer, 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.

Date (DD/MM/YYYY): ___/___/_____

Signature (electronic/email is OK): _____

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

**APPENDIX B: NOTIFICATION TO EMPLOYEE OF INFORMATION PROVIDED TO THE COMMISSIONER ABOUT THE
INDIVIDUAL'S JOBKEEPER ENTITLEMENT FOR JOBKEEPER FORTNIGHTS**

[Employer LOGO]

[Date of notification]

**Notification of information provided to the
Commissioner about the individual's JobKeeper
entitlement for JobKeeper fortnights**

Employee: [Name]

JobKeeper scheme

Your employer [Name] has elected into the JobKeeper scheme and you are an eligible employee for this purpose, having completed and returned a **JobKeeper Employee Nomination Notice**.

Under the JobKeeper scheme, 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/general/gen/JobKeeper-payment/

Notification to the Commissioner

Notification of individual employee entitlements must be made by the employer to the Commissioner of Taxation in relation to each JobKeeper fortnight.

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.

Notification to you

We notify you that the following information was provided to the Commissioner in respect of you for the JobKeeper fortnight(s) ended [date] and [date]:

[Insert details of information provided to the Commissioner in respect of the employee]

The JobKeeper Rules provide that if the information provided to the Commissioner does not subsequently change in the following JobKeeper fortnights, an employer is not required to provide the same information to the Commissioner again.

However, where there is a change of circumstances – for example, a person who was an eligible employee for the previous JobKeeper fortnight is no longer an eligible employee for the relevant JobKeeper fortnight – the employer must notify the Commissioner of this in the approved form before the end of the relevant JobKeeper fortnight to satisfy the notification requirements for entitlement to a payment for that fortnight. If that occurs, you will also be notified.

Should you have any questions about this notification or the JobKeeper arrangements, please contact [contact name] on [number] or email [email address].

Yours sincerely,

[Sign-off]

APPENDIX C: JOBKEEPER ELIGIBLE BUSINESS PARTICIPANT NOMINATION NOTICE



Australian Government
Australian Taxation Office

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

Section A – Business Details

3. Entity name:
4. Business name:
5. ABN:

Section B – Participant Details

5. Full name:
6. Date of birth:
7. Address:

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 employee, or to the Commissioner or 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:

- (iii) agree that I meet the eligibility requirements listed above; and
- (iv) 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.

Date:

Signature (electronic/email is OK)

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

Updated to 7 May 2020

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