

JobKeeper from 28 September 2020

The first tranche of JobKeeper ends on 27 September 2020. Those needing further support will need to reassess their eligibility and prove an actual decline in turnover.

To receive JobKeeper from 28 September 2020, eligible employers need to assess their decline in turnover with reference to actual GST turnover for the September 2020 quarter (for JobKeeper payments between 28 September to 3 January 2021), and again for the December 2020 quarter (for payments between 4 January 2021 to 28 March 2021).

From 28 September 2020, the JobKeeper payment rate will reduce and split into a higher and lower rate based on the number of hours the employee worked in a specific 28-day period prior to 1 March 2020 or 1 July 2020.

To access JobKeeper payments from 28 September 2020, there are three questions that need to be assessed:

- 1. Is my business eligible?**
- 2. Am I and/or my employees eligible? and**
- 3. What JobKeeper rate applies?**

We have summarised the key details below.

General Eligibility

From 28 September 2020, the eligibility tests to access JobKeeper for employers will change, as will the amount of the JobKeeper payment for employees and business participants. To receive JobKeeper from 4 January 2021, employers will need to assess their eligibility again.

Eligibility for one JobKeeper period does not entitle you to, or exclude you from, payments in another period. Each eligibility period is addressed separately. That is, there might be businesses that qualified for the first tranche of JobKeeper, don't qualify for the second tranche but qualify for the third.

1. Eligible businesses

Eligible employers

An eligible employer is an employer that:

- On 1 March 2020, carried on a business in Australia or was a non-profit body pursuing its objectives principally in Australia; and
- before the end of the JobKeeper fortnight, it met the original decline **in turnover test***:

15% or more	50% or more	30% or more
ACNC-registered charity (excluding universities, or schools within the meaning of the GST Act – these entities need to meet the basic turnover test)	Large businesses where aggregated turnover for the test period is: <ul style="list-style-type: none">• likely to be \$1 billion or more; or• aggregated turnover for the previous year to the test period was \$1 billion or more A small business that forms part of a group that is a large business must have a $\geq 50\%$ decline in turnover to satisfy the test.	All other qualifying entities

- And, was not:
 - on 1 March 2020, subject to Major Bank Levy for any quarter ending before this date, a member of a consolidated group and another member of the group had been subject to the levy; or
 - a government body of a particular kind, or a wholly owned entity of such a body; or
 - at any time in the fortnight, a provisional liquidator or liquidator has been appointed to the business or a trustee in bankruptcy had been appointed to the individual's property.

1 March 2020 is an absolute date. An employer that had ceased trading before 1 March, commenced after 1 March 2020, or was not pursuing its objectives in Australia at that date, is not eligible.

**Additional tests apply from 28 September 2020.*

Business owners

Business owners:

- sole traders with an ABN, and
- **one** partner in a partnership, adult beneficiary of a trust, director or shareholder who works in the business (i.e., only one person in a partnership, one beneficiary of a trust, or one director / shareholder are eligible for JobKeeper payments).

will be eligible for the JobKeeper payment if the following conditions are met:

- The entity carried on a business on 1 March 2020 and is **not** a not-for-profit entity; and

- Had an ABN on 12 March 2020; and
 - Had some business income in the 2018-19 income year included in a tax return that was lodged by 12 March 2020; or made some supplies connected with Australia in a tax period that started on or after 1 July 2018 and ended before 12 March 2020 and notified the ATO of this (e.g. on an activity statement lodged with the ATO) by 12 March 2020. *The Commissioner can potentially extend the deadline for holding an ABN, lodging the 2019 tax return, or lodging a relevant activity statement.*
 - Passed the decline in turnover test; and
 - The individual **was not**:
 - employed by the business at any time in the relevant fortnight; or
 - a permanent employee of another entity at the time the individual gives the nomination notice (i.e., they do not hold a full time or part time role with another employer); or
 - a nominated JobKeeper employee of any other business; or
 - entitled to parental leave pay or dad and partner pay or workers' compensation payments for being totally incapacitated for work.
- As at 1 March 2020**, the individual satisfied all of the following:
- Aged 16 years or over; and
 - If they are aged 16 or 17 years, they are either financially independent or are not undertaking full-time study;
 - Actively engaged in the business; and
 - An Australian resident under the Social Security Act or an Australian tax resident who holds a special category visa **

If the criteria have been met, the individual is eligible if they were actively engaged in the business in the fortnight of the JobKeeper payment, and they agreed to be nominated for JobKeeper payments and confirmed they pass the eligibility criteria.

What about the directors who work in the business?

If more than one director wants to access JobKeeper payments, they need to meet the eligibility criteria of an employee (see *Eligible employees*). To be an employee a director would have received salary/wages and this has been reported as salary/wages on activity statements, payment summaries, tax returns etc. If a director merely receives a distribution from the business then they are unlikely to be an employee.

The decline in turnover test

For businesses already enrolled in JobKeeper, to receive payments from 28 September 2020, you need to meet an extended decline in turnover test based on **actual GST turnover**.

Businesses that are enrolling for the first time, need to meet the basic eligibility test and the decline in turnover test/s for the relevant period.

	30 March to 27 September 2020	28 September to 3 January 2021	4 January 2021 to 28 March 2021
Decline in turnover test	Projected GST turnover for a relevant month or quarter is expected to fall by at least 30% (15% for ACNC-registered charities, 50% for large businesses) compared to the same period in 2019.*	Actual GST turnover in the September 2020 quarter (July, August & September) fell by at least 30% (15% for ACNC-registered charities, 50% for large businesses) compared to the same period in 2019.*	Actual GST turnover in the December 2020 quarter (October, November & December) fell by at least 30% (15% for ACNC-registered charities, 50% for large businesses) compared to the same period in 2019.*

* *Alternative tests may apply*

Most businesses will generally use their Business Activity Statement (BAS) reporting to assess eligibility. However, as the BAS deadlines are generally not until the month after the end of the quarter, **eligibility for JobKeeper will need to be assessed in advance of the BAS reporting deadlines** to meet the wage condition for eligible employees.

The ATO has the power to extend the time an entity has to pay employees in order to meet the wage condition. For the JobKeeper fortnights starting 28 September 2020 and 12 October 2020 the ATO is allowing employers until 31 October 2020 to meet the wage condition for all employees included in the JobKeeper scheme.

Calculating GST turnover

Calculating GST turnover for tranches 2 and 3 of JobKeeper is different to the original JobKeeper requirements as entities will only be using current GST turnover figures (not projected GST turnover).

When applying the new turnover reduction tests for the September 2020 quarter and December 2020 quarter, entities that are registered for GST must use the same method that is used for GST reporting purposes. That is, if the entity is registered for GST on a cash basis then a cash basis needs to be used to calculate current GST turnover for the purpose of these new tests. Entities that are not registered for GST can choose whether to calculate GST turnover using a cash or accruals basis, but must use a consistent method.

Current GST turnover includes proceeds from the sale of capital assets, unless the sale is input taxed. Current GST turnover includes taxable and GST-free supplies, but should exclude input taxed supplies such as residential rental income and financial supplies like dividends, interest etc. JobKeeper and ATO cash flow boost payments should be excluded from the calculation along with other payments that don't represent consideration for a supply made by the entity such as certain State based grants.

What if you don't have a comparison period or there was a one-off event?

The Commissioner of Taxation has the power to set out alternative tests that establish eligibility in specific circumstances where it is not appropriate to compare actual turnover in a quarter in 2020 with actual turnover in a quarter in 2019. The Commissioner provided a number of alternative tests that could

be used for passing the original decline in turnover test and the ATO has indicated that similar tests are likely to be available for the additional decline in turnover tests for the September 2020 and December 2020 quarters, but these have not been released as yet.

Not for profits

A number of modifications apply to not for profit entities when it comes to calculating GST turnover under the original decline in turnover test. It appears that the same modifications will generally also apply when determining whether a not for profit entity passes the new decline in turnover tests for the September 2020 and December 2020 quarters.

Wage condition

To be eligible to receive JobKeeper payments, the employer must meet a wage condition. That is, employers must have paid the eligible employee at least the applicable JobKeeper payment for the relevant fortnight.

The ATO reimburses the employer for the JobKeeper payment monthly in arrears.

As noted above, for the JobKeeper fortnights starting 28 September 2020 and 12 October 2020 the ATO is allowing employers until 31 October 2020 to meet the wage condition for all employees included in the JobKeeper scheme.