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# **ECONOMIC RESPONSE TO CORONAVIRUS (JOBKEEPER SCHEME)**

# JOBKEEPER PAYMENT SCHEME

On the 8th April, the Coronavirus Economic Response Package (Payments and Benefits) Bill 2020 was introduced and passed both Houses of Parliament. Unfortunately, it did not contain the finer detail of how the JobKeeper Payment Scheme ('the Scheme') will operate.

## TREASURY'S SIMPLIFIED JOBKEEPER OUTLINE

- *The JobKeeper payment is intended to assist businesses affected by the coronavirus to cover the costs of wages of their employees.*
- *The JobKeeper scheme starts on 30 March 2020 and ends on 27 September 2020.*
- *A business that has suffered a substantial decline in turnover can be entitled to a JobKeeper payment of \$1,500 per fortnight for each eligible employee. It is a condition of entitlement that the business has paid salary and wages of at least that amount to the employee in the fortnight.*
- *A business can also be entitled to a JobKeeper payment of \$1,500 per fortnight for one business participant who is actively engaged in operating the business.*
- *The JobKeeper scheme is administered by the Commissioner of Taxation.*
- *The commissioner pays the JobKeeper payment to entities shortly after the end of each calendar month, for fortnights ending in that month.*

## WHAT IS THE JOBKEEPER SCHEME?

The JobKeeper scheme will help employers who qualify for the JobKeeper scheme retain staff during the downturn caused by the Coronavirus pandemic and support business recovery when conditions improve.

JobKeeper payments are payable to qualifying employers for a maximum of 13 fortnights in respect of each eligible employee on their books on 1 March 2020 who is retained by the employer.

Qualifying employers will receive a payment (fortnightly in arrears) of \$1,500 per fortnight for each eligible employee.

## WHAT ADDITIONAL FLEXIBILITIES ARE AVAILABLE TO ELIGIBLE EMPLOYERS?

Eligible employers under the JobKeeper scheme will be able to:

- stand down an employee who cannot be usefully employed as a result of COVID-19 or government initiatives to slow its transmission;

- unilaterally reduce an eligible employee's hours;
- unilaterally change an eligible employee's duties and work location if it is safe, within the employee's skill and competency, and reasonably within the scope of the business; and
- agree with an eligible employee to change their work days or take annual leave (provided the employee keeps two weeks of annual leave).

These flexibilities supplement existing rights under the Act, awards and enterprise agreements. They will only apply until 28 September 2020.

## Limits on using these flexibilities

An employer can only use these flexibilities if they:

- reasonably believe it is necessary to save the eligible employee's job; and
- give prior notice (generally three days) and consult with employees and their unions.

## WHAT ARE MY PAYMENT OBLIGATIONS UNDER JOBKEEPER?

As an Employer you have an obligation to ensure that you meet the JobKeeper payment obligations to your employees, through ensuring the payments are made fortnightly and if the employee has performed greater hours then the JobKeeper payment covers then they must be remunerated accordingly.

If you stand down an employee as part of the JobKeeper stand down provisions you cannot reduce the employees' hourly rate of pay, they were receiving prior to JobKeeper.

## WHAT IF MY EMPLOYEE IS ON PAID LEAVE DURING THE JOBKEEPER PERIOD?

A JobKeeper enabling stand down direction does not apply while an employee is taking paid or unpaid leave authorised by the employer (for example, annual leave), or is otherwise authorised to be absent (for example, on a public holiday).

## HOW DOES LEAVE ACCUMULATE DURING THE JOBKEEPER PERIOD?

An employee who is subject to a JobKeeper enabling stand down direction accrues leave entitlements as if the direction had not been given, and any entitlements to redundancy pay and payment in lieu of notice of termination are to be calculated as if the direction had not been given. Normal leave accruals apply.

## SUPPORT FOR SELF-EMPLOYED

A significant amount of employers are self-employed – they receive an income as a partner or way of trust distributions or dividends, rather than as salary or wages.

Businesses without employees will be eligible to receive one JobKeeper Payment, and businesses with employees can receive one payment in addition to the payments for their eligible employees. This means that:

- where the business operates through a **sole trader structure** – one owner can be nominated to receive the JobKeeper Payment;
- where the business operates through a **partnership** – one partner can be nominated to receive the JobKeeper Payment;

- where the business operates through a **company** – one director can be nominated to receive the JobKeeper Payment;
- where the business has **shareholders** who provide labour to the company and receive dividends in lieu of wages – one such shareholder can be nominated to receive the JobKeeper Payment; and
- where the business operates through a **trust** – one individual beneficiary (that is, not a corporate beneficiary) can be nominated to receive the JobKeeper Payment.

It will still be necessary for relevant businesses to satisfy the other necessary criteria to qualify for the JobKeeper Payment, including the requisite fall in turnover of at least 30%.

## FALSE SCHEMES AND CONSEQUENCES

Legislation makes it clear that anyone who enters into or carries out a scheme for the sole or dominant purpose of obtaining a coronavirus economic response payment will face a wide range of administrative and criminal sanctions, including up to 10 years' imprisonment.

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.

Whitson Dawson has an important role to play in helping our clients overcome the challenges created by the Coronavirus. Therefore, we must work together to ensure the Government measures are applied in accordance with their intent.

**Whitson Dawson are committed to supporting you  
with INTEGRITY during this difficult time.**

**Keep up to date by following us on Facebook for the  
latest on all government stimulus related news.**



Please Note – Many of the comments in this publication are general in nature and anyone intending to apply the information to practical circumstances should seek professional advice to independently verify their interpretation and the information's applicability to their particular circumstances.

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