



FORTUNA
ADVISORY GROUP

Top 23 Questions on
JOBKEEPER
And How Do I Apply?

FACT SHEET

Employer Enrolment and Eligibility

When do I have to lodge my JobKeeper application?

30 April, 2020.

How do I register for JobKeeper?

Log into ATO online services via myGov, or in the Business using myGovID and follow the steps.

What if I can't identify and enrol all my eligible employees by 30 April

ATO says on its "Key dates" section that "if you need more time you have until the end of May to enrol and identify your employees." This does not make complete sense at this stage, because you need to have paid your employees for whom you are claiming JobKeeper by 30 April to claim JobKeeper for them. If you need to rely on this extension to identify employees, contact us to assist you to get a satisfactory explanation from ATO as to how leaving it until after 30 April to identify all your employees will not prejudice your eligibility.

Can I backdate my election to participate?

You must have registered by 30 April to be eligible for the first two JobKeeper fortnights, that is the four-week period which ends on 26 April.

If you register after that, you are only eligible for the fortnight in which you register and each fortnight after that.

ATO has a discretion to allow late enrolments. It is not yet released any criteria indicating how it will exercise that discretion. It would not be safe for employers to try to rely on that discretion.

Can ATO allow extra time for lodging an election to participate?

Yes. The ATO has power to delay the time for lodging an election to participate. You should not assume that the ATO will grant you a delay to the date for lodging an election to participate, unless the ATO issues a document providing for a general delay.

Once I have registered, do I need to elect for each later fortnight?

No. Once you have lodged an election to participate you do not need to register again for any Fortnight that occurs after the date on which you lodged your election.

Do I have to pay my employee before claiming a JobKeeper payment for them?

Yes. Also, we recommend that you be careful about any scheme in which you pay an employee who then immediately lends that amount back to you, for you to repay the employee when the JobKeeper payment is received. Any artificial scheme designed to enable you to receive JobKeeper may result in you being required to repay the money, with interest.

Employee Eligibility

Do I need to apply for JobKeeper for all eligible employees or can I chose which ones to apply for?

ATO says it all in or all out. The ATO view may be incorrect, but it is not safe to rely on this. You should therefore pay JobKeeper to all your employees. If you will have difficulty paying JobKeeper to all your employees, please contact us for advice.

What if I need to replace an employee for whom I was claiming JobKeeper?

As the Rules are currently worded, you have no entitlement to claim JobKeeper for the new employee.

I have chosen to close because of my fears of contracting corona virus. Am I eligible for JobKeeper?

If you meet the turnover Decline Test and the other eligibility criteria, you are eligible. The reason why your turnover is down does not matter.

Claiming as self-employed or a company director

Who can claim as self-employed?

- Sole traders
- Company directors
- Company shareholders
- Beneficiaries of a trust.
- Partners in a business partnership

People in these categories are called “Business Participants”. They must satisfy other eligibility criteria, in a later FAQ.

What are the other eligibility criteria to claim as a Business Participant?

- The business must have had an ABN on or before 12 March 2020
- The business must either have:
 - had an amount included in its assessable income for the 2018-19 year and it was included in their income tax return lodged on or before 12 March 2020 (or such later time as allowed by the Commissioner); or
 - made a taxable supply during the period 1 July 2018 to 12 March 2020 and provided information about the supply to the Commissioner on or before 12 March 2020 (or such later time as allowed by the Commissioner).

Note that there may be exemptions for businesses which have not file their tax return by the above date because they were under a lodgement program under which it was not due by the above date.

- The Business Participant must have been actively engaged in the business. As at 1 March.

- The Business Participant must satisfy the other tests that apply to employees, including the citizenship/permanent residence requirement and not being on government parental support income.

I am self-employed in small business and am also employed in my Husband/Wife's company as well. Can I claim as self employed?

No. The ATO interpretation of the rules is that if you are self-employed and employed by another business, you cannot claim JobKeeper as self-employed. That would be fine if you're other employer qualified but if it does not you will not be able to claim JobKeeper tall, according to this interpretation. This interpretation may be wrong, however. Contact us for advice if this is causing you a problem.

I operate my business through a trust – how do I claim?

If you are an individual beneficiary under the trust and have been actively involved in the business as such since 1 March 2020 and the other criteria for the business and you as a Business Participant are met, then you can claim as an individual beneficiary of the trust. Only one Business Participant may claim per business.

My business is operated by a unit trust. The units are held by discretionary trusts. Can I claim as a business participant?

No. Only an individual beneficiary of a trust can claim as a Business Participant. The fact that you may be an individual beneficiary of one of the discretionary trust does not matter, unless that discretionary trust is also carrying on a business.

I have an ABN is a sole trader. I had it prior to opening my current business as a sole trader. It is not related to this business. Will this be accepted?

Yes. An ABN is not tied to a particular business, it is only tied to a particular entity. An entity is anything which can conduct a business. An "entity" includes an individual running one or more businesses as a sole trader.

I am a sole trader but do not have an ABN, am I still eligible?

Possibly not. To claim as a sole trader you must have had an ABN at 12 March. While it is possible to legitimately backdate an application for an ABN by up to 12 months, we do not know whether ATO is accepting applications backdated to before 12 March for the purposes of eligibility. Anyone in this situation who was conducting a business before 12 March and was therefore eligible for an ABN before that date should try to register, however. You should do that with our assistance, however.

I was conducting a business before 12 March but had no ABN. Can I register an ABN now and become eligible as a sole trader?

Possibly not. To claim as a sole trader you must have had an ABN at 12 March. While it is possible to legitimately backdate an application for an ABN by up to 12 months, we do not know whether ATO is accepting applications backdated to before 12 March for the purposes of eligibility. Anyone in this situation who was conducting a business before 12 March and was therefore eligible for an ABN before that date should try to register, however. You should do that with our assistance, however.

I have a joint ABN with my partner, can we both apply as business partners?

No. Only one partner per partnership can claim for themselves. The other one cannot claim as an employee, because a partnership cannot employ one of the partners.

Comparing Turnover

How do I conduct the Turnover Decline the test?

To conduct the standard Turnover Decline Test:

- Pick a Test Time. This must be any day in the first Fortnight for which you wish to claim JobKeeper. If your first Fortnight will be one which begins on or after 28 April, the Test Time must be in that Fortnight.
- Decide whether you will work out your Projected GST Turnover for a month or a quarter (Turnover Test Period). It doesn't matter whether:
 - you file your GST BAS quarterly, monthly or even annually. You can still choose to test your turnover using a month or a quarter as the basis, or
 - whether the entire Fortnight falls within the Turnover Test Period which you have selected, as long as the day for which you are conducting the Turnover Decline Test falls within both the relevant Fortnight and your chosen Turnover Test Period.
- Work out your Projected GST Turnover for your Turnover Test Period. Call this Amount A.
- Work out your Current GST Turnover for the month or quarter in 2019 which corresponds to your Turnover Test. (Turnover Comparison Period). Call this Amount B.
- If Amount A is less than Amount B by at least the Required Turnover Decline (30% for most Employers) you have passed the Turnover Decline Test.

What periods can be used as the Turnover Test Period?

The Turnover Test Period must be:

- any month from March to September 2020 (both inclusive), or
- either of the quarters commencing on 1 April 2020 or 1 July 2020,

in which the day for which you are conducting the Turnover Decline Test falls. That day must also be in the first Fortnight for which you are claiming JobKeeper falls within. (Note that although you can use the month of March 2020 you cannot use the quarter ending 31 March 2020).

Should I use a month or a quarter as my Turnover Test Period?

If you can pass the Turnover Decline Test by using a month as the Test Period, it is preferable to use a month for that purpose than to use a quarter. This is because determining your Projected GST Turnover requires you to make an estimate of your likely GST turnover for the remainder of the Turnover Test Period. This will become clearer when you read the section on Projected GST Turnover. Obviously, the shorter the period you choose, the more likely it is that your projection will be accurate.

There may, however, be cases where it is more appropriate to use a quarter than a month as your Turnover Test Period. This could be the case if your sales are not likely to decline by the required percentage in April, but are likely to decline by that percentage if you use the June 2020 quarter as the Turnover Test Period instead.

Must the Turnover Test Period be the same as my BAS filing period?

Probably not. The Explanatory Statement says: *“These periods [the period for which you calculate your Projected GST Turnover] align with the reporting periods for which GST registered businesses submit GST returns on their business activity statement and allow the Commissioner to examine changes in GST turnover that is reported.”*

The Rules do not actually require this. ATO is expected to issue rulings and other documents clarifying the operation of the Rules. It may issue a document stating that Employers are required to use the same type of period is that for which they file their GST BAS.

If an Employer is making a projected turnover prediction without ATO having issued guidance on this issue, it is preferable to use the same period as the Projected Turnover Period is the period for which it files its GST BAS, if the Employer can sensibly do that.

How do I calculate my Projected GST Turnover?

Your projected GST turnover at a time during a particular JobKeeper period is the sum of the *values of all the supplies that you have made, or are likely to make, during that JobKeeper period, other than supplies that are *input taxed. (If you have made supplies for no consideration to a related company or trust, and you are not sure whether to include them, please contact us as it may be necessary to include the market value of the supplies in some circumstances).

If I pass the turnover test, then fail it in a later period, am I disqualified?

No, you are still eligible. Once you have qualified for JobKeeper by satisfying the Turnover Decline Test for a particular Turnover Test Period, you are eligible for JobKeeper for the entire six (6) months of the JobKeeper scheme, even if your turnover improves during the remainder of that period, such that you would no longer pass the Turnover Decline Test.

I have only been open since November 2019, however, can I qualify seeing as there is no period one year earlier which I can compare my current turnover to?

There is an alternative turnover test for businesses which were not open one year ago, or which have an irregular unpredictable turnover. The alternative turnover test may not, however, assist businesses which have regular seasonal fluctuations in their turnovers. Full details of the alternative turnover tests are set out elsewhere on this website.

I only worked 3 days per week in my business in 2019 compared to 5 days a week in 2020. My turnover is thus more than it was in April 2019, but much less than it would have been because of the virus. Can I claim?

There is an alternative turnover test for businesses which have an irregular unpredictable turnover. Your business may fall in that category. Full details of the alternative turnover tests are set out elsewhere on this website.

Reporting Requirements

When, and what, must I report to ATO?

An employer must give the ATO a notice within 7 days of the end of each calendar month in which any fortnight ended for which the employer received JobKeeper payment (**Reporting Month**) of its:

- Current GST Turnover for the Reporting Month; and
- Projected GST Turnover for the following month.

How do I file Monthly Reports?

ATO will make available a form and procedure for doing this by the time employers are required to file their first reports.

When I qualified my turnover met the 30% decline test, but in a later month is only 10% down on the same period last year. Am I still eligible?

Yes. Provided you initially calculated your projected GST turnover on which you based your JobKeeper claim properly and reasonably. You need to qualify for the turnover test only once. It does not matter if your turnover then increases.

Do we still lodge our BAS?

Yes.

How do I show my losses in my next year's tax return?

JobKeeper does not make any change to the way in which you show losses in a tax return.

How do I complete the tax return this year?

You complete your tax return for the 2020 financial year in the same way as for last year, with one possible exception as far as JobKeeper is concerned. A box may be introduced into the Tax Return form to report JobKeeper as a separate component of the assessable income of the business, it is not known yet. If the Tax Return does not do that, however, then you will just include amounts of JobKeeper within the general, assessable income of your business.

What are my ongoing ATO filing requirements?

You must lodge Monthly reports with ATO. These reports will give ATO information about your entitlement to JobKeeper payments for Eligible Employees and any Business Participant for each Fortnight (including details of the Eligible Employees and any Business Participant) in the approved form. At the date of publication, ATO had not issued the approved form. Information required to be included in a Fortnightly Report will not be known until ATO issues the form.

When are Monthly Reports due?

Within seven days after the end of each month.

Administrative Matters

When will I be notified if my JobKeeper application is successful?

The Commissioner must notify you as soon as practicable after you apply.

What if the ATO unfairly rejects my application?

If the ATO not accept your application for a JobKeeper payment for each employee and Business Participant specified in your application, you have the right to have the decision reviewed.

When are JobKeeper payments payable?

The ATO must pay the JobKeeper payment for each fortnight no later than the later of:

- 14 days after the end of the calendar month in which the fortnight ends; or
- 14 days after you have lodged your monthly report.

When does the JobKeeper scheme end?

JobKeeper Payments cease being payable on and from 1 October 2020. The last day of the last JobKeeper fortnight is 27 September.

How often will payments be made?

ATO will pay JobKeeper payments monthly.

Fair Work Issues

How do I make an employee redundant?

It is beyond the scope of this FAQ to cover the issues involved in making an employee redundant in detail. The discussion of redundancy in the section is a summary only. A business should not make an employee redundant without taking legal advice specific to its own situation. Failing to follow correct procedure may result in the employee being entitled to make an unfair dismissal claim against the employer, even if the employer is a Small Business Employer.

An employee's position is redundant where the employer genuinely no longer requires the role to be performed by anyone. Where an employer previously had sufficient work to have a person engaged in a role for 37.5 hours per week but now has only enough work for a person to do the job for 20 hours per week, the initial full-time position is redundant and a new, part-time position has become available.

When making an employee redundant it is important to take legal advice. Any failure to follow correct procedure or otherwise comply with Their Work Act, the employees contract of employment and any award may mean that the employee has not been properly made redundant. If an employee is dismissed on the grounds that, according to the employer, they are redundant but there is any breach of the Fair Work Act or any of those other documents which apply, then the dismissal will not be a redundancy. In that case it is very likely that the employee could bring a successful claim for unfair dismissal against the employer.

What is the situation with employees when JobKeeper ends?

You will no longer be entitled to receive JobKeeper payments for any employee for any day on or after 28 September 2020.

Various scenarios in relation to your employees are possible when the JobKeeper scheme ends. Different scenarios may apply to different employees:

- you have enough work and income that you can return the employee to their former job with their former hours at their former salary. This is of course the best possible outcome, and is the one which JobKeeper is designed to help business to achieve.
- There is some work for the employee to do but not enough to return them to their former hours and salary. That case, you may make the employee redundant from their former full-time position and offer them a part-time position doing the same work instead. You cannot simply change their hours. Courts do not interpret that as changing the conditions of the job. What's interpret that as dismissing the employee from the former full-time role and offering them a part-time role instead. Even if they take the part-time role, they can sue the employer unfair dismissal in relation to the termination of the full-time role.
- There is insufficient work to justify retaining the employee on any basis. In that case, you may make the employee redundant, without offering them an alternative part-time position.

Do I have to pay redundancy pay if I make an employee redundant due to corona?

If the employer has less than 15 employees it will be a "Small Business Employer". A Small Business Employer is not required to pay redundancy payments, unless the employee is covered by an award which states that the employee is entitled to a redundancy payment even if the employer is a Small Business Employer.

Taxation of JobKeeper Payments

Do I withhold PAYG from a JobKeeper payment paid to an employee?

Yes. The JobKeeper payment is treated in the same way as wages when paid to the employee as wages. Where part of that amount is paid to the employer superannuation, however, PAYG is not withheld from the superannuation contribution – in just the same way as PAYG was not withheld from superannuation contributions before JobKeeper.

Do I withhold PAYG from a JobKeeper payment paid to a Business Participant?

There are two possible scenarios here:

- The Business Participant is also an employee. In that case, they cannot claim as a Business Participant and will be claiming as an employee. In that case, see the FAQ answer regarding PAYG on JobKeeper payments to employees.
- If a Business Participant is not an employee the JobKeeper payment does not need to be paid to them. It is just business income. The business can spend that money however it likes. If some of that money does find its way into a payment to the Business Participant, then it will be taxed in the same way as any other payment by the business to that person.

Is JobKeeper paid to my business assessable income of my business?

Yes, however, in practice you should not be liable to pay tax on that amount. Although the amount of JobKeeper payments received by your business will be assessable income of your business, you are also required to pay the full amount to employees as remuneration and superannuation. Provided you pay the JobKeeper amount to your Employees, you will be entitled to a tax deduction for the full amount. Therefore, the receipt of JobKeeper payment from the government will not increase your taxable income.

Where you are using part of a JobKeeper amount received for an Eligible Employee to make a contribution to their superannuation fund, you must make the contribution by the required time. Otherwise you will not be entitled to a tax deduction for that superannuation payment.

Is tax taken out of JobKeeper already or do we have to then put in as income on our tax return for 2019/2020 and pay tax on it.

JobKeeper payments are included within a business's assessable income. There are two alternative scenarios relevant to whether the business will pay tax on it:

- The JobKeeper payment is for an employee. In that case, the business will not pay tax on the amount, assuming it complied with its obligation to pay the same amount to the employee. The business will get a tax deduction for the same amount, giving it a taxable income of nil in respect of that JobKeeper payment.
- The JobKeeper payment is for an Eligible Business Participant – we will use the example of a sole trader here. The JobKeeper Payment is, as in Scenario 1, included in your business's assessable income. Of course you may spend that amount on business supplies, for which you are entitled to a tax deduction. To the extent that the JobKeeper payment is paid to the proprietor, however,

it will be taxable income of the proprietor. That is because your business does not get a tax deduction for your drawings as a sole trader. Of course it is not normal to speak of any particular payment come into your business, or part of it, being taxable income. Your taxable income is simply what is left of your gross, or assessable, income after the amount of your tax deductions are deducted from it.

Do I need to still pay PAYG on JobKeeper payments to employees?

Yes. You pay your employees their wages in the ordinary way, except that if an employee was otherwise entitled to more than \$1500 per fortnight, you can reduce their salary to \$1500 per fortnight, by following a certain procedure. You withhold PAYG from those \$1500 wages payments in the ordinary way.

The other scenario is where you are claiming JobKeeper payments for yourself as a Business Participant. These JobKeeper payments are designed to give you extra cash in your business which, you can use to pay expenses or pay yourself as drawings. These amounts are treated in the same way as any other income that comes into your business from any other source – there is no PAYG withholding from these JobKeeper payments when they are paid to your business, or when you pay yourself any drawings. You may be required to pay instalment amounts on account of income tax in relation to your drawings, as you would in the ordinary way before JobKeeper.

Does GST apply to JobKeeper payments to my business?

No. GST does not apply to JobKeeper payments from the Government when received by the business. This is because JobKeeper payments are not made to the employer as consideration for any supply made by the employer to the Government – there is no relevant supply.

Is a job Keeper payment my business pays an employee or Business Participant taxable?

Yes. It is taxable income of the person to whom it is paid.

Must I pay JobKeeper received for a Business Participant to that person?

- No. If, however, you qualify for JobKeeper on the basis that you are a Business Participant in the category of sole trader, then you personally are the business. In that case JobKeeper will be paid to you, and you can use it however you wish.
- If, however, you are a company, trust or partnership, you do not need to pay any Job Keeper payment received in relation to a Business Participant in the category of Dir, shareholder, partner or beneficiary of a trust. If, for example, your business as a partnership with two working partners, you may decide to share it between them. For the business may simply retain the payment and use it for working capital.

Are JobKeeper payments “wages” for payroll tax purposes?

The WA Government has announced that it is exempting JobKeeper payments from wages for payroll tax purposes. If you are in another State, please check with your own State Government.

Superannuation

Do I have to pay superannuation on JobKeeper payments?

There are two scenarios here:

- employees receiving *less than \$1500* per fortnight before JobKeeper (up until, and including, 29 March 2020). Assume they were receiving \$750 per fortnight plus 9.5% or \$71.25 super, for a total cost to you of \$821.25. Your Business has two separate obligations in relation to super and salary here:
 - continue to pay the employee pay the employee the \$821.25 inclusive of super; and
 - pay them an additional \$678.75 to take their total (inclusive of super) up to \$1500 per fortnight. It is not necessary to pay additional super on that \$678.75. The employer can, if it wishes, by agreement with the employee contribute some about \$678.75 to super, provided the total amount paid to the employee, inclusive of super, equals \$1500.
- employees receiving *\$1500* or more per fortnight (inc. super) before JobKeeper. Your business has two options here:
 - give them a JobKeeper Stand-down Notice reducing their salary, including super, \$1500 per fortnight and use JobKeeper to pay them that amount;
 - either pay them their previous salary (including super), or give a JobKeeper Stand-down Notice reducing it to an amount above \$1500 per fortnight (including super), use JobKeeper to pay them \$1500 of that amount and pay the rest from the business's other cash.

In either case the employee must receive their full 9.5% superannuation contribution.

What happens when my business income fluctuates on a weekly/fortnightly basis because of less or more enrolments?

As long as you initially satisfied the 30% decline in turnover test, it will not matter whether your income later increases. You will be required to file reports of your monthly turnover with ATO. This is just for information, however, it is not intended to make businesses ineligible if their turnover later increases.

I run a childcare business which does not have to charge GST to clients. But I pay GST on products and services used to provide our childcare service.

If you are making GST free supplies worth more than \$75,000 per year you are still required to register for GST. Once you are registered for GST you are entitled to claim input tax credits for the GST in the cost of the supplies you purchase for your business.

If you are making any supplies, whether or not they are GST free, worth less than \$75,000 per year you may register for GST. If this would give you an advantage because you would get more input tax credits than any GST would be liable to pay the Government, then you can and should register.

You can apply to backdate a GST registration legitimately by up to 4 years. You need an ABN to apply for GST registration, however. If you do not have an ABN you can only backdate an ABN application by up to 12 months.

As a small business operator do I have to have a MyGovID account to receive JobKeeper?

Every business requires a MyGovID to interact with the ATO generally, including for JobKeeper registration and ongoing filing. Otherwise you will have to work with a Registered tax agent.

Can I claim the \$10,000 super release if I get JobKeeper as a Business Participant?

Yes, as long as you satisfy the other eligibility criteria for super release. It is beyond the scope of this FAQ to go into those.

My turnover is down by more than 30% but it is because I have not been working in my business due to ill health. Do I still qualify?

Yes. The reason your turnover is down is not matter. The only people who do not qualify due to illness or injury are those who have suffered a workplace injury and are totally disabled and are receiving a workers' compensation payment as a result.

I have grown my business and am earning more than I was last year at this time, due to gaining more clients. I am, however, still earning much less than I would be because of the coronavirus.

You may be able to qualify under the alternative turnover test. See elsewhere on this website for details.

General

I am unsure whether I apply for JobKeeper or JobSeeker.

The JobKeeper payment is considerably more than the base JobSeeker amount. It is theoretically possible that if a person has so many dependants, they may get more from JobSeeker than JobKeeper, however we are unaware of how much additional JobSeeker one can claim for each dependant. To answer this question, a person would simply use the Services Australia online calculator to calculate what JobSeeker amount they would be entitled to if they did not get JobKeeper and then, if by some chance their JobSeeker entitlement is greater, claim JobSeeker instead. Or you need to see the financial adviser to guide you on this. Fortuna can help.

I own commercial properties and earn rental income as my only source of income and I am registered for GST. Am I eligible for JobKeeper?

Holding commercial properties is normally not a business for tax purposes. Holding commercial properties to rent them out can, however, may be a business if there are a sufficient number of properties, the amount of income earned is large enough and the owner must do a substantial amount of work to manage them (even if they also engage managing agent) and various other criteria are satisfied.