

JOBKEEPER PAYMENT EXTENSION (JOBKEEPER 2.0)

Key Dates:

- *28 September 2020*: The JobKeeper extension starts and the payment rates change for your eligible employees/business participants.
- *1st – 14th October 2020*: Complete the October JobKeeper monthly business declaration so you can be reimbursed for **September** fortnights.
- *1st - 31st October 2020*: Check and submit the business actual decline in turnover to the ATO to be eligible for JobKeeper Extension 1.
- *31 October 2020*: For the JobKeeper fortnights from 28 September 2020 and 12 October 2020 only, the ATO are allowing employers until **31 October 2020 to meet the wage condition**.
- *1st – 14th November 2020*: Complete a monthly business declaration and notify the ATO the payment tier being claimed for each eligible employee/business participant.

Extension of the JobKeeper Payment (JKP) to 28 March 2021

To qualify for the JKP 2.0 after 27 September 2020 businesses must satisfy **two** separate declines in turnover tests:

- The **original** projected GST decline in turnover test – a comparison of any of the calendar months from March 2020 to December 2020 (or any of the June 2020, September 2020 or December 2020 quarters) against the actual GST turnover of the relevant 2019 comparison period; **and**
- The **new** actual GST decline in turnover test

Please note: Whilst entities are required to satisfy both declines in turnover tests, entities that are currently in the JobKeeper scheme would have already satisfied the original projected GST decline in turnover test, and therefore would only have to pass the 2nd test.

Entities that are entering the scheme for the first time would need to satisfy the **original** projected GST decline in turnover test if they can demonstrate a fall in their actual GST turnover for a relevant quarter (i.e., either the September 2020 or the December 2020 quarter, as applicable).

Variations may occur in the calculation of the required *projected* or *actual* GST decline in turnovers (e.g., the sale of capital assets such as business premises are included in actual GST turnover, but **not** included in projected GST turnover).

The new actual GST decline in turnover test

The new actual GST decline in turnover test only applies with respect to the six-month extension of JKP and is broken up into **two separate extension periods**, as follows:

- 1) **Extension Period 1 (28/09/2020 to 03/01/2021):** The decline in turnover test will be satisfied where the entity's actual GST turnover for the September 2019 quarter compared to the September 2020 quarter has declined by either 30% (for entities who's aggregated turnover is less than \$1 billion), 50% (for entities who's aggregated turnover is more than \$1 billion) or 15% for registered charities
- 2) **Extension Period 2 (04/01/2021 to 28/03/2021)** – The decline in turnover test will be satisfied where the entity's actual GST turnover for the December 2019 quarter compared to December 2020 quarter has declined by either 30% (for entities who's aggregated turnover is less than \$1 billion), 50% (for entities who's aggregated turnover is more than \$1 billion) or 15% for registered charities

In addition to satisfying all the other qualifying conditions, the new *actual* decline in turnover test must be satisfied **separately** for Extension Period 1 and Extension Period 2.

However, an entity is **not** excluded from qualifying for the JKP in Extension Period 2 simply because it did not qualify for the JKP in Extension Period 1 (or even where it did not qualify for the *original* JKP scheme prior to 28 September 2020).

The new additional test for each period is **not** contingent on a business having qualified for any, or all, of the earlier periods.

For example:

A business that originally qualified for the JKPs prior to 28 September 2020 may **not** qualify for Extension Period 1 of JobKeeper 2.0 because it did not meet the actual decline in turnover test for the September 2020 quarter. With this being said, it may qualify for the JobKeeper Extension period 2 if it can prove it has satisfied the decline in actual GST turnover for the December 2020 quarter. Therefore, the business could re-qualify for payments under Extension period of JobKeeper 2.0.

Wage Condition

From 28th September 2020, a two-tiered payment system will apply in relation to JKP's depending on the average hours worked (please see below)

	Extension Period 1	Extension Period 2
Higher Rate	\$1200 per fortnight	\$1000 per fortnight
Lower Rate	\$750 per fortnight	\$650 per fortnight

The payment rate applicable to an employee is determined by the below over an applicable reference period:

- Actual hours employee worked
- Paid leave/absence on public holidays

Higher Rate: If an employee's total hours were **80 hours or more** for the employer over an applicable 28-day reference period, then the employer is entitled to the **higher rate** in respect of that employee.

Lower Rate: If an employee's total hours were **less than 80 hours** over the applicable 28-day reference period, the **lower rate** applies.

Please note: *It is the responsibility of the employer to determine the number of hours that count towards the threshold for an eligible employee, based on existing records that are already maintained in respect of that employee.*

Reference Period for employees/business participants

There are two standard reference periods which applies for all eligible employees/business participants, which consists of the **28- day periods** ending at the end of the recent pay cycle ending before:

- 1 March 2020 which is the original reference date (February 2020); or
- 1 July 2020 which is the additional reference date for **newly** eligible employees of qualifying employers for JobKeeper fortnights starting on or after 3 August 2020 (June 2020).

Where the relevant pay cycle for an employee is longer than the 28-day reference period (monthly pay cycle), a pro-rated calculation is used to determine the applicable hours of the longer pay cycle that are attributable to the relevant 28-day period.

Please note: Employers cannot choose which reference period to apply to their employees/business participants that could result in a higher rate applying. However, where these standard reference periods are not considered to be a suitable reference period for a class of employees, the Commissioner has the power to determine, by legislative instrument, an **alternative reference period** for the hours worked test for particular employees. Refer to *Coronavirus Economic Response Package (Payments and Benefits) Alternative Reference Period Determination 2020*.

Eligible Business Participants

To determine whether the higher or lower rate applies to an Eligible Business Participant, the ATO are looking for **the number of hours of active engagement in the entity's business**. This will require a consideration of the hours that the business participant was actively operating or undertaking specific tasks in the business.

From 28 September 2020, qualifying business participants are entitled to the **higher rate** of JKP if the following conditions are met:

- The total hours of **active engagement** by the business participant in the business of the entity for the month of February 2020 were **80 hours or more**; and
- The business participant has made a **declaration** in the approved form to the entity (or the Commissioner, if the business participant is a sole trader) that their total hours of active engagement are 80 hours or more for the applicable reference period.

The lower rate of JKP will apply in respect of an eligible business participant if they have less than 80 hours of active engagement in the business **or** they do not provide a declaration to the entity (regardless of the hours of active engagement).

The Commissioner also has the power to set an alternative reference period where the month of February 2020 is not an appropriate reference period for the business participant.

Please note: *Entities and business participants must be in a position to reasonably demonstrate the basis on which they have determined that a business participant was actively engaged in the business for the required number of hours in the month of February 2020.*

Notification Requirements

To qualify for JKP, entities are required to comply with separate notification requirements for their eligible employees and/or business participants. As most of these notification requirements must be done in the approved form, it is anticipated that the ATO will release the appropriate forms to be completed by eligible entities in due course.

Employees

From 1st October 2020, employers must provide details relating to:

- Their eligible employees
- Each employees applicable rate of JobKeeper to be claimed (higher or lower rate)

There will be no requirement to notify the Commissioner a second time for JKPs relating to Extension Period 2 as no further testing of the hours of work is required to determine the rate of payment.

Where an employer fails to notify the Commissioner of the applicable payment rate in respect of an employee for JobKeeper fortnights commencing on or after 28 September 2020, the employer is **not** eligible for JKPs until a valid notification is made. This applies regardless of whether the employer has been receiving JKPs in respect of the employee *prior* to 28 September 2020.

In addition, employers must also notify their employees in writing **within seven days** of advising the Commissioner of the payment rate applicable to the employee.

Eligible business participants

From 28 September 2020, eligible business participants must provide details relating to:

- Whether the higher or the lower rate applies

- With the exception of sole traders, entities must also notify the eligible business participant **within seven days** once such a notice is provided to the Commissioner.

This publication is for information only and is not legal advice. You should obtain advice that is specific to your circumstances and not rely on this publication as legal advice. If there are any issues you would like us to advise you on arising from this publication, please let us know.