

# JOBKEEPER EXTENSION WEBINAR QUESTIONS

All answers current to 28 September 2020

'Rules' refer to the Coronavirus Economic Response Package (Payments and Benefits) Rules 2020

## JobKeeper eligibility

- 1. Can you enrol for JobKeeper extension if you are not enrolled in JobKeeper before September 2020?**

Yes. Eligible employers, business participants and religious institutions are able to enrol for the JobKeeper Scheme during the extension period even where they have not previously enrolled, subject to meeting the eligibility criteria.

See: *Explanatory statement to Coronavirus Economic Response Package (Payments and Benefits) Amendment Rules (No. 8) 2020*

- 2. Clients not registered for GST- didn't lodge their tax return by 12th March but have lodged since. Are they eligible to apply now?**

This is a question of fact. To enrol as an eligible business participant an entity needs to, amongst other things, satisfy the integrity rule in s 11(7) of the Rules. This effectively requires the entity to lodge their 2019 tax return by 12 March 2020 or such other time as the Commissioner allows. The Commissioner has set out how he will apply this discretion in PS LA 2020/1 Commissioner's discretion to allow further time for an entity to register for an ABN or provide notice to the Commissioner of assessable income or supplies.

## Employee eligibility

- 3. Do new employees employed from 1/7/2020 who were employed in another business prior to 1/07/2020 and were able to receive Jobkeeper for August 2020 FN's qualify for JK 2.0?**

No. Employee must have been employed on or before 1 July 2020.

See ATO document JobKeeper extension (QC 63534)

<https://www.ato.gov.au/General/JobKeeper-Payment/JobKeeper-extension-announcement/>

- 4. When do casuals stop getting Jobkeeper? At the start time of Jobkeeper, they were eligible, and the one in all in meant that they all received Jobkeeper. Now they haven't been working all that time, do we still pay them Jobkeeper until they notify us that they no longer wish to be paid Jobkeeper? As casuals, I'm assuming that redundancy is not relevant?**

This is an employment law question that will depend upon a number of factors including whether the employee is subject to a registered agreement, an award or an employment contract.

See the following from the Fair Work Ombudsman website as a starting point:

<https://www.fairwork.gov.au/Employee-entitlements/Types-of-employees/casual-part-time-and-full-time/casual-employees>

**5. If you have not enrolled new EE by 31 August can you still enrol new ones?**

Yes. Notably it is a requirement of the 'one-in all-in rule' to give all relevant employees a nomination notice and the new rules required this to be done in August. ATO website guidance, however states 'If you haven't given all relevant employees an employee nomination notice within the required time, you need to do this as soon as possible.' Once the completed nomination notice is returned to the employer, the employee is an eligible employee and should be enrolled.

See ATO document *Your eligible employees* (QC 62128)

<https://www.ato.gov.au/General/JobKeeper-Payment/Employers/Your-eligible-employees/>

**6. A client (company ABC Pty Ltd) owns 2 nail salons. One lease expires in Oct, client will not renew the lease, instead he will sell the business to another company XYZ Pty Ltd, XYZ Pty Ltd will take over the lease. Does this mean the employees of that business who are currently on JK1 with ABC Pty Ltd will not be able to participate in JK2 with XYZ Pty Ltd as their employment date with the new company will be Oct?**

Section 9(6) of the Rules allows an individual to be an eligible employee of an entity even if the business in which the individual is employed changes hands. The new entity is treated as having employed the employee at the relevant earlier time. Importantly note that all other eligibility rules will apply to the new entity, such as the requirement to be carrying on a business on 1 March 2020 and the relevant decline in turnover test(s).

### **Eligible business participant (EBP) eligibility**

**7. If EBP wants to start paying themselves a wage as an employee, can they keep claiming JK as an EBP? Or are they now ineligible?**

They are now ineligible. Section s 12(1)(a) of the Rules stipulate that the individual cannot be employed by the entity at any time in the fortnight. Once employed you would no longer be an eligible business participant.

**8. If you have a taxpayer, who is involved in two partnerships...one partnership business hasn't dropped by the 30% but the second partnership has. Is the business participant eligible to receive JobKeeper for the partnership that does satisfy the drop in 30% even though the other business hasn't?**

Yes. Provided the individual:

- is not employed by the entity;
- is not an employee (other than a casual employee) of another entity; and
- has not previously given another entity a JobKeeper nomination notice.

See ATO document *Partnerships, trusts and companies* (QC 62814)

<https://www.ato.gov.au/General/JobKeeper-Payment/Partnerships,-trusts-and-companies/>

**9. A sole trader who was employed full time but made redundant in Jun 2020. If her business meets decline in turnover test, is she eligible for JK as business participant?**

No. Section 12(4)(b)(iii) of the Rules disregards any individual from being an eligible business participant if individual has previously nominated with another entity under the JobKeeper scheme. The changes for eligible employees, effective from 3 August 2020, do not apply to eligible business participants (other than allowing them in certain limited circumstances to nominate with a new employer).

See ATO document *Sole traders* (QC 62190)

<https://www.ato.gov.au/General/JobKeeper-Payment/Sole-traders/>

**10. For JK 1.0 EBP's were not able to be an employee of another entity at 1 March 2020. If an EBP has taken on some employment to get through this tough time, do they need to meet this condition as at 28 Sept 2020 again to be eligible for JobKeeper extension 2.0?**

The JobKeeper extension does not change this position. Section 12(4)(b)(ii) of the Rules disregards any individual from being an eligible business participant if individual is an employee of another entity.

See ATO document *Sole traders* (QC 62190)

<https://www.ato.gov.au/General/JobKeeper-Payment/Sole-traders/>

**11. For JobKeeper Extension 2.0, can you change the eligible business participant after 28 Sep for the entity claiming?**

No Section 11(3) of the Rules provides that an entity cannot be entitled to a JobKeeper payment for more than one individual (whether for the same fortnight or a different fortnight) in respect of eligible business participants.

See ATO document *Partnerships, trusts and companies* (QC 62814)

<https://www.ato.gov.au/General/JobKeeper-Payment/Partnerships,-trusts-and-companies/>

**12. Can an EBP for an entity from April to September become an EBP for a different entity from October under JobKeeper 2**

No. Section 12(4)(b)(iii) of the Rules disregards any individual from being an eligible business participant if individual has previously nominated with another entity under the JobKeeper scheme.

See ATO document *Partnerships, trusts and companies* (QC 62814)

<https://www.ato.gov.au/General/JobKeeper-Payment/Partnerships,-trusts-and-companies/>

**13. A business currently only claims for "eligible employee" not "business participant". Can the business move one of "eligible employees" to "business participant" for JK 2.0?**

No. Section 12(3) of the Rules requires the eligible business participant to be actively engaged in the business carried on by the entity as at 1 March 2020.

See ATO document *Partnerships, trusts and companies* (QC 62814)

<https://www.ato.gov.au/General/JobKeeper-Payment/Partnerships,-trusts-and-companies/>

**14. In regards to the eligible business participant, has the date of the permanent resident definition changed from 1/3/2020 to 1/7/2020 (in line with the eligible employee definition?)**

No. Section 12(3)(c) of the Rules (which contains the relevant residency requirements) has not been amended. Only the rules for eligible employees have changed.

## Decline in turnover test

### 15. If you have not enrolled in Jobkeeper 1.0, do you need to be 30% down in turnover any month in March -Sept to claim job keeper extension.

No. Whilst the original decline in turnover test still applies in addition to the new actual decline in turnover test, an entity that can demonstrate a fall in actual GST turnover under the new test will also satisfy the original decline in turnover test.

See: *Explanatory statement to Coronavirus Economic Response Package (Payments and Benefits) Amendment Rules (No. 8) 2020*

### 16. We have a management business (Company A) with 10 staff managing a business in VIC (Company B) and 5 staff managing two other businesses in NSW (Company C) and QLD (Company D). The Sep 20 quarter sales of the VIC business is estimated to drop by over 30% but not in the NSW and QLD businesses. Can we still claim the job keeper extension for all the 15 staff in this management business, or just 10 who are in VIC or cannot claim at all? The combined turnover of the VIC, NSW and QLD business will not decrease by over 30%. The management business pays the salary of the admin staff of the businesses in the 3 states.

The decline in turnover test applies on an entity by entity basis, and not to a business unit. There is also a modified basic test for group employer labour entities.

See ATO document: *Actual decline in turnover test* (QC 63698)

<https://www.ato.gov.au/General/JobKeeper-Payment/In-detail/Actual-decline-in-turnover-test/>

### 17. What if the sole trader is not registered for GST?

Where an entity is not registered for GST, the ATO provides that, in calculating an entity's current GST turnover, the entity can choose to account on either a cash or a non-cash basis.

See: *Coronavirus Economic Response Package (Payments and Benefits) (Timing of Supplies Made and Decline in Turnover Test) Rules 2020 (No. 1)*

### 18. What is a client lodges an annual GST return and not quarterly?

The entity will still need to calculate its current GST turnover for the relevant quarter. As it is registered for GST it will do this using its usual GST attribution method (i.e. cash or accrual).

See ATO document: *Actual decline in turnover test* (QC 63698)

<https://www.ato.gov.au/General/JobKeeper-Payment/In-detail/Actual-decline-in-turnover-test/>

### 19. We're a part of GST consolidated group so our entity has never lodged individual BAS to ATO. How can we demonstrate DIT in Sep19 & 20 QTR?

An entity that is a member of a GST group is required to calculate its current GST turnover as if it were not part of the GST group.

See ATO document: *Actual decline in turnover test* (QC 63698)

<https://www.ato.gov.au/General/JobKeeper-Payment/In-detail/Actual-decline-in-turnover-test/>

**20. A part of GST consolidated group who never lodged BAS individually. How can individual entity who is a part of GST consolidated group demonstrate DIT result to ATO? by Monthly Declaration?**

An entity that is a member of a GST group is required to calculate its current GST turnover as if it were not part of the GST group. The ATO will advise how to report that an entity satisfies the new decline in turnover test.

See ATO document: *Actual decline in turnover test* (QC 63698)

<https://www.ato.gov.au/General/JobKeeper-Payment/In-detail/Actual-decline-in-turnover-test/>

## **GST attribution**

**21. What happens if the accounting period does not give you a proper indication of the drop of turnover?**

The ATO has issued alternative decline in turnover tests which can be used where there is not an appropriate relevant comparison period.

See ATO document: *Actual decline in turnover test* (QC 63698)

<https://www.ato.gov.au/General/JobKeeper-Payment/In-detail/Actual-decline-in-turnover-test/>

**22. For those who report BAS on CASH basis, the decline in income during July to September will be obvious later than SEPTEMBER, when the CASH doesn't arrive. Will there be an alternative test for CASH Basis reporting or possibility of enrolling later?**

The ATO is only able to make alternative tests where the 2019 relevant comparison period is not appropriate. An entity can however enrol in JobKeeper extension 2 (which uses the December 2020 quarter as the relevant test period for the actual decline in turnover test) without having been enrolled in JobKeeper extension 1.

See ATO document: *JobKeeper extension* (QC 63534)

<https://www.ato.gov.au/General/JobKeeper-Payment/JobKeeper-extension-announcement/>

**23. If we reported G1 2019 BAS on cash basis, can we use accrual G1 2020 to determine turnover 30% drop?**

No. An entity must use the same basis that it originally used.

See ATO document: *Actual decline in turnover test* (QC 63698)

<https://www.ato.gov.au/General/JobKeeper-Payment/In-detail/Actual-decline-in-turnover-test/>

**24. If Accrual basis used in JobKeeper 1 - can Cash basis be used in JobKeeper 2.0?**

For the new actual decline in turnover test an entity must use the same accounting basis that they use to report GST.

See ATO document: *Actual decline in turnover test* (QC 63698)

<https://www.ato.gov.au/General/JobKeeper-Payment/In-detail/Actual-decline-in-turnover-test/>

**25. What happens if you did a GST adjustment in the September 2019 quarter to account for prior periods?**

GST adjustments do not change the time when a supply is taken to be made when working out current GST turnover.

See ATO document: *Actual decline in turnover test* (QC 63698)

<https://www.ato.gov.au/General/JobKeeper-Payment/In-detail/Actual-decline-in-turnover-test/>

**26. What if GST reporting is accrual in Sep 20 QTR and GST reporting is cash in Sep19 QTR? Which method should be used to do the comparison?**

For the new actual decline in turnover test, an entity must use the same accounting basis that they use to report GST. Where the accounting basis has changed, it must use the same basis that it originally used.

See ATO document: *Actual decline in turnover test* (QC 63698)

<https://www.ato.gov.au/General/JobKeeper-Payment/In-detail/Actual-decline-in-turnover-test/>

**What is included in current GST turnover?**

**27. Nothing has changed from JK 1 to JK extension as to what you include in G1 – correct?**

Correct. There have been no changes to the attribution rules.

**28. Are VIC or Federal Government Grants to be included in G1?**

No. Government payments made to you that are not consideration for a supply are not included in calculating GST turnover.

See: *LCR 2020/1 JobKeeper payment - decline in turnover test*

**29. Can elect to exclude Government income?**

Government payments made that are not consideration for a supply are not included in calculating GST turnover.

See: *LCR 2020/1 JobKeeper payment - decline in turnover test*

**30. What happens to govt funding, is this excluded from the decline in turnover test?**

Government payments made that are not consideration for a supply are not included in calculating GST turnover.

See: *LCR 2020/1 JobKeeper payment - decline in turnover test*

### 31. What about private grants?

A payment of grant to an entity where the entity has no binding obligations to do anything, or does not provide goods and services in return for the monies, will not be consideration for a supply and excluded from turnover.

See: *LCR 2020/1 JobKeeper payment - decline in turnover test and GSTR 2012/2 Goods and services tax: financial assistance payments*

### 32. Are fuel tax credits included at G1?

No.

See ATO document: *Fuel schemes* (QC 16857)

<https://www.ato.gov.au/Business/Fuel-schemes/>

### 33. Do we have to include internal sales in the calculation of DIT?

No. Turnover only includes the value of supplies made by an entity. It is also generally accepted that an entity cannot make a supply to itself.

See: *GSTR 2006/9 Goods and services tax: supplies*

See also: ATO document: *Actual decline in turnover test* (QC 63698)

<https://www.ato.gov.au/General/JobKeeper-Payment/In-detail/Actual-decline-in-turnover-test/>

### 34. The company is the business of renting properties, will the rent received from the residential rent need to be included in the turnover?

No. Residential rent is input taxed and input taxed supplies are excluded from the turnover calculation.

See: ATO document: *Actual decline in turnover test* (QC 63698)

<https://www.ato.gov.au/General/JobKeeper-Payment/In-detail/Actual-decline-in-turnover-test/>

### 35. Sale refunds can be taken away from turnover right?

GST adjustments do not change the time when a supply is taken to be made when working out current GST turnover. The ATO notes that when working out current GST turnover, if a supply is treated as being made:

- before the test period, then any change in value for that supply that arises during the test period is not included;
- during the test period, and the change in value occurs during the test period, then the change in value is included; and
- during the test period, and the change in value occurs after the end of the test period, the change in value is not included.

See ATO document: *Actual decline in turnover test* (QC 63698)

<https://www.ato.gov.au/General/JobKeeper-Payment/In-detail/Actual-decline-in-turnover-test/>

### **36. If you are using GST exclusive figures, surely you need to take G1 - Input taxed supplies?**

Input taxed supplies are excluded from the turnover calculation.

While the BAS may be used, in some instances, to determine turnover, where total sales (at G1) do not represent current GST turnover, for example where the entity makes input taxed supplies, the BAS cannot be used.

See: ATO document: *Actual decline in turnover test* (QC 63698)

<https://www.ato.gov.au/General/JobKeeper-Payment/In-detail/Actual-decline-in-turnover-test/>

### **37. Do we have to include sale of assets in the GST turnover test?**

Yes. The new actual decline in turnover test uses current GST turnover. Capital assets are included in current turnover.

See: *LCR 2020/1 JobKeeper payment - decline in turnover test*

### **38. Can you confirm jobkeeper isn't reported in the BAS?**

JobKeeper is not reported on the BAS. The JobKeeper payment is not consideration for a supply.

See: *LCR 2020/1 JobKeeper payment - decline in turnover test*

### **39. Actual GST turnover = G1 - 1A, on BAS, is it correct?**

The ATO notes: 'To work out which supplies you have made in the turnover test period, you must use the accounting basis you used for GST reporting purposes. ... For many businesses registered for GST, this calculation will match the 'total sales' reported at G1 on your BAS minus GST payable (1A), where applicable.'

See ATO document: *JobKeeper extension* (QC 63534)

<https://www.ato.gov.au/General/JobKeeper-Payment/JobKeeper-extension-announcement/>

## **Alternative decline in turnover test**

### **40. When will the ATO be issuing guidance around the alternative decline in turnover tests? Will these still apply?**

These were released on 23 September 2020.

See: ATO document: *Actual decline in turnover test* (QC 63698)

<https://www.ato.gov.au/General/JobKeeper-Payment/In-detail/Actual-decline-in-turnover-test/>

### **41. Can you confirm that the alternative test is not applicable?**

The alternative decline in turnover tests were released by the ATO on 23 September 2020.

See: ATO document: *Actual decline in turnover test* (QC 63698)

<https://www.ato.gov.au/General/JobKeeper-Payment/In-detail/Actual-decline-in-turnover-test/>



**42. If Sep19 QTR is not appropriate to compared with Sep20 QTR, can we use other QTR?**

The entity may be able use one of the ATO's alternative decline in turnover tests.

See: ATO document: *Actual decline in turnover test* (QC 63698)

<https://www.ato.gov.au/General/JobKeeper-Payment/In-detail/Actual-decline-in-turnover-test/>

**43. What if your business is currently eligible but didn't start trading until Nov 19?**

The entity may be able use one of the ATO's alternative decline in turnover tests.

See: ATO document: *Actual decline in turnover test* (QC 63698)

<https://www.ato.gov.au/General/JobKeeper-Payment/In-detail/Actual-decline-in-turnover-test/>

**44. What if a business (Restaurant) was bought as an on-going business (same staff etc) on Dec 2019, can the BAS from the previous year's Sept qtr 2019 for the Restaurant be used as proxy?**

The new entity will need to determine if it has satisfied the relevant decline in turnover using its own turnover figures. The entity may, however, be able use one of the ATO's alternative decline in turnover tests if it cannot satisfy the actual decline in turnover test.

See: ATO document: *Actual decline in turnover test* (QC 63698)

<https://www.ato.gov.au/General/JobKeeper-Payment/In-detail/Actual-decline-in-turnover-test/>

**45. Last year the business was closed for 3 weeks in september quarter for renovation. How do we go with the turnover comparison please?**

The entity may be able use one of the ATO's alternative decline in turnover tests.

See: ATO document: *Actual decline in turnover test* (QC 63698)

<https://www.ato.gov.au/General/JobKeeper-Payment/In-detail/Actual-decline-in-turnover-test/>

**46. One of our business started trading in Feb 2020. We apply the job keeper based on the significant decrease in sales in Apr 20 as compared to the sales in Feb 20 - the alternative test. With the job keeper extension, must we compare the Sep 20 quarter sales to the same quarter last year or can we still compare to the Feb 20 sales?**

The entity will need to determine if it satisfies the new actual decline in turnover test. If not the entity may however be able use one of the ATO's alternative decline in turnover tests.

See: ATO document: *Actual decline in turnover test* (QC 63698)

<https://www.ato.gov.au/General/JobKeeper-Payment/In-detail/Actual-decline-in-turnover-test/>

**47. Can you discuss if can use alternative tests for drop in 30% turnover for JK2 if in Sept 2019 QTR Sole traders were on LSL or maternity leave and therefore had NIL GST turnover in Sept 2019 BAS?**

The entity may be able use one of the ATO's alternative decline in turnover tests.

See: ATO document: *Actual decline in turnover test* (QC 63698)

<https://www.ato.gov.au/General/JobKeeper-Payment/In-detail/Actual-decline-in-turnover-test/>

**48. What about new business - currently on JobKeeper and on it started trading at the start of this year – i.e. Feb 20**

The entity may be able use one of the ATO's alternative decline in turnover tests.

See: ATO document: *Actual decline in turnover test* (QC 63698)

<https://www.ato.gov.au/General/JobKeeper-Payment/In-detail/Actual-decline-in-turnover-test/>

## Higher rate test

**49. Is the 80 hours per "28 days" means 28 business days?**

The 28-day reference period refers to 28 days, not 28 business days.

See ATO document: *Payment rates* (QC 63697)

<https://www.ato.gov.au/General/JobKeeper-Payment/Payment-rates/>

**50. Could you please provide an example for 80 hours per 28 days calculation method?**

See example 1 and example 2 in the following publication:

ATO document: *80-hour threshold for employees* (QC 63696)

<https://www.ato.gov.au/General/JobKeeper-Payment/Payment-rates/80-hour-threshold-for-employees/>

## Eligible employees

**51. Client had two staff on JobKeeper, both were working less than 20 hours all year, but since end Aug one person resigned, so other is now working more than 20 hours per week. Could they still qualify for the higher payment amount?**

The reference period for the higher payment rate is the:

- 28-days which finish on the last day of the last pay cycle that ended before 1 March 2020, or
- 28-days which finish on the last day of the last pay cycle that ended before 1 July 2020.

There are alternative test available where these reference periods are not suitable.

See: ATO document: *80-hour threshold for employees* (QC 63696)

<https://www.ato.gov.au/General/JobKeeper-Payment/Payment-rates/80-hour-threshold-for-employees/>

**52. Question on Eligible Employees - Holders of Subclass 444 (Special Category) as at 1 July 2020 are eligible. (1) Does this eligibility cover the further extension from 4 Jan 2021 to 28 Mar 2021? (2) If the visa holder leave Australia the Subclass 444 Visa ends. Does this affect their eligibility if they leave Australia after 1 Jul 2020?**

The changes that were made to eligible employees continue through both JobKeeper extensions. While the residency test must be met only on 1 July 2020, the individual must be employed by the entity during the relevant fortnight to be eligible employee.

See ATO document: *Your eligible employees* (QC 62128)

<https://www.ato.gov.au/General/JobKeeper-Payment/Employers/Your-eligible-employees/>

**53. So, if the employee worked and was paid exactly 20hrs per week then they are entitled to the higher rate?**

Yes. The higher rate is available when the hours worked in the reference period total 80 hours or more.

See: ATO document: 80-hour threshold for employees (QC 63696)

<https://www.ato.gov.au/General/JobKeeper-Payment/Payment-rates/80-hour-threshold-for-employees/>

**54. What if since 1st September the hours have gone from under 20 hours to over 20 hours a week due to one employee leaving and the other taking over their hours?**

The higher rate is available when the hours worked in the reference period total 80 hours or more. The number of hours worked outside the relevant period is not a consideration for the basic test. There are alternative test available where these reference periods are not suitable.

ATO document: 80-hour threshold for employees (QC 63696)

<https://www.ato.gov.au/General/JobKeeper-Payment/Payment-rates/80-hour-threshold-for-employees/>

**55. So, if casual employees haven't worked since early Feb does that mean you need to look at a month when they did work which could be Jan 2020 or last year or do they just go on tier 2 the lower payment?**

There are alternative test available. One alternative test is where the total number of hours in the reference period is not representative of a typical 28-day period.

See: ATO document: 80-hour threshold for employees (QC 63696)

<https://www.ato.gov.au/General/JobKeeper-Payment/Payment-rates/80-hour-threshold-for-employees/>

## **Eligible business participants**

**56. For EBP working hours, should we only look at Feb this Year?**

Yes, unless an alternative reference period applies.

See: ATO document: *Partnerships, trusts and companies* (QC 62814)

<https://www.ato.gov.au/General/JobKeeper-Payment/Partnerships,-trusts-and-companies/>

**57. EBP reference period February - If EBP was on leave for 2 weeks in February, need to take the earlier calendar month which is January and business are normally closed for a few weeks during the Xmas and New Year period, how do you get a 29 days within a calendar month before 1 March 2020?**

The alternative reference period is the most recent 29-day period (wholly within a calendar month):

- ending before 1 March 2020;
- in which the eligible business participant's total hours of active engagement in the business was representative of a typical 29-day period.

The test allows the business to look back to the first available appropriate period. This can be in 2019.

See: ATO document: *Partnerships, trusts and companies* (QC 62814)

<https://www.ato.gov.au/General/JobKeeper-Payment/Partnerships,-trusts-and-companies/>

**58. What about sole trader hours especially since business has declined?**

If the standard reference period is not appropriate consider whether an alternative reference period applies.

See ATO document *Sole traders* (QC 62190)

<https://www.ato.gov.au/General/JobKeeper-Payment/Sole-traders/>

**59. How does a tradie calculate his sole trader hours where he has not actually received any contracts but spends time quoting and administration of at least 20 hours?**

As a sole trader you will be actively engaged in your business if you regularly:

- perform, or manage the performance, of services the business provides;
- sell or manage the sale of goods of the business;
- perform other activities associated with managing the business;
- exercise control over activities related to business strategy and growth.

See ATO document *Sole traders* (QC 62190)

<https://www.ato.gov.au/General/JobKeeper-Payment/Sole-traders/>

**60. What about as a business participant your invoicing is on the low side, but you are working in the business in terms of focussing on growing it and building your processes. Will timesheets give that support?**

The ATO states the following records can support the determination of the hours of active engagement:

- business diaries;
- appointment books;
- log books;
- hours billed;
- invoices issued;
- time sheets or attendance records;
- records prepared for other business or statutory purposes.

See ATO document *Sole traders* (QC 62190)

<https://www.ato.gov.au/General/JobKeeper-Payment/Sole-traders/>

**61. Where a possible EBP has previously claimed JobKeeper as an employee but was working less than 20 hours per week can they now elect to be an EBP?**

No. Section 12(3) of the Rules requires the eligible business participant to be actively engaged in the business carried on by the entity as at 1 March 2020.

See ATO document *Partnerships, trusts and companies* (QC 62814)

<https://www.ato.gov.au/General/JobKeeper-Payment/Partnerships,-trusts-and-companies/>

**62. Does that mean that someone whose gross salary is more than \$1500 per fortnight can automatically get the new higher JKP rate?**

No. The higher payment rate determination only applies to eligible employees.

See: Coronavirus Economic Response Package (Payments and Benefits) Higher Rate Determination 2020

**63. Do we need to get another EBP notice for the extension?**

No. Unless you are enrolling in the JobKeeper payment for the first time during the extension.

See ATO document: *JobKeeper extension* (QC 63534)

<https://www.ato.gov.au/General/JobKeeper-Payment/JobKeeper-extension-announcement/>

**64. For eligible business participants, in particular a sole trader, can the 29-day period month be the month of September 2020**

The reference period for determining the higher payment rate is February 2020, unless an alternative reference period applies. That determination will set out what the alternative reference period will be.

See: ATO document: *Partnerships, trusts and companies* (QC 62814)

<https://www.ato.gov.au/General/JobKeeper-Payment/Partnerships,-trusts-and-companies/>

**65. In reference to the 80 hour test in Feb 2020, if the director is working full time but only paying themselves a part time wage to keep cash flow in business, so actual hours worked is more than 80 hours but paid hours work is less than 80 hours, do they pass this test?**

The higher payment rate applies to eligible business participants by reference to the number of hours they were actively engaged in the business in February 2020.

Eligible employees satisfy the 80-hour threshold if, in their 28-day reference period, the total of the following is 80 hours or more:

- actual hours they worked;
- hours they were on paid leave;
- hours they were paid for absence on a public holiday.

Both of these tests look at the hours engaged/worked rather than amount of remuneration received.

See: ATO document: *Partnerships, trusts and companies* (QC 62814)  
<https://www.ato.gov.au/General/JobKeeper-Payment/Partnerships,-trusts-and-companies/>

See: ATO document: 80-hour threshold for employees (QC 63696)  
<https://www.ato.gov.au/General/JobKeeper-Payment/Payment-rates/80-hour-threshold-for-employees/>

## Wage condition

### 66. What about employees paid monthly?

Where the pay cycle for the employee is longer than 28 days (for example monthly), the entity will need to perform a pro-rata calculation. The ATO has useful guidance.

See: ATO document: 80-hour threshold for employees (QC 63696)  
<https://www.ato.gov.au/General/JobKeeper-Payment/Payment-rates/80-hour-threshold-for-employees/>

### 67. Do we still top up the employees who don't earn as much as the JobKeeper limit?

Yes. The wage condition requirements have not changed.

See: ATO document: 80-hour threshold for employees (QC 63696)  
<https://www.ato.gov.au/General/JobKeeper-Payment/Payment-rates/80-hour-threshold-for-employees/>

### 68. The question of the fortnight raised earlier is when the second week ends after 28 Sep. Does it mean the employee is to be paid at the lower rate for both weeks?

The JobKeeper fortnights are set out in the below ATO document. The wage condition requires that the employer pay each eligible employee at least the JobKeeper amount per JobKeeper fortnight. For fortnights that begin on or after the 28 September 2020 the JobKeeper amount is the new, lower, tiered rate.

For the JobKeeper fortnights starting 28 September 2020 and 12 October 2020 only, the ATO is allowing employers until 31 October 2020 to meet the wage condition.

See ATO document: *JobKeeper key dates* (QC 62432)  
<https://www.ato.gov.au/General/JobKeeper-Payment/JobKeeper-key-dates/>

### 69. If your pay cycle end 20-09-2020 and ATO fortnight ends 27-09-2020. What is the JKP for the fortnight for week 21-09-2020 to 27-09-2020 and week 28-09-2020 to 04-10-2020? Do we pay employee 50% of the old rate & 50% on new rate?

The wage condition requires that the employer pay each eligible employee at least the JobKeeper amount per JobKeeper fortnight. Generally, pay cycles that do not align to JobKeeper fortnights are allocated to JobKeeper fortnights on a reasonable basis. Provided amounts meet the wage condition for fortnight 13 the amount of the JKP will be \$1500 From 28 September the new rates will apply.

See ATO document: *Payment rates* (QC 63697)  
<https://www.ato.gov.au/General/JobKeeper-Payment/Payment-rates/>

**70. Speaking with the ATO last week, payment of any wages on or after 28 Sept will only attract the lower JobKeeper subsidy. Therefore, JobKeeper payments to staff of \$1500 for F/N 13 paid in the week commencing 28th, will only attract lower \$1,200 or \$750 subsidy. Is this correct?**

The wage condition requires that the employer pay each eligible employee at least the JobKeeper amount per JobKeeper fortnight. Generally, pay cycles that do not align to JobKeeper fortnights are allocated to JobKeeper fortnights on a reasonable basis. Provided amounts meet the wage condition for fortnight 13 (ending 27 September) the amount of the JKP will be \$1500. For fortnights commencing 28 September 2020 the new rates will apply.

See ATO document: Paying your eligible employees (QC 62135)

<https://www.ato.gov.au/General/JobKeeper-Payment/Payment-rates/Paying-your-eligible-employees/>

## Not-for-profits

**71. ACNC entity : there is an ACNC entity received a grant from NSW government toward their construction building work. Does this grant a GST turnover?**

Government payments made to you that are not consideration for a supply are not included in calculating your GST turnover. It is a question of fact whether the grant is consideration for a supply.

See: *LCR 2020/1 JobKeeper payment - decline in turnover test and GSTR 2012/2 Goods and services tax: financial assistance payments*

**72. For NFP's it won't just be the G1, correct? As they have to include donations in "GST turnover" as well?**

The Rules include in the turnover calculation certain gifts and donations made to DGR and ACNC-registered charities.

See ATO document: *Actual decline in turnover test* (QC 63698)

<https://www.ato.gov.au/General/JobKeeper-Payment/In-detail/Actual-decline-in-turnover-test/>

**73. Charities can choose to exclude government grants from the test for JK 1.0 but will this continue for JK 2.0?**

The Explanatory statement to the amending rules state:

*The changes do not affect any entitlements payable under the JobKeeper rules prior to the amendments for JobKeeper fortnights ending on or before 27 September 2020. Similarly, the changes do not provide the opportunity for entities to now change any elections they have previously made under the JobKeeper scheme so as to apply a different election for JobKeeper fortnights ending on or after 28 September 2020.*

*These include any election by ACNC-registered charities to disregard certain supplies made to the Government.*

*Coronavirus Economic Response Package (Payments and Benefits) Amendment Rules (No. 8) 2020*

#### **74. What if you are a charity and you have lumpy donations and there is a quarter mismatch by just a couple of days?**

If the reference period is not appropriate, an alternative decline in turnover test may apply.

See ATO document: Actual decline in turnover test (QC 63698)

<https://www.ato.gov.au/General/JobKeeper-Payment/In-detail/Actual-decline-in-turnover-test/>

#### **75. How will the decline in turnover test work for ACNC registered charities?**

The decline in turnover test is modified for ACNC registered charities by including in turnover certain donations of gifts and property. An election can also be made, in specific circumstances, to exclude some government grants.

See ATO document: Actual decline in turnover test (QC 63698)

<https://www.ato.gov.au/General/JobKeeper-Payment/In-detail/Actual-decline-in-turnover-test/>

### **ATO processes**

#### **76. How to notify ATO of Tier 1 and Tier 2 staff?**

The ATO states that if the entity is already enrolled in JobKeeper, the notification of the relevant tier for each eligible employee or eligible business participant will be made in the monthly declaration. If enrolling in JobKeeper for the first time for the extension, the notification will be part of process for identifying eligible employees and nominating the eligible business participant.

See ATO document: *JobKeeper key dates* (QC 62432)

<https://www.ato.gov.au/General/JobKeeper-Payment/JobKeeper-key-dates/>

See ATO document: *JobKeeper guide - employers reporting through STP* (QC 62205)

<https://www.ato.gov.au/general/jobkeeper-payment/In-detail/JobKeeper-guide---employers-reporting-through-STP/>

#### **77. For first time applicant (did not apply for the initial JK prior to 28 Sep), when is the deadline to enrol for extended period 1?**

Entities will need to enrol by the end of each October to claim reimbursements for JobKeeper fortnights in that month. Employers will also have until 31 October 2020 to meet the wage condition.

See ATO document: *JobKeeper key dates* (QC 62432)

<https://www.ato.gov.au/General/JobKeeper-Payment/JobKeeper-key-dates/>

#### **78. Do we need to do the monthly declaration as in the past?**

Yes. There have not been any changes made to the monthly reporting requirements.

See ATO document: *JobKeeper key dates* (QC 62432)

<https://www.ato.gov.au/General/JobKeeper-Payment/JobKeeper-key-dates/>



**79. Is the dateline for monthly declarations still 14th of next month?**

Yes. There have not been any changes made to the monthly reporting requirements.

See ATO document: *JobKeeper key dates* (QC 62432)  
<https://www.ato.gov.au/General/JobKeeper-Payment/JobKeeper-key-dates/>

**80. If we don't have to re-enrol then where do we enter this Sept QTR Bas 2020 especially when the Bas's are not due by 25 Nov 2020**

The ATO, in their JobKeeper Key dates (QC 62432) document, states:

*Key dates and actions for employers:*

- *Between 1 and 31 October 2020 – check and submit the business actual decline in turnover to us online to be eligible for JobKeeper extension 1.*

We are awaiting further details from the ATO.

**81. Do you still lodge the September BAS by 25 November? Does it mean you will not get the JKP until the September BAS is lodged?**

There is no legislative requirement to lodge your BAS prior to receiving the JobKeeper payment. The ATO does however state:

*If you are registered for GST and have outstanding BAS statements, you should lodge your BAS for the September 2019 and December 2019 quarters as soon as possible (or for equivalent months, if you report monthly). Un-lodged BAS statements may hold up your application for JobKeeper Payments under the JobKeeper extension.*

See ATO document: *JobKeeper extension* (QC 63534)  
<https://www.ato.gov.au/General/JobKeeper-Payment/JobKeeper-extension-announcement/>

**82. Does the September 2020 BAS need to be lodged first?**

There is no legislative requirement to lodge your BAS prior to receiving the JobKeeper payment. The ATO does however state:

*If you are registered for GST and have outstanding BAS statements, you should lodge your BAS for the September 2019 and December 2019 quarters as soon as possible (or for equivalent months, if you report monthly). Un-lodged BAS statements may hold up your application for JobKeeper Payments under the JobKeeper extension.*

See ATO document: *JobKeeper extension* (QC 63534)  
<https://www.ato.gov.au/General/JobKeeper-Payment/JobKeeper-extension-announcement/>

**83. Will ATO only look at G1 2019? Then ATO compares G1 2019 BAS with G1 2020 BAS.**

When determining whether the relevant decline in turnover test has been satisfied, the amount reported at G1 may represent the entity's current GST turnover. This will depend on the entity's specific circumstances.

See ATO document: Actual decline in turnover test (QC 63698)

<https://www.ato.gov.au/General/JobKeeper-Payment/JobKeeper-extension-announcement/>

**84. What does the ATO form for the extension look like? and please confirm we need to include the Sept QTR 2020 in the declaration.**

Awaiting ATO advice

**85. If BAS consolidated GST it has been lodged, how individual entity lodge their BAS G1 to ATO?**

An entity that is a member of a GST group is required to calculate its current GST turnover as if it were not a part of the GST group.

See ATO document: *Actual decline in turnover test* (QC 63698)

<https://www.ato.gov.au/General/JobKeeper-Payment/In-detail/Actual-decline-in-turnover-test/>

### **Eligible business participant – sole trader notice**

**86. How to submit work hours Notices to ATO for Business Participants? By ATO Portal? Any template there?**

Sole traders will need to provide this notice to the ATO as part of their monthly declaration.

See ATO document: *Payment rates* (QC 63697)

<https://www.ato.gov.au/General/JobKeeper-Payment/Payment-rates/>

**87. Is the notice required again if provided earlier? What is the process to give the notice to the commissioner?**

The rules make it clear that this notification is required once only. It will be done as part of the monthly declaration if the entity is already in the JobKeeper scheme. If the entity is enrolling for the first time it will be done as part of the process for nominating the eligible business participant.

See ATO document: *JobKeeper key dates* (QC 62432)

<https://www.ato.gov.au/General/JobKeeper-Payment/JobKeeper-key-dates/>

See ATO document: *JobKeeper guide - sole traders* (QC 62204)

<https://www.ato.gov.au/general/jobkeeper-payment/In-detail/JobKeeper-guide---sole-traders/>

**88. For a sole trader, will the notice to be provided to the Commissioner be entered on the ATO portal?**

Need further ATO guidance.

## Enrolment, re-enrolment and deregistration

### 89. If you have been eligible and are no longer eligible. Is there a formal process to deregister?

Whilst there is no legislative requirement to make any notifications, if an entity is no longer eligible for JobKeeper the ATO states:

*You should notify your eligible employees, eligible business participant and/or eligible religious practitioner if you are unable to claim JobKeeper payments for them. You should also advise them that you are no longer obligated to pay them an amount that is at least equal to the JobKeeper payment in those fortnights.*

ATO document Decline in turnover tests (QC 63695)

<https://www.ato.gov.au/General/JobKeeper-Payment/Decline-in-turnover-tests/>

### 90. We have two companies, one which will still qualify for JK whilst the other wont. How do we opt out of JK payments for the company which no longer qualifies?

Whilst there is no legislative requirement to make any notifications, if an entity is no longer eligible for JobKeeper the ATO states:

*You should notify your eligible employees, eligible business participant and/or eligible religious practitioner if you are unable to claim JobKeeper payments for them. You should also advise them that you are no longer obligated to pay them an amount that is at least equal to the JobKeeper payment in those fortnights.*

ATO document Decline in turnover tests (QC 63695)

<https://www.ato.gov.au/General/JobKeeper-Payment/Decline-in-turnover-tests/>

### 91. If we are not eligible for December Quarter but eligible for March Quarter, do we need to reenrol?

No. If you are not eligible in extension 1 but requalify for extension 2, you do not have to re-enrol for JobKeeper.

ATO document Decline in turnover tests (QC 63695)

<https://www.ato.gov.au/General/JobKeeper-Payment/Decline-in-turnover-tests/>

### 92. How to notify ATO when NOT eligible for extension 1 but eligible for extension 2. was registered since start of JK

Whilst there is no legislative requirement to make any notifications, if an entity is no longer eligible for JobKeeper the ATO states:

*You should notify your eligible employees, eligible business participant and/or eligible religious practitioner if you are unable to claim JobKeeper payments for them. You should also advise them that you are no longer obligated to pay them an amount that is at least equal to the JobKeeper payment in those fortnights.*

With respect to the notification requirements for extension 2, the ATO should release guidance closer to the time. The process for extension 1, according to the ATO's JobKeeper Key dates (QC 62432) document, is to

submit the actual decline in turnover detail online by 31 October. Further details should be provided by the ATO.

ATO document Decline in turnover tests (QC 63695)

<https://www.ato.gov.au/General/JobKeeper-Payment/Decline-in-turnover-tests/>

## Sep 19 G1 pre-fill on declaration

### 93. If you pay GST instalments quarterly and report annually, how is the ATO going to prefill.

While the BAS may be used, in some instances, to determine turnover, where an entity has annual tax periods for GST the BAS cannot be used.

See: ATO document: *Actual decline in turnover test* (QC 63698)

<https://www.ato.gov.au/General/JobKeeper-Payment/In-detail/Actual-decline-in-turnover-test/>

### 94. G1 includes GST amount but the test states should be excluding GST. If ATO is pre-filling will they also exclude the GST amount?

When determining the entity's decline in turnover, an entity may be able to use the amount reported at label G1 on the BAS for total sales. Where the reported G1 amount is GST-inclusive, the entity will need to convert it into a GST-exclusive amount.

See: ATO document: *Actual decline in turnover test* (QC 63698)

<https://www.ato.gov.au/General/JobKeeper-Payment/In-detail/Actual-decline-in-turnover-test/>

### 95. What will the ATO pre-populate for the sept QTR - NFP have different items to include which don't attract GST ie donations.

As the decline in turnover test is modified for NFP the BAS cannot be used. Follow the instruction in the below document.

See ATO document: *Actual decline in turnover test* (QC 63698)

<https://www.ato.gov.au/General/JobKeeper-Payment/In-detail/Actual-decline-in-turnover-test/>

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