The Future of JobKeeper

This blog has been updated as at end September 2020. Treasury fact sheets are available here https://treasury.gov.au/coronavirus/jobkeeper The changes discussed here are commonly referred to as Jobkeeper 2.

It is still a requirement that the business must have had an ABN at 12th March 2020 and have reported income for the period 1st July 2018 to 12th March 2020 to the ATO by 12th March 2020, with some exceptions for business not registered for GST and ATO lodgement periods.

With limited exceptions the Fair Work Act concessions have not been extended to cover October 2020 to March 2021. These will finish at the end of September 2020 so employers can no longer direct their employees to work from home or vary their hours or duties. If you need to continue to do this, you will need employment law advice.

Further, there has been a recent case in the Fair Work Court that suggests employers cannot make employees redundant if they qualify for Jobkeeper. Reference Mathew Browne v My Shared Services [2020] FWC 4445

Turnover for Employers - Is Your Business Eligible?

Jobkeeper 2 still requires a 30% drop in turnover. Turnover is now strictly limited to what you have reported in G1 in your BAS no other variations.

There is no prerequisite that you have qualified for Jobkeeper in previous quarters. Each period is evaluated on its own merits subject of course to being in business before 12th March 2020 and having employees or a business participant before 1st July 2020. There is also a discretion for the ATO to set out an alternative test to allow immediate eligibility if a business has had to cease trading or significantly curtail its operations. This is no doubt directed at

Melbourne businesses that were going along just fine, but are no longer considered essential, so their employees can no longer come to work.

Entities that are not registered for GST can choose to use either accruals or cash methods as long as they are consistent. The turnover is calculated just as if they are registered for GST, under the same rules.

It is important to consider that the GST rules for reporting G1 include sales of capital assets. This means that if you sell a capital asset to get cash to keep your business going the unusual increase in your G1 amount caused by the sale proceeds could mean that you will not show a 30% drop in turnover despite the fact your true sales have decreased.

So, let's have a look at what needs to go into G1:

Includes:

- GST free supplies even to overseas customers
- All GST sales

Does not Include:

- Input taxed supplies such as residential rent and the subsequent sale of residential property.
- Supplies not made in connection with Australia
- Jobkeeper payments or the Cash Flow Boost
- State Government Grants that did not require the business to do anything other than meet the relevant prerequisites

The quarter that you compare would normally be the exact same period in 2019 though there is an exception for particularly unusual circumstances. Refer the bottom of this blog if you would like to know more about unusual circumstances.

For clarity to receive Jobkeeper 2 for the period:

- **October 2020 to December 2020 -** Your GST turnover for the quarter July 2020 to September 2020 needs to be 30% lower than the quarter July 2019 to September 2019.

- **January 2021 to March 2021 -** Likewise, you need to have a 30% drop in your October 2020 to December 2020 quarter compared with October 2019 to December 2019.

Employees who Qualify - How Much Do They Get?

Part-Time v Full-Time: The payment is now different for full and part-time workers. This is measured on the hours worked in the 4 pay weeks or equivalent immediately before 1st March 2020, or 1st July 2020. An alternative reference period other than February or June is available for employees whose employment during those months was abnormal. Generally, the alternative period will be the first 28 day pay period ending after February or June but in the case of the first point below the 28 day pay period will be an earlier period.

The alternative period can be used if:

- the employee's total hours of work and paid leave in the standard reference periods were not representative of the total number of those hours in earlier periods (e.g., the employee took unpaid leave during February or June 2020 etc.)
- The individual was not employed during all or part of the standard reference periods
- The first pay cycle ended after the reference time
  Or
- An employee has been transferred to a new employer as part of a business sale.

Hours Worked: If the employee worked for 20 hours or more per week on average over the 4-week period, they are considered full-time. Those working less than 20 hours are considered part-time employees.

Payment Amounts: The fortnightly amount of JobKeeper payment will be as follows:

	Full Time	Part Time
Oct to Dec 2020 quarter	$1,200	$ 650
Jan to Mar 2021 quarter	$1,000	$ 550

Some important points:

- **These amounts must be paid to employees before the end of each month**, to qualify for a reimbursement via JobKeeper from the ATO.
- **Warning:** The test requires a 30% drop in turnover in the quarter immediately before you need to start paying wages. If your employees are not actually working in return for receiving these payments, it is very important that you carefully test your income and consult with your accountant regarding the required 30% drop, before you begin to pay wages in the next quarter.
- **Starting Date:** The requirement that an employee needed to have been on the employer's books as a 1st March 2020, has now been shifted to 1st July 2020, for Jobkeeper payments from 3rd August 2020. This 1st July date applies for wages paid from 3rd August 2020, so if you meet the other requirements and have employed someone new, get in now for extra JobKeeper payments to help with their wages.
  The first reimbursement started at the beginning of September.
- **New Employees:** Importantly, you can now apply for new employees (as long as they are not casuals) if they were on your books on 30th June 2020. Casuals can only qualify if they have worked for you for 12 months.
- **Junior Staff:** This new employment start date of before 1st July 2020 will also allow young employees who are not independent but have turned 18 years of age before the 1st July, 2020 to be included in the JobKeeper scheme, if they meet all the other qualifications.
- **Casuals:** If they did not quite get their full 12 months up by 1st March 2020 casuals now have the opportunity to qualify if they have been working for their employer for 12 months by 1st July 2020.
- **Employees on parental leave** paid by their employer will qualify for JobKeeper.

- **Employees on WorkCover:** Employees on workers compensation but doing some work for their employer, for example light duties at reduced hours, will qualify for JobKeeper.

Receiving Payments for Yourself – Business Participant

The amounts have been reduced, just as they have for Jobkeeper Employees. Business Participants need to test the hours they worked in February 2020, to determine whether they are 20 hours or more on average per week, to qualify for the full-time payment. There is still no requirement that the business participant be actually paid a wage.

The explanatory statement states:
"Existing records of engagement may not be held by business participants, but if an entity has not been active during the reference period or had all duties and other activities carried out instead by employees, or if the business participant held a separate full-time job then it would be likely that they would not satisfy this test. Business participants and entities must be in a position to reasonably demonstrate the basis on which they determined that a business participant was actively engaged in the business for the required number of hours in February 2020."

Note there is no change to the start date for Business Participants, they must have been working in the business before 1st March 2020.

JobSeeker v JobKeeper

Employees who only qualify as part-time may well be better off on JobSeeker, depending on their particular circumstances. They can choose to continue to receive JobKeeper, and just declare that amount to Centrelink and receive a top up. JobSeeker should be $800 per fortnight plus extra Centrelink concessions. Jobseekers are still allowed to earn up to $300 per fortnight without affecting their Centrelink payments. In other words, the first $300 of their JobKeeper payment will not reduce their JobSeeker payment, making them much better off than just being on part-time JobKeeper alone.

From July 2020 JobSeeker recipients will be required to apply for jobs **and must accept work offered to them**. From 25th September 2020 the liquid asset test will come back in and the spouse income threshold will be reduced (currently $80,000).

What is Likely to Happen in the Real World

The reduction in the part-time payment amount will not help employers with zombie employees, as the one-in-all-in requirement means employers still must pay JobKeeper to their casuals, even when they refuse shifts. There is a little ray of hope, as those who worked less than 20 hours in February will be paid so much less; so it will be in their interests to apply for JobSeeker. Once they are on the Centrelink payment, they will not be allowed to refuse any work offered, so employers may now be able to get casuals to work for their JobKeeper payments.

There is still the incentive for casuals who do not qualify for JobSeeker (for example high spouse or parental income) to work for anyone else but the employer who pays them JobKeeper. Their JobKeeper employer will still have to find someone else to work the shifts they refuse, and these employers are still stuck with the one-in-all-in policy, so they can't not pay them JobKeeper. At least now, if the employer had employed someone part-time or full-time to take

these shifts, before 1st July 2020 they can also receive JobKeeper for the new employee (that is, if the new employee is not already receiving JobKeeper from another employer).

The new fact sheet mentioned earlier in this blog also states that it is the employer to whom the employee gives their tax free threshold, that should, without argument, be the employer entitled to claim JobKeeper for employees with more than one employer. It also goes into more detail about how the ATO will be recovering duplicate payments from the employee rather than the employer when the employer has acted in good faith. (Makes you wonder how many employees double dipped, leaving poor employers out of pocket because they did not qualify to be reimbursed).

There you go, the relevant facts without wasting an hour or so listening to Scomo and JoFry make excuses for why they had to rush through a badly planned process initially.

For much more detail on JobKeeper, here is a link to our original blog https://bantacs.com.au/Jblog/coronavirus-stimulus-package/

Note – "Unusual Circumstances"

There is a link to an ATO guide for more detail here https://www.ato.gov.au/General/JobKeeper-Payment/In-detail/Original-decline-in-turnover-test/?anchor=modifiedbasictest#modifiedbasictest but this is really something your Accountant should be working out for you, especially the rapidly increasing turnover test.

An important variation to the Jobkeeper 2 alternative test is that we are only allowed to compare a 3 month period with the September 2020 or December 2020 quarter. No looking for just a dud month.

Here is a summary of the tests:

- **New Business Test:** You qualify for the alternative test if you commenced business after 1st July 2019 but before 1st March 2020. This test allows you to take the amount you recorded in G1 for each full month of trading up to 1st March, 2020. Then average it by the number of months and multiply that figure by 3. This will give you the figure you compare with your G1 figure for the September 2020 quarter or December 2020 quarter depending on which quarter you are measuring.

  Alternatively, if you started business before 1st December but after 1st July 2019 you can just average your figures for December 2019, January 2020 and February 2020 to compare with your September 2020 quarter. When it comes to comparing your December 2020 quarter you can only use this method if you started business after 1st October 2019. After all if you started business before October 2019 then you have a relevant comparison period.

  If you do not have a full month in business before 1st March, 2020 you can take your average daily turnover in February, 2020 and multiply it by 57 days (29 days in February x 3 months) to compare this with your turnover for the September and December quarters. Note this can only be the case if you are not registered for GST. Start up businesses that are registered for GST must have lodge a December BAS showing some income in G1 to qualify according to PSLA 2020/1.

- **Natural Disasters:** The business has to qualify for the ATOs disaster relief concessions due to bushfire or drought. You can choose to exclude the months covered by the bushfire or drought from the test unless they are the only months available. You can use this elimination to qualify under the normal rules or to qualify under the alternative rules here.

- **Sole Traders and Small Partnerships (4 or less partners) Without Employees:** If the comparison period for one of these entities included a time when the sole trader or one of the partners was sick, injured or on leave and the turnover was affected, multiply by 3 the turnover of the month before the sole trader or partner's absence and use this as your 2019 figure.

- **Reconstructions:** There are also concessions on sale or acquisitions of part of the business and other restructuring. This test can only be used if the reconstruction really had an affect on turnover, not just because the reconstruction occurred. This test is similar to the new business test.

- **Temporarily Ceased Business in the 2019 Comparison Quarter:** This may apply if your business temporarily ceased trading, due to events or circumstances that are outside the normal course of the business. This must happen for at least a week during the 2019 comparison quarter and the business must be trading again before 28th September, 2020. In these circumstances you can compare your 2020 September or December quarter with either the same quarter in 2018 or with the quarter immediately before your test 2020 quarter.

- **Rapidly Increasing Turnover Before COVID:** You may qualify to use a comparison period closer to the current test period if you can show your turnover was increasing rapidly before COVID. The rapid increase test is best explained by the ATO table below.

Table 1: Testing percent increase in current GST turnover

To test percent increase in turnover immediately before	12 months (50 percent)	6 months (25 percent)	3 months (12.5 percent)
September 2020 quarter (July to September 2020)	Test June 2019 turnover with June 2020 turnover	Test December 2019 turnover with June 2020 turnover	Test March 2020 turnover with June 2020 turnover

December 2020 quarter (October – December 2020)	Test September 2019 turnover with September 2020 turnover	Test March 2020 turnover with September 2020 turnover	Test June 2020 turnover with September 2020 turnover
1 March 2020	Test February 2019 turnover with February 2020 turnover	Test August 2019 turnover with February 2020 turnover	Test November 2019 turnover with February 2020 turnover