

MGAA JobKeeper Guidance Sheet – What we know and what we don't.

JobKeeper legislation, Explanatory Statement and Factsheets from Treasury were released over the Easter Weekend. **Unfortunately, some key provisions have changed, and a lot of questions about JobKeeper payments remain unanswered. Our best advice is to wait till further information comes through.**

Key outcomes over the Easter Weekend;

1. Businesses wanting to claim JobKeeper Payments will need to register through a new form, to be released on 20th April. Subsequently they will need to report their wages, their monthly turnover, and estimate of next month turnover on a monthly basis as well. This can be done through your access to ATO Business Portal or by us on your behalf.
2. Self employed now can not avail JobKeeper if they also have a permanent job somewhere else.
3. People employed with two employers (including one employer being their own business) will be allowed to claim JobKeeper from their 'primary employer' only. Clarity on 'primary employer' is still awaited from ATO. ATO website currently only states that you need to choose one of the two employers and notify them.
4. It is apparent that JobKeeper payment will need to be offered to ALL eligible employees. ATO website states you will need to pay each eligible employee a minimum of \$1,500 per fortnight before tax to qualify. You can do a catch up payment by 30th April 2020.
5. Each eligible employee will need to be given an ATO approved form for them to opt in or out of JobKeeper Payments. Employees with multiple permanent jobs can choose the employer they wish to opt in. [Download the form here.](#) We recommend you start the process of completing these forms, while further information comes through.

ATO is currently releasing their guidelines on JobKeeper Payments as we write this paper. [Updated information and registration process can be sourced from here.](#)

We have prepared this interim guide, to give you updates as they come out. This is surely not complete, and is expected to change, as further guidance is received from ATO. This is not a tax or business advise and should be taken as a general guide only. Please contact us to discuss your particular circumstances before you make your decisions on JobKeeper.

Employer Eligibility	
What we know	And what we don't
➤ Turnover test. Turnover is defined as your usual BAS turnover	It is unclear that if your BAS is registered on cash basis will you be testing your turnover on cash or accrual. There seems to be a conflict between legislation and rules. ATO's guidance is awaited.
➤ To be eligible, you only need to pass the test for a month, or a quarter. You can choose the month, starting from March 2020, or quarter starting from April to June 2020.	
➤ The test is passed when your turnover for a period, say April 2020, is less than the same period last year, say April 2019 by at least 30% (for businesses with turnover less than \$1b). You only need to pass this test once, to be qualified for the payments throughout the remaining period of the scheme.	
➤ There are special arrangements for new businesses, businesses that have seen volatility, or businesses where comparing turnover from last year might not reflect drop in business turnover.	ATO has the discretion on how this will work, and is expected to be covered in subsequent release of information on their JobKeeper site.
➤ You need to maintain records of your workings prior to starting JobKeeper payments, and for 5 years post JobKeeper arrangements.	
➤ If you use a separate employer company in your group to employ people, JobKeeper can only be availed if the employer company passes the turnover test on its own. It will not pass the turnover test purely on the basis that the main business passes the test.	In this situation, if the main business drops payments to employer company in line with its own drop in revenue, it is yet unclear whether this arrangement will be treated as an artificial arrangement to qualify for JobKeeper. ATO's discretion will need to be sought.

Employee Eligibility	
What we know	And what we don't
➤ Permanent full time and part time employees who were on your rolls on 1 st March qualify.	It appears employers need to offer JobKeeper payment to ALL eligible employees. Where any employee is otherwise paid less than \$1500 per fortnight, they need to top up the payment. ATO will accept catch up payments for first two fortnights, provided payment is made prior to 30 th April.
➤ Casuals who were on your rolls on 1st March qualify if they have been regular casuals for more than 12 months.	
➤ Employees on two permanent jobs will be eligible to choose JobKeeper only from their primary job.	The definition of primary job has not been clarified by Treasury. ATO website currently only states that an employee can choose one of the two employers and notify them.
➤ Additionally, employee need to be citizens, holder of permanent visas and be above 16 years of age and tax resident of Australia on 1 st March 2020.	Hence unfortunately students and holders of work visas do not qualify. It is expected though that permanent spouse visa holders and long term business visa holders might qualify.
➤ Employees who have been terminated or stood down post 1st March and rehired can qualify.	
➤ If you are on Paid Parental Leave or Dad and Partner pay through Services Australia, you will not qualify for JobKeeper.	
➤ Similarly if you are on full workers compensation, you are not actually working, hence won't qualify. However if it is a partial compensation with some work required, you can qualify	

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➤ JobKeeper payments are not means tested but are used for means testing other support payments from Centrelink.	
Operational Issues	
What we know	And what we don't
➤ You need to pay a minimum of \$1500 per fortnight before tax, to be reimbursed. If an employee is otherwise paid say \$1200 for the fortnight, you need to bump up the payment by another \$300 JobKeeper Payment.	It appears employers need to offer JobKeeper payment to ALL eligible employees. Where any employee is otherwise paid less than \$1500 per fortnight, they need to top up the payment. ATO will accept catch up payments for first two fortnights, provided payment is made prior to 30 th April.
➤ You need to pay super on normal wages, but not on additional JobKeeper payment, per example above.	
➤ This is a reimbursement arrangement. So you need to pay the wages first, and then get reimbursed by ATO.	Considering you need to fork out the funds first, and run the risk of not qualifying, it is best to be conservative.
➤ The arrangement runs on fortnightly basis. First fortnight is from 30 th March to 12 th April. If your payroll does not align with the above cycle, ATO has the discretion to make calculations to confirm you qualify.	It is best to align your payroll with the JobKeeper payroll cycle. Thus if your fortnightly or weekly payroll does not align with the JobKeeper fortnights, it is best to do an adjustment payrun, and going forward confirm to the fortnights or weeks within the fortnight.
➤ You need to elect to avail JobKeeper payments on an approved form, either by 24 th April, if you pass the turnover test by then, or by end of a fortnight in JobKeeper cycle, if you pass the turnover test subsequently.	ATO is expected to release registration form on 20 th April 2020. Subsequent details on how to report wages paid are expected to be released by 5 th May 2020. First payment will be made in first fortnight of May, and then onwards on monthly basis.

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➤ You need to continuously report to ATO the salary and wages paid, to enable them to reimburse you the JobKeeper payment. This is best done through STP.	While businesses who are not required to be on STP may be able to do this claim manually, it is expected to cause delays. Hence it might be set to start reporting your wages using STP.
➤ Once in, you need to report each month's turnover and next month's expected turnover to ATO on an approved form, expected to be online.	While this information is stated to be sought for statistical purposes, it is also expected to be used by ATO to assess if a business has artificially adjusted it's turnover to qualify for JobKeeper.
➤ You need to advise approved employees in writing that they are being covered by JobKeeper and get them to accept the election in writing.	This step is to ensure that employees do not try to claim Jobkeeper from multiple employers. This needs to be done within 7 days of you choosing JobKeeper arrangements with ATO.
Self Employed	
What we know	And what we don't
➤ You could be self employed as a sole trader or through a partnership, trust or company	
➤ If you are taking a salary from your trust or company, this provision does not apply, and you need to review provisions above relating to employer and employee.	
➤ If you are only taking profit draw, as a sole trader, or as a share holder, director or beneficiary, you can elect one individual who is actively involved in the business to get JobKeeper payment.	
➤ Specified individual should be actively involved in the business and the business should pass the turnover test.	
➤ However, you do not qualify for JobKeeper payment if the specified individual above also has a permanent job with another	It is understood that operationally ATO will take TFN and bank details of this individual and pay JobKeeper payment directly to their bank

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employer, how so ever small the job might be.	account. However, further clarification from ATO is awaited.
<i>Integrity and Anti-avoidance</i>	
What we know	And what we don't
➤ ATO has been given wide ranging powers to ensure integrity of the scheme.	It is understood ATO will be watching your business performance closely to see if there are any contriving schemes to; <ul style="list-style-type: none"> • Qualify for JobKeeper by varying turnover • Over claim JobKeeper by artificially adding employees who were not genuinely in employment on 1st March 2020.
➤ Employers will have to keep proper records to prove both qualification and payment of wages.	
➤ Employers can be made to pay back overpayments or wrong payments with interest up to 5 years down the line.	
➤ Employees, if making a wrongful declaration can be held jointly liable for refund of payments made. This is to save employers where they have made an honest payment based on wrongful declaration of an employee.	
➤ Penalties include up to 75% on top of the amount to be refunded, with interest. More severe cases could have criminal consequences with jail time of up to 10 years.	We have further been advised by AIB, your audit insurance company, that since COVID incentives are government grants, and not tax compliance matters, it is likely that costs relating to ATO inquiries and investigations might not be covered by the policy.