

FEDERAL GOVERNMENT PASSES \$130BN JOBKEEPER INITIAL SUMMARY



INTRODUCTION

After having reconvened parliament yesterday, the required legislation to bring about the proposed JobKeeper scheme finally passed both Houses late last night.

The Coronavirus Economic Response Package (Payments and Benefits) Bill 2020, the Coronavirus Economic Response Package Omnibus (Measure No.2) Bill 2020, and several related Appropriation Bills were introduced to parliament to support the practical implementation and operation of the governments JobKeeper scheme.

The legislative details of the JobKeeper scheme are broad, leave various questions and create new ones yet to be answered, but effectively remains in keeping with previous advice provided to members on the financial entitlements for eligible employers and employees under the proposed scheme.

PREVIOUSLY RELEASED REPORTS

RMC JobKeeper Report - https://www.therealmediacollective.com.au/wp-content/uploads/2020/04/COVID-19_JobKeeperPayment_vF.pdf

RMC JobKeeper FAQs - https://www.therealmediacollective.com.au/wp-content/uploads/2020/04/COVID-19_JobKeeperFAQs_6April2020_Web.pdf

Pending royal assent, this raft of legislation now brings into reality the subsidising of an eligible employers' wage bill by \$1500, per eligible employee, per fortnight.

The legislation passed yesterday and the required changes for businesses are complex and required some consideration. The RMC will further analyse these changes and provide greater detail on how it will affect members and how to best utilise the program in their business in the coming days. However, we can provide the following information and points for member consideration as a result of the passing of the legislation.

WHEN WILL THE PROGRAM START AND END?

The funds will begin flowing to eligible employers in May, however will be backdated to 30 March 2020.

The scheme has an end date of 28 September 2020.

ELIGIBLE EMPLOYERS – HOW DO I CALCULATE REDUCTION IN TURNOVER

An employer will be eligible for participating in the JobKeeper payment scheme if they are a business with an annual aggregated **turnover of less than \$1BN and has or will suffer a reduction in turnover**

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of 30% or more, or for a business with an aggregated turnover of \$1BN has or will suffer a reduction in its turnover of 50% or more.

However, the process for determining the loss of turnover which requires a comparison between two test periods has not yet been crystallised. The Australian Tax Office (ATO) is currently determining its approach and is expected to be detailed in the coming days. We will provide further updates on this issue as they become available.

WHICH EMPLOYEES ARE ELIGIBLE?

The wage subsidy scheme will apply to current full-time, part-time and long-term casual employees who were employed as at 1 March 2020, whether or not they have been stood down or terminated and re-employed.

Long-term casual employees are those employed on a regular and systematic basis for longer than twelve (12) months as at 1 March 2020. Casual employees who are irregularly employed or have not been employed for this length of time will not be eligible.

Eligible employees must be at least sixteen (16) years of age, be Australian citizens or permanent residents, or hold a specified class of visa such as those employees under a subclass 444 visa for New Zealand citizens.

The JobKeeper payment will be made to eligible employees where they are taking unpaid leave, including the unpaid pandemic leave periods interleaved into most Awards yesterday, as discussed elsewhere in this bulletin.

Employees are not eligible to receive JobKeeper payments for periods in which they receive the federal governments paid parental leave scheme payments or are in receipt of workers compensation payments.

Eligible employees who are usually paid less than the stated \$1500 per fortnight will be entitled to the full amount. For those eligible employees who receive more than \$1500 per fortnight, the employer will be required to pay the balance of their wages. However, and **depending upon the circumstances, an employee and employer may agree to reduce wages and or hours of work, so long as this is done lawfully.**

The \$1500 payment is a before tax figure and PAYG withholding obligations will apply. Superannuation contributions on the JobKeeper payments is not required.

The self-employed and sole traders are eligible to apply for JobKeeper payments, but will be required to **provide declarations on recent business activity to the ATO. If eligible, such businesses will receive payments on a monthly basis.**

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FAIR WORK ACT AMENDED – VARIATION TO THE AWARDS

The legislation amends the *Fair Work Act 2009* to bring effect to a range of specific workplace requirements on both employers and employees who will be subject to the JobKeeper scheme.

The alternative would have required amendment to each of the approximately 120 federal Awards and 11,000 enterprise agreements. Such a process would have protracted implementation of the scheme by weeks if not months. The amendments will be independently reviewed by the end of July and contain for the automatic repeal of those amending terms effective from September 2020.

JOBKEEPER RELATED DIRECTIONS

The amendments to the Act create some significant employer flexibilities, although only for the life of these amendments and only for employees in receipt of JobKeeper payments or otherwise are part of the scheme.

During the period of the scheme, an employer may issue a direction to an employee to work reduced hours of work, undertake alternative duties, and or work at an alternative location. Any such request must be reasonable and an employer must have undertaken specific consultation requirements.

For the purposes of the JobKeeper scheme, the required consultation terms require an employer to give at least 3 days written notice of its intention to issue a related direction. The employer must also consult with the employee, or their representative, prior to the actual direction being given.

JOBKEEPER ENABLING REQUESTS

Employers will also be able to request eligible employees to work reduced days or hours of work, request employees take annual leave, and may agree with an employee's requests for taking annual leave at half pay. An employee cannot unreasonably refuse such a request.

FAIR WORK COMMISSION

Although the amendments to the Act provide greater workplace flexibilities, members must remember that the Fair Work Commission has been empowered to settle disputes, including by arbitration if necessary, that are raised as a result of implementing the JobKeeper scheme in their business.

Further, employers who contravene the provisions of the amendments may be subject to civil penalty provisions.

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TO DO LIST/NEXT STEPS

- > Eligible members need to ensure they have registered for the wage subsidy scheme via the ATO website.
- > Eligible members need to talk with their Accountants and implement their guidance on appropriate measures to ensure they can evidence the reduction in turnover and other required evidence to be provided to the ATO to ensure eligibility. **The RMC will provide further guidance on 'How to' next week.**
- > Once determined, eligible members will be required to advise all eligible employees that they are receiving a JobKeeper payment.

The RMC will further review and analyse the legislation and related changes and provide members with a webinar briefing in the coming days we are keen to specific link these Government initiatives directly to our members and industry.

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