JobKeeper Payment Scheme Supplementary Fact Sheet – Amendments announced

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JobKeeper Payment Scheme - Amendments Announced

Decline in Turnover - The Alternate Test ATO Confirms approach

Children Ineligible - 16 and 17 year olds

One in All In - Rule Confirmed by Treasurer

Religious Institutions qualify for Religious Practitioners

The purpose of this **Supplementary Fact Sheet** is to provide you with a quick update on the recent changes to the Government's JobKeeper Payment Scheme. It follows on and should be read with our earlier JobKeeper Fact Sheet. If, after you have examined the information in these Fact Sheets believe that you may be eligible, please **contact us immediately** so we may assist you further.

The JobKeeper Payment scheme was announced on 30 March 2020 by the Prime Minister and the Treasurer. The purpose of the scheme is to keep people employed even though the business they work for has suffered a downturn including a 'hibernation' or close down for a temporary period.

Businesses impacted by the Coronavirus will be able to access a **wage subsidy** from the Government to assist in continuing to pay their employees. Eligible employers will be able to claim a fortnightly payment of ***$1,500*** per eligible employee from 30 March 2020, for a maximum period of **6 months**. The Scheme will run from Monday 30 March 2020 to Sunday 27 September 2020.

IMPORTANT: Registration Extended until 31st May 2020

Decline in turnover test

The decline in turnover test Turnover for this purpose is calculated on the same basis as it is for GST purposes. The decline in turnover test operates by comparing:

- your projected turnover for a **turnover test period**; with
- your current turnover for a relevant comparison period

For example, you can compare either:

- the whole of the <u>month</u> of March 2020 with March 2019; or
- the June 2020 <u>quarter</u> with the June 2019 quarter.

If an entity does not meet the decline in turnover test on 30 March 2020, but does so at a later time, the entity will become eligible for the JobKeeper payment from that later time. The JobKeeper payment is not backdated to 30 March 2020.

How much does my decline in turnover need to be?

Aggregated Turnover was **> $1 Billion**	**50%**
Aggregated Turnover was **<$1 Billion**	**30%**

The ***basic test*** may not accurately reflect the downturn in activity that your business has suffered. The Rules provide the Commissioner of Taxation (the Commissioner) with discretion to set out an alternative test, where the Commissioner is satisfied that there is not an appropriate relevant comparison period in 2019.

The Commissioner has now published his guidelines on how he will apply these alternate testing rules. The Commissioner has outlined **seven** situations where comparability may not provide a meaningful indication of a decline in turnover.

The Commissioner also factors into account those businesses impacted by the drought or bushfires of our summer and each of these seven alternate tests could also be **adjusted** by the ''**Bushfire/Drought**'' impact to gain a more appropriate comparison period.

The Seven Scenarios for the Alternate tests

Scenario One - **New Business** commenced

Purpose of rule

This alternative test allows the decline in turnover test to be applied to an entity which didn't carry on a business in the *relevant comparison period*. It does not apply to an entity that was operating one or more businesses and commenced a new additional business.

The entity must have commenced business before 1 March 2020 but after the *relevant comparison period*.

The Commissioner sets out two possible alternate methods depending when the new business commenced.

Firstly, if the business commenced **before or during February 2020** the comparison period will essentially be the ***average*** of your turnover since the business commenced calculated on a monthly or quarterly basis. This means you are comparing your projected turnover for the **test month** or **test quarter** with what the **average** has been since commencement to assess the decline in turnover.

The second alternative test is available only if the entity had commenced business before 1 December 2019.

This test recognises that if a business commenced in, say, July 2019, then the GST turnover in the first few months of operation may not be representative and could be low in comparison to its 2020 turnover. This would have the effect of bringing down the a*verage monthly current GST turnover*, which could result in the entity not satisfying the decline in turnover test.

Essentially under this alternate test, you will compare the **test month** or **test quarter** with the **average** month or quarter for the period 1 December 2019 to 29 February 2020.

Scenario Two - **Business acquisition or disposal**

Purpose of rule

This alternative test allows the decline in turnover test to be applied to an entity that acquired or disposed of part of their business after the *relevant comparison period* in 2019 (including more than one acquisition or disposal) and the acquisition(s) or disposal(s) changed their turnover.

This test recognises that, due to the acquisition(s) or disposal(s), the business now was not the same business then, so the business in the *relevant comparison period* in 2019 is not comparable after the acquisition(s) or disposal(s).

Essentially, under this alternate test, you will compare the **test month** or **test quarter** with the month or quarter immediately after the month in which the acquisition or disposal occurred.

Scenario Three - **Business restructure**

Purpose of rule

This test recognises that, due to the restructure, the business now was not the same business then, so the business in the *relevant comparison period* in 2019 is not comparable after the restructure.

The use of the term 'restructure' here does not refer to a legal restructure of the entity through which the business is carried on, such as a sole trader restructuring to carry on the business through a company. It refers to an internal restructure such as by:

- merging the operations of two of an entity's businesses to increase efficiency and sales; or
- separating out the managerial and human resources operations of those now merged businesses into a separate division to improve efficiency and reduce staff undertaking those roles.

Essentially, under this alternate test, you will compare the **test month** or **test quarter** with month or quarter immediately after the month in which the restructure occurred.

Scenario Four - **Business had substantial increase in turnover**

Purpose of rule

This alternative test is available to an entity if it had an increase in turnover of:

(a) 50% or more in the 12 months immediately before the *turnover test period*;

(b) 25% or more in the 6 months immediately before the *turnover test period*; or

(c) 12.5% or more in the 3 months immediately before the *turnover test period*.

This test recognises that, due to rapid growth, the business now was not the same business then, so the business in the *relevant comparison period* in 2019 is not comparable after the growth.

Essentially, under this alternate test, you will compare the **test month** or **test quarter** with average month or for the 3 months immediately before the *turnover test period*.

Scenario Five - **Business affected by drought or natural disaster**

Purpose of rule

This alternative test is available to an entity if it has been affected by a drought or other natural disaster in the *relevant comparison period* in 2019.

This test recognises that, due to a drought or other natural disaster which adversely affected the business, it is not appropriate to use the *relevant comparison period* in 2019.

This alternative test is available to an entity if:

(a) the entity conducted business or some of the business in a **declared** drought zone, or **declared** natural disaster zone, during the *relevant comparison period*; and

(b) the drought or natural disaster changed the entity's turnover.

Essentially, under this alternate test, you will compare the **test month** or **test quarter** with its *current GST turnover* for the same period in the year *immediately* before the declaration. This could necessitate going back to the same month or quarter in 2018 as a comparison.

Scenario Six - **Business has irregular turnover**

Purpose of rule

This alternative test is available to an entity if it has an irregular turnover that is not cyclical, such as can occur in the building and construction sector.

This test recognises that, due to the non-cyclical irregular turnover, it is not appropriate to use the *relevant comparison period* in 2019.

This alternative test is available to an entity if:

(a) for the four quarters ending in the 12 months immediately before the *turnover test period*, the entity's lowest turnover quarter is no more than 50% of its highest turnover quarter; and

(b) the entity's turnover is not cyclical.

Essentially, under this alternate test, you will compare the **test month** or **test quarter** with your a*verage monthly current GST turnover* for each whole month in the 12 months immediately before the *turnover test period*

Scenario Seven - **Sole trader or small partnership with sickness, injury or leave**

Purpose of rule

This alternative test is available to an entity if:

(a) the entity is a sole trader or small partnership that has no employees;

(b) the sole trader or at least one of the partners did not work for all or part of the *relevant comparison period* due to sickness, injury or leave; and

(c) the turnover of the sole trader or partnership was affected by the sole trader or partner not working for all or part of that period.

This test recognises that, due to the sole trader or one of the partners being absent from work for all or part of the *relevant comparison period* because they were sick, injured or on leave, it is not appropriate to use the *relevant comparison period* in 2019.

Essentially, under this alternate test, you will compare the **test month** or **test quarter** with month or quarter immediately after the month in which the sole trader or partner returned to work.

Children Ineligible - 16 and 17 year Olds.

Your eligible employees (from our earlier Fact Sheet)

Your Employees will be **eligible employees** for a fortnight where:

- they are employed by you at any time in the fortnight; and
- on 1 March 2020;
  - — they were aged 16 years or over, and
  - — were either:
    - a full-time or a part-time employee of yours; or
    - a 'long term casual employee' of yours — i.e. they had been employed by you on a 'regular and systematic basis' during the period of 12 months ending on 1 March 2020. A long term casual employee cannot be an employee (other than a casual employee) of another entity.
  - — they were either:
    - an Australian resident (for social security law purposes); or
    - a tax resident and held a special category Subclass 444 visa (for New Zealanders).
  - — they agree to be nominated by you as an eligible employee for the purposes of the JobKeeper scheme.

The Government had amended the Rules to make certain 16 and 17 year olds ineligible for the JobKeeper wags supplement.

Under the amendments, children aged 16 or 17 years are only eligible if, in addition to the general requirements under the Rules, on 1 March 2020 they:

- were financially independent or
- were not studying full-time.

There are well defined meanings of ‘financially independent’ and ‘full time study’.

The amending rules apply form 1 May 2020 so the first 2 fortnights will be unaffected if you nominated and met all other conditions.

One in = All in Rule

Clarification

The Government’s intention is that all employees of an entity are given the opportunity to agree to be nominated for the purposes of the entity’s participation in the JobKeeper scheme. In order to clarify this intention, the Rules have been amended to provide that an entity that elects to participate in the scheme **must** give written notice to each individual who is an employee of the entity, thereby allowing each employee to agree to be nominated.

Religious Institutions qualify for Religious Practitioners

Religious practitioners

The Rules allow eligible employers to participate in the JobKeeper scheme for the benefit of their eligible employees. However, religious practitioners may not be considered to be employees. Accordingly, the amendments will allow qualification.

Eligible religious institution

Registered religious institutions can qualify for a JobKeeper payment for an eligible religious practitioner for a fortnight if:

- the entity qualifies for the JobKeeper scheme at or before the end of the fortnight;
- the entity satisfies the payment condition;
- he entity has notified the Commissioner in the approved form at or before the required time that the entity elects to participate in the JobKeeper scheme;
- the entity has given information to the Commissioner in the approved form about the entitlement for the fortnight, including details of the eligible religious practitioner; and
- the entity has not withdrawn from the JobKeeper scheme by advising the Commissioner in the approved form that they no longer wish to participate.

The amendments in relation to religious practitioners apply to JobKeeper fortnights beginning on or after 30 March 2020. While these amendments apply retrospectively, they extend the types of entities that are eligible to participate in the JobKeeper scheme to religious institutions. The retrospective application of these amendments is beneficial to the affected entities.