JobKeeper 2.0

Understanding how the rules may apply to your business

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What we are covering today

Overview of JobKeeper Extension

Re-testing for the first and second periods

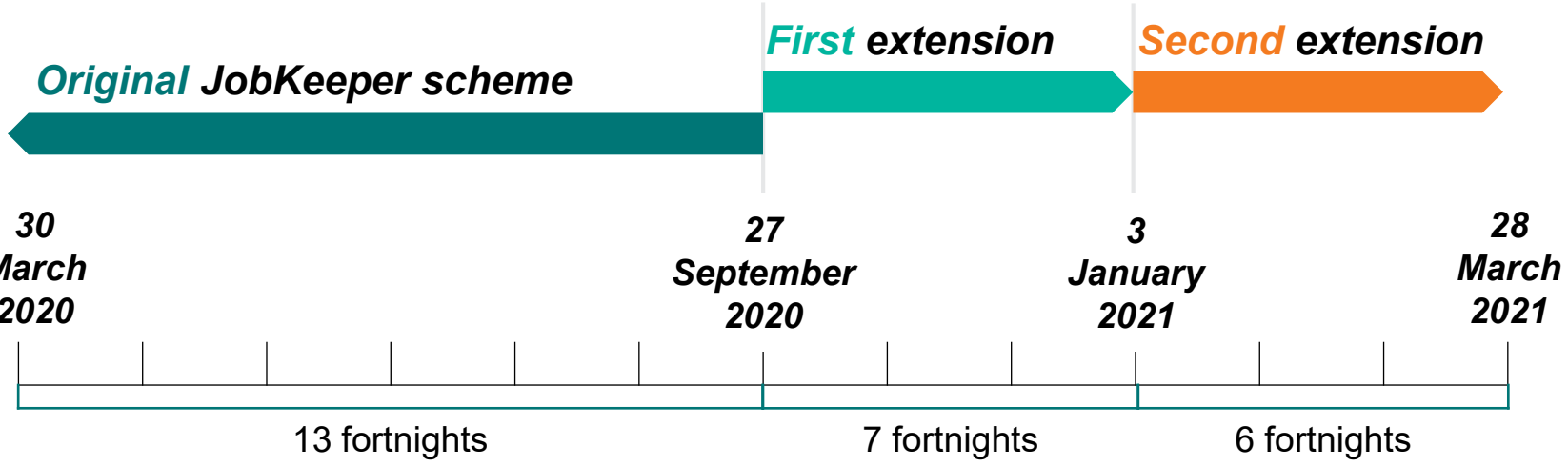
Changes to eligible employees

Determining payment rate

Key action items

Overview of JobKeeper extension

Overview of JobKeeper extension



Eligibility is determined **separately** for each extension period
New entrants permitted at both points

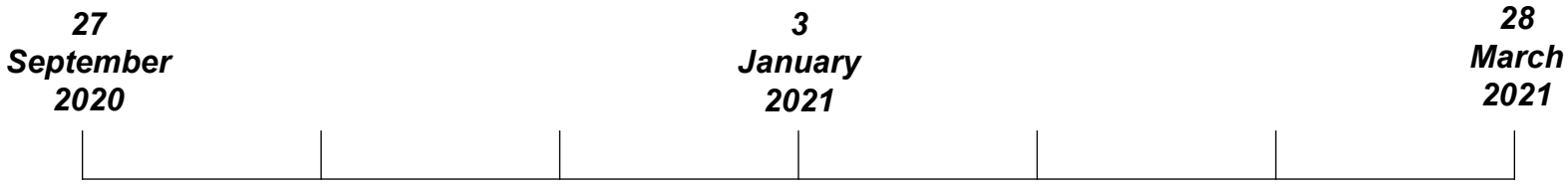
Must pass the requisite decline in turnover test in all periods

Overview of JobKeeper extension

JobKeeper fortnights

First extension	
FN14	11 Oct 2020
FN15	25 Oct 2020
FN16	8 Nov 2020
FN17	22 Nov 2020
FN18	6 Dec 2020
FN19	20 Dec 2020
FN20	3 Jan 2021

Second extension	
FN21	17 Jan 2021
FN22	31 Jan 2021
FN23	14 Feb 2021
FN24	28 Feb 2021
FN25	14 Mar 2021
FN26	28 Mar 2021



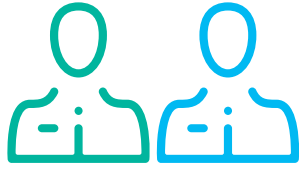
Overview of JobKeeper extension

Changes to eligible employees

New eligibility rules apply from fortnights commencing 3 August 2020

Test employee eligibility* as at **1 July 2020**

For existing employers, **1 March 2020 employees** remain eligible



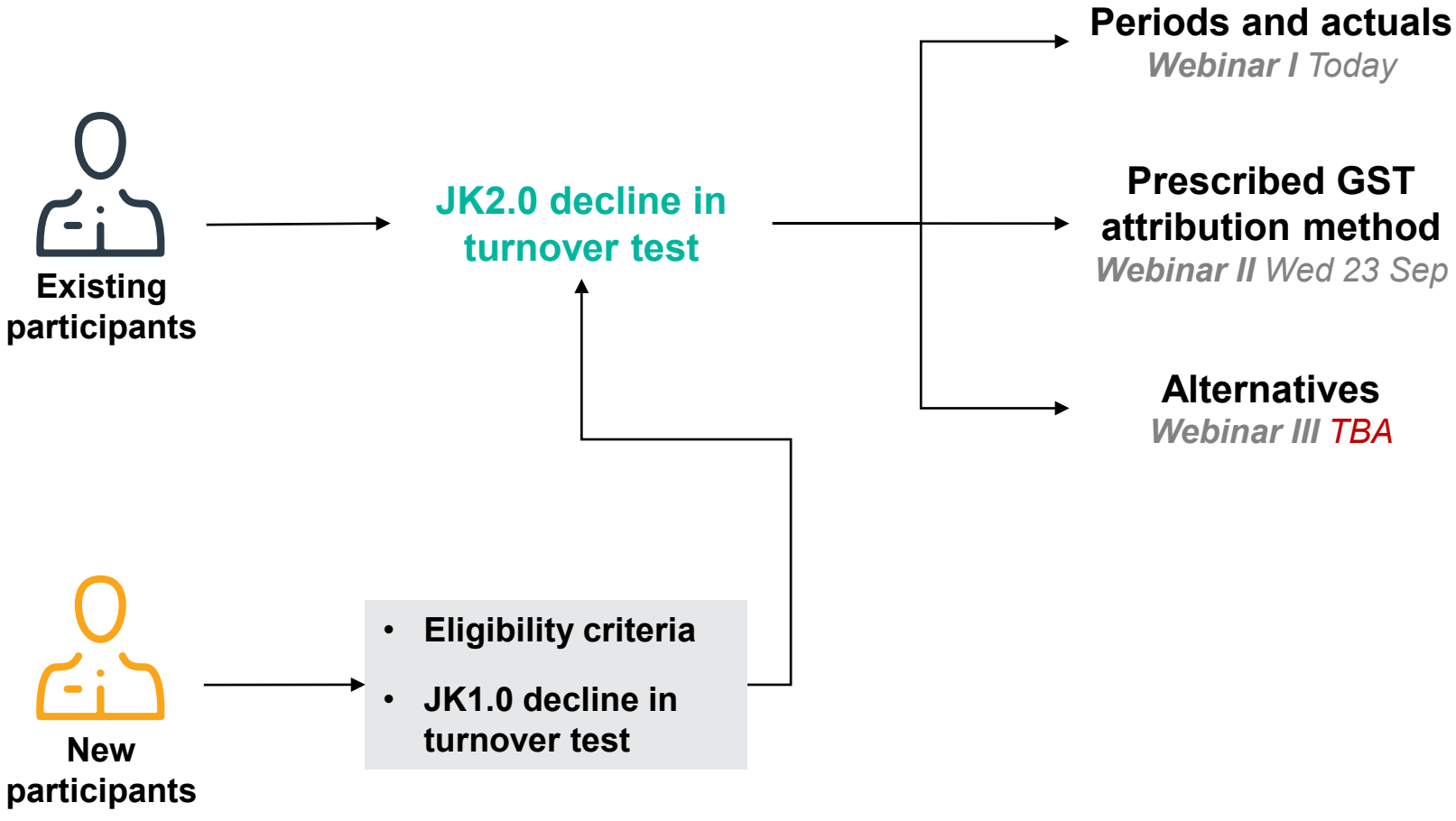
Business participants and **religious practitioners** still tested 1 March 2020

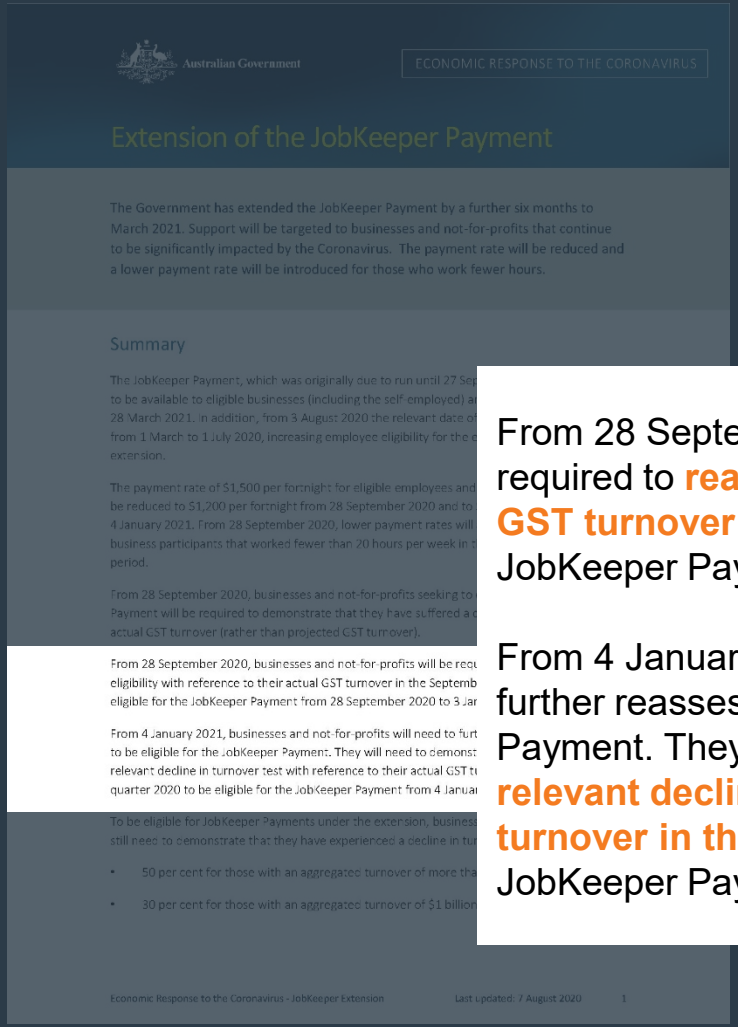
* Eligibility requirements will be discussed later in the presentation

JobKeeper payment rates (per individual)

Payment period	Higher Rate (per fortnight)	Lower Rate (per fortnight)
28 Sep 2020 – 3 Jan 2021	$1,200	$750
4 Jan 2021 – 28 Mar 2021	$1,000	$650
Criteria for higher rate	Worked at least 80 hours in the reference period	

Eligible employers


Existing participants
JK2.0 decline in turnover test
Periods and actuals
Webinar I Today
Prescribed GST attribution method
Webinar II Wed 23 Sep
Alternatives
Webinar III TBA
New participants
• Eligibility criteria
• JK1.0 decline in turnover test


Australian Government

ECONOMIC RESPONSE TO THE CORONAVIRUS

Extension of the JobKeeper Payment

The Government has extended the JobKeeper Payment by a further six months to March 2021. Support will be targeted to businesses and not-for-profits that continue to be significantly impacted by the Coronavirus. The payment rate will be reduced and a lower payment rate will be introduced for those who work fewer hours.

Summary

The JobKeeper Payment, which was originally due to run until 27 Sep
to be available to eligible businesses (including the self-employed) a
28 March 2021. In addition, from 3 August 2020 the relevant date of
from 1 March to 1 July 2020, increasing employee eligibility for the e
extension.

The payment rate of $1,500 per fortnight for eligible employees and
be reduced to $1,200 per fortnight from 28 September 2020 and to
4 January 2021. From 28 September 2020, lower payment rates will
business participants that worked fewer than 20 hours per week in t
period.

From 28 September 2020, businesses and not-for-profits seeking to
Payment will be required to demonstrate that they have suffered a d
actual GST turnover (rather than projected GST turnover).

From 28 September 2020, businesses and not-for-profits will be requ
eligibility with reference to their actual GST turnover in the Septemb
eligible for the JobKeeper Payment from 28 September 2020 to 3 Jar

From 4 January 2021, businesses and not-for-profits will need to furt
to be eligible for the JobKeeper Payment. They will need to demonst
relevant decline in turnover test with reference to their actual GST t
quarter 2020 to be eligible for the JobKeeper Payment from 4 Januar

To be eligible for JobKeeper Payments under the extension, busines
still need to demonstrate that they have experienced a decline in tu

- 50 per cent for those with an aggregated turnover of more tha
- 30 per cent for those with an aggregated turnover of $1 billion

Economic Response to the Coronavirus - JobKeeper Extension Last Updated: 7 August 2020 1

From 28 September 2020, businesses and not-for-profits will be required to **reassess their eligibility with reference to their actual GST turnover in the September quarter 2020** to be eligible for the JobKeeper Payment from 28 September 2020 to 3 January 2021.

From 4 January 2021, businesses and not-for-profits will need to further reassess their turnover to be eligible for the JobKeeper Payment. They will need to demonstrate that they have **met the relevant decline in turnover test with reference to their actual GST turnover in the December quarter 2020** to be eligible for the JobKeeper Payment from 4 January 2021 to 28 March 2021.

JK2.0
Satisfying the actual decline in turnover test [s.8B(1)]

Current GST turnover for a **turnover test period** falls short of the **Current GST turnover** for the **comparison period** and Shortfall equals or exceeds the **specified percentage** for the entity

JobKeeper fortnights	Turnover test period
28 Sept 2020 to 3 Jan 2021	September quarter 2020
4 Jan 2021 to 28 Mar 2021	December quarter 2020

Comparison period must be the period in 2019 that corresponds to the turnover test period

JK2.0
Satisfying the actual decline in turnover test [s.8B(1)]

Current GST turnover for a **turnover test period** falls short of the **Current GST turnover** for the **comparison period** and Shortfall equals or exceeds the **specified percentage** for the entity

Entity's aggregated turnover <=$1b

Threshold is 30%

Entity's aggregated turnover >$1b

Threshold is 50%

ACNC registered charity *

Threshold is 15%

**** This category does not include certain higher education providers or schools***

EXAMPLE 1

Employer's entitlement to payment

Actual decline in turnover test – example

SmallCo carries on business and employs 20 staff

It experienced a sharp decline in trading during the June quarter and then slowing started to recover

Quarter	2019 Actual	2020 actual	Decline
June	$2.5M	$1.0M	60%
September	$3.5M	$2.35M	33%
December	$3.2M	$2.6M	19%

The turnover test periods are the **September 2020 quarter** and the **December 2020 quarter** (in relation to First and Second Extension periods, respectively)

The actual decline is **33%** and 19% respectively, meaning **SmallCo will only be eligible for JobKeeper payments for the First Extension Period** (28 September 2020 – 3 January 2021).

Employer's entitlement to payment

Satisfying the actual decline in turnover test [s.8B]

Commissioner's power to determine timing of supplies:

S.8B(4) "*The Commissioner may, by legislative instrument, determine that the supplies in a class of supplies are to be treated as if they had been made at a time or times different from the time at which the supplies were actually made*"

Coronavirus Economic Response Package (Payments and Benefits) (Timing of Supplies Made and Decline in Turnover Test) Rules 2020 (No. 1)	
Use attribution method (method used for BAS)	**Special rules** where not registered or change registration

EXAMPLE 2

Employer's entitlement to payment

Actual decline in turnover test – example

SmallCo invoices on a quarterly basis (all taxable supplies). It issued invoices on the dates contained in the table

Quarter	Invoice date	2020 actual
Jun 2019	1 Jul 2019	$100,000
Sep 2019	28 Sep 2019	$100,000
Jun 2020	26 Jun 2020	$80,000
Sep 2020	28 Sep 2020	$90,000

The current GST turnover for the Sep 2020 quarter is equal to $90,000, as compared to $200,000 in the Sept 2019 quarter. This represents a shortfall of $110,000 or a decline of 55%. This is due to the late posting of the June invoice on 1 July 2019

These types of results may place extreme pressure on the ATO applying the integrity rule where inappropriate outcomes occur

Employer's entitlement to payment

Actual decline in turnover test – Commissioner's discretion [s.8(6)]

Legislative instrument covering Alternative Tests

Commenced business

Acquisition, disposal or restructure

Substantial increase in turnover

Irregular turnover

*Additional tests are available i.e. where a business operated in a bushfire or drought affected area

Service entities

Employer's entitlement to payment

Modified service entity test [s.8A] – grouping rule

Special grouping rule can apply where generally a service entity is a member of a consolidated (consolidatable) or GST group and principally supplies labour services to test members who principally provide supplies to third parties

Ordinary test

Instead of the employer entity's **current** GST turnover for the turnover test period

Instead of the employer entity's **current** GST turnover for a relevant comparison period

Modified test

Use the sum of the **current** GST turnovers for that period of each test member

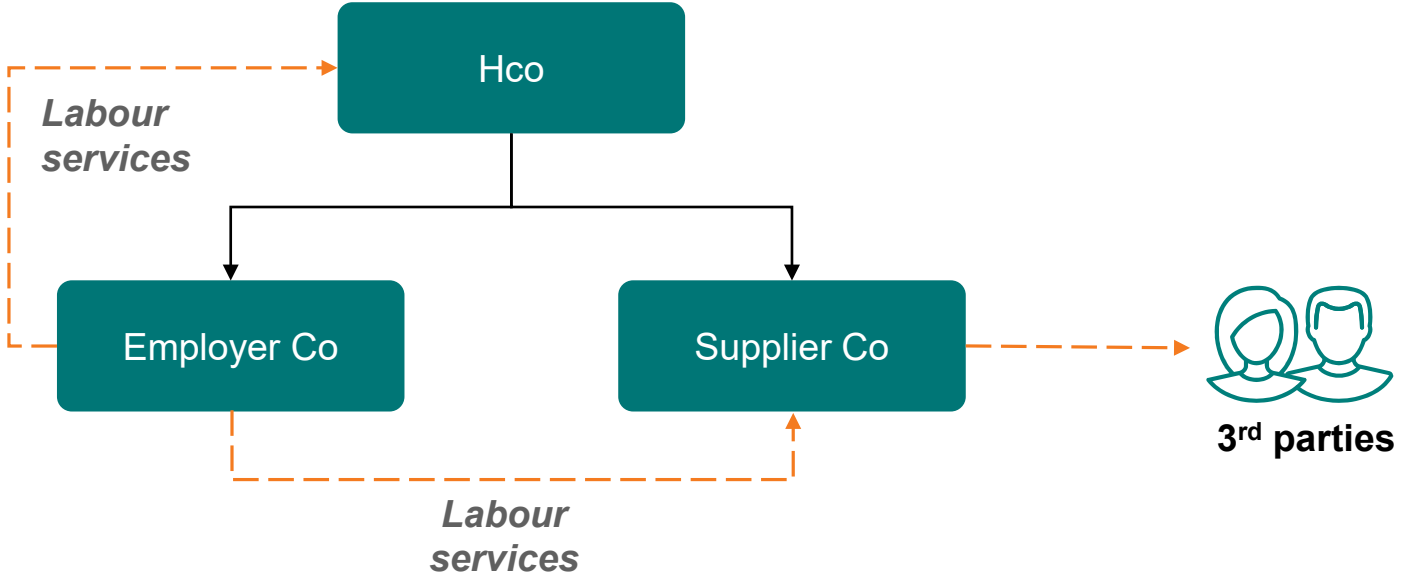
Use the sum of the **current** GST turnovers for that period of each test member

Test member can use "alternative test" for the purpose of determining the current GST turnover where the alternative test applies to that test member

EXAMPLE 3

Employer's entitlement to payment

Modified service entity test [s.8A] – grouping rule



Provisions allow Employer Co to use Supplier Co's current GST turnover under section 8A

ATO compliance guide for service entities

PCG 2020/4

#		Tests	Risk level
1	**Employer entity reduces service fee**	An employment service entity reduces its fee to other business entities in line with their reduction in revenue due to COVID.	Low
2	**Employer entity stands down employees**	An employment service entity reduces staff hours which causes an indirect reduction in fee (in a cost plus agreement). The reduction of employment is due to COVID.	Low
3	**Operating entity unable to pay service fee**	The employment service entity can include the 'expected reduction' in the service fee (e.g. through future credit notes) when estimating projected GST turnover. Note – bad debts may not reduce projected GST turnover.	Low
4	**Parent company reduces management fees**	The parent entity reduces its fee to the subsidiary entities affected by COVID.	Low
5	**Parent company changes timing of management fee**	The fee is not reduced or deferred due to factors associated with COVID.	High

ATO considering application to JK 2.0

New entrants

Employer's entitlement to payment

New entrants – eligibility requirements

Employer on **1 March 2020** either	▶	Carried on business in Australia NFP (objectives principally in Australia) Certain DGRs (international affairs)
Satisfies	▶	decline in turnover test before end of fortnight (JK1.0) **and** actual decline in turnover test for the fortnight (JK2.0)

Employer is not otherwise excluded

Major Bank Levy not imposed	Not a sovereign entity (or wholly owned sub)	Trustee in bankruptcy has not been appointed
Not Government entity (or wholly owned sub)	Liquidator (incl provisional) not been appointed	

Employer must satisfy enrolment and notification requirements

Employer's entitlement to payment

Satisfying the decline in turnover test

Projected GST turnover during for a **turnover test period** falls short of the **Current GST turnover** for the **comparison period** and Shortfall equals or exceeds the **specified percentage** for the entity

Existing participants

Already satisfied under original scheme

New entrants

"*An entity that can demonstrate a fall in actual GST turnover in the quarter ending 30 September 2020, will also satisfy the original decline in turnover test, meaning that most entities enrolling for the first time will only have to demonstrate that their actual turnover has significantly declined in the previous quarter*"

Employer's entitlement to payment

New entrants to provide information to Cmr and employees

Notify Commissioner of

Election to participate in the scheme if not previously qualified [s.6(1)(e))]

Employee entitlements, employer must provide the Commissioner with details of each eligible employee

Notify employee of

Participation in writing within 7 days of notifying Commissioner of election to participate if not previously qualified [s.10A]

Reporting if qualify for payments during a month

Within 14 days* after EOM must report entity's actual GST turnover for month and projected GST turnover for following month [s.16]

*ATO administrative concession

Eligibility of individuals

Eligibility of individuals

Which individuals can an entity claim JobKeeper payments for?

JobKeeper payments remain available for three types of individuals

Eligible employees

As at 1 March or **1 July 2020**

Employed on a full or part-time or long term casual basis

Eligible business participants

As at 1 March 2020

Actively engaged in the business*

Includes: sole trader, partner in a partnership, adult beneficiary of a trust and director or shareholder of a company

Eligible religious practitioners

As at 1 March 2020

Undertaking religious activities as a member* of a registered religious institution

* Must not be employed by business or religious institution or a permanent employee of any entity

Eligibility of individuals

Which individuals can an entity claim JobKeeper payments for?

JobKeeper payments remain available for three types of individuals

Eligible employees	Eligible business participants	Eligible religious practitioners
As at 1 March or **1 July 2020:**	As at 1 March 2020	As at 1 March 2020

At least 18 years of age (or 16 & 17 years old and independent or not studying full-time)

Australian citizen or holder of specified visa

Individual must not be excluded for the fortnight (i.e. Govt PPL, Dad & Partner pay or workers' compensation)

Eligibility of individuals

Which individuals can an entity claim JobKeeper payments for?

JobKeeper payments remain available for three types of individuals

Eligible employees	**Eligible business participants**	**Eligible religious practitioners**
Provided a nomination notice to the entity, **with ability to nominate new pre 1-July employer**	Provided a nomination notice to the entity or (for sole traders) ATO	Provided a nomination notice to the institution

Eligibility of individuals
Nominating a new employer

Employed with old employer or actively engaged with old entity

Employed with new employer

1 March 2020

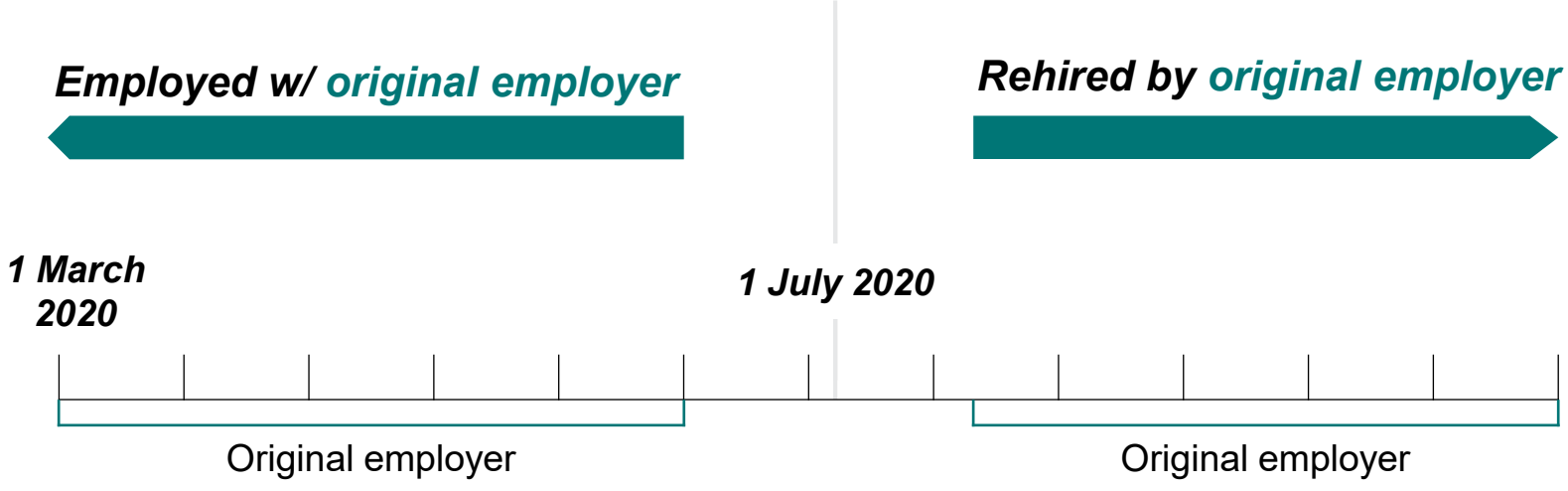
1 July 2020

Old employer

New employer

Individual may nominate with the new employer (s.9(3A))

Eligibility of individuals
Notification of status [s.10B]



Individual must give notice to employer within 7 days of **being rehired** about JobKeeper status

Eligibility of individuals

Information provided to the Commissioner and employees

Notify Commissioner of

Employee entitlements for extension periods, employer must provide the Commissioner with details of each eligible employee including whether they are entitled to the higher or lower rate [s.6(1)(f) & (fa)]

Notify employee of

Rate in writing within 7 days of notifying the Commissioner of employee's rate [s.6(4A)]

Eligibility of individuals

Additional requirements for business participants [s.11(1)]

Additional requirements for an entity to claim JobKeeper payment for business participant

1	Cannot be a non-profit body
2	Individual is the only nominated business participant
3	No other entity is entitled to a JobKeeper payment for that individual
4	2019 income or pre-12 March taxable supply requirement satisfied
5	Entity has an ABN as at 12 March 2020 (or further time)

No ability to re-test at 1 July 2020

Determining the payment rate

Test 3: Wage payment conditions

What amount must be paid in the fortnight? [s.10]

The sum of the amounts must equal or exceed required amount

Salary, wages, commissions, bonuses, allowances paid in the fortnight

Amounts withheld in respect of those payments made

Salary sacrifice superannuation amounts

Other amounts applied in fortnight by agreement

Additional rules allow amounts to be allocated to alternative fortnights (e.g. if pay monthly or if Commissioner considers reasonable)

Determining the payment rate

Applicable rates

Rate	Hours worked* in reference period	28 Sept 2020 To 3 Jan 2021	4 Jan 2021 To 28 Mar 2021
Higher	≥ 80 hours	$1,200	$1,000
Lower	< 80 hours	$750	$650

* For employee – include paid leave and paid public holidays

Commissioner may specify circumstances in which the higher rate will apply if an employee's hours are not readily ascertainable

EXAMPLE 4

Determining the payment rate

Applicable rates – "straddle periods"

LargeBiz pays employees on a monthly basis at the end of the month

Sep 2020						
Sun	**Mon**	**Tue**	**Wed**	**Thu**	**Fri**	**Sat**
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	25
27	28	29	30			

Oct 2020						
Sun	**Mon**	**Tue**	**Wed**	**Thu**	**Fri**	**Sat**
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

JK1.0 minimum payment
= $1500 per FN

JK2.0 (first period) minimum payment
= $1200 or $750 per FN

LargeBiz may need to determine whether it will reduce top up amount

Determining the payment rate

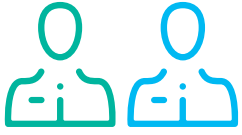
What is a reference period?

Eligible employees

a 28-day period ending at the end of the last pay cycle before 1 March 2020* **OR before 1 July 2020**

OR

Commissioner's alternative reference period



Eligible business participants and religious practitioners

The month of February 2020

OR

Commissioner's alternative reference period

*available even if employee was not an eligible employee under 1 March 2020 test

Determining the payment rate

Commissioner's alternative reference period

Employees

Circumstance	Alternative reference period
Total hours in the period were not representative of a typical 28 day period	28 day period ending at the date of the most recent pay cycle that was representative of a typical 28-day period
Employee not engaged for full reference period*	The first 28 day period that ends on or after the reference time in which employee not stood down
First pay cycle ended on or after the reference time	The first 28 day period that ends on or after the reference time in which employee not stood down

*Including where the business changed hands

Determining the payment rate

Commissioner's alternative reference period

Business and religious practitioners

Circumstance	Alternative reference period
Total hours in February 2020 not representative of a typical 29 day period* e.g. sickness or leave	29 day period (wholly within a calendar month) before February 2020 that is representative e.g. 3 December to 31 December 2019
First commenced activities during February 2020 (but before 1 March)	29 day period from when activities first commenced e.g. 10 February to 9 March 2020

*Including where business conducted in drought or natural disaster zone

Determining the payment rate

Record of hours not readily ascertainable

Employees

Circumstance	Higher rate applies if in reference period
Employer has no records or incomplete records of work, paid leave & holidays in reference period*	• Gross salary/wages > $1,500 (ex. JK top-up); *OR*
	• Written industrial award, enterprise agreement, individual contract, etc requiring > 80 hours; *OR*
	• > 80 hours can be determined based on reasonable assumptions (e.g. evidence of employee output)

*If records exist actual hours must be used even if remuneration not based on hours worked

EXAMPLE 5

Determining the payment rate

Determining the reference period

Andy was employed part-time by LargeBiz which has a fortnightly pay cycle

February 2020						
Sun	**Mon**	**Tue**	**Wed**	**Thu**	**Fri**	**Sat**
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	

Reference period

The 28 days ending on 21 February 2020

Most recent pay cycle **before 1 March 2020**

Hours worked = 70 hours

June 2020						
Sun	**Mon**	**Tue**	**Wed**	**Thu**	**Fri**	**Sat**
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

Reference period

The 28 days ending on 26 June 2020

Most recent pay cycle **before 1 July 2020**

Hours worked = 55 hours

LargeBiz will only be entitled to JobKeeper for Andy at the **lower rate** unless the Commissioner's alternative reference period applies

Integrity measures

Integrity measures

Significant number of integrity measures

Integrity provision	Provisions contained in *Coronavirus Economic Response Package (Payments and Benefits) Bill 2020*
Overpayment debts	If not entitled to the JobKeeper payment then need to repay the amount not entitled to [s.9] and general interest charge [s.10]
Joint and several liability where overpayment debts	If another entity made a statement that is false or misleading or due to fraud of another entity [s.11] – e.g. employee provides false statement of eligibility in notice
Record keeping requirement	No entitlement unless entity complies with pre and post payment record keeping (i.e. retain records for 5 years) [s.14]
Contrived schemes	Scheme entered into for sole or dominant purpose of being entitled to payment or increasing entitlement to payment [s.19]

Integrity measures

Additional measures that can apply to fraudulent activities

Integrity provision	Other potential consequences
False or misleading statements	Financial penalty of 75 percent of the overpayment Potential imprisonment for up to 12 months and a fine of up to 50 penalty units* (250 penalty units for corporate entities)
Failure to comply with taxation law	Potential imprisonment for up to 12 months and a fine of up to 50 penalty units* (250 penalty units for corporate entities)
Obtaining financial advantage by deception	Imprisonment for up to 10 years under the Criminal Code
Conspiracy to defraud	Imprisonment for up to 10 years under the Criminal Code
Obtaining financial advantage	Imprisonment for up to 12 months

*Penalty unit $222 effective 1 July 2020

Key action items

Key action items

Review

calculation of GST turnover

- for July and August 2020
- for 2019 comparison period

Identify

employees that satisfy new 1 July eligibility requirements

Determine

whether higher / lower rate applies to each eligible employee according to their hours worked

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