



FREQUENTLY ASKED QUESTIONS

JOBKEEPER PAYMENT

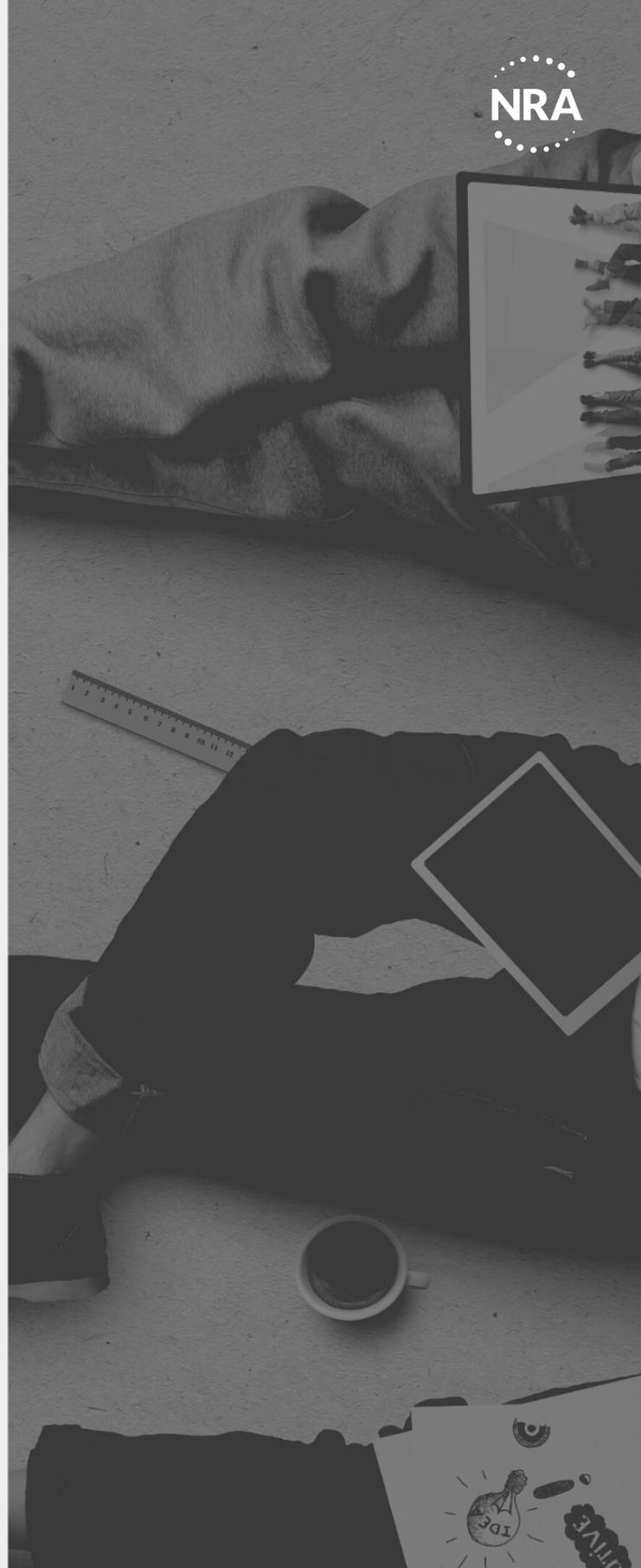
SCHEME

Current at 17 September 2020

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National Retail
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To speak to one of our workplace relations specialists

Q What is the JobKeeper Payment Scheme?

A The JobKeeper Payment Scheme is a subsidy available for businesses most affected by the coronavirus (COVID-19) pandemic to assist with paying their staff.

The Scheme is only accessible by employers (and only in respect of their employees) who meet the eligibility requirements under the Coronavirus Economic Response Package (Payments and Benefits) Rules 2020.

The scheme operates in four phases:

- 28 March 2020 – 2 August 2020 (the **Initial Phase**);
- 3 August 2020 – 27 September 2020 (the **Subsequent Phase**);
- 28 September 2020 – 3 January 2021 (the **First Extension Phase**); and
- 4 January 2021 – 28 March 2021 (the **Second Extension Phase**).

The eligibility requirements for businesses and/or employees, and the JobKeeper Payment rate, vary from phase to phase.

Q Is my business eligible to participate in the scheme?

A During both the Initial Phase and the Subsequent Phase (i.e. from 1 March 2020 to 27 September 2020), employers are eligible to participate in the JobKeeper Payment Scheme where their **projected GST turnover** for:

- any calendar month ending after 30 March 2020 and before 1 October 2020; or
- the quarter starting on 1 April 2020 or the quarter starting 1 July 2020;

had declined by the relevant amount relative to a **comparable period** (usually the same period in the previous year). The relevant amount for the decline in turnover varies according to business size and type, these being:

- for an employer with an aggregated annual turnover of **\$1 billion or more** – 50%
- for an employer with an aggregated annual turnover of **less than \$1 billion** – 30%
- for an employer which is a **registered charity** – 15%

Once a business meets the decline in turnover requirement for the period 1 March 2020 to 27 September 2020, it does not need to re-test its decline in turnover until the second phase, commencing on 28 September 2020.

During the First Extension Phase (i.e. from 28 September 2020 to 3 January 2021), employers will need to demonstrate that their **actual GST turnover** had fallen in the September 2020 quarter (i.e. 1 July 2020 to 30 September 2020) by the same amounts specified above.

During the Second Extension Period (i.e. from 4 January 2021 to 28 March 2021), employers will need to demonstrate that their **actual GST turnover** had fallen in the December 2020 (i.e. 1 October 2020 to 31 December 2020) by the same amounts specified above.

Q Are my employees eligible to participate in the scheme?

A An employer may only claim a subsidy for employees that are also eligible to participate, and each employee must complete a [JobKeeper Employee Nomination Notice](#) before being enrolled in the scheme. This form does not need to be sent to the ATO but must be kept as part of the employee's employment records.

The scheme operates on a 'one in, all in' basis, and once an employer decides to participate, it **must pay all eligible employees** at the relevant JobKeeper Payment rate (for example, \$1,500) per [JobKeeper fortnight](#), including those who ordinarily earn less than this amount. An employer must notify eligible employees in writing within 7 days of applying that they have elected to participate in the scheme.

From 28 September 2020: an employer must also notify the ATO of the applicable JobKeeper Payment rate for an employee. Following this, the employer must then notify the employee in writing within 7 days whether the rate notified to the ATO was the higher or lower rate.

There are different rules for determining which employees are eligible during the initial JobKeeper period of 28 March – 27 September 2020, and the extended JobKeeper period of 28 September 2020 – 28 March 2021.

Initial Phase – 28 March 2020 – 2 August 2020

During the initial JobKeeper period, an employee will be eligible to participate in the JobKeeper Payment Scheme if, as at 1 March 2020, they were:

- engaged on a full-time or part-time basis; or
- a casual employee who as at 1 March 2020 had been employed on a **regular and systematic basis for at least 12 months**, and was not a permanent employee of another employer when they completed the nomination notice; and
- aged:
 - 18 years or over; or
 - 16 years or over provided that they are either financially independent or are not undertaking full-time study.

In addition, the employee must be either an Australian resident (as defined within the *Social Security Act 1991* (Cth)); or an Australian resident for the purpose of the *Income Tax Assessment Act 1936* (Cth) and, as at 1 March 2020, the holder of a Subclass 444 visa.

All periods after the Initial Phase – 3 August 2020 – 28 March 2021

During all periods of the JobKeeper Payment Scheme after the Initial Phase, an employee will be eligible to participate in the Scheme if, as at 1 July 2020, they were:

- engaged on a full-time or part-time basis; or
- a long-term casual employee who, as at 1 July 2020, had been employed on a regular and systematic basis for at least 12 months and was not a permanent employee of any other employer; and
- aged:
 - 18 years or over; or
 - 16 years or over provided that they are either financially independent or are not undertaking full-time study.

The residency/visa requirements for all periods after the Initial Phase are the same as for the Initial Phase, except that the test date changed to 1 July 2020.

Importantly, the changes to employee eligibility effective from 3 August 2020 **do not remove anyone from the scheme**. An employee who was eligible as at the earlier assessment date of 1 March 2020 will still be eligible after the change to 1 July 2020.

Employees aged 16 and 17 – whether employee “independent” or undertaking “full-time study”

In general, an employee will be “independent” where:

- they have supported themselves by working full-time or part-time (at least 15 hours per week) for the last 2 years;
- their parents cannot exercise responsibilities because they are serving a prison sentence, living in a nursing home indefinitely, or are mental incapacitated;
- they are married, or have been living in a de facto relationship for at least 12 months;
- they have a dependent child;
- they are a refugee whose parents do not live in Australia;
- they are an orphan who has not been legally adopted, or in the care of the state; or
- they are unable to live at home because of exceptional circumstances, such as where it would pose a serious risk to health, and they are not receiving continuous financial support from their parents.

The test with respect to full-time study is relatively broad, and extends beyond high school. An employee will be a “full-time student” where they are enrolled in a course of study at an educational institution (including TAFE or an RTO), and undertaking at least 75% of the normal full-time study requirements.

It is the responsibility of the employee completing a [JobKeeper Employee Nomination Notice](#) to assess whether they are “independent” or undertaking full-time study. This list is not exhaustive, and employees who believe they may be eligible are able to contact [Services Australia](#) for more information.

An employee aged under 16 years old will not be eligible to participate in the scheme.

Q How do I pay my employees?

A The JobKeeper Payment Scheme is designed to operate as a reimbursement to employers. As such, employers who have elected to participate in the scheme are required to pay their employees at least the JobKeeper Payment rate (for example, \$1,500) per [JobKeeper fortnight](#), even though the business may not receive any payments until a later date. The consequence of this is that employers will need to find the means to pay this amount to employees until such time as they start to receive payments from the scheme.

You must pass the full JobKeeper Payment rate on to eligible employees, even if this is more than they would be entitled to receive if they worked during the [JobKeeper fortnight](#). Failure to pass on the JobKeeper Payment rate to an employee in full (less any applicable tax) is a civil penalty provision attracting fines of up to \$63,000 for a body corporate or \$12,600 for an individual, or ten times those amounts for a serious contravention.

Q What is the JobKeeper Payment rate?

A During both the Initial Phase and the Subsequent Phase (i.e. from 28 March 2020 to 27 September 2020), the JobKeeper Payment rate was \$1,500 for each eligible employee, regardless of how much they would ordinarily earn.

From 28 September 2020, the JobKeeper Payment rate changes to a two-tiered system, with different rates of pay for employees depending on their hours in the month prior to either 1 March 2020, or 1 July 2020.

There are two steps to determine the applicable rate for an employee:

1. Determining the applicable 'reference periods'.
2. Confirming the employee's total hours in the 'reference period'.

Reference Period

The reference periods for an employee are defined as the 28-day periods ending at the end of the most recent pay cycle that ended before either:

- March 2020; or
- 1 July 2020.

Examples:

If your business' last pay cycle before 1 March 2020 ended on 29 February 2020, the applicable 'reference period' would be 2 – 29 February 2020.

Alternatively, if your business has a fortnightly pay cycle that ends on 1 March 2020, then the last pay cycle before 1 March 2020 would end on 16 February 2020, and so the applicable 'reference period' would be 20 January 2020 – 16 February 2020.

However, the ATO has also confirmed two alternative reference periods apply for an employee where:

- A. their total hours of total hours of work, paid leave and paid absence on public holidays in the default reference period are less than 80 hours, and when compared with earlier 28-day periods, the default 28-day reference period **was not representative of their typical number of hours**;
- B. the employee was **not employed** by that entity during all or part of the reference period;
- C. the employee's employment started on or before 1 March 2020 or 1 July 2020, but their **first pay cycle ended on or after 1 March 2020 or 1 July 2020** respectively; or
- D. a business changes hands, and the employee is treated as having also been employed by the new employing entity at an earlier time under the JobKeeper Payment Rules, but the employee was not employed by the entity for all or part of the reference period.

In situation A, the alternative reference period will be the 28-day period ending at the end of the most recent pay cycle before the default reference time, where the employee's total number of hours of work, of paid leave and of paid absence on public holidays was representative of a typical such 28-day period.

In situations B, C, and D, the alternative reference period will be the first 28-day period ending on or after the default reference time that wholly occurs during consecutive pay cycles, or a pay cycle. If the employee was stood down in the first 28-day period, then use the first 28-day period starting on the first day of a pay cycle on or after the reference time in which they were not stood down.

Hours in the Reference Period

From 28 September 2020, an employee will be entitled to the higher rate of JobKeeper Payment if the employee's total hours during either reference period are at least 80 hours or more, including:

- their total hours of work (including overtime);
- any hours of paid leave; and
- any hours of paid absence on public holidays.

Employees will be entitled to the higher rate if they have received at least 80 hours of work or paid absences in either reference period. As such, if an employee would satisfy the test for the higher

rate in one of the reference periods but not in the other, they would be entitled to the higher rate.

For example, if an employee worked 140 hours in the 28 days to the end of the pay period ending before 1 February 2020, but was stood down in the 28 days to the end of the pay period ending before 1 July 2020, the employee would be entitled to the higher JobKeeper rate because they worked more than 80 hours in the first reference period.

The two tiers of JobKeeper Payment rates will operate as follows:

	28 September 2020 - 3 January 2021	4 January 2021 - 28 March 2021
Employees who, in either 'reference period' received at least 80 hours or more of: <ul style="list-style-type: none"> • work; • paid leave; and • paid absence on public holidays. 	\$1,200 per fortnight	\$1,000 per fortnight
All other employees	\$750 per fortnight	\$650 per fortnight

Q Do I have to participate in the JobKeeper Payment Scheme?

A It is not compulsory for an employer to participate in the scheme.

An employer may enrol in the scheme at any time, provided it has met the eligibility requirements during the relevant phase of the scheme.

Q Can I re-hire an employee that has been dismissed since 1 March 2020 and still claim JobKeeper payments for them?

A Yes.

An employee who was employed on 1 March 2020 and was then dismissed can be re-hired by the same eligible employer. The employer will be able to receive the JobKeeper Payment rate in respect of this employee once the employee has been re-hired, presuming that the employee is otherwise eligible. It should be noted that this does not permit an employer to claim back termination or redundancy payments previously made to the employee.

From 3 August 2020, an employee who met the eligibility requirements as at 1 July 2020, and is later terminated from their employment and rehired, will also be eligible to receive JobKeeper payments.

Q Are there any additional options for managing my staff who are receiving JobKeeper?

A Yes.

Alongside the JobKeeper scheme, the Federal Government implemented temporary amendments to the Fair Work Act 2009 (Cth) providing additional flexibilities and options for employers to manage their staff who are receiving JobKeeper Payments.

These include:

- the ability to direct employees to work fewer than their contracted hours, and paying only the higher of the value of the hours actually worked or the JobKeeper amount;

- a statutory ability to direct employees to work at different locations or to perform alternative duties;
- the ability to request that employees take annual leave, with the employee only able to refuse the request if their refusal is reasonable; and
- the ability to agree for employees to take annual leave at half-pay.

At first, these statutory amendments were going to be automatically repealed from 28 September 2020. However, on 1 September 2020, Parliament passed further amendments to extend the availability of these provisions until 28 March 2021, with the exception of flexibilities relating to annual leave which will still be repealed on 28 September 2020.

The amendments passed on 1 September 2020 also create two categories of employers who can access these provisions after 28 September 2020:

- **qualifying employers**, which are employers who are eligible for JobKeeper payments after 28 September 2020; and
- **legacy employers**, which are employers who are eligible for JobKeeper payments prior to 28 September 2020, but who are no longer eligible for the payment after 28 September 2020.

From 28 September 2020:

- qualifying employers will continue to have full access to the remaining flexibility provisions; and
- legacy employers who have experienced a 10% decline in turnover in a designated quarter will have access to restricted flexibility measures. If an employer ceases to be either a qualifying or legacy employer, any directions they have made will cease to be effective.

If an employer ceases to be either a qualifying or legacy employer, any directions they have made will cease to be effective.

All directions will cease to be effective from 28 March 2021 unless Parliament makes further amendments to the legislation.

These provisions are explored in more detail below.

Q How do I know if I can access workplace flexibilities if I'm no longer eligible for JobKeeper?

A In order for an employer who is no longer eligible for JobKeeper payment to access the workplace flexibilities in the Fair Work Act, an employer must:

- be a legacy employer; and
- hold a '10% decline in turnover certificate' that covers the employer for the designated quarter applicable to that time.

The '10% decline in turnover certificate' can either be:

- a written certificate from an eligible financial service provider (i.e. registered tax agent, BAS agent, or qualified accountant); or
- if you are a small business employer (i.e. an employer employing fewer than 15 employees), a statutory declaration made by the employer, or someone authorised by the employer who has knowledge of the financial affairs of the employer;

stating that that the employer satisfied the 10% decline in turnover test for the designated quarter applicable to a specified time.

In order to satisfy the 10% decline in turnover test for a period, an employer must have experienced at least a 10% decline in current GST turnover for the 2020 quarter designated for that period compared with the same quarter in 2019. However, as with previous decline in turnover tests for JobKeeper, the ATO has discretion to apply modified or alternative tests.

The periods and the designated quarters are as follows:

Period of time	Designated Quarter
28 September – 27 October 2020	June Quarter (April, May, June)
28 October - 27 February 2021	September Quarter (July, August, September)
28 February - 28 March 2021	December Quarter (October, November, December)

For example, in order to satisfy the 10% decline in turnover test for the period between 28 October - 27 February 2021, an employer would need to have a decline in turnover of at least 10% from the September Quarter 2019, to the September Quarter 2020.

Q If an employee is still at work, can I reduce their rate of pay to match the JobKeeper Payment rate?

A The answer to this depends on the circumstances.

If you give an employee a direction to:

- stand down or work reduced hours under section 789GDC or 789GJA;
- work different duties under section 789GE or 789GJB; or
- work at a different location under section 789GF or 789GJC;

you cannot also reduce their hourly rate of pay.

If, however, you do not give any of the above directions to an employee, you can agree in writing with an employee to reduce their hourly rate of pay, provided that:

- the employee's rate of pay (including any penalty rates, allowances and loadings) is no less than what they are lawfully entitled to receive under the relevant industrial instrument (such as a modern award or enterprise agreement); and
- you otherwise comply with your obligations under the Fair Work Act 2009 (Cth).

An employer cannot direct employees to accept a lower rate of pay; this may only happen by agreement.

Q Can I reduce the number of hours worked by an employee to be equal to the JobKeeper Payment rate?

A Yes.

Broadly, there are two ways this can be done:

- a direction made pursuant to the JobKeeper amendments to the *Fair Work Act 2009*; or
- by agreement in writing with an individual employee.

Qualifying Employers

If the employee is entitled to receive JobKeeper payments from you, you may reduce the number of hours worked by the employee with a written direction made under section 789GDC.

Making such a direction is subject to undertaking consultation in accordance with section 789GM (**Consultation**) and complying with sections 789GDA (**Minimum payment guarantee**) and 789GDB (**Hourly rate of pay guarantee**), and the direction being reasonable in all of the circumstances.

If you intend to give a written direction to require employees to work reduced hours, you must first:

- give three (3) days' notice in writing of your intention to give the direction; and
- consult with employees (or their representatives, such as a union delegate) about the proposed direction.

Legacy Employers (from 28 September 2020)

If you are a legacy employer with a 10% decline in turnover certificate, you may reduce the number of hours worked by the employee with a written direction made under section 789GJA.

Making such a direction is subject to undertaking consultation in accordance with section 789GMA (**Consultation**) and complying with sections 789GDA (**Minimum payment guarantee**) and 789GDB (**Hourly rate of pay guarantee**), and the direction being reasonable in all of the circumstances.

Legacy employers have additional restrictions on making such a direction. The direction must not result in the employee working:

- less than 60% of an employee's ordinary hours of work as assessed at 1 March 2020; or
- less than two (2) consecutive hours on a day.

'Ordinary hours' for a full-time employee should be an average of 38 hours per week. For a part-time employee, they will be the employee's contracted hours. Further regulations will be released with guidance for employees whose ordinary hours as at 1 March 2020 cannot be calculated.

If you intend to give a written direction to require employees to work reduced hours, you must first:

- give seven (7) days' notice in writing of your intention to give the direction; and
- consult with employees (or their representatives, such as a union delegate) about the proposed direction.

As part of the consultation process, the employer must provide the employee (or any appointed representative) with information about the proposed direction, which may include information about:

- the nature of the direction;
- when the direction is to take effect;
- the expected effects of the direction on the employee.

You must invite the employee or any appointed representative to give their views about the impact of the proposed direction on the employee (e.g. any impact on their family or caring responsibilities), and give prompt and genuine consideration to any views given by the employer or their representative.

Agreement in writing

Finally, you may enter into a written agreement with an employee to reduce their number of hours:

- for full-time employees, you will need to document the arrangement so that it complies with the requirements of part-time employment under the applicable industrial instrument, and the employee will be entitled to payment in accordance with those provisions;
- for part-time employees, you will need to document the agreement as a variation to their existing agreed hours in accordance with the relevant provisions of the applicable industrial instrument.

Q If an employee is directed to work fewer hours, do they get overtime if they work over that number of hours?

A The answer to this is not yet clear based on the information contained in the legislation, however the logical position would appear to be that full-time employees are not entitled to overtime merely

because they work more than the reduced number of hours.

However, part-time employees are likely entitled to overtime for working more than the reduced number of hours if they work more than their originally agreed hours.

For example, if a part-time employee's agreed hours each week were 25 hours, which were then reduced by direction to 20 hours, and they end up working 27 hours, they would receive overtime for the hours above 25 hours, not 20 hours.

An industrial instrument may also provide additional circumstances where overtime is required to be paid.

Q Can an employee take annual leave during a full or partial JobKeeper enabling stand down?

A Yes.

Section 789GDC(3) specifically provides for employees taking leave while on such a stand down.

Although such a period of leave is permitted, the effect of taking such leave is that the employee is not stood down under section 789GDC, and as such must be paid for that leave as though the full or partial stand down direction had never been given.

For example, if a full-time employee works 30 hours a week, subject to a direction under section 789GDC, if they take annual leave during that period the direction ceases to apply and they are entitled to take annual leave on the basis of their usual 30 ordinary hours per week unless agreed otherwise with their employer.

Employers and employees can, however agree to the employee taking twice as much leave at half the rate of pay that they would otherwise be required to pay under section 789GJ(2). **However, such an agreement will cease to have effect from 28 September 2020.**

Q Will an employee continue to accrue leave while stood down and receiving JobKeeper?

A Yes.

Section 789GS provides that employees continue to accrue leave as though the direction had never been given – that is, on their usual contracted ordinary hours of work.

Q Can I direct an employee to take annual leave during a full or partial JobKeeper enabling stand down?

A If the applicable industrial instrument permits it, then yes, subject to the requirements of that industrial instrument.

Under section 789GJ(1), you can also request that an employee take annual leave, and the employee cannot unreasonably refuse the request, provided that the request will not result in the employee's total annual leave balance being less than two weeks.

Please note that ability to make a request under section 789GJ(1) will cease on 28 September 2020, and any any request for a period of annual leave to be taken from this date onwards will not be effective.

Q Can I request that an employee work at different days and times?

A If an employee is entitled to receive JobKeeper payments from you, section 789GG allows you to request that they perform work on different days or at different times (compared with their ordinary days or times of work), and the employee cannot unreasonably refuse the request, provided that:

- the performance of the duties on those days is safe having regard to the nature and spread of COVID-19;
- the duties are reasonably within the scope of your business operations;
- the request does not have the effect of reducing the employee's number of hours of work.

If you are a legacy employer with a 10% decline in turnover certificate, you may also make such a request under section 789GJD, but you must ensure that the request does not have the effect of requiring the employee to work less than 2 consecutive hours in a day.

Q Can I require employees to perform alternative duties and responsibilities?

A Qualifying Employers

If an employee is entitled to receive JobKeeper payments from you, section 789GE(1) allows you to direct them to perform alternative duties provided that:

those duties are safe to perform;

- the employee has the skill and competence to perform them;
- the employee possesses any necessary qualifications or licences; and
- the duties are reasonably within the scope of your business operations.

However, if you direct the employee to perform duties that carry a rate of pay higher than what they would ordinarily be paid ("higher" duties), section 789GDB(3) requires you to pay the higher rate of pay that applies to those duties. The opposite, however, does not apply – if an employee is directed to perform "lower" duties, they must not suffer a reduction in their base rate of pay.

Further, you must ensure that:

- the direction is reasonable in all of the circumstances;
- you possess information that leads you to reasonably believe that the requirement is necessary to continue the employment of one or more of your employees; and
- you have given at least three (3) days' written notice of your intention to make the direction, and have consulted with your employees or their representatives before making the direction.

Legacy Employers (from 28 September 2020)

If you are a legacy employer with a 10% decline in turnover certificate, you may also direct employees to perform alternative duties pursuant to section 789GJB(1) on the same basis as for qualifying employers, however you must, you must first:

- give seven (7) days' notice in writing of your intention to give the direction; and
- consult with employees (or their representatives, such as a union delegate) about the proposed direction.

As part of the consultation process, the employer must provide the employee (or any appointed representative) with information about the proposed direction, which may include information about:

- the nature of the direction;
- when the direction is to take effect;

- the expected effects of the direction on the employee.

You must invite the employee or any appointed representative to give their views about the impact of the proposed direction on the employee (e.g. any impact on their family or caring responsibilities), and give prompt and genuine consideration to any views given by the employer or their representative.

Q Can I require employees to perform work at a different location?

A Yes.

Qualifying Employers

If an employee is entitled to receive JobKeeper payments from you, section 789GF(1) allows you to direct them to perform work at an alternative location, provided that:

- the place of work is suitable for the employee's duties;
- if the place is not the employee's home – the employee is not required to travel an unreasonable distance to the place; and
- the performance of duties at the place is safe, and reasonably within the employer's business operations.

Further, you must ensure that:

- the direction is reasonable in all of the circumstances; and
- you possess information that leads you to reasonably believe that the requirement is necessary to continue the employment of one or more of your employees; and
- you have given at least three (3) days' written notice of your intention to make the direction, and have consulted with your employees or their representatives before making the direction.

Legacy Employers (from 28 September 2020)

If you are a legacy employer with a 10% decline in turnover certificate, you may also direct employees to perform alternative duties pursuant to section 789GJC(1) on the same basis as for qualifying employers, however you must first:

- give seven (7) days' notice in writing of your intention to give the direction; and
- consult with employees (or their representatives, such as a union delegate) about the proposed direction.

As part of the consultation process, the employer must provide the employee (or any appointed representative) with information about the proposed direction, which may include information about:

- the nature of the direction;
- when the direction is to take effect;
- the expected effects of the direction on the employee.

You must invite the employee or any appointed representative to give their views about the impact of the proposed direction on the employee (e.g. any impact on their family or caring responsibilities), and give prompt and genuine consideration to any views given by the employer or their representative.

Q What happens if I make a JobKeeper direction or request, and subsequently cease to be eligible for JobKeeper or a ‘10% decline in turnover certificate’?

A Qualifying Employers

If you have made a JobKeeper direction or request (pursuant to sections 789GDC, 789GE, 789GF, or 789GG) whilst receiving JobKeeper payments, these directions or requests will cease to be effective when your eligibility for JobKeeper payments ceases.

Legacy Employers (from 28 September 2020)

If you are a legacy employer that has made a JobKeeper direction or request (pursuant to sections 789GJA, 789GJB, 789GJC, or 789GJD), you will need to continue to hold a ‘10% decline in turnover certificate’ for the direction or request to be effective.

This means that you will need to obtain a new certificate at the start of each test time. As such, after obtaining a certificate in the first test period (28 September 2020 – 27 October 2020), you will need to have a new certificate by 28 October 2020, and 28 February 2021.

You must also notify employees before 28 October 2020 and 28 February 2021 if a direction or request currently in operation will either continue to operate, depending on whether a further certificate is obtained.

Q Am I eligible for JobKeeper payments as a business owner?

A Yes, if you are a business owner (this would include a shareholder, beneficiary or partner) that is actively engaged in the business. However, only one business owner per eligible entity can receive a Jobkeeper payment.

Q How do I register for the JobKeeper payment scheme?

A Employers can enrol for the JobKeeper payment scheme through the ATO’s Business Portal. This can be accessed by logging into the ATO’s online services through myGov or enrolment can be performed by a registered tax or BAS agent.

In applying for JobKeeper, employers will need to provide information to the ATO on the number of eligible employees engaged as at 1 March 2020 and those currently employed by the business (including those stood down or rehired). For most businesses the ATO will use Single Touch Payroll data to pre-populate the employee details for the business.

Q Can I compel a casual employee to make themselves available for work?

A No.

Casual employees, by the nature of their employment, have the absolute right to make themselves as available, or unavailable, for work as they please. Employers have no right to demand that casual employees perform a certain amount of work each week.

However, regular unavailability may give rise to a valid reason to terminate the employment of a casual employee. The NRA strongly recommends seeking separate legal advice before taking such a step.