

Appendix A — Glossary and Defined terms

Abbreviation	Defined term
ATO	Australian Taxation Office
Commissioner	Commissioner of Taxation
Complaint	<p>A complaint is defined AS/NZS 10002:2014 Guidelines for complaint management in organizations</p> <p><i>Expression of dissatisfaction made to or about an organization, related to its products, services, staff or the handling of a complaint, where a response or resolution is explicitly or implicitly expected or legally required.</i></p> <p><i>Disputes - Unresolved complaints escalated internally or externally, or both.</i></p> <p><i>Feedback - Opinions, comments and expressions of interest or concern, made directly or indirectly, explicitly or implicitly to or about the organization, its products, services, staff or its handling of a complaint. Organizations may choose to manage such feedback as a complaint.</i></p>
EM	Explanatory Memorandum to the A New Tax System (Tax Administration Act (No. 2) 2000
IGT Act 2003	<i>Inspector-General of Taxation Act 2003</i>
IGTO	Inspector-General of Taxation and Taxation Ombudsman.
PS LA 2011/15	Practice Statement Law Administration PS LA 2011/15 <i>Lodgment obligations, due dates and deferrals</i>
Rules	<i>Coronavirus Economic Response Package (Payments and Benefits) Rules 2020</i>
TAA 1953	<i>Taxation Administration Act 1953</i>

Appendix B — Section 255-10 of the TAA Act 1953

255-10 To defer the payment time

Deferrals for particular taxpayers

- (1) The Commissioner may, having regard to the circumstances of your particular case, defer the time at which an amount of a *tax-related liability is, or would become, due and payable by you (whether or not the liability has already arisen). If the Commissioner does so, that time is varied accordingly.

Note: General interest charge or any other relevant penalty, if applicable for any unpaid amount of the liability, will begin to accrue from the time as varied. See, for example, paragraph 5-15(a) of the Income Tax Assessment Act 1997.

- (2) The Commissioner must do so by written notice given to you.

Deferrals for classes of taxpayers

- (2A) The Commissioner, having regard to the circumstances of the case, may, by notice published on the Australian Taxation Office website, defer the time at which amounts of *tax-related liabilities are, or would become, due and payable by a class of taxpayers (whether or not the liabilities have already arisen).

- (2B) If the Commissioner does so, that time is varied accordingly.

Note: General interest charge and any other relevant penalties, if applicable for any unpaid amounts of the liabilities, will begin to accrue from the time as varied. See, for example, paragraph 5-15(a) of the Income Tax Assessment Act 1997.

- (2C) A notice published under subsection (2A) is not a legislative instrument.

Deferral does not affect time for giving form

- (3) A deferral under this section does not defer the time for giving an *approved form to the Commissioner.

Note: Section 388-55 allows the Commissioner to defer the time for giving an approved form.

PS LA 2011/15 - Lodgment obligations, due dates and deferrals

! This cover sheet is provided for information only. It does not form part of *PS LA 2011/15 - Lodgment obligations, due dates and deferrals*

! This document has changed over time. This version was published on *20 May 2011*

Other obligations

131. With one exception, where a person⁹⁰ gives a TFN declaration to a payer, this must be lodged with the Commissioner within 14 days of the declaration being made.⁹¹ The exception is where the payer is a labour hire firm and the payee has not commenced work.
132. For each financial year, investment bodies must give the Commissioner a written report in relation to all investments in the investment body (Annual Investment Income Report). The report must be lodged within four months after the end of the financial year; that is, 31 October following a financial year ending 30 June.⁹²
133. An obligation to lodge a Petroleum Resource Rent Tax annual return arises where a person derives assessable receipts in relation to a petroleum project.⁹³ The due date for lodgment of an annual return is 60 days after the end of the year of tax in which a person derives the assessable receipts for financial years commencing on or after 1 July 2006⁹⁴ and 42 days after the end of the year of tax for previous years.

Elections

134. Eligible entities may elect to pay PAYG instalments annually. Entities must make an election to report annually by the date on which the first quarterly instalment would otherwise be due⁹⁵ – generally 28 October.
135. Eligible entities will be able to elect to pay GST by instalments. This election generally must be made on or before 28 October of the financial year to which it relates.⁹⁶ The election is usually made on the first quarterly activity statement in the income year (or the first quarterly activity statement issued after eligibility criteria are met).
136. Those entities that are eligible to report and pay, or claim a refund of, GST annually (that is, elect annual tax periods) must make an election by the due date. Annual GST tax period elections are generally due:⁹⁷
 - for quarterly reporters, on or before 28 October in the financial year to which it relates, or
 - for monthly reporters, on or before 21 August in the financial year.
137. New GST registrants will be allowed up to six months from the date of effect of their GST registration to elect the annual GST option if this is later than the dates above.
138. The Commissioner may accept elections after the due date in certain circumstances.

Deferring lodgment obligations

139. At times, entities may experience circumstances that prevent them from lodging by the due date. The law generally allows the Commissioner to defer the time for lodgment of an approved form and a prescribed form.

⁹⁰ Section 202A of the ITAA 1936.

⁹¹ Section 202CD of the ITAA 1936.

⁹² Sub-regulation 56(3) of the *Income Tax Regulations 1936*.

⁹³ Section 59 of the *Petroleum Resource Rent Tax Assessment Act 1987* (PRRTAA).

⁹⁴ Section 82 of the PRRTAA.

⁹⁵ Subsection 45-140(2).

⁹⁶ Section 162-25 of the GST Act.

⁹⁷ Section 151-20 of the GST Act.

140. Subsection 388-55(1) provides the Commissioner with the discretionary power to defer the time within which an approved form is to be given to the Commissioner or another entity.
141. The existence of this discretion does not mean that the entity has an entitlement to it being exercised, but it does enable the time for lodgment to be deferred where warranted.
142. The Commissioner will generally grant a deferral where it is fair and reasonable to do so having taken into account all of the material facts. This approach seeks to achieve a balance between the Commissioner's obligation to administer tax law consistently and to do so fairly having regard to the relevant circumstances.
143. The purpose of deferring the due date for lodgment is to facilitate the lodgment of forms by entities (or their representatives) that are unable to be lodged by the due date but have the ability or potential to lodge at a particular time in the future. Deferring the due date for lodgment provides a further period of time in which to lodge without incurring an FTL penalty or other administrative penalties and provides the Commissioner with an alternative to undertaking further compliance action.
144. A deferral of time to lodge does not defer the time for payment.⁹⁸ However, the Commissioner does have power under a separate provision to defer the time for payment of a tax-related debt.⁹⁹ Refer to PS LA 2011/14 General debt collection powers and principles.
145. Where possible, a lodgment deferral request should be made before the lodgment due date. A request may be made by telephone, but in some cases it may be necessary to apply in writing to assist the Commissioner to make a more informed decision. Requests by registered agents will generally need to be in writing. The preferred method for receiving deferral requests made by registered agents is through the Tax Agent Portal or the BAS Agent Portal.
146. In any request for a deferral of the due date to lodge a form, an entity or the entity's representative will need to:
- provide details of the particular circumstances that make them unable to lodge on time
 - propose a deferred date for lodgment, and
 - give an assurance that future obligations will be met on time once the stated circumstances are resolved.
147. In determining whether it is fair and reasonable to grant a deferral the Commissioner will consider:
- the reason why the entity or their representative is unable to lodge on time
 - the value of the information contained in the form
 - the size and structure of the entity (large corporate entities are more likely to have the ability to overcome circumstances that might otherwise adversely affect their ability to lodge by the due date)
 - the risk to revenue

⁹⁸ Subsection 388-55(2).

⁹⁹ Section 255-10.

- the entity's compliance history as a whole (that is lodgment of taxation returns, activity statements and other forms, payment of amounts on time and previous dealings with the Commissioner, to gain a view of the entity's level of compliance)
 - the length of time needed to lodge the form (a deferral will usually be granted where an entity has good compliance history and requests a short period of additional time to lodge a form), and
 - any other relevant information.
148. Each request will be considered on its merits and the deferred due date will be determined having regard to the particular circumstances of the entity.
149. If a lodgment deferral is granted it is done so on a short term basis to allow time to overcome problems preventing the lodgement of the relevant form. Lodgment deferrals will not be extended on a permanent basis.

Exceptional or unforeseen circumstances

150. The Commissioner will generally consider it fair and reasonable to grant a deferral where the inability to lodge by the due date is reasonably attributed to exceptional or unforeseen circumstances, such as:
- natural disasters (flood, fire, drought, cyclones, earthquake and similar events) or other disasters or events that may have, or have had, a significant impact on an entity, region or particular industry or grouping of entities
 - the serious illness or death of the individual or their representative
 - impeded access to records (for example, records seized during a police search or retained as evidence in a court matter)
 - the advanced age or the youth of an individual, the serious illness or death of a family member or a problem due to language difficulties.
151. A deferral can be granted even where the circumstances leading to their inability to lodge on time continue to be beyond the entity's control so that they may not be able to meet future obligations on time. For example, where an individual's length partners or beneficiaries of a partnership or trust cannot influence the preparation timeframe of the main return.
152. The fact that an entity may have a poor lodgment compliance history should not prevent granting a request for a deferral of time to lodge, where the inability to lodge was caused by circumstances beyond their control or if it would be otherwise fair and reasonable to grant the deferral.

Other circumstances

153. In circumstances such as an individual being overseas or away from home the individual should, where possible, make arrangements to deal with their taxation affairs either before or during their absence. Where an individual is absent at the time of normal bulk activity statement generation, it may be possible to generate an activity statement in advance so that the individual can meet lodgment and payment obligations on time.
154. If an entity presents a lodgment deferral proposal that is either unacceptable or has some aspects that are unacceptable to the Commissioner, a more suitable arrangement may be negotiated.

155. Where fraudulent alterations made by an entity's representative without the authority of the entity are detected in a form already lodged, the Commissioner will generally advise the entity of the requirement to lodge a fresh form. The due date for lodgment of this form will be deferred for 30 days from the date of the advice from the Commissioner. A longer deferral period may be granted, if requested, depending on the entity's circumstances.

Collective deferrals

156. Deferrals may be granted to a class of entities affected by a common event such as bushfire or delayed legislation. Where the Commissioner can reasonably assume that a common event has sufficiently impacted on all of a defined population, a deferral may be granted without individual applications being made by the entities involved. For example, where industrial instruments prevent employees of schools and associated bodies from working over the Christmas holiday shutdown period, deferrals may be granted to all entities affected in this way.

New legislative measures

157. On occasions, the Australian Government may announce new legislative measures that will have retrospective application once enabling legislation is enacted. The general approach of the Commissioner to administering retrospective changes is to apply the existing law until the proposed changes are enacted. The Commissioner cannot insist on the application of a proposed law that has the effect of increasing entities' liabilities or of paying money to entities where there is no legal basis. However, the tax law allows the Commissioner to accept returns as lodged. PS LA 2004/6 Tax Office role in providing information or advice on the potential application of announced changes to the tax law, or where legislative change is contemplated but not announced, discusses the limited situations in which the Commissioner may advise entities that they can satisfy their obligations by anticipating the effects of a proposed legislative change. These decisions are not taken lightly and must be defensible having regard to the *Financial Management and Accountability Act 1997*.
158. In limited circumstances, it may be appropriate to grant a general deferral of the due date for lodgment. Generally, however, the fact that a new legislative measure will have retrospective application but has not been enacted will not be sufficient for a deferral of the due date for lodgment.

Labour hire firms

159. Labour hire firms and recruitment agencies acting in the capacity of a labour hire firm, are given a deferral for lodgment of TFN declarations. These firms are required to forward TFN declarations to the Commissioner within 14 days from the commencement of the relationship, that is, from when the payee actually commences working for the payer (the labour hire firm), and not from the date the payee has made the declaration. This is because the labour hire firm will usually have the payee complete a TFN declaration at the time of registering with the labour hire firm (for convenience only), but the payee may not commence a working relationship until a substantial time later, if at all.



Coronavirus Economic Response Package (Payments and Benefits) Rules 2020

made under subsection 20(1) of the

Coronavirus Economic Response Package (Payments and Benefits) Act 2020

Compilation No. 9

Compilation date: 25 March 2021

Includes amendments up to: F2021L00305

Registered: 30 March 2021

Prepared by the Office of Parliamentary Counsel, Canberra

Division 2—Entitlement based on paid employees**6 Employer's entitlement to jobkeeper payment for an employee**

- (1) An entity (the **employer**) is entitled to a jobkeeper payment for an individual for a fortnight if:
- (a) the fortnight is a jobkeeper fortnight (see subsection (5)); and
 - (b) the employer qualifies for the jobkeeper scheme for the fortnight (see section 7); and
 - (c) the individual is an eligible employee of the employer for the fortnight (see section 9); and
 - (d) the employer has satisfied the wage condition in section 10 in respect of the individual for the fortnight; and
 - (e) the employer has notified the Commissioner in the approved form at or before the time referred to in subsection (2) that the employer elects to participate in the jobkeeper scheme; and
 - (f) the employer has given information about the entitlement for the fortnight, including details of the individual, to the Commissioner in the approved form; and
 - (fa) for a jobkeeper fortnight beginning on or after 28 September 2020—the employer has notified the Commissioner in the approved form as to whether the higher rate or the lower rate applies to the individual (see section 9A); and
 - (g) the employer has not notified the Commissioner in the approved form that the employer no longer wishes to participate in the jobkeeper scheme.

Note 1: Some provisions of the Act also affect whether an entity is entitled to a jobkeeper payment: see section 14 of the Act (about record keeping) and section 19 of the Act (about contrived schemes).

Note 2: The approved form may require further information: see paragraph 388-50(1)(c) in Schedule 1 to the *Taxation Administration Act 1953*.

- (2) For the purposes of paragraph (1)(e), the time at or before which the employer must notify the Commissioner that the employer elects to participate in the jobkeeper scheme is:
- (a) for an entitlement arising in the first or second jobkeeper fortnight—the end of the second jobkeeper fortnight; or
 - (b) for an entitlement arising in any other fortnight—the end of the fortnight.

Note 1: The Commissioner may defer the time for giving an approved form: see section 388-55 in Schedule 1 to the *Taxation Administration Act 1953*.

Note 2: See section 10A of this instrument for requirements that apply if an employer notifies the Commissioner that the employer elects to participate in the jobkeeper scheme.

Part 2 Jobkeeper payment**Division 2** Entitlement based on paid employees**Section 7**

No other entity to be entitled for the same individual for a fortnight

- (3) An entity cannot be entitled under this section to a jobkeeper payment for an individual for a fortnight if another entity is entitled under this section or section 11 or 12A to a jobkeeper payment for the individual for the fortnight.

Employer must notify individual

- (4) An employer must notify an individual in writing within 7 days of giving the Commissioner details of the individual under paragraph (1)(f).
- (4A) An employer must notify an individual in writing within 7 days of giving the Commissioner a notice under paragraph 6(1)(fa) in respect of the individual. The notice must state whether the rate notified to the Commissioner under that paragraph was the higher rate or the lower rate.

*Meaning of **jobkeeper fortnight***

- (5) Each of the following is a **jobkeeper fortnight**:
- (a) the fortnight beginning on 30 March 2020;
 - (b) each subsequent fortnight, ending with the fortnight ending on 28 March 2021.

7 When an entity qualifies for the jobkeeper scheme

- (1) For the purposes of paragraphs 6(1)(b), 11(1)(c) and 12A(1)(c), an entity qualifies for the jobkeeper scheme for a jobkeeper fortnight if:
- (a) on 1 March 2020, the entity:
 - (i) carried on a business in Australia; or
 - (ii) was a non-profit body that pursued its objectives principally in Australia; or
 - (iii) was a deductible gift recipient that was, or operated, a public fund covered by item 9.1.1 or 9.1.2 of the table in subsection 30-80(1) of the *Income Tax Assessment Act 1997* (international affairs deductible gift recipients); and
 - (b) the entity has satisfied the decline in turnover test at or before the end of the fortnight (see sections 8 and 8A); and
 - (c) for a fortnight beginning on or after 28 September 2020—the entity also satisfies the actual decline in turnover test (see section 8B) for the fortnight.

Note: Qualifying entities must report monthly turnover information to the Commissioner for the duration of the scheme: see section 16.

Exceptions

- (2) However, an entity does *not* qualify for the jobkeeper scheme for a jobkeeper fortnight if:
- (a) an amount of levy under the *Major Bank Levy Act 2017* was imposed for any quarter ending before 1 March 2020 on:

Division 3—Entitlement based on business participation**11 Entity's entitlement to jobkeeper payment for a business participant**

- (1) An entity is entitled to a jobkeeper payment for an individual for a fortnight if:
- (a) the fortnight is a jobkeeper fortnight (see subsection 6(5)); and
 - (b) the entity is not a non-profit body; and
 - (ba) the entity is not the approved provider of an approved child care service; and
 - (c) the entity qualifies for the jobkeeper scheme for the fortnight (see section 7); and
 - (d) the individual is the eligible business participant for the entity for the fortnight (see section 12); and
 - (e) the entity has notified the Commissioner in the approved form at or before the time referred to in subsection (2) that the entity elects to participate in the jobkeeper scheme; and
 - (f) the entity has given information about the entitlement for the fortnight, including details of the individual, to the Commissioner in the approved form; and
 - (fa) for a jobkeeper fortnight beginning on or after 28 September 2020—the entity has notified the Commissioner in the approved form as to whether the higher rate or the lower rate applies to the individual (see section 12AA); and
 - (g) the entity has not notified the Commissioner in the approved form that the entity no longer wishes to participate in the jobkeeper scheme.

Note 1: Some provisions of the Act also affect whether an entity is entitled to a jobkeeper payment: see section 14 of the Act (about record keeping) and section 19 of the Act (about contrived schemes).

Note 2: The approved form may require further information: see paragraph 388-50(1)(c) in Schedule 1 to the *Taxation Administration Act 1953*.

- (2) For the purposes of paragraph (1)(e), the time at or before which the entity must notify the Commissioner that the entity elects to participate in the jobkeeper scheme is:
- (a) for an entitlement arising in the first or second jobkeeper fortnight—the end of the second jobkeeper fortnight; or
 - (b) for an entitlement arising in another fortnight—the end of the fortnight.

Note: The Commissioner may defer the time for giving an approved form: see section 388-55 in Schedule 1 to the *Taxation Administration Act 1953*.

Only one eligible business participant per entity

- (3) An entity cannot be entitled under this section to a jobkeeper payment for more than one individual (whether for the same fortnight or a different fortnight).

Part 2 Jobkeeper payment**Division 3** Entitlement based on business participation**Section 12**

No other entity to be entitled for the same individual for a fortnight

- (4) An entity cannot be entitled under this section to a jobkeeper payment for an individual for a fortnight if another entity is entitled under this section or section 6 or 12A to a jobkeeper payment for the individual for the fortnight.

Entity must notify individual

- (5) Unless the entity is a sole trader, the entity must notify an individual in writing within 7 days of giving the Commissioner details of the individual under paragraph (1)(f).

Note: In the case of a sole trader, the entity and the individual are the same: see item 1 of the table in subsection 12(2).

- (5A) Unless the entity is a sole trader, the entity must notify an individual in writing within 7 days of giving the Commissioner a notice under paragraph 11(1)(fa) in respect of the individual. The notice must state whether the rate notified to the Commissioner under that paragraph was the higher rate or the lower rate.

Integrity rule

- (6) An entity is *not* entitled to a jobkeeper payment under this section unless the entity had an ABN on 12 March 2020 (or a later time allowed by the Commissioner), and the requirement in subsection (7) or (8) is satisfied.
- (7) For the purposes of subsection (6), the requirement in this subsection is satisfied if:
- (a) an amount was included in the entity's assessable income for the 2018-19 income year in relation to it carrying on a business; and
 - (b) the Commissioner had notice on or before 12 March 2020 (or a later time allowed by the Commissioner) that the amount should be so included.
- (8) For the purposes of subsection (6), the requirement in this subsection is satisfied if:
- (a) the entity made a taxable supply in a tax period that applied to it that:
 - (i) started on or after 1 July 2018; and
 - (ii) ended before 12 March 2020; and
 - (b) the Commissioner had notice on or before 12 March 2020 (or a later time allowed by the Commissioner) that the entity had made the taxable supply.
- (9) For the purposes of subsection (8), in determining whether the entity made a supply (within the meaning of the GST Act) that is a taxable supply:
- (a) assume that the entity is registered (within the meaning of that Act); and
 - (b) assume that the supply is neither GST-free (within the meaning of that Act) nor input taxed (within the meaning of that Act); and
 - (c) for an entity carrying on business solely in the external Territories—assume that the external Territories are part of the indirect tax zone (within the meaning of that Act).

EXPLANATORY STATEMENT**Issued by authority of the Treasurer**

Coronavirus Economic Response Package (Payments and Benefits) Act 2020

Coronavirus Economic Response Package (Payments and Benefits) Rules 2020

Subsection 20(1) of the *Coronavirus Economic Response Package (Payments and Benefits) Act 2020* (the Act) provides that the Treasurer may make rules prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Subsection 7(1) of the Act provides that the rules may make provision for and in relation to one or more kinds of payments by the Commonwealth to an entity in respect of a time that occurs during the prescribed period (the period between 1 March 2020 and 31 December 2020), and the establishment of a scheme providing for matters relating to one or more of those payments, and matters relating to such a scheme. Any payments must relate to the prescribed period – the period from 1 March 2020 to 31 December 2020. However, payments under the JobKeeper scheme can only be made after the commencement of both the Act and the *Coronavirus Economic Response Package (Payments and Benefits) Rules 2020* (the Rules) that provide for payments – earlier events within the period may affect entitlement to a payment but all payments must be made prospectively.

The object of the Act is to provide financial support to entities to assist with the impact of the Coronavirus known as COVID-19. In particular, the Act establishes a framework for the Treasurer to make rules about one or more kinds of payments to an entity in respect of a prescribed period.

On 30 March 2020, the Australian Government announced a wage subsidy called the JobKeeper payment for entities that have been significantly affected by the economic impacts of the Coronavirus.

The purpose of the Rules is to establish the JobKeeper payment scheme and specify details about the scheme, including:

- the start and end date of the scheme;
- when an employer or business is entitled to a payment;
- the amount and timing of a payment; and
- other matters relevant to the administration of the payment.

The Rules specify that the JobKeeper payment is available in fortnightly periods between 30 March 2020 and 27 September 2020 – a period of 26 weeks.

A business that is entitled to the JobKeeper payment will receive a fixed payment of \$1,500 per fortnight per eligible employee. The payment must have already been passed on to the eligible employee in full. The payment provides the equivalent of approximately 70 per cent of the national median wage. In addition a business may be entitled to the JobKeeper payment for the business owner or a nominated owner regardless of whether the business has eligible employees.

For all subsequent JobKeeper fortnights, the employer will need to notify the Commissioner of the employer's election to participate in the scheme before the end of the particular fortnight.

Under section 388-55 in Schedule 1 to the *Taxation Administration Act 1953*, the Commissioner may also defer the timing for giving information in an approved form. Employers that have difficulty meeting the timing requirements may seek such a deferral from the Commissioner.

The employer has not withdrawn their election to participate

An employer is not entitled to the JobKeeper payment if they notify the Commissioner that they no longer wish to participate in the JobKeeper scheme. This notification must be made in the form approved by the Commissioner. An employer does not need to consult with or obtain the consent of its eligible employees if it no longer wishes to participate in the JobKeeper scheme.

The employer must provide information about eligible employees and the wage condition

To be entitled to a JobKeeper payment for a fortnight, the employer must have provided the following information to the Commissioner in the approved form:

- the details of each eligible employee; and
- other information about their entitlement to the JobKeeper payment.

It is anticipated that the Commissioner may require the following details for each eligible employee in the approved form:

- the name of the employee;
- the type of the employee's employment; and
- the employee's citizenship or residency status.

Once an employer has provided details of its eligible employees to the Commissioner, the employer must also notify each eligible employee within 7 days. This requirement is intended to keep eligible employees informed about the process.

If the information provided to the Commissioner does not subsequently change in the following JobKeeper fortnights, an employer is not required to provide the same information to the Commissioner again. However, where there is a change of circumstances – for example, a person who was an eligible employee for the previous JobKeeper fortnight is no longer an eligible employee for the relevant JobKeeper fortnight – the employer must notify the Commissioner of this in the approved form before the end of the relevant JobKeeper fortnight to satisfy the notification requirements for entitlement to a payment for that fortnight.

Only one employer is entitled to JobKeeper payment for a person

An entity is not entitled to the JobKeeper payment for an individual who is an employee (or business owner) if another employer is entitled (either as an employer or as a business owner) to a JobKeeper payment for the individual.



Australian Government
Australian Taxation Office

IGT reference number: [REDACTED]

ATO reference number: [REDACTED]

05 February 2021

Dear Robyn,

With reference to your referral of IGT0 complaint reference number: [REDACTED] please consider the following information.

1. Provide written reasons for the decision that was made, including the criteria for the exercise of the discretion and what considerations were taken into account

Based on the circumstances the BAS agent provided to explain why the client did not register for JobKeeper in an earlier month, the client did not meet the exceptional circumstances for the deferral request to be granted. The exceptional circumstances for deferral requests are:

- natural disasters – how was the client prevented from enrolling on time or contacting the ATO earlier
- impeded access to records – how was access impeded and/or what about the impeded access prevented the client from enrolling on time or contacting the ATO earlier
- serious illness or death – when did the illness happen and/or what prevented the client or their representative from contacting the ATO for assistance
- system issues – specifying the nature and duration of the problem, what had been done to resolve the issue and/or when they first contacted the ATO to seek assistance

Initial contact from the BAS agent [REDACTED] was made on 7 August 2020, refer to activity ID: [REDACTED]. The Call Centre representative applied the exceptional circumstances to the reasons the BAS agent provided why the client did not register for JobKeeper at an earlier date. This resulted in the deferral request not being granted. The BAS agent subsequently lodged a complaint.

During the complaint, the exceptional circumstances applied to the client's situation were provided to the BAS agent on 12 August 2020. Refer to complaint activity ID [REDACTED] created on 10 August 2020, see Note ID: [REDACTED]

2. Provide an explanation of what (if any) review rights are available to the complainant's client.

If the client does not agree with the decision to not grant the deferral request, the client can apply to the Federal Court of the Federal Circuit Court of Australia for a review under the Administrative Decisions (Judicial Review) Act 1977. The application must be lodged within 28 days. Clients can be directed to our website www.ato.gov.au and advised to search for "Federal Court". Or you can input into the search field webpage reference "QC 33829".

3. Did a change to deferral request policy occur?

At the start of August, the deferral request policy for JobKeeper had changed. We ceasing providing extended dates for clients to lodge their deferral requests. The exceptional circumstances that were considered were tightened. The exceptional circumstances stated above are the ones that have been applied since August.

If you have any questions or would like to discuss this matter further, please do not hesitate to contact [REDACTED].

Regards

[REDACTED]

ATO Complaints and External Review

[REDACTED]



JobKeeper Practice Note 2020/002

ATO practice statements should be the primary reference and basis for decisions. However, in some cases practice notes may be the only source of information. For example, where a practice note outlines policy which has not yet been included in a practice statement, or where the guidance is of a non-tax technical nature.

The practice note system has been adopted across the ATO to deliver business line-specific policies and practices. They have become an important component of the ATO governance framework, as outlined in the [ATO Policy Framework and Requirements](#).

ATO personnel, including non-ongoing personnel and relevant contractors, must comply with this practice note unless doing so creates unintended consequences or is considered incorrect. Where this occurs, ATO personnel must follow their business line's escalation process.¹

This practice note is intended as a guide for ATO staff only and may not be relied upon by taxpayers if released publicly.

Extension of time request to lodge approved forms

1. Background

The Government's JobKeeper payment scheme supports businesses and their employees who have been significantly affected by the coronavirus to help keep more Australians in jobs.

Under the JobKeeper payment scheme, businesses impacted by the coronavirus outbreak are able to access a subsidy from the government to assist with the cost of wages paid to their employees. Affected employers, businesses and registered religious institutions, are able to claim a fortnightly JobKeeper payment per eligible employee, per eligible religious practitioner, or for one eligible business participant. These payments can be claimed for fortnights from 30 March 2020 to the end of the JobKeeper scheme.

To be eligible for the JobKeeper payment, an employer must provide the Commissioner with certain required information in the approved form by a due date. Sections 6(1)(e) and 11(1)(e) of the *Coronavirus Economic Response Package (Payments and Benefits) Rules 2020* (the Rules) require employers or business participants to provide to the Commissioner an election to participate. Sections 6(2) and 11(2) provide the deadline for that election to be given. Generally, this is at or before the end of the first fortnight for which the employer is electing to claim, however the Commissioner has extended the due dates for enrolment for the JobKeeper fortnights. See Attachment A for a list of the approved deferred due dates for enrolment in order to claim for the JobKeeper fortnights and any further deferral will be from these due dates.

This practice note is limited in scope to deferral of the approved form for JobKeeper enrolment and does not cover the deferment of other JobKeeper dates (such as the date by which the wage condition in section 6(1)(d) of the Rules must be satisfied).

2. Issue

¹ Service Delivery Practice Note 2003-001.

This practice note provides guidance to staff on how to respond to enquiries from businesses requesting that the Commissioner allow an extension of time to lodge an approved form for the purposes of JobKeeper participation.

3. Policy

The coronavirus outbreak is a special circumstance which impacts businesses. In certain limited circumstances, it may be reasonable for the Commissioner to exercise discretions to allow approved forms to be lodged after the due date to facilitate claiming of the JobKeeper payments.

4. Practice

Section 388-55 of Schedule 1 to the *Taxation Administration Act 1953* provides the Commissioner with the power to defer the time for the giving of an approved form. The Commissioner can defer lodgment where it is fair and reasonable to do so, taking into account all the relevant circumstances².

Deferment will only be available in exceptional circumstances for the following reasons:

- the Commissioner has already put in place broad deferrals, giving taxpayers more time to submit JobKeeper approved forms;
- the purposes of the JobKeeper approved forms are elections to participate and the satisfying of monthly reporting obligations;
- the scheme is only of a short duration.

Consistent with *PSLA 2011/15: Lodgment obligations, due dates and deferrals*, exceptional circumstances will arise where:

- natural disasters or other disasters or events that may have, or have had, a significant impact on individuals, regions or particular industries;
- impeded access to records (for example, records seized during a police search or retained as evidence in a court matter);
- the serious illness or death of a family member, tax professional or critical staff member;
- system issues, either with ATO online services or the entity's business system³.

Such circumstances do not commonly occur and there would be few others that would give rise to a business qualifying for a deferral.

If an entity has missed lodging the approved form for enrolment for specific JobKeeper fortnights for reasons not outlined in this practice note, the Commissioner will not generally exercise his discretion to defer enrolment. If there are additional facts and circumstances that resulted in the entity missing the relevant enrolment due date and warrant further consideration, the request for deferral will need to be escalated and considered in a decision of whether it is appropriate for the Commissioner to grant a deferral of the due date to lodge the approved form outside the reasons outlined above. If an employer has met the payment conditions for the relevant JobKeeper fortnights for which they are seeking a payment under the JobKeeper scheme, the request for deferral can be considered.

² Paragraph 45 of *PSLA 2011/15: Lodgment obligations, due dates and deferrals*

³ Paragraph 48

Any deferral of the enrolment date for an employer is so that they are able to claim for JobKeeper fortnights that have occurred in the previous month. Employers who request a deferral will need to confirm that they have met the minimum payment conditions⁴ for all their eligible employees for the relevant JobKeeper fortnights before a deferral is granted, otherwise it may facilitate claims for JobKeeper payments which they will not be entitled to claim⁵.

5. Time for making the application

Applications for deferment should ordinarily be made before the due date. However, we accept that the coronavirus outbreak is a special circumstance and many applications will not be made by that deadline. Therefore, it is permissible for applications to be made after the due date. Regardless of when the deferral application is made, the agreed deferral period begins from the first business day after the due date.

6. Staff authorised to grant the lodgment deferral

There are limits which apply to the authorisation of ATO officers making deferral decisions. Additionally, the JobKeeper Payment Program is a short-term wage subsidy scheme that requires participants to provide information on a monthly basis to the Commissioner. Any deferral should only be for a short amount of time unless there are exceptional circumstances. The limits for deferral of JobKeeper approved forms are:

Level	APS 1	APS 2	APS 3	APS 4	APS 5	APS 6	EL 1	EL 2	SES
Maximum Adjustment Period:	14 business days	14 business days	14 business days	14 business days	14 business days	14 business days	14 business days	14 business days	No Lt

Related documents

[*PSLA 2011/15: Lodgment obligations, due dates and deferrals*](#)

Need help?

If you are unsure about the application of this practice note, you should seek advice from your team leader or technical adviser in the first instance. If they are unable to provide resolution themselves, they can seek technical support from Economic Stimulus Branch – Advice & Guidance

([REDACTED] [@ato.gov.au](mailto:[REDACTED]@ato.gov.au)).

Contact officer:	[REDACTED]
Phone:	(02) [REDACTED]
Date first issued:	11 June 2020

⁴ Employers must pay all their eligible employees at least the JobKeeper amount (gross salary inclusive of PAYG withholding) per JobKeeper fortnight.

⁵ Employers can only claim for eligible employees where they have met the minimum payment requirements under the wage conditions.

Date of effect:	11 June 2020
Date of next review:	N/A
Issued under the authority of:	[REDACTED] Assistant Commissioner

Version control

Version	Date	Description of Change		
1.0	11 June 2020	New Practice Note		
1.1	3 September 2020	Minor amendments and extension to maximum adjustment period for staff making deferral decisions.		
1.2	1 October 2020	Update to enrolment due date for FN 20.		
1.3	16 October 2020	Update internal mailbox.		

Modified Date: 16 October 2020

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ATTACHMENT A

Key Dates for Job Keeper Enrolments & declarations

JobKeeper Fortnight	Period relating to each JobKeeper Fortnight	Claim Month	Enrolment (Step 1)
1	30 March – 12 April	April	11 June
2	13 April – 26 April		
3	27 April – 10 May	May	11 June
4	11 May – 24 May		
5	25 May – 7 June	June	30 June
6	8 June – 21 June		
7	22 June – 5 July	July	31 July
8	6 July – 19 July		
9	20 July – 2 August	August	31 August
10	3 August – 16 August		
11	17 August – 30 August		
12	31 August – 13 September	September	30 September
13	14 September – 27 September		
14	28 September – 11 October	October	31 October
15	12 October – 25 October		
16	26 October – 8 November	November	30 November
17	9 November – 22 November		
18	23 November – 6 December	December	31 December (3 January for FN 20)
19	7 December – 20 December		
20	21 December – 3 January		
21	4 January – 17 January	January	31 January
22	18 January – 31 January		
23	1 February – 14 February	February	28 February
24	15 February – 28 February		
25	1 March – 14 March	March	31 March
26	15 March – 28 March		

This document is to be used in conjunction with the PSLA 2011/15 and the associated practice note 2020/002

Consistent with *PSLA 2011/15: Lodgment obligations, due dates and deferrals*, exceptional circumstances will arise where:

- natural disasters or other disasters or events that may have, or have had, a significant impact on individuals, regions or particular industries;
- impeded access to records (for example, records seized during a police search or retained as evidence in a court matter);
- the serious illness or death of a family member, tax professional or critical staff member;
- system issues, either with ATO online services or the entity's business system.

Impeded access to records due to COVID lockdown in VIC

July and August - impeded access to records – COVID lockdown VIC

Prior months – case by case if they met one of the Four exceptional circumstances outlined in SMART at an earlier date

- **Service Delivery will consider COVID as an acceptable reason to grant a lodgment deferral for July and August, for clients living in Victoria under lockdown where the client advises that for only these months they were unable to see their agent or to gather required information to make the declaration.**
- **This is only exceptional if they needed to see their agent in order to provide physical records relating to JK eligibility/enrolment. Where calling or emailing the agent would be reasonable alternative discretion would not be granted.**
- If reason given is COVID alone, deferral for prior months will not be considered. There must be a circumstance that impacted the client being able to enrol on time. For example, because of the lockdown I am unable to access my financial data stored on my business computer, my business premises is outside the 5km radius I am allowed to travel and I don't have remote access from my home.

Where an ATO staff member has taken incorrect action on an account or provided incorrect information, in the below scenarios we would accept a lodgment deferral.

- If an ATO staff member incorrectly keyed a monthly form and the client has received any JobKeeper funds this is considered an ATO error. Where a prior month has been incorrectly keyed, the client remains enrolled for all later months - no lodgment deferral is required however, the client is still required to satisfy all the eligibility criteria each month to be entitled to receive JobKeeper payment.
- Where an ATO staff member has incorrectly advised a client they were not eligible for Job Keeper and the client has subsequently been found eligible and wants to backdate their JobKeeper application this an appropriate reason to allow late enrolment back to the date of the incorrect advice. Evidence of the previous advice would need to be confirmed. For example, client calls ATO in April and is told they are not eligible (case note recorded) and do not enrol. Later the client visits a TAG who helps them determine they are eligible; the client enrolls and wishes to backdate. The case note provides evidence of the previous advice and ECP tool should be used to confirm eligibility (unless confirmed by subsequent ATO advice).

Advice provided where a deferral should not be granted.

- Client/Agent advises they were waiting for turnover to dip before applying
- Client/Agent was waiting until they worked out actual turnover to apply.
- **The JobKeeper rules allow clients to make a projection of turnover for the purpose of the decline in turnover test and as such clients are not obliged to wait for actual turnover figures to enrol – our public facing online reference material, and the portals, reflect this.**
- **From September 28th, actual turnover is required.**

Tax Agent related reasons for not lodging on time that should not be considered for a deferral:

- Changing from one agent to another – unless the client has evidence of being unable to obtain records for the new agent evidenced by change in TAN associated to client record (in which case would be impeded access to records)
- Agent provided incorrect advice that client was not eligible
- New agent or bookkeeper has determined client was eligible however no previous contact with the ATO
- Client did not know they were eligible until they saw their agent – current month only
- Agent has just finished tidying up client books and found client was eligible – current month only
- Client's agent passed away **but** client did not attempt to contact ATO/significant time passed until client found another agent. For example, TAG passed away in March and client contacted ATO in September wanting late enrolment back to April.
- Agent advised client was stuck overseas and backdate until April – if overseas and an EBP they would not be actively engaged in business and not eligible.
- Agents with new clients due to issues with previous agent – current month only

Reasonable basis to exercise discretion outside of the 4 limited exception circumstances

Assessed case by case as there is scope in the PSLA to approve outside of the 4 reasons listed in SMART/the practice note *where the Commissioner considers it reasonable to do so*. There are very few circumstances that would warrant exercise of the discretion outside of the 4 in the practice note. These include -

- Domestic violence – case by case.
- Evidence of ATO error/incorrect advice
- Client was waiting for ATO to make a section 11 discretion decision (for certain EBPs who require section 11 discretion to be eligible, they are not able to enrol until we make a decision. When we do exercise s11 discretion, they should be allowed to enrol back to the fortnight they first requested the s11 discretion).

Additional Guidance

Serious Illness

How far is the scope? Does it need to be a direct family member?

Deferral to be assessed on all of the circumstances.

Under the exceptional circumstance Serious Illness:

Where a client advises death of a family member OR a person at a tax agent office, we will accept these on face value for all of the months being requested. This is so we are ensuring our clients are being looked after and also supporting our commitment to the staff experience .

Mental Illness and affected by Cancer – these requests also fall into the above criteria.

Natural Disaster

Siebel indicator is enough to evidence impacted by natural disaster but there needs to be information around how the natural disaster caused them not to enrol in earlier months – ie why did they not apply earlier. COVID alone is not sufficient.

System Issues

Not sufficient if the client/agent had ongoing issues (eg patchy nbn) from April with no contact to the ATO until months later (asking in September for enrolment back to April). The system issue needs to be proximate to the enrolment due date and should also be proximate to the client contacting the ATO.

Where the client/agent advises system issues and there is evidence of prior contact to the ATO then it can be considered.

Impeded access to records

Going through a divorce and ex-partner denied access to records – not acceptable unless the client can provide evidence.

Overseas and could not access records – to be assessed on a case by case basis however an ABP needs to be actively engaged in the business each fortnight. If they are overseas, they would not be.

Content current at 26/10/20

JobKeeper form deferral requests

Background

This page provides:

- instructions when assisting clients who have not enrolled for JobKeeper by the legislated or extended due date
- the conditions a deferral may be granted, and
- the process to follow based on Authorisations to grant the deferral.

! If you receive an escalation as part of the **Plus one** team, establish PORO if not already completed and proceed to **Eligibility for deferral**.

! Deferral consideration is only required if the client has **not** lodged the enrolment form by the due date for the fortnights being claimed.

There is no requirement to consider a deferral for lodgment of the monthly declaration. However, clients should be encouraged to lodge their monthly declaration by the due date so there are no delays to payment of JobKeeper amounts.

Recent updates

04/05/2021	Added link in Scenarios to Apted FFC decision page content. Removed 'impeded access to records' from eligibility for deferral.	Case Id: [REDACTED]
01/05/2021	Updates: <ul style="list-style-type: none"> • Removed 'system issues' as a circumstance at step 1 under 'Eligibility for deferral' heading • Changed 'Assigned To:' to ENTERPRISE_Q, under 'Actioning deferral requests (Plus One team only)' heading, step 8 and step 10. 	Case Id: [REDACTED]
21/04/2021	Added: <ul style="list-style-type: none"> • Warning Alert under 'Eligibility for deferral' heading, to advise Plus One team only • (Plus One team only) as a part of 'Actioning deferral requests' heading. 	Case Id: [REDACTED]

Checks

PORO

Establish [PORO](#).

Confirm client ineligible to enrol

Step	Action
1	Open ECP .
2	Type the client's <ul style="list-style-type: none"> • TFN • ABN, or • Name.
3	Set up the JobKeeper enrolment exclusion tool .
4	Determine if the client meets any of the exclusion checks. If there are no exclusions, ECP will display 'There are no details for this entity'.

To claim JobKeeper payments, an entity must satisfy certain eligibility requirements. As a sole trader, you are an eligible entity if:

- on 1 March 2020, you carried on a business in Australia
- you satisfy the relevant decline in turnover tests
- you satisfied certain conditions at 12 March 2020, being
 - you had an ABN on 12 March 2020, and
 - you had lodged, on or before 12 March 2020, at least one of
 - a 2018–19 income tax return showing an amount included in your assessable income for carrying on a business, or
 - an activity statement or GST return for any tax period that started after 1 July 2018 and ended before 12 March 2020 showing you made a taxable, GST-free or input-taxed sale.

For additional eligibility information, refer to the **Employers** section of the [JobKeeper Payment](#) page for information about eligibility.

Enrolment status

Determine if the client has lodged an enrolment form (JobKeeper FID form), by the due date, for the month they are attempting to claim. Refer to [JobKeeper dates and Authorisations](#).

If **yes**, no deferral is required. Assist the client by encouraging them to self serve or complete the relevant forms for them, if they are unable to. Refer to [JobKeeper payment](#) page.

Wage condition has been met

Ensure the client is eligible for JobKeeper before considering a deferral. Determine if the client is claiming as an employer or an eligible business participant. If the client is an:

- employer, confirm the client has paid their eligible employees a minimum of:

- \$1500 per fortnight, for fortnights **prior** to 28 September 2020
- the relevant [payment tier](#) amount for JobKeeper extension periods
- If:
 - **yes**, proceed to **Active compliance case**
 - **no**, the business is not eligible for the deferral. Discuss eligibility requirements for submitting for future months. Refer to [COVID-19 – JobKeeper Payment](#) for the relevant information to assist the client
- eligible business participant (including a sole trader), proceed to **Active compliance case**

Active compliance case

Before making any changes to JobKeeper forms, go to [Further validation on JobKeeper forms](#) to check if an active Compliance Activity exists. No deferral should be granted if there is an open compliance activity on the account or where the client has been deemed ineligible for JobKeeper.

Scenarios

Apted - Full Federal Court decision

Refer to [Apted decision - Jobkeeper payment](#) for any client enquiries regarding this matter and their eligibility for JobKeeper.

Procedure Steps

Before you begin

If the client...	Then...
wants to enrol for JobKeeper	<p>advise the client</p> <ul style="list-style-type: none"> they can lodge the enrolment form online any enrolment lodged today will allow them to claim the JobKeeper subsidy for future periods if they have confirmed their actual decline in turnover and are eligible for the JobKeeper extension no deferral is required.
<p>has already attempted to</p> <ul style="list-style-type: none"> enrol for JobKeeper, and claim for prior months 	<ul style="list-style-type: none"> check any Siebel activities with the classification: <ul style="list-style-type: none"> Capability: Operations Category: Processing Type: JobKeeper deferral review the notes on the activity to determine if more information has been requested, or if the client has already been advised they are not eligible.
<p>wants to enrol for JobKeeper to claim for a prior month where the enrolment due date has passed</p> <p>! Refer to JobKeeper dates and Authorisations.</p>	<ul style="list-style-type: none"> warm transfer the client to the Plus one team on x92211 who will continue with the client's eligibility for deferral if unable to transfer within 2 minutes, refer to Plus one team on JobKeeper Payment to escalate via NPE.
wants to enrol for a prior month, where there is an existing deferral request	<p>! Do not cold transfer the client to the Plus one team.</p>

! A deferral does not need to be considered if the client is amending a form that has already been processed.

Eligibility for deferral

! Eligibility should **only** be confirmed by the Plus One team.

Step	Action
1	<p>Determine if any of the following exceptional circumstances apply to the client:</p> <ul style="list-style-type: none"> natural disasters: how was the client prevented from enrolling on time or contacting the ATO earlier <p>! COVID-19 is not a natural disaster on its own. It is a circumstance that led to the implementation of JobKeeper.</p>

	<ul style="list-style-type: none"> • serious illness or death: when did the illness happen and/or what prevented the client or their representative from contacting the ATO for assistance. <p>! Determine if the information provided by the client clearly meets the exceptional circumstance to consider a deferral request.</p> <p>Clients must advise of how the circumstance impeded them from enrolling on time.</p> <p>If one of the reasons above is not provided, with sufficient information to support the request, the deferral may not meet the exceptional circumstances and cannot be considered for approval.</p> <p>If:</p> <ul style="list-style-type: none"> • yes, <ul style="list-style-type: none"> ○ add a note to the inbound phone activity including eligibility has been met for JobKeeper or JobKeeper extension (or both) ○ update the activity with the following classifications <ul style="list-style-type: none"> ▪ Capability: Operations ▪ Category: Processing ▪ Type: Jobkeeper deferral ○ complete template JobKeeper deferral, stating the period/s that require a deferral, and detailing how the client has met the deferral criteria <p>! The note must state one of the reasons for deferral listed above. Specifically, your note must primarily state the circumstance and the reason supported by how the client was prevented from enrolling.</p> <ul style="list-style-type: none"> ○ proceed to step 2 • no, go to step 3 in this table.
2	<p>Refer to JobKeeper dates and Authorisations on this page, to determine your authorisation to approve the deferral based on your APS level. When considering your authorisation, the deferral period starts from the next business day after the due date, not from the call date.</p> <p>Are you authorised to approve the deferral? If:</p> <ul style="list-style-type: none"> • yes, a deferral can be provided; <ul style="list-style-type: none"> ○ assist the client to enrol and complete the relevant forms ○ create a JobKeeper application form in ICP (for periods prior to 28 September 2020) ○ create an Employer eligibility form in ICP ○ create an Employee eligibility form in ICP to identify their employees ○ create a JobKeeper declaration form in ICP <p>There is no separate deferral form.</p> <ul style="list-style-type: none"> • no, go to step 4 in this table.
3	<p>Advise the client no deferral is available.</p>

	<p>Assist the client to enrol but do not create a JobKeeper application form in ICP.</p> <p>Discuss eligibility requirements for submitting for future months. Refer to COVID-19 – JobKeeper Payment for the relevant information to assist the client.</p> <p>This is the end of the procedure.</p> <p>! If the client advises they received incorrect advice from the ATO, which led to the late enrolment, check the client account for evidence of the previous interactions. Where client notes indicate incorrect advice was provided, seek advice from your support officer. If the client disagrees with the decision to reject the deferral, initiate the following discussion with the client.</p> <p>"Today we have determined that you don't have exceptional circumstances that would allow us to accept your late enrolment form.</p> <p>This is not a decision about your eligibility for JobKeeper payment and/or if you have assessed that you are eligible for JobKeeper payment in a fortnight going forward.</p> <p>If you don't agree with our decision today not to accept your late enrolment form for prior fortnights, you can apply to the Federal Court of the Federal Circuit Court of Australia for a review under the Administrative Decisions (Judicial Review) Act 1977."</p> <p>This application must be lodged within 28 days. You can find out more about this by searching Federal Court on ato.gov.au.</p>
4	<p>Advise the client:</p> <ul style="list-style-type: none"> • you can assist them with submitting the required forms • approval will be required before the form can be finalised • if the deferral is <ul style="list-style-type: none"> ◦ not approved, they will be notified ◦ approved, the client will not hear from us, and no further action is required. <p>Assist the client to enrol:</p> <ul style="list-style-type: none"> • create a JobKeeper application form in ICP (for periods prior to 28 September 2020) • create an Employer eligibility form in ICP • create an Employee eligibility form in ICP to identify their employees • create a JobKeeper declaration form in ICP <p>For periods prior to 28 September 2020, do not submit the Application form, but save and suspend it.</p> <p>For JobKeeper extension periods, submit the Employer eligibility form and the Employee form, but save and suspend the Declaration.</p> <p>Do not close the Inbound activity.</p> <p>Make sure to follow the steps on that page, as different actions are required for forms that need deferral approval.</p>

JobKeeper dates and Authorisations

OFFICIAL

Refer to the table below for the relevant lodgment dates, and the Authorisations that apply, when considering deferral for clients lodging after the due date.

If any of the below dates fall on a public holiday, the next business day will be the due date.

Definitions

Step 1: JobKeeper enrolment form (JobKeeper FID form)

Claim month	Enrolment due date	Enrolment deferral authorisations
April 2020 Fortnight 1 period: 30 March - 12 April Fortnight 2 period: 13 April - 26 April	31 May (extended to 11 June)	APS 1-6 (including Outsource): Up to 25 June
May 2020 Fortnight 3 period: 27 April - 10 May Fortnight 4 period: 11 May - 24 May	31 May (extended to 11 June)	APS 1-6 (including Outsource): Up to 25 June
June 2020 Fortnight 5 period: 25 May - 7 June Fortnight 6 period: 8 June - 21 June	30 June	APS 1-6 (including Outsource): Up to 7 July
July 2020 Fortnight 7 period: 22 June - 5 July Fortnight 8 period: 6 July - 19 July	31 July	APS 1-6 (including Outsource): Up to 7 August
August 2020 Fortnight 9 period: 20 July - 2 August Fortnight 10 period: 3 August - 16 August Fortnight 11 period: 17 August - 30 August	31 August	APS 1-6 (including Outsource): Up to 18 September
September 2020 Fortnight 12 period: 31 August - 13 September Fortnight 13 period: 14 September - 27 September	30 September	APS 1-6 (including Outsource): Up to 20 October
October 2020 Fortnight 14 period: 28 September – 11 October Fortnight 15 period: 12 October – 25 October	31 October	APS 1-6 (including Outsource): Up to 19 November
November 2020 Fortnight 16 period: 26 October – 8 November Fortnight 17 period: 9 November – 22 November	30 November	APS 1-6 (including Outsource): Up to 18 December

December 2020 Fortnight 18 period: 23 November – 6 December Fortnight 19 period: 7 December – 20 December Fortnight 20 period: 21 December – 3 January	Fortnights 18 and 19 , have a due date of 31 December. Fortnight 20 , has a due date of the 3 January.	APS 1-6 (including Outsource): Up to 21 January
January 2021 Fortnight 21 period: 4 January – 17 January Fortnight 22 period: 18 January – 31 January	31 January	APS 1-6 (including Outsource): Up to 18 February
February 2021 Fortnight 23 period: 1 February – 14 February Fortnight 24 period: 15 February – 28 February	28 February	APS 1-6 (including Outsource): Up to 18 March
March 2021 Fortnight 25 period: 1 March – 14 March Fortnight 26 period: 15 March – 28 March	31 March	APS 1-6 (including Outsource): Up to 20 April

Actioning deferral requests (Plus One team only)

Step	Action
1	Review the Siebel activity Status , If: <ul style="list-style-type: none"> • Approved – proceed to step 2 to action the request • Request for Approval Denied – go to step 8.
2	From the client's Siebel CCV, perform a null query (query, go) and open the activity with the below classifications: <ul style="list-style-type: none"> • Capability: ICP Suspense item • Category: Exception generalist • Type: Approval Required
3	Select the link in the Attachments tab to access the suspended form.
4	Select: <ul style="list-style-type: none"> • Correct suspended form, and • Input reason: FDF validation - 1.
5	Navigate to the Form Confirmation tab and select Submit .
6	Add a note to the suspense activity, and link it to the Inbound phone deferral request via service request if this has not been done previously.

7	<p>Update the status of both activities to Done.</p> <p>This is the end of the procedure.</p>
8	<p>Check the activity notes to determine action required. If the activity note has:</p> <ul style="list-style-type: none"> • Request for deferral declined - then the circumstances provided by the client do not meet the exceptional circumstances outlined under 'Eligibility for deferral' on this page. Contact the client and advise their deferred enrolment has not been granted, however they may claim for current and future months if eligible. Ensure you cancel any suspended JobKeeper forms in ICP, and resolve associated Siebel activities after contact. To contact the client, proceed to Step 9 • Additional information required – then this deferral request cannot be approved based on limited information provided in the initial escalation. Contact the client and determine if they meet exceptional circumstances outlined under 'Eligibility for deferral' on this page. If the client does not meet these exceptional circumstances, advise their deferral has been declined. Ensure you cancel any suspended JobKeeper forms in ICP which were lodged prior to the enrolment date, and resolve associated Siebel activities. If the client does meet the acceptable circumstances, assign the activity using the following values: <ul style="list-style-type: none"> ○ Capability: Operations ○ Category: PROCESSING ○ Type: JobKeeper Deferral ○ Template: Attach and complete template JobKeeper deferral ○ Assigned To: ENTERPRISE_Q ○ Description: Deferral Discretion ○ Status: For Approval ○ Tick the Escalation Flag <p>To contact the client, proceed to Step 9.</p> <p>! If the additional information required has already been provided, an outbound call is required. Advise the client, their request for deferral has been denied after careful consideration, as they do not meet the exceptional circumstances to grant a deferral.</p>
9	<p>Three contact attempts are required. If client contact is:</p> <ul style="list-style-type: none"> • Unsuccessful - Update Call Back Attempts field and place a review date of 1 business day before assigning the activity as 'Information Pending' in the Enterprise-Q. If after three unsuccessful attempts <ul style="list-style-type: none"> ○ cancel any suspended ICP forms and close their associated Siebel Activities ○ place a detailed note in the original activity detailing the information you were seeking ○ set the Status of any Service Request linked activities to Done. • Successful – proceed to step 10.
10	<p>Ensure appropriate call recording warnings and privacy statements are provided, refer to Outbound protocols.</p>

Advise the client their deferral request has been reviewed, and based on the information provided their request to have a deferral granted for late enrolment has been denied. If the client then offers additional information, and **does** meet the exceptional circumstances, assign the activity using the following values:

- **Capability:** Operations
- **Category:** PROCESSING
- **Type:** JobKeeper Deferral
- **Template:** Attach and complete template **JobKeeper deferral**
- **Assigned To:** ENTERPRISE_Q
- **Description:** Deferral Discretion
- **Status:** For Approval
- Tick the **Escalation Flag**.

Discuss their eligibility requirements for submitting for future months, and that they are not already enrolled. The client will need to:

- enrol for the JobKeeper payment
- identify their eligible employees/eligible business participant, and
- make a business monthly declaration.

Refer to [JobKeeper Payment](#) on ato.gov.au for further information.

If client enrolled prior to 28 September 2020, inform the client that they:

- will need to apply an additional actual decline in turnover test, and
- the change in rate of payments.

Refer to [JobKeeper Extension](#) and [JobKeeper Payment](#) on ato.gov.au for further information.

! If the client disagrees with the decision to reject the deferral, initiate the following discussion with the client.

"Today we have determined that you don't have exceptional circumstances that would allow us to accept your late enrolment form.

This is not a decision about your eligibility for JobKeeper payment and if you have assessed that you are eligible for JobKeeper payment in a fortnight going forward.

If you don't agree with our decision today, not to accept your late enrolment form for prior fortnights, you can apply to the Federal Court or Federal Circuit Court of Australia for a review under the Administrative Decisions (Judicial Review) Act 1977.

The application must be lodged within 28 days. For more information go to [Federal Court](#) on ato.gov.au."










To correct any form error codes or suspense errors, refer to [Correct a suspended JobKeeper application form in ICP](#).

Finalise your activity:

- Add a detailed note of action taken
- Set the Siebel activity to **Done**

- Close all associated activities.

Appendix J - Change log for instructions and scripting for front line staff (change long for SMART instructions)

Content	Change Log
 V.1.0 - 12 Jun 2020.docx	Introduce scripting including guidelines for eligibility for JobKeeper deferral
 V.5.0 - 22 Jun 2020.docx	Further clarify JobKeeper deferral eligibility criteria. Includes support for clients of tax practitioners due to tax practitioner workloads and support for clients with limited understanding of JK enrolment process and dates
 V.9.0 - 1 Jul 2020.docx	Clarified JobKeeper deferral documentation and escalation process. Eligibility criteria not changed
 V.10.0 - 23 Jul 2020.docx	Clarified that sole traders are included as Eligible Business Participants. JK Deferral eligibility criteria updated - additional support removed for tax practitioners due to work load and clients with limited understanding of JK enrolment process and dates
 V.11.0 - 1 Oct 2020.docx	Additional information requested from clients regarding how client circumstances prevented them from enrolling on time or contacting the ATO earlier, including: “If one of the reasons above is not provided with sufficient information to support the request, the deferral may not meet the exceptional circumstances and cannot be considered for approval”
 V.12.0 - 16 Oct 2020.docx	Clarified JobKeeper deferral documentation and escalation process. Eligibility criteria not changed
 V.13.0 - 4 Dec 2020.docx	Scripting structure changed. JK Deferral eligibility scripting published separately from other JobKeeper content. Eligibility criteria not changed
 V.15.0 - 1 May 2021.docx	System issues removed as eligibility for JK Deferral
 V.16.0 - 4 May 2021.docx	Impeded access to records removed as eligibility for JK Deferral

Deferrals

Internal/ Outsource
AUDIENCEV1
VERSIONUnclassified
CLASSIFICATION2020
DATE

Businesses eligible to claim JobKeeper must enrol by the due date for the month they wish to lodge and claim.

Businesses not enrolled by the due date cannot lodge and claim for an earlier period unless they meet the strict deferral criteria and all other eligibility criteria.

Businesses must be able to show they have:

- **paid** their eligible employees the minimum wage requirement;
- no current **compliance** activity;
- **not** been deemed ineligible for JobKeeper; and
- extenuating circumstances preventing them from **enrolling** by the monthly due date.

Hi, I checked my eligibility for JobKeeper and I think I was eligible to receive it back in April



In order to qualify for JobKeeper you must meet the eligibility criteria and enrol by the due date for the first month you want to claim.



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- no current **compliance** activity;
- **not** been deemed ineligible for JobKeeper; and
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Oh. So if I'm too late I can't claim it?



If you are eligible you can still claim but only for the months where you have met the enrolment due date.



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- **not** been deemed ineligible for JobKeeper; and
- extenuating circumstances preventing them from **enrolling** by the monthly due date.

Is there anyway I can enrol and claim from the start. I'm really struggling and need the money. My agent didn't tell me about it.



Firstly, to be eligible for deferred enrolment you must have actually paid your staff the minimum to meet the wage requirement.



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- **not** been deemed ineligible for JobKeeper; and
- extenuating circumstances preventing them from **enrolling** by the monthly due date.

Yeah I paid them. I checked and it meets the minimum wage requirement



Ok. So why didn't you enrol for JobKeeper earlier?



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Extenuating circumstances include:

- Natural disasters or other disasters or events that may have, or have had, a significant impact on individuals, regions or particular industries
- Impeded access to records (for example, records seized during a police search or retained as evidence in a court matter)
- The serious illness or death of a family member, tax professional or critical staff member
- System issues, either with ATO online services or the entity's business system.

When discussing the client's circumstances you need to consider and ask:

- Are the circumstances beyond the clients' control that prevented them from lodging their enrolment form on time?
- What actions did the client take to mitigate those circumstances?
- Did the client previously contact the ATO to seek help? If so there should be recorded evidence of this.
- Did the client engage a Tax Agent early on in the JobKeeper scheme when they realised they could not manage the process themselves?
- Was the client given incorrect advice by the ATO in a prior interaction? This should be evidenced from client records.

Ahh. I have just been really overwhelmed with you know, everything. Its been really hard. You guys would not understand.



Unfortunately, to be eligible for deferred enrolment you need to have specific extenuating circumstances that prevented you from enrolling. The circumstances you have described don't meet the criteria.

I can still help you enrol now and claim for the remaining fortnights in JobKeeper, but not for the earlier periods.



Deferrals

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V1
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JobKeeper deferred enrolment review rights

Sometimes clients will insist they are eligible even when the circumstances they describe don't meet the strict criteria for a deferral. You should do everything to help them claim for the periods where they have met the deadline.

If they do not accept your decision you should explain that they can apply to the Federal Court or the Federal Circuit Court of Australia for a review under the Administrative Decisions (Judicial Review) Act 1977. This application must be lodged within 28 days from the day they called.

Escalating deferral requests for clients who don't meet the criteria will not produce a different result and will instead delay their ability to go through the correct appeal process. This is not a good client experience.

That's not fair. I really need the money. Can I get this reviewed?



You can apply to the Federal Court or the Federal Circuit Court of Australia for a review of the ATO decision under the Administrative Decisions (Judicial Review) Act 1977. This application must be lodged within 28 days.

This does not stop you from enrolling for JobKeeper now and claiming for the months where you have met the due date.



Deferrals

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If a client meets all the eligibility criteria for a deferral you must ensure you check your authorisation and take action accordingly. Requests that are within your authorisation do **not need to be escalated**.

Requests that are outside your authorisation but meet **all other eligibility criteria** require the following actions.

- [Assist the client to enrol](#)
- [Create a JobKeeper application form in ICP](#) but do not submit the form. This will be saved and suspended.
- Ensure there are sufficient notes in your escalation for the person making the decision to assess the clients' relevant circumstances fully.
- Escalate your activity.

Make sure to always
refer to
SMARTonline
for updated
reference material
to assist you in
supporting clients.



OFFICIAL

August 12 at 8:16 PM · 🌐

Hi All,

Jobkeeper Australia.

Question, if we call ato tomorrow, will they still give chance for late enrolment for July Jobkeeper? The business meets all criteria including wage payment requirement.

Much appreciated your advice if you have experience this.

Thank you.



5

32 Comments

Like

Comment

Looks is like the earliest you can enrol is the August fortnights

Like · Reply · 1w

Do the initial set up on the ATO portal first then call and ask

Like · Reply · 1w



3

Like · Reply · 1w



2

Only if you have unusual circumstances.

Like · Reply · 1w

Like · Reply · 1w

They have changed the criteria to allow for this, so I expect not.

Like · Reply · 1w

[redacted] st
[redacted] !

Like · Reply · 1w



[redacted]
[redacted] yes! That's been my experience too.

Like · Reply · 1w

[redacted] Write a reply...    

[redacted]
[redacted]
[redacted]

Like · Reply · 1w

[redacted]
It's always worth a try

Like · Reply · 1w

[redacted]
[redacted]
[redacted]

Like · Reply · 1w



[redacted] Author
Thank you so much everyone! yes we'll give a try 😊

Like · Reply · 1w

[redacted]
One of my clients enrolled in for July but only a couple of days ago, and can only claim August payments not July. You're meant to enrol before the eom!

Like · Reply · 1w

[redacted]
[redacted]
[redacted] h
m [redacted] ut
c [redacted] t.

Like · Reply · 1w

[redacted]
[redacted] 🙄🙄 don't you hate that! The person I got wasn't obliging 😞

You have to have extreme circumstances and I've not been able to claim for clients due to the strict criteria

OFFICIAL

Like · Reply · 1w

Yeah I've done it a few times but today had someone who refused to discuss it. We had to call back to talk to someone else to get them to put it through. Its seriously ridiculous...that one person will put it through then someone else won't. Makes no ... See More

Like · Reply · 1w



can't hurt to try.

Like · Reply · 1w

it for one of mine, money was in the bank this morning.

Like · Reply · 1w

goes to show it really depends on who you get on the phone because I got refused

Like · Reply · 1w

Like · Reply · 1w

Write a reply...



depend on the person you get. Had one the other day who refused to discuss it. I had to call back to talk to someone else to get them to put it through. Its seriously ridiculous...that one person will put it through then someone else won't. Makes no ... See More

Like · Reply · 1w

I tried this today. They read the notes of the previous person I dealt with and refused to grant it.

is OFFICIAL

I d [redacted]
p [redacted]. They said in order to apply for
a deferral after that, you have to have exceptional
circumstances (or death, serious illness, impeded access
to files or data etc).

Like · Reply · 1w

I did one on Monday [redacted] - the
healthy estimate we had assessed for July evaporated &
Aug/Sep are not looking good. There was no argument
from the ATO

Like · Reply · 1w

Yes they may. Give them a call, they're very helpful. 😊

Like · Reply · 1w · Edited

Y [redacted]
Like · Reply · 1w

[redacted] T
c [redacted]
They were great!!!!

Like · Reply · 1w

[redacted] how did you put in your request? Phone call?

Thanks 😊

Like · Reply · 1w

Write a reply...



I [redacted] luck.
A [redacted] er,
[redacted] es
y [redacted] e

Like · Reply · 1w



Karen Payne
Inspector-General of Taxation and Taxation
Ombudsman
Office of the Inspector-General of Taxation and
Taxation Ombudsman
Level 6, 321 Kent Street
SYDNEY NSW 2000

8 September 2021

Dear Karen,

Thank you for the opportunity to consider your report *Investigation into the ATO's administration of JobKeeper enrolment deferral decisions*.

We are proud of the ATO's delivery of the Government's COVID-19 stimulus measures, including the delivery of \$89 billion in payments to eligible businesses and supporting 3.8 million individuals through the JobKeeper program. The program is the largest economic support program in Australia's history, keeping individuals employed and businesses operating.

The ATO understands the importance of granting applicants more time to apply for JobKeeper, and more broadly the significant impact the Government stimulus measures brought to financially support businesses and participants. The ATO's approach to administering the various aspect of JobKeeper was guided by timeliness, transparency, simplicity, and critically – efficiency.

Independent scrutiny of the ATO is an important part of sustaining confidence in the administration of Australia's tax and superannuation systems and we welcome observations that assist in this endeavour.

As you are aware, granting additional time is a discretion to be considered in light of individual facts and circumstances, and exercised where it is fair and reasonable to do so in those circumstances. This principle has underpinned the ATO's approach throughout the duration of the JobKeeper program.

Recognising the environmental settings and context facing the community in 2020, the ATO put in place various procedures to rationalise and expedite decisions for applicants impacted by exceptional and unforeseen circumstances. This involved setting out those cases where the circumstances were clearly ascertainable by the ATO as being fair and reasonable to grant additional time for enrolment, enabling decisions to be made quickly and consistently by ATO officers at first instance.

However, the ATO did not restrict or narrow the granting of additional time to those in limited exceptional or unforeseen circumstances. Where requests for additional time did not correspond to a clear circumstance allowing the ATO to streamline decision making, escalation and review pathways were available for applicants to have their situations reconsidered. In addition, blanket discretions were granted at the start of the JobKeeper program, in recognition that applicants and advisers needed time to familiarise themselves with new rules, and eligibility criteria – in times of uncertainty.

As with all ATO decisions, the ATO takes the review and complaints process very seriously – including complaints referred to us by the Office of the Inspector-General of Taxation and Taxation Ombudsman – always with a view of improving everything we do. As extension of time decisions are made on a case by case basis, decisions might be upheld, or overturned based on a review of the facts and evidence, or with the benefit of new information. We do not consider that granting

requests for applicants on review as being reflective of an overall change in the ATO's administration of these decisions, and the ATO is not aware of this approach causing widespread inconsistent outcomes for applicants.

Sincerely,

A handwritten signature in brown ink, appearing to read 'ERosenzweig', written in a cursive style.

Emma Rosenzweig
Deputy Commissioner, Superannuation and Employer Obligations
Australian Taxation Office