

### Practice Update: Special Edition

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#### Businesses now able to claim JobKeeper for new employees

A legislative instrument was registered on 14 August 2020 amending the JobKeeper rules to allow businesses to claim the subsidy in respect of new employees. The changes apply to JobKeeper fortnights beginning on or after **3 August 2020**.

Under the changes, the reference date for assessing which employees are eligible for the JobKeeper payment is now **1 July 2020**.

Another change allows an employee to re-nominate with a new employer (which was previously not allowed). Broadly, if an individual was a 1 March 2020 employee of another entity but is not employed by that entity at any time from the start of 1 July 2020, then the individual is now permitted to give a nomination notice to a new employer. The same applies for eligible business participants, as applicable.

The ATO has also confirmed that for fortnights commencing on 3 August and 17 August 2020, employers will have until 31 August 2020 to meet the wage condition for all new eligible employees who are now included in the JobKeeper scheme under the 1 July 2020 eligibility test.

As a result, more employees may qualify for JobKeeper payments from 3 August 2020 (i.e. JobKeeper fortnight 10), if they were employed on 1 July 2020 and meet the other eligibility criteria. In effect, this includes employees who:

- were hired *after* 1 March 2020 (and are still employed on 1 July 2020);
- satisfied the 12-month employment requirement under the definition of a 'long-term casual employee' for JobKeeper purposes by 1 July 2020 (where they had not previously satisfied this requirement by 1 March 2020); or
- did not qualify on 1 March 2020 due to their age or visa status but have since met the relevant requirements by 1 July 2020 (e.g. employees who have since obtained the necessary visas).

Importantly, as part of these recent modifications to the JobKeeper scheme, participating employers must **take action immediately** to ensure that any newly eligible employees (as a result of these recent changes) are provided with an **employee nomination form** by **Monday 24 August 2020**. This is to ensure compliance with the 'one in, all in' principle, which broadly requires **all** eligible employees to be offered the opportunity to receive JobKeeper payments via their eligible employer who has opted to participate in the JobKeeper scheme.

Ultimately, the onus is on employers to ensure that **all** of their employees who are now eligible for JobKeeper payments as a result of the new 1 July 2020 test date are given the opportunity to be included. However, despite the fixed date to provide the employee nomination form, the ATO is currently advising that if an employer does not do this within the required time, they will need to do so as soon as possible.

The following checklist provides a summary of the key dates and actions that participating JobKeeper employers must consider in relation to their newly eligible employees as a result of the new 1 July 2020 **eligible employee test**.

Applicable date	Action required
<b>By Monday 24 August 2020</b>	Provide all newly eligible employees under the 1 July 2020 eligible employee test with an <b>employee nomination form</b> .
<b>By Monday 31 August 2020</b>	Satisfy the \$1,500 'wage condition' for each newly eligible employee (where they have nominated with the employer) for JobKeeper fortnights commencing 3 August 2020 and 17 August 2020 (i.e. JobKeeper fortnights 10 and 11).
<b>From 1 September 2020</b> (the August monthly declaration must be lodged by <b>14 September 2020</b> )	Claim JobKeeper payments for the newly eligible employees who have agreed to be nominated for the JobKeeper scheme with the employer (along with existing employees) by lodging the August 2020 monthly declaration.

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