



Members Update

Dear member,

Welcome to the September 2020 member's update.

This month's update looks at JobKeeper 2.0 information provided to date as well as the consequences of the Mondelez sick leave appeal decision and the decision about Victoria's AFL Grand Final Public Holiday.

JobKeeper 2.0 - JobKeeper extension

Whilst there have been some details provided under the JobKeeper extension scheme and the legislation has passed, from a payroll administration perspective, the finer details have yet to be finalised.

Under the original legislation, the JobKeeper nomination forms (July 1) are to be given to eligible employees within 7 days of the employer enrolling in the JobKeeper scheme. With JobKeeper 2.0 being announced 15th August, this meant employers had 7 days to provide newly eligible employees with the nomination form. This meant that the 22nd August was a Saturday so the date was extended to 24th August. The employee was then required to return indicating whether they wished to partake in the scheme and if they indicate yes, the employer had until 31st August to make a top-up payment for FN10 (ATO F/E 16 August) and FN11 (ATO F/E 30 August) in order to claim the subsidy for these fortnights from the ATO. Now, whilst technically there is no deadline for providing the nomination forms to the eligible employee, the legislation does state that these forms need to be provided within 7 days of an employer becoming enrolled in the scheme or, where an employer is already enrolled in the scheme, within 7 days of identifying newly eligible employees so for employers who have not provided the nomination form within the legislated timeframe, they may technically be in breach of the legislation.

How you add these newly eligible employees for declaration will depend on whether you are reporting through STP using JobKeeper start/finish codes- or whether you are using STP without JobKeeper Codes or not reporting through Single Touch Payroll - [More information here](#)

Now for JobKeeper 2.0...

<u>What we know</u>	<u>Where further clarification is required</u>
<p>Extensions 1 and 2 (28 Sep 2020 to 28 Mar 2021)</p> <p>Jobkeeper Tier 1 rate:</p> <p>This rate is expected to apply to:</p> <ul style="list-style-type: none">eligible employees who worked for 80 hours or more in the four weeks of pay periods before either 1 March 2020 or 1 July 2020, andeligible business participants who were actively engaged in the business for 80 hours or more in February and provide a declaration to that effect. <p>Jobkeeper Tier 2 rate:</p> <p>This rate is expected to apply to:</p> <ul style="list-style-type: none">any other eligible employees and eligible business participants not mentioned in Tier one	<ul style="list-style-type: none">Clarification is required on the meaning of four weeks of pay periods.How will the ATO distinguish between Tier 1 and Tier 2 employees when determining the subsidy to be made to the employee? At this stage, we do not know if the ATO will require this to be done through STP reporting (for employers reporting through STP) or as part of the nomination process when the employer completes their monthly declaration

Now that's from an ATO administration perspective – there are significant changes from a Fair Work perspective too.

As part of the legislation that extends the Jobkeeper scheme (also known as Jobkeeper 2.0), the JobKeeper provisions in the Fair Work Act were also extended with some changes. The extended provisions take effect from 28 September 2020 and apply until 28 March 2021. Here are a couple of things to note:

1. Under the extended provisions, qualifying employers who are receiving JobKeeper payments for their employees (and continue receiving them after 27 September 2020) can continue using the JobKeeper provisions to:
 - give their employees JobKeeper enabling stand down directions (for example, a direction to work less or no hours)
 - give their employees JobKeeper enabling directions (for example, a direction to change duties or work location)
 - make agreements with their employees to change their days or times of work (for example, an agreement that an employee will work on different days).

However, these employers will no longer be able to use the JobKeeper provisions to make agreements with their employees to take annual leave (including at half pay). Those provisions will stop applying from 28 September 2020.

2. The legislation also allows for certain employers to continue using some of the JobKeeper provisions (with some changes) for their previously eligible employees if they meet certain conditions. These conditions are:
 - previously participating in the JobKeeper scheme, but no longer qualifying from 28 September 2020
 - demonstrating at least a 10% decline in turnover for the previous quarter, by obtaining a certificate from an eligible financial service provider, or a statutory declaration for small businesses.

[You can find more information here.](#)

The Mondelez Sick Leave Appeal / Decision

On 13 August 2020, the High Court handed down a decision about the method of accruing and taking paid personal/carer's and found that the entitlement to 10 days of personal/carer's leave is calculated based on an employee's hours of work, not days. 10 days of personal leave can be calculated as 1/26 of an employee's ordinary hours of work in a year.

This means that we continue to accrue as was always the case prior to the original decision on 26 August 2019 – i.e based on ordinary hours of work and pro rata for PT employees.

Employers who changed their accrual method based on the 26 August 2019 decision will need to change it back so that sick leave accrues on ordinary hours of work.

AFL Grand Final Public Holiday

Business Victoria has announced that Friday before the AFL Grand Final - Fri 23 Oct 2020 – will be a Public Holiday in Victoria.

MEMBERS WEBINAR

Please join us for our September member's webinar on 23rd September at 1.00pm where we will look at "Understanding Reportable Employer Superannuation Contributions (RESC)"

[Register here](#)