



## APRIL 2020 *SPECIAL EDITION* CLIENT NEWSLETTER

Welcome...to The Enterprise Sanctuary's April 2020 newsletter. This is a challenging time for the world to try and navigate through the Covid-19 pandemic but we are here to provide all the help you need for you and your business.

Today, we will have a look at the COVID-19 Government Stimulus Package, the JobKeeper payment to support businesses and some general consideration points for small businesses.



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**COVID-19  
Government Stimulus  
Package**

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**JobKeeper Payment**

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**SME Commercial  
Leasing principles**

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# COVID-19 GOVERNMENT STIMULUS PACKAGE

## Boosting cash for employers

Businesses with turnovers less than \$50m will receive a tax free cash flow boost worth up to \$25,000, designed to help pay wages.

How this works practically, businesses which pay PAYGW (income tax on wages) will receive a payment equal to 50% of the amount withheld, up to a max of \$25k over the 4 month period (March, April, May and June).

Eligible businesses that pay salary and wage but are not required to withhold tax will receive a minimum payment of \$2k;

## Supporting apprentices and trainees

Business with less than 20 full time employees at 1 March 2020 will be paid up to 50% of apprentice salaries up to a max of \$7k a quarter for each apprentice;

## Increasing the instant asset write off

From 12 March 2020 to 30 June 2020 business with turnovers less than \$50m will be able to instantly write off (i.e. no need for yearly depreciation) assets valued less than \$150k.

**Please contact us at The Enterprise Sanctuary if you would like to talk about this topic in more detail.**

# JOBKEEPER

## What is it?

Businesses impacted by the Coronavirus will be able to access a subsidy from the Government to continue paying their employees. Affected employers will be able to claim a fortnightly payment of \$1,500 per eligible employee from 30 March 2020, for a maximum period of 6 months.

## Eligible Employees

- are currently employed by the eligible employer (including those stood down or re-hired);
- were employed by the employer at 1 March 2020;
- are full-time, part-time, or long-term casuals
- are at least 16 years of age;
- are an Australian citizen, the holder of a permanent visa, a Protected Special Category Visa Holder, a non-protected Special Category Visa Holder who has been residing continually in Australia for 10 years or more, or a Special Category (Subclass 444) Visa Holder; and
- are not in receipt of a JobKeeper Payment from another employer.

## What are my obligations as an Employer?

- Register an intention to apply on the ATO website and assess that they have or will experience the required turnover decline (30%).
- Provide information to the ATO on eligible employees. This includes information on the number of eligible employees engaged as at 1 March 2020 and those currently employed by the business (including those stood down or rehired). For most businesses, the ATO will use Single Touch Payroll data to pre-populate the employee details for the business.
- Ensure that each eligible employee receives at least \$1,500 per fortnight (before tax). For employees that were already receiving this amount from the employer then their income will not change. For employees that have been receiving less than this amount, the employer will need to top up the payment to the employee up to \$1,500, before tax. And for those employees earning more than this amount, the employer is able to provide them with a top-up.
- Notify all eligible employees that they are receiving the JobKeeper Payment.
- Continue to provide information to the ATO on a monthly basis, including the number of eligible employees employed by the business.

## Application process

Initially, employers can register their interest in applying for the JobKeeper Payment via [ato.gov.au](https://ato.gov.au) from 30 March 2020. Subsequently, eligible employers will be able to apply for the scheme by means of an online application.

The first payment will be received by employers from the ATO in the first week of May.

Eligible employers will need to identify eligible employees for JobKeeper Payments and must provide monthly updates to the ATO.

Participating employers will be required to ensure eligible employees will receive, at a minimum, \$1,500 per fortnight, before tax. It will be up to the employer if they want to pay superannuation on any additional wage paid because of the JobKeeper Payment.

## Businesses without employees

Businesses without employees, such as the self-employed, can register their interest in applying for JobKeeper Payment via [ato.gov.au](https://ato.gov.au) from 30 March 2020. They will need to provide an ABN for their business, nominate an individual to receive the payment and provide that individual's Tax File Number and provide a declaration as to recent business activity.

People who are self-employed will need to provide a monthly update to the ATO to declare their continued eligibility for the payments. Payment will be made monthly to the individual's bank account.

## What are the employee's obligations?

Employees will receive a notification from their employer that they are receiving the JobKeeper Payment. The majority of employees will need to do nothing further. Employees in the following circumstances will have additional obligations.

- Employees that have multiple employers must notify the employer that is their primary employer.
- Employees that are not Australian citizens must notify their employer of their visa status, to allow their employer to determine if they are an eligible employee.
- Employees that are currently in receipt of an income support payment must notify Services Australia of their new income

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# SME COMMERCIAL LEASING PRINCIPLES

## Will my landlord reduce my rent bill?

The mandatory code of conduct signed off by National Cabinet includes a provision that will force commercial landlords to accept rent reductions in proportion to a tenant's decline in turnover due to the COVID-19 pandemic.

This will be achieved through a combination of rent waivers and deferrals, and only apply to SMEs eligible for the JobKeeper scheme.

Tenants are being encouraged to share turnover information with landlords to enable negotiations about how big rent reductions should be, although the federal government has been clear this measure does not remove a tenant's obligation to honour the terms of their lease.

Landlords are required to offer tenants at least 50% of their rent relief as waivers "over the course of the pandemic period" and the remainder in deferrals.

Deferrals are required to be covered over the balance of a tenant's individual lease term, meaning for example, tenants with three years left on their lease will be able to gradually pay deferred rent over the course of their agreement.

Those with less time on their leases, for example six months, will have two years after the pandemic period is over to pay deferred rent.

**The bottom line: Landlords cannot refuse requests for rent relief to SME tenants that are eligible for the JobKeeper scheme. Waivers and deferrals will be negotiated individually, but must follow the terms of the mandatory code.**

## How do I know if I'm eligible to negotiate under the code?

Small and medium businesses with \$50 million in annual turnover or less, which are eligible for the JobKeeper wage subsidy scheme, can negotiate under the protections in this new code.

Everyone else is expected to pay their rent as normal, and won't be able to negotiate with landlords under the terms described above.

However, while legislation for the JobKeeper scheme is due to pass Parliament on Wednesday (April 8), it could be weeks before businesses know whether they are eligible.

The strict eligibility criteria for the JobKeeper scheme involves showing your turnover has declined at least 30% on a comparable period a year ago, of at least a month.

But there is some wiggle room in the form of tax office discretion.

**So, even those businesses not looking to receive wage subsidies are advised to apply for the scheme, as negotiations with landlords could suffer if there's no official word on whether your business is eligible.**

**The bottom line: Only businesses eligible for JobKeeper payments can negotiate under this code. Those unsure whether they are eligible for JobKeeper should apply via the Australian Taxation Office, and will likely find out within the next two-to-three weeks.**

## Can my landlord evict me? Even after the COVID-19 pandemic?

National Cabinet agreed to a nationwide moratorium on evictions late last month, which means small and medium business tenants cannot be evicted from their premises for a period of six months.

The mandatory code introduced this week also includes a provision that will prohibit landlords from terminating leases or padlocking stores for the non-payment of rent.

The Morrison government has been clear it expects tenants to honour the terms of their lease and **pay rent where possible**.

But the intention of the code is to prevent landlords from evicting tenants for non-payment of rent during the pandemic period after the moratorium expires in six months.

**The bottom line: Your landlord cannot evict you for non-payment of rent during the pandemic period, and must comply with the eviction moratorium, slated to last six months.**

## Can my rent increase during the pandemic?

Short answer: no.

The mandatory code includes a specific provision that freezes rent increases, except in the case of turnover leases.

Commercial landlords are also prohibited from charging penalties to tenants who stop trading or reduce their opening hours over the course of the pandemic.

Landlords are also **banned** from passing on land tax to tenants and from **charging interest on unpaid rent**.

After the pandemic period ends (and there's no concrete date for when that will be) landlords are free to resume rent increases along the terms outlined in individual lease agreements.

**The bottom line: Rent increases have been frozen throughout the pandemic period, and all additional penalties are gone too.**

## Who is enforcing this?

State and territory governments are ultimately responsible for commercial tenancy arrangements, which is why each jurisdiction must pass their own law giving effect to the mandatory code of conduct.

Enforcement will also be left up to the states, and will be overseen through a binding mediation process. But this will be different in each jurisdiction across the country.

There are few details as yet about what mediation will look like in each state and territory.

**The bottom line: Binding mediation will enforce breaches of the code.**

**Please contact us at The Enterprise Sanctuary if you would like to talk about this topic in more detail.**

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