Australian Government

FACT SHEET

ECONOMIC RESPONSE TO THE CORONAVIRUS

JobKeeper Payment — Protecting Integrity

The JobKeeper Payment and the related programs represent a significant investment to support the Australian economy and people in the face of the Coronavirus crisis. To protect this investment, the framework for the JobKeeper Payment has robust features to ensure integrity and allow swift and effective action to be taken against fraud and other abuse.

KEY FEATURES ENSURING INTEGRITY

The JobKeeper Payment contains robust integrity features and draws on the existing regulatory and enforcement infrastructure of the Australian Taxation Office. These integrity features range from the eligibility requirements to specific rules to address contrived schemes and fraud. These requirements are in addition to the existing administrative and civil penalties and criminal offences that apply in the taxation law and general criminal law.

These measures will not affect taxpayers that do the right thing, but will allow for swift and effective action to be taken against those that seek to abuse the scheme and obtain more than their entitlements.

Payment in arrears to guarantee full payment to workers

The JobKeeper Payment is paid to employers in arrears. This is an important integrity measure. Employers will be reimbursed by the ATO from the first week of May. This gives a short, but important, period for the ATO to establish the appropriate systems, and for employers to complete their applications.

Payment in arrears facilitates the ATO conducting compliance and audit activities to ensure the JobKeeper Payment is passed on to employees, including by utilising existing reporting such as Single Touch Payroll.

Robust eligibility rules to stop double payment

An individual can only benefit from one JobKeeper Payment per fortnight. An individual must agree to be nominated as an eligible employee to receive the JobKeeper Payment by that particular employer and confirm that he or she has not agreed to be nominated by any other employer.

An individual that receives support directly because he or she is self-employed can only do so if the individual confirms that he or she has not agreed to be an eligible employee for any employer. To be eligible, a self-employed individual must not be a permanent employee of any other employer.

Making a false statement results in an individual becoming ineligible. Any resulting overpayment may be recovered directly from the individual. Making a false statement also renders the individual liable for criminal and administrative penalties. The ATO will undertake compliance activities designed to identify multiple payments to individuals, including by utilising existing reporting such as Single Touch Payroll reporting.

Appropriate reporting and record-keeping to verify compliance

Entities that claim the JobKeeper Payment must provide the Commissioner with information about themselves and their employees. They will also be required to report monthly to the Commissioner to show payments have been made to their employees and provide information on their turnover and other matters relevant to their entitlement and the operation of the JobKeeper Payment. This reporting will be integrated with existing reporting processes such as Single Touch Payroll, where this is possible.

In serious cases, payments can be withheld for a reasonable period if there are serious questions about the information provided by the taxpayer to allow that information to be verified.

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Entities are required to retain records to allow any information provided to the Tax Commissioner to be verified for five years after it is provided in relation to a payment.

The ATO will conduct compliance and audit activities to ensure the JobKeeper Payment is passed on to employees, as well as to swiftly and effectively address attempted fraud and any other abuse of the scheme.

Preventing exploitation by way of contrived schemes

Special rules apply in the payment framework to allow the Tax Commissioner to take action against contrived arrangements relating to the JobKeeper Payment.

Under these rules, if the Commissioner is satisfied that an entity has undertaken a scheme or part of a scheme in order to gain the benefit of the JobKeeper Payment, then the Tax Commissioner may undo the effect of the scheme and recover any overpayments.

Such a scheme does not need to be criminal — the rules allow the Commissioner to deny the effect of any arrangement undertaken just to increase the payment an entity could receive. This ensures any attempt to abuse the JobKeeper Payment can be rendered ineffective.

Making entities involved in fraud or false statements liable for their wrongdoing

The JobKeeper Payment is paid to employers to support the payment of wages to employees. Given the size of the payments there is risk that employees or other entities may seek to fraudulently or improperly obtain benefits.

It would not always be fair for the Commissioner to recover inappropriately obtained payment from employers, who may have acted honestly and have passed on the benefit of the payment. This would also not effectively deter those who have made false statement or engaged in fraud.

To address these cases, the Tax Commissioner may make an entity that has made a false statement or engaged in fraud liable to repay the amount. This liability applies on top of the existing significant criminal or administrative penalties for false statements and fraud. JobKeeper Payment obtained by fraud or misstatement will be recovered from wrongdoers even where the payment has passed through entities not involved in the fraud.

Building on existing administrative, civil and criminal penalties

An entity that does not comply with its obligations in relation to the JobKeeper Payment is also potentially liable for a wider range of significant administrative and criminal sanctions under the tax law and general criminal law, some of which are set out in the table below.

These penalties will not affect entities that act honestly and with reasonable care. However, entities that seek to abuse the scheme, especially those that seek to engage in fraud, will face penalties commensurate with the seriousness of their conduct.

LIST OF KEY PENALTY PROVISIONS

Provision	Description	Penalty
Section 284-75 in Schedule 1 to the *Taxation Administration Act 1953*	Administrative penalties for false and misleading statements	A financial penalty of up to 75 per cent of the amount of any overpayment
Section 8C of the *Taxation Administration Act 1953*	Criminal offence for a failure to comply with requirements under the taxation law	Imprisonment for up to 12 months and a fine of up to 50 penalty units (250 penalty units for corporate entities)
Sections 8K and 8N of the *Taxation Administration Act 1953*	Criminal offences for making false or misleading statements to taxation officers	Imprisonment for up to 12 months and a fine of up to 50 penalty units (250 penalty units for corporate entities)
Section 135.2 of the Criminal Code	Obtaining financial advantage	Imprisonment for up to 12 months
Section 134.2 of the Criminal Code	Obtaining financial advantage by deception	Imprisonment for up to 10 years
Section 135.4 of the Criminal Code	Conspiracy to defraud	Imprisonment for up to 10 years