



## **WILL THE JOBKEEPER PAYMENT SCHEME EXTENSION CREATE MORE ZOMBIE BUSINESSES?**

The JobKeeper Payment Scheme is currently supporting approximately 30% of private sector employment in Australia and was originally scheduled to end on 27 September 2020. It has been recognised that due to the enduring uncertainty caused by the coronavirus pandemic, businesses and not-for-profit organisations will likely remain significantly distressed after 27 September 2020 and ending the temporary subsidy as scheduled would have disastrous economic consequences. Accordingly, the Australian Government has extended the JobKeeper Payment Scheme for 6 months with a two-phased withdrawal plan.

The two-phased withdrawal plan is intended to provide the necessary support for distressed businesses to smoothly transition out of the Scheme. However, this extension will also support “zombie businesses” - businesses that were teetering on the edge of insolvency before the pandemic but have survived solely because of the government’s coronavirus support packages.

The two-phased withdrawal plan introduces:

1. a reduction of the JobKeeper Payment amount;
2. a two-tiered payment rate; and
3. new eligibility tests for each phase.

We have set out the important details below.

### **Phase 1 of withdrawal: 28 September 2020 to 3 January 2021**

On 28 September 2020, phase 1 of the withdrawal will begin.

The first phase will introduce:

1. a reduction in the fortnightly payment rate of \$1,500 to \$1,200 for all eligible employees and business participants who work 20 hours or more on average;



2. a lower payment rate of \$750 per fortnight for other eligible employees and business participants that work fewer than 20 hours per week; and
3. a further *decline in turnover test* which will assess actual GST turnover (rather than projected GST turnover) for both the June and September quarters 2020.

## **Phase 2 of withdrawal: 4 January 2021 to 28 March 2021**

On 4 January 2021, phase 2 of the withdrawal will begin.

The second phase will introduce:

1. a reduction in the fortnightly payment rate of \$1,200 to \$1,000 for all eligible employees and business participants who work 20 hours or more on average;
2. a reduction in the lower fortnightly payment rate of \$750 to \$650 for other eligible employees and business participants that work fewer than 20 hours per week; and
3. an additional *decline in turnover test* which will assess actual GST turnover (rather than projected GST turnover) for each of the June, September and December quarters 2020.

## **Withdrawn - 28 March 2021**

On 28 March 2021, the JobKeeper Payment is scheduled to be completely withdrawn.

For the purposes of the new eligibility tests:

- Businesses and not-for-profit organisations will need to demonstrate that their actual GST turnover for a quarter has significantly fallen relative to comparative periods (generally being the corresponding quarter in 2019).
- Where it is not appropriate to compare actual turnover in a quarter in 2020 with actual turnover in a quarter in 2019, the Commissioner of Taxation will have discretion to set out alternative tests.

## **Rise of the zombie business**

We expect that the extension of the JobKeeper Payment Scheme will lead to the creation of more zombie businesses.

While these zombie businesses continue to employ staff for a further 6 months under the JobKeeper Payment Scheme, they will also continue to accrue liabilities to the business, such as accrued annual leave and long service leave entitlements for employees.

This means that when the JobKeeper Payment Scheme ends on 28 March 2021, many of these already distressed businesses will not have the resources to pay their debts (including the additional 6 months of employee leave liabilities that have accrued). A business that is unable to pay their debts when they fall due and payable will be deemed insolvent.

From an employment perspective, this will lead to more reliance on the *Fair Entitlements Guarantee Scheme* – a legislative safety net scheme designed to provide financial assistance to cover certain unpaid employment entitlements for eligible employees who have lost their job due to the insolvency of their employer. This increased reliance will create a greater burden on an already burdened tax-payer funded scheme.



From an insolvency perspective, directors should be aware that the moratorium on insolvent trading comes to an end on 25 September 2020. Businesses need to consider the viability of their business as a whole, rather than just relying on the temporary band-aid provided by the extension of the JobKeeper Payment Scheme. It is in the best interest of the business and its employees, to consider the viability of your business now, before further liabilities are accrued.

Murfett Legal can conduct a Legal Health Check on your business now to ensure its survival. A Legal Health Check will analyse your business's operations, assets, structure, and cash flow. From this analysis we will then be able to advise you on options to strengthen the health of your business.

We are also able to assist with any of your employment or safety related issues that your business is trying to navigate through and adapt to in a COVID-19 landscape.

For further information or assistance contact Murfett Legal on [+61 8 9388 3100](tel:+61893883100).

Note: The above is a summary for general information purposes only. It is not intended to be comprehensive or constitute legal advice. You should seek formal legal or other professional advice in relation to your particular circumstances before relying on the content of this article.

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