

Qualifying employers - template letter for issuing a JobKeeper direction to change duties or work location

Extension of the JobKeeper Scheme

The JobKeeper provisions in the Fair Work Act have been extended with some changes. For more information, go to [Extension of JobKeeper provisions in the Fair Work Act](#)

Who can use this template letter?

Qualifying employers who want to issue a JobKeeper enabling direction to change an eligible employee's duties or work location (**JobKeeper direction**) can use this template letter.

You can use this template letter if:

- ✓ you're an employer who qualifies for and is enrolled in the JobKeeper scheme (a **qualifying employer**), **and**
- ✓ you need to direct an eligible employee to perform duties:
 - that are different to those that the employee usually performs, or
 - at a place different from the employee's normal place of work, including at the employee's home, **and**
- ✓ you're receiving JobKeeper payments for the employee you want to issue the direction to (**eligible employee**).

! IMPORTANT

If you no longer qualify for the JobKeeper wage subsidy scheme, you **can't** use this template. However, if you're a **legacy employer**, you may be eligible to give a JobKeeper direction to change an employee's duties or work location.

For more information or to find out if you're a legacy employer go to [JobKeeper enabling directions and agreements for legacy employers](#) at coronavirus.fairwork.gov.au/JobKeeper

How do I issue a JobKeeper direction as a qualifying employer?

To issue the direction, you need to:



1. **Notify your employees in writing that you intend to issue a JobKeeper direction to change their duties or work location**

You need to notify the employee in writing of your intention to give the direction **at least 3 days** before issuing the direction (unless the employee genuinely agrees to a shorter timeframe).

The Fair Work Ombudsman is committed to providing you with advice that you can rely on.

The information contained in this template is general in nature. If you are unsure about how it applies to your situation you can call our Infoline on 13 13 94 or speak with a union, industry association or a workplace relations professional.

You can use our **Qualifying employers – template letter to notify employees of a JobKeeper direction to change duties or work location** to do this.

Download this template on our [Tools and resources during coronavirus page](https://coronavirus.fairwork.gov.au/coronavirus-and-australian-workplace-laws/contact-us/tools-and-resources-during-coronavirus) at coronavirus.fairwork.gov.au/coronavirus-and-australian-workplace-laws/contact-us/tools-and-resources-during-coronavirus



2. Consult with your employees about the proposed direction

Employers need to consult with the employee about the direction during the 3 day notice period and keep a written record of the discussion. The rules about consultation are set out in **Step 8 of the checklist below**.



3. Give the JobKeeper direction to change employee duties or work location in writing

Once you have notified your employee of your intention to issue a direction and genuinely consulted with them on it, you can use **this template letter below** to issue a direction to your employee to change their duties or work location.

Before issuing a direction, employers must confirm that they

- qualify for and are enrolled in the JobKeeper scheme **and**
- are entitled to JobKeeper payments for each employee they wish to give a direction to.

Go to the [ATO website for more information](https://www.ato.gov.au/General/JobKeeper-Payment) about who is eligible at www.ato.gov.au/General/JobKeeper-Payment

For more information about [JobKeeper enabling directions and your workplace rights and obligations around coronavirus](#) see coronavirus.fairwork.gov.au/jobkeeper

! IMPORTANT

Make sure you're using the latest version of this template letter by **downloading the most up-to-date version** from coronavirus.fairwork.gov.au/coronavirus-and-australian-workplace-laws/contact-us/tools-and-resources-during-coronavirus

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Checklist: What qualifying employers must consider before changing an employee's duties or work location under the JobKeeper scheme

Qualifying employers can only give a JobKeeper enabling direction to change their eligible employee's duties or work location in certain circumstances.

Use the checklist below to ensure you're meeting your obligations before issuing the direction.

Step 1 – Confirm you can give a JobKeeper direction

In order to change an employee's duties or work location under the JobKeeper scheme you need to:

- qualify for and be enrolled in the JobKeeper scheme, **and**
- be entitled to JobKeeper payments for the employee to whom the direction applies (eligible employee), **and**
- be a national system employer in the Fair Work system.

Go to the [Australian Taxation Office website for more information](http://www.ato.gov.au/General/JobKeeper-Payment/) about who is eligible at www.ato.gov.au/General/JobKeeper-Payment/

Find out who is covered by the [Fair Work system](http://fairwork.gov.au/about-us/legislation/the-fair-work-system) at fairwork.gov.au/about-us/legislation/the-fair-work-system

Step 2 – Check you're giving the direction because it is necessary to continue employing one or more employees

The direction won't apply to the employee unless the employer reasonably believes that the direction is necessary to continue the employment of 1 or more employees.

For more information visit [JobKeeper wage subsidy scheme](http://coronavirus.fairwork.gov.au/JobKeeper) at coronavirus.fairwork.gov.au/JobKeeper

Step 3 – Ensure the direction complies with the following requirements

Change in duties

If you're changing an employee's duties, ensure that:

- the new duties are within their skill and competency
- the new duties are safe (including having regard to the nature and spread of coronavirus)
- the employee has any required licences or qualifications to perform the new duties
- the new duties are reasonably within the scope of your business operations. For example, you can't direct an employee to do odd jobs unrelated to the operation of the business.

Change in work location

If you're changing an employee's work location (including to the employee's home), ensure that:

- the location is suitable for employee's duties
- the employee is not required to travel an unreasonable distance in all the circumstances (including those surrounding coronavirus)
- it's safe for the employee to perform their job at the new location (including considering the nature and spread of coronavirus)
- the employee performing their duties at the new location is reasonably within the scope of the employer's business operations.

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Step 4 – Check what wages you will need to pay

When an employee is subject to an enabling direction about location or duties, the employee is to be paid either an amount equal to the JobKeeper payment or their usual pay for any hours that the employee does work (taking into account any higher base pay rate for any new duties) – whichever is more. If the temporary new duties attract a higher base pay rate (for example, under an applicable award or enterprise agreement), the employee needs to be paid the higher pay rate.

Learn more about [How an employee is paid under the JobKeeper scheme](https://www.fairwork.gov.au/coronavirus/how-an-employee-is-paid-under-the-jobkeeper-scheme) at [coronavirus.fairwork.gov.au](https://www.fairwork.gov.au/coronavirus)

! IMPORTANT

An employee's base pay rate can't be reduced while a direction to change usual duties is in place.

Step 5 – Ensure the direction is reasonable

This requires you to take into account all the circumstances, including:

- the employee's caring responsibilities
- if the direction applies to a category of employees, making sure it doesn't have an unfair effect on some employees in that category compared to others.

If a direction is unreasonable, it does not apply to an employee.

Step 6 – Ensure the direction is implemented safely, including having regard to the nature and spread of coronavirus

Learn more about [Health and safety in the workplace during coronavirus](https://www.fairwork.gov.au/coronavirus/health-and-safety-in-the-workplace-during-coronavirus) at [coronavirus.fairwork.gov.au](https://www.fairwork.gov.au/coronavirus)

Step 7 – Use our 'Qualifying employers – template letter to notify employees of a JobKeeper direction to change duties or work location' to notify the affected employee

You must notify the employee **in writing** of your intention to give the direction **at least 3 days** before issuing the direction (unless the employee genuinely agrees to a shorter timeframe).

You can use our **Qualifying employers – template letter to notify employees of a JobKeeper direction to change duties or work location** to do this.

Download this template on our [Tools and resources during coronavirus page](https://www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/contact-us/tools-and-resources-during-coronavirus) at [coronavirus.fairwork.gov.au/coronavirus-and-australian-workplace-laws/contact-us/tools-and-resources-during-coronavirus](https://www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/contact-us/tools-and-resources-during-coronavirus)

Step 8 – Consult with the affected employee

Before giving the direction, you must consult with the employee (or their representative) about the proposed direction. If you have previously notified and consulted with the employee on a proposed direction, you will not need to notify or consult with the employee again if:

- in relation to the previous direction, you complied with the above outlined notification and consultation obligations, **and**
- in deciding to issue this direction, you considered any views expressed by the employee or their representative in the consultation which occurred before the earlier direction.

Need help?

- Complete our short course about having [difficult conversations in the workplace](https://www.fairwork.gov.au/learning/difficult-conversations-in-the-workplace) at www.fairwork.gov.au/learning
- Read our [Consultation and cooperation in the workplace best practice guide](https://www.fairwork.gov.au/how-we-will-help/templates-and-guides/consultation-and-cooperation-in-the-workplace-best-practice-guide) at www.fairwork.gov.au/how-we-will-help/templates-and-guides

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- Submit an enquiry online through [My account](http://www.fairwork.gov.au/register) at www.fairwork.gov.au/register
- Contact us on 13 13 94 (select the prompt for the coronavirus hotline)

□ Step 9 – Keep a written record of the consultation

You must keep a written record of the consultation.

□ Step 10 – Use this template letter to issue the direction to the employee

The direction must be made in writing to the employee. You can only give the direction in writing after you've:

1. given the employee notice in writing (e.g. by using this template letter)
2. consulted with the employee or their representative.

Once you have completed the steps above, you can give the JobKeeper direction. Use the template letter below to help you do this.

! IMPORTANT

This template letter has been colour coded to assist you to complete it accurately. You simply need to replace the **red < > writing** with what applies to your employee and situation.

Explanatory information is shown in *blue italics* to assist you and should be deleted once you have finished the letter.

Provide the letter to the employee and keep a copy of the letter for your records.

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TEMPLATE LETTER: Qualifying employers – for issuing a JobKeeper direction to change duties or work location

<Print on your business letterhead>

<Date>

Optional: Private and confidential

<Insert employee's full name>

<Insert employee's residential address>

JobKeeper direction to change employee <duties or work location>

Dear <insert first name>

I am writing to inform you that as of <date> I am directing you to <insert details of direction i.e. 'change your duties' and/or 'change your location of work' > from <insert start date> to <insert end date> in regards to your employment as a <insert position/classification> with <insert business/company name>.

[Explanatory information – please delete once you have finished the letter]

Employers need to:

- **notify the employee in writing at least 3 days** before issuing the direction (unless the employee genuinely agrees to a shorter timeframe). To do this, you can use our Qualifying employers – template letter to notify employees of a JobKeeper direction to change duties or work location available to download at coronavirus.fairwork.gov.au/JobKeeper
- **consult with the employee** (or their representative) about the direction
- keep a **written record** of the consultation, and
- **make the direction in writing.**

IMPORTANT: JobKeeper directions remain in effect until they're cancelled, withdrawn or replaced, or until the current Fair Work Act JobKeeper provisions cease (whichever comes first). Employees' terms and conditions will revert back to what they were without the directions or agreements in place. Alternatively, they can be replaced by a new JobKeeper enabling direction given by you to the employee that meets the requirements.

[Option 1: Include if this JobKeeper enabling direction is the same as the proposed JobKeeper enabling direction you originally notified the employee about]

On <insert date>, I discussed this direction with you <insert names of other parties involved in discussions if relevant i.e. and your representative'>. We discussed <insert details of discussion>.

[Option 2: Include if this JobKeeper enabling direction is a different JobKeeper enabling direction than the one you originally proposed to issue to the employee]

On <insert date>, I discussed with you an earlier direction <insert names of other parties involved in discussions if relevant i.e. and your representative'>. We discussed <insert details of discussion>.

On <insert date>, I issued an earlier written notification to you. This direction is different to that notification.

In reaching the decision to issue this direction, I considered your views as expressed in our earlier discussion.

[Delete if not relevant] Your duties at work have been changed as follows:

- **<insert details of how the employee's duties have been changed i.e. 'from current duties as a Regional manager to new duties as a Sales assistant'>**

[Delete if not relevant] Your current location of work will be changed from **<insert original address>** to **<insert new address>**.

Why have my <duties or work location> been changed?

<insert the business/company name> has qualified and registered for the JobKeeper scheme. We are temporarily changing your **<duties or location>** so we can keep employing as many people as we can during this difficult time.

How will my pay be affected during this period?

[Explanatory information – please delete once you have finished the letter]

When an employee is subject to a JobKeeper enabling direction about location or duties, the employer must pay them either the JobKeeper payment or their usual pay for any hours that the employee works, (taking into account any higher base pay rate for any new duties) - whichever payment is higher. The employee's hourly base pay rate can't be reduced.

For the period of this direction to change your **<duties or location>**, you will be paid **<insert payment of wages details i.e. 'an amount equal to the JobKeeper payment, or the relevant pay under the <insert award or agreement> for any hours that you work – whichever is more'>**. Your hourly base pay rate will not be reduced during this period.

[Explanatory information – please delete once you have finished the letter]

An employee's base pay rate can't be reduced while a direction to change usual duties is in place. If the temporary new duties attract a higher base pay rate (for example, under an applicable award or enterprise agreement), the employee needs to be paid the higher pay rate.

[Delete if not relevant] As your temporary duties attract a higher base rate of pay under the **<insert award or agreement details>**, you will be paid the higher pay rate during this period of **<insert pay rate>** per hour and any other applicable entitlements at this higher rate.

Where can I go for support?

Should you have any questions in relation to this letter, please contact me on **<insert phone number>**.

For up to date information about your workplace entitlements and obligations, including information about the JobKeeper changes, visit the Fair Work Ombudsman's [Coronavirus and Australian workplace laws website](https://www.fairwork.gov.au/coronavirus) at coronavirus.fairwork.gov.au. This includes recent updates and key links to other government bodies that may be able to support you during this time.

Thank you for your understanding during this difficult time.

[Explanatory information – please delete once you have finished the letter]

We've included a couple of additional tips below to help you improve communication to your employees. You may wish to make the letter more personal by:

- *Hand signing or adding a digital handwritten signature to the letter*
- *Sending the letter from a person that the employee recognises and is credible (rather than from an individual the employee may not know).*

Yours sincerely,

<Insert name>

<Insert position>