

# Changing days or times of work under the JobKeeper scheme

Published 1 May 2020 | Updated 25 September 2020

The information on this page is for qualifying employers and their employees.

Qualifying employers are employers that qualify for the JobKeeper scheme and receive JobKeeper payments for their eligible employees.

Legacy employers no longer receive JobKeeper payments but may be able to use some of the JobKeeper provisions. Learn what applies at [JobKeeper enabling directions and agreements for legacy employers \(www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/pay-and-leave-during-coronavirus/jobkeeper-wage-subsidy-scheme/legacy-employers/jobkeeper-enabling-directions-and-agreements-for-legacy-employers\)](http://www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/pay-and-leave-during-coronavirus/jobkeeper-wage-subsidy-scheme/legacy-employers/jobkeeper-enabling-directions-and-agreements-for-legacy-employers) .

Temporary provisions have been added to the Fair Work Act (JobKeeper provisions) as part of the JobKeeper scheme. Employers may be able to use these provisions if they are a:

- [qualifying employer \(www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/pay-and-leave-during-coronavirus/jobkeeper-wage-subsidy-scheme/default#Qualifying%20employers\)](http://www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/pay-and-leave-during-coronavirus/jobkeeper-wage-subsidy-scheme/default#Qualifying%20employers) : employers who qualify for the JobKeeper scheme and are receiving JobKeeper payments for their employees
- [legacy employer \(www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/pay-and-leave-during-coronavirus/jobkeeper-wage-subsidy-scheme/legacy-employers/legacy-employers\)](http://www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/pay-and-leave-during-coronavirus/jobkeeper-wage-subsidy-scheme/legacy-employers/legacy-employers) : employers who previously qualified for the JobKeeper scheme but no longer qualify, or choose not to participate, from 28 September 2020

Legacy employers and their employees can get information on the JobKeeper provisions and what applies on our [JobKeeper enabling directions and agreements for legacy employers \(www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/pay-and-leave-during-coronavirus/jobkeeper-wage-subsidy-scheme/legacy-employers/jobkeeper-enabling-directions-and-agreements-for-legacy-employers/jobkeeper-enabling-directions-and-agreements-for-legacy-employers\)](http://www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/pay-and-leave-during-coronavirus/jobkeeper-wage-subsidy-scheme/legacy-employers/jobkeeper-enabling-directions-and-agreements-for-legacy-employers/jobkeeper-enabling-directions-and-agreements-for-legacy-employers) page.

The JobKeeper provisions enable qualifying employers in certain circumstances to make agreements with an eligible employee to change the employee's days and times of work. They also allow qualifying employers to issue directions to change duties or work location. Find out more at [Changing duties or work location under the JobKeeper scheme \(www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/pay-and-leave-during-coronavirus/jobkeeper-wage-subsidy-scheme/changing-duties-or-work-location-under-the-jobkeeper-scheme/changing-duties-or-work-location-under-the-jobkeeper-scheme\)](http://www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/pay-and-leave-during-coronavirus/jobkeeper-wage-subsidy-scheme/changing-duties-or-work-location-under-the-jobkeeper-scheme/changing-duties-or-work-location-under-the-jobkeeper-scheme) .

The JobKeeper provisions also enable qualifying employers to give eligible employees a direction to reduce their hours or days of work (including to no hours) in certain circumstances. For more information, see [JobKeeper enabling stand down directions \(www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/pay-and-leave-during-coronavirus/jobkeeper-wage-subsidy-scheme/jobkeeper-enabling-stand-down-directions\)](http://www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/pay-and-leave-during-coronavirus/jobkeeper-wage-subsidy-scheme/jobkeeper-enabling-stand-down-directions) . ([www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/pay-and-leave-during-coronavirus/jobkeeper-wage-subsidy-scheme/jobkeeper-enabling-stand-down-directions](http://www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/pay-and-leave-during-coronavirus/jobkeeper-wage-subsidy-scheme/jobkeeper-enabling-stand-down-directions))

A qualifying employer can make an agreement under the JobKeeper provisions from 9 April 2020 (when the JobKeeper provisions started). The last day the provisions will apply is 28 March 2021.

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- [Agreements about changing an employee's work days and times](#)
- [Asking eligible employees to work more hours](#)
- [More information](#)

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- [JobKeeper scheme – overview \(www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/pay-and-leave-during-coronavirus/jobkeeper-wage-subsidy-scheme\)](#)
- [JobKeeper enabling stand down directions \(www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/pay-and-leave-during-coronavirus/jobkeeper-wage-subsidy-scheme/jobkeeper-enabling-stand-down-directions\)](#)
- [Changing duties or work location under the JobKeeper scheme \(www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/pay-and-leave-during-coronavirus/jobkeeper-wage-subsidy-scheme/changing-duties-or-work-location-under-the-jobkeeper-scheme/changing-duties-or-work-location-under-the-jobkeeper-scheme\)](#)
- [Pay and the JobKeeper scheme \(www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/pay-and-leave-during-coronavirus/jobkeeper-wage-subsidy-scheme/pay-and-the-jobkeeper-scheme\)](#)
- [Leave and the JobKeeper scheme \(www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/pay-and-leave-during-coronavirus/jobkeeper-wage-subsidy-scheme/leave-the-jobkeeper-scheme\)](#)
- [Ending employment and the JobKeeper scheme \(www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/pay-and-leave-during-coronavirus/jobkeeper-wage-subsidy-scheme/ending-employment-and-the-jobkeeper-scheme\)](#)

## **Who can use the JobKeeper provisions**

The information in this section is for qualifying employers and their eligible employees.

Legacy employers and their employees can check what applies at [JobKeeper enabling directions and agreements for legacy employers \(www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/pay-and-leave-during-coronavirus/jobkeeper-wage-subsidy-scheme/legacy-employers/jobkeeper-enabling-directions-and-agreements-for-legacy-employers\)](#) .

For a qualifying employer to make an agreement about changing days or times of work under the JobKeeper provisions, they need to:

- qualify for and enrol in the JobKeeper scheme
- be entitled to JobKeeper payments for the employee to whom the agreement applies
- be a national system employer in the Fair Work system (<https://www.fairwork.gov.au/about-us/legislation/the-fair-work-system>) .

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## **Agreements about changing an employee's work days or times**

The information in this section is for qualifying employers and their eligible employees.

Legacy employers and their employees can check what applies at [JobKeeper enabling directions and agreements for legacy employers \(www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/pay-and-leave-during-coronavirus/jobkeeper-wage-subsidy-scheme/legacy-employers/jobkeeper-enabling-directions-and-agreements-for-legacy-employers\)](#) .

The JobKeeper provisions allow a qualifying employer to agree with an eligible employee to:

- work on different days, or
- during different times.

Before making an agreement, a qualifying employer must make sure that:

- it is safe (including considering the nature and spread of coronavirus)
- it is reasonably within scope of the employer's business operations
- the employee's usual work hours aren't reduced overall (this requires a [JobKeeper enabling stand down direction \(www.fair-work.gov.au/coronavirus-and-australian-workplace-laws/pay-and-leave-during-coronavirus/jobkeeper-wage-subsidy-scheme/job-keeper-enabling-stand-down-directions/default\)](http://www.fair-work.gov.au/coronavirus-and-australian-workplace-laws/pay-and-leave-during-coronavirus/jobkeeper-wage-subsidy-scheme/job-keeper-enabling-stand-down-directions/default) ).

If a qualifying employer asks an employee to make an agreement to change their work days or times, the employee has to consider the request and can't unreasonably refuse it. This means that the employee can't refuse the request just because it results in them working extra hours. Any agreement made has to be recorded in writing, such as in a letter or email.

Any agreements made under these JobKeeper provisions stop applying after 28 March 2021. Employees' terms and conditions will revert back to what they were without the agreement in place. For example, under an award, enterprise agreement or employment contract.

#### Example: Agreement to change work days and times

Kate works part-time at a bookstore. She usually works for 16 hours a week on Mondays and Tuesdays.

Kate's employer qualifies for the JobKeeper scheme and gets JobKeeper payments for Kate.

Because of the impacts of coronavirus, the number of customers coming into the store to buy books has dropped significantly. Kate's employer decides to start operating temporarily as an online business instead, including delivering books to customers who order online.

Kate's employer asks her to temporarily work her normal 16 hours a week over 4 days instead of 2, to prepare the online orders the store has received. Spreading the hours over 4 days instead of 2 will allow the business to prepare the orders more effectively. Kate considers the request and agrees. Kate and her employer record the agreement in writing.

This is a valid agreement because:

- Kate's total usual working hours each week haven't decreased
- the agreed change relates to the operation of the bookstore
- it's safe for Kate to work the hours on separate days.

#### Example: Agreement to change work days – reasonable refusal

Mark works on Saturdays as a part-time receptionist at a physiotherapy clinic.

Mark's employer qualifies for the JobKeeper scheme and gets JobKeeper payments for Mark.

Because of the impacts of coronavirus, there are fewer customers booking appointments on Saturdays. As a result, Mark's employer doesn't need a receptionist on Saturdays.

Mark's employer asks him if he would consider working on Fridays for the next 6 weeks, instead of on Saturdays.

Mark considers the request but tells his employer that he can't agree to change his working hours to a Friday because he is the primary carer for his young children on that day.

Mark can refuse his employer's request because he has a reasonable basis for why he can't change his workday. Given Mark's employer doesn't currently need a receptionist on a Saturday, they may want to consider other options for Mark, such as issuing a JobKeeper enabling stand down direction to him or using a JobKeeper enabling direction to temporarily change Mark's duties.

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## Asking eligible employees to work more hours

The information in this section is for qualifying employers and their eligible employees.

Legacy employers and their employees can check what applies at JobKeeper enabling directions and agreements for legacy employers ([www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/pay-and-leave-during-coronavirus/jobkeeper-wage-subsidy-scheme/legacy-employers/jobkeeper-enabling-directions-and-agreements-for-legacy-employers](https://www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/pay-and-leave-during-coronavirus/jobkeeper-wage-subsidy-scheme/legacy-employers/jobkeeper-enabling-directions-and-agreements-for-legacy-employers)) .

A qualifying employer can ask an employee to work reasonable extra hours (in excess of their ordinary hours) while the employer is receiving JobKeeper payments for them.

An employee can refuse a request to work additional hours if the request is unreasonable. Learn more about what is considered reasonable overtime on our [When overtime applies \(https://www.fairwork.gov.au/employee-entitlements/hours-of-work-breaks-and-rovers/hours-of-work/when-overtime-applies\)](https://www.fairwork.gov.au/employee-entitlements/hours-of-work-breaks-and-rovers/hours-of-work/when-overtime-applies) page.

If the only reason for asking an employee to work additional hours is to 'match' the amount of the applicable JobKeeper payment, that is not likely to be reasonable.

When a qualifying employer asks an employee to work on different days or during different times, and this means the employee would work extra hours, the employee has to consider the request and can't unreasonably refuse it. An employee can refuse if it's reasonable in the circumstances. For example, because the employee has caring responsibilities.

An employer may take disciplinary action against an employee who unreasonably refuses the employer's request to work extra hours. If an employer ends an employee's employment, the employer needs to make sure they comply with the [general protections \(https://www.fairwork.gov.au/employee-entitlements/protections-at-work\)](https://www.fairwork.gov.au/employee-entitlements/protections-at-work) and [unfair dismissal \(https://www.fairwork.gov.au/ending-employment/unfair-dismissal\)](https://www.fairwork.gov.au/ending-employment/unfair-dismissal) obligations in the Fair Work Act.

A qualifying employer can't force (or try to force) an employee to work unreasonable additional hours. They also can't tell an employee whose employment terms and conditions are set by a workplace instrument (such as an award or enterprise agreement) that they have to work additional hours in order to get the amount of the JobKeeper payment.

Employers and employees can apply to the Fair Work Commission to deal with a dispute about whether an employee's refusal to work extra hours is reasonable. See [Resolving workplace issues during coronavirus \(www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/contact-us/resolving-workplace-issues-during-coronavirus\)](https://www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/contact-us/resolving-workplace-issues-during-coronavirus) .

Agreements made under the JobKeeper provisions override any inconsistent terms in an employment contract, award or enterprise agreement but doesn't change overtime or penalty rate entitlements that could apply for the extra hours an employee has worked.

Read more about:

- [Directions to return to work and the workplace \(www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/returning-to-work-the-workplace/directions-to-return-to-work-and-the-workplace\)](https://www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/returning-to-work-the-workplace/directions-to-return-to-work-and-the-workplace)
- [Hours of work and maximum weekly hours \(https://www.fairwork.gov.au/employee-entitlements/hours-of-work-breaks-and-rovers/hours-of-work\)](https://www.fairwork.gov.au/employee-entitlements/hours-of-work-breaks-and-rovers/hours-of-work)
- [Protections at work. \(https://www.fairwork.gov.au/employee-entitlements/protections-at-work\)](https://www.fairwork.gov.au/employee-entitlements/protections-at-work)

Example: Part-time employee usually earns less than the JobKeeper payment

Marley is a part-time nursery manager at Pumpkin's Nursery and is employed under the Nursery Award. He works 20 hours a fortnight so he can look after his elderly parents and is usually paid \$600 a fortnight for his hours of work.

Pumpkin's Nursery qualifies for the JobKeeper scheme in relation to Marley. Pumpkin's Nursery now needs to pay Marley the applicable JobKeeper payment of \$750 (before tax) each fortnight for his hours of work, even though it's more than Marley's usual pay.

Marley doesn't need to work any more hours to receive the full JobKeeper payment of \$750 (before tax). If his employer asked him to work more hours solely to match the applicable JobKeeper payment amount, it's unlikely those hours would be reasonable and Marley could refuse.

However, Pumpkin's Nursery can ask Marley to work additional hours for other reasons, and those hours may be reasonable. The Nursery is undertaking some renovations and asks Marley if he can work an extra 10 hours each fortnight for the next month to help. In considering if the additional 10 hours each fortnight are reasonable, Pumpkin's Nursery needs to consider factors including:

- any risk to work health and safety arising from Marley working additional hours
- the workplace needs of Pumpkin's Nursery (including the need to do renovations)
- Marley's personal circumstances, including his caring responsibilities for his elderly parents

- any notice it gave Marley of the need to work additional hours.

Under his award, any additional hours Marley works are paid as overtime. If Marley agrees to the request to work the additional hours, when Pumpkin's Nursery determines how much Marley needs to be paid each fortnight, Pumpkin's Nursery needs to include overtime in its calculations (and pay Marley more than the \$750 JobKeeper payment amount if he is entitled to that).

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## More information

### Hours of work

- [Hours of work \(https://www.fairwork.gov.au/employee-entitlements/hours-of-work-breaks-and-rosters/hours-of-work\)](https://www.fairwork.gov.au/employee-entitlements/hours-of-work-breaks-and-rosters/hours-of-work)

### Flexibility in the workplace

- [Temporary changes to workplace laws during coronavirus \(www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/temporary-changes-to-workplace-laws-during-coronavirus\)](http://www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/temporary-changes-to-workplace-laws-during-coronavirus)

### Legacy employers

Legacy employers and their employees can find out more about the provisions that apply to them at [JobKeeper enabling directions and agreements for legacy employers \(www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/pay-and-leave-during-coronavirus/jobkeeper-wage-subsidy-scheme/legacy-employers/jobkeeper-enabling-directions-and-agreements-for-legacy-employers/jobkeeper-enabling-directions-and-agreements-for-legacy-employers\)](http://www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/pay-and-leave-during-coronavirus/jobkeeper-wage-subsidy-scheme/legacy-employers/jobkeeper-enabling-directions-and-agreements-for-legacy-employers/jobkeeper-enabling-directions-and-agreements-for-legacy-employers) .

More information:

- [Legacy employers \(www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/pay-and-leave-during-coronavirus/jobkeeper-wage-subsidy-scheme/legacy-employers/legacy-employers\)](http://www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/pay-and-leave-during-coronavirus/jobkeeper-wage-subsidy-scheme/legacy-employers/legacy-employers)
- [Information for financial service providers \(www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/pay-and-leave-during-coronavirus/jobkeeper-wage-subsidy-scheme/legacy-employers/information-for-eligible-financial-service-providers/information-for-eligible-financial-service-providers\)](http://www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/pay-and-leave-during-coronavirus/jobkeeper-wage-subsidy-scheme/legacy-employers/information-for-eligible-financial-service-providers/information-for-eligible-financial-service-providers)
- [Pay, leave and ending employment for legacy employers \(www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/pay-and-leave-during-coronavirus/jobkeeper-wage-subsidy-scheme/legacy-employers/pay-leave-and-ending-employment-for-legacy-employers/pay-leave-and-ending-employment-for-legacy-employers\)](http://www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/pay-and-leave-during-coronavirus/jobkeeper-wage-subsidy-scheme/legacy-employers/pay-leave-and-ending-employment-for-legacy-employers/pay-leave-and-ending-employment-for-legacy-employers)

### Pay rates

Use our [Pay and Conditions Tool \(https://calculate.fairwork.gov.au/findyouraward\)](https://calculate.fairwork.gov.au/findyouraward) to calculate base pay rates, allowances and penalty rates (including overtime) under an award.

### Enforcement and dealing with disputes

We help employers and employees understand and follow Australian workplace laws. We do this by:

- providing information and education
- providing tools, templates and guides
- helping you resolve workplace issues.

Our [Resolving workplace issues during coronavirus page \(www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/contact-us/resolving-workplace-issues-during-coronavirus/\)](http://www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/contact-us/resolving-workplace-issues-during-coronavirus/) has information and resources to help you resolve workplace disputes. It also has information about our enforcement role under the JobKeeper scheme and who can help with:

- questions about eligibility for the JobKeeper scheme
- disputes about directions or requests under the JobKeeper provisions
- disputes related to requirements for legacy employers, including certificates.

### JobKeeper scheme

For more information for employers and employees on how to enrol for the JobKeeper scheme, who is eligible and it how it works, go to the [ATO website – JobKeeper section \(https://www.ato.gov.au/general/jobkeeper-payment/\)](https://www.ato.gov.au/general/jobkeeper-payment/) .

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## Contact us

Fair Work Online: [www.fairwork.gov.au](http://www.fairwork.gov.au)

Fair Work Infoline: 13 13 94

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Hearing & speech assistance

Call through the National Relay Service (NRS):

For TTY: 13 36 77. Ask for the Fair Work Infoline 13 13 94

Speak & Listen: 1300 555 727. Ask for the Fair Work Infoline 13 13 94

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