JobMaker Hiring Credit Essentials Webinar

A Knowledge Shop Webinar

December 2020

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Please direct any questions regarding the JobMaker Hiring Credit Essentials Webinar to: Knowledge Shop Pty Ltd, Level 2, 115 Pitt St, Sydney 2000, Tel: 1800 800 232

Slides JobMaker hiring credit essentials

JobMaker hiring credit essentials webinar

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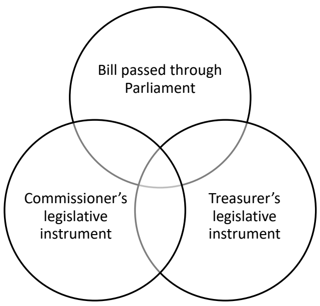
What we will cover

- Identifying clients who qualify
- Working through the key tests
- Practical issues

Status



Overview

- Designed to encourage businesses to take on additional employees
- Focus is on younger employees
  - $200 per week for employees aged 16 – 29
  - $100 per week for employees aged 30 – 35
- 8 x JobMaker periods of 3 months
  - First period runs from 7/10/20 – 6/1/21

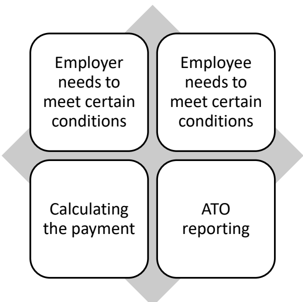
Key points

Amounts paid quarterly in arrears by the ATO

No decline in turnover test

Can apply to new businesses

Main features



JobMaker periods

	JobMaker period	STP reporting deadline	Claim period
1	7 October 2020 – 6 January 2021	27 April 2021	1 February 2021 – 30 April 2021
2	7 January 2021 – 6 April 2021	28 July 2021	1 May 2021 – 31 July 2021
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4	7 July 2021 – 6 October 2021	28 January 2022	1 November 2021 – 31 January 2022
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7	7 April 2022 – 6 July 2022	28 October 2022	1 August 2022 – 31 October 2022
8	7 July 2022 – 6 October 2022	28 January 2023	1 November 2022 – 31 January 2023

ABN and PAYGW

- The entity carries on a business in Australia, is a non-profit that pursues its objectives mainly in Australia or is a DGR that operates a public fund that is covered by items 9.1.1 or 9.1.2 of section 30-80
- The entity has an ABN and is a registered PAYG withholder
  - These conditions need to be met from the time the entity elects to participate in the JobMaker period onwards

Tax lodgements up to date

The entity must not have any outstanding tax returns or GST returns that the entity was required to lodge in the 2 year period to the end of the JobMaker period

- This condition must be met by the time the claim is made for the relevant period
- Don’t need to have paid amounts owing for the tax return or BAS to access JobMaker, but interest might be charged
- Lodgement deferrals are taken into account

Excluded employers

- The entity is subject to the major bank levy
- The entity is an Australian government agency, local governing body, wholly owned by these or a sovereign entity
- If the entity is a company, a liquidator or provisional liquidator has been appointed
- If the entity is an individual, a trustee in bankruptcy has been appointed
- The employer is entitled to a JobKeeper payment for a fortnight that begins in that period

Example

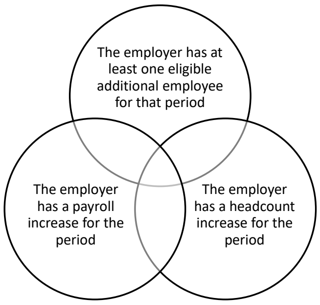
- An entity is receiving JobKeeper payments for employees until the fortnight ending on 3 January 2021
- The entity cannot receive JobMaker hiring credits for the period 7 October 2020 to 6 January 2021
- Could potentially be eligible for JobMaker from the period starting on 7 January 2021

Other government payments

ATO indicates that if an entity is claiming JobMaker credits then it cannot also receive any of the following for the relevant employee:

- Supporting Apprentices and Trainees Wage subsidy
- Australian Apprentice Wage subsidy
- Boosting the Apprenticeship Commencements Wage subsidy
- Restart, Youth Bonus, Youth, Parents or Long-term Unemployed Wage subsidies

‘Additionality’ conditions



Registration with the ATO

The employer must notify the ATO that it elects to participate in JobMaker

- The rules require this to be done by the end of the period, but the ATO has extended this until the end of the claim period
- That is, the deadline for the first period has been extended from 6 January 2021 to 30 April 2021

Registration with the ATO

- This only needs to be done once
- Details can be amended until the first claim is submitted
- Entities must provide:
  - Headcount at 30 September 2020
  - Payroll for the 3 months up to and including 6 October 2020
  - Contact details

ATO reporting

Report certain information through STP

- Due 3 days before the end of the JobMaker claim period (ie, 27 April 2020 for the first period)
- Can be done by phone if exempt from STP, but must be up to date on PAYGW obligations for the last 2 years

Must report the following for each employee the entity will be claiming for:

- TFN
- Date of birth
- Full name
- Start and end date of employment (if this is in the relevant period)
- Whether the employee met the hours requirement

ATO reporting

Complete the claim for the period through ATO online services or the Business Portal

- Baseline payroll amount, if this is different to the amount provided on registration
- Total payroll amount for the period
- Headcount at the end of the period
- Baseline headcount
- Confirmation that relevant employees are eligible
- Declaration and signature
- Account details

Making a claim

Claims must be made during the claim period

- No extensions or exemptions are available
- Once a claim period has ended the employer cannot make a claim for that relevant period
- No amendments can be made to claim after the claim period has ended

Employee conditions

- Employed by the entity at some point in the period
- Commenced employment with the entity between 7 October 2020 and 6 October 2021 (inclusive)
- When commencing employment the individual was at least 16 but less than 36
  - Payment rate is based on the employee's age when they commenced employment

Average working hours

- The employee must have worked or been paid for an average of 20 hours per week for the time they were employed by the entity in the JobMaker period
- Calculate the total hours the employee needs to have worked or been paid as follows
  - Total days employed in the period, divided by 7, rounded down to nearest whole number, multiplied by 20

Pre-employment condition

- Must have received Parenting Payment, Youth Allowance (except on the basis they were undertaking full-time study or was a new apprentice) or JobSeeker for at least 28 consecutive days in the 84 days before the commenced employment
  - Can include days when an individual received the nil rate for these payments

Notice condition

- Must give the employer a written notice in the approved form confirming
  - The age condition was met
  - They met the condition regarding social security payments
  - They have not provided a notice to another entity of which they are currently an employee
- Notice ceases to have effect when employment ceases

Excluded employees

Not eligible for JobMaker if engaged as a contractor at any time in the 6 months before 6 October 2020

- Only if they performed similar duties to those performed as an employee

Not eligible if they commenced employment 12 months or more before the first day of the JobMaker period

- Even if the employer has claimed JobMaker credits for less than 12 months

Excluded employees

Entity	Excluded employees
Sole trader	• Relative of the sole trader
Partnership	• Partner in the partnership • Close associate of a partner
Trust (except a widely held unit trust)	• Trustee • Beneficiary • Close associate of a trustee or beneficiary
Company (except a widely held company)	• Shareholder • Director • Close associate of a shareholder or director

Close associates

- Relatives of an individual, partner, trustee, beneficiary, director or shareholder
- Applies on a look-through basis
  - Example: child of a director of a trustee company of a trust is excluded

Relatives

- Spouse of the person
- Parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendent or adopted child of that person, or of that person's spouse
- The spouse of the parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendent or adopted child of that person, or of that person's spouse

Headcount increase

- Compare number of employees at the end of the period with the baseline headcount
  - For the first 4 periods, the baseline headcount is the number of employees at the end of 30 September 2020
  - For the following 4 periods the baseline amount is potentially adjusted
- No employees on 30 September 2020?
  - Change from draft version of the rules

Payroll increase

- Compare payroll amount for the period with the payroll amount for the relevant period ending on 6 October 2020
- Focus on when payments are made
- Payroll amounts include:
  - Salary, wages, commission, bonus, allowances
  - Withholding amounts
  - Salary sacrificed super contributions and fringe benefits

Payroll increase

- Baseline payroll amount depends on the number of days in the JobMaker period
- Example
  - The second period runs from 7 January 2021 to 6 April 2021 and has 90 days
  - The baseline payroll amount covers the 90 day period from 9 July 2020 to 6 October 2020 (inclusive)

Calculating the payment

The hiring credit payment for the period is the lesser of:

- The headcount amount for the period
- The payroll amount for the period

The ATO will calculate the amount based on:

- STP information
- Headcount
- Payroll information provided in the registration and claim form

Calculating the payment

- 10 step process
- ATO has provided a calculator to help provide an estimate
- Headcount amount is based on mixture of factors
  - Total increase in headcount
  - Number of days in the period
  - Number of days the additional employees were employed in the period
  - Whether the employees are higher or lower rate

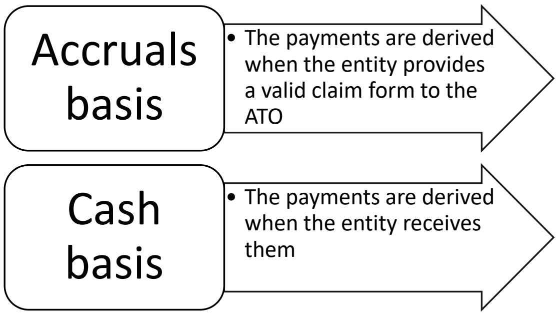
Integrity rule

- Entity is disqualified from JobMaker if:
  - It terminates the employment or reduces the working hours of an employee, and
  - This is done as part of a scheme for the sole or dominant purpose of obtaining a JobMaker credit or increasing the credit
- Aimed at preventing artificial increases in headcount

Tax implications

1. Included in assessable income of the employer as ordinary income
2. Employer claims normal deductions for amounts paid to employees
3. Not subject to GST and don't need to be reported on the BAS

Reporting income



Questions?

Notes JobMaker hiring credit essentials

In the 2020-21 Federal Budget, the Government announced the introduction of a new JobMaker Hiring Credit to stimulate job creation. The framework legislation has passed Parliament and both the Treasurer and Commissioner of Taxation have issued legislative instruments which set out the details of how the new credit will work.

While the ATO has extended the deadline for enrolling for the first JobMaker period, in this session we aim to help you to identify clients who might be eligible for JobMaker credits so that they can take appropriate steps to avoid missing out on payments from the ATO.

We work through the conditions that need to be met to access the JobMaker credits, focusing on the rules for determining an employer is eligible to participate in the scheme, and how to identify employees who can be taken into account under this measure.

Overview

JobMaker is a credit available to eligible businesses for hiring additional employees (not if you are merely replacing someone who left). The hiring credit is available for 12 months for jobs created from 7 October 2020 until 6 October 2021.

In broad terms, the credit is:

- $200 per week for new employees between 16 to 29 years of age, and
- $100 a week for new employees between 30 to 35 years of age.

The scheme will be administered by the ATO and some details will need to be provided by employers to the ATO through single touch payroll (STP).

There are eight JobMaker periods of 3 months. The first period runs from 7 October 2020 to 6 January 2021.

In some respects the JobMaker scheme is similar to JobKeeper in that amounts will be paid to eligible employers in arrears by the ATO. However, there is no requirement for the entity to pass a decline in turnover test to access JobMaker and payments. Also, JobMaker can apply to new businesses and is not restricted to entities that have some trading history prior to the rules being announced.

JobMaker cannot generally be claimed while an employer is claiming JobKeeper payments.

There are a number of key aspects to the JobMaker rules which we will explore in more detail below. In summary these are:

- The employer needs to meet certain conditions to qualify;
- The employee needs to meet certain conditions to be an eligible additional employee;

- There is a complex process for calculating the payment; and
- There are some strict ATO reporting requirements.

Key JobMaker dates are summarised below:

	JobMaker period	STP reporting deadline	Claim period
1	7 October 2020 – 6 January 2021	27 April 2021	1 February 2021 – 30 April 2021
2	7 January 2021 – 6 April 2021	28 July 2021	1 May 2021 – 31 July 2021
3	7 April 2021 – 6 July 2021	28 October 2021	1 August 2021 – 31 October 2021
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Employer conditions

In order for an employer to be able to access JobMaker payments the following conditions need to be satisfied:

- From the time the entity enrols with the ATO onwards it must carry on a business in Australia, be a non-profit that pursues its objectives mainly in Australia or it must be a DGR that operates a public fund that is covered by items 9.1.1 or 9.1.2 of section 30-80 ITAA 1997;
- From the time the entity enrols with the ATO onwards it must have an ABN;
- From the time the entity enrols with the ATO onwards it must be registered for PAYG withholding;
- At the time the JobMaker claim is submitted to the ATO for the relevant period the entity must not have any outstanding tax returns or GST returns that were required to be lodged in the 2 year period to the end of the JobMaker period;
- The entity must have at least one eligible additional employee for the period;
- The entity must have a headcount increase for the period;
- The entity must have a payroll increase for the period;
- The entity needs to report certain information to the ATO through STP (it seems like there is an exception if the entity is excepted from STP reporting);
- The employer must not be entitled to a JobKeeper payment for a fortnight that begins in that JobMaker period;
- The entity must have notified the Commissioner that it elects to participate in the JobMaker scheme;
- The entity needs to submit a claim to the ATO in relation to the JobMaker period; and

- The entity needs to keep adequate records (e.g., of the paid hours worked by the employee they are claiming the credit).

When it comes to the requirement that the entity must be up to date with its tax return and GST return lodgement obligations, this condition must be met by the time the claim is made for the relevant period. The ATO has indicated that the entity doesn't necessarily need to have paid amounts owing for the tax return or BAS to access JobMaker, but interest might be charged on outstanding tax liabilities. Also, lodgement deferrals are taken into account so if a tax return has an extended due date which has not passed by the end of the relevant JobMaker period then the fact that the return has not been lodged should not prevent access to JobMaker payments for that period.

New business with no lodgments due example

Cliff's Cinemas is a new business that started on 6 December 2020. They register for an ABN on the same day.

They hire three employees in December, including two eligible employees. They then:

- register for PAYG withholding
- enrol in STP reporting
- begin reporting wage payments through STP.

Cliff's Cinemas report quarterly for GST and have no tax lodgments due at the end of the first JobMaker period (6 January 2021).

To remain eligible for future JobMaker Hiring Credit payments, Cliff's Cinemas will need to keep up to date with ongoing lodgments.

ATO example - Eligible employers

ATO guidance indicates that if an entity is claiming JobMaker credits then it cannot also receive any of the following wage subsidies for the relevant employee:

- Supporting Apprentices and Trainees Wage subsidy;
- Australian Apprentice Wage subsidy;
- Boosting the Apprenticeship Commencements Wage subsidy; or
- Restart, Youth Bonus, Youth, Parents or Long-term Unemployed Wage subsidies.

An entity is excluded from the JobMaker scheme if any of the following apply:

- The entity is subject to the major bank levy;
- The entity is an Australian government agency, local governing body, wholly owned by these or a sovereign entity;
- If the entity is a company, a liquidator or provisional liquidator has been appointed; or
- If the entity is an individual, a trustee in bankruptcy has been appointed.

The employer is required to keep records on hours worked by employees. The ATO has indicated that it will be monitoring employers claiming JobMaker and may review claims. If so, the ATO might ask an employer to provide documentation to substantiate the hours the employee worked which may include the following:

- Employment records such as payslips, payroll data, rosters and time sheets;
- Business diaries, appointment books and logbooks.

If the entity does not maintain adequate records then it might not be entitled to the JobMaker payment or the ATO might seek to recover an overpayment.

Start-up business example

A company (A Co) incorporates on 10 October 2020. It has an active sole director who is paid a nominal annual director fee. The director would not qualify as an eligible additional employee.

A Co is opening a retail store. On 15 November they hire two additional eligible employees to help set-up the store. The employees will be paid monthly in arrears.

A Co:

- obtains an ABN on 10 December 2020
- registers for PAYG withholding on 11 December 2020
- registers for JobMaker on 12 December 2020.

At the end of the first JobMaker period (6 January 2021), both employees are still employed with A Co. No additional employees have been hired.

Because A Co only started business on 15 November 2020, their baseline payroll amount will be zero. A Co pays each employee $40,000 per year. A Co's total payroll expenses for the JobMaker period will be $20,000 ($10,000 for each employee). As the total payroll expenses for the JobMaker period exceeds the baseline payroll amount by $20,000, A Co has had a payroll increase.

As A Co is carrying on a business, holds an ABN, has registered for PAYGW and has registered for the JobMaker Hiring Credit scheme it will be eligible for payments under the scheme if it satisfies the other eligibility requirements.

ATO example - Eligible employers

Registering with the ATO

In order to access JobMaker credits the entity needs to have notified the Commissioner that it elects to participate in the scheme. While the legislative instrument issued by the Treasurer requires this to be done by the end of the end of the first JobMaker period that the entity wants to claim payments for, the ATO has extended this deadline until the end of the claim period. For example, the claim period for the first JobMaker period ends on 30 April 2021. As a result, the enrolment deadline for the first period has been extended from 6 January 2021 to 30 April 2021.

An entity only needs to register for JobMaker once. This is done by logging into either:

- ATO online services through myGov; or
- The Business portal using myGovID.

A registered tax or BAS agent can also register for a client.

Entities must provide:

- Headcount at 30 September 2020;
- Payroll for the 3 months up to and including 6 October 2020; and
- Contact details.

The baseline headcount figure is simply the number of employees who are employed by the entity as at 30 September 2020. Each employee is counted as one, regardless of whether they are full-time, part-time or casual. Contractors and sub-contractors are not taken into account. If someone is engaged on a fixed-term contract you will need to check whether they are classified as an employee or contractor.

If the entity didn't have any employees on 30 September 2020 or started business after 30 September 2020 then the baseline headcount is zero.

The baseline headcount figure will be adjusted in the second year of the JobMaker scheme.

The payroll figure that is reported as part of the registration process is the total payroll paid within the three months up to and including 6 October 2020 (i.e., a period of 92 days). This figure is also used for the purpose of determining the credit for the first JobMaker period, but adjustments will sometimes need to be made to this figure for future periods.

Further information on determining the payroll figure is below in the section dealing with the payroll increase condition.

Details provided as part of the registration process can be amended until the first claim is submitted. However, once the first claim is submitted it seems like the details cannot be changed so it will be important to ensure that the headcount and payroll figures are correct as these form the basis for calculating the JobMaker payments.

ATO reporting

In addition to enrolling with the ATO there are two other aspects of the ATO reporting rules.

Firstly, the entity is required to report certain information through STP. The ATO notes that if the entity in question is exempt from STP reporting then it can contact the ATO by phone to provide the information, but it must be up to date with its PAYGW obligations that were due in the two years ending on the last day of the JobMaker period (i.e., generally must be up to date with BAS lodgements).

The entity must report through STP the following details for each employee the entity will be claiming for:

- TFN;
- Date of birth;
- Full name;
- Start and end date of employment (if this is in the relevant period); and
- Whether the employee met the hours requirement.

This is due 3 days before the end of the JobMaker claim period (i.e., 27 April 2020 for the first JobMaker period).

Secondly, the entity needs to submit a JobMaker claim with the ATO for each period that it is seeking payments for. The entity must complete the claim for the period through ATO Online Services for Business, Business Portal or Online Services for Agents. The following details will need to be reported:

- Baseline payroll amount, if this is different to the amount provided on registration;
- Total payroll amount for the period;
- Headcount at the end of the period;
- Baseline headcount (the ATO will prefill this for the fifth period onwards);
- Confirmation that each employee included in the claim calculation is an eligible additional employee, including that the minimum hours test has been satisfied;
- A declaration which meets specific requirements;
- A signature which meets specific requirements; and
- Financial institution account details.

If the entity is exempt from STP reporting then additional information on eligible employees will need to be provided when submitting the claim with the ATO.

Once a claim period has ended the employer cannot make a claim or amend a claim. Amendments can only be made before the end of a claim period. The ATO notes that no exemptions or extensions are available.

Integrity rule

There are some specific integrity rules which ensure that an entity is disqualified from JobMaker if:

- It terminates the employment or reduces the working hours of an employee; and
- This is done as part of a scheme for the sole or dominant purpose of obtaining a JobMaker credit or increasing the credit.

This rule is aimed at preventing entities from trying to artificially increase their headcount.

Integrity rule example: a scheme which inflates headcount

Oscar is 53 years old and has been employed by Titan Co for 14 months. Oscar's hours can vary depending on the shifts he is allocated each fortnight but he typically works four days per week and an average of 26 hours per week.

On 10 October 2020, Titan Co hires Bella. Bella is 26 years old and satisfies the other requirements to be an eligible additional employee.

On 17 October 2020, Titan Co provides Oscar with his roster for the fortnight which shows Oscar has not been allocated any shifts in the coming fortnight. Oscar does not get allocated any shifts for the remainder of the JobMaker period.

Titan Co instead allocates Bella similar shifts to those previously worked by Oscar. To offset the fact that Bella is receiving the wages that Oscar would have ordinarily received in the period, Titan Co increases the wages of its managing director, Douglas, who is also employed as an employee of Titan Co.

Titan Co submits a claim to the Commissioner for the JobMaker Hiring Credit payment for the first JobMaker period. In doing so, Titan Co claims that Oscar is still an employee and that, as a result, employing Bella has caused Titan Co to have a headcount increase for the period. Titan Co also claims that it has had a payroll increase for the period because of the additional amount of wages it has paid to Douglas.

The Commissioner calculates Titan Co's entitlement for the period based on this information and pays an amount of the JobMaker Hiring Credit payment to Titan Co.

A short time after paying the JobMaker Hiring Credit payment to Titan Co, the Commissioner reviews Titan Co's entitlement to the JobMaker Hiring Credit payment. The Commissioner identifies that Titan Co reduced Oscar's hours and made additional payments to Douglas for the sole or dominant purpose of obtaining the JobMaker Hiring Credit payment in relation to Bella.

The Commissioner therefore determines that Titan Co was disqualified from the JobMaker scheme for the period, and for all subsequent periods.

Titan Co is liable to repay all amounts of JobMaker Hiring Credit payment that it received in the period. Titan Co is also subject to general interest charges in relation to the overpayment of the JobMaker Hiring Credit payment that it received.

Explanatory statement: *Coronavirus Economic Response Package (Payments and Benefits) Amendment Rules (No. 9) 2020*

Employee eligibility

In order for an employer to access JobMaker payments for a period, it must have at least one eligible additional employee for the period. The following basic conditions normally need to be satisfied in order for an employee to be classified as an eligible additional employee:

- The employee must have been employed by the entity for at least part of the relevant JobMaker period;
- The individual must have commenced employment with the entity between 7 October 2020 and 6 October 2021 (inclusive);
- The individual must have been at least 16 years old but less than 36 years of age at the time their employment commenced;
- They must have received JobSeeker Payment, Youth Allowance (except on the basis they were undertaking full-time study or was a new apprentice) or Parenting Payment for at least 28 consecutive days in the 84 days before the employment commenced;
- They must have worked or been paid for an average of at least 20 hours per week for the time they were employed by the entity in the JobMaker period. If the employee worked less than 20 hours, the employer cannot claim JobMaker for them during that period; and
- The employee must have given a notice to the employer specifying certain information.

The ATO states that in determining the number of days that an employee was receiving the types of income support referred to above, you can count days that included a nil payment. This could include situations where the individual had a nil payment because they were on a:

- Nil rate period;
- Suspension that would generally be lifted; or
- Waiting period.

When you are calculating the total hours that the individual needs to have worked (or been paid) in order to meet the condition above which requires an average of at least 20 hours per week, you start with the total days that the individual was employed by the entity in the JobMaker period. You divide this by 7 and then round down to nearest whole number. This figure is then multiplied by 20.

Hiring an eligible employee partway through a JobMaker period

Marco is a 30-year-old labourer who was receiving the JobSeeker payment.

On 28 November 2020, Marco started employment with a construction company. Marco worked for 25 hours per week for the rest of the JobMaker period.

To satisfy the minimum hours requirement, Marco must work at least 100 hours in the period (being 40 days employed, divided by 7, rounded down and multiplied by 20). Marco will satisfy this requirement, as he has worked 125 hours in the remainder of the period.

ATO example: JobMaker hiring credit - Your eligible employees

Hours of paid work include paid overtime, paid leave and paid absences on public holidays. It does not include any unpaid leave. The number of hours actually worked include any hours worked, including unpaid overtime, paid leave and paid absences on public holidays and might be more appropriate if an employee is not paid on a particular rate (such as salaried employees).

Paid and unpaid leave during the JobMaker period

Maisy starts employment at Doggy Day Care Pty Ltd on 16 December 2020. She works 5 hours per day, Mondays to Fridays.

Shortly after starting employment, Maisy needs to take unpaid leave from 2 January 2021. Maisy returns to work 31 January 2021. She was on paid leave for her usual hours (5 hours per day) over the Christmas period while the business was closed.

For the first JobMaker period from 7 October 2020 to 6 January 2021, Maisy can include the paid leave she received over the Christmas period. For this period, she cannot include the unpaid leave days from 2 January to 6 January 2020. Maisy can count 13 days of work for 5 hours per day.

ATO example: JobMaker hiring credit - Your eligible employees

When it comes to the notice requirement, the employee must give the employer a written notice in the approved form confirming the following:

- That the age condition was met;
- That they met the condition regarding social security payments; and
- That they have not provided a notice to another entity of which they are currently an employee, unless that notice has ceased to have effect. A notice ceases to have effect as soon as the relevant employment arrangement ceases.

The rules in this area seek to ensure that employees cannot have valid notices with multiple employers at the same time.

ATO pro-forma notice forms can be accessed at the link below:
https://www.ato.gov.au/printfriendly.aspx?url=/General/JobMaker-Hiring-Credit/#JobMakeremployeenotices

If an employee is an eligible additional employee then it is necessary to determine whether the higher or lower payment rate applies. This is based on the age of the employee when they commenced employment with the entity:

- $200 per week for new employees between 16 to 29 years of age; and
- $100 a week for new employees between 30 to 35 years of age.

Eligible employee turns 30

Alexandra is an eligible employee who started employment on 20 November 2020 with an eligible employer.

At the time she started employment, she was 29. On 4 January 2021, Alexandra turns 30.

Her employer is eligible to claim a payment rate of $200 per week for the entire 12 months because Alexandra is:

- an eligible employee
- 29 at the time she started employment.

ATO example: *JobMaker hiring credit - Your eligible employees*

Excluded employees

There are a number of exclusions which prevent employees from being taken into account as eligible additional employees.

An employee is not eligible if they commenced employment 12 months or more before the first day of the JobMaker period. This is the case even if the employer has claimed JobMaker credits for less than 12 months for that employee (e.g., they might have been receiving JobKeeper payments which prevented access to JobMaker initially).

An employee is not eligible for JobMaker if they were engaged other than as an employee at any time in the 6 months before 6 October 2020 to perform a substantially similar role or substantially similar functions or duties to those performed as an employee.

The rules also seek to ensure that certain related parties cannot be treated as an eligible additional employee. A summary of how this works for different entity types is below:

Entity	Excluded employees
Sole trader	• Relative of the sole trader
Partnership	• Partner in the partnership • Close associate of a partner
Trust (except a widely held unit trust)	• Trustee • Beneficiary • Close associate of a trustee or beneficiary
Company (except a widely held company)	• Shareholder • Director • Close associate of a shareholder or director

The term 'close associate' is basically defined to include relatives of an individual, partner, trustee, beneficiary, director or shareholder. The rules also apply on a look-through basis. For example, this would mean that a child of a director of a trustee company or a trust is excluded.
The term relative is defined to include the following individuals:

- The spouse of the person;
- A parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendent or adopted child of that person, or of that person's spouse;
- The spouse of the parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendent or adopted child of that person, or of that person's spouse.

‘Additionality’ conditions

This is where the JobMaker rules become complex. As indicated above, in order for an employer to access JobMaker payments it must have at least one eligible additional employee for the period, it must have a headcount increase for the period and it must have a payroll increase for the period.

The concept of an eligible additional employee has already been discussed above.

Headcount increase

The headcount increase condition operates a bit differently depending on which JobMaker period you are dealing with. For the first four JobMaker periods headcount at the end of the relevant period is measured against headcount at 30 September 2020. From the fifth JobMaker period onwards the baseline headcount figure will be adjusted.

An entity’s total headcount for a particular JobMaker period only includes employees who are employed at the end of the period. Employees who worked for the employer during the JobMaker period but were not employed at the end of the last day of the period are not taken into account.

It is important to note that the final version of the rules contains a crucial change to the draft version that was released by Treasury. The draft version of the rules indicated that the baseline headcount figure could not be zero. However, the final rules appear to allow the baseline headcount figure to be zero and ATO guidance supports this.

Headcount increase number for first JobMaker period example

ABC Pty Ltd (ABC) has been operating a local grocery since the 1990s. On 30 September 2020, ABC had 15 employees.

On 7 October 2020, in anticipation of an increase in business over the holiday period, ABC takes on an additional 2 employees.

ABC's new employees (and their existing employees) are still employed by ABC at the end of the first JobMaker period (6 January 2021).

ABC's headcount increase number for the first JobMaker period is calculated as follows:

17 (employees employed at the end of period) − 15 (baseline headcount for period) = 2

ATO example: JobMaker Hiring Credit - Conditions for making a claim

Termination of employment example

On 31 January 2021, ABC's temporary employees stop working for ABC, as does one of ABC's other employees. ABC does not have any other staff movements for the second JobMaker period (7 January 2021 – 6 April 2021).

ABC does not have a headcount increase in the second JobMaker period because the number of employees employed at the end of the period (14) is less than its baseline headcount (15 employees on 30 September 2020).

As ABC does not have a headcount increase in the second JobMaker period, it is not entitled to a JobMaker Hiring Credit payment for this period.

ATO example: JobMaker Hiring Credit - Conditions for making a claim

Payroll increase

The payroll increase test involves comparing the total payroll amount for the JobMaker period with the payroll amount for the relevant period ending on 6 October 2020 (i.e., the baseline payroll amount).

As noted above, the payroll figure that is reported as part of the registration process is the total payroll paid within the three months up to and including 6 October 2020 (i.e., a period of 92 days). However, this won't necessarily be the baseline payroll figure for each JobMaker period. This is because the figure needs to be adjusted if the relevant JobMaker period does not have 92 days.

For example, the first JobMaker period ending on 6 January 2021 has 92 days so the amount reported to the ATO as part of the registration process should be used as the baseline payroll amount.

However, the second JobMaker period runs from 7 January 2021 to 6 April 2021 and has 90 days. As a result, the baseline payroll figure needs to be adjusted so that amounts paid / applied on the 7th and 8th of July 2020 are not included. Rather, the baseline payroll amount for this JobMaker period covers the 90 day period from 9 July 2020 to 6 October 2020 (inclusive).

The JobMaker periods and number of days in each are summarised below:

JobMaker period	JobMaker period dates	Days in JobMaker period
1	7 October 2020 – 6 January 2021	92
2	7 January 2021 – 6 April 2021	90
3	7 April 2021 – 6 July 2021	91
4	7 July 2021 – 6 October 2021	92
5	7 October 2021 – 6 January 2022	92
6	7 January 2022 – 6 April 2022	90
7	7 April 2022 – 6 July 2022	91
8	7 July 2022 – 6 October 2022	92

Payroll amounts that are taken into account for the purpose of these rules include:

- Salary, wages, commission, bonus, allowances;
- PAYG withholding amounts; and
- Salary sacrificed super contributions and fringe benefits

The ATO indicates that the following payments do not count towards the baseline or total payroll expenses:

- Government Paid Parental Leave (GPPL);
- Workers' compensation absence (not able to work);
- Reimbursements of expenses incurred by employees;
- Directors' fees (that are not salary and wages);
- Lump sum payments (lump sum A, B, D and E);
- Exempt foreign income (exempt from pay as you go withholding);
- Eligible termination payments;
- Fringe benefits provided to an employee which are not part of an effective salary sacrifice arrangement; and
- Amounts contributed as super to meet employer super guarantee obligations.

The rules appear to focus on when payments are made, rather than the period that they relate to.

If the entity is a new business that began after 6 October 2020 the baseline payroll amount will be zero. If the business only started employing employees part way through the three months up to 6 October 2020 then the baseline payroll simply includes the payroll expenses up to that date.

The entity's payroll expenses must have increased in the JobMaker period compared to the baseline payroll amount to be able to access JobMaker for that period. If the entity's payroll does not increase it will not be eligible for a payment for that period.

The payroll increase amount also provides an upper limit on the JobMaker payments for that period.

New employee example

Mary runs a small bakery business with one full-time employee. Her employee is paid a salary of $30,000 a year. The baseline payroll expenses for the first JobMaker period is the sum of the payroll amounts for the three months (92 days) up to and including 6 October 2020. Mary's baseline payroll amount is $7,500.

The bakery has had a growth in sales which prompts Mary to hire an assistant manager on 7 October 2020. Mary decides to pay the assistant manager a salary of $80,000 per year.

Mary's total payroll expenses for the JobMaker period will be $27,500 ($20,000 for the assistant manager and $7,500 for her other employee). As the total payroll expenses for the JobMaker period exceeds the baseline payroll amount by $20,000, she has a payroll increase.

If Mary satisfies the other requirements, she will be eligible for the JobMaker Hiring Credit payment for the period.

ATO example: JobMaker Hiring Credit – Your payroll

Calculating the JobMaker payment

Calculating the JobMaker payment amount for a particular period can be a complex process. The ATO guidance uses a 10 step to calculate the JobMaker amount.

At a very high level the hiring credit payment for a particular period is the lesser of:

- The headcount amount for the period; and
- The payroll amount for the period.

While the payroll amount for the period might not be too difficult to determine, the process for calculating the headcount amount is more complex. The headcount amount is based on mixture of factors including:

- Total increase in headcount;
- Number of days in the period;
- Number of days the additional employees were employed in the period; and
- Whether the employees are higher or lower rate.

Having said that, the ATO will calculate the amount for taxpayers based on the following information:

- STP information;
- Headcount; and
- Payroll information provided in the registration and claim form.

The ATO has also provided a calculator that can be used to help provide an estimate of the JobMaker payment for a period which can be found at the link below:

https://www.ato.gov.au/general/JobMaker-Hiring-Credit/In-detail/Conditions-for-making-a-claim/?page=3#How_payment_amounts_are_calculated

Extracted below is the ATO's explanation of how it will calculate JobMaker payments:

> ***Step 1: Calculate your increase in headcount***
> We calculate the increase in your headcount (the number of employees you have) for the JobMaker period.
>
> *Baseline headcount in year one*
> At registration, you tell us what your baseline headcount is as at 30 September 2020. This will be zero if you either:
>
> - had no employees on 30 September 2020
> - are a new business that started after 30 September 2020.
>
> Each time you claim, you tell us your total headcount as at the end of the JobMaker period you are claiming for.
>
> We will then calculate the increase in your headcount for the JobMaker period by subtracting the total headcount for the period from your baseline headcount.
>
> *Adjusting the baseline headcount in year two*
> In the second year of the JobMaker scheme, your baseline headcount is adjusted based on changes in your headcount in the first year of the scheme. We will calculate this adjustment for you. We will provide information on how to calculate this adjustment shortly.
>
> ***Step 2: Calculate your maximum payable days***
> We calculate your claim based on a daily rate. We use the increase in headcount calculated at step 1 to work out your maximum payable days. This number is used to calculate your claim for each rate ($200 per week or $100 per week worked out as a daily rate).
>
> Your maximum payable days is your headcount increase multiplied by the number of days in the JobMaker period.
>
> ***Step 3: Calculate your higher rate days***
> We identify all eligible employees you reported through STP.
>
> We work out whether the employee should be counted towards your higher or lower rate days based on:
>
> - their date of birth
> - the date each employee starts employment with you.
>
> The higher rate day is used for each day your eligible employees are:

- between 16 and 29 years old (worked out when they started employment)
- employed during the JobMaker period.

We will add up all these days for all employees eligible for the higher rate.

For example, if you have two eligible employees aged 18 and 25, and the 18 year old was hired for 84 days and the 25 year old for 60 days in the period, the number of higher rate days would be 144 days.

Step 4: Compare your maximum payable days and higher rate days

We will calculate your claim for higher rate using:

- the maximum payable days in step 2, if your maximum payable days in step 2 is equal to or less than the number of higher rate days
    - this will use up the days you can claim
    - we can skip steps 5 to 8 and go straight to step 9.
-
- all your higher rate days from step 3 if the maximum payable days is greater than the total higher rate days.

The number of maximum payable days that is left over once it is reduced by the higher rate days is worked out at step 6.

Step 5: Calculate your lower rate days

We use the number of days your eligible employees aged 30 to 35 are employed during the JobMaker period (worked out in step 3) to calculate your lower rate days.

We will add up all these days for all employees eligible for the lower rate.

Step 6: Work out how many maximum payable days are left

If your maximum payable days exceed your higher rate days, we will calculate how many days are left over.

Step 7: Work out the number of claimable lower rate days

We will calculate your claim for the lower rate using:

- your residual payable days if your residual payable days in step 6 are equal to or less than your lower rate days from step 5
- all your lower rate days from step 5 if your residual payable days are greater than your lower rate days.

The days worked out in steps 4 and 7 are the total number of days claimed in working out your claim.

Step 8: Calculate your total claim amount (subject to your payroll amount cap)

We will calculate your total claim amount (subject to the payroll amount cap) amount as follows:

Add days worked out in step 4 (× ($200 ÷ 7)) to days worked out in step 7 (× ($100 ÷ 7))

Step 9: Work out your payroll amount cap
Your payment is capped at the amount of your increase in payroll for the JobMaker period.

We will calculate your payroll amount cap by working out the difference between your baseline payroll amount and the total payroll expenses for the JobMaker period.

Step 10: Work out your maximum claim entitlement
If your payroll amount cap from step 9 is greater than your total claim amount (subject to your payroll amount cap) calculated amount from step 8, your payment will be the full calculated amount from step 8.

If your payroll amount cap is equal to or less than your total claim amount (subject to your payroll amount cap) calculated amount, your payment will be your payroll amount cap from step 9.

Working out the claim amount example

Heidi's Hairdressing (HH) had 10 employees on 30 September 2020. At the end of JobMaker period one, Heidi had 15 employees. HH had baseline payroll amount of $125,000 (for the 92 days ending 6 October 2020).

HH employed 8 new employees during the first JobMaker period. For the time they were employed in the period, each employee worked for at least 20 hours per week on average. However, some were not employed for the total period.

At the end of the first JobMaker period, HH had a total payroll expenses of $134,500. Some employees had also left HH during the period, leaving HH with a headcount of 15 at the end of the period. The total number of days in the first JobMaker period was 92 days.

HH's new employees:

Employee	**Applicable employee rate**		**Employed for**	
Philip	Higher	$200	Full period	92 days
Barry	Lower	$100	Full period	92 days
Chase	Lower	$100	Full period	92 days
Delilah	Lower	$100	Part period	73 days
Eve	Higher	$200	Part period	55 days
Francesca	Lower	$100	Part period	46 days
Gustav	Lower	$100	Part period	37 days
Hiro	Higher	$200	Part period	28 days

HH's claim for the first JobMaker period will be worked out as follows:

Step 1 – HH provides the headcount for the period in the claim form (15 employees at the end of the first JobMaker period) and baseline headcount was provided in the registration form (total of 10 employees at 30 September 2020).

We calculated the headcount increase of 5. That is, 15 − 10 = 5.

Step 2 – We work out the maximum payable days, multiplying HH's headcount increase by the total number of days in the claim period.

5 × 92 = 460 maximum payable days

Step 3 – We calculate the total number of days employees on the higher rate were employed in the JobMaker period. As Philip, Eve and Hiro are all higher rate employees, we calculate the total days they were employed in the period.

Total days on higher rate =92 + 55 + 28

Total days on higher rate = 175

Step 4 – As the step 2 amount is higher than the step 3, we will use the total higher rate days of 175 in the claim calculation.

Step 5 – We calculate the total number of days employees on the lower rate were employed in the JobMaker period. As Barry, Chase, Delilah and Francesca, Gustav are lower rate employees, we calculate the total days they were employed in the period.

Total days on lower rate = 92 + 92 + 73 + 46 + 37

Total days on lower rate = 340

Step 6 – We work out how many of the maximum payable days are left in order to determine how many lower rate days can be part of the claim.

460 (maximum payable days) – 175 (higher rate days) = 285

Step 7 – We work out the number of claimable lower rate days at this step. As the number of days at step 6 is less than the total days on the lower rate at Step 5, we use the number of days at step 6 in the claim calculation.

Step 8 – We work out HH's total claim amount (subject to your payroll amount cap)

Add days from step 4 (175) × ($200 ÷ 7) to days from step 7 (285) × ($100 ÷ 7)

Total claim amount (subject to your payroll increase cap) is $9,071.43

Step 9 – We work out HH's increase in payroll (from the total payroll received on the claim form and the baseline payroll received at registration).

Increase in payroll is $9,500

We determined HH's maximum claim entitlement by comparing the calculated amount from step 8 to the increase in payroll amount from step 9.

Step 10 – As the entitlement is less than the increase in payroll amount, the maximum claim entitlement will be the amount at step 8.

HH is therefore entitled to claim $9,071.43 for the first JobMaker period.

HH does not need to calculate this amount in their claim form, we will calculate this information based on the STP information HH reports and the information on headcount and payroll provided in the registration and claim forms.

ATO example: JobMaker Hiring Credit – How payment amounts are calculated

Tax consequences

The ATO confirmed that JobMaker amounts are included in assessable income of the employer as ordinary income.

The employer should be able to claim normal deductions for amounts paid to employees, regardless of whether salary / wage amounts are subsidised under the JobMaker scheme.

The payments are not subject to GST and don't need to be reported on the entity's activity statements.

When it comes to recognising JobMaker payments for income tax purposes:

- If the entity accounts for income on an accruals basis, the payments are derived when the entity provides a valid claim form to the ATO;
- If the entity accounts for income on a cash basis, the payments are derived when the entity receives them.

Key links

- Legislative instrument: JobMaker Hiring Credit Reporting Obligations Instrument 2020
- Legislative instrument: Coronavirus Economic Response Package (Payments and Benefits) Amendment Rules (No. 9) 2020
- Framework legislation: Economic Recovery Package (JobMaker Hiring Credit) Amendment Bill 2020

- ATO: The JobMaker Hiring Credit in detail


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