



# **Coronavirus Economic Response Package (Payments and Benefits) Amendment Rules (No. 7) 2020**

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I, Josh Frydenberg, Treasurer, make the following rules.

Dated 14 August 2020

Josh Frydenberg  
Treasurer

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## 1 Name

This instrument is the *Coronavirus Economic Response Package (Payments and Benefits) Amendment Rules (No. 7) 2020*.

## 2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The day after this instrument is registered.	15 August 2020

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

## 3 Authority

This instrument is made under the *Coronavirus Economic Response Package (Payments and Benefits) Act 2020*.

## 4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

## Schedule 1—Amendments

### *Coronavirus Economic Response Package (Payments and Benefits) Rules 2020*

#### **1 Subsection 4(1)**

Insert:

*1 March 2020 employee*: an individual is a *1 March 2020 employee* of an entity if the individual satisfied the requirements in subsections 9(2) and (3) in relation to the entity, as those subsections were in force immediately before the commencement of the *Coronavirus Economic Response Package (Payments and Benefits) Amendment Rules (No. 7) 2020*.

#### **2 Subsection 6(3) (at the end of the heading)**

Add “*for a fortnight*”.

#### **3 Subsection 6(3)**

After “for an individual”, insert “for a fortnight”.

#### **4 Subsection 6(3)**

After “the individual”, insert “for the fortnight”.

#### **5 After subsection 9(1)**

Insert:

(1A) Treat an individual as satisfying paragraph (1)(b) in relation to an entity if the individual is a 1 March 2020 employee of the entity.

Note: This subsection deals with the status of individuals who had already satisfied the requirements in subsections (2) and (3) in relation to 1 March 2020.

#### **6 Subsection 9(2) (heading)**

Omit “*March*”, substitute “*July*”.

#### **7 Subsection 9(2)**

Omit “*March*”, substitute “*July*”.

#### **8 Subparagraph 9(3)(a)(i)**

Omit “paragraph (b)”, substitute “paragraphs (b) and (c)”.

#### **9 Paragraph 9(3)(aa)**

Omit “*March*” (wherever occurring), substitute “*July*”.

#### **10 Subparagraph 9(3)(b)(iii)**

Repeal the subparagraph.

#### **11 After paragraph 9(3)(b)**

Insert:

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- (c) either:
- (i) at the time the individual gives the entity the nomination notice, the individual has not given any other entity, or the Commissioner, a nomination notice under this subsection or subsection 12(4) or 12B(4); or
  - (ii) the individual is permitted by subsection (3A) to give the nomination notice to the entity.

## **12 After subsection 9(3)**

Insert:

*When an individual can re-nominate with a new employer*

- (3A) An individual who does not satisfy the requirement in subparagraph 9(3)(c)(i) is permitted by this subsection to give a nomination notice to an entity (the ***new entity***) if:
- (a) the individual is a 1 March 2020 employee of, or the eligible business participant for, another entity (the ***old entity***); but
  - (b) the individual was not employed by the old entity or was not actively engaged in the business carried on by the old entity (as the case requires) at any time from the start of 1 July 2020 to the time of giving the notice to the new entity.
- (3B) If the individual gives the nomination notice to the new entity, the individual is excluded from being an eligible employee of, or the eligible business participant for, the old entity for any fortnight ending after giving the notice to the new entity.

## **13 At the end of subsection 9(4)**

Add:

- ; or (e) the individual is excluded from being an eligible employee of the entity for the fortnight under subsection (3B) (about individuals who re-nominate with a new employer).

## **14 Subsection 9(6) (note 1)**

Omit “after 1 March 2020”.

## **15 Before subsection 10A(1)**

Insert:

*Notice when electing to participate*

## **16 Subsection 10A(4) (note)**

Repeal the note.

## **17 Paragraph 10A(5)(c)**

Repeal the paragraph, substitute:

- (c) the individual is covered by subsection (6) at the time the election is made.

## 18 At the end of section 10A

Add:

- (6) This subsection covers an individual at a time if it is reasonable to conclude that amounts covered by subsection 10(2) in respect of the individual for the fortnight in which the time occurs are fully funded by consideration of the kind referred to in subparagraph 8(8)(h)(i) (about consideration provided by an Australian government agency, a local governing body, the United Nations, or an agency of the United Nations).

*Notice for certain individuals who became employees after 1 March 2020*

- (7) If, for the purposes of paragraph 6(1)(e), an entity has notified the Commissioner before the commencement of this subsection that the entity elects to participate in the jobkeeper scheme, the entity must give notice, in writing, of the entity's election to each individual who is an employee of the entity, other than:
- (a) an individual who has already been given a notice by the entity under subsection (1) of this section; or
  - (b) an individual who has already given the entity a nomination notice under subsection 9(3); or
  - (c) an individual who the entity reasonably believes does not satisfy the requirements in subsection 9(2); or
  - (d) if the entity is an ACNC-registered charity that has made an election under paragraph 8(8)(h)—an individual covered by subsection (6) of this section at the commencement of this subsection.
- (8) The notice must:
- (a) be given within 7 days of the commencement of this subsection; and
  - (b) state that the individual must give the entity a nomination notice referred to in paragraph 9(3)(a) if the individual agrees to be nominated by the entity as an eligible employee of the entity; and
  - (c) include information about the steps the individual can take to give the entity the nomination notice.

Note: Refusal or failure to give a notice to an individual as required by this section is an offence under section 8C of the *Taxation Administration Act 1953*.

## 19 At the end of Division 2 of Part 2

Add:

### 10B Requirement for certain 1 March 2020 employees to notify employer of status

- (1) An individual must give an entity a notice under subsection (2) if:
- (a) the individual is a 1 March 2020 employee of the entity; and
  - (b) before 1 July 2020, the individual stopped being employed by the entity; and
  - (c) after 1 July 2020, the individual again becomes employed by the entity.

Note: In certain circumstances, a 1 March 2020 employee might be excluded from being an eligible employee of the entity: see subsection 9(3B).

- (2) The notice must:



- (a) be in the approved form; and
- (b) state whether or not the individual has given a nomination notice to another entity under subsection 9(3); and
- (c) be given within 7 days of again becoming employed by the entity.

Note: Refusal or failure to give a notice as required by this section is an offence under section 8C of the *Taxation Administration Act 1953*.

## **20 Subsection 11(4) (at the end of the heading)**

Add “for a fortnight”.

## **21 Subsection 11(4)**

After “for an individual”, insert “for a fortnight”.

## **22 Subsection 11(4)**

After “the individual”, insert “for the fortnight”.

## **23 At the end of subsection 12(6)**

Add:

- ; or (d) the individual is excluded from being the eligible business participant for the entity for the fortnight under subsection 9(3B) (about individuals who re-nominate with a new employer).

## **24 In the appropriate position in Part 10**

Insert:

# **Division 4—Application provisions relating to the Coronavirus Economic Response Package (Payments and Benefits) Amendment Rules (No. 7) 2020**

## **109 Definitions**

In this Division:

***amending instrument*** means the *Coronavirus Economic Response Package (Payments and Benefits) Amendment Rules (No. 7) 2020*.

## **110 Application**

Subject to section 111, the amendments made by items 1 to 23 of Schedule 1 to the amending instrument apply in relation to jobkeeper fortnights beginning on or after 3 August 2020.

## **111 Transitional—notice requirement for certain 1 March 2020 employees**

If paragraph 10B(2)(c) would require an individual to give a notice before 7 days after the commencement of this section, that paragraph applies to the individual as if a reference in that paragraph to “within 7 days of again becoming employed by the entity” were instead a reference to “no later than 7 days after the commencement of this section”.