

26 November 2020

RE: JobMaker Hiring Credit Rules Submission

Manager
JobKeeper Division
Treasury
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Parkes ACT 2600

Via email: JobMakerHiringCredit@treasury.gov.au

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On behalf of the Australian HR Institute (AHRI), I am pleased to make this submission.

AHRI is the peak body for Australian HR practitioners and people managers. AHRI represents around 20,000 HR practitioners across Australia.

In order to gather relevant consultation data to make this submission, in November 2020 AHRI invited a group of 11 senior level HR practitioners who are AHRI members to comment on various aspects of the Amendments to the Coronavirus Economic Response Package (Payments and Benefits) Rules 2020.

AHRI's feedback and recommendations are provided below, followed by summary commentary and data drawn from the consultation in Appendix 1.

Recommendations

Overall, AHRI welcomes a scheme that encourages the creation of new roles to provide employment opportunities for young people. Drawing on the input from the AHRI survey and our own assessment of the scheme, we would like to express the following concerns with the scheme:

- Sectors with predominately female employees, who have been most affected by the 'pink recession' will be less likely to be in a position to meet the increased headcount criteria, or the candidate's age criteria and therefore may be ineligible for this scheme
- There may be a tendency to create entry level roles to ensure that employers target a younger demographic
- While the scheme is designed to provide employment opportunities for groups with high unemployment, it may inadvertently encourage age discrimination
- As many employers anticipate they will have to reduce their headcount to survive, these entities are unlikely to be eligible for the JobMaker scheme, given their need to reduce headcount
- Local government and higher education sectors seem to be excluded from the scheme, which may be problematic
- This scheme seems to exclude those who are un/underemployed but not currently receiving unemployment benefits/allowances, such as school and university leavers, parents and carers returning to the workforce, and those who are unemployed that received redundancy
- There may be a situation where a high-income employee leaves the business and the headcount is replaced with a lower level role (potentially under JobMaker), and the business may not be eligible as the payroll has not increased
- The payment may not be enough of an incentive to significantly increase the number of roles made available by employers
- The scheme may need to be extended, as employers may not meet eligibility requirements immediately as they come off JobKeeper
- Employers may delay hiring a candidate until they are eligible
- Mature workers may be disregarded for roles, and they are already vulnerable in the current employment market
- There is general confusion about eligibility criteria for both employers and individuals

- The payment from the government will be in arrears - i.e., payments will be made to business at the end of each quarter which will make it difficult for small business to run without cashflow

We would be very appreciative if you consider HR leaders' concerns on this matter, and AHRI would be pleased to be kept informed of the outcomes of this consultation.

Sincerely,



Sarah McCann-Bartlett

Chief Executive Officer – Australian HR Institute

Summary of findings

Age criteria

As indicated in Figure 1 and 2, the majority of this senior group of HR leaders are concerned that the age range criteria are problematic and limiting, and therefore would like consideration on the following:

- While youth unemployment is an issue that needs to be addressed, some youth, e.g. school and university leavers may not be covered by this scheme
- There may be a potential bias toward creating entry level roles due to targeting youth
- The scheme may encourage age discrimination
- Employers utilising this scheme may risk breaching age discrimination legislation
- Older workers are also a demographic that need to be supported

Impact on gender

As indicated in Figure 3, the majority consider that the impact of the 'pink recession' will not be adequately addressed by this scheme, and therefore would like consideration on the following:

- Whether this scheme discriminates against older female workers
- Childcare being a concern for female workers that has not been addressed within the scheme
- The job categories in which women are over-represented, e.g. hospitality, retail, health may not be supported by this scheme due to the age criteria
- Mothers seeking to return to work from primary childcare responsibilities may not be eligible

Length of scheme

As indicated in Figure 4, the majority believe that 12 months is appropriate for the scheme, however many employers are on JobKeeper until March, and may only have a 6-month window to increase their headcount.

Entities excluded from the scheme

As indicated in Figure 5, some HR leaders were concerned that some industries or employers that may be ineligible for the scheme, and would like consideration on:

- When JobKeeper finishes, many employers anticipate they will have to reduce their headcount to survive. These employers are unlikely to be eligible for the JobMaker scheme, given their need to reduce headcount.
- Sectors currently excluded such as local government, which should be included
- Whether higher education is included, as they have not been eligible for assistance thus far

Eligibility criteria/pre-employment requirements

As indicated in Figure 6, the majority believe the pre-employment requirements are reasonable, however some HR leaders voiced concern over whether it would exclude anyone who is un/underemployed but not currently receiving unemployment benefits/allowances, such as:

- School and university leavers
- Those unemployed who received a redundancy
- Parents and carers returning to the workforce

Baseline headcount

As indicated in Figure 7, while the majority feel that the criteria of baseline headcount is clear and easily calculated, concern was voiced about:

- Whether the headcount includes casual workers
- A situation where a high-income employee leaves the business and the headcount is replaced with a lower level role (potentially under JobMaker), the business may not be eligible as the payroll has not increased
- Industries likely to access the funding can have significant turnover, so it may be difficult for employers to understand and ensure accurate headcount

Unintended consequences

As indicated from HR leaders' comments in Table 1, there may be some unintended consequences of the scheme, such as:

- It may not drive greater workforce participation (particularly in terms of full-time roles)
- The payment may not be enough of an incentive to significantly increase the number of roles made available by employers
- There may already be schemes in place that provide support to workers in this age group
- Bias towards younger workers without consideration towards letting older workers go, especially older women workers
- Mature workers may be disregarded for roles, and they are already vulnerable in the current employment market
- Concern around adequate protection around laying off other workers, especially older workers
- Delaying hiring dates until candidate is eligible
- Not incentivising job opportunities for school leavers or university leavers directly from full-time study
- Employers may hire and fire around the credit periods to maximise the benefits of the scheme without mitigation
- The scheme may need to be extended, as employers may not meet eligibility requirements immediately as they come off JobKeeper
- Employees terminated would not be protected by Fair Work instruments and the threat of legal action is extremely low
- Targeting certain age demographics at the expense of others who are in at risk or high unemployment categories (e.g. older workers)

Other final comments

As indicated in Table 2:

- General confusion exists about eligibility criteria, and therefore it would be useful to have clear, transparent online tools for both employers and individuals to determine their eligibility.
- Further, the payment from the government will be in arrears - i.e., payments will be made to business at the end of each quarter which will make it difficult for small business to run without cashflow. Consider changing this to 'Monthly in arrears'.

Appendix 1: Survey of 11 HR practitioners*

*Response explanations have been provided to support each question, however not all practitioners gave an explanation to each question.

Figure 1. Age criteria

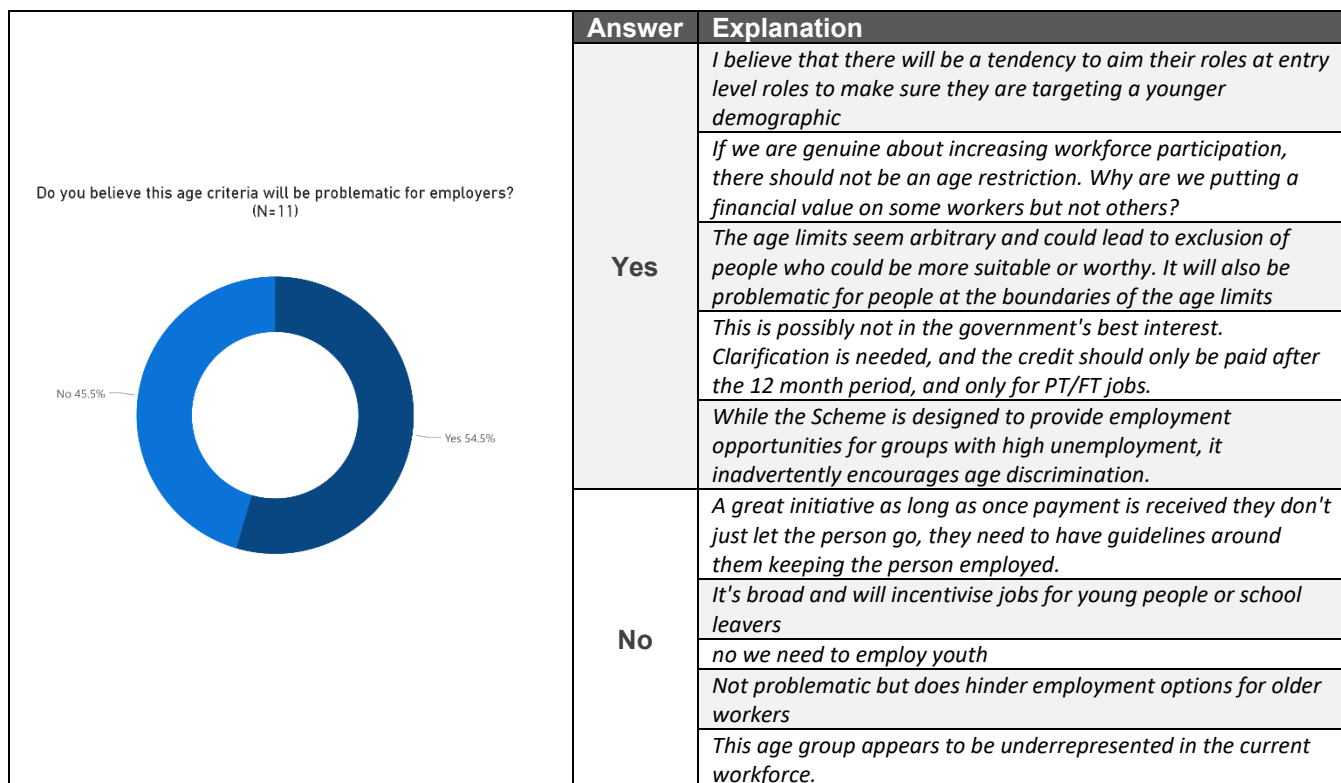
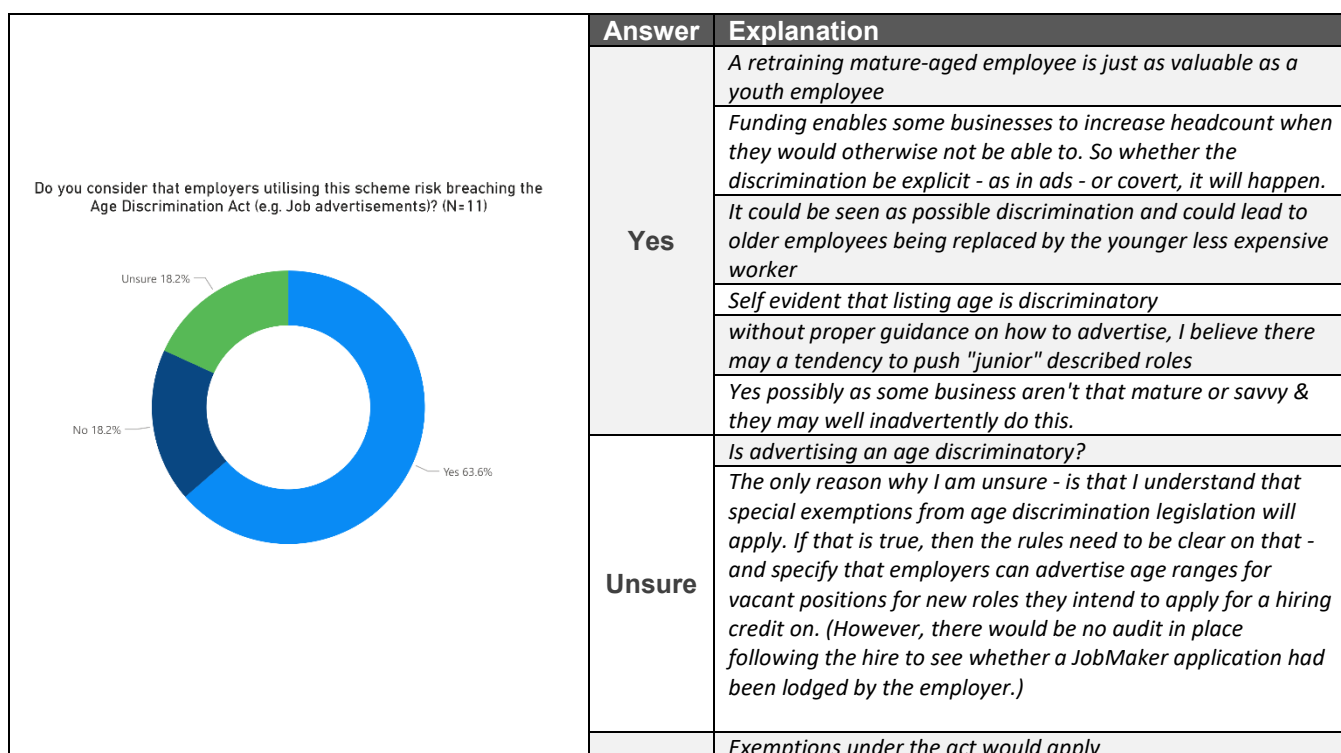


Figure 2. Age discrimination



	No	<i>This is an affirmative measure, there were incentives for employing mature age apprentices (over 30) a while back. Seems to be this is responding to a large cohort who are struggling to find work too, or it the demographics don't stack up... apply to incentive more broadly</i>
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Figure 3. Impact on gender

	Answer	Explanation								
<p>Will the JobMaker scheme provide adequate support to women impacted by the 'pink recession'? (N=10)</p> <table border="1"> <caption>Figure 3 Data</caption> <thead> <tr> <th>Response</th> <th>Percentage</th> </tr> </thead> <tbody> <tr> <td>Yes</td> <td>10.0%</td> </tr> <tr> <td>Unsure</td> <td>30.0%</td> </tr> <tr> <td>No</td> <td>60.0%</td> </tr> </tbody> </table>	Response	Percentage	Yes	10.0%	Unsure	30.0%	No	60.0%	Yes	<i>Women who have young children or caring commitments may find this the solution to sourcing part time or child friendly hours</i>
	Response	Percentage								
	Yes	10.0%								
	Unsure	30.0%								
	No	60.0%								
	Unsure	<i>I would need more information about this to fully decide</i>								
<i>Possibly but will not stop employers from targeting young males in preference. Will also reduce access for women over 35 years of age</i>										
<i>Unsure</i>										
No	<i>Older women will lose out..</i>									
	<i>One of the biggest barriers is childcare and increased roles can only be filled when there is the opportunity to get in to the workplace</i>									
	<i>Possibly, but I don't think it's likely. Firstly, from what I've read the pink recession is referring to the caring professions (eg. education, childcare, health - nursing, aged care). Will job opportunities be available under the JobMaker hiring credit? Unlikely - given that people need to be receiving govt assistance for 1 month before being hired to qualify. Hospitality industry & retail industry were very hard hit by COVID-19.</i>									
	<i>There is nothing in the guidelines which would provide further targeting of women or the industries, roles where they are highly represented</i>									
		<i>This is a generic funding opportunity that isn't made to fit the unique situation of women impacted through COVID. Women who are casuals, part time etc are also in an older age bracket, and therefore excluded from the funding.</i>								

Figure 4. Length of scheme

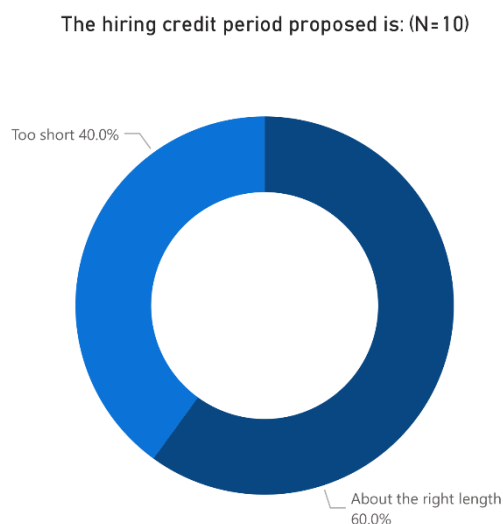


Figure 5. Entities excluded from the scheme

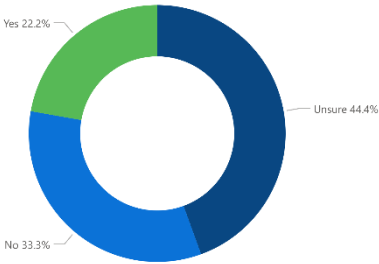
	Answer	Explanation
<p>Are there sectors or entities that will be excluded by this criteria who you believe should be included? (N=9)</p>  <p>Yes 22.2%</p> <p>No 33.3%</p> <p>Unsure 44.4%</p>	Yes	<i>Entities currently receiving JobKeeper should still be eligible for JobMaker (though presumably could qualify after JobKeeper scheme finishes) as they rebound and need to hire additional staff.</i>
		<i>Local government provide services directly in the community and have a wide variety of roles for people to undertake - by allowing them to access some funding, they may be able to offer more local roles</i>
	Unsure	<i>Not clear whether higher education is included - has missed out on assistance thus far</i>
		<i>Unsure</i>
		<i>What about education</i>

Figure 6. Eligibility criteria/pre-employment requirements

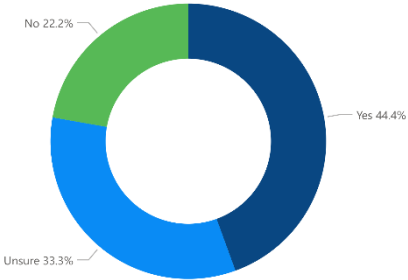
	Answer	Explanation
<p>Is the pre-employment requirement concerning eligibility and payments/allowances (Section 28.3) reasonable? (N=9)</p>  <p>No 22.2%</p> <p>Yes 44.4%</p> <p>Unsure 33.3%</p>	Yes	<i>It helps identify those in longer term unemployment</i>
		<i>It will allow targeting towards those who are experiencing difficulty and disconnection from the labour market</i>
		<i>So if they have only 14 days at time of application, then they could be hired in a fortnight ??</i>
		<i>Targets the most vulnerable in our community</i>
	Unsure	<i>I understand that the Scheme is targeting those who have lost their jobs and those in high unemployment age ranges. However, by stipulating that the individual needs to be receiving government financial assistance potentially excludes recent school leavers, uni leavers who are looking for work too, as well as those who are unemployed but are not receiving benefits. It limits the scope of the talent pool. It should be open to anyone who's unemployed.</i>
		<i>I'm unsure</i>
		<i>There are barriers to going on to Centrelink payments, for example, redundancy can prevent immediate receipt of welfare. The criteria therefore encourages people to go on welfare rather than seeking to regain employment as quickly as possible.</i>
	No	<i>Given that women have parenting or carers responsibilities these criteria could actually exclude the group from the criteria. As research has shown young women have generally been hit the hardest during Covid due to additional responsibilities such as home schooling and primary care giving</i>
		<i>Not everyone who is unemployed is entitled to these government support payments, this increases the likely uptake of workers who are not eligible for support and are willing to work.</i>

Figure 7. Baseline headcount

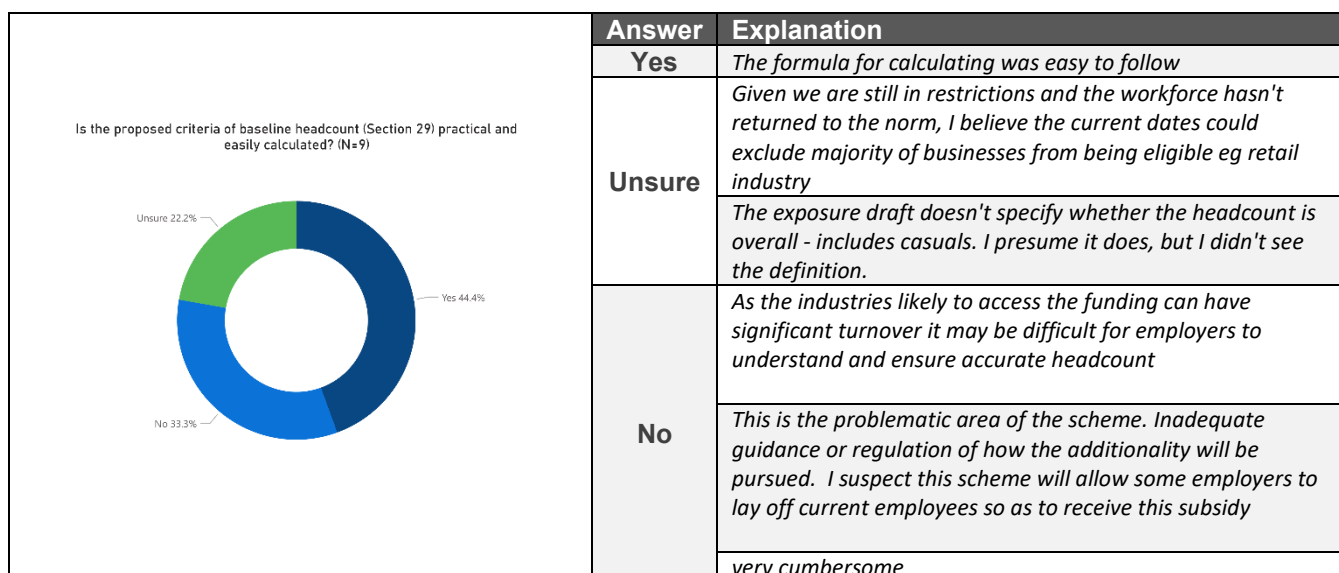


Figure 8. Intended purpose and unintended consequences

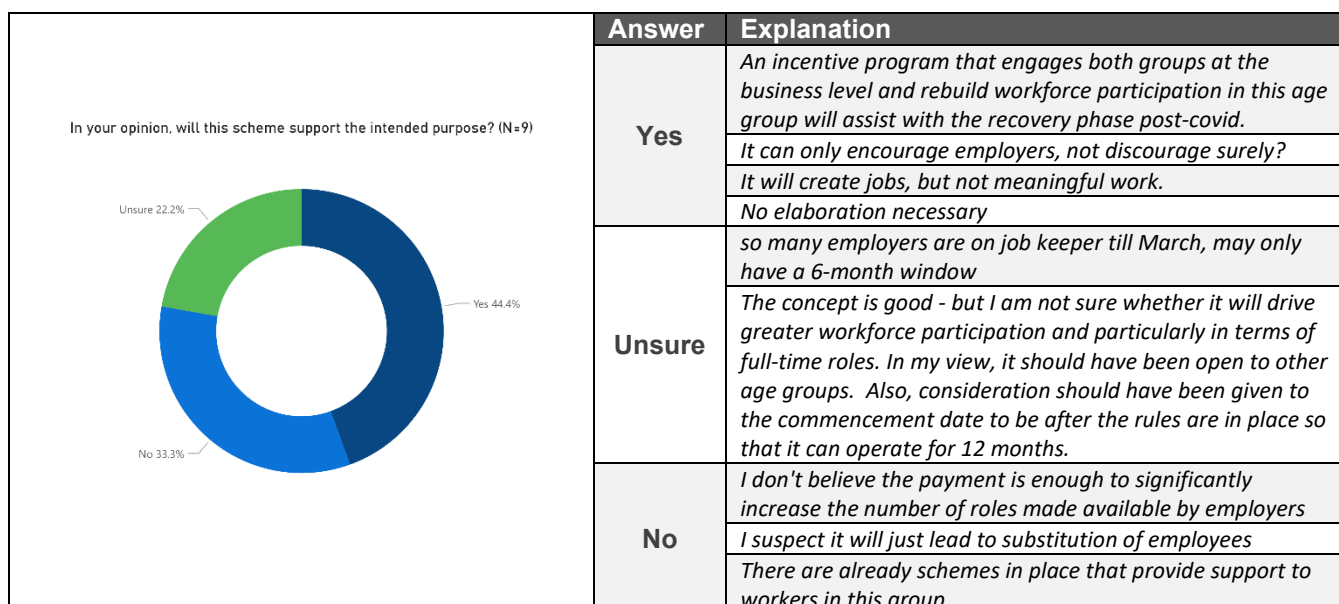


Table 1. Unintended consequences of the scheme

Older women workers could be forced out of work (e.g. retail industry)
Preference of younger candidates over mature age however expect other JSP incentives will continue to apply and this should be made clear
Mature workers may be disregarded for roles
Laying off current employees and replacing with subsidised employees
Holding off hiring dates until eligible
Excludes women who are not eligible for an allowance on the basis of criteria
Discriminates against older workers who are also vulnerable in the current employment market
Employers will hire and fire around the credit periods to maximise the benefits of the scheme without mitigation
Employees terminated would not be protected by Fair Work instruments and the threat of legal action is extremely low

<i>Targeting certain age demographics at the expense of others who are in at risk or high unemployment categories (e.g. older workers)</i>
<i>Not creating job opportunities for school leavers or uni leavers directly from full-time study</i>
<i>Extending the casualisation of the workforce – as to qualify, the individual only has to work avg 20 hours a week</i>
<i>An individual already working casually (e.g. uni student) who wants to pursue a career elsewhere would be excluded</i>
<i>The scheme doesn't really go for 12 months – the rules have not yet been finalised some 6 weeks after its commencement (like JobKeeper). Therefore, employers need to be prepared to payroll additional hires before knowing whether they will qualify or not. Perhaps it would have been better to have started on 1 Jan 2021 once rules are in place</i>

Table 2. Final comments

<i>Another point on eligibility is that there needs to be a demonstrated increase in total payroll when compared to the baseline payroll (under Clause 30). I can see a flaw with this – for example, if a high income employee leaves the business and the headcount is replaced with a lower level role (potentially under JobMaker), the business may not be eligible as the payroll has not increased</i>
<i>It needs lots of Industrial Relations instruments to protect employees</i>
<i>Consider creating an eligibility tool online that calculates employer's eligibility as well as separately an employee's eligibility</i>
<i>The payment from the government will be in arrears i.e. payments will be made to business at the end of each quarter which will make it difficult for small business to run without cashflow. Suggest change to 'Monthly in arrears'</i>