

Temporary COVID-19 changes to the Fair Work Act



JobKeeper stand down directions

Employers may give unilateral direction to reduce an employee's days of work or number of hours (including to nil)

Eligibility

- Employer must be eligible for JobKeeper
- Employee not able to be usefully employed because of COVID-19 or government restrictions

Requirements

- Must be safe and must not reduce base hourly rate of pay for hours still worked by the employee
- Notice of intention must be given in writing at least 3 days before stand down (or less by agreement)



Other employer directions

Employers may give unilateral direction to vary employee duties or work location

Eligibility

- Employer must be eligible for JobKeeper
- Reasonable belief the direction is necessary to continue employment

Requirements

- Duties must be safe, within scope of business and employee must have licences / qualifications to complete those duties
- Location must be safe, suitable for employee's duties and not require unreasonable travel



Employer / employee agreements

Employers and employees may agree to vary days or hours worked, or agree to an employee taking annual leave (including at half pay)

Eligibility

- Employer must be eligible for JobKeeper

Requirements

- Agreement regarding days or hours worked must be in writing, be safe, be reasonably within the scope of the employer's business operations and not reduce the employee's ordinary hours worked
- Agreement regarding annual leave must not cause the employee's balance of annual leave to fall below 2 weeks



Other considerations

- Consultation required before directions
- Directions in place until revoked or until **28 September 2020**
- Stood down employees accrue leave and period of stand down counts as 'service' for redundancy and notice of termination
- Stood down employees may request secondary employment or training (requests must not be unreasonably refused by employers)
- Fair Work Commission may deal with disputes (including by arbitration)
- Civil penalties may be imposed by a Court where:
 - Existing base rate of hourly pay not maintained
 - JobKeeper payment not passed on to employees
 - Unreasonable stand down directions given or an employer otherwise misses the provisions