

# Coronavirus and Australian workplace laws

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## Recent updates – 25 March 2020

On 24 March 2020 the Fair Work Commission made a [determination](https://www.fwc.gov.au/documents/awardsandorders/html/pr717757.htm) to vary the Hospitality Award. The new Schedule L applies from 24 March to 30 June 2020. The changes improve award flexibility during the outbreak of coronavirus for classifications and duties, hours of work for full-time and part-time employees and annual leave.

## Recent updates - 24 March 2020

Updated:

- [Government information about coronavirus](#)
- [Enforceable government directions](#)
- [When can employees be stood down without pay?](#)
- [What if an employee cannot attend work because their child's school or childcare centre has closed due to coronavirus?](#)

We'll continue to update the information on our website as the situation develops and as needed. The information provided is current as at the time of the last update. It is not legal advice but represents the views of the Fair Work Ombudsman based on the best available information. We encourage you to regularly check this page for more information.

On this page we provide links to important Government information about coronavirus.

We also answer frequently asked questions about workplace obligations and entitlements if you're affected by the outbreak of coronavirus (also known as COVID-19).

## Government information about coronavirus

Please visit:

- Australian Government Department of Health (<https://www.health.gov.au/health-topics/novel-coronavirus-2019-ncov>) - for the latest information on the virus, including requirements and conditions for isolation and quarantine periods and when testing should be sought
- Services Australia (<https://www.servicesaustralia.gov.au/individuals/subjects/affected-coronavirus-covid-19>) - for information and services to help you if you're affected by coronavirus, including Centrelink payments and support
- Australian Government Treasury (<https://treasury.gov.au/coronavirus>) department - for information on the Federal Government's economic response to coronavirus, including information on support for individuals, businesses and the economy.
- Australia.gov.au (<https://www.australia.gov.au/>) - for the latest coronavirus news, updates and advice from government agencies across Australia
- Business.gov.au (<https://business.gov.au/risk-management/emergency-management/coronavirus-information-and-support-for-business>) - for information about financial assistance, eligibility and timing for new government support for Australian businesses.

## Health and safety in the workplace

- your State or Territory Public Health Unit's website - for local coronavirus response activities and advice
- Safe Work Australia (<https://www.safeworkaustralia.gov.au/doc/coronavirus-covid-19-advice-pcbus?20>) - for information and referrals about managing the risks of contracting coronavirus in the workplace
- your State or Territory workplace health and safety body (<https://www.fairwork.gov.au/website-information/related-sites#workplace-health-and-safety>) - who can also assist with [workers compensation](https://www.fairwork.gov.au/leave/workers-compensation) enquiries
- Comcare (Commonwealth) (<https://www.comcare.gov.au/home>) - for Australian Government employees and for employees of organisations which self-insure under the scheme
- Smart Traveller's webpage on coronavirus (<https://www.smarttraveller.gov.au/news-and-updates/coronavirus-covid-19>)
- Office of the Australian Information Commissioner (OAIC) (<https://www.oaic.gov.au/privacy/guidance-and-advice/coronavirus-covid-19-understanding-your-privacy-obligations-to-your-staff/>) - for information on privacy obligations for private sector employers (including health sector providers) relating to coronavirus.

## Enforceable government directions

Where the Commonwealth or a State or Territory Government or officer makes an order, determination or direction that is enforceable under the law (an enforceable government direction) and which prevents an employee from working, an employer is not required to pay the employee (unless the employee uses paid leave entitlements).

This could occur, for example, where an enforceable government direction closes down a particular work site (and there is no way for employees to work remotely), or where an enforceable government direction prevents a particular employee from working (e.g. because they are required to self-isolate). In these instances, the employer is not required to pay the employee (unless the employee uses paid leave entitlements).

The situation is changing rapidly, and most States and Territories have now put in place enforceable government directions to prohibit mass gatherings or events, and some are enforcing self-isolation requirements for travellers and other people exposed to coronavirus.

In line with recent government announcements, some enforceable government directions have already been, or will soon be, issued with respect to restaurants, gyms, pubs, clubs and other services deemed non-essential. For example, the Victorian Deputy Chief Health Officer has issued an enforceable government direction that certain non-essential services must shut down between 12pm on 23 March 2020 and 12am on 13 April 2020. The New South Wales Government has issued a similar enforceable government direction.

As these enforceable government directions have been issued, some affected businesses are likely to be able to stand down employees, if they cannot usefully be employed. See [When can employees be stood down without pay?](#)

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## Frequently asked questions: Workplace obligations and entitlements


We encourage employees and employers to work together to find appropriate solutions that suit the needs of individual workplaces and staff. This may include taking different forms of leave, working from home, or taking extra precautions in the workplace.

If you have an urgent enquiry about your workplace obligations or entitlements, please [contact us](https://www.fairwork.gov.au/contact-us) (https://www.fairwork.gov.au/contact-us) on 13 13 94 and select the prompt for the coronavirus hotline.


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## When can employers direct employees to stay away from their usual workplace under workplace health and safety laws?

Safe Work Australia (<https://www.safeworkaustralia.gov.au/media-centre/news/businesses-must-have-measures-place-protect-workers-risk-coronavirus>)  has information about when an employer can direct employees to stay away from their usual workplace under the model workplace health and safety laws.

More information:

- State or Territory workplace health and safety bodies (<https://www.fairwork.gov.au/website-information/related-sites#workplace-health-and-safety>) - for information on State and Territory workplace health and safety
- Australian Government Department of Health (<https://www.health.gov.au/health-topics/novel-coronavirus-2019-ncov>) .

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## When can employees be stood down without pay?

Employers and employees are encouraged to work together to find appropriate solutions that suit the needs of individual workplaces and staff. Employees who are stood down without pay remain employed for the period of the stand down.

Under the Fair Work Act, an employee can only be stood down without pay if they cannot be usefully employed because of a stoppage of work for any cause for which the employer cannot reasonably be held responsible.

Whether the option of standing down employees is available in circumstances relating to coronavirus is very fact dependent and an employer should exercise the option cautiously. The employer must be able to demonstrate that:

- there is a stoppage of work
- the employees to be stood down cannot be usefully employed (which is not limited to the work an employee usually performs)
- the cause of the stoppage must also be one that the employer cannot reasonably be held responsible for.

If an employer unlawfully stands down employees without pay, the employees will likely be able to recover unpaid wages.

Employers cannot generally stand down employees simply because of a deterioration of business conditions or because an employee has coronavirus.

Some examples of when employers may be able to stand down employees include:

- if there was an enforceable government direction requiring the business to close (which means there is no work at all for the employees to do, even from another location)
- if a large proportion of the workforce was required to self-quarantine with the result that the remaining employees/workforce cannot usefully be employed
- if there was a stoppage of work due to lack of supply for which the employer could not be held responsible.

This is not an exhaustive list.

Enterprise agreements and employment contracts can have different or extra rules about when an employer can stand down an employee without pay, for example, a requirement to notify or consult. Employers should consider whether their obligations are impacted by any applicable enterprise agreement, award, employees' employment contracts or workplace policies.

Employers are not required to make payments to employees for the period of a stand down but may choose to pay their employees. Employees accrue leave as normal.

An employee is not taken to be stood down during a period when the employee is taking paid or unpaid leave that is authorised by the employer or the employee is otherwise authorised to be absent.

The stand down provisions in the Fair Work Act, enterprise agreements or contracts of employment are not usually relied on for casual employees. See [What about casual employees and independent contractors?](#)

Other options that an employer may consider instead of stand down include:

- seeking employees' agreement to take paid (or unpaid) leave for a period
- in limited circumstances, directing employees to take paid annual leave
- in limited circumstances, negotiating with employees to change regular rosters or hours of work
- terminating the employment of the employees, in which case the employer may have to provide redundancy pay. See [What if an employer needs to let employees go?](#)

The Fair Work Act includes requirements that employers have to meet before they can terminate an employee's employment, such as providing notice of termination. An employee is also protected from being dismissed because of discrimination, a reason that is harsh, unjust or unreasonable or another protected right. Employers are prohibited from exerting undue influence or undue pressure on employees in relation to making certain agreements or arrangements.

#### **Example: Lack of vital supply – Stand down**

Sally's company operates a business that imports and sells electrical goods which are manufactured in China. The factory in China ceases to operate as a result of coronavirus and announces that it will not be exporting any goods for a period of at least 3 months.

Sally explores other options but is unable to identify any alternative work of any value for her 20 permanent employees to do.

Sally closes her shop and regrettably informs her employees that they are to be stood down without pay. Sally explains that they are entitled to take any accrued paid leave during the period as an alternative to being stood down without pay.

### **Example: Non-essential services – stand down of employees**

Gemma is a part-time employee at a cinema complex in Melbourne's CBD. The cinema employs 10 permanent employees and 15 casual employees. The Victorian Deputy Chief Health Officer issued an enforceable government direction under the Public Health and Wellbeing Act 2008 (Vic) that certain non-essential services must shut down because of coronavirus.

Gemma's manager calls her to explain that the cinema is closed for the duration of the Government's direction and that cinema management will need to stand all employees down without pay, as they can't be usefully employed.

Gemma and her colleagues are advised that permanent employees can take any accrued annual leave they have as an alternative to being stood down without pay. However, casual employees are not entitled to be paid while the business is closed.

### **Example: Non-essential services – no stand down of employees**

Teddy is a part-time food and beverage attendant in a Sydney restaurant. The New South Wales Government issued an enforceable government direction under the Public Health Act 2010 (NSW) that certain non-essential services must shut down because of coronavirus.

Teddy's employer contacts him to let him know that the restaurant has closed its dining service immediately for the duration of the direction. The restaurant will continue offering its take away and delivery service. Teddy's employer lets him know that instead of carrying out his usual waiting duties at the restaurant, he and the other waiting staff will be needed to help with receiving, packing and delivering orders.

This is not a stand down because Teddy can still be usefully employed, so he'll continue to be paid.

More information:

- [Pay during inclement weather & stand down \(https://www.fairwork.gov.au/pay/pay-during-inclement-weather-and-stand-down\)](https://www.fairwork.gov.au/pay/pay-during-inclement-weather-and-stand-down)

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## **What if an employee cannot attend work because their child's school or childcare centre has closed due to coronavirus?**

Employees who cannot come to work because they need to care for a child whose school or childcare centre has closed will ordinarily need to use paid leave entitlements to be paid for their absence.

Paid carer's leave is available to full-time or part-time employees where the employee needs to look after a family member or a member of their household who requires care or support because of a personal illness or unexpected emergency affecting the member. A school or childcare centre closing on short notice and for a short period due to concerns about coronavirus (for example, because someone at the school has tested positive) is an unexpected emergency for this purpose.

Casual employees are entitled to 2 days of unpaid carer's leave per occasion. Full-time and part-time employees can take unpaid carer's leave if they have no paid sick or carer's leave left.

An employee must give their employer reasonable evidence of the unexpected emergency if their employer asks for it. This will also apply to situations relating to coronavirus.

Other arrangements that may be available include:

- working from home (if this is a practical option and consistent with any applicable award, enterprise agreement, employment contract or workplace policy) or other flexible working arrangements
- taking annual leave
- taking any other leave (such as long service leave or any other leave available under an award, enterprise agreement or employment contract)
- taking any other paid or unpaid leave by agreement between the employee and the employer.

More information:

- [Paid sick and carer's leave \(https://www.fairwork.gov.au/leave/sick-and-carers-leave/paid-sick-and-carers-leave/payment-for-sick-and-carers-leave\)](https://www.fairwork.gov.au/leave/sick-and-carers-leave/paid-sick-and-carers-leave/payment-for-sick-and-carers-leave)
- [Unpaid carer's leave \(https://www.fairwork.gov.au/leave/sick-and-carers-leave/unpaid-carers-leave\)](https://www.fairwork.gov.au/leave/sick-and-carers-leave/unpaid-carers-leave)
- [Annual leave \(https://www.fairwork.gov.au/leave/annual-leave\)](https://www.fairwork.gov.au/leave/annual-leave)
- [Long service leave \(https://www.fairwork.gov.au/leave/long-service-leave\)](https://www.fairwork.gov.au/leave/long-service-leave) .

**Example: Employee needs to care for a child during childcare centre closure**

Alastor has just received an email from his daughter's childcare centre letting him know that the centre will be closed from tomorrow for 48 hours because a child at the centre has tested positive to coronavirus. Alastor immediately contacts his employer to let them know he'll need to stay at home during the closure to care for his daughter.

They discuss whether working from home is an option, but decide that given Alastor needs to actively care for his daughter he is unable to work at his normal capacity.

Alastor's employer lets him know that he can take paid carer's leave because the closure of the childcare centre on short notice is an unexpected emergency. Alastor forwards the email from the child care centre to his employer as evidence.

**Example: Employee needs to care for a child during school closure**

Winona's children attend a government primary school in Victoria. On Sunday, 22 March 2020, she received an email from the school informing her that the Victorian Government has brought the holidays forward to Tuesday, 24 March 2020. This means Winona needs to organise care for her children earlier than planned.

Usually, when Winona needs care for her children at short notice her parents help her out. However, given the Government's social distancing recommendations, she's unable to ask her parents to look after her children.

Winona is currently working from home after her office closed down but she lets her employer know she won't be able to work at all now while she cares for her children. They discuss her leave options. As this situation is an unexpected emergency, Winona goes on paid carer's leave until 30 March 2020, when the school holidays were expected to start.

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## What happens if an employee or their family member is sick with coronavirus?

Employees who are sick with coronavirus cannot attend the workplace for a period due to the workplace health and safety legal obligations that both employers and employees have.

Employers can direct employees who are sick with coronavirus not to come to work. Employers can do this if they're acting reasonably and based on factual information about health and safety risks, which includes relying on the Australian Government's health and quarantine guidelines.

Full-time and part-time employees who cannot come to work because they're sick with coronavirus can take paid sick leave. If an employee needs to look after a family member or a member of their household who's sick with coronavirus, or suffering an unexpected emergency, they're entitled to take paid carer's leave. An employer cannot require an employee to take sick or carer's leave. However, in these circumstances, the employee isn't entitled to be paid unless they use their paid leave entitlements.

Under the Fair Work Act, casual employees are entitled to 2 days of unpaid carer's leave per occasion. Full-time and part-time employees can take unpaid carer's leave if they have no paid sick or carer's leave left. Employers should consider their obligations under any applicable enterprise agreement, award, employees' employment contracts or workplace policies, which may be more generous.

An employee must give their employer reasonable evidence of the illness or unexpected emergency if their employer asks for it. This also applies to situations relating to coronavirus.

Under the Fair Work Act, an employee is protected from being dismissed because of their temporary absence due to illness or injury.

More information:

- Paid sick and carer's leave (<https://www.fairwork.gov.au/leave/sick-and-carers-leave/paid-sick-and-carers-leave>)
- Long periods of sick leave (<https://www.fairwork.gov.au/leave/sick-and-carers-leave/long-periods-of-sick-leave>)
- Unpaid carer's leave (<https://www.fairwork.gov.au/leave/sick-and-carers-leave/unpaid-carers-leave>)
- Notice and medical certificates (<https://www.fairwork.gov.au/leave/sick-and-carers-leave/paid-sick-and-carers-leave/notice-and-medical-certificates>) .

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## What if an employee is stuck overseas or is required to be quarantined or to self-isolate?

Employees should contact their employer immediately if they're unable to attend work because they cannot return from overseas, are required to enter quarantine or to self-isolate because of coronavirus.

The Fair Work Act does not have specific rules for these kinds of situations so employees and employers need to come to their own arrangement. This may include:

- working from home or another location (if this is a practical option), noting they should review any applicable enterprise agreement, award, employment contracts or workplace policies
- taking sick leave if the employee is sick
- taking annual leave
- taking any other leave available to them (such as long service leave or any other leave available under an award, enterprise agreement or employment contract)
- arranging any other paid or unpaid leave by agreement between the employee and the employer.

Where an employer directs a full-time or part-time employee to stay home in line with advice, for example in line with the Australian Government's health and quarantine advice, and the employee isn't sick with coronavirus, the employee should ordinarily be paid while the direction applies.

However, if an employee cannot work because they're subject to an enforceable government direction requiring them to self-quarantine, the employee isn't ordinarily entitled to be paid (unless they use leave entitlements). In this case, their inability to work is because of an enforceable government direction, not because of their employer.

If an employee cannot work due to travel restrictions (for example, they are stuck overseas), they're not entitled to be paid (unless they use paid leave entitlements).

Employers should consider whether their obligations are impacted by any applicable enterprise agreement, award, employees' employment contracts or workplace policies, which may be more generous.

#### **Example: Employee required to self-quarantine following overseas travel**

Sebastian is a mechanic living in Victoria. He returned from an overseas holiday on 18 March 2020, after the Victorian Chief Health Officer gave an enforceable direction concerning overseas travel.

The enforceable direction means that Sebastian has to self-quarantine for 14 days after his arrival in Victoria. Sebastian contacts his employer immediately to let them know he cannot come into work.

Sebastian doesn't have any more paid leave available after his holiday.

His employer lets him know he can undertake some basic administrative work from home, such as ordering stock. The amount of work available will only take 3 hours a day to complete. This means Sebastian will be paid for 3 hours a day but isn't entitled to payment for the rest of his ordinary hours.



#### **Example: Employee required to self-isolate - able to work from home**

Amelia is required to self-isolate for 14 days after being in close contact with a confirmed case of coronavirus. She contacts her employer immediately to let them know she can't come into work.

After discussing the requirements of the role with her employer, they agree that Amelia can work from home during the self-isolation period as long as she feels well.


After 1 week of self-isolation, Amelia starts to feel unwell. She calls her employer to let them know the change in her health. Amelia stops working from home and takes sick leave.

More information:

- [Paid sick and carer's leave \(https://www.fairwork.gov.au/leave/sick-and-carers-leave/paid-sick-and-carers-leave/payment-for-sick-and-carers-leave\)](https://www.fairwork.gov.au/leave/sick-and-carers-leave/paid-sick-and-carers-leave/payment-for-sick-and-carers-leave)
- [Unpaid carer's leave \(https://www.fairwork.gov.au/leave/sick-and-carers-leave/unpaid-carers-leave\)](https://www.fairwork.gov.au/leave/sick-and-carers-leave/unpaid-carers-leave)
- [Annual leave \(https://www.fairwork.gov.au/leave/annual-leave\)](https://www.fairwork.gov.au/leave/annual-leave)
- [Long service leave \(https://www.fairwork.gov.au/leave/long-service-leave\)](https://www.fairwork.gov.au/leave/long-service-leave)
- Australian Government Department of Health (<https://www.health.gov.au/health-topics/novel-coronavirus-2019-ncov>)  - for the latest information on coronavirus, including requirements and conditions for isolation and quarantine periods and when testing should be sought
- Services Australia (<https://www.servicesaustralia.gov.au/individuals/subjects/affected-coronavirus-covid-19>)  - for information and services to help you if you're affected by coronavirus, including Centrelink payments and support.



## What if an employee wants to stay home as a precaution?

Employees who want to stay at home as a precaution (but who are not directed to by either their employer or an enforceable government direction) need to come to an arrangement with their employer that best suits their workplace. This may include requesting to work from home (if this is a practical option) or taking some form of paid or unpaid leave, such as annual leave or long service leave. Normal leave application processes in the workplace apply. If the employee doesn't enter into an arrangement with their employer or use paid leave, they're not entitled to payment in these circumstances. You can find information on self-quarantine requirements on the Australian Government Department of Health's website (<https://www.health.gov.au/resources/publications/coronavirus-covid-19-isolation-guidance>) .

Employees are encouraged to discuss their level of risk of contracting coronavirus with their doctor, workplace health and safety representative or the appropriate Commonwealth, State or Territory workplace health and safety body.

Employees who don't work because they have a reasonable concern about an imminent risk to their health or safety are not taking industrial action. This is provided they're not failing to comply with a direction to perform other appropriate and safe work.

More information:

- [Taking annual leave \(https://www.fairwork.gov.au/leave/annual-leave/taking-annual-leave\)](https://www.fairwork.gov.au/leave/annual-leave/taking-annual-leave)
- [Long service leave \(https://www.fairwork.gov.au/leave/long-service-leave/default\)](https://www.fairwork.gov.au/leave/long-service-leave/default) .

### Example: Employee chooses to self-isolate due to health concerns

Jeff wants to self-isolate as a precaution because he has a weakened immune system. He contacts his employer to discuss his concerns and asks to work from home for the next few weeks.

Jeff's employer is already aware of his condition. They check their working from home policy and conduct a risk assessment to make sure Jeff's home office will be safe for him to use. They then let Jeff know that they're happy to let him work from home for the next 2 weeks.

Jeff and his employer agree that after 2 weeks, they'll review the arrangement to make sure it's working and to discuss whether it's still necessary.

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## What if an employer wants their employees to stay home as a precaution?

Under workplace health and safety laws, employers must ensure the health and safety of their workers and others at the workplace as far as is reasonably practicable. Workers also have responsibilities under those laws.

If an employee is at risk of infection from coronavirus (for example, because they've recently travelled from overseas, or have been in close contact with someone who has the virus), employers should request that they work from home (if this is a practical option - see [When can employees work from home?](#)) or not work during the risk period.

Where an employer directs a full-time or part-time employee not to work due to workplace health and safety risks but the employee is ready, willing and able to work, the employee is generally entitled to be paid while the direction applies. However, if an employee cannot work because they're subject to an enforceable government direction requiring them to self-quarantine, the employee isn't ordinarily entitled to be paid (unless they use leave entitlements).

Employers should consider whether their obligations are impacted by any applicable enterprise agreement, award, employees' employment contracts or workplace policies, which may be more generous.



Under the Fair Work Act, an employee can only be stood down without pay if they cannot be usefully employed because of equipment break down, industrial action or a stoppage of work for which the employer cannot be held responsible. The most common scenarios are severe and inclement weather or natural disasters.

Standing down employees without pay is not generally available due to a deterioration of business conditions or because an employee has coronavirus. Enterprise agreements and employment contracts can have different or extra rules about when an employer can stand down an employee without pay. Employers are not required to make payments to employees for the period of a stand down, but may choose to pay their employees. (See [When can employees be stood down without pay?](#))

Employers need to balance their legal obligations, including those relating to anti-discrimination.

More information:

- [Casual employees \(https://www.fairwork.gov.au/employee-entitlements/types-of-employees/casual-part-time-and-full-time/casual-employees\)](https://www.fairwork.gov.au/employee-entitlements/types-of-employees/casual-part-time-and-full-time/casual-employees)

- [Directing an employee to take annual leave \(https://www.fairwork.gov.au/leave/annual-leave/directing-an-employee-to-take-annual-leave\)](https://www.fairwork.gov.au/leave/annual-leave/directing-an-employee-to-take-annual-leave)
- [Protection from discrimination at work \(https://www.fairwork.gov.au/employee-entitlements/protections-at-work/protection-from-discrimination-at-work\)](https://www.fairwork.gov.au/employee-entitlements/protections-at-work/protection-from-discrimination-at-work)
- [Australian Government Department of Health \(https://www.health.gov.au/health-topics/novel-coronavirus-2019-ncov\)](https://www.health.gov.au/health-topics/novel-coronavirus-2019-ncov)  - for the latest information on coronavirus, including requirements and conditions for isolation and quarantine periods and when testing should be sought
- [Services Australia \(https://www.servicesaustralia.gov.au/individuals/subjects/affected-coronavirus-covid-19\)](https://www.servicesaustralia.gov.au/individuals/subjects/affected-coronavirus-covid-19)  - for information and services to help you if you're affected by coronavirus, including Centrelink payments and support.

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## When can employees work from home?

Working from home arrangements are usually agreed between an employer and employee. An employer who wants to direct an employee to work from home should review their obligations under any applicable enterprise agreement, award, employment contract or workplace policy. Employers should also consider the nature of the work involved and the suitability of the employee's home. Workplace health and safety laws still apply even when an employee is working from home.

Where employees are required to record their hours of work (for example, in relation to annualised wage arrangements under some awards), this needs to continue when they're working from home. Employers and employees are encouraged to discuss how this should occur.

More information:

- [your State or Territory workplace health and safety body \(https://www.fairwork.gov.au/website-information/related-sites#workplace-health-and-safety\)](https://www.fairwork.gov.au/website-information/related-sites#workplace-health-and-safety)
- [Comcare \(Commonwealth\) \(https://www.comcare.gov.au/home\)](https://www.comcare.gov.au/home)  - for Australian Government employees and for employees of organisations which self-insure under the scheme.

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## What about casual employees and independent contractors?

Casual employees don't have paid sick or carer's leave entitlements under the National Employment Standards and usually are not entitled to be paid when they don't work (for example, if they miss a shift because they are sick due to coronavirus or because they are otherwise required to self-isolate). Casual employees are paid a casual loading instead of paid leave entitlements. Employers should also consider their obligations under any applicable enterprise agreement, award, employees' employment contracts or workplace policies.

Independent contractors are not employees and don't have paid leave entitlements under the Fair Work Act. However, there are special provisions that deem contract outworkers in the textile, clothing and footwear industry to be employees for the purposes of most protections under the Fair Work Act. Where these provisions apply, the contract outworker should be treated as an employee.

More information:

- [Casual employees \(https://www.fairwork.gov.au/employee-entitlements/types-of-employees/casual-part-time-and-full-time/casual-employees\)](https://www.fairwork.gov.au/employee-entitlements/types-of-employees/casual-part-time-and-full-time/casual-employees)
- [Independent contractors \(https://www.fairwork.gov.au/find-help-for/independent-contractors\)](https://www.fairwork.gov.au/find-help-for/independent-contractors)
- [Outworkers \(https://www.fairwork.gov.au/find-help-for/outworkers\)](https://www.fairwork.gov.au/find-help-for/outworkers) .

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## Can an employer change an employee's regular roster or hours of work?

Employers need to consult employees about a change to their regular roster or ordinary hours of work under their award or enterprise agreement. In particular, employers have to:

- provide information about the change
- invite employees to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities)
- consider their employees' views about the impact of the change.

Awards and enterprise agreements may also set out extra rules about changing rosters or ordinary hours of work.



Changes to an employee's start and finish times (for example, in order to avoid crowds during peak hours) might be possible under the span of hours provisions in an award or enterprise agreement. Some awards and enterprise agreements also allow the span of hours to be varied by agreement.

Reducing a permanent employee's ordinary hours usually requires the employee's agreement.

An employer and employee may agree to an 'individual flexibility arrangement', which allows them to vary terms in their award or enterprise agreement relating to when work is performed. Individual flexibility arrangements only apply to an individual employee, must be in writing, and are subject to a number of safeguards to ensure the agreement has been genuinely made and the employee is left better off overall.

More information:

- [Rosters \(https://www.fairwork.gov.au/employee-entitlements/hours-of-work-breaks-and-rosters/rosters\)](https://www.fairwork.gov.au/employee-entitlements/hours-of-work-breaks-and-rosters/rosters)
- [Individual flexibility arrangements \(https://www.fairwork.gov.au/employee-entitlements/flexibility-in-the-workplace/individual-flexibility-arrangements\)](https://www.fairwork.gov.au/employee-entitlements/flexibility-in-the-workplace/individual-flexibility-arrangements) .

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## What if an employer needs to let employees go?

Some employers may need to make employees' positions redundant in response to a business downturn. If an employee's job is made redundant, their employer may have to give them redundancy pay. The Fair Work Act has requirements that employers have to meet before they can terminate an employee's employment, such as providing notice and payment for untaken annual leave.

Under the Fair Work Act, an employee is protected from being dismissed because of a temporary absence due to illness or injury. The Fair Work Act also includes protections against being dismissed because of discrimination, a reason that is harsh, unjust or unreasonable or another protected right. These protections continue to operate in relation to employees impacted by coronavirus.

More information:

- [Redundancy pay & entitlements \(https://www.fairwork.gov.au/ending-employment/redundancy/redundancy-pay-and-entitlements\)](https://www.fairwork.gov.au/ending-employment/redundancy/redundancy-pay-and-entitlements)
- [Notice & final pay \(https://www.fairwork.gov.au/ending-employment/notice-and-final-pay\)](https://www.fairwork.gov.au/ending-employment/notice-and-final-pay)
- [Final pay \(https://www.fairwork.gov.au/ending-employment/notice-and-final-pay/final-pay\)](https://www.fairwork.gov.au/ending-employment/notice-and-final-pay/final-pay)
- [Protection from discrimination at work \(https://www.fairwork.gov.au/employee-entitlements/protections-at-work/protection-from-discrimination-at-work\)](https://www.fairwork.gov.au/employee-entitlements/protections-at-work/protection-from-discrimination-at-work)
- [Unfair dismissal \(https://www.fairwork.gov.au/ending-employment/unfair-dismissal\)](https://www.fairwork.gov.au/ending-employment/unfair-dismissal) .

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## Can employees be directed not to travel?

Employers can direct employees not to undertake work-related travel if this is necessary to meet workplace health and safety obligations or is otherwise a lawful and reasonable direction.

Employers are unlikely to be able to direct an employee not to undertake private travel.

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### Contact us

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

Fair Work Infoline: **13 13 94**

#### Need language help?

Contact the Translating and Interpreting Service (TIS) on **13 14 50**

### 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**

The Fair Work Ombudsman is committed to providing advice that you can rely on. The information contained on this website is general in nature. If you are unsure about how it applies to your situation you can call our Infoline on 13 13 94 or speak with a union, industry association or workplace relations professional. Visitors are warned that this site may inadvertently contain names or pictures of Aboriginal and Torres Strait Islander people who have recently died.