

# COVID-19 & Your Employment Rights

Last updated: 3 April 2020

The information below is based on basic minimum entitlements in the Fair Work Act. Make sure you check your employment contract, award or enterprise agreement because you might have more generous entitlements.

This information should not be relied upon as legal advice. If you would like more information or legal advice, please call us on (02) 6257 4377.

## ***I can't attend work because my child's school/childcare has closed***

Try to negotiate a work from home arrangement with your employer. You could discuss flexible hours so that you can still meet your daily hours (for example, you might like to work after the kids go to sleep).

If you're not able to work due to your caring responsibilities, you can apply for carer's leave (part time and full time employees have at least 10 days paid personal/carer's leave per year plus an additional 2 days unpaid carer's leave). You could also request to use your annual leave if you run out of carer's leave. Casuals are entitled to 2 days of unpaid carer's leave.

## ***I want to work from home, but my employer won't let me***

Given current advice from governments, your employer should agree to your request where possible. Employers can only direct you to attend work if it is a *reasonable* direction. You should outline to your employer how you can meet the requirements of your job from home. If you are particularly vulnerable because of your age, medical condition, or pregnancy, you might wish to provide your employer with a letter from your doctor to support your request.

## ***I'm pregnant and don't feel safe at work. What can I do?***

If you're fit for work but cannot continue your present duties due to illness or risks from your pregnancy, your employer must transfer you to a safe job, if there is a safe job available. If there is no safe job available, you may be entitled to paid no safe job leave (to be eligible you must also be eligible for unpaid parental leave).

## ***Can my employer change my regular roster or hours of work?***

Your employer should discuss any changes with you before they happen, and generally your agreement is required. Check your award or enterprise agreement for your employer's obligations on this.

As a result of COVID-19, there have been changes to the Restaurant Award, Hospitality Award, and Clerks Award, which provide greater flexibility for employers to change duties, reduce hours of work, and direct employees to take annual leave. Changes to the Clerks Award also mean employers can reduce minimum shift duration, and increase the span of hours in which you work (this may allow you greater flexibility to balance work and caring responsibilities).

## ***Can my employer stand me down without pay?***

You and your employer should work together to find appropriate solutions that will suit both of you. You can be stood down without pay if you cannot be usefully employed because of a stoppage of work for which your employer cannot be held responsible (e.g. COVID-19). If you are stood down without pay, you remain employed for the duration of the stand down and you will still accrue leave during the stand down.

## ***I've been stood down and can't access paid sick leave or paid maternity leave***

Some employers are refusing to pay sick leave or paid maternity leave to employees who are stood down. There is currently a test case in the Federal Court – watch this space!

### ***I work in a high-demand industry and they've asked me to do a lot of extra hours***

If you're a fulltime employee, your employer can only require you to work 38 hours per week plus 'reasonable additional hours'. Your award or enterprise agreement will most likely include additional information about additional hours and overtime rates.

### ***I am a frontline worker and I am getting abused at work by customers/clients***

Your employer has a duty to ensure your health and safety at work. You also have obligations to keep yourself safe. If you are receiving abuse at work, you should notify your manager and/or workplace health and safety officer and ask them to take steps to address the situation.

### ***My employer wants me to work from home as a precaution***

Your employer has a duty to ensure your health and safety at work. You also have obligations to keep yourself and others safe and comply with any reasonable instruction. Given current government advice and recommendations, it may be reasonable for your employer to instruct you to work from home. If so, your employer's obligation to provide you with a safe working environment continues. If you don't have the necessary equipment to work safely from home, ask your employer to provide you what you need to continue working safely.

### ***I am working from home and experiencing family violence***

Make sure you keep in regular contact with your employer and ask for support and information if needed. Most family violence services are still operating and available to assist you. You can contact the Domestic Violence Crisis Service's 24/7 Crisis Line on **(02) 6280 099** or chat to them online at: [dvcs.org.au/chat-process/](https://dvcs.org.au/chat-process/). If you are in immediate danger, call 000.

### ***I've heard about new pandemic leave - what is it?***

The Fair Work Commission intends to add unpaid pandemic leave to 103 awards. This will mean that if you are required to self-isolate or cannot work because of measures taken by government or medical authorities, you can take up to 2 weeks unpaid leave.

### ***Can I get the new JobKeeper payment?***

If your employer has been affected by COVID-19, they may be able to claim a wage subsidy from the Australian Government to help keep you employed. You must be a fulltime employee, a part time employee, or a casual who have been employed for at least 12 months. You must also be an Australian citizen, holder of a permanent visa or a Special Category (Subclass 444) Visa Holder.

You will receive at least \$1,500 per fortnight if:

- you ordinarily receive less than \$1,500 per fortnight before tax;
- you have been stood down; or
- your employment ceased after 1 March 2020 and you've subsequently been reengaged by your employer.

If you ordinarily receive more than \$1,500 per fortnight before tax, you should continue receiving your regular income. The JobKeeper payment will subsidise part of your income to help your employer maintain your employment.

If you're receiving the Jobkeeper Payment, you do not need to do anything, except in the following circumstances:

- If you have multiple employers, you must notify your primary employer.
- If you are not an Australian citizen, you must notify your employer of your visa status.
- If you have applied for or are currently receiving income support, you must advise Services Australia that you are now receiving the JobKeeper payment (you cannot receive both the JobKeeper and the JobSeeker payments).

**For more information or advice, call us on (02) 6257 4377 or email us at [admin@womenslegalact.org](mailto:admin@womenslegalact.org)**