



COVID-19 AND THE LAW

YOUR RIGHTS AT WORK

This factsheet contains important legal information for employees about their rights at work during the COVID-19 Pandemic.

Can my boss make me redundant due to COVID-19?

An employer can make you redundant if the job you perform is no longer required or if the employer becomes insolvent or bankrupt. For example a redundancy may occur where there is downturn in demand for services, sales or production. It can also occur where your usual duties are reallocated or absorbed by other employees.

It must be a genuine redundancy. The employer must comply with any consultation requirements before making this decision, including reasonable efforts to redeploy you within their business. If the redundancy is genuine, you employer must pay you appropriate notice, redundancy pay and any other entitlements you are owed.

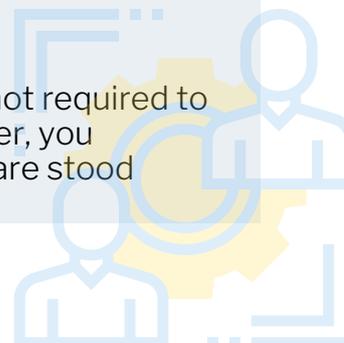
Can my boss stand me down due to COVID-19?

An employer may stand down any of their workers for a period of time where there is a stoppage of work which the employer cannot reasonably be held responsible. For example, if an employer is temporarily forced to close the business to comply with COVID-19 government restrictions, or a large portion of the workforce had to self-quarantine leaving the remaining employees unable to be usefully employed, this is likely to fall within the stand down rules.

Before making a stand-down decision, the employer must consider alternative options such as:

- **Redeployment to another position:** even at a lower level, or be redeployed to another related business either on a temporary (up to 30 June 2020) or permanent basis as long as you have the skill to perform that role.
- **Changes in roster or hours of work** – your Employer needs to consult with you about any of these changes to your regular roster or ordinary hours of work.
- **Modifications to usual work to comply with social distancing directions:** Some workplaces may be able to make modifications to their worksite to comply with social distancing directions.
- **Working from home:** You can by agreement with your employer work from home provided that your duties can actually be performed from home.
- **Flexible work arrangements/ reasonable adjustments:** if you have worked more than 12 months with your employer (other than casual employees), you can request flexible work arrangements.
- **Access to accrued paid leave :** for example, annual leave.

The effect of a stand-down is that you remain employed, although you are not required to perform work and are not paid during the period of the stand-down. However, you continue to accrue annual leave and personal leave entitlements while you are stood down and may be eligible to receive the JobKeeper payment.



What should I do if I get sick during the COVID-19 crisis?

If you have developed COVID-19 symptoms as reported by the Department of Health and Human Services" and have obtained a medical certificate, you cannot be dismissed on these grounds.

In the event of a dismissal due to a temporary illness, you can make a complaint within 21 days from date of termination to the Fair Work Commission. However, if the total length of absence due to illness or injury is more than three consecutive months, you may not be protected from unfair dismissal. You would be eligible to make an unfair dismissal complaint only if; you have completed a minimum period of employment of six months, or 12 months if employed in a small business (less than 15 employees), AND you are covered by a modern award or an enterprise agreement, or earn less than \$148,700 (not including superannuation).

Can my boss make me work from home during COVID-19?

Employers may be able to direct you to work from home or self-isolate, so long as such a directive is lawful and reasonable. Employers have an obligation to ensure that working from home arrangements are safe and healthy, so far as reasonably practicable, including providing appropriate equipment.

Workers should not lose any pay or incur additional costs. Any costs associated should be reimbursed by the employer.

Where can I go for help?

Barwon Community Legal Service provides free legal help for people experiencing employment law problems in the Barwon region.

Tel: 1300 430 599 email: bcls@barwoncls.org.au

JobWatch Employment Rights Legal Centre provides free legal help to Victorian, Queensland and Tasmanian workers about their rights at work.

Tel: 1800 331 617 (Country VIC, QLD, TAS) (03) 9662 1933 (Melbourne Metro)

Fair Work Ombudsman provides free information and advice about your workplace rights and obligations.

Tel: 13 13 94

Other useful resources

<https://www.legalaid.vic.gov.au/find-legal-answers/covid-19-coronavirus>

<http://jobwatch.org.au/home/covid-19-employment-rights-qa/>

<https://www.servicesaustralia.gov.au/individuals/services/centrelink/jobseeker-payment>

<https://coronavirus.fairwork.gov.au/>

This factsheet contains legal information not advice. Information is current as at 24 April 2020. As things are changing quickly it is always a good idea to seek legal advice if any of the above information applies to you.