



COVID-19 & your employment rights

Last updated 25 May 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. If you are receiving JobKeeper payments, different rules may apply. Please read our factsheet on 'JobKeeper payments & your rights'.

The information below is correct as at 25 May 2020.

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

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 many awards, including 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).

If you are receiving JobKeeper, different rules apply. Please read our factsheet on 'JobKeeper payment & your rights'.

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. 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 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

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.

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

The Federal Court recently ruled that employers are not required to pay personal leave or carers leave to employees who have been stood down. If your employer is refusing to pay you your paid maternity leave, please contact us for assistance.

I've heard about new pandemic leave – what is it?

On 8 April 2020, the Fair Work Commission added two weeks unpaid pandemic leave to 99 awards (awards are documents that contains minimum terms of conditions of employment in a particular industry or occupation).

If you are covered by one of these awards, you can access up to two weeks' unpaid pandemic leave if you cannot work because you are required to self-isolate or because of measures taken by government or medical authorities (e.g. government directions restricting non-essential businesses).

Full-time, part-time and casual employees are eligible for the new pandemic leave. You do not need to use your paid leave before accessing unpaid pandemic leave. The leave needs to start before 30 June 2020 but can finish after that date. Your employer can ask for evidence, such as a medical certificate.

Not sure if you are covered by an award? Check out the Fair Work Ombudsman's online ['Find my award' function](#).

I can't attend work because my children are still at home

While schools are starting to reopen, some students are not due back yet and if your child is unwell, the advice is not to send them to the school or childcare. If your child/children are at home, you could negotiate a work from home arrangement with your employer. You could also 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.

My employer wants me to return to the office, but I think it's too early

While the ACT Government has started to ease restrictions, it is still encouraging working from home where it works for you and your employer. You should try to negotiate with your employer to come to an agreement about where you work. You should outline to your employer how you can meet the requirements of your job from home. Employers can only direct you to attend work if it is a reasonable direction.

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. If your employer refuses your request, please contact us for advice.

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 one is available. If there is no safe job available, you may be entitled to paid no safe job leave (you must also be eligible for unpaid parental leave).

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 0900 or chat to them [online](#). If you are in immediate danger, call 000.

Free legal advice

For more information or free legal advice, call us on 02 6257 4377 from Monday to Friday between 9am and 5pm. Email us at admin@womenslegalact.org.