

Leave Entitlements during Natural Disasters

An employee may have entitlements under their award or agreement that are relevant when they're unable to attend work due to a natural disaster.

State or territory workplace health and safety laws also provide for a general duty of care towards employees that should be considered.

Below Q&A outlines options available to employers and employees, depending on their circumstances.

What if I have to temporarily close my business?

The Fair Work Act 2009 (FW Act) allows employers to stand down employees in certain circumstances when the employee cannot be usefully employed. This includes where they can't be usefully employed because of a stoppage of work for which the employer cannot be reasonably held responsible. This may include work stoppages caused by natural disasters, such as floods. **An employer is not required to make payments to an employee for the period of a stand down** but may choose to pay their employees if they wish.

If an employer does stand down employees under the FW Act provisions, it's best practice to tell those employees in writing (where possible), including:

1. The start date of the stand down,
2. Whether the employees will or will not be paid, and
3. The effect on other employment entitlements.

An employer should also try to update employees about when they believe the stand down will end.

For more info on Stand Downs, please visit: [Stand downs - Fair Work Ombudsman](#)

CCIQ also offers a free Stand Down Toolkit: [Guides and Downloadables » CCIQ](#)

Does stand down affect an employee's entitlements?

Standing down an employee is different to the suspension of an employee, and a stand down period does not break the employee's continuity of service meaning an employee will continue to accrue entitlements to annual leave and personal/carer's leave under the National Employment Standards (NES), as well as an entitlement to a public holiday that falls on a day the employee has ordinary hours of work.

For example, a full time employee being stood down over a period of 6 months will accrue approximately 2 weeks annual leave and approximately 5 days personal/carer's leave during the period of stand down.

Enterprise Agreements, Contracts of Employment & Awards

An employer may not stand down an employee under s.524 of the FW Act if:

- An enterprise agreement, or a contract of employment, applies to the employer and the employee, and
- The agreement or contract provides for the employer to stand down the employee during the relevant period if the employee cannot usefully be employed during that period because of industrial action (other than industrial action organised by the employer), or a breakdown of machinery or stoppage of work for which the employer cannot reasonably be held responsible.

Note: An enterprise agreement or a contract of employment may also include terms that impose additional requirements that an employer must meet before standing down an employee (for example requirements relating to consultation or notice).

If the terms of an enterprise agreement or contract of employment provide for the standing down of employees, then the employer will generally need to rely upon the terms of the enterprise agreement or contract of employment to effect a stand down of an employee.

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What other leave entitlements are available for my employees if they cannot attend work?

Employees may require to take time off to care for themselves or their family members, some of the relevant leave entitlements are:

Sick/carer's leave

Sick and carer's leave (also known as personal leave or personal / carer's leave) lets an employee take time off to help them deal with personal illness, caring responsibilities and in the event of unexpected family emergencies.

Employers should also consider their obligations under any award, enterprise agreement, employment contract or workplace policy, which could include extra rules about sick and carer's leave.

For more info visit: [Sick & carer's leave - Fair Work Ombudsman](#)

Compassionate leave

All employees are entitled to 2 days of compassionate leave per occasion to spend time with a member of their immediate family or household who has sustained a life-threatening illness or injury.

Employees (other than casual employees) are entitled to be paid their base rate of pay for periods of compassionate leave.

For more info visit: [Compassionate & bereavement leave - Fair Work Ombudsman](#)

Notice and evidence requirements

An employee has to let their employer know that they are going to take sick or carer's leave. This has to be done as soon as possible. They should also specify how long they will be off or expect to be off work.

An employer can ask an employee to give evidence that shows the employee took the leave, the evidence can be requested for as little as 1 day or less off work.

For more info visit: [Notice & medical certificates - Fair Work Ombudsman](#)

How about Casual Employees and Employees who have used all of their paid sick/carer's leave entitlement?

Employees are entitled to 2 days unpaid carer's leave per occasion to provide care or support to an immediate family or household member due to illness, injury or in the event of an unexpected emergency.

What are other alternatives to standing down employees?

Employers should also consider all other options available.

These may include:

- Where appropriate and available, consider flexible arrangements, like working from home.

For more info visit: [Flexible working arrangements - Fair Work Ombudsman](#)

What other financial support is available for my employees?

Employees who have been stood down without pay can contact Centrelink to discuss other available options for assistance.

Visit Services Australia or call **13 28 50**.

For more information please visit:

[Employment entitlements during natural disasters and emergencies - Fair Work Ombudsman](#)

[Disasters and alerts | Queensland Government \(www.qld.gov.au\)](#)

[Queensland Floods, January 2022 - Australian Government Disaster Recovery Payment - Services Australia](#)

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Information for those who want to assist with disaster-relief activities

Employees may be requested to volunteer to assist the community with disaster relief activities through recognised emergency management bodies like the State Emergency Service. Employers and employees should be aware of what entitlements apply to those employees who wish to volunteer in these activities.

Community service leave

Under the NES, employees who are members of a recognised emergency management body are entitled to take unpaid community service leave for certain emergency management activities such as dealing with a natural disaster.

An employee must also be:

1. Engaging in an activity that involves dealing with an emergency or natural disaster
2. Engaging in the activity on a voluntary basis (whether or not the employee directly or indirectly takes or agrees to take an honorarium, gratuity or similar payment wholly or partly for engaging in the activity)
3. A member of, or have a member-like association with, a recognised emergency management body
4. Requested to engage in an activity by or on behalf of the body, or it would be reasonable to expect that such a request would have been made if circumstances had permitted.

A recognised emergency management body is:

- A body that has a role or function under a plan that is for coping with emergencies / natural disasters (prepared by the Commonwealth or a state or territory)
- A fire-fighting, civil defence or rescue body
- Any other body which is mainly involved in responding to an emergency or natural disaster.

This includes bodies such as:

- The State Emergency Service (SES)
- Country Fire Authority (CFA)
- The RSPCA (in respect of animal rescue during emergencies or natural disasters).

Awards and agreements may also contain specific provisions in relation to community service leave in addition to the NES.

Under the NES, the amount of time that can be taken is not specified, however the employee is entitled to the following time off work as long as the absence is reasonable in all the circumstances:

- The time that the employee is engaged in the activity
- Reasonable travel time associated with the activity
- Reasonable rest time immediately following the activity.

An employee who wants to take a period of community service leave must tell their employer as soon as practicable, including the period or expected period of the leave and, if required by their employer, provide reasonable evidence of the reason for the leave.