

Information sheet

As at 01 January 2015

Stand down

What is Stand Down?

A stand down is different to a shut down in that the employer has no obligation to pay an employee who has been stood down, and it is more a temporary measure. Stand down provisions can be found in both the Act, as well as in some awards and agreements. Generally, a stand down will count as service and will not break an employee's continuity of service.

When an Employee can be Stood Down

Under the Act an employee can be stood down without pay if they cannot be usefully employed during a period due to:

- Industrial action, other than action organised or engaged in by the employer
- A breakdown of machinery or equipment, if the employer cannot be reasonably held responsible for the breakdown
- A stoppage of work for any cause for which the employer cannot be reasonably held responsible (i.e. a natural disaster).

An employee cannot be taken to be on stand down when the employee is taking paid or unpaid leave that is authorised by the employer, or is otherwise authorised to be absent from their employment. This applies unless a contract of employment or industrial instrument stipulates otherwise.

A breakdown of machinery that is due to the employer neglecting to follow the appropriate maintenance schedule is not be an acceptable reason for a stand down.

What if an employee cannot attend work due to a natural disaster or emergency?

An employee may have entitlements under their award or agreement that are relevant when an employee is unable to attend work due to an emergency or natural disaster.

What if an employer has to temporarily close?

If an employer has to temporarily close as a result of a natural disaster or emergency, employers will have to determine employee entitlements during the closure. This may include offering the choice of taking accrued paid leave, or in some cases, standing down employees.

The Fair Work Act 2009 includes provisions which enable employers to stand down employees, without pay, where they cannot usefully be employed during a period because of any stoppage of work for which the employer cannot reasonably be held responsible, such as a natural disaster. However, it is not mandatory for stand downs to be unpaid. An employer may choose to pay employees at their discretion.

Important Disclaimer

This Information Sheet is intended to provide an overview to enable you to assess whether more detailed information is required. Where the material has been sourced from third parties (such as from Government in relation to awards or entitlements) while every effort has been taken to ensure that it is accurate and up to date, we do not warrant or guarantee the accuracy, completeness or currency of the information and you should make your own enquiries in that regard. The information is not and should not be regarded as legal or business advice and you should seek your own advice where appropriate. To the extent permitted by law, we shall not be liable for any loss (however caused) due to error or omission in the information provided.

Information sheet

As at 01 January 2015

An award or agreement under the Fair Work Act 2009 may include terms requiring an employee, or allowing an employee to be required to take paid annual leave in particular circumstances, but only if the requirement is reasonable. Employees who are award or agreement free can be required to take paid annual leave if the requirement is reasonable.

What are the alternatives to standing down employees?

Before an employer stands down employees without pay there are other options that they may wish to consider.

These may include:

- Invite employees to take a period of accrued paid leave (for example, annual leave). Some industrial instruments also permit annual leave to be taken at half pay.
- If there are terms in the award or agreement that allow the employer to require the taking of annual leave; or if the employee is award or agreement free, consider whether it is possible/appropriate to require the taking of such leave.
- Where there is more than one worksite and not all sites are affected by the event, consider options for sharing work and hours among sites on a voluntary basis. For example, some workers at non-affected sites may offer to take accrued leave while their position is temporarily filled by a worker from an affected site.
- Where appropriate, consider flexible arrangements, like working from home.

Any arrangements to alter an employee's working patterns would need to be implemented in accordance with the Fair Work Act 2009 and any relevant award or agreement.

Getting it wrong is expensive. Phone CCIQ Employer Assistance to get it right. Call 1300 731 988 or visit cciq.com.au/eal

Important Disclaimer

This Information Sheet is intended to provide an overview to enable you to assess whether more detailed information is required. Where the material has been sourced from third parties (such as from Government in relation to awards or entitlements) while every effort has been taken to ensure that it is accurate and up to date, we do not warrant or guarantee the accuracy, completeness or currency of the information and you should make your own enquiries in that regard. The information is not and should not be regarded as legal or business advice and you should seek your own advice where appropriate. To the extent permitted by law, we shall not be liable for any loss (however caused) due to error or omission in the information provided.