

## Direction to take annual leave during a shut down

### Coronavirus and Australian workplace laws

If your workplace has been impacted by coronavirus, we have information about your workplace rights and obligations at [Coronavirus and Australian workplace laws \(https://coronavirus.fairwork.gov.au/coronavirus-and-australian-workplace-laws\)](https://coronavirus.fairwork.gov.au/coronavirus-and-australian-workplace-laws) .

A number of temporary changes have been introduced due to coronavirus including:

- [JobKeeper \(https://coronavirus.fairwork.gov.au/coronavirus-and-australian-workplace-laws/pay-and-leave-during-coronavirus/jobkeeper-wage-subsidy-scheme/default\)](https://coronavirus.fairwork.gov.au/coronavirus-and-australian-workplace-laws/pay-and-leave-during-coronavirus/jobkeeper-wage-subsidy-scheme/default) – changes to the Fair Work Act to support the JobKeeper wage subsidy scheme
- [temporary award changes \(https://coronavirus.fairwork.gov.au/coronavirus-and-australian-workplace-laws/temporary-changes-to-workplace-laws-during-coronavirus\)](https://coronavirus.fairwork.gov.au/coronavirus-and-australian-workplace-laws/temporary-changes-to-workplace-laws-during-coronavirus) – allowing for temporary workplace flexibility in some awards
- [pandemic leave \(https://coronavirus.fairwork.gov.au/coronavirus-and-australian-workplace-laws/pay-and-leave-during-coronavirus/quarantine-self-isolation\)](https://coronavirus.fairwork.gov.au/coronavirus-and-australian-workplace-laws/pay-and-leave-during-coronavirus/quarantine-self-isolation) – unpaid and paid pandemic leave (including worker and disaster payments) during coronavirus.

These changes may affect the information on this page.

An employee can be directed to take annual leave during a shut down if their award or [registered agreement \(www.fairwork.gov.au/Dictionary.aspx?TermID=2034\)](http://www.fairwork.gov.au/Dictionary.aspx?TermID=2034) allows it.

### What is a shut down?

A shut down is when a business temporarily closes during slow periods of the year, such as [Christmas and New Year \(www.fairwork.gov.au/about-us/news-and-media-releases/website-news/shutting-down-over-christmas-and-new-year\)](http://www.fairwork.gov.au/about-us/news-and-media-releases/website-news/shutting-down-over-christmas-and-new-year) . It is also called a 'close down'.

Find information about when an employee can be directed to take paid and unpaid annual leave during a shut down in your award by selecting from the list below.

#### Temporary Clerks Award flexibility

On 28 March 2020, the Fair Work Commission varied the Clerks Award by adding a new Schedule I. It was initially due to stop operating on 30 June 2020.

On 30 September 2020, the Commission extended Schedule I. It now applies until 30 November 2020.

Schedule I adds award flexibility to the Clerks Award during the impact of coronavirus. It changes entitlements relating to:

- span of hours while working at home
- hours of work for full-time and part-time employees
- annual leave.

Schedule I applies to employers and employees covered by the Clerks Award.

While Schedule I operates, an employee's usual terms and conditions of employment under the Clerks Award continue to apply, unless they've been changed by Schedule I. If they have, Schedule I applies instead.

These changes may affect the information on this page.

Go to [Clerks Award flexibility during coronavirus \(https://coronavirus.fairwork.gov.au/coronavirus-and-australian-workplace-laws/temporary-changes-to-workplace-laws-during-coronavirus/clerks-award-flexibility-during-coronavirus/default\)](https://coronavirus.fairwork.gov.au/coronavirus-and-australian-workplace-laws/temporary-changes-to-workplace-laws-during-coronavirus/clerks-award-flexibility-during-coronavirus/default) for more information about Schedule I and when it applies.

Based on what you've told us, it looks like you're covered by the Clerks - Private Sector Award [MA000002].

Employees can be directed to take annual leave during a shut down. They have to be given at least 4 weeks notice before the leave

needs to be taken.

If an employee doesn't have enough leave to cover the shutdown, they can agree with the employer to take:

- annual leave in advance or
- unpaid leave.

If an employee doesn't agree to either, they have to be paid their ordinary pay rate for the shut down. They can't be forced to take unpaid leave.

Use the Notice of requirement to take annual leave for close down template letter (DOC 113.5KB) ([www.fairwork.gov.au/ArticleDocuments/766/Notice-of-requirement-to-take-annual-leave-for-close-down.doc.aspx](http://www.fairwork.gov.au/ArticleDocuments/766/Notice-of-requirement-to-take-annual-leave-for-close-down.doc.aspx)) when directing employees to take annual leave during a shut down.

## Accumulating annual leave during a shut down

An employee will continue to accumulate annual leave only while on paid leave during a shut down period.

To find out more about who this award applies to, go to the [Clerks Award summary \(www.fairwork.gov.au/awards-and-agreements/awards/award-summary/ma000002-summary\)](http://www.fairwork.gov.au/awards-and-agreements/awards/award-summary/ma000002-summary) .

Source reference: [Clerks - Private Sector Award \[MA000002\] clause 32.5](http://awardviewer.fwo.gov.au/award/show/MA000002) <sup>↗</sup> (<http://awardviewer.fwo.gov.au/award/show/MA000002>)

A shut down isn't the same as a stand down. A stand down is when an employer sends employees home if there is no useful work for them to do. Reasons for stand down include events out of the employer's control like a natural disaster. See [Pay during inclement weather and stand down \(www.fairwork.gov.au/pay/pay-during-inclement-weather-and-stand-down\)](http://www.fairwork.gov.au/pay/pay-during-inclement-weather-and-stand-down) for more information.

## Direction to take annual leave under an agreement

If you're covered by a registered agreement, check the terms of your agreement for information about when an employee can be directed to take annual leave during a shut down. To find a registered agreement, go to the [Fair Work Commission website \(https://www.fwc.gov.au/awards-and-agreements/agreements\)](https://www.fwc.gov.au/awards-and-agreements/agreements) <sup>↗</sup>.

## Think a mistake might have been made?

Mistakes can happen. The best way to fix them usually starts with talking.

Check out our [Help resolving workplace issues \(www.fairwork.gov.au/how-we-will-help/how-we-help-you/help-resolving-workplace-issues/default\)](http://www.fairwork.gov.au/how-we-will-help/how-we-help-you/help-resolving-workplace-issues/default) section for practical advice on:

- figuring out if a mistake has been made
- talking to your employer or employee about fixing it
- getting help from us if you can't resolve it.

## What to do next

- Calculate annual leave balances using the [Leave Calculator \(http://calculate.fairwork.gov.au/Leave\)](http://calculate.fairwork.gov.au/Leave)
- Search the [Fair Work Commission website \(https://www.fwc.gov.au/awards-and-agreements/agreements\)](https://www.fwc.gov.au/awards-and-agreements/agreements) <sup>↗</sup> for an agreement
- Find an award using the [List of awards \(www.fairwork.gov.au/awards-and-agreements/awards/list-of-awards/list-of-awards\)](http://www.fairwork.gov.au/awards-and-agreements/awards/list-of-awards/list-of-awards)

## Help for small business

- Find tools, resources and information you might need on our [Small business page \(www.fairwork.gov.au/Find-help-for/Small-business/default\)](http://www.fairwork.gov.au/Find-help-for/Small-business/default) .

## You might also be interested in

- Public holidays during leave in [Not working on a public holiday \(www.fairwork.gov.au/Leave/Public-holidays/not-working-on-public-holidays\)](http://www.fairwork.gov.au/Leave/Public-holidays/not-working-on-public-holidays)
- [Pay during stand down and severe weather \(www.fairwork.gov.au/pay/pay-during-inclement-weather-and-stand-down\)](http://www.fairwork.gov.au/pay/pay-during-inclement-weather-and-stand-down)

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## Contact us

Fair Work Online: [www.fairwork.gov.au](http://www.fairwork.gov.au)

Fair Work Infoline: 13 13 94

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Contact the Translating and Interpreting Service (TIS) on 13 14 50

Hearing & speech assistance

Call through the National Relay Service (NRS):

For TTY: 13 36 77. Ask for the Fair Work Infoline 13 13 94

Speak & Listen: 1300 555 727. Ask for the Fair Work Infoline 13 13 94

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