

QUICK FACTS: EMPLOYERS OBLIGATIONS UNDER THE FAIR WORK ACT 2009 (CTH) FACING COVID-19

On 22 March 2019, the Federal Government announced a closure of places of social gathering, including:

- Pubs, licenced clubs, and licenced areas within hotels (excluding accommodation);
- Gyms and indoor sporting venues;
- Cinemas, entertainment venues, casinos, and night clubs;
- Restaurants and cafes, which have been restricted to takeaway and/or home delivery; and
- Religious gatherings, places of worship or funerals (in enclosed spaces and other than very small groups and where the one person per four square metre rule applies).

Will Australia Follow New Zealand?

On 23 March 2020 it was announced that New Zealand would enter into a one month lock down from Wednesday 25 March 2020. Will Australia soon follow suit?

As the Employment and Workplace Experts, BTLawyers can provide advice to ensure that businesses meet all statutory requirements an employer owes to employees, while mitigating the financial impact of COVID-19.

Know Your Obligations

Termination

Employees engaged on a casual basis can be terminated with immediate effect. Prior to terminating an employee you need to consider *whether the employee is truly a casual*. Seek advice from the BTL team in the event of uncertainty to avoid facing an unfair dismissal claim or a claim for unpaid wages.

Stand Down

Regardless of whether an employee is engaged on a casual, permanent or fixed term basis s. 524 of the *Fair Work Act (FWA)* allows employees to be stood down without pay, where an employee cannot be usually employed due to stoppage of work for any cause that the employer cannot reasonably be held responsible. Enterprise agreements or employment agreements may impose additional conditions that must be met prior to standing down and employee.

The Fair Work Commission (**FWC**) is authorised to deal with disputes regarding the standing down of employees, therefore great caution is required. In dealing with a dispute, the FWC must take into account the fairness between the parties concerned.

Upon business recommencing, each employee stood down must be offered the opportunity to recommence work in their former role.

Consideration should be given to flexible work arrangements where those can practically be offered.

Redundancy

Section 389 of the FWA provides that a person may be made redundant if:

- (a) The employee's role is no longer available or necessary due to a change in operational requirements; and
- (b) The employer has provided a consultation period, if required by a modern award or enterprise agreement.

Employees must receive redundancy entitlements as prescribed by the FWA, calculated in accordance with the duration of their employment.

If in doubt speak to a member of the BTL Employment Team

OUR TEAM



Bruce Thomas
Director Principal



Kerrie Jackson,
Director Principal



Phillip Carlson,
Senior Associate



Sam Abbott,
Senior Associate



Stephanie Philippou,
Associate