

# JobKeeper Payment Scheme – FACT SHEET

## Temporary Amendments to the Fair Work Act

### Introduction

- Employers accepted into the JobKeeper scheme may issue additional directions to employees under temporary amendments to the Fair Work Act passed by parliament.
- This is to enable employers adversely affected by COVID-19 to manage their labour more flexibly while still being able to pass on the JobKeeper payment in full without cutting the hourly base rate employees are otherwise entitled to.
- Requests or directions to employees based on these amendments can only be made in relation to employees entitled to receive JobKeeper payments.

### 1. Stand Down Directions

- Employers may stand down JobKeeper recipient employees, including by reducing their hours in cases where those employees “cannot usefully be employed” for their normal days or hours because:
  - Business changes due to the COVID-19 pandemic (less trade, closed stores); and/or
  - Government initiatives to slow coronavirus transmission (trading restrictions).
- Stand down directions cannot reduce hourly pay rates, only hours worked.
- Employees must be notified of the direction writing at least three days ahead of time and be consulted. Employees may reject unreasonable requests.
- Other terms and conditions of employment (including enterprise agreements) beyond these specific reforms remain unchanged. However, in cases where a JobKeeper stand down direction is made, it applies despite other usually applicable terms in an employment contract or enterprise agreement.
- Employees subject to stand down directions accrue leave at the same rate they would have if the direction had not been given.
- Employees can also request to pursue secondary employment or professional development during a stand down direction. Employers must not unreasonably refuse these requests.

### 2. Changing Employee’s Duties, Locations and Hours of Work

- Employers are able to direct employees to change the nature of their duties, within their skill sets, or to perform those duties from a different place than normal, such as from home.
- These directions must be presented to employees in writing ahead of time.
- Employers may request employees to change the days and/or times in which they perform work. Employee must not unreasonably refuse the request.

#### **CHANGING DUTIES**

- Such directions must satisfy the following:
  - Duties performed must be safe;
  - The employee must be licensed and qualified for those duties; and
  - Duties must be “reasonably in the scope” of the employer’s business operations.

### **CHANGING LOCATION**

- These directions may be given to JobKeeper recipients in the following circumstances:
  - The place is suitable for that employee's duties;
  - If the place is not the employee's home, it should not be unreasonable for them to travel there;
  - Performance of employee duties at this place is safe; and
  - Does not impact on the caring responsibilities of that worker.

### **CHANGING DAYS/HOURS**

- Can be agreed provided;
  - Doing the work at a different time or on a different day is safe; and
  - The change does not reduce that employee's number of hours worked.
- Employees are required to consider all requests from employers, and aren't allowed to "unreasonably refuse" an employer's request for an agreement to changed arrangements.

### **3. Annual Leave Agreements**

- Employees are also required to consider an employer's request for them to take paid annual leave, and to take annual leave at half pay.
- These requests:
  - must not result in the employee's leave balance falling below two weeks.
  - must be reasonable and employers must have information to support a reasonable belief that such a course of action is necessary "to continue the employment of one or more employees".
  - must not be unreasonably refused by the employee.
- Employees which take leave at half pay accrue leave entitlements as if the direction had not been given.