

SALARY CUTS AND COVID-19

1. My employer told me that they are going to cut my salary because they can no longer afford my ordinary pay, can I say no?

Yes, you are entitled to say no to a reduction of your pay. Your pay is an essential part of your employment contract and cannot be varied unless both you and your employer agree. A salary cut should be discussed and you cannot be forced to accept it.

It's a hard choice to make but you might accept a pay cut if the other option is losing your job entirely.

2. What are my rights if my employer proposes a salary cut?

It's a difficult time for businesses and employees but you have the right to consider a pay cut and any other options available to you.

Before accepting your employer's pay cut arrangement, do the following:

- Check the minimum pay rate under your award or enterprise agreement. The reduced pay rate cannot be less than this rate;
- Make sure your employer is consulting as required by your award;
- Negotiate about whether your working hours are going to be reduced as well as your pay;
- Negotiate about whether there will be a reduction in your employer's expectation of your role by revising key performance indicators, targets or hours;
- Consider whether there are any flexible arrangements that could be entered into, eg. if you were working in store for a business, can you move to assisting people with sales online? Or can you work from home to perform your role in a different way?;
- Contact us to make an appointment to discuss further. Have a look at our template below to discuss with your employer. We can work on this with you.

Check out our templates below for wording you may wish to use with your employer or consult with **MELS** or on (02) 8002 1203 for legal advice.

Panel 1: 09:05am 13 April 2020. Boss: HI RANI, BUSINESS IS BAD BECAUSE OF COVID-19. WE MAY HAVE TO LET PEOPLE GO! TO AVOID THAT WE ARE THINKING WE WANT TO MAKE YOU PART-TIME TO 3.5 DAYS PER WEEK. Worker: WHAAAAAAT?? CAN HE DO THIS??

Panel 2: 09:05am 13 April 2020. Boss: WHAT DO YOU SAY, HUH? LEGALLY WE CAN'T FORCE YOU, YOU HAVE TO AGREE. HAVE A THINK! Worker: WHAT AM I GOING TO DO? WILL MY WORK LOAD BE REDUCED? I FEEL BUSHER THAN EVER. I DONT UNDERSTAND BUT HOW CAN I SAY NO?

Panel 3: 09:08am 13 April 2020. Email: Dear Rani, Please see your new 3.5 day part time contract attached. Please sign and send back ASAP. Worker: EMPLOYMENT ADVICE WOMAN!

Panel 4: 09:10am 13 April 2020. Worker: WAIT! DONT SIGN ANYTHING! DOES THAT CONTRACT STATE A DATE YOU WILL RETURN TO FULL TIME? OR ANYTHING ABOUT ENTITLEMENTS?

Panel 5: 09:10am 13 April 2020. Worker: NO, HE DIDNT! BUT WHAT CHOICE DO I HAVE? Worker: DID YOUR BOSS GIVE YOU A GENUINE OPPORTUNITY TO EXPRESS YOUR VIEWS?

Panel 6: 09:10am 13 April 2020. Worker: OH... Worker: YOU DONT AUTOMATICALLY HAVE TO AGREE WITH WHAT YOUR EMPLOYER SAYS AND THEY CANT PRESSURE YOU TO DO SO!

Panel 7: 2020. Worker: YOUR EMPLOYER HAS A DUTY TO MEANINGFULLY CONSULT WITH YOU ABOUT ANY CHANGE. Worker: THIS MEANS I MAY BE ABLE TO NEGOTIATE WITH MY BOSS...

Panel 8: Worker: THANKS! I WILL CALL NOW! Worker: CONTACT YOUR LOCAL COMMUNITY LEGAL CENTRE TO FIND OUT YOUR RIGHTS AND OPTIONS BEFORE SIGNING ANYTHING!

Panel 9: The MIGRANT EMPLOYMENT LEGAL SERVICE is a NSW state-wide service addressing the exploitation of migrant workers. We offer free, confidential legal advice and representation to migrant workers and temporary visa holders in NSW. Call 02 8002 1203 or SMS 0475 360 241 or visit mels.org.au to make an appointment.

Panel 10: MIGRANT EMPLOYMENT LEGAL SERVICE. FREE CONFIDENTIAL LEGAL HELP

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The information provided in this factsheet is for information only. It must not be relied on as legal advice. The information provided is correct at 6 May 2020. Information may change. You should seek legal advice about your own situation.

PAY CUT TEMPLATE: REQUEST ACCESS TO PAID LEAVE (FLEXIBLE SOLUTION)

Use the below template if your employer is asking you to reduce your pay but you wish to dispute the proposal and offer other solutions to the issue.

Date

Dear [Manager/CEO's name],

On [date] you had a discussion with [staff/me] and you proposed a reduction of [my/our] salary. I have concerns about this and I do not agree with the current proposal.

In accordance with my [Award/Enterprise Agreement/employment contract], I would appreciate the opportunity to properly respond and consult with you about the proposed salary reduction. I think the direction for me to reduce my work hours is unreasonable because [chose as relevant]:

1. I need to keep my hours as I need my current wage to [provide for my family/service my mortgage/pay my rent];
2. My role requires full time hours and has not been affected by COVID-19;

I think there are other areas of the business where my skills could usefully and productively contribute. Can we set a time to discuss this?

I understand the difficulties of the business during these times and I want to work together for a flexible solution.

If there really is a reduction in role and my skill cannot be usefully used in another area of the business, I have [X hours] of annual leave/long service leave. Could I use [X] days to take leave per week for [Y] weeks? [use <https://calculate.fairwork.gov.au/leave> and your last payslip to help you work out how much you have owed to you]

My goal is to remain employed with [name of Company] and I look forward to us having a productive discussion on this issue. Please let me know a suitable time to discuss this further so that I may prepare [and have an opportunity to bring a support person/representative].

Sincerely,

[Name]

PAY CUT TEMPLATE: ROLE REDUCTION BUT PRESERVING ENTITLEMENTS

If you have already attempted to negotiate a flexible solution and it has not succeeded due to lack of leave or work in other areas of the business, use the below template to ensure you are preserving your entitlements at your current salary.

Date

Dear [Manager/CEO's name],

On [date] you had a discussion with [staff/me] about a possible reduction in salary. I am prepared to accept a reduction in salary from [X amount to X amount] from [X date] on the basis that these changes are temporary due to the COVID-19 impacts on the business.

Please reply to this email to indicate your consent to me accepting this role reduction on the following conditions:

1. The [Company name] will review its operations [every month/bimonthly] to determine whether I can return to my full-time role;
2. There will be a reduction in the [Company's] expectations of my role/targets to reflect the reduction of my salary;
3. Return date to my current role, salary and entitlements [three/six] months from now;
4. My hourly rate does not change and my accrued but untaken leave is preserved at my full rate of pay before my role reduction;
5. Should I be made redundant, my redundancy pay will be calculated at full pay before my role reduction; and
6. Should I be dismissed, any notice will be calculated at full pay before my role reduction; and
7. This temporary period will count as service at full pay.

I accept these as the only changes to my role. I am hoping to move forward in an open fashion to continue to discuss these issues and work on solutions together during this difficult time. It is my goal to remain employed with [X company].

Regards,
[Name]