

## WHAT DO I NEED TO KNOW ABOUT BEING STOOD DOWN DURING COVID-19?

Many businesses in Australia have experienced financial hardship as a result of the COVID-19 pandemic and they have chosen to stand down their employees for a period of time.

You can be stood down if you cannot do useful work because **the work has stopped** due to COVID-19, which is a situation that your employer is not responsible for. For certain types of employers, the Federal and State Governments ordered the closure of their business to stop the spread of COVID-19 in the community. You can also be stood down if you cannot do “useful work” because your work has closed down following a Government direction.

While you are stood down, you do not go to work, and generally you do not get paid. However, being stood down means you are still employed and you are still accruing leave entitlements. You do not need to resign and you should not be asked to resign.



### Example: COVID-19 Stoppage of work

Somchai works in a shop selling mobile phones. As stock comes from China, the shop has been unable to get new stock due to COVID-19 and there is nothing to sell. As a result, Somchai is stood down. He is not showing up for work and he is not getting paid, but he is still technically employed.

However, your employer must consider whether there is any other useful work that you could perform before they decide to stand you down. If you can still do useful work (such as continuing to do your job from home), then your employer must allow you to do that if it is reasonably practicable.

### Example: COVID-19 Useful work

Zeynep works in a pub serving meals and drinks. The Government has ordered that pubs shut to slow down the pandemic. As a result, Zeynep's pub closes and she could be stood down. However, the pub has a bottle shop that can still trade, so Zeynep starts work in the bottle shop selling take-away drinks, instead of serving meals and drinks inside the pub restaurant.



Not everyone in the workplace needs to be stood down. There may still be some work, but not enough for everyone. It's very important that these stand down decisions are not made on a discriminatory basis, that is, because of attributes like your race, sex, nationality, or because you have a disability or carer's responsibilities.

An employer cannot stand you down indefinitely. If your employer no longer requires your job to be done by anyone, it may be a case of redundancy and you should get legal advice about this.

## What are my rights when I am stood down?

**You still have a job.** Being stood down means that you still have a job. This means when there is work to do, you can return to work. If you are offered other work you may be able to work somewhere else while you are stood down, but you may need your employer's permission before you can do this.

**You still accrue leave entitlements.** Because you are still employed, you continue to accrue your leave entitlements even though you are not working.

**You can ask to take leave.** If you have leave owing to you, you can ask your employer if you can take some paid leave (eg annual leave or long service leave).

**Pay?** In most cases, the law says that your employer does not have to pay you while you are stood down. Your award, enterprise agreement or contract might say something different and provide some pay. You will need to check to see if there are other rules about being stood down in your award, enterprise agreement or contract.



## COVID-19 Disaster Payment

You may be eligible for the COVID-19 Disaster Payment if you lost income or work due to COVID-19 and you meet all of the eligibility rules. There are the general eligibility rules as well as any rules for the recognised event in NSW that affected you.

### How much you can get

How much you receive will depend on your situation, including the duration of any restricted movement order in effect and how many hours of work you lost. For more information, visit Services Australia's website [here](#).

### General eligibility rules

The general eligibility rules include:

- You are an Australian resident or hold a visa that gives you the right to work in Australia
- You are 17 years or older
- You are not getting an income support payment, ABSTUDY Living Allowance, Dad and Partner Pay or Parental Leave Pay
- You are not getting the Pandemic Leave Disaster Payment, a state or territory pandemic payment or a state small business payment for the same period
- You live in, work from or have visited a Commonwealth-declared COVID-19 hotspot
- You live in, work from or have visited a location subject to a state or territory restricted movement order
- You had paid employment and because you were in the COVID-19 hotspot or are subject to restricted movement, you can't attend work on or after day 8 of the lockdown

- You have lost income on or after day 8 of the lockdown and don't have any appropriate paid leave entitlements
- The liquid assets rule for your event

### Recognised events

Recognised events are COVID-19 lockdowns, hotspots or periods of restricted movement that last longer than 7 days. Recognised events include events that have occurred in:

- [parts of Sydney](#) from June 2021;
- [parts of Greater Sydney](#) from June 2021; and
- [all other areas](#) of New South Wales.

### More information

For more information on how to claim a COVID-19 Disaster Payment, including information regarding your eligibility as a working visa holder, visit Services Australia's website [here](#).

## What should I do if I disagree with my employer about being stood down?

You can contact us for free legal advice about your situation. You have the right to go to the Fair Work Commission if you don't agree with decisions your employer has made about a stand down. This includes whether you should have been stood down, any proposed changes to your duties, hours or work location, a direction for you to take paid annual leave or for you to do additional training. If you think that you should not have been stood down, get legal advice quickly. If it turns out that you have been dismissed, you may only have 21 days to make a claim from the date your dismissal became effective. If your employer stands you down without pay when they should not have, you may be able to recover unpaid wages.

## What should I do? Top tips!

- If you think your employer hasn't followed the rules, contact us to get free legal advice.
- If you are stood down, make sure you have the direction in writing and it says what date you will be stood down, whether you will be paid and how your entitlements will be affected. Make sure your employer says you can work elsewhere without it affecting your entitlements.
- Make sure any other agreement you make with your employer is in writing.
- When making arrangements about being stood down, it is important that you stay in touch with your employer so that they know what is happening for you and you know what they are doing.
- Contact Services Australia (formerly Centrelink) or a free legal service about social security payments.

***The information provided in this factsheet is for information only. It must not be relied on as legal advice. You should seek legal advice about your own situation.***