

JOBKEEPER: A QUICK GUIDE TO CHANGES TO THE FAIR WORK ACT

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The Federal Parliament has passed changes to the Fair Work Act as part of the Government's JobKeeper wage subsidy program. The changes only apply until 28 September 2020.

The information outlined below is relevant for workers employed by employers eligible for and participating in the JobKeeper program. That is, employers who have:

Please note, this is general advice – please seek advice from the Union on your specific

circumstances.

CAN I BE INSTRUCTED TO DO DIFFERENT WORK?

Yes, for a temporary period, an employer participating in the JobKeeper scheme can direct you to perform different duties if this is reasonable and necessary to save jobs. You must be given 3 days' notice in writing of any change (you can agree to less notice if you wish) and your employer must consult with you or the Union first.

Any duties you are asked to perform must be reasonably within the scope of your employer's business operations, within your skill, qualifications and competency, and safe for you to perform.

You must be paid your usual rate of pay, or the rate applicable for your new duties, whichever is higher.

CAN I BE FORCED TO TAKE LEAVE?

If you work for an employer participating in the JobKeeper scheme, you may be asked by your employer to agree to take some annual leave, as long as you will not be left with a balance of less than 2 weeks.

You must consider the request and can only refuse if you have reasonable grounds to do so.

Contact the Union if you are unsure whether or not you are allowed to say no. You should be paid your annual leave at your usual rate of pay. You are able to agree with your employer to take twice the period of annual leave at half your rate of pay if you wish.

CAN MY BOSS CUT MY PAY AND MAKE ME WORK MY USUAL HOURS?

You must be paid your usual rate of pay for any hours that you work. If your employer is participating in the Job Keeper scheme and reduces your hours to save jobs in the business, you must get paid either the JobKeeper payment (\$1,500 per fortnight before tax) or your ordinary pay for the hours you've worked, whichever is higher. If you are receiving the JobKeeper payment, your employer must pass it on to you before the end of each fortnight.

CAN MY BOSS UNILATERALLY CUT MY HOURS?

Yes, for a temporary period, an employer participating in the JobKeeper scheme can direct you to work reduced hours (or no hours) if you cannot be usefully employed for the employee's normal days or hours because of changes to business due to the COVID-19 pandemic and the directive is reasonable and necessary to save jobs. You must be given 3 days' notice in writing of any change (you can agree to less notice if you wish) and your employer must consult with you or the Union first. You can be directed not to work on a day or days on which you would usually work; or to work for a lesser period on a particular day than you ordinarily would, or work a reduced number of hours compared with your ordinary hours.

You are not entitled to be paid for the hours you don't work, but must be paid your ordinary rate for the hours you do work. You must get the JobKeeper payment at a minimum. You should continue to accrue annual leave based on your former hours.

WHAT IF I DON'T AGREE WITH WHAT MY BOSS WANTS ME TO DO?

If you think you have been treated unreasonably by your employer or have a good reason that you cannot comply with a directive (for example caring responsibilities), you should contact the Union for advice. Protections under workplace health and safety, anti-discrimination, and workers

compensation laws continue to apply. The Union may be able to ask the Fair Work Commission to hear and decide a dispute about your pay, a change to your hours or days of work, or a request to access your annual leave and reverse the employer's direction if it is unfair.

DO I HAVE TO WORK FROM HOME? I'M NOT SURE I HAVE SOMEWHERE SAFE TO WORK AT MY HOUSE.

An employer participating in the JobKeeper scheme can direct you to change your work location, including working from home, if this is reasonable and necessary to save jobs. You must be given 3 days' notice in writing of any change (you can agree to less notice if you wish) and your employer must consult with you or the Union first. You must not be asked to travel an unreasonable distance and it must be safe and reasonably within the scope of your employer's business operations for you to perform your duties from home. Workplace health and safety laws continue to apply to work from home.

MY BOSS DIDN'T REGISTER FOR JOBKEEPER. DO THESE CHANGES APPLY TO ME?

No, but if you are covered by the Hospitality, Restaurants or Clerks Award, some changes may apply to you, including in relation to annual leave and changes to duties and hours.

Check with the Union if you are unsure.

IF I'VE BEEN STOOD DOWN, CAN I DO ANOTHER JOB OR SOME TRAINING?

If you've had your hours reduced by a JobKeeper eligible employer, you can ask your

employer if you can perform a second job or undertake professional development or training while you're not working. Your employer must consider this request and must not unreasonably refuse.