

21 March 2020

## Stand Down - Unpaid stand down in a circumstance a stoppage of work

### Stand Down

Employer is allowed to ask its employees to stand down without pay during a period in which the employee cannot usefully be employed because of circumstances such as a stoppage of work for any cause for which the employer cannot reasonably be held responsible.

**Relevant legislation: section 524 of the Fair Work Act (Cth) 2009**

## Stand Down vs Redundancy

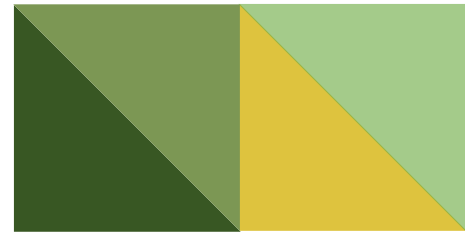
### Redundancy

- ▶ Redundancy the employer no longer requires the work to be performed by anyone – the employment ends and the employment ceases
- ▶ Employer needs to follow consultation processes under Awards
- ▶ Also consider alternatives to redundancy – part time employment, etc.
- ▶ you need to pay redundancy entitlement. (except for an employer with less than 15 employees)

### Stand Down

- ▶ Stand Down periods are unpaid
- ▶ Stand Down can be indefinite
- ▶ An employee who is stood down is still employed and continues to accrue leave entitlements during the period (even they are not paid work)
- ▶ Where an employee has applied for leave (or is on leave) prior to stand down taking effect – they are still entitled to the leave
- ▶ After a stand down takes effect you don't have to approve leave requests – but it is good practice to allow employees to take their paid leave accruals in this circumstance.
- ▶ Employees can seek alternative work while stood down and it does not trigger their “resignation”

# Info Sheet



## Stand down vs Redundancy

- Stand down can affect part of the business – not all of it
- There is an obligation to deploy staff to other useful duties instead of standing them down – if these duties are available.
- Try to allocate reductions fairly.
- We know there are areas where this will not be clean cut – and circumstances in normal times would be more akin to redundancy.
- If unions or employees challenge this – in our view, we consider the FWC (if it hears the matter) will take a practical view in these uncertain times.
- Worst case – if the FWC said it was redundancy rather than stand down – employers can apply to vary redundancy obligations in certain circumstances.