



e-News

Monday, 23rd October 2023

Newsletter No 117

Shutdowns and Annual Leave - what has changed?



With Christmas just around the corner, employers should start thinking about their Christmas/New Year shutdown plans.

What is a shutdown?

A shutdown, also known as a close-down, happens when an employer's business (or part of it) temporarily closes for a period of time. Shutdowns usually occur during

holiday seasons like Christmas/New Year, when there is a decrease in overall business activity, or during other times when the specific business is not in demand.

As part of the review of modern awards, the Full Bench proposed a draft model clause for annual leave shutdown provisions.

Previously, different rules existed in modern awards regarding notice for taking annual leave during a shutdown and whether an employer could require an employee to take annual leave in advance or take unpaid leave if they didn't have enough accrued annual leave.

In **May 2023**, many modern awards were amended to include the model clause, replacing existing shutdown clauses in 78 awards (with minor changes to individual awards).

Shutdown model clause

The model clause and the new shutdown rules state that if an employer plans to temporarily shut down all or part of its operation and wants affected employees to take annual leave during that period:

- The employer must give affected employees 28 days' written notice of the shutdown period (or a shorter period agreed upon by the employer and the majority of relevant employees).
- The employer can direct employees to take accrued annual leave during the shutdown period. The direction must be in writing and *reasonable*.
- If an employee doesn't have enough accrued annual leave, the employer and employee can agree to take leave without pay or *take annual leave in advance*.

Employers should consult the applicable modern award for specific shutdown provisions.

Importantly, the new shutdown rules require employers to manage annual leave requests throughout the year to ensure there is enough leave to cover the shutdown period. Otherwise, there must be an agreement for an employee to take leave in advance or take unpaid leave.

Employees not covered by a modern award or enterprise agreement

For employees who are not covered by a modern award or enterprise agreement, the **Fair Work Act 2009 (Cth) (FW Act)** applies.

Section 94(5) of the FW Act allows an employer to require an employee to take paid annual leave, but only if it is reasonable. "*Reasonableness*" includes the employer's enterprise being shut down for a period, such as between Christmas and New Year.

Under **section 94(6) of the FW Act**, an employer and employee can agree on when and how paid annual leave can be taken, *including taking it in advance before accruing it*.

In Other Bookkeeping_BAS News...

Your Online Services - you will Control who has Access from 13 Nov: If you engage a new agent, change to a new agent, or need to make changes to what your agent is authorised to do for you, you will need to go through the Agent nomination process. [Read more here for further details.](#)

Super Due Date: You must ensure that super guarantee contributions for Q1 2023-24 have reached super funds by **28th October**. This means that you need to make the payment at least a week or more before this date. If you fail to do this, you need to pay the super guarantee charge. [See more details here via the ATO.](#)

Next BAS due date: The next quarterly BAS for the period **July to September 2023**, is due by **30th October** if you have elected to lodge by paper and are not an active STP reporter, **13th November** if you lodge electronically, or **27th November** if your BAS or Tax Agent lodges on your behalf.

Check Your ABN Details: The ATO regularly reviews ABN entitlement and will cancel an ABN if there are no signs of business activity. The ATO recommends that you check the details of your ABN at least annually to ensure they are correct for your circumstances. Find out how to [check the details of your ABN here.](#)

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Managing MyGovID when Devices are Upgraded or Added

Learn how to set up MyGovID on a new device or if you want to set it up on multiple devices.



Upcoming Changes to Workplace Laws

Fair Work frequently updates payroll rules, and the current situation is no exception. Numerous aspects of payroll have recently changed or will soon change. For more information, please read our blog.



What NOT to include in Payslips for Paid Family & Domestic Violence Leave



Xero Tips & Tricks

Here is my list of useful tips and tricks that I use when wrangling Xero. I'll try to keep adding new tips etc as

Something important to call out in relation to paying this leave is the information that is **prohibited** from being included on the employee's payslip.

I discover them. I hope you find them useful.

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