

## STAND DOWN FACT SHEET – SOUTH AUSTRALIA 18 NOVEMBER 2020

### *Background:*

Following the South Australian Government's directive restricting the operations of restaurants and cafes for the next six (6) days from 12.01am on 19 November 2020 as a result of the COVID-19 pandemic, employers must completely shut down their business during this period of time.

### *Stand Downs:*

In the absence of a 'stand down' period contained in an enterprise agreement or a contract of employment, employers may rely on the 'stand down' provision contained in section 524 of the *Fair Work Act 2009* (Cth).

Section 524 of the Act provides that employers may stand down an employee as a result of industrial action, a breakdown of machinery or equipment, or a **stoppage of work for any cause for which the employer cannot reasonably be held responsible**. A restaurant and/or café may stand down the business by relying on this provision as a result of a government directive.

Generally, stand downs are a last resort as employees are generally not paid during the period of stand down. Employers, however, may wish to arrange with their employees to take annual leave and/or long service entitlements, in full or part, during this period. If your business is receiving the JobKeeper 2.0 subsidy, all eligible employees can continue receiving the JobKeeper subsidy during the stand down period at their appropriate tier level.

It is important to note that employees who are stood down will **remain employees of that employer**. As such, employees have not had their employment contract terminated by way of dismissal or a redundancy.