

## STAND DOWN FACT SHEET Restaurant & Catering Australia



### *Background:*

Whenever the government announces a lockdown, stay at home order or any government directive that results in a stoppage of work where the employer cannot reasonably be held responsible, the employer is able to stand down staff in response to these changes in business operations beyond their control.

### *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 their business, and their staff, 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.

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.