

Workplace Relations Circular

For the information of members of Australian Business Industrial

CIRCULAR No.	CASE FILE No.	CIRCULAR DATE	IMPORTANT INFORMATION
2023/006	ALL MEMBER	6/03/2023	

DIRECTION TO TAKE ANNUAL LEAVE DURING A SHUTDOWN – NEW MODEL CLAUSE INSERTED INTO 78 AWARDS

On 22 December 2022, the Fair Work Commission (**Commission**) issued a decision to insert a new plain English model clause in multiple modern awards about taking annual leave during shutdowns. This impacts a total of 78 modern awards (**the Awards**).

What are the changes to the Awards?

For the Awards listed, the model clause below will replace the current 'Close down' or 'Shut down' clause. This will have the effect that employers will no longer be able to direct employees to take unpaid leave during a shut down. Below is the model clause:

XX.X Direction to take annual leave during shutdown

(a) Clause XX.X applies if an employer:

(i) intends to shut down all or part of its operation for a particular period (temporary shutdown period); and

(ii) wishes to require affected employees to take paid annual leave during that period.

(b) The employer must give the affected employees 28 days' written notice of a temporary shutdown period, or any shorter period agreed between the employer and the majority of relevant employees.

(c) The employer must give written notice of a temporary shutdown period to any employee who is engaged after the notice is given under clause X and who will be affected by that period, as soon as reasonably practicable after the employee is engaged.

(d) The employer may direct the employee to take a period of paid annual leave to which the employee has accrued an entitlement during a temporary shutdown period.

(e) A direction by the employer under clause X:

(i) must be in writing; and

(ii) must be reasonable.

(f) The employee must take paid annual leave in accordance with a direction under clause X.

(g) In respect of any part of a temporary shutdown period which is not the subject of a direction under clause X, an employer and an employee may agree, in writing, for the employee to take leave without pay during that part of the temporary shutdown period.

(h) An employee may take annual leave in advance during a temporary shutdown period in accordance with an agreement under clause X.

(i) In determining the amount of paid annual leave to which an employee has accrued an entitlement, any period of paid annual leave taken in advance by the employee, in accordance with an agreement under clause X, to which an entitlement has not been accrued, is to be taken into account.

(j) Clauses X to X do not apply to a period of annual leave that an employee is required to take during a temporary shutdown period in accordance with clause X.

When will the changes come into effect?

The changes come into operation on **1 May 2023**.

To view the full decision [click here](#).

See below for the full list of Awards impacted (including links to determinations):

[Aboriginal and Torres Strait Islander Health Workers and Practitioners and Aboriginal Community Controlled Health Services Award 2020](#)

[Aircraft Cabin Crew Award 2020](#)

[Airline Operations-Ground Staff Award 2020](#)

[Alpine Resorts Award 2020](#)

[Aluminium Industry Award 2020](#)

[Ambulance and Patient Transport Industry Award 2020](#)

[Animal Care and Veterinary Services Award 2020](#)

[Aquaculture Industry Award 2020](#)

[Asphalt Industry Award 2020](#)

[Banking, Finance and Insurance Award 2020](#)

[Broadcasting, Recorded Entertainment and Cinemas Award 2020](#)

[Building and Construction General On-site Award 2020](#)

[Business Equipment Award 2020](#)

[Car Parking Award 2020](#)

[Cement, Lime and Quarrying Award 2020](#)

[Cemetery Industry Award 2020](#)

[Children's Services Award 2010](#)

[Cleaning Services Award 2020](#)

[Clerks—Private Sector Award 2020](#)

[Coal Export Terminals Award 2020](#)

[Commercial Sales Award 2020](#)

[Concrete Products Award 2020](#)

[Contract Call Centres Award 2020](#)

[Control Industry Award 2020](#)

[Educational Services \(Post-Secondary Education\) Award 2020](#)

[Electrical Power Industry Award 2020](#)

[Electrical, Electronic and Communications Contracting Award 2020](#)

[Fitness Industry Award 2020](#)
[Food, Beverage and Tobacco Manufacturing Award 2020](#)
[Gardening and Landscaping Services Award 2020](#)
[Gas Industry Award 2020](#)
[General Retail Industry Award 2020](#)
[Graphic Arts, Printing and Publishing Award 2020](#)
[Hair and Beauty Industry Award 2020](#)
[Health Professionals and Support Services Award 2020](#)
[Horse and Greyhound Training Award 2020](#)
[Hospitality Industry \(General\) Award 2020](#)
[Hydrocarbons Industry \(Upstream\) Award 2020](#)
[Joinery and Building Trades Award 2020](#)
[Journalists Published Media Award 2020](#)
[Local Government Industry Award 2020](#)
[Manufacturing and Associated Industries and Occupations Award 2020](#)
[Meat Industry Award 2020](#)
[Mining Industry Award 2020](#)
[Miscellaneous Award 2020](#)
[Mobile Crane Hiring Award 2020](#)
[Nursery Award 2020](#)
[Nurses Award 2020](#)
[Pharmaceutical Industry Award](#)
[Plumbing and Fire Sprinklers Award 2020](#)
[Poultry Processing Award 2020](#)
[Premixed Concrete Award 2020](#)
[Professional Employees Award 2020](#)
[Racing Clubs Events Award 2020](#)
[Racing Industry Ground Maintenance Award 2020](#)
[Real Estate Industry Award 2020](#)
[Refining and Manufacturing Award 2020](#)
[Registered and Licensed Clubs Award 2020](#)
[Restaurant Industry Award 2020](#)
[Road Transport \(Long Distance Operations\) Award 2020](#)
[Road Transport and Distribution Award 2020](#)
[Salt Industry Award 2020](#)
[Seafood Processing Award 2020](#)
[Security Services Industry Award 2020](#)
[Services Award 2020](#)
[Silviculture Award 2020](#)
[Storage Services and Wholesale Award 2020](#)
[Sugar Industry Award 2020](#)
[Supported Employment Services Award](#)
[Surveying Award 2020](#)
[Telecommunications Services Award 2020](#)
[Textile, Clothing, Footwear and Associated Industries Award 2020](#)
[Timber Industry Award 2020](#)
[Vehicle Repair, Services and Retail Award 2020](#)

[Water Industry Award 2020](#)

[Wine Industry Award 2020](#)

[Wool Storage, Sampling and Testing Award 2020](#)

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