

COVID-19 GENERAL HR ADVICE FOR MEMBERS



ADVICE, CONTENT AND GUIDANCE HAS BEEN PROVIDED BY ASSOCIATE MEMBER GREG BOWMER AT BARE BONES CONSULTING:

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When it comes to general HR, employment or legal advice to your members, my recommendation would be this: don't rush into a bad decision - get it right first time.

I thought the following might be a good place to start for general information resources. Please note I will be providing general information only which may be subject to change at any time without notice and that you accept any of my material as information and general guidance only.

A. CORONAVIRUS AND AUSTRALIAN WORKPLACE LAWS

The Fair Work Ombudsman (FWO) has recently released a resource titled "Coronavirus and Australian workplace laws". On this page you'll find information on workplace entitlements and obligations in the face of Covid-19, including information about stand downs from work, working arrangements impacted by school closures and pay and sick leave entitlements.

The link to this resource is:

<https://www.fairwork.gov.au/>

B. PAY AND CONDITIONS TOOL

Another great resource is the FWO Pay and Conditions Tool (PACT). This is a handy tool to help calculate entitlements at the end of employment:

<https://calculate.fairwork.gov.au/>

One important thing to remember: if you're a small business - and this means fewer than 15 employees (plus the other factors mentioned in the point following) - you are typically not required to pay redundancy pay. There are a few industries this exemption does not apply to (building and construction is one) and you should check your Award for specific information on redundancies or use the Pay and Conditions Tool to find out what you're obligated to pay when it comes to notice of termination and redundancy entitlements.

C. DEFINITION OF SMALL BUSINESS EMPLOYER

A small business is one that employs fewer than 15 employees. The 15 employees is counted as:

- all full-time and part-time employees currently employed
- any full-time and part-time employees having their employment ended at that time
- any regular and systematic casual employees currently employed
- any full-time, part-time, regular and systematic casual employees of [associated entities](#).

The size of the business is counted the earliest of:

- when the employee is told their employment will be terminated, or
- when the employee is given their notice of termination.

D. EMPLOYMENT SEPARATION CERTIFICATES

An Employment Separation Certificate is a certificate in which an employer confirms basic employment details of an employee who wishes to apply to Centrelink for benefits.

The information sought may be in relation to a person who has left employment, decreased their working hours or changed from full time to casual work.

Centrelink can request an Employment Separation Certificate from the employer or the employee can make direct request to their employer for the Employment Separation Certificate

The Employment Separation Certificate is available to download and submit online at:

<https://www.servicessaustralia.gov.au/individuals/forms/su001>

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E. CONSULTING WITH EMPLOYEES

Irrespective of what you may be planning for your workforce (or what you may be forced into if economic conditions continue to deteriorate), if an employer is considering major workplace change likely to have an impact on any Award-covered employee's job or hours of work, you have an obligation to comply with the Consultation provisions of that Award. All modern Awards have a Consultation clause.

The consultation process sets out the steps the employer is required to follow when they decide to make changes to the business that are likely to have significant effects on employees. This has to be done as soon as possible after the decision has been made to make these changes.

"Significant effects", includes any of the following:

- (a) termination of employment; or
- (b) major changes in the composition, operation or size of the employer's workforce or in the skills required; or
- (c) loss of, or reduction in, job or promotion opportunities; or
- (d) loss of, or reduction in, job tenure; or
- (e) alteration of hours of work; or
- (f) the need for employees to be retrained or transferred to other work or locations; or
- (g) job restructuring.

Many members will have employees covered by the Food, Beverage and Tobacco Manufacturing Award. Section 9 of this Award defines the obligations of the employer to consult with employees about major workplace change or changes to rosters or hours of work.

As a general overview the consultation process involves:

- notifying the employees who may be affected by the proposed changes
- providing the employees with information about these changes and their expected effects
- discussing steps taken to avoid and minimise negative effects on the employees
- considering employees ideas or suggestions about the changes.

You can find more information on consultation clauses as they apply to redundancy situations at:

<https://www.fairwork.gov.au/ending-employment/redundancy>