



JML E-Newsletter: JobKeeper Changes to the Fair Work Act 2009

APRIL 2020

The following table outlines the directions that employers who are qualified for the JobKeeper scheme can take under the 09/04/2020 amendments to the Fair Work Act 2009.

Direction	Direction Enablement	Required Conditions	Employers Must Ensure that:
<p>Direction to change usual duties or work location (JobKeeper enabling directions)</p>	<p>Employer can direct an employee to change their duties and work location.</p>	<ul style="list-style-type: none"> • Employer qualifies for the JobKeeper scheme. 	<ul style="list-style-type: none"> • the direction is reasonable, considering the employee’s caring responsibilities. • changed duties are within employee’s skill, competency and employee has the required qualifications. • the duties are safe considering the nature of COVID-19. • the duties are reasonable within scope of the business’s operations. • the new location is within a reasonable travelling distance. • they notify their employees and consult their employees at least 3 days before the direction is issued (unless the employee agrees to a shorter timeframe). • a written record of the consultation is kept. • if an employee’s duties are changed, the employer pays the higher of: <ul style="list-style-type: none"> - the base pay rate that applies to their previous duties, or - the base pay rate that applies to the new duties the employee is performing.



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JobKeeper Changes to the Fair Work Act 2009

Direction	Direction Enablement	Required Conditions	Employers Must Ensure that:
JobKeeper enabling stand downs directions	Employer can direct an employee to work fewer hours or days.	<ul style="list-style-type: none"> Employee cannot be usefully employed by their normal days or hours because of changes to regular business due to COVID-19. Employer qualifies for the JobKeeper scheme. 	
Agreement to work different days and times	Employer and employee can agree for the employee to perform their duties on different days and times.	<ul style="list-style-type: none"> Employer qualifies for the JobKeeper scheme. 	<ul style="list-style-type: none"> the agreement ensures safety considering the nature of COVID-19. the agreed days and times are within scope of employer's business operations. employees regular work hours aren't reduced (reducing work hours requires a JobKeeper enabling stand down direction).
Agreement to take annual leave	<ul style="list-style-type: none"> An Employer can request that an employee take paid annual leave (an employee can't unreasonably refuse a request from their employer to take leave. Employer and employee can agree to the employee taking annual leave at half their usual rate. 	<ul style="list-style-type: none"> Employee can only be requested to take leave if they keep a balance of at least 2 weeks. Employer qualifies for the JobKeeper scheme. 	

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