



# Qualifying employers – template letter for issuing a JobKeeper stand down direction

## Extension of the JobKeeper Scheme

The JobKeeper provisions in the Fair Work Act have been extended with some changes. For more information, go to [Extension of JobKeeper provisions in the Fair Work Act](#)

## Who can use this template letter?

Qualifying employers who want to issue a JobKeeper enabling stand down direction to reduce hours or days of work (**JobKeeper stand down direction**) can use this template letter.

You can use this template letter if:

- ✓ you're an employer who is qualified to access and are enrolled in the JobKeeper scheme (a **qualifying employer**), and
- ✓ you need to direct an eligible employee to work fewer hours or days, including no hours, and
- ✓ you are receiving JobKeeper payments for the employee you want to issue the direction to (**eligible employee**).

### ! IMPORTANT

If you're a **legacy employer** and plan to stand down an employee, this template does not apply to you. Please use our **Legacy employers – template letter to notify employees of a JobKeeper stand down direction**. You can download this template on our [Tools and resources during coronavirus page](#) at [coronavirus.fairwork.gov.au/coronavirus-and-australian-workplace-laws/contact-us/tools-and-resources-during-coronavirus](https://coronavirus.fairwork.gov.au/coronavirus-and-australian-workplace-laws/contact-us/tools-and-resources-during-coronavirus)

For more information or to find out if you're a legacy employer go to [JobKeeper enabling directions and agreements for legacy employers](#) at [coronavirus.fairwork.gov.au/JobKeeper](https://coronavirus.fairwork.gov.au/JobKeeper)

If you're **not a qualifying or legacy employer** for the JobKeeper scheme and plan to stand down an employee, this template is not right for you either. You need to use our **Template letter for standing down employees - for employers not accessing the JobKeeper Fair Work Act provisions** on our [Tools and resources during coronavirus page](#) at [coronavirus.fairwork.gov.au/coronavirus-and-australian-workplace-laws/contact-us/tools-and-resources-during-coronavirus](https://coronavirus.fairwork.gov.au/coronavirus-and-australian-workplace-laws/contact-us/tools-and-resources-during-coronavirus)

## How do I issue a JobKeeper direction as a qualifying employer?

To issue the direction, you need to:

The Fair Work Ombudsman is committed to providing you with advice that you can rely on.

The information contained in this template is general in nature. If you are unsure about how it applies to your situation you can call our Infoline on 13 13 94 or speak with a union, industry association or a workplace relations professional.



### 1. Notify your employees in writing that you intend to issue a JobKeeper stand down direction

You need to notify the employee in writing of your intention to give the JobKeeper stand down direction **at least 3 days** before issuing the direction (unless the employee genuinely agrees to a shorter timeframe). You can use our **Qualifying employers – template letter to notify employees of a JobKeeper stand down direction** to do this.

Download this template on our [Tools and resources during coronavirus page](https://coronavirus.fairwork.gov.au/coronavirus-and-australian-workplace-laws/contact-us/tools-and-resources-during-coronavirus) at [coronavirus.fairwork.gov.au/coronavirus-and-australian-workplace-laws/contact-us/tools-and-resources-during-coronavirus](https://coronavirus.fairwork.gov.au/coronavirus-and-australian-workplace-laws/contact-us/tools-and-resources-during-coronavirus)



### 2. Consult with your employees about the proposed direction

Employers need to consult with the employee about the direction during the 3 day notice period and keep a written record of the consultation. The rules about consultation are set out in **Step 8 of the checklist below**.



### 3. Give the JobKeeper stand down direction in writing

Once you have notified your employee of your intention to issue a direction and genuinely consulted with them on it, you can use **the template letter below** to issue the JobKeeper stand down direction.

Before issuing a direction, employers must confirm that they:

- qualify for and are enrolled in the JobKeeper scheme **and**
- are entitled to JobKeeper payments for each employee they wish to give a direction to.

Go to the [ATO website for more information](https://www.ato.gov.au/General/JobKeeper-Payment) about who is eligible at [www.ato.gov.au/General/JobKeeper-Payment](https://www.ato.gov.au/General/JobKeeper-Payment)

For more information about [JobKeeper stand downs and your workplace rights and obligations around coronavirus](https://coronavirus.fairwork.gov.au/coronavirus-and-australian-workplace-laws/contact-us/tools-and-resources-during-coronavirus) see [coronavirus.fairwork.gov.au](https://coronavirus.fairwork.gov.au)

#### **! IMPORTANT**

Make sure you're using the latest version of this template letter by **downloading the most up-to-date version** from [coronavirus.fairwork.gov.au/coronavirus-and-australian-workplace-laws/contact-us/tools-and-resources-during-coronavirus](https://coronavirus.fairwork.gov.au/coronavirus-and-australian-workplace-laws/contact-us/tools-and-resources-during-coronavirus)

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## Checklist: What qualifying employers must consider before standing down employees under the JobKeeper scheme

Qualifying employers can only give an employee a JobKeeper stand down direction in certain circumstances.

Use the below checklist to ensure you're meeting your obligations before issuing the direction.

### Step 1 – Confirm you can give a JobKeeper stand down direction

In order to stand down employees for the JobKeeper scheme you need to:

- qualify for and be enrolled in the JobKeeper scheme, **and**
- be entitled to JobKeeper payments for the employee to whom the direction applies (eligible employee), **and**
- be a national system employer in the Fair Work system.

Go to the [Australian Taxation Office website for more information](http://www.ato.gov.au/General/JobKeeper-Payment/) about who is eligible at [www.ato.gov.au/General/JobKeeper-Payment/](http://www.ato.gov.au/General/JobKeeper-Payment/)

Find out who is covered by the [Fair Work system](http://fairwork.gov.au/about-us/legislation/the-fair-work-system) at [fairwork.gov.au/about-us/legislation/the-fair-work-system](http://fairwork.gov.au/about-us/legislation/the-fair-work-system)

### Step 2 – Check you are giving a JobKeeper stand down direction for one of the following reasons only

- the employee can't be usefully employed for their normal days or hours because of changes to business attributable to the coronavirus pandemic, **or**
- the employee can't be usefully employed for their normal days or hours because of changes to business attributable to government initiatives to slow the transmission of the coronavirus (for example, because of an enforceable government direction).

For more information visit [JobKeeper wage subsidy scheme](http://coronavirus.fairwork.gov.au) at [coronavirus.fairwork.gov.au](http://coronavirus.fairwork.gov.au)

### Step 3 – Check what wages you will need to pay

#### When a JobKeeper stand down applies:

- ✓ Employee to be paid either an amount equal to the JobKeeper payment or their usual pay for any hours that the employee does work – whichever is more. The employee's hourly base pay rate can't be reduced.

#### When the JobKeeper stand down doesn't apply:

- **Time worked:** Employees under JobKeeper but who aren't subject to a JobKeeper stand down direction need to be paid their usual pay for the hours that they work, including any allowances and penalty rates, or receive an amount equal to the JobKeeper payment, whichever is more.
- **Leave and authorised absence:** Employees may be able to take some forms of paid leave. For information about when a JobKeeper stand down direction applies, what leave employees can take and how much should be paid, go to [Leave and the JobKeeper scheme](http://coronavirus.fairwork.gov.au/jobkeeper) at [coronavirus.fairwork.gov.au/jobkeeper](http://coronavirus.fairwork.gov.au/jobkeeper)

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**! IMPORTANT**

An employee's base pay rate can't be reduced for any hours that they do work. You need to pay their normal hourly rate for all time worked.

**☐ Step 4 – Check how leave is accrued and service is counted during this period**

Employees subject to a JobKeeper stand down direction still accrue their usual leave entitlements for the period the direction applies (as if the direction hadn't been given to them). Service is considered continuous for the purposes of redundancy and pay in lieu of notice (i.e. it counts as time worked).

**☐ Step 5 – Ensure the direction is implemented safely, including having regard to the nature and spread of coronavirus**

Learn more about [Health and safety in the workplace during coronavirus](https://www.fairwork.gov.au/coronavirus) at [coronavirus.fairwork.gov.au](https://www.fairwork.gov.au/coronavirus)

**☐ Step 6 – Ensure the direction is reasonable**

You are required to take into account all of the circumstances, including:

- the employee's caring responsibilities
- if the direction applies to a category of employees, making sure it doesn't have an unfair effect on some employees in that category compared to others.

If a direction is unreasonable, it does not apply to an employee.

**☐ Step 7 – Notify the affected employee in writing**

You must notify the employee **in writing** of your intention to give the direction **at least 3 days** before issuing the direction (unless the employee genuinely agrees to a shorter timeframe).

To notify the employee, use our **Qualifying employers – template letter to notify employees of a JobKeeper stand down direction**.

You can download this template on our [Tools and resources during coronavirus page](https://www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/contact-us/tools-and-resources-during-coronavirus) at [coronavirus.fairwork.gov.au/coronavirus-and-australian-workplace-laws/contact-us/tools-and-resources-during-coronavirus](https://www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/contact-us/tools-and-resources-during-coronavirus)

Provide the letter to the employee and keep a copy of the letter for your records.

**☐ Step 8 – Consult with the affected employee**

Before giving the direction, you must consult with the employee (or their representative) about the proposed direction.

If you have previously notified and consulted with the employee on a proposed direction, you will not need to notify or consult with the employee again if:

- in relation to the previous direction, you complied with the above outlined notification and consultation obligations, **and**
- in deciding to issue this direction, you considered any views expressed by the employee or their representative in the consultation which occurred before the earlier direction.

**Need help?**

- Complete our short course about having [difficult conversations in the workplace](https://www.fairwork.gov.au/learning) at [www.fairwork.gov.au/learning](https://www.fairwork.gov.au/learning)

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- Read our [Consultation and cooperation in the workplace best practice guide](#) at [www.fairwork.gov.au/how-we-will-help/templates-and-guides](http://www.fairwork.gov.au/how-we-will-help/templates-and-guides)
- Submit an enquiry online through [My account](#) at [www.fairwork.gov.au/register](http://www.fairwork.gov.au/register)
- Contact us on 13 13 94 (select the prompt for the coronavirus hotline).

#### □ Step 9 – Keep a written record of the consultation

You must keep a written record of the consultation

#### □ Step 10 – Use the template letter below to issue the direction to the employee

The direction must be made in writing to the employee. You can only give the direction in writing after you've:

1. given the employee notice in writing (e.g. by using this template letter)
2. consulted with the employee or their representative.

Once you have completed the steps above, you can give the JobKeeper stand down direction.

#### ! IMPORTANT

This template letter below has been colour coded to assist you to complete it accurately. You simply need to replace the **red < > writing** with what applies to your employee and situation.

Explanatory information is shown in *blue italics* to assist you and **should be deleted once you have finished the letter.**

Provide the letter to the employee and keep a copy of the letter for your records.

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# TEMPLATE LETTER: Qualifying employers – for issuing a JobKeeper stand down direction

<Print on your business letterhead>

<Date>

**Optional: Private and confidential**

<Insert employee's full name>

<Insert employee's residential address>

## JobKeeper stand down direction to reduce hours or days of work

Dear <insert first name>

I am writing to inform you that as of <date> I am directing you to <insert details of direction ie. 'not work any hours' or 'reduce your hours and days of work'> from <insert start date> to <insert end date> in regards to your employment as a <insert position/classification> with <insert the business/company name>.

*[Explanatory information – please delete once you have finished the letter]*

*Employers need to:*

- *notify the employee in writing **at least 3 days before issuing the stand down direction** (unless the employee genuinely agrees to a shorter timeframe). To do this you can use our Qualifying employers – template letter to notify employees of a JobKeeper stand down direction at [coronavirus.fairwork.gov.au/JobKeeper](https://coronavirus.fairwork.gov.au/JobKeeper),*
- ***consult with the employee** (or their representative) about the direction*
- ***keep a written record** of the consultation, and*
- ***make the direction in writing.***

***IMPORTANT:** JobKeeper directions remain in effect until they're cancelled, withdrawn or replaced, or until the current Fair Work Act JobKeeper provisions end (whichever comes first). Employees' terms and conditions will revert to what they were without the directions or agreements in place. Alternatively, they can be replaced by a new JobKeeper stand down direction given by you to the employee that meets the requirements.*

*[Option 1: Include if this JobKeeper stand down direction is the same as the proposed JobKeeper stand down direction you originally notified the employee about]*

On <insert date>, I discussed this direction with you <insert names of other parties involved in discussions if relevant ie. and your representative'>. We discussed <insert details of discussion>.

*[Option 2: Include if this JobKeeper stand down direction is a different JobKeeper stand down direction than the one you originally proposed to issue to the employee]*

On <insert date>, I discussed with you an earlier direction <insert names of other parties involved in discussions if relevant ie. and your representative'>. We discussed <insert details of discussion>.

On <insert date>, I issued an earlier written notification to you. This direction is different to that notification.

In reaching the decision to issue this direction, I considered your views as expressed in our earlier discussion.

*[Delete if not relevant ie. directed not to work any hours]* Your <hours/days> of work have been reduced as follows:

- <insert details of how the employee's hours and/or days of work have been reduced eg. 'from 38 hours a week to 32 hours a week'>

### **Why am I being stood down?**

<insert the business/company name> has qualified and enrolled in the JobKeeper scheme. <insert the business/company name> is now entitled to JobKeeper payments for you, as an employee. Under this scheme, I am able to temporarily stand down employees in certain circumstances.

You have been stood down because <insert reason for direction ie. 'you can't be usefully employed for your normal days or hours because of changes to our business attributable to the coronavirus pandemic' or 'you can't be usefully employed for your normal days or hours because of changes to our business attributable to government initiatives to slow the transmission of the coronavirus'>.

### **Will I be paid during the JobKeeper stand down period?**

*[Explanatory information – please delete once you have finished the letter]*

*When an employee is subject to a JobKeeper enabling stand down direction (to not work on certain days, to work for a lesser period, or to work for a reduced number of hours), the employer must pay them either an amount equal to the JobKeeper payment or their usual pay for any hours that the employee does work – whichever is more. The employee's hourly base pay rate can't be reduced.*

For the period of the stand down, you will be paid <insert payment of wages details ie. 'an amount equal to the JobKeeper payment or your usual pay for any hours that you work – whichever is more'>. Your hourly base pay rate will not be reduced during this period.

You will continue to accumulate leave as normal during this period.

*[Explanatory information – please delete once you have finished the letter]*

*If an employee is taking paid or unpaid leave that the employer has authorised (such as annual leave) or is otherwise entitled to be absent from work (such as on a public holiday), the direction doesn't apply. If the employee normally receives a leave payment that would be less than the JobKeeper payment for a fortnight, the employee is still entitled to an amount that is equal to the JobKeeper payment for the fortnight. Employees need to either be paid normally for a fortnight that includes these periods, or an amount equal to the JobKeeper payment – whichever is more.*

*For information about when a JobKeeper stand down direction applies and what leave employees can take, go to [Leave and the JobKeeper scheme](https://coronavirus.fairwork.gov.au/jobkeeper) at coronavirus.fairwork.gov.au/jobkeeper*

You may be able to take some forms of paid leave. While you are taking authorised paid or unpaid leave (such as annual leave) or are otherwise entitled to be absent from work (such as on a public holiday), this direction doesn't apply. During these periods, you will be paid as normal or will receive an amount equal to the JobKeeper payment for the relevant fortnight, whichever is more. For information about what leave employees can take, go to [Leave and the JobKeeper scheme](https://coronavirus.fairwork.gov.au/JobKeeper) at coronavirus.fairwork.gov.au/JobKeeper. If you would like to take paid leave, please contact me to discuss.

*[Explanatory information – please delete once you have finished the letter]*

*Employees who are subject to a JobKeeper enabling stand down direction can request to take on secondary employment, training or professional development. Employers must consider these requests and can't unreasonably refuse them.*

Please let me know if you would like to discuss taking on secondary employment, training or professional development during the stand down period.

## Where can I go for support?

Should you have any questions in relation to this letter, please contact me on **<insert contact details>**.

For up to date information about your workplace entitlements and obligations during coronavirus, including stand downs from work and the Fair Work Act JobKeeper provisions, visit the Fair Work Ombudsman [coronavirus website](https://www.fairwork.gov.au/coronavirus) at [coronavirus.fairwork.gov.au](https://www.fairwork.gov.au/coronavirus). This includes recent updates, and key links to other government bodies that may be able to support you during this time.

Thank you for your understanding during this difficult time.

*[Explanatory information – please delete once you have finished the letter]*

*We've included a couple of additional tips below to help you improve communication to your employees. You may wish to make the letter more personal by:*

- *Hand signing or adding a digital handwritten signature to the letter*
- *Sending the letter from a person that the employee recognises and is credible (rather than from an individual the employee may not know).*

Yours sincerely,

**<Insert name>**

**<Insert position>**