

SALARY CUTS AND COVID-19

My employer told me that they are going to cut my salary because they can no longer afford my ordinary pay. Can I say no?

Yes, you are entitled to say no to a reduction of your pay. Your pay is an essential part of your employment contract and cannot be varied unless both you and your employer agree. Your employer must discuss a salary cut with you and you cannot be forced to accept it.

It's a hard choice to make but you might accept a pay cut if the other option is losing your job entirely.

What are my rights if my employer proposes a salary cut?

It's a difficult time for businesses and employees but you have the right to consider a pay cut and any other options available to you.

Before accepting a pay cut, do the following:

- Check the minimum pay rate under your award or enterprise agreement. The reduced pay rate cannot be less than this rate;
- Make sure your employer is consulting as required by your award;
- Negotiate with your employer about whether your working hours are going to be reduced as well as your pay;
- Negotiate with your employer about whether there will be a reduction in your employer's expectations of your role. For example, will they be revising key performance indicators, targets or hours?
- Consider whether there are any flexible arrangements that you could enter into, For example: can your role be moved online? Can you work from home to perform your role in a different way?
- Contact us to make an appointment for legal advice.



Check out our templates below for wording you may wish to use with your employer or consult with ERLS or on (02) 8004 3270 for legal advice.

The information provided in this factsheet is for information only. It must not be relied on as legal advice. You should seek legal advice about your own situation.



PAY CUT TEMPLATE: REQUEST ACCESS TO PAID LEAVE (FLEXIBLE SOLUTION)

Use the below template if your employer is asking you to reduce your pay but you wish to dispute the proposal and offer other solutions to the issue.

[Date]

Dear [Manager/CEO's name],

On [date] you had a discussion with [staff/me] and you proposed a reduction of [my/our] salary. I have concerns about this and I do not agree with the current proposal.

In accordance with my [Award/Enterprise Agreement/employment contract], I would appreciate the opportunity to properly respond and consult with you about the proposed salary reduction.

I think the direction for me to reduce my work hours is unreasonable because [choose as relevant]:

1. I need to keep my hours as I need my current wage to [provide for my family/service my mortgage/pay my rent];
2. My role requires full time hours and has not been affected by COVID-19;

I think there are other areas of the business where my skills could usefully and productively contribute. Can we set a time to discuss this?

I understand the difficulties of the business during these times and I want to work together for a flexible solution.

If there really is a reduction in role and my skill cannot be usefully used in another area of the business, I have [X hours] of annual leave/long service leave. Could I use [X] days to take leave per week for [Y] weeks? [use <https://calculate.fairwork.gov.au/leave> and your last payslip to help you work out how much you have owed to you.]

My goal is to remain employed with [name of Company] and I look forward to us having a productive discussion on this issue. Please let me know a suitable time to discuss this further so that I may prepare [and have an opportunity to bring a support person/representative].

Sincerely,

[Name]

PAY CUT TEMPLATE: ROLE REDUCTION BUT PRESERVING ENTITLEMENTS

If you have already attempted to negotiate a flexible solution and it has not succeeded due to lack of leave or work in other areas of the business, use the below template to ensure you are preserving your entitlements at your current salary.

[Date]

Dear [Manager/CEO's name],

On [date] you had a discussion with [staff/me] about a possible reduction in salary.

I am prepared to accept a reduction in salary from [X amount to X amount] from [X date] on the basis that these changes are temporary due to the COVID-19 impacts on the business.

Please reply to this email to indicate your consent to me accepting this role reduction on the following conditions:

1. The [Company name] will review its operations [every month/bimonthly] to determine whether I can return to my full-time role;
2. There will be a reduction in the [Company's] expectations of my role/targets to reflect the reduction of my salary;
3. Return date to my current role, salary and entitlements [three/six] months from now;
4. My hourly rate does not change and my accrued but untaken leave is preserved at my full rate of pay before my role reduction;
5. Should I be made redundant, my redundancy pay will be calculated at full pay before my role reduction;
6. Should I be dismissed, any notice will be calculated at full pay before my role reduction; and
7. This temporary period will count as service at full pay.

I accept these as the only changes to my role. I am hoping to move forward in an open fashion to continue to discuss these issues and work on solutions together during this difficult time. It is my goal to remain employed with [X company].

Regards,

[Name]