

## **Part 3-5—Stand down**

### **Division 1—Introduction**

#### **522 Guide to this Part**

This Part provides for a national system employer to stand down a national system employee without pay in certain circumstances.

Division 2 sets out the circumstances in which an employer may stand down an employee without pay.

Division 3 provides for the FWC to deal with disputes about the operation of this Part.

#### **523 Meanings of *employee* and *employer***

In this Part, *employee* means a national system employee, and *employer* means a national system employer.

### **Division 2—Circumstances allowing stand down**

#### **524 Employer may stand down employees in certain circumstances**

- (1) An employer may, under this subsection, stand down an employee during a period in which the employee cannot usefully be employed because of one of the following circumstances:
  - (a) industrial action (other than industrial action organised or engaged in by the employer);
  - (b) a breakdown of machinery or equipment, if the employer cannot reasonably be held responsible for the breakdown;
  - (c) a stoppage of work for any cause for which the employer cannot reasonably be held responsible.
- (2) However, an employer may not stand down an employee under subsection (1) during a period in which the employee cannot usefully be employed because of a circumstance referred to in that subsection if:
  - (a) an enterprise agreement, or a contract of employment, applies to the employer and the employee; and
  - (b) the agreement or contract provides for the employer to stand down the employee during that period if the employee cannot usefully be employed during that period because of that circumstance.

Note 1: If an employer may not stand down an employee under subsection (1), the employer may be able to stand down the employee in accordance with the enterprise agreement or the contract of employment.

Note 2: An enterprise agreement or a contract of employment may also include terms that impose additional requirements that an employer must meet before standing down an employee (for example requirements relating to consultation or notice).

- (3) If an employer stands down an employee during a period under subsection (1), the employer is not required to make payments to the employee for that period.

	<p><b>525 Employee not stood down during a period of authorised leave or absence</b></p> <p>An employee is not taken to be stood down under subsection 524(1) during a period when the employee:</p> <ul style="list-style-type: none"><li>(a) is taking paid or unpaid leave that is authorised by the employer; or</li><li>(b) is otherwise authorised to be absent from his or her employment.</li></ul> <p>Note: An employee may take paid or unpaid leave (for example, annual leave) during all or part of a period during which the employee would otherwise be stood down under subsection 524(1).</p>
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