

# ACTUS WORKPLACE LAWYERS

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## **Chaos looming for Christmas shutdowns this year**

A recent Fair Work Commission [decision](#) about the shutdown provisions in numerous awards could lead to chaos this Christmas for employers who shutdown their operations.

A Full Bench of the FWC has expressed the view that award shutdown provisions which give an employer the right to require an employee to take leave without pay if the employee does not have sufficient annual leave accrued, are not consistent with the Fair Work Act.

The Full Bench has also expressed the view that shutdown provisions which enable an employer to direct the taking of annual leave merely on the notification of a shutdown period, without any other considerations, are not consistent with the Fair Work Act. Subsection 93(3) of the Act states that awards and enterprise agreements can only include terms requiring an employee to take leave 'if the requirement is reasonable'.

In conjunction with its decision, the Full Bench has issued draft determinations to vary the shutdown provisions in 78 awards. Final determinations will shortly be issued varying the awards.

Actus Workplace Lawyers is available to assist employers with practical advice on implementing shutdowns. We are also able to draft employment contract provisions to reduce the problems caused by the FWC's decision.

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