



SUPPORT TOOLKIT FOR CLOSE OF OFFICE

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Context

This document is a resource to support you in these difficult times. We understand that closing your business permanently is a difficult decision and not one taken lightly. This document is a starting point to help you communicate with those who need to be communicated with, think about the legal and compliance steps you need to take, and the start of a tick-list to help operationally.

Your most powerful advantage at this time is consistent communication. While it may be difficult to share your circumstances, by being upfront about this you can actually reinforce your reputation and position yourself to come back even stronger when the time comes in whatever form that might be.

You should seek your own legal and financial advice as each individual's circumstances will differ however we hope this will help you map what you need to do, and when, for the best possible outcome.

Most importantly, you need to look after your own mental and physical health. AFTA wants you to know that we are here for you. These are tough times. You are not alone. If you need help because you're feeling sad, overwhelmed or just need to talk to someone, please take advantage of any of these wonderful support networks <http://www.afta.com.au/afta/covid-19-updates/crisis-support>

There are also a range of resources available through the Federal Government <https://www.business.gov.au/Closing/Selling-or-closing-your-business/How-to-close-your-business> including this webcast <https://www.ato.gov.au/Business/Changing,-selling-or-closing-your-business/In-detail/Selling-or-closing-a-small-business-webcast/>

The steps that you take will depend on whether you are trading solvently or likely to be insolvent. You need to get legal and financial advice on this before making any decisions – you may be able to wind-up the business or you may have to go down the path of voluntary administration or liquidation. Each of these steps have different frameworks for what you can and can't do.

This document addresses **the closure of a solvent business** (NB you still need to get legal and financial advice to ensure that you are in the best possible position and making the right decisions for your situation).

If you are seeking to speak with an administrator, a suggested contact is below:

Ian Niccol

Aston Chase Group

Email: iniccol@astoncg.com.au

PH: 02 8999 9375



Setting a close date

If you can set a close date, it does make it much easier to communicate with the people and businesses that you need to.

Who are the Audiences you need to communicate with?

We recommend the following order of engaging with your key audiences:

- Group head offices and/or other affiliations
- AFTA
- Employees
- Suppliers
- Customers
- Landlord
- Media
- ASIC (if company)

Head Office / Affiliated Group

You need to ensure that you have contacted your head office, if applicable. You may need to hand over your bookings to them, or another designated agent. This will then need to be communicated to your customers as to who will be managing any future booking.

AFTA

By advising AFTA of your situation and how bookings will be managed, AFTA can assist with consumer enquiries should they be received. Talk to us sooner rather than later. There may be additional support measures you can access.

Suppliers

You need to ensure all outstanding payments are made and that any recurring payments are cancelled. A draft supplier comms template is attached for you to use and tailor to your business.

Customers

It is important to ensure that all of your customers have been advised of the changes to the business and how their bookings will be managed moving forward. By ensuring that you correctly advise customers, this will ensure that complaints are not received by Fair Trading or Consumer Affairs bodies in your State against you from concerned consumers.

If bookings are to be taken over by another agency, ensure that the contact details are clearly provided and that the booking has been handed over in its entirety.



ASIC

If your business is a company registered with ASIC you will need to lodge the appropriate paperwork with them. To find out more information about closing your business see the following link:

<https://asic.gov.au/for-business/small-business/closing-a-small-business/>

To view their short video on voluntary deregistration go to:

https://www.youtube.com/watch?time_continue=35&v=38gCc3TaiFA&feature=emb_logo

Employees

Your obligations as an employer

Redundancy may happen when an employer either becomes insolvent or closes down.

Making people redundant¹

As your business is closing, you will be required to make your employees redundant. If you employ 15 or more employees (this doesn't include irregular casuals), you are obliged to meet the following redundancy schedule:

Period of Continuous Service	Redundancy Pay
At least 1 year but less than 2 years	4 weeks
At least 2 years but less than 3 years	6 weeks
At least 3 years but less than 4 years	7 weeks
At least 4 years but less than 5 years	8 weeks
At least 5 years but less than 6 years	10 weeks
At least 6 years but less than 7 years	11 weeks
At least 7 years but less than 8 years	13 weeks
At least 8 years but less than 9 years	14 weeks
At least 9 years but less than 10 years	16 weeks
10 years and more	12 weeks

If your business employs fewer than 15 employees (not including irregular casuals, you don't have to pay redundancy).

Note – if an Enterprise Agreement or Award applies, the consultation obligations contained in them, will need to be met. You need to make sure you understand what these are. Typically, it requires you to discuss the proposed change with the employee including via the issue of a letter or email and then also looking at what else might mitigate the impact of change for the employee.

¹ <https://www.fairwork.gov.au/how-we-will-help/templates-and-guides/fact-sheets/minimum-workplace-entitlements/notice-of-termination-and-redundancy-pay>



Entitlements on termination

As you will need to terminate all staff employment, you will have to pay out any accrued but untaken annual leave as well as any long service leave. You may also need to make a payment in lieu of notice if there's no work for the employee and are therefore unable to serve out any notice period – this will depend on their contract or the Fair Work Act, whichever is higher.

Resources are available on the FairWork site:

<https://calculate.fairwork.gov.au/EndingEmployment>

<https://www.fairwork.gov.au/ending-employment>

Reducing redundancy pay

An employer can apply to the Fair Work Commission to have the amount of redundancy they have to pay reduced if:

- the employer finds other acceptable employment for the employee, or
- the employer can't afford the full redundancy amount.

For more information, check the application to vary redundancy pay form on the Fair Work Commission website: <https://www.fwc.gov.au/resources/forms>

Shutdown checklist

- Advise Head Office/Affiliation (as appropriate).
- Make sure you understand what you will need to pay out including any employee redundancies. If you are unsure get independent legal and financial advice.
- Advise AFTA.
- Advise employees.
- Advise suppliers.
- Advise Landlord.
 - Depending on your lease conditions, you may still need to pay rent and other costs up to the end of the lease term. If you're unsure, you should seek independent legal advice*
- Advise customers.
- Update your website with advice "Unfortunately, due to the impact of the coronavirus, we have taken the difficult decision to close the business. Our last trading day will be DATE. If you have a forward booking with us or are waiting on a refund or confirmation of a credit, we will be in touch – and please know that we will make sure you are looked after. Thank you for your support."
- Update your email signature with a similar message (as appropriate).
- Identify any business assets you may be able to sell e.g. business vehicles, furniture, lap tops, equipment.
- Pay any outstanding bills.
- Settle your legal and tax responsibilities:
 - Do Capital Gains Tax or Goods and Services Tax apply?
 - Do you need to make any GST adjustments on your final activity statement?
 - Lodge your final tax returns
 - Cancel other tax registrations **within 21 days**:
 - GST
 - Luxury Car Tax (if applicable)
 - PAYG withholding
 - Fuel tax credits (if applicable)
- Cancel your Australian Business Number (ABN) via the Australian Business Register
More information is available <https://www.ato.gov.au/Business/Changing,-selling-or-closing-your-business/In-detail/Things-to-consider/>
- The ATO webcast on closing a small business outlines your obligations across various government agencies <https://www.ato.gov.au/Business/Changing,-selling-or-closing-your-business/In-detail/Selling-or-closing-a-small-business-webcast/>
- Lodge appropriate documentation with ASIC. More information available here: <https://asic.gov.au/for-business/small-business/closing-a-small-business/>

- You will need to keep your business records including financial records, customer records and employee records.
 - Generally, you need to keep records for a minimum of 5 years.
 - Here's the link to the ATO's record evaluation tool <https://www.ato.gov.au/Calculators-and-tools/Record-keeping-evaluation/>

- You may also need to:
 - Disconnect phones, internet, power, water, and any other services
 - Redirect your mail
 - Close any business bank accounts
 - Cancel your web hosting and domain name (export your emails beforehand so you have a copy and make sure you have a back-up of all key documents and information)
 - Shutdown any social media channels
 - Check whether your state or territory has any other requirements that you need to meet

- Last but not least, look after yourself. This can be a very challenging time so please remember you are not alone and that assistance is available.
 - In addition to Jobseeker <https://www.servicesaustralia.gov.au/individuals/services/centrelink/jobseeker-payment/how-claim> the following assistance may be of help
 - <https://moneysmart.gov.au/> to help with financial matters
 - <https://www.servicesaustralia.gov.au/> for employment and financial assistance
 - And if you're looking for a job <https://jobsearch.gov.au/>

- AFTA is here for you and we are continually updating our website with resources and tools to help <http://www.afta.com.au/afta/covid-19-updates>

- Any other considerations specific to your business.

Their name

Address

Private and Confidential – Business Closure

Unfortunately, due to the impact of the coronavirus, we have taken the difficult decision to close the business. This has been an incredibly difficult decision especially given the impact on you and the team. Please know that I have explored every option but now find myself in the position where this is the only choice I have.

On legal and financial advice, I have taken the decision to close the business. Importantly, all your entitlements will be met. You have been a valued part of this team and I will do everything I can to help you move into your next role.

A separate notification will be provided to you regarding your individual entitlements.

Government support

The Federal Government has announced a number of support mechanisms for individuals who are in your situation. More information is available here

<https://www.servicesaustralia.gov.au/individuals/services/centrelink/jobseeker-payment/how-claim>

We have a process in place to let customers, suppliers and other relevant people know of our closure and our disappointment in finding ourselves here. Unfortunately, we are not alone in having to make this heartbreaking decision.

I am very grateful of your contribution during your time working for me. I wish you every success and I will provide any support I can to assist you moving forward.

Yours sincerely

NAME

Redundancy letter to employees – source: Fairwork

<Print on your business letterhead>

<Date>

Private and confidential

<Insert employee's full name>

<Insert employee's residential address>

Dear <insert name>

Termination of your employment by reason of redundancy

The purpose of this letter is to confirm the outcome of a recent review by <insert company/partnership/sole trader name and the trading name of business> (the employer) of its operational requirements, and what this means for you.

As a result of <insert change in operational requirements of the employer, for example, closing a certain store, economic downturn, introduction of new technology requiring less staff>, the position of <insert position title> is no longer needed. Regrettably this means your employment will terminate. This decision is not a reflection on your performance.

The employer has made the following attempts to find you an alternative position within the enterprise and any associated entities <insert redeployment details of attempts>.

The next part of the letter provides four options relating to notice of termination and redundancy payments. Choose the option that is correct in your situation and delete the other three options.

If you need assistance, contact the Fair Work Infoline on 13 13 94 or seek legal advice or help from your employer association.

Check the National Employment Standards and your relevant industrial instrument (e.g. award or registered agreement) for how much notice you need to provide the employee. If there is an applicable industrial instrument or contractual arrangement (e.g. contract of employment, workplace policy) that provides different notice amounts than the National Employment Standards, you need to provide whichever is more generous to the employee.

To find out if you are required to pay redundancy pay, check the National Employment Standards and your relevant industrial instrument (e.g. award or enterprise agreement). If there is an applicable industrial instrument or contractual arrangement (e.g. contract of employment, workplace policy) that provides different redundancy pay amounts than the National Employment Standards, you need to provide whichever is more generous to the employee.

If you are a small business it is very important that you ensure you have complied with the Small Business Fair Dismissal Code before you terminate an employee's employment. Visit www.fairwork.gov.au for a copy of the Small Business Fair Dismissal Code.

It is also very important that a job is not made redundant for discriminatory reasons or reasons that include discriminatory reasons.

Option A: *Use this option if you are required to pay redundancy and the employee will work the notice period.*

Based on your length of service, your notice period is <insert number> weeks. Therefore your employment will end on <insert future date to cover all of the weeks you need to give notice>.

Due to your employment ending because of redundancy, you will be paid redundancy pay of \$<insert amount> in accordance with <insert full name of the source of the entitlement (e.g. award, enterprise agreement,

National Employment Standards, contract of employment)>. This amount represents <insert number of weeks of redundancy pay> weeks' pay which is based on your <insert number of years of employment> years of service.

Option B: Use this option if you are required to pay redundancy and the employee will be paid in lieu of the notice period.

Your employment will end immediately. Based on your length of service, your notice period is <insert number> weeks. Instead of receiving that notice, you will be paid the sum of \$<insert amount>, plus the redundancy entitlement set out below.

Due to your employment ending because of redundancy, you will also be paid redundancy pay of \$<insert amount> in accordance with <insert full name of the source of the entitlement (e.g. award, enterprise agreement, National Employment Standards, contract of employment)>. This amount represents <insert number of weeks of redundancy pay> weeks' pay which is based on your <insert number of years of employment> years of service.

Option C: Use this option if you are not required to pay redundancy and the employee will work the notice period.

Based on your length of service, your notice period is <insert number> weeks. Therefore your employment will end on <insert future date to cover all of the weeks you need to give notice>.

Option D: Use this option if you are not required to pay redundancy and the employee will be paid in lieu of the notice period.

Your employment will end immediately. Based on your length of service, your notice period is <insert number> weeks. In lieu of receiving that notice, you will be paid the sum of \$<insert amount>.

The next part of the letter applies to all employees.

You will also be paid your accrued entitlements and any outstanding pay up to and including your last day of employment. This includes the balance of any time off instead of overtime paid accrued but not yet taken (paid at the overtime rate applicable when the overtime was worked), and superannuation.

If you have been paid annual leave in advance, any amount of annual leave still owing will be deducted from your final pay.

You may seek information about minimum terms and conditions of employment from the Fair Work Ombudsman. If you wish to contact them you can call 13 13 94 or visit their website at www.fairwork.gov.au.

Redundancy and leave payments will usually give rise to waiting periods for Centrelink payments. You should contact Centrelink to find out how long you have to wait to receive any applicable benefits. The best way to do this is to lodge a claim for payment.

We thank you for your valuable contribution during your employment with us. Please contact me if you wish to obtain a reference in the future.

Yours sincerely,

<Insert name>

<Insert position>

Letter to your suppliers

Your details
Address
Date

Their name
Address

Private and Confidential – Business Closure

Unfortunately, due to the impact of the coronavirus, we have taken the difficult decision to close the business.

We will cease trading at **DATE**.

I have attached details of

- Outstanding invoices to be paid
- Transactions to be completed
- Details of agent that future bookings will be handed over to
- Other

We would greatly appreciate your support in ensuring these matters are finalised by **DATE**.

We have a comprehensive plan in place to make sure those travellers with future travel bookings have the relevant contact details should they need further information. We are, of course, doing everything we can to minimise the impact of our decision on them.

Thank you for your help over the years in allowing us to bring the travel dreams of our customers to life. We are truly grateful for your support especially now.

Yours sincerely

NAME

Letter to your Landlord re closure

Your details
Address
Date

Landlord's name
Address
via email

Closure of our business

Dear NAME,

Unfortunately, due to the impact of the coronavirus, we have taken the difficult decision to close the business.

Under the lease agreement I am required to provide X weeks/months notice. Please take this letter as notice of termination of our lease. We will be vacating the premises on DATE and will ensure any outstanding monies is paid by that time.

Thank you for your support,

Yours sincerely

NAME

Response to local media if contacted

Unfortunately, as a result of the devastating impact of the COVID-19 pandemic including the related travel bans and restrictions, we have made the extremely difficult decision to shut our business.

This business has been our heart and soul for **X years**. The decision to close our doors permanently has not been an easy one, especially given the impact on our team and our many, much loved customers. Our last day of trading will be **DATE**. We are currently in the process of communicating with our customers and putting in place the support they need to travel when the time eventually rolls around.

We want to thank all our valued customers, our team members and our suppliers for their support.