**JobKeeper Annual Leave Request**

An employer that qualifies for the JobKeeper scheme may under the *Fair Work Act 2009* request an employee take annual leave:

Under s789GJ where the employer is entitled to a JobKeeper payments for employees, the employer can request an employee take annual leave provided the balance of annual leave remaining is no fewer than 2 weeks.

The employee has an obligation to consider the request and must not **unreasonably** refuse the request. Where there are disputes about this the Fair Work Commission can conciliate or arbitrate the matters. Records of the employee agreeing to the request should be retained in the employee file.

There is also the ability for the employer and employee to agree in writing that the employee take twice as much paid annual leave at half the employee’s rate of pay for the period of time agreed. Please note that you must still pay the employee the total $1500 JobKeeper payment even though the leave payment may be less than this amount.

EXAMPLE: Instead of an employee taking one week’s annual leave on full pay, the employee and their employer may agree to the employee taking 2 weeks’ annual leave on half pay. In this example:

* the employee’s pay for the 2 weeks’ leave is the same as the pay the employee would have been entitled to for one week’s leave on full pay (where one week’s full pay includes leave loading under the Annual Leave clause of this award); and
* one week of leave is deducted from the employee’s annual leave accrual.
* Employee is paid $1500 for the fortnight, even if the leave payments is lesser than this amount.

The ER Strategies Newsletter dated 11 April provides background to the JobKeeper legislative changes - [click here](https://erstrategies.com.au/jobkeeperlegislationandthefwa/)

Attached is a template designed to assist clients to issue requests to take annual leave under the JobKeeper legislation. It is meant to be a guide only and ER Strategies does not warrant that this template will be appropriate in all situations nor should it be seen as legal advice.

Clients can contact ER Strategies for employment advice on how to use this document and to assist with the tailoring of the document for your needs. However, ER Strategies does not accept liability for any loss or damage sustained by a person by the use of this template.

As always, clients of ER Strategies can [contact us](https://erstrategies.com.au/contact/) on **1300 55 66 37** during business hours to discuss their specific issues.

[Insert date]

**Private and confidential**

[Insert Name]

[Insert residential address]

[Town/City] [State] [Postcode]

Dear [insert name],

**JobKeeper Annual Leave request**

As discussed at the staff meeting held (insert date), (insert company name) has qualified under the JobKeeper legislation to be able to issue to employees’ requests to take annual leave.

The company formally requests that you take leave from (insert date) to (insert date).

Under s789GJ you have an obligation to consider the request and **must not** unreasonably refuse the request.

There is also a requirement that at least 2 weeks of annual leave remain to your credit after the period of annual leave requested by the company.

The company is happy to discuss with you any concerns or questions you may have and there are options under the legislation for annual leave to be taken at half pay by agreement, so please contact me (insert contact details) with any concerns or issues.

Yours sincerely,

[insert your name]

[insert your position]

[insert your company]