

TEMPORARY LAY OFF & SHORT TIME WORKING

During Corona Virus Outbreak



Your employer might be able to ask you to stay at home or take unpaid leave if there's not enough work for you. A lay-off is if you're off work for at least 1 working day. Short-time working is when your hours are cut.

Can my employer “lay me off” / put me on short-time?

This is determined by your existing contract of employment. Check your contract to see if there is a provision in it allowing your employer to do this – and, if so, if it is with or without pay. Lay offs and short-time working can also be facilitated by collective agreement as an alternative / attempt to prevent permanent job loss through redundancy.

If your contract does not provide for this, and there is no collective agreement your employer needs to get your agreement to do this. Many employers will be looking to do this at the moment to protect jobs in the longer term. You will need to think through the immediate impact of loss of wages in the balance with the attempt to protect jobs longer term.

What if there isn't a provision allowing them to lay me off or put me on short-time and I don't agree to it?

If your contract does not have a clause allowing your employer to lay you off or put you on short-time you might, potentially, have an unlawful deduction from wages claim. You need to be aware that if you do have such a claim this is heard at the Employment Tribunal and will not be a quick process especially in the current situation. You will need to take specific advice from your Unite Regional Officer as there is a very specific process you must follow with very tightly defined time limits for lodging your claim (3 months less one day from the date of the deduction).

How long can I be laid off / put on short time?

There is no limit to how long you can be laid off or put on short time working. You could apply for redundancy and claim redundancy pay if it's been:

- 4 weeks in a row
 - 6 weeks in a 13 week period
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- Write to your employer to claim redundancy within 4 weeks of the last day of the lay-off or short-time period.
 - Your employer has 7 days to accept your claim or give you a written counter-notice.
 - If your employer does not give you counter-notice, you can assume they've accepted your redundancy claim.
 - A counter-notice means your employer expects work will soon be available - it must start within 4 weeks and must last at least 13 weeks.
 - Your employer can withdraw their counter-notice in writing.

You must resign to get redundancy pay. **The timing is crucial - you have 3 weeks** to hand in your notice, starting from:

- 7 days after you gave written notice to your employer (if you did not get a counter-notice)
- the date your employer withdrew their counter-notice

What money can I get?

You should get your full pay unless your contract allows unpaid or reduced pay lay-offs. Please see above for where the contract does not allow for non-payment but your employer enforces this. If you are not paid you can claim:

Guarantee pay

You're entitled to guarantee pay during lay off or short-time working. ***The maximum you can get (as at 18 March 2020) is £29 a day for 5 days in any 3-month period - so a maximum of £145.***

If you usually earn less than £29 a day you'll get your normal daily rate. If you work part-time, your entitlement is worked out proportionally.

You must:

- have been employed continuously for 1 month (includes part-time workers)
- reasonably make sure you're available for work
- not refuse any reasonable alternative work (including work not in your contract)
- not have been laid off because of industrial action
- you must not have worked any part of a day on which you are claiming for
- If your employer pays then the level set must not be below the statutory level. You will not be able to claim the statutory payment on top of your employers pay.

Benefits you can claim

You might be able to get Universal Credit or new style Jobseeker's Allowance whilst laid off or on short time. The Government is making frequent announcements on help for workers in the current situation. For the most up to date information please contact your Job Centre.

Can I take on other work to help make ends meet?

You can take on another job while you're laid off or on short-time (unless your contract says you must not). You should:

- get your employer's agreement
- make sure you're not working for a competitor
- make sure you're available for your original job once the lay-off or short-time ends
- Declare any earnings to the Job Centre if you are claiming any benefits including those related to the short-time working / lay off.