

# XA Requests for flexible working arrangements

## XA. Requests for flexible working arrangements

### XA.1 Employee may request change in working arrangements

Clause XA applies where an employee has made a request for a change in working arrangements under s.65 of the Act.

**Note 1:**

Section 65 of the Act provides for certain employees to request a change in their working arrangements because of their circumstances, as set out in s.65(1A).

**Note 2:**

An employer may only refuse a s.65 request for a change in working arrangements on 'reasonable business grounds' (see s.65(5) and (5A)).

**Note 3:**

Clause XA is an addition to s.65.

### XA.2 Responding to the request

Before responding to a request made under s.65, the employer must discuss the request with the employee and genuinely try to reach agreement on a change in working arrangements that will reasonably accommodate the employee's circumstances having regard to:

- a) the needs of the employee arising from their circumstances;
- b) the consequences for the employee if changes in working arrangements are not made; and
- c) any reasonable business grounds for refusing the request.

**Note 1:**

The employer must give the employee a written response to an employee's s.65 request within 21 days, stating whether the employer grants or refuses the request (s.65(4)).

**Note 2:**

If the employer refuses the request, the written response must include details of the reasons for the refusal (s.65(6)).

### XA.3 What the written response must include if the employer refuses the request

Clause XA.3 applies if the employer refuses the request and has not reached an agreement with the employee under clause XA.2.

- a) The written response under s.65(4) must include details of the reasons for the refusal, including the business ground or grounds for the refusal and how the ground or grounds apply.

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- b) If the employer and employee could not agree on a change in working arrangements under clause XA.2, the written response under s.65(4) must:
  - i) state whether or not there are any changes in working arrangements that the employer can offer the employee so as to better accommodate the employee's circumstances; and
  - ii) if the employer can offer the employee such changes in working arrangements, set out those changes in working arrangements.

## XA.4 What the written response must include if a different change in working arrangements is agreed

If the employer and the employee reached an agreement under clause XA.2 on a change in working arrangements that differs from that initially requested by the employee, the employer must provide the employee with a written response to their request setting out the agreed change(s) in working arrangements.

## XA.5 Dispute resolution

Disputes about whether the employer has discussed the request with the employee and responded to the request in the way required by clause XA, can be dealt with under clause Y—Dispute Resolution.

For further information contact:



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