

## EMPLOYER'S GUIDE TO CORONAVIRUS (COVID-19)

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The COVID-19 situation is rapidly evolving. It is prudent for employers to be prepared for how the outbreak may impact their workplace and start implementing their contingency plans. This guide will provide a high-level overview of some of the fundamental rights and obligations of employers which may need to be exercised as a result of COVID-19.

### HEALTH AND SAFETY

Workplace health and safety laws require employers to ensure (as far as reasonably practicable) the health and safety of their workers and others in the workplace. Workers also have responsibilities under those laws. COVID-19 poses a risk to people's health and safety. In order to prevent people from contracting the virus at work, employers will need to consider and implement appropriate health and safety procedures.

#### Hygiene

The Department of Health advises that the virus is most likely spread from person to person through:

- direct close contact with a person while they are infectious
- close contact with a person with a confirmed infection who coughs or sneezes, or
- touching objects or surfaces (such as door handles or tables) contaminated from a cough or sneeze from a person with a confirmed infection, and then touching your mouth or face.

Employers should encourage appropriate hygiene at work as a defence against the virus including:

1. **Hand hygiene** – employers should ensure there are facilities available for workers to wash their hands. Employers should direct workers to regularly and thoroughly wash their hands, especially before and after eating, when going to the toilet and after touching objects and surfaces which could be contaminated. An adequate supply of soap, water and alcohol-based hand sanitiser should be maintained. Also, hygiene stations for everyone at the workplace (including customers).
2. **Covering coughs and sneezes** – employers should ensure there are tissues available in the workplace and waste bins for disposal. Employers should also encourage the use of hand sanitiser.
3. **Avoiding contact with others/social distancing** – employers should direct workers to avoid physical contact (such as shaking hands) and keep a safe distance (the Department of Health recommends more than 1.5 metres).
4. **Avoiding touching mouth or face** – workers should be reminded to avoid touching their mouth or face, especially after touching frequently touched areas.
5. **Cleaning workplace** – employers should ensure regular, scheduled cleaning of the workplace, especially frequently touched areas.

In addition to managing hygiene, employers should do what they can to reduce stress and minimise psychological harm to workers. This is a stressful and uncertain time for all. Employers should consider how they can offer support (e.g. communicating regularly and clearly with workers on relevant and

accurate information and referring workers to appropriate mental health and wellbeing support channels and assistance programs). For more information on steps to minimise workplace stress, employers should contact Employer Assist or visit the [Safe Work Australia website](#).

### **Self-Isolation/Quarantine**

Employers should direct their employees to notify them immediately if they have recently travelled overseas or if they are developing or have had any flu like symptoms (fever, cough, sore throat, tiredness or shortness of breath). If so, the employee should be directed to urgently see a doctor for assessment and self-isolate.

Anyone returning to Australia from overseas must self-isolate at home for 14 days and closely monitor for symptoms of COVID-19.

Anyone who has been in close contact with a confirmed case of COVID-19 should also self-isolate for 14 days from the last date of contact. Close contact means:

- greater than 15 minutes face-to-face contact in any setting with a confirmed case in the period extending from 24 hours before onset of symptoms in the confirmed case; or
- sharing of a closed space with a confirmed case for a prolonged period (e.g. more than 2 hours) in the period extending from 24 hours before onset of symptoms in the confirmed case.

Border restrictions have also been imposed in some States and Territories. Currently, certain people who arrive in Tasmania (midnight 20 March), the Northern Territory (4:00pm 24 March), Western Australia (1:30pm 24 March), South Australia (4:00pm 24 March) or Queensland (12.01am 26 March) will be required to self-isolate for 14 days. Refer to relevant State/Territory government websites for details on exemptions e.g. essential travel/services, border communities etc.

For updates on the above information, employers should visit the [Department of Health website](#).

### **Alternate work arrangements i.e. working from home**

If any of the above circumstances apply to an employee or an employee requests to work from home as a precaution against being exposed to the virus, the employer may permit the employee to work from home (if possible and when appropriate systems are in place\*) for a period (e.g. the self-isolation period). In such circumstances, the employee would be paid as usual.

*\*Safe systems may include ensuring that they are working on equipment that is safe for use, ergonomic considerations are met, hours of work monitored (not working excessive hours) and that your workers compensation insurance covers workers working from home.*

## **LEAVE ENTITLEMENTS**

### **What leave applies if an employee is diagnosed with COVID-19 or they are caring for an immediate family or household member?**

Permanent employees will be eligible for personal (sick)/carer's leave. If they have exhausted their paid entitlement, they may apply to take other paid leave (e.g. annual leave or long service leave) or unpaid leave.

Casual employees are eligible for two days unpaid carer's leave on each occasion of needing to take such leave. However, if they come in close contact with a confirmed case, they will need to self-isolate (see above).

Periods of paid or unpaid personal/carers' leave should be covered by a medical certificate. For example, if an employee is caring for an immediate family member (or member of the employee's household) that is diagnosed with COVID-19 can be directed to provide a medical certificate from their doctor stating that their immediate family or household member requires care. In any case, if an immediate family or household member is diagnosed with COVID-19 the employee will likely have

been exposed to the virus and as such be required to self-isolate. Employers may direct the employee to provide a medical clearance before returning to work.

If an employee has to provide care or support to an immediate family or household member due to an unexpected emergency (e.g. parent needs to leave work as school has closed on short notice because someone at the school has tested positive for COVID-19), they may be eligible to take carer's leave.

**What leave applies if an employee does not have COVID-19 but needs to self-isolate or wants to stay home as a precaution?**

Such employees may apply to take a period of paid leave (e.g. annual leave or long service leave) or unpaid leave. Alternatively, they may request to work from home if possible (see above).

**What leave applies if the employer wants the employee to stay at home (as a precaution)?**

If the employer directs their employees to work from home or stay home, generally, permanent employees will be entitled to be paid their normal pay while stood down. For this reason, an agreement with the employee to take leave or work from home may be the best option, subject to circumstances.

Employers should also consider their other legal obligations (e.g. anti-discrimination). If an employee does not need to self-isolate, the employer must not direct the employee to stay home for discriminatory reasons.

If an employee needs to self-isolate (see above), the employer may direct the employee to obtain a medical certificate from a doctor and not work (i.e. take paid or unpaid leave) or work from home (if possible) during the risk period. Employers can find up to date information on self-isolation requirements via the [Department of Health website](#).

**Overview**

Annual Leave (NES)	Personal / Carer's Leave (NES)	Long Service Leave
<p>Permanent employees:</p> <ul style="list-style-type: none"> <li>Entitlement: 4 weeks for each year of service or 5 weeks for shiftworkers (see Award /Agreement definition).</li> <li>Taken by agreement (e.g. if employee is self-isolating but is not sick or is not working from home).</li> <li>If an agreement cannot be reached, directions to take annual leave must comply with the Fair Work Act and/or Awards.</li> <li>Accumulates and is paid out on termination (inc. leave loading where applicable)</li> </ul>	<p>Permanent employees:</p> <ul style="list-style-type: none"> <li>Entitlement: 10 days' paid for each year of service - accumulates but is not paid out on termination.</li> <li>Taken when: <ul style="list-style-type: none"> <li>Sick Leave - not fit to work (i.e illness such as COVID-19 or injury).</li> <li>Carer's Leave - providing care or support to an immediate family or household member because of an illness, injury or unexpected emergency.</li> </ul> </li> </ul> <p>Casual employees:</p> <ul style="list-style-type: none"> <li>Entitlement: 2 days of unpaid carer's leave per occasion.</li> </ul> <p>Immediate Family means a spouse, de facto partner, child, parent, grandparent, grandchild or sibling of the employee; or a child, parent, grandparent, grandchild or sibling of a spouse or de-facto partner of the employee.</p>	<p>Long Service Leave entitlements vary by State/Territory.</p> <p><a href="#">Qld</a>  <a href="#">NSW</a>  <a href="#">VIC</a>  <a href="#">SA</a>  <a href="#">NT</a>  <a href="#">ACT</a>  <a href="#">WA</a>  <a href="#">Tas</a></p> <p>Alternatively, contact Employer Assist for LSL guides.</p>

## TEMPORARY CLOSURE – STAND DOWN

The *Fair Work Act 2009* (Cth) (**Act**) includes provisions which enables employers to stand down employees without pay in **limited circumstances** such as an equipment breakdown, industrial action or stoppage of work for which the employer can't be held responsible. Some enterprise agreements and contracts may have different or additional stand down provisions.

Most relevantly, an employee may be stood down without pay where they **cannot be usefully employed** during a period of any **stoppage of work** for which the **employer can't reasonably be held responsible**.

For example, if a business is required to shut down due to COVID-19 (i.e. enforceable government direction to close resulting in no work for employees to do), the employer may be able to stand down employees. Other examples provided by the Fair Work Ombudsman include a large portion of the workforce being required to self-isolate with the result that the remaining workforce cannot usefully be employed or if there is a stoppage of work due to a lack of supply for which the employer can't be held responsible.

Stand downs are a temporary measure and the Act recognizes a period of stand down as 'service' meaning that employees will continue to accrue entitlements under the National Employment Standards.

If the limited circumstances/stand down provisions in the Act do not apply and the employer stands down its employees (e.g. voluntarily closes their business temporarily because of a downturn in work or deterioration of business conditions), they will likely be required to continue to pay their permanent employees. In light of this, employers should first consider other alternatives including leave entitlements and working from home arrangements. Depending on the circumstances, employers may need to consider redundancies.

Given the complexity and risk associated with stand downs, employers should contact Employer Assist for advice on their rights and obligations prior to any full or partial workforce stand downs.

## FURTHER RESOURCES

- [Australian Department of Health: Coronavirus \(COVID-19\)](#)
- [Australian Department of Health - Daily Health Alert](#)
- [World Health Organisation \(WHO\): Coronavirus disease \(COVID-19\) advice for the public](#)
- [WHO - Getting your workplace ready for COVID-19](#)
- [WHO - Coronavirus disease advice for the public: Myth busters](#)
- [Safe Work Australia](#)
- [Health and safety bodies in your state or territory](#)
- Coronavirus Health Information Line - 1800 020 080

## CONTACT EMPLOYER ASSIST

If you require further advice, please contact Employer Assist on **1300 153 154** or email [wacoss@employerassist.com.au](mailto:wacoss@employerassist.com.au)

*This document is intended for general information purposes only and should not be regarded as legal advice. Please contact Employer Assist by Industry Legal Group if you require legal advice.*