

EMPLOYER'S GUIDE TO CORONAVIRUS (COVID-19)

With the World Health Organisation declaring COVID-19 a pandemic, it is prudent for employers to be prepared for how the outbreak may impact the workplace. This guide will provide an overview of the rights and obligations of employers concerning COVID-19.

HEALTH AND SAFETY

Workplace health and safety laws require employers to ensure (as far as reasonably practicable) the health and safety of employees and others at the workplace. Employees also have responsibilities under those laws. COVID-19 poses a risk to the health and safety of employees. In order to prevent employees from contracting the virus at work, employers will need to consider 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.

They further advise that most infections are only transmitted by people when they have symptoms. These can include fever, a cough, sore throat, tiredness and shortness of breath.

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

1. **Washing hands often with soap and sanitise** – employers should ensure there are facilities available for employees to wash their hands stocked with soap. Employers should also consider making alcohol-based hand sanitiser available. Employees should wash hands before and after eating, when going to the toilet and after touching objects and surfaces which could be contaminated.
2. **Covering coughs and sneezes** – employers should ensure there are tissues available in the workplace and bins for disposal. Employers should also encourage the use of hand sanitiser.
3. **Avoiding contact with others** – where possible, employees should avoid unnecessary contact with people such as shaking hands. If a person appears unwell, employees should keep a safe distance (the Department of Health recommends more than 1.5 metres).
4. **Avoiding touching mouth or face** – employees should be reminded to avoid touching their mouth or face especially after touching objects or surfaces that could be contaminated.

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.

Current as of 16 March 2020, anyone who 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 two hours) in the period extending from 24 hours before onset of symptoms in the confirmed case.

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).

Eligibility for paid or unpaid personal/sick leave AND carers leave MUST be covered by a medical certificate. For example, if an employee is caring for a family member (or member of the employee's household) that is diagnosed with COVID-19 they must provide a medical certificate from their treating physician stating that their family or household member requires care. In any case, if a family or household member is diagnosed they will in all likelihood have also been exposed to the virus and as such must self-isolate and seek medical attention even if they are not symptomatic.

Employer's should direct the employee to provide a medical clearance before returning to work.

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?

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 or work from home (if possible) during the risk period. If the employee is not sick but needs to self-isolate they may still be eligible for sick or annual leave/long service leave if they are able to provide a medical certificate stating that they are self-isolating on the advice of their treating physician.

If the employer directs their employees to work from home or stay home, generally, permanent full-time and part-time 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.

Employers can find up to date information on self-isolation requirements via the [Department of Health website](#).

TEMPORARY CLOSURE - STOPPAGE OR SHORTAGE OF WORK

The Fair Work Act 2009 (Cth) includes provisions which enables employers to stand down employees without pay in limited circumstances. Some awards, 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. Common scenarios are severe weather events or natural disasters. However, if a business is required to temporarily close due to COVID-19, the employer may be able to rely on the stand down provisions. Employers should contact Employer Assist for advice on their rights and obligations prior to any full or partial workforce stand downs.

If the limited circumstances do not apply and the employer stands down its employees (e.g. voluntarily closes their business temporarily or there is a downturn in work), they will likely be required to continue to pay their permanent full-time and part-time employees (not casuals). In light of this, employers should first consider other alternatives including leave entitlements and working from home arrangements.

GOVERNMENT'S ECONOMIC RESPONSE TO CORONAVIRUS

The Government has announced a stimulus package to support workers and small and medium sized businesses deal with the economic consequences of the virus. The package includes:

- Support for business investment:
 - increasing the instant asset write-off by lifting the threshold to \$150,000 (from \$30,000) and making more businesses eligible to use it until 30 June 2020; and
 - accelerating depreciation deductions until 30 June 2021.
- Cash flow for assistance for businesses:
 - helping small and medium-sized businesses (turnover of less than \$50 million that employs staff) cover the costs of employee wages and salaries (50 per cent of PAYG withheld, with a minimum \$2,000 payment and up to a cap of \$25,000 over 6 months); and
 - a wage subsidy of 50 per cent of the apprentice's or trainee's wage for up to 9 months from 1 January 2020 to 30 September 2020 to help small businesses to keep their apprentices and trainees.
- One-off payment of \$750 to social security, veteran and other income support recipients and eligible concession card holders to support confidence and domestic demand in the economy.
- For severely affected regions and communities, access to a new \$1 billion fund.

The Government also announced that waiting periods for the sickness allowance and Newstart will be waived as an additional support measure for people unable to work. Such allowances may be available to casual employees that are stood down for an extended period during this time.

SOME USEFUL RESOURCES

- [Australian Department of Health: Coronavirus \(COVID-19\) - Daily Health Alert](#)
- [World Health Organisation \(WHO\): Coronavirus disease \(COVID-19\) advice for the public](#)
- [WHO - Getting your workplace ready for COVID-19](#)
- [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 **07 3376 6266** or email hvia@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.