

29th March 2020

Release No 2

COVID-19 Pandemic

Frequently Asked Questions - Employees

We will continue to actively monitor Government sources and respond to any changes or directives as they become available.

Q: Where can I find information on my work rights?

A: Minimum terms and conditions for most workers are outlined in the National Employment Standards in the *Fair Work Act 2009* and the relevant modern award for your industry.

You have the right for a healthy and safe workplace. Each State and Territory has Occupational/Work Health and Safety (OHS/WHS) laws which provide rights for workers to enforce healthier and safer work practices.

Q: What does my employer need to do?

A: OHS/WHS laws require employers to take every step they reasonably can, to eliminate or minimise the risk of workers and others contracting COVID-19. This will require employers to have a COVID-19 Workplan containing a range of control measures, depending on the type of industry you work in.

There is no vaccine currently available for COVID-19. The most effective control is to practice good hand and respiratory hygiene and to identify potential carriers of the virus and support them to self-isolate to avoid exposing others.

Employers must genuinely consult workers on measures to control the health and safety risks of COVID-19. Workers should be provided with clear direction and guidance about what is expected of them. Refer to **COVID-19 Pandemic policy**.

Q: Can I refuse to work?

A: Under OHS/WHS laws you have the right to refuse work or cease work if there is a reasonable concern that you would be exposed to a serious risk to your health and safety from an immediate or imminent hazard. A serious risk of exposure to a COVID-19 infection would meet this definition. Refer to **COVID-19 Pandemic policy**

Q: I'm sick and I've been directed to stay at home. Is this legal?

A: Employers can direct employees who have COVID-19 or who are at risk of infection not to come to self-isolate for a period of time or until they are medically cleared.

Such directives must be lawful and reasonable, which means employers must act fairly based on factual information about genuine health and safety risks, including the Australian Government's health and quarantine guidelines.

If you are directed to stay at home for health and safety reasons, you must be paid. Employers are not entitled to stand employees down without pay in these circumstances. You should not be asked to use your annual leave or long service leave, as this is for rest and recreation.

Q: I'm not sick but I've been directed to self-isolate or work from home. Is this legal?

A: Employers may be able to direct employees to work from home or self-isolate, so long as such a directive is lawful and reasonable, permitted by any applicable award, and necessary to meet OHS/WHS obligations.

Employers have an obligation to ensure that work from home arrangements are safe and healthy, so far as reasonably practicable, including providing appropriate equipment. Workers in this situation should not lose any pay or incur additional costs. Any costs associated should be reimbursed by your employer.

If you are prevented from coming to work, you must be paid your ordinary salary while the direction applies. Casual workers are entitled to 2 days of unpaid carer's leave per occasion (or a more extended period with the agreement of the employer).

Q: I'm not sick with COVID-19 and do not meet the criteria for self-quarantine, but I would prefer to stay home.

A: There are a number of reasons why a worker might wish to take a cautious approach and stay away from the workplace; including their age, a medical condition, or having responsibility to care for a dependent. If there is a medical reason that you need to avoid attending work, you should obtain medical evidence and apply for paid personal/carers leave if you have it available to you. If you do not have paid personal/carers leave available or are not entitled to access it in the circumstances, you should apply to your employer for unpaid leave providing the reasons.

You may also ask your employer for a temporary change to your working arrangements, if your role permits.

Under OHS/WHS laws, you are permitted to refuse or cease work because you have a reasonable concern about an imminent risk to your health or safety. If you are given a reasonable direction to perform alternative work (such as working from home) you should comply with it, as long as it is appropriate and safe for you to do so.

Q: Schools and childcare may be closed for an extended period and I need to care for my children

A: Paid carer's leave is available to full-time or part-time employees where the employee needs to look after a family member or a member of their household who requires care or support because of a personal illness or unexpected emergency affecting the member. A school closing on short notice and for a short period due to concerns about coronavirus (for example, because someone at the school has tested positive) is an unexpected emergency for this purpose.

Casual employees are entitled to 2 days of unpaid carer's leave per occasion. Full-time and part-time employees can take unpaid carer's leave if they have no paid sick or carer's leave left.

An employee must give their employer reasonable evidence of the unexpected emergency if their employer asks for it. This will also apply to situations relating to coronavirus.

Other arrangements that may be available include:

- working from home (if this is a practical option and consistent with any applicable award, enterprise agreement, employment contract or workplace policy) or other flexible working arrangements
- taking annual leave
- taking any other leave (such as long service leave or any other leave available under an award, enterprise agreement or employment contract)
- taking any other paid or unpaid leave by agreement between the employee and the employer.

Q: Do I have to use my annual leave or long service leave?

A: Under the NES all employees, other than casual employees, are entitled to a minimum of 4 weeks paid annual leave per year. Depending on your length of service and industry, you may have access to long service leave, including long-term casuals in some States and Territories.

Annual leave and long service leave is for rest and recreation. You cannot be directed to access your annual leave or long service leave to cover the cost of self-isolation.

Q: I'm a casual employee. What am I entitled to?

A: Casual employees are generally not entitled to paid personal/carers leave or annual leave.

Casual workers caring for someone with COVID-19 can apply for up to 2 days of unpaid compassionate leave per occasion if an immediate family or household member requires care or support because of an illness or injury or 'unexpected emergency'. Casual workers with at least 12 months service are also able to request flexible work arrangements to care for a sick child or adult or a person with a disability or a person who is frail and aged.

Q: Can I get workers' compensation benefits if I'm sick?

A: Workers who contract COVID-19 in the course of their employment will be able to claim workers' compensation benefits for any time lost or medical care required.

It may be challenging to prove the required connection with work in light of the growing number of cases. You should seek advice if you are unable to work due to a COVID-19 infection caused by work.

Q: Do you have enough supplies to go around to employees and clients?

A: We have a supply of gloves for those employees requiring and minimal hand sanitisers with back orders in place. All employees will continue to practice good hand and respiratory hygiene practices as per our Policy and Government recommendations.

Q: Do we as community workers continue working through the virus crisis.

A: Yes, until otherwise directed by Government authorities.

Q: If a casual is not receiving any shifts or minimal hours due to our ever decreasing client numbers should we be directing them to Centrelink for support?

A: Yes. For the most current information, resources and advice please visit Centrelink website: <https://www.servicesaustralia.gov.au/individuals/subjects/affected-coronavirus-covid-19>

Q: Do employees need a separation certificate to access Centrelink or can they technically still be employed by us on an ongoing casual basis and access payments?

A: A separation certificate indicates that they are no longer employed by the Organisation, and a casual employee has no guarantee of hours or earnings from the Organisation. Centrelink just requires them to demonstrate that their hours have decreased.

Q: If a permanent employee (office or support worker) chooses to take unpaid leave are they also eligible for the payments from Centrelink?

A: If the Organisation reaches an agreement with the employee to take unpaid leave to ensure their job at the end of this then yes. However, if the Organisation is offering work and the employee doesn't take up this work then the answer is no. Each circumstance is different; the employee should speak to Centrelink if they are considering choosing to not work.

For the most current information, resources and advice please visit The Department of Health and Human Services website: <https://www.dhhs.vic.gov.au/coronavirus>

If you suspect that you or a family member has COVID19 you should call your doctor or ring the National Hotline on 1800 020 080.