

THE EMPLOYER'S GUIDE TO COVID-19

Industry Legal Group has prepared guidance for employers dealing with the fallout of the Coronavirus health crisis and subsequent economic impacts

The Guide covers hygiene practices, self-isolation and quarantine, alternative work arrangements, entitlements and leave, and other provisions for employers in relation to employees.

Following is a quick summary of the kind of information you will find in the guide. To read the guide in full, please visit www.aaaa.com.au

General 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:

- Encourage good hand hygiene by everyone at the workplace (including customers).
- Provide access to facilities for good hygiene and encourage workers to practice good hygiene: for example, hand washing and sanitising, covering coughs and sneezes.
- Limit contact with others/employ social distancing: four square metres per person for enclosed spaces/gatherings in addition to the general practice of 1.5 metres distance.
- Ensure regular, scheduled cleaning of your workplace (especially frequently touched areas).
- Use PPE appropriately.
- Do what you can to reduce psychological risks.

Self-isolation and quarantine

Fourteen days of self-isolation is required when a case of COVID-19 is confirmed, if close contact has occurred with a confirmed case, and following international and interstate travel (see State/Territory government websites for details on exemptions).



An employer is not required to pay an employee who is subject to an enforceable government direction to self-isolate which prevents the employee from working unless the employee uses paid leave entitlements or is able to work from home.

Alternate work arrangements

If possible, consider allowing employees to work from home but ensure safe systems are in place. Working from home may not be suitable or possible for many businesses/workers in this industry. However, consider it where possible for office workers, administration, HR, sales and so on. Note: Employees who work from home should be paid as normal.

Leave entitlements

- Annual leave: employers can reach mutual agreement with employees to take annual leave if self-isolating but not sick or working from home. If an agreement cannot be reached, directions to take annual leave must comply with the Fair Work Act and/or Awards.
- Personal/Carer's leave: can be taken when sick or injured or when providing care or support to an immediate family or household member. Employers can use their discretion to allow employees to use sick leave to cover self-isolation even if they are not sick.
- Long Service Leave: entitlements vary by State/Territory. Depending on the jurisdiction, some employees may be eligible to take their LSL accrual. Employers may also be able to direct employees to take their LSL.
- Unpaid leave: if an employee has exhausted their paid leave entitlements, an employer may authorise a period of unpaid leave.

Temporary Closures

Employers may be able to stand down an employee without pay under the Fair Work Act, if they can't usefully be employed because of a stoppage of work for any cause which the employer can't reasonably be held responsible (for example, due to an enforceable government order, a lack of vital supply or a large portion of workforce self-isolating with the result that the remaining workforce cannot be usefully employed).

Note: Enterprise agreements and contracts may have different or additional stand down provisions. Check these first.

Employers cannot generally stand down employees simply because of a deterioration of business conditions or because an employee has COVID-19.



If an employer unlawfully stands down employees without pay, the employees will likely be able to recover unpaid wages. For more information and examples on when you can and cannot stand down employees, please see the full guide.

Employers and employees are encouraged to work together to find appropriate solutions. Other options that an employer may consider instead of a stand down include:

- Seeking employees' agreement to take a period of paid or unpaid leave.
- Directing employees to take paid annual leave in accordance with Fair Work Act, Award or Enterprise Agreement.
- Negotiating with employees to change regular rosters or hours of work (see Award/Enterprise Agreement re consultation requirements).
- Terminating the employment of the employees in response to business downturn as a result of COVID-19, in which case the employer may have to provide redundancy pay unless they are a small business or another exemption applies (Note: Generally, small businesses with less than 15 employees are exempt from the requirement to pay redundancy pay). All employers will need to comply with the usual redundancy obligations including consultation requirements for Award employees.

This information 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.

AAAA Member Benefits

To view the full Employer's Guide for COVID-19, visit www.aaaa.com.au

If you require further advice, please contact Employer Assist on 1300 735 306 or email aaaa@employerassist.com.au