

# COVID19: LEAVE ENTITLEMENTS DURING QUARANTINE AND SELF-ISOLATION

In this article, Employer Assist explains the leave entitlements for various COVID-19 related scenarios

With the rising number of positive COVID-19 cases, Employer Assist is receiving enquiries from members about leave entitlements for employees who are absent from work because they have COVID-19, are a close contact of someone who has COVID-19 or are getting tested. This article will explain the leave entitlements for each of these scenarios.

## MY EMPLOYEE HAS COVID-19

Employees who have tested positive for COVID-19 must not attend work and are required to self-isolate in accordance with the applicable enforceable government directions.

Your permanent employees are entitled to take paid personal/carer's leave if they cannot work because they have COVID-19.

If they have no paid personal/carer's leave available, their absence is unpaid unless they come to an agreement with you to take some other type of paid leave (for example, annual leave).

### Personal/Carer's Leave Entitlement

In accordance with section 97 of the *Fair Work Act 2009* (Cth), an employee may take personal/carer's leave if the leave is taken:

- because the employee is not fit for work because of a personal illness, or a personal injury, affecting the employee, or
- to provide care or support to a member of the employee's immediate family or household who is suffering from a personal illness or injury or there is an unexpected emergency affecting the member.

## MY EMPLOYEE IS A CLOSE CONTACT

If your employee is a close contact of someone who has COVID-19 and required to quarantine or

self-isolate because of an enforceable government direction, options include:

1. Flexible working arrangements – ie: consider whether the employee can work from home;
2. Paid personal/carer's leave if eligible (see above). However, usual rules apply – ie: they must let you know as soon as possible and provide evidence if requested (for example, a medical certificate);
3. If there are no suitable flexible working arrangements and the employee is not eligible for personal/carer's leave, the absence is unpaid unless they come to an agreement with you to take some other type of paid leave (for example, annual leave).

## MY EMPLOYEE IS ABSENT FROM WORK TO GET A COVID-19 TEST AND IS WAITING ON THE RESULTS

There are various reasons why an employee may be getting tested which may impact what leave they are entitled to (if any). For instance, the employee may be getting tested because they are ill, in which case they would be eligible for paid personal/carer's leave if available.

Alternatively, they may be getting tested because they are a close contact, in which case see above options under "my employee is a close contact."

If you direct your employee to get tested for COVID-19 in circumstances where there is no enforceable government direction (for example, a public health order) requiring the employee to get tested, then the employee is entitled to be paid for the time spent getting tested as if they had worked. This is not the case where the employee is complying with an enforceable government direction at their own discretion unless they are taking paid leave as detailed above.



## UNPAID PANDEMIC LEAVE

Some limited awards provide employees access to up to two weeks of unpaid pandemic leave (or more by agreement with their employer) if they are prevented from working as a result of a requirement to self-isolate or government enforceable directions.

Relevantly for members, the Vehicle Repair Services and Retail Award no longer has unpaid pandemic leave. However, the Manufacturing and Associated Industries and Occupations Award does have unpaid pandemic leave provisions ending on 30 June 2022 (unless extended).

## PANDEMIC LEAVE DISASTER PAYMENT

Subject to eligibility criteria, employees who cannot earn income because they have to self-isolate, quarantine or care for someone with COVID-19 can apply to Services Australia for a Pandemic Leave Disaster Payment. If required, refer employees to Services Australia for more information on this payment.

*This article is intended for information purposes only and should not be regarded as legal advice. Please contact Employer Assist for advice.*

### AAAA Member Benefits

Employer Assist provides all AAAA members with advice regarding all aspects of your workplace and employment law.

It can assist you in understanding your employment obligations in relation to leave entitlements.

Please contact Employer Assist on 1300 735 306 or [aaaa@employerassist.com.au](mailto:aaaa@employerassist.com.au) if you require any assistance.

