



COVID-19

Work and Leave Options

15 April 2020

Work Options

Working from Home

Wherever possible working from home should be your first option for employees that can undertake work from home. You will need to consider various things including technology, a policy, WHS and ways to keep everyone in touch. Total HRM has Fact Sheets and resources to help.

Working in the Workplace

Some work can only be undertaken in the workplace. If this is the case, and you continue to operate, then there will be employees who continue to come into the workplace. Your priority and obligation as an employer is to provide the safest possible work environment for these employees. Things you should consider implementing:

- Social distancing – at least 4 square metres space around each employee. More space is better.
- Regular cleaning of all hard surfaces and often touched surfaces, e.g. door handles, desks and work surfaces etc.
- Provision of plenty of soap and hand sanitiser with lots of posters around the workplace highlighting handwashing techniques etc. You can find a range of resources from the Federal Health Department here: [Coronavirus COVID-19 Resources](#)
- Stagger start times, including considering shifts, to minimise the number of employees in the workplace at any one time.
- Clear guidelines on what employees should do if they feel unwell or they have had contact with a suspected COVID-19 case.

Employees receiving JobKeeper

For employer options with your employees on JobKeeper payments, please go to our JobKeeper Flexibility FAQs information sheet.

Employee Scenarios

An employee wants to stay home as a precaution against potentially catching COVID-19

Where an employee wants to stay home as a precaution, employers are encouraged, where possible and practical, to let their employees work from home.

If working from home is not an option, then the employee and employer need to come to a written agreement on what will occur. This agreement may include taking paid leave (where available) or unpaid leave, utilising normal leave application processes and approval. If an agreement isn't entered into with the employee or paid leave is not used, an employee is not entitled to be paid while staying home as a precaution.

Please note that an employee should not use Personal or Carer's Leave unless the employee is unwell or has caring responsibilities.

An employer wants an employee, or employees, to stay home as a precaution

Under workplace health and safety laws, employers must ensure the health and safety of their workers and others at the workplace as far as is reasonably practicable.

If an employee is at risk of infection from COVID-19 (for example, because they've been in close contact with someone who has the virus), employers should request that they work from home (if this is a practical option) or not work during the risk period.

Where an employer directs a full-time or part-time employee not to work due to workplace health and safety risks, but the employee is ready, willing and able to work, the employee is generally entitled to be paid while the direction applies.

However, if an employee cannot work because they're subject to an enforceable government order or direction requiring them to self-quarantine, the employee isn't ordinarily entitled to be paid (unless they use leave entitlements).

What if an employee has to quarantine or self-isolate due to COVID-19?

If an employee is unable to attend work because they are required to self-isolate or quarantine themselves due to COVID-19, there are a range of options available.

If the employee is not sick, they can:

- Potentially take “pandemic leave”.
- Where possible, be allowed to work from home.
- Take annual leave.
- If they are covered by one of ninety-nine awards (see the list below), take double annual leave at half pay (If the employee has two weeks of annual leave, they can take four weeks at half pay). An employer cannot unreasonably refuse this request.
- Take other paid leave, e.g. long service leave.
- Take unpaid leave by agreement between the employer and employee. This may include “pandemic leave”.

As the employee is not unwell or injured, they are not entitled to take personal leave. If the employee becomes unwell, then they should take personal leave.

When can an employee take pandemic leave?

Under new changes to ninety-nine awards introduced on 8 April 2020 by the Fair Work Commission, if an employee is

- Required to self-isolate and is consequently prevented from working by government or medical authorities or acting on advice from a medical practitioner.
OR
- Is otherwise prevented from working by measures taken by government or medical authorities in response to the COVID-19 pandemic.

then an employee can take “**pandemic leave**” which entitles an employee to:

- Take up to two weeks unpaid leave which must commence before 30 June 2020.
- Take additional unpaid leave (over two weeks) by agreement between the employer and employee.
- To have continuous service during the period of “pandemic Leave”

If taking pandemic leave, the employee must

- Notify the employer that they are taking the leave and the reason the employee requires the leave, as soon as practicable.
- Provide evidence to the employer. An employer can request evidence that would satisfy a reasonable person that the leave is taken for a reason given in the clause.

When can an employee take twice the leave and half pay?

If an employee is covered by one of ninety-nine awards (see the list below), an employee can apply to take the duration of annual leave at half the pay. An employer cannot unreasonably refuse this request.

For example:

An employee has two weeks of annual leave. The employee can request to take four weeks at half pay.

What happens if an employee is sick with COVID-19?

Employees who are sick with COVID-19 MUST NOT come to work.

If an employee who has COVID-19 wants to come to work, employers can direct them not to.

For full-time and part-time employees who cannot come to work because they're sick with COVID-19 can take paid sick leave. Full-time and part-time employees can take unpaid sick leave if they have no paid sick leave available. Casual employees would advise their employer if they are unable to work their rostered shift(s) per their normal practices.

Please note that an employer cannot require an employee to take personal leave. However, if an employee has COVID-19, the employee isn't entitled to be paid unless they use their paid leave entitlements.

What happens if an employee's family member is sick with COVID-19?

If an employee needs to look after a family member or a member of their household who is sick with COVID-19, they're entitled to take paid carer's leave (personal leave) if they have it available.

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

Australian Government advice is that those who have been in close contact with a confirmed case of COVID-19 must self-isolate for 14 days and not attend work. See section above "What if an employee has to quarantine or self-isolate due to COVID-19?" for details on the type of work or leave arrangements that you should follow.

What if an employee can't come to work because their child's school has closed due to concerns about COVID-19?

Employees who cannot come to work because they need to care for a child whose school or preschool is closed should be offered the option of working from home where practical and possible.

If it is not an option for the employee to work from home, then full-time or part-time employees, can use paid carer's leave if it is an unexpected emergency. An unexpected emergency would

occur when a school or childcare centre closes on short notice and for a short period due to concerns about COVID-19.

Examples of an unexpected emergency include:

- being advised today that a school or child care centre is closing tomorrow for two days due to a child testing positive for COVID-19. The employee is unable to make other arrangements for their child's care at such short notice.
- A school advising that they are bringing forward school holidays. The employee is unable to make other arrangements for their child's care at such short notice.

Where an employee is taking carers leave due to an unexpected emergency, the employer can request reasonable evidence of the employee.

Example of what is not an unexpected emergency include:

- The school or child care centre remains open. The employee chooses to keep their child at home. The employee is not entitled to carer's leave.
- Being advised that a school or child care centre is not going to reopen after the school holidays. As the employee was advised two weeks in advance, this is not considered to be an unexpected emergency and the employee is not entitled to use carers leave.

If carers leave is unavailable or runs out, the employee can take annual leave, other leave such as long service leave or any other paid or unpaid leave as agreed between the employee and employer.

Casual employees, and full time or part time employees with no personal leave left, are entitled to two days of unpaid carer's leave per occasion.

What if an employee can't come to work because they have decided to keep their child(ren) home from school?

Employees who cannot come to work because they choose to care for their child(ren) at home while school or child care centre remains open are not entitled to use carers leave. This is because their child(ren) are not sick or injured, nor is it an unexpected emergency.

The options that the employee and employer work through can include the employee

- Working from home where practicable – this may only be part or all of the week
- Taking annual leave or Long Service Leave
- Taking unpaid leave where this is agreed with the employer

What are the Ninety-Nine Awards that now include “pandemic leave” and annual leave at half pay?

Please note that these changes are only for leave that commences before 30 June 2020.

- Aboriginal Community Controlled Health Services Award 2010
- Aged Care Award 2010
- Air Pilots Award 2010
- Aircraft Cabin Crew Award 2010
- Airline Operations-Ground Staff Award 2010
- Airport Employees Award 2010
- Alpine Resorts Award 2010
- Aluminium Industry Award 2020
- Ambulance and Patient Transport Industry Award 2020
- Amusement, Events and Recreation Award 2010
- Animal Care and Veterinary Services Award 2020
- Aquaculture Industry Award 2020
- Architects Award 2010
- Asphalt Industry Award 2010
- Banking, Finance and Insurance Award 2020
- Book Industry Award 2020
- Broadcasting, Recorded Entertainment and Cinemas Award 2010
- Business Equipment Award 2010
- Car Parking Award 2020
- Cement, Lime and Quarrying Award 2020
- Cemetery Industry Award 2020
- Children’s Services Award 2010
- Cleaning Services Award 2010
- Clerks - Private Sector Award 2010
- Commercial Sales Award 2010
- Concrete Products Award 2010
- Contract Call Centres Award 2010
- Corrections and Detention (Private Sector) Award 2020
- Cotton Ginning Award 2020
- Dry Cleaning and Laundry Industry Award 2010
- Educational Services (Post-Secondary Education) Award 2010
- Educational Services (Schools) General Staff Award 2010
- Educational Services (Teachers) Award 2010
- Fast Food Industry Award 2010
- Fitness Industry Award 2010
- Food, Beverage and Tobacco Manufacturing Award 2010
- Funeral Industry Award 2010
- Gardening and Landscaping Services Award 2020
- General Retail Industry Award 2010
- Graphic Arts, Printing and Publishing Award 2010 2
- Hair and Beauty Industry Award 2010
- Health Professionals and Support Services Award 2010
- Higher Education Industry-Academic Staff-Award 2010
- Higher Education Industry-General Staff-Award 2010
- Horse and Greyhound Training Award 2010

- Horticulture Award 2010
- Hospitality Industry (General) Award 2010
- Journalists Published Media Award 2010
- Labour Market Assistance Industry Award 2010
- Legal Services Award 2020
- Live Performance Award 2010
- Local Government Industry Award 2010
- Mannequins and Models Award 2010
- Manufacturing and Associated Industries and Occupations Award 2010
- Marine Tourism and Charter Vessels Award 2010 • Market and Social Research Award 2020
- Meat Industry Award 2010
- Medical Practitioners Award 2020
- Miscellaneous Award 2010
- Nursery Award 2020
- Nurses Award 2010
- Passenger Vehicle Transportation Award 2010
- Pastoral Award 2010
- Pest Control Industry Award 2010
- Pharmaceutical Industry Award 2010
- Pharmacy Industry Award 2010
- Poultry Processing Award 2010
- Premixed Concrete Award 2020
- Professional Diving Industry (Recreational) Award 2010
- Professional Employees Award 2010
- Racing Clubs Events Award 2010
- Racing Industry Ground Maintenance Award 2020
- Rail Industry Award 2010
- Real Estate Industry Award 2020
- Registered and Licensed Clubs Award 2010
- Restaurant Industry Award 2010
- Road Transport (Long Distance Operations) Award 2010
- Road Transport and Distribution Award 2010
- Salt Industry Award 2010
- Seafood Processing Award 2020
- Security Services Industry Award 2010
- Silviculture Award 2020
- Social, Community, Home Care and Disability Services Industry Award 2010
- Sporting Organisations Award 2020 3
- State Government Agencies Award 2020
- Storage Services and Wholesale Award 2010
- Sugar Industry Award 2010
- Supported Employment Services Award 2010
- Surveying Award 2020
- Telecommunications Services Award 2010
- Textile, Clothing, Footwear and Associated Industries Award 2010
- Timber Industry Award 2010
- Transport (Cash in Transit) Award 2010

- Travelling Shows Award 2020
- Vehicle Manufacturing, Repair, Services and Retail Award 2010
- Waste Management Award 2010
- Water Industry Award 2020
- Wine Industry Award 2010
- Wool Storage, Sampling and Testing Award 2010

More information?

There is more information for employers and workplace laws here:

<https://www.fairwork.gov.au/about-us/news-and-media-releases/website-news/coronavirus-and-australian-workplace-laws>

Website information:

<https://www.health.gov.au/news/health-alerts/novel-coronavirus-2019-ncov-health-alert/coronavirus-covid-19-resources>