



# FACT SHEET

## Coronavirus (COVID-19) and the Workplace

Created: March 2020

This Fact Sheet has been developed to provide hospitality employers with access to relevant information in light of the COVID-19 pandemic, as declared by the World Health Organisation on 12 March 2020.

As the COVID-19 situation develops, the information available on this page (page 1) is likely to be revised. Accordingly, it is recommended that readers regularly review the links provided below for updated information.

### GENERAL CORONAVIRUS INFORMATION

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- Department of Health [LINK](#)
- Queensland Health [LINK](#)

### SPECIFIC CORONAVIRUS INFORMATION

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#### [HOTELS AND HOSPITALITY BUSINESSES](#)

Click on the link in the heading above to access information relating the hotel and hospitality businesses on topics including –

- Staff restrictions in attending work
- Employer communication about COVID-19 to staff
- Basic information about COVID-19
- Guest isolation and the cleaning of rooms.

#### [TRAVEL RESTRICTIONS, COUNTRIES OF CONCERN AND SELF ISOLATION](#)

Click on the link in the heading above for information about the countries of concern (high risk), the new international arrivals restrictions (from 16 March 2020) and when a person must self-isolate for the Government mandated period.

#### [CASUAL CONTACT WITH A CONFIRMED CASE OF CORONAVIRIS](#)

Click on the above link to access information about CASUAL contact with a person diagnosed with COVID-19. A person will be a casual contact for the purposes of COVID-19 actions if:

- You have had less than 15 minutes face-to-face contact in any setting with a confirmed case in the 24 hours period before the onset of their symptoms; or
- You have shared a closed space with a confirmed case for less than two hours in the 24 hours period before the onset of their symptoms.

#### [NON CASUAL CONTACT WITH A CONFIRMED CASE OF CORONVIRUS](#)

Click on the above link to access information about CLOSE contact with a person diagnosed with COVID-19. Close contact is contact that is other than casual contact.

## EMPLOYMENT RELATIONS ADVICE

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Members with questions about the employment relations aspect of coronavirus are encouraged to contact QHA's Employment Relations team to discuss their specific situation.

In some situations, an employer may need to pay an employee to not be at work, or, alternatively, they might not need to pay wages to the employee. For this reason, it is important to seek specific advice about your specific situation – this way you can know what your obligations are.

### **Example: Self-Isolation – Close contact**

An employee is required to self-isolate because they have been in close contact with another person who has a confirmed case of COVID-19. In accordance with Australian Government Department of Health guidelines:

*“You must isolate yourself in your home for 14 days after last contact with the confirmed case”*

In this situation, the employee unable to attend for work due to self-isolation. The employee is not entitled to the payment of ordinary wages, because they are not able to attend for work.

A permanent employee may not be entitled to apply to personal leave because they are not ill; they are simply self-isolating. The employee may seek to apply for annual leave for the period of the self-isolation, and in accordance with the *Fair Work Act 2009* ('the Act'), an employer must not unreasonably refuse a request for annual leave.

A casual employee does not have an entitlement to any paid leave in this scenario (except if they had an entitlement to long service leave and applied to access it).

### **Example: Self-Isolation – International travel**

An employee is required to self-isolate in accordance with Australian Government guidelines because they have arrived in Australia from an international destination.

In this situation, the employee is unable to attend for work due to self-isolation. The employee is not entitled to the payment of ordinary wages, because they are not able to attend for work.

A permanent employee may not be entitled to apply to personal leave because they are not ill – they are simply self-isolating. The employee may seek to apply for annual leave for the period of the self-isolation, and in accordance with the Act, an employer must not unreasonably refuse a request for annual leave.

A casual employee does not have an entitlement to any paid leave in this scenario (except if they had an entitlement to long service leave and applied to access it).

*Please note* that with any self-isolation, an employer and employee may agree, where it is possible and practical, for the employee to work from home during the self-isolation period. Where working from home arrangements are to be put into place, the QHA reminds employers that their workplace health and safety obligations toward the employee (eg hazard and risk management, safe work environment, injuries at home occurring in the course of work possibly being subject to a workers' compensation claim etc) also extend to the home environment for the period.

### ***Example: Employee is diagnosed with COVID-19***

An employee advises the employer that they have been diagnosed with COVID-19. A permanent employee can apply to take accrued personal leave for the duration of their illness.

In the event personal leave accruals are exhausted, the employee may seek to use another form of paid leave such as annual leave or long service leave, for the duration, or they may apply for unpaid leave (which the employer is required to approve).

A casual employee does not have an entitlement to any paid leave in this scenario (except if they had an entitlement to long service leave and applied to access it).

### ***Example: An employee's family member has COVID-19***

In circumstances where the family member has not been admitted to hospital, and the employee needs to provide care for the infected family member, a permanent employee may apply to use paid carer's leave.

In the event carer's leave accruals are exhausted, the employee may seek to use another form of paid leave such as annual leave or long service leave, for the duration, or they may apply for unpaid leave.

Casual employees have an entitlement to 2 days of unpaid carer's leave per permissible occasion.

### ***Example: The school / child care facility for an employee's child is closed during normal school hours***

In this circumstance where the employee needs to provide care for their child, a permanent employee may apply to use paid carer's leave.

In the event carer's leave accruals are exhausted, the employee may seek to use another form of paid leave such as annual leave or long service leave, for the duration, or they may apply for unpaid leave.

Casual employees have an entitlement to 2 days of unpaid carer's leave per permissible occasion.

### ***Example: Employer decision to close the business***

An employer makes the decision to close their business for a period of 14 days – they are exercising their workplace health and safety responsibilities towards their employees, and it is not a shut-down. There has been no close contact with a person with COVID-19, and no one has recently travelled overseas.

In this situation where the employer makes the decision (and it is not due to Department of Health guidelines or other Government direction), the employer must continue to pay the wages to their employees for the closure period.

Note: clause 34.3 of the *Hospitality Industry (General) Award 2010* ('HIGA') provides the ability to direct employees to take annual leave during a close-down of operations, but only with the giving of at least four weeks' notice.

### **Example: Stand Down**

A business is shut. The Act provides the circumstances for which an employer can stand down employees. The effect of standing down an employee is that the employer is not required to make payment for ordinary hours of work to the employee for that period.

Section 524 of the Act states:

1. *An employer may, under this subsection, stand down an employee during a period in which the employee cannot usefully be employed because of one of the following circumstances:*
  - a. *industrial action (other than industrial action organised or engaged in by the employer);*
  - b. *a breakdown of machinery or equipment, if the employer cannot reasonably be held responsible for the breakdown;*
  - c. *a stoppage of work for any cause for which the employer cannot reasonably be held responsible*

The third category is most relevant to the current situation involving COVID-19.

Importantly there needs to be a stoppage of work which may apply to the whole business or part of a business AND the employees are not otherwise able to be usefully employed.

Examples that may arise out of COVID-19 include:

- Biosecurity or other ministerial orders shutting down a geographical area in which a business is situated; or
- A significant number of employees being placed in isolation or quarantine necessitating shutdown.

In the event there is a stoppage of work, *for which an employer cannot reasonably held responsible for*, and cannot usefully employ staff, the employer is not required to make any payments to the stood down employees for the stand down period.

In relation section 524(1)(b) - machinery or equipment breakdown - this *could* be triggered where maintenance staff are in isolation or quarantined and unable to service equipment, resulting in equipment break down.

It is important to note that an enterprise agreement or contract of employment *may* in some circumstances modify the position under the *Fair Work Act 2009* . In such cases, an employer would need to comply with the modified provision.

Please note that a period of stand down as per the Act is deemed to still count as continuous service. Therefore leave entitlements under the Act will still accrue during a period of stand down.

*Refer: QHA's Stand Down Fact Sheet*

### **Example: Business turndown**

There has been a business downturn and permanent staff hours need to be cut. This is not a stand down in accordance with the Act.

In this situation, an employer might be facing the redundancy of one or more positions in the business. Before taking action, contact the Employment Relations team to discuss other options, for example, discussing the situation with employees in an attempt to reach agreement to temporarily (or permanently) reduce working hours for the duration of the downturn.

*Refer: QHA's Redundancy Fact Sheet*

## **SUMMARY**

The above examples do not represent all of the scenarios an employer may be faced with. For this reason financial members are encouraged to contact the QHA's Employment Relations team to discuss specific situations.

### **Further Assistance**

Financial QHA members are encouraged to contact the QHA's Employment Relations Department (refer the contact details at the bottom of this page) for a confidential discussion about the information in this Fact Sheet, or to discuss any queries relating to specific workplace matters.

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16 March 2020