



COVID-19 (THE “CORONAVIRUS”) – FREQUENTLY ASKED QUESTIONS

Can an employer require an employee to stay away?

The employer has a duty to provide a safe workplace. An employer may direct an employee to obtain medical clearance and not work during a risk period. Subject to an enterprise agreement and/or an employee’s contract of employment, employers would generally be required to pay their full time and part time staff for time off.

What if the employee is compulsorily quarantined?

The *Fair Work Act 2009* (Cth) (the “*Act*”) does not currently provide for such a situation, therefore employers will be required to come up with their own arrangement with the employee, whether it is personal leave, annual leave, or a period of unpaid leave.

Can an employee refuse to attend work?

Yes, an employee, much like the employer, also has a duty to maintain a safe workplace. An employer who refuses to attend work must provide reasons as to the refusal. The employer and the employee may consider relocation to another store, if available. If not, the employer should arrange with the employee that leave be taken in the form of some form of paid leave, or unpaid leave, subject to each individual workplace policy.

Does an employee have to be paid if they are voluntarily staying away from work?

An employer who wishes to stay home may arrange with the employer to take some form of paid leave, or unpaid leave, subject to each individual workplace policy.

Can employers require employees to undergo medical testing?

Yes, but any financial loss incurred by the employee should be compensated by the employer.

What if the business is quiet because of the virus outbreak and I have to temporarily reduce hours for employees?

The Act currently does not specifically provide a response to this. If redundancy options are being considered by the employer, the employer must be guided by the consultation requirements provided for under the *Restaurant Industry Award 2010* and provide to the employee as much notice as reasonably possible. Employers may also look at standing down employees without pay, if they cannot be employed in any suitable capacity due to circumstances outside of the employer's control, however this measure should only be considered as a last resort.

My business is struggling because of the coronavirus/bushfires. Can I stand down staff during periods of quiet trade?

Under the Act, an employer can only stand down an employee(s) if they cannot do useful work because of "equipment breakdown, industrial action or a stoppage of work for which the employer can't be held responsible." An employer should consider all other options before considering standing down employees as employees will not receive pay during this period.