

COVID-19 Leave Quick Reference Guide

Summary of Provisions within Commissioner's Determination 3.1: Employment Conditions – Hours of Work, Overtime and Leave: Supplementary Provisions for COVID-19

Effective from 14 December 2020



COVID-19 RESPONSE



**Government
of South Australia**

Office of the Commissioner
for Public Sector Employment

This Quick Reference Guide reflects changes to the Determination issued by the Commissioner for Public Sector Employment and effective from 14 December 2020

In recognition of the continued public health situation relating to COVID-19, special leave with pay (SLWP) of up to 15 days is available to support absences from the workplace for COVID-19 reasons. This new SLWP category is not considered to be part of the current 15 days SLWP detailed in the Commissioner's Determination 3.1: Employment Conditions – Hours Of Work, Overtime and Leave.

AVAILABILITY OF SPECIAL LEAVE WITH PAY

Effective 17 November 2020 and considering the measures in place at the time, the Commissioner for Public Sector Employment determined that the full 15 days SLWP for COVID-19 related absences would again be available to public sector employees (other than casuals) (pro-rata for part-time employees)

Situation	Attendance/Leave entitlement/s
Confirmed case of COVID-19	<ul style="list-style-type: none"> • Access sick/personal leave entitlements. • If sick/personal leave entitlements are exhausted, access to other paid leave entitlements should be provided. • SLWP for COVID-19 may be paid at any time at the discretion of the Chief Executive.
Unwell, but no confirmed case of COVID-19	<ul style="list-style-type: none"> • Managed in accordance with the agency's existing sick/personal leave processes. • If sick/personal leave entitlements are exhausted, access to other paid leave entitlements should be provided. • If paid leave entitlements are exhausted, absence should be managed in accordance with existing processes for exhausted sick/personal leave. • SLWP for COVID-19 may be paid at the discretion of the Chief Executive.
Awaiting COVID-19 test results	<ul style="list-style-type: none"> • Access to flexible working arrangements where practicable or appropriate. • May access up to 72 hours SLWP for COVID-19, or until test results are returned, whichever is sooner. • Note: Evidence of testing and the results should be provided to access SLWP for COVID-19. • Note: SLWP paid for this purpose may be accessed multiple times, and is in addition to the existing provisions for 15 days SLWP for COVID-19

<p>Self-isolation or quarantine required <u>as a result of personal activities</u></p>	<ul style="list-style-type: none"> • Agencies must actively consider and implement flexible working arrangements for those who are able to do so, within the constraints of maintaining effective operations and essential services. • Where it is not practicable and appropriate to apply flexible working arrangements, access to SLWP for COVID-19 is to be provided for the required period of self-isolation or quarantine. • Note: <i>if the employee becomes unwell while self-isolating or self-quarantining, regardless of the nature of the illness, the period of absence from that point will be treated as sick/personal leave in accordance with existing agency processes.</i>
<p>Self-isolation or quarantine required <u>as a direct consequence of employment</u></p>	<ul style="list-style-type: none"> • Access to flexible working arrangements or alternative duties where practicable or appropriate. • Where flexible working arrangements are not practicable or appropriate, the employee will be deemed '<u>absent on duty</u>' for the full period of self-isolation or quarantine. • Note: <i>The employee will be entitled to receive any penalties that would have been payable on their rostered arrangements for the period of self-isolation or quarantine.</i>
<p>Self-quarantining following overseas or interstate travel for personal reasons</p>	<ul style="list-style-type: none"> • Where the travel attracts a requirement to self-quarantine on arrival in South Australia, access to flexible working arrangements where practicable. • If flexible working arrangements are not practicable or appropriate, access to their own paid leave entitlements (i.e. accrued annual/recreation leave, long service and retention leave), or leave without pay. • Note: <i>if the employee becomes unwell while quarantining, regardless of the nature of the illness, the period of absence from that point will be treated as sick/personal leave in line with the agency's existing processes.</i>
<p>Short term (i.e. up to 48 hours) workplace shutdown for deep-cleaning</p>	<ul style="list-style-type: none"> • Access to flexible working arrangements where practicable and appropriate. • Where it is not practicable and appropriate to implement flexible working arrangements, employee deemed 'absent on duty'. That is, they are treated as being 'at work' but do not attend the workplace.

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<p>Temporary cessation of service (full or partial), or physical workplace closure (i.e. beyond 48 hours in duration)</p> <p><i>Note: this provision is intended to apply when an <u>individual or smaller group of workplaces/services</u> are closed.</i></p>	<ul style="list-style-type: none"> • Access to flexible working arrangements where practicable and appropriate, or transferred to alternative duties. • Where the above is not practicable and appropriate, the employee will be provided with SLWP for COVID-19. • Where SLWP for COVID-19 is exhausted, employee is to access to their own paid leave entitlements (i.e. accrued annual/recreation leave, long service and retention leave), or leave without pay.
<p>Required to remain at home</p> <p><i>Note: this provision is intended to apply when <u>large scale Directions</u> regarding community isolation are implemented by authorities.</i></p>	<ul style="list-style-type: none"> • Access to flexible working arrangements where practicable and appropriate, or transferred to alternative duties. • Where the above is not practicable and appropriate, the employee is to access to their own paid leave entitlements (i.e. accrued annual/recreation leave, long service and retention leave), or leave without pay. • If all forms of own paid leave entitlements are exhausted, SLWP for COVID-19 should be granted. • Note: SLWP for COVID-19 may be paid prior to exhaustion of leave entitlements at the discretion of the Chief Executive.
<p>Reduction in services requiring changes to staff attendance</p>	<ul style="list-style-type: none"> • Employees with excess accrued annual/recreation leave (in excess of 12 months of accrued annual/recreation leave) may be directed to take recreation leave. • Employees may access their own leave entitlements (i.e. any accrued annual/recreation leave, long service leave or retention leave). • If all forms of own paid leave entitlements are exhausted, SLWP for COVID-19 should be granted. • If SLWP for COVID-19 is exhausted, access will be provided to leave without pay.
<p>Caring responsibilities – COVID-19 directed isolation/quarantine or confirmed case</p>	<ul style="list-style-type: none"> • Access to flexible working arrangements where practicable and appropriate. • Where it is not practicable or appropriate to access flexible working arrangements, access will be given to existing carer’s leave through sick/personal leave entitlements for caring purposes (uncapped carer’s leave). • If sick/carer’s leave entitlements become exhausted, provided with SLWP for COVID-19 up to 15 days.

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<p>Vulnerable employees</p> <p><i>See the Commissioner's Determination – Supplementary Provisions for COVID-19 for current definition of vulnerable, and for links to relevant websites.</i></p>	<ul style="list-style-type: none"> • Can be encouraged back to the workplace in line with advice from a medical practitioner. • If medical advice deems them unable to return to the workplace, flexible working arrangements or alternative duties should be prioritised. • If flexible working arrangements or alternative duties are not practicable, access to SLWP for COVID-19 of up to 15 days should be provided. • Where SLWP for COVID-19 is exhausted, access to their own leave entitlements will be offered (i.e. any accrued annual/recreation leave, long service leave or retention leave). • Note: <i>Agencies will develop individual workplace COVID-19 action plans for high risk staff returning to the workplace</i>
<p>Living with a vulnerable family member</p>	<ul style="list-style-type: none"> • Requests for flexible working arrangements should be viewed favourably. • Where it is not practicable and appropriate to offer flexible working arrangements, access should be given to the employee's personal leave entitlements, or leave without pay. • Access to SLWP for COVID-19 may be offered at any time on a case-by-case basis at Chief Executive discretion. • Note: <i>If vulnerable family member becomes unwell, employee may access uncapped accrued sick/carer's leave entitlements, or any of their own leave entitlements, or leave without pay.</i>

<p>Child Care and School Closures (including extended school holidays)</p>	<ul style="list-style-type: none"> • Requests for flexible working arrangements will be viewed favourably. • Where it is not practicable and appropriate to offer flexible working arrangements, access should be given to the employee's own leave entitlements including accrued sick/carer's leave to take as an uncapped number of carer's leave days. • If own paid leave entitlements are exhausted, leave without pay will be provided. • Special leave with pay of up to 15 days for COVID-19 may be paid at the discretion of the Chief Executive. • Note: Carer's leave will be provided to care for dependents who are well, in recognition of the limited alternative care options that are likely to be available in these circumstances. • Note: Ordinary school holidays corresponding with the published school term dates (https://www.education.sa.gov.au/teaching/south-australian-state-schools-term-dates), and school-specific pre-existing pupil free days should be managed as per existing agency processes, with employees to use existing leave entitlements if they cannot attend work and it is not practicable to use flexible working arrangements.
<p>Direction to take annual/recreation leave</p>	<ul style="list-style-type: none"> • Employees with annual/recreation leave entitlements in excess of 12 months accrual may be directed to reduce leave balance with three (3) days' notice. • Note: per Schedule 1, Part 4, clause 5(3) of PS Act.
<p>Access to annual/recreation leave entitlements at half-pay</p>	<ul style="list-style-type: none"> • Employees may elect to take annual/recreation leave on half-pay, so period of leave is twice the period the employee would otherwise have been entitled. • Note: per Schedule 1, Part 4, clause 5(3) of the PS Act.
<p>Payment in lieu of annual/recreation or long service leave</p>	<ul style="list-style-type: none"> • An employee can request payment in lieu of annual/recreation leave or long service leave if a family member who has lost their job and is experiencing financial hardship. • Note: Must retain at least two (2) weeks annual/recreation leave, but long service leave can be paid out to a zero balance. • Note: must provide current leave balances, leave type and number of hours for payment in lieu, and detail of personal situation necessitating request. Delegate must be satisfied financial hardship exists and may set own evidentiary requirements. Employees must acknowledge the request may result in insufficient leave balances for future leave requests.

OTHER ARRANGEMENTS

Note: available in specific circumstances to identified categories of employees

<p>Special Leave with Pay for Border Restrictions</p>	<p>May be accessed by staff who reside interstate and are not permitted to enter the state in order to attend their workplace.</p> <ul style="list-style-type: none"> • Flexible working arrangements, or a transfer to alternative duties must be considered as a priority • Where flexible working arrangements are not practicable or appropriate, SLWP for border restrictions will be paid until such time as alternative duties can be provided, or the employee is permitted to cross the border to attend work. • Note: Agencies must report to OCPSE staff accessing this SLWP
<p>Interstate quarantining with little/no prior notice</p>	<p>Applies to employees who are already interstate when borders are closed and/or quarantine requirements are implemented by the other state's government.</p> <ul style="list-style-type: none"> • Flexible working arrangements, or a transfer to alternative duties must be considered as a priority • Where flexible working arrangements are not practicable or appropriate, SLWP for COVID-19 will be paid until such time as alternative duties can be provided, or the employee exits quarantine. • Note: SLWP paid for this purpose is uncapped and in addition to the existing provisions for 15 days SLWP for COVID-19