



Guidelines for essential businesses when essential workers cannot work

All workers, except essential service workers, are required to self-isolate under Alert Level 4 but some essential worker may have reasons not to go to work

<https://www.employment.govt.nz/leave-and-holidays/other-types-of-leave/coronavirus-workplace/scenario-2/>

Essential workers may have reasons not to go to work

Certain essential service workers should or may wish to stay at home for reasons, including:

- They are sick with COVID-19, or unwell generally.
- They need to self-isolate as per Ministry of Health guidelines, due to recent travel or close contact with someone confirmed to have COVID-19.
- They are caring for dependents who are required to self-isolate, as per Ministry of Health guidelines.
- They, or someone they live with, meets the definition of a vulnerable person, including those who are 70+, pregnant, taking certain medication, or receiving certain treatment. These people are advised to stay home at Alert Level 2 or higher.
- They do not believe the workplaces has adequate health and safety measures to minimise their risk of contracting COVID-19.

Workers and employers should follow public health guidance and health and safety laws, work together pragmatically and deal with each other in good faith.

Steps to raise and address workplace concerns

The worker must notify their employer that they:

- believe they are at risk of spreading COVID-19 and why,
- are concerned that attending their workplace places them at risk of being exposed to COVID-19 and why,
- have any concerns about working that put themselves or others at risk.

Employers and workers should be guided by latest public health guidance from the Ministry of Health on COVID-19.

If the employer agrees there is a reasonable risk related to COVID-19 (or any other risk), they must do what is reasonably practicable to address the risk. If the risk affects a large group of workers, address this in good faith with the wider workforce. If the risk affects individuals or a small group of workers, address this in good faith with those workers.

If an employer does not take reasonable steps to manage a risk to a worker or any other person arising from the work being performed, they may be in breach of the *Health and Safety at Work Act 2015*. They should not require a worker to do that work until they have taken reasonable steps to manage the risk.

Minimising the risk of COVID-19 transmission in a workplace

Even if a business is essential, they must still operate in a way that minimises the risk of COVID-19 transmission. Businesses should:

- minimise, or eliminate if possible, physical interactions among staff and with and between customers
- ensure appropriate health, hygiene and safety measures are in place
- provide any Personal protective equipment (PPE) that could be reasonably expected, in order to reduce the risk
- restrict activity to only what is essential during the Alert Level 4 period. If essential worker can be performed by a worker from their home (bearing in mind working at home, or away from home can involve risk to others required to stay in the home during lockdown), they should do so.

Hazard pay

Some employers may negotiate “hazard pay” or additional compensation on top of current wages. There is no legal requirement for a business to pay “hazard pay”, and businesses that do offer “hazard pay” must still comply with all of their obligations under the *Health and Safety at Work Act*.

Subsidies for essential workers staying at home

All New Zealand employers who have been adversely affected by COVID-19 are eligible to apply for the Government’s Wages Subsidy Scheme. This includes essential businesses.

On Friday 27 March, the Government announced it was working on arrangements for those in essential work who require sick leave due to COVID-19. We will update this page with more detail when it is available.

Please note that this is general advice only and will vary for each specific situation. In addition, this continues to be an evolving situation. For specific and current advice relating to your unique situation, please get in touch with an expert from our employment team.