

Common questions for Employers

Answers to some common questions about the COVID-19 Wage Subsidy:

<https://workandincome.govt.nz/products/a-z-benefits/employer-questions-and-answers.html#null>

Is the WAGE subsidy only for supporting employers to maintain staff who can still work, and they're paid the subsidy plus topped up to 80%?

Yes. Employers must commit to pay staff at least 80% of their income while they are subject to the wage subsidy scheme.

Are staff who cannot work from home eligible for the LEAVE subsidy rather than the WAGE subsidy? If so, does that mean the employer would have to pay them the \$585, but not have to top them up to 80%?

No. Employees who are sick or caring for sick dependents can access the leave subsidy. Employers can access the wage subsidy to help them to pay employees at least 80% of their income. The employer needs to determine the best way for their business to address 'unable to work from home' issues.

If your business cannot afford to pay up to 80%, can they pay the subsidy rate only?

No. Under the scheme, you must commit to pay at least 80% of the employee's income.

However, 'best endeavours' mean the employer and employee can negotiate an alternative approach. (For instance, the employee may accept a 60% wage if that means more of their workforce colleagues can also be paid income). Such best endeavours would need to be documented by the employer.

"Pay a minimum of 80% of normal income" - does normal income include shift allowances, overtime, commissions, Employer KiwiSaver Contributions?

Yes. The wage subsidy is to help employers pay wages; it does not change anything else.

Can a business place staff on leave without pay rather than making them redundant? If so, can they access unemployment benefits?

If the employer and employee agree, then yes.

It is anticipated the wage subsidy would mean that employers can place a worker 'on leave with pay'.

If the employee remains employed, then they cannot access Job Seeker Allowance. There may be other allowances that the employee can access (such as accommodation or hardship).

After shutting down our business am I able to go in (alone) to complete maintenance and cleaning, along with payroll etc? I won't be seeing anyone or interacting with anyone but understand the intention is to stay at home?

If it is a non-essential service, Alert Level 4 means you must stay at home.

What happens if someone works at an essential business, but has a high-risk family member at home – are they covered via leave payment?

Yes

Is there any information on whether staff will have access to their kiwi saver, i.e. relaxed the threshold or process for hardship payments?

This is not being considered at this stage.

When applying for the wage subsidy for our company, do we have to add each employee on a separate line? Our business has over 1000 employees and that will take an extremely long time.

The Ministry of Social Development is working on enabling 'bulk upload'.

Can Force Majeure be used in this situation if there is not a Force Majeure clause in a contract (either contractor's contract, or employment agreement)?

Typically, in force majeure clauses, a party will need to show that:

- An event has occurred due to circumstances beyond a parties reasonable control;
- The event prevented, hindered or delayed performance of the contract; and
- The defaulting party has taken all reasonable steps to mitigate the event or its consequences.

Deciding whether the outbreak is a force majeure event will depend on the precise wording of the clause. Not many force majeure clauses expressly refer to a "disease" or "pandemic". Catch-all terms such as "act of God" or "government restrictions" could suffice – but determining this will require careful consideration of the contract. We recommend the business should seek further legal advice.

Do we need to apply for confirmation of 'essential service' status and if so, how do you do this - will we need to give our staff confirmation to show if stopped on route to work?

See: [covid19.govt.nz essential-businesses](https://www.covid19.govt.nz/essential-businesses)

Are the wages and leave subsidies gross or net of tax? Are the subsidies subject to normal wage deductions?

Subsidy to the employer is without tax. As the subsidy is to help employers to pay wages, once paid as wages these are subject to all normal deductions, including tax.

Can charities, not for profit agencies and clubs apply for the subsidies?

Yes.

Multiple applications

I'm an employee who works full time for a company that hasn't been impacted by COVID-19, and I'm also self-employed. Can I apply for the wage subsidy using the self-employed application?

Yes. You can apply under the self-employed application, as long as you meet the usual criteria for your impacted business. The Ministry of Social Development pay employers and self-employed

contractors, not individuals. However, if you are only part-time self-employed, then your application should be at the part-time rate.

I'm an employee who works full-time for a company that has been impacted by COVID-19, and my employer has applied for the wage subsidy on my behalf. I'm also self-employed part-time. Can I also apply for the part-time wage subsidy using the self-employed application?

Yes. You can apply for the part-time wage subsidy under the self-employed application, as long as you meet the usual criteria, despite being a named employee on your employer's application.

I work multiple part-time jobs. Can I get wage subsidy from all my different employers?

Yes. As an employee who is employed by two or more different businesses, you can receive the wage subsidy from multiple employers, as long as you meet the usual criteria. We cannot pay the same employer more than once for the same employee, and the wage subsidy rate should reflect whether you're employed part-time or full-time by that employer.

Already applied for Wage Subsidy or Leave Payment

I've already applied and been paid the COVID-19 Wage Subsidy for all my employees. Do I need to do anything else?

No. You can't submit another application. You're covered by the COVID-19 Wage Subsidy you've already been paid. This lump sum covers 12 weeks per employee.

I already applied for the COVID-19 Wage Subsidy, but only for some of my employees. Can I make another application for my remaining employees?

Yes. You can make an additional application for any of your employees whom you haven't already applied for.

As an employer I've already received the Leave Payment for an employee. Am I now able to apply for the COVID 19-Wage Subsidy for this employee?

The Leave Payment only covers 14 days for self-isolation. After the 14 days, you can apply for the COVID-19 Wage Subsidy for that employee, as long as you meet the criteria for the payment.

Application status

I haven't yet applied for the COVID-19 Wage Subsidy for any of my employees. Is it too late to make an application?

It's not too late. You can apply for the COVID-19 Wage Subsidy now. We want you to be able to retain and pay your employees at this time.

I've applied and I haven't heard anything yet. Should I make another application?

No, you shouldn't make another application. It may take a few days for your payment to come through.

Active steps to mitigate the impact of COVID-19

As an employer or self-employed person, what active steps do I have to take to mitigate the impact of COVID-19?

You must take active steps to mitigate the financial impact of COVID-19 on your business before you apply for the Wage Subsidy.

This could include:

- activating your business continuity plan
- drawing on your cash reserves (as appropriate)
- making an insurance claim
- proactively engaging with your bank
- seeking advice from the Chamber of Commerce, a relevant industry association or the Regional Business Partner programme.

Employer obligations

As an employer, what are my obligations under employment law at this time?

Your obligations under employment law haven't changed. You need to engage in good faith and take measure that a fair and reasonable employer could do in these circumstances.

As an employer, if I have already received a COVID-19 Wage Subsidy for an employee, do the new obligations of the COVID 19 Wage Subsidy (after it was modified on March 27, 2020) now apply?

No. The obligations for the COVID-19 Wage Subsidy remain the same as at the time you applied.

As an employer, what happens if I make my employee redundant during this time?

You need to try your best to retain your employees you are currently receiving the COVID-19 Wage Subsidy for. If you applied for the COVID-19 Wage Subsidy for any employees after 5pm on 27 March 2020, you must retain those employees, or you will be in breach of your obligations.

What to do I do if the subsidy is higher than what I usually pay my employee?

The wage subsidy is designed to keep your employees connected to you. Any difference should be used for the wages of other affected staff.

As an employer I had to let some of my employees go because of COVID-19. Can I rehire them and get the COVID-19 Wage Subsidy to help pay them?

You can apply for the COVID-19 Wage Subsidy if you re-employ your employees before you apply and if your employees were:

- employed by you as of 17 March 2020: and
- you had to let them go because of COVID-19; and
- you did not apply for the COVID-19 Wage Subsidy for the employees.

It is expected that employers and employees would operate in 'good faith' and employers would look to re-hire on at least the same terms and conditions.

Shareholder-employees and partnerships

Shareholder-employees

If I am a shareholder in a business, can I apply for the wage subsidy?

If you work for the business and you are paid a wage, salary or draw an income for the work you do for the business, you can apply for the wage subsidy.

If I work for a business where there are multiple shareholders, how do I apply for the wage subsidy?

The business you work for should make one application for all its employees and shareholders who work for the business and are paid a wage, salary or draw an income for that work they do.

Which form do I use?

You can use the 'employer' form and the other shareholders if they are paid a wage, salary or draw an income for the work they do for the business, need to have their details entered into the employee section of the form.

Partnerships**If my business operates in a partnership, can I apply for the wage subsidy?**

If each partner that works for the business is paid a wage, salary or draws an income for the work they do, you can apply for the wage subsidy.

Which form do I use?

One partner must apply on behalf of the other partner(s) using the 'employer' form and using the other partners as named employees.

Self-employed and contractors**If I'm self-employed or a contractor, am I entitled to apply for the wage subsidy?**

Yes. You can apply for the wage subsidy using the 'self-employed' application, provided you meet the criteria.

Casual Employee(s)**As an employer, can I apply for the wage subsidy on behalf of my casual employee(s)?**

Yes. You can apply for the wage subsidy for any casual employee(s) that are employed by you at the time you apply and who would have been expected to work during the time you will receive the wage subsidy.

How do I assess whether my casual employee(s) qualifies for the full-time or part-time wage subsidy rate?

Casual employees may have variable hours, so to assess their subsidy rate, the employer should average their hours over the last year. If this average is 20 hours or more, they can apply for the full-time rate, and if it's under 20 hours they can apply for the part-time rate.

If they have worked for less than a year, the employer should average the hours worked during their total employment period.

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.