

## Coronavirus – Employment impacts on employers

*The new coronavirus has now reached New Zealand and its impacts are starting to be felt by employers.*

### Health and Safety at Work Act 2015 (HSWA)

Employers are required to ensure, so far as is reasonably practicable, the health and safety of their workers and visitors to the workplace.

Employers should identify whether their workers are exposed to coronavirus related risks in the course of their work. For example, do workers routinely engage with travellers from countries with high incidences of coronavirus? Are workers in close proximity with each other where infection could easily spread? Employers should then consider the reasonably practicable measures that could be introduced to combat these risks.

Employers should take reasonable measures to keep workers/others safe such as:

1. Remind employees of their duty to take reasonable care of their own and others' health and safety, which includes being vigilant regarding personal hygiene (e.g. washing hands regularly, sneezing into a tissue);
2. Encourage employees to take sick leave if they feel unwell;
3. Develop an emergency/communication plan;
4. Require employees to disclose recent/upcoming travel to countries with high rates of coronavirus;
5. If an employee has travelled to such a country and/or has cold-like symptoms, decide whether the employee is required to not attend work.

### Requiring employees to work at home

If an employee has travelled to a country with high rates of coronavirus and/or has cold-like symptoms, it may be reasonable to require the employee to work at home.

If the risk of a widespread outbreak in New Zealand increases, employers could consider whether they require all, or a large proportion, of their workforce to work from home. Employers should now be assessing whether they are able to have some or all of their employees work from home for sustained period of time. This might be as simple as undertaking an audit of current arrangements to ensure employees have remote access and the necessary equipment.

If employees are unable to work from home due to the nature of their role or refuse to do so, the employer might have to consider discussing with these employees taking a period of annual holiday, including advanced annual holiday, or leave without pay.

In exceptional circumstances, such as a "national pandemic", an employer may be able to suspend or stand down employees without pay. Suspending employees without pay must be a decision a fair and reasonable employer could make in such circumstances. The test of reasonableness for suspending an employee without pay will be a high one; a "national pandemic" may meet this bar. Employers should be checking the suspension clauses in their employees' employment agreements.

Employers should collaboratively discuss the situation with employees and where possible take action by agreement.

### Employees who refuse to attend work

Employees have the right to stop work because of health and safety concerns under the HSWA. A refusal to attend work because of virus concern is currently unlikely to be reasonable but this could change. If an employer doesn't agree to the employee being absent but the employee refuses to attend work, it might be reasonable to commence disciplinary action.

### Possible redundancy

Employees working from home will not be a total solution in all circumstances. Many employees may not be able to effectively work from home or might not have any work to do as a result of the wider effects of coronavirus.



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In these circumstances, employers will have to consider how to address this business interruption. While redundancy might be an option for some, employers should be mindful of the consequences of losing skilled employees when the impact of coronavirus may only be felt in the short term. As an alternative, employers could proactively engage with their employees to find alternatives (such as a reduction in hours or periods of unpaid leave) which could address the immediate challenges posed by coronavirus while still retaining employees in a tight labour market.

## Conclusion

It is difficult to predict how and when coronavirus or a “national pandemic” might affect any employer. Employers should be:

1. Checking their physical resources needed to cope with a crisis;
2. Reviewing their crisis plan;
3. Familiarising themselves with their legal rights;
4. Checking their legal documentation; and
5. Taking advice as required.

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### VENUE

#### Quigg Partners Boardroom

Level 8, The Bayleys Building

36 Brandon Street (Corner Brandon Street and Lambton Quay)

Wellington

### TIME

12:30pm to 2:00pm (light lunch provided)

### COST

\$75 (incl. GST) per seminar

Payment via cheque or direct credit to Quigg Partners

Account No. 06-0501-0859155-00

### REGISTRATION

To register please email Evelyn Pong at [evelynpong@quiggpartners.com](mailto:evelynpong@quiggpartners.com) or visit our website [www.quiggpartners.com](http://www.quiggpartners.com) to fill out the online registration form.

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