

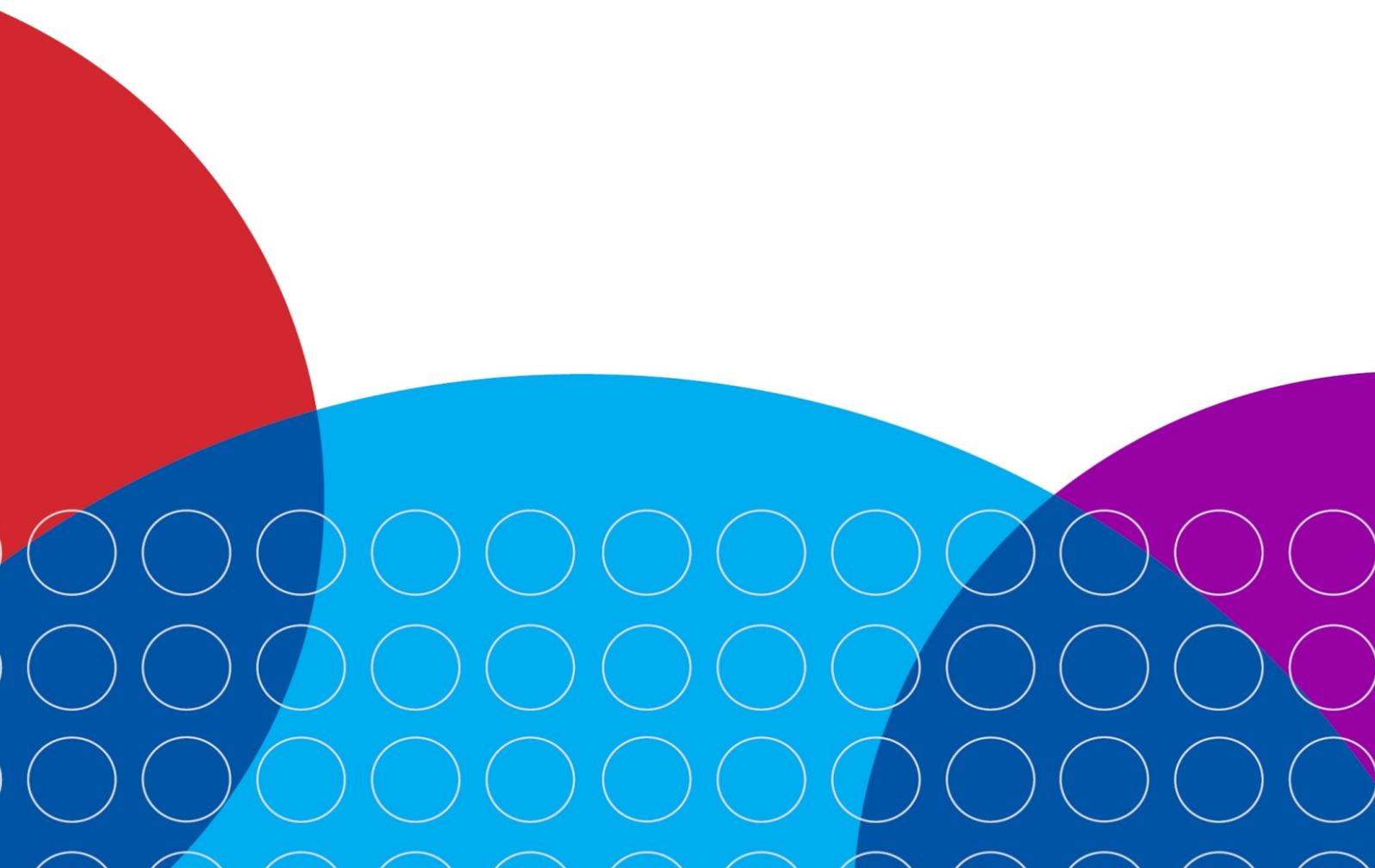


Government  
of South Australia

Office of the Commissioner  
for Public Sector Employment

# DETERMINATION OF THE COMMISSIONER FOR PUBLIC SECTOR EMPLOYMENT

3.1: Employment Conditions – Hours of Work,  
Overtime and Leave: Supplementary Provisions  
for COVID-2019



### **Determination 3.1: Employment Conditions – Hours of Work, Overtime and Leave: Supplementary Provisions for COVID-2019**

**Date of Operation:** 18 March 2020

**Review Date:** This document will be subject to revision as circumstances develop.

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This supplementary determination is issued in accordance with Commissioner for Public Sector Employment powers under section 14(1)(b) of the *Public Sector Act 2009*. It has immediate effect, and will remain in place until such time as it is revoked. This determination has been taken as a result of the declaration of a public health emergency on 16 March 2020.

**For the purposes of managing and minimising the impact of COVID-19, this determination over-rides existing leave and travel provisions contained within any current Commissioner’s Determinations.**

## Creation of new special leave with pay category for COVID-19

In response to the declaration on 16 March 2020 of a public health emergency relating to the COVID-19 pandemic, a new category of special leave with pay of up to 15 days will be available to support absences from the worksite or workplace for COVID-19 situations. This special leave with pay is not considered to be part of the current 15 days special leave with pay, as currently detailed in the Commissioner’s Determination 3.1: Employment Conditions – Hours of Work, Overtime and Leave (CD3.1).

**Unless explicitly stated, any reference to special leave with pay within this Determination is Special Leave With Pay for COVID-19.**

## Summary of supplementary provisions

Provision	Existing	Supplementary Provisions
Special Leave With Pay for COVID-19	Not Applicable	New provision added for COVID-19 of 15 days per service year. This is in addition to current provisions within the existing CD3.1.
Medical Certificates for Special Leave with Pay for COVID-19	Required after continuous three (3) day absence	Not required for COVID-19 purposes. In instances where the special leave with pay is exhausted, normal sick leave provisions (including medical certificates) apply.  Medical clearance may be required prior to return to work.
Carer’s Leave	Up to 10 days of carer’s leave entitlement per service year	No cap on accessing carer’s leave entitlements per service year.
Direction to take annual leave	At least two (2) weeks’ notice staff with more than 24 months of accrual	At least three (3) days’ notice to staff with more than 24 months of accrual

## CONTENTS

<b>Creation of new special leave with pay category for COVID-19 .....</b>	<b>2</b>
<b>Summary of supplementary provisions.....</b>	<b>2</b>
<b>Prevention and Minimisation .....</b>	<b>4</b>
Flexible working arrangements .....	4
Requirement on employee to self-report .....	4
Workplace shutdown for deep-cleaning .....	4
Travel .....	4
Returning from travelling overseas for business reasons .....	4
Returning from travelling overseas for personal reasons.....	4
Contact from the Communicable Diseases Control Branch of SA Health.....	5
<b>Other Leave Arrangements .....</b>	<b>5</b>
Medical Certificate for COVID-19 Absences .....	5
Carer's Leave .....	5
Additional options for caring purposes .....	5
Alternate Working Arrangements .....	6
Directing employees with excess flexi or individual leave balances.....	6

## Prevention and Minimisation

### Flexible working arrangements

Agencies will continue to monitor and apply guidance from SA Health in relation to personal hygiene and social distancing. Agencies must actively consider and must implement 'work from home' arrangements for populations within their workforce who are able to do so, within the constraints of maintaining effective operations and essential services.

### Requirement on employee to self-report

An employee must self-report to their agency if they are self-isolating and the reason for self-isolating if they:

- Are unwell and exhibiting COVID-19 symptoms;
- Have been advised or directed to self-isolate or be tested for COVID-19;
- Have been tested and are awaiting test results;
- Have been tested positive to COVID-19; or
- Are being treated for COVID-19.

Employees must understand and have access to the processes required by the agency to enable them to comply with self-reporting obligations.

### Workplace shutdown for deep-cleaning

In the event the Government or Chief Public Health Officer directs a workplace to shutdown for a short period of time, for example two (2) business days to undertake deep-cleaning, and where it is not practicable and appropriate to work from home or from another work location, the employee will be deemed 'absent on duty'.

## Travel

### Returning from travelling overseas for business reasons

Where an employee is required to undertake self-isolation as a result of business travel and SA Health or Australian Government directions were issued post travel commencement, but otherwise the employee remains well, access to flexible working arrangements (i.e. working from home arrangements) will be explored and implemented in the first instance. Where it is not practicable and appropriate to work from home, access to special leave with pay will be provided.

If the employee becomes unwell while self-isolating, the absence will be managed in accordance with the agency's existing sick leave processes.

### Returning from travelling overseas for personal reasons

Any employee travelling overseas for personal reasons prior to the direction issued by the Australian Government on 15 March 2020 for mandatory self-isolation for 14 days on return to Australia and where it is not practicable and appropriate to work from home, the employee should be placed on special leave with pay for the period of self-isolation.

Employees with planned overseas travel commencing after 12.01am Monday 16 March 2020 must adhere to the travel advice issued by the Australian Government and SA Health, and factor in an additional 14 day absence for self-isolation purposes on their return to Australia is not entitled to special leave with pay. If they still choose to travel, the employee is either required to work from home where this is practicable and appropriate for the period of self-isolation, or use their

individual leave entitlements (recreation, long service, retention leave), or flexi balances, or be placed on special leave without pay.

If the employee becomes unwell during the self-isolation period, absence will be managed in accordance with the agency's existing sick leave processes.

### **Contact from the Communicable Diseases Control Branch of SA Health**

Where an employee is contacted by SA Health as part of contact tracing procedures, and they are subsequently required to self-isolate and it is not practicable and appropriate to work from home, special leave with pay will be approved for the required period of self-isolation.

## **Other Leave Arrangements**

### **Unable to work due to illness**

If an employee is unwell, current sick leave entitlements and conditions apply. In instances where sick leave is exhausted, Chief Executives may grant special leave with pay on a case-by-case basis.

### **Medical Certificate for COVID-19 Absences**

A medical certificate will not be required for special leave with pay for COVID-19 unless expressly required by the Chief Executive.

In instances where the special leave with pay is exhausted, normal sick leave provisions (including medical certificates) apply.

Chief Executives may still choose to require the employee to produce a medical certificate for a period of absence in appropriate circumstances, and may require medical clearance from the employee prior to their return to work.

### **Carer's Leave**

Chief Executives will approve applications to access accrued sick leave for the purpose of caring for a family member for the full duration of any required period of isolation, or for the full duration of the dependent or household member's illness relating to COVID-19. This can be in addition to the current entitlement to access up to 10 days of sick leave entitlements for caring purposes (carer's leave).

### **Additional options for caring purposes**

For the purposes of leave for caring purposes, the following are to be regarded as members of a person's family:

- spouse (including a de facto spouse or a former spouse or de facto spouse);
- child or step child;
- parent or parent in-law;
- any other member of the person's household;
- grandparent or grandchild; or
- any other person who is dependent on the person's care.

Employees who request to work from home whilst providing caring responsibilities will be supported to do so where practicable and appropriate. If it is not practicable and appropriate to work from home, access to carer's leave is to be provided.

If the employee has exhausted all of their carer's leave entitlements, the employee will be provided with special leave with pay.

### **Alternate Working Arrangements**

Each agency, in accordance with its business continuity plan, is to ensure it continues to deliver essential services during the COVID-19 outbreak, taking into account any protection measures recommended by SA Health and/or the SA/Australian Government.

Agencies should consider previously approved leave, and may revoke the approval if the employee is critical to ongoing service delivery.

Employees are to undertake duties either at their usual workplace, utilising flexible working arrangements at home, or at an alternate location. Where employees are not providing frontline or critical services, or cannot be gainfully employed at their normal place of work, or cannot work remotely from home or at another office, such employees may be temporarily required to work in another role within the agency or sector pursuant to relevant legislative provisions.

### **Directing employees with excess flexi or individual leave balances**

Employees with recreation / annual leave entitlements in excess of 24 months of accrual may be directed to reduce their leave balance with 3 business days' notice.

In directing employees to reduce their excess flexi accrual, Chief Executives must comply with the relevant Enterprise Agreement.