



BREAKING: PERTH, PEEL AND SOUTH WEST REGION LOCKDOWN

The APodA HR Advisory Service would like to advise our WA members of the workplace relations implications of the West Australian Government's decision to impose a 5-day lockdown for the Perth, Peel and South West Regions of the state.

The lockdown came into effect from 6pm Sunday the 31st of January (AWST) and will run until 6pm Friday the 5th of February (AWST) or until such further time as the Commissioner of Police and State Emergency Coordinator orders.

Under the directions, all persons in the affected areas are to stay at home during the relevant period other than for one or more of the reasons specified. A lawful reason to leave the home includes to access essential health services.

That being said, under section 29 (j) of the directions, available [here](#), 'essential health services' are defined as only the following allied health services:

- Allied health services provided by allied health professionals working as essential workers in hospitals or in residential care facilities providing critical clinical care or as directed by the hospital; or
- Allied health services provided by allied health professionals working in private practice providing care through telehealth or other virtual care options; or
- Students, medical/nursing/midwifery/allied health on placement providing essential care in hospitals or in residential care facilities, or through telehealth.

For members in private practice, if the above conditions mean some or all of your employees cannot be usefully employed for the duration of the lockdown, the following options should be considered

Stand Down.

As per the provisions of Section 524 of the Fair Work Act*, where an employer is:

- Unable to usefully employ their staff;
- Due to a stoppage of work ...
- For reasons which they cannot reasonably be held responsible,

Staff may be stood down without pay.

In the current COVID-19 circumstances, an employer may reasonably be able to argue that their business has been ordered to cease operating by the Government and therefore they are unable to usefully employ their staff for reasons for which they cannot reasonably be held responsible.

Please note that given the relatively tight definition and historically limited application of the stand down provisions, a decision to stand down staff does carry some risk i.e. that the Fair Work Commission may, at a later stage, deem the stand down invalid.

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Given the risks, we recommend employers consider the following options prior to standing staff down without pay:

1. Agreeing with employees to take their annual leave and/or long service leave
2. Asking employees if they would be willing to take a period of unpaid leave by agreement (if they don't wish to use their paid leave entitlements)

**These stand down provisions only apply to incorporated employers who are covered by the Fair Work Act 2009. If your practice is unincorporated, please contact the APodA HR Advisory Service.*

For further advice on the workplace relations implications of the Perth, Peel and South West Regions lockdown, please contact our friendly team on 1300 620 641 or by email at hrrhotline@podiatry.org.au.

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