

## COVID-19 Splinter Award Continuation for Councils

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### Key Takeaways

- An award has been proposed largely in the same terms as the Local Government (COVID-19) Splinter (Interim) Award 2021 made by the Commission which will remain in force until April 2023.
- Paid COVID-19 special leave, a job retention allowance and leave without pay are some of the key aspects of the award.
- The award applies to both Council employers and employees alongside the *Local Government (State) Award 2020*.

Pursuant to section 10 of the *Industrial Relations Act 1996*, an application was recently made for a new award that aims to set fair and reasonable conditions of employment for various employees of Councils. The application was successful, and from 8 April 2022 until 7 April 2023 the new award, largely in the same terms as the *Local Government (COVID-19) Splinter (Interim) Award 2021* will apply (**Interim Award**).

### Reasoning

These arrangements have been extended and were originally made in response to the COVID-19 pandemic and is to be read and interpreted alongside the *Local Government (State) Award 2020 (Government Award)* where relevant. Where there is any inconsistency between the awards, the new Interim Award will apply.

### Changes made by the Interim Award

The new award provides for a number of entitlements designed to recognise the changes in the employer-employee relationship due to the pandemic. Some of these changes include:

- **Leave for vaccinations** - employees shall be entitled to leave, without loss of pay, for the time reasonably required to receive a Therapeutic Goods Administration approved vaccination for COVID-19.
- **Duty to explore alternatives** – where employees are unable to perform their normal duties at their normal place of work, the employer must explore opportunities for the employee to work from another location or provide alternative duties where available.
- **Employer direction** – an employer may direct an employee, due to COVID-19, to carry out suitable alternative duties provided that such a direction is not unreasonable.
- **Annual leave and leave without pay** – by agreement a combination of paid annual leave and leave without pay may be taken and cannot be unreasonably refused.
- **Long service leave** – an employee other than a casual with less than 5 years' service may, with the consent of the employer, take long service leave in advance.
- **Working from home** – hours of work cannot exceed 12 hours in one day and employees are not entitled to shift or weekend penalty rates unless directed to work outside their ordinary spread or span of hours.
- **Home internet and computer expenses** – employees working from home due to COVID-19 are not entitled to a reimbursement of home internet and home computer related expenses unless exceptional circumstances exist.

### Paid COVID-19 Special Leave

Paid leave is available to employees at their salary system rate for 4 weeks or until the employee is able to provide the employee with useful work. This is available to full-time and permanent part-time employees only. Features of this special leave include:

- **Partial stand down** – Where an employee is partially stood down and working reduced hours, the leave is only payable on the hours the employee is stood down from.
- **Recall to work** – employees may be recalled to work by giving 24 hours' notice (or a shorter period if agreed between the parties).
- **Continuous service and ordinary time earnings** – the special leave served will be regarded as service and ordinary time earnings for the purposes of calculating employee entitlements and superannuation guarantee contributions respectively.

## **Job Retention Allowance**

Another feature of the Interim Award is that an employee who remains stood down or partially stood down will be paid a job retention allowance, should the 4 weeks of paid special leave be exhausted. Payment will be at the Band 1 or Band 2 level of pay under the Government Award for 13 weeks or until the employer is able to provide the employee with useful work.

Employees may supplement payments of the job retention allowance by applying to take accrued annual leave or long service leave. Again, employees may be recalled to work from receiving the job retention allowance with 24 hours' notice.

## **Leave Without Pay and Other Features**

An employee who remains stood down and has exhausted both entitlements to the paid special leave and the job retention allowance under the Interim Award, will be placed on leave without pay until the employer is able to provide the employee with useful work.

Regarding grievance and dispute and anti-discrimination procedures, the provisions of the Government Award shall still apply.

## **Conclusion**

The Interim Award is here to stay for another year, both Council employers and employees should be aware of these provisions which purports to operate alongside the usual Government Award.

If you would like advice about anything in this article, please contact [Greg Lee](#) on 02 8235 1254 or your usual ClarkeKann contact.