

EXEMPT ESSENTIAL WORKERS

MANAGING RISKS IN THE WORKPLACE

The [ACT Government](#) has advised that a [Standing Exemption](#) is in place to allow, in some specific circumstances, essential workers who are household contacts to be exempt from adhering to the public health orders for diagnosed people and household contacts. This exemption came into effect on 27 January 2022 and may allow these workers to attend workplaces to carry out critical services. However, this exemption only applies if the worker is, not exhibiting COVID-19 symptoms and has tested negative to COVID-19 on the day of work.

Persons conducting a business or undertaking must already have controls in place to manage the risks of COVID-19 in the workplace. Where exempt essential workers attend a workplace, PCBUs must ensure the health and safety of workers and manage any additional risks. PCBUs should **only exempt the worker if they provide a critical service and there are no lower-risk options available**. For example, arranging to have other workers (who are not under quarantine orders) carry out the work instead.

ESSENTIAL WORKERS UNDER THE STANDING EXEMPTION

The current Standing Exemption applies to the following essential workers:

food distribution workers – including manufacturing and warehouse workers involved in food distribution and workers employed to work in supermarkets and grocery shops to undertake shelf-packing or night fill duties, which do not require direct interaction with customers, and

freight and transport workers – including heavy vehicle drivers rail crew, logistics and support workers essential to the supply chain, road-side assistance workers and other freight and delivery drivers for the purpose of transporting and distributing of food, groceries and sanitary products or postal services.



Note: Furniture removalists are not covered within the current Standing Exemption.

PCBU DUTIES


A PCBU must ensure their workplace is as safe as possible prior to any exempt essential worker attending the workplace.

In applying the Standing Exemption to any worker, PCBUs must meet their duties under the [Work Health and Safety Act 2011](#) (WHS Act), including, but not limited to:

- Ongoing review of risk assessments and control measures. In applying an exemption to a worker, a review of health and safety processes is required to ensure control measures remain effective, as exempt workers attending the workplace will likely increase the risk of COVID-19 transmission.
- Consulting with affected workers and their health and safety representatives when reviewing risks and their control measures. **This includes informing co-workers that they may encounter an exempt essential worker in the workplace. This consultation and the release of any information must be done in accordance with relevant privacy laws.**
- Implementing the reasonably practicable controls measures that are identified in the risk assessment. The hierarchy of controls first requires PCBUs to consider eliminating the hazard (i.e. not allowing the exempt worker to attend the workplace); and if elimination is not possible, apply:
 - substitution
 - isolation
 - engineering controls, and
 - where a risk remains, administrative controls and personal protective equipment.
- Ensuring the availability of sufficient Rapid Antigen Tests (RATs) to comply with the terms of the Standing Exemption and to comply with the **WHS Act Sections 18, 19.3 (a), (c), (e) and (g)**¹.
- Communicating, training, supervising and instructing workers and managers on their responsibilities and requirements in the workplace when they are working under this Standing Exemption prior to an exemption being activated.
- Establishing procedures for monitoring the risks of exempt workers in the workplace and undertaking regular reviews of the risk and controls in consultation with workers and their representatives.

¹ In accordance with these obligations, PCBUs should be aware that the use of RATs in combination with measures in line with the hierarchy of controls are considered best practice and are strongly recommended. While it depends on the circumstances of the PCBU and workplace, it is likely that the supply of RATs to workers would be considered reasonably practicable in accordance with section 18 of the WHS Act when managing the risks of COVID-19 in the workplace.





A Health and Safety Representative (HSR) for a group of affected workers may request a review if they consider a risk is not being adequately managed. Where such a request is made, the PCBU must conduct a review.

Workers also have duties under the WHS Act. They must comply with all reasonable instruction given by the PCBU, use all Personal Protective Equipment (PPE) provided, and not put themselves or others at risk.

Workers who are subject to the Standing Exemption must also test themselves daily and achieve a negative result during their quarantine period. If they test positive, the worker must immediately inform their workplace, register the result with ACT Health and quarantine at home. Exempt essential workers should travel to and from the workplace directly and follow all other public health orders including quarantine requirements.

CONTROLLING THE RISK UNDER THE STANDING EXEMPTION

Where exempt essential workers are attending the workplace, PCBUs must put controls in place to manage the increased risk of COVID-19 transmission. The risk controls used will depend on the specific situation of the workplace, should be based on a risk assessment, and be thoroughly consulted with workers, HSRs (if any) and any other person that may be affected by the work.

When managing the risk of COVID-19 transmission, a combination of control measures is generally required and includes known COVID-19 controls such as hand hygiene, physical distancing and masks.

Control measures must be supported by monitoring the work environment and the health of workers. This can be done through regular workplace walk throughs to review the control measures used and using RATs to monitor any transmission of COVID-19 at the workplace.

ELIMINATING THE RISK

Eliminating the risk is the highest-level risk control you can use. This should be considered **before** all other control measures. This may include having workers work from home or having other workers (who are not under quarantine orders) to carry out the work instead.

Where elimination is not possible, substitution, isolation and engineering controls should then be considered. Some examples of control measures are provided below; however, this may not be applicable to all workplaces and a risk assessment should be carried out to determine the best controls for your workplace.

SUBSTITUTION CONTROLS

Substitution controls involve substituting the risk or hazard with a safer one. For example, an exempt essential worker may carry out different duties to reduce the risk, such as:

- attending a smaller workplace, where there are less people
- carrying out different tasks where or when there are less people around, and/or



- avoiding other workers attending the workplace, if possible.

ISOLATION

Isolation controls involve physically isolating the risk or hazard. For example, the exempt essential worker may be able to work in an area with a larger physical distance between them and other workers. Examples of this control could include:

- using alternative ways to communicate rather than face to face (1.5m apart)
- installing physical barriers, such as screens
- providing a separate breakroom and bathroom, and
- providing a separate entry and exit areas.

The minimum distance of 1.5m between all people in the workplace should be maintained at all times where possible. Where not possible, PPE, such as masks, should be considered.

ENGINEERING

Engineering controls involve using physical methods to manage the risk or hazard. For example:

- installing appropriate air movement or filtration systems
- marking the workplace to show safe working distances, transit and areas
- increasing the frequency of cleaning and disinfecting the workplace and common touch points, and
- encouraging or facilitating vaccination including boosters.

ADMINISTRATIVE CONTROLS

Administrative controls should only be considered where there is residual risk after all higher-level controls have been used. Administrative controls involve the use of work systems to manage risks. For example:

- planning work so that the exempt essential worker has staggered start, finish and break times to minimise contact with others at the workplace
- ensuring PPE is not shared between workers
- implementing training and policies about controlling COVID-19 transmission including hand hygiene, physical distancing, rosters, cleaning schedules and any other control measures used at the workplace
- keeping accurate and confidential records of exempt essential workers and their work schedule, and
- where possible, avoid movement of the exempt essential worker between different workspaces.

PERSONAL PROTECTIVE EQUIPMENT

PPE should only be considered where, after implementing higher-level controls and administrative controls, there is still a risk. PCBUs are obliged to supply PPE as per Sections 44 (1) and 44 (2) of the WHS Regulation.

PPE is crucial to support the higher-level controls when managing the risk of COVID-19 transmission in the workplace. As the PCBU, you should ensure that all workers:



- have access to suitable PPE for their work such as disposable gloves, face shields (if required), protective clothing and correctly fitted face masks, and
- are trained on the correct use of the PPE provided to them, including how to maintain, store and dispose of it appropriately.

TRAINING AND SUPERVISION

PCBUs must ensure that they provide relevant training, instruction and information to all workers. For exempt essential workers, this could include information around identifying symptoms, how and when to take RATs and how they can comply with any additional risk controls in the workplace. The training provided must be fit for purpose and easily understood by the worker, this should consider any cultural and linguistic needs.

PCBUs should ensure exempt essential workers understand the boundaries of their attendance at the workplace and that they must otherwise comply with public health quarantine directions of staying at home.

PCBUs must ensure they provide adequate supervision of all workers at the workplace and that they follow up on any non-compliance with additional training, signage or a review of the risk assessment.

NEED MORE INFORMATION?

Legal information is available at [Work Health and Safety Consultation, Cooperation and Coordination Code of Practice](#).

Industry specific work health and safety guidance and tools is available at [Safe Work Australia COVID-19 hub](#).

General health advice and the Public Health Directions in the ACT is available on the [COVID-19 website](#).

NEED TO CONTACT US?

Visit our [website](#) or contact WorkSafe ACT on 13 22 81 or email WorkSafe@worksafe.act.gov.au.

MEDIA AND COMMUNICATIONS ENQUIRIES

For media enquiries only, please contact the Media and Communications Team on 0466 927 213 or email media@worksafe.act.gov.au.

