

## Covid-19: Wage Subsidy Q&A

### The Government is regularly updating and finessing the Wage Subsidy Scheme. This Q & A answers some of the questions commonly asked by businesses.

**Q: What does 'best efforts to pay 80%' mean?**

A: The starting point is often overlooked – you should be paying 100% of the employee's normal wages.

Normal Wages = the wages specified in the employee's employment agreement as at 26 March 2020.

But if 100% is not possible then 80% is the desired outcome. You must try your absolute hardest to pay 80%. (WS+ W = 80%).

**Q: So, do I need to do anything to start paying my employees 80%?**

A: Yes, you **must** consult. You must act in good faith, You must put a proposal to the employee and try and get their agreement. You cannot unilaterally vary any terms and conditions including their remuneration.

The granting of a wage subsidy does not override an employer's existing obligations under the Employment Relations Act 2000. An employer cannot make any changes under any employment agreement, including to rates of pay, hours of work and leave entitlement, without the written agreement of the relevant employee.

**Q: What happens if our business is closed and we are not generating any income?**

A: The Government has recognised these circumstances in the modifications to the subsidy and now you can pass on the just he subsidy - \$585

for full time employees – someone who works more than 20 hours. Or, \$350 for part-time employees.

**Q: I have casual staff members. What happens with them? Can I get a subsidy for them?**

A: Yes, provided the casual member of staff would have been expected to work during the time you will receive the wage subsidy.

**Q: What happens if they only work 5 hours a week and earn \$100? What happens to the balance of the wage subsidy - \$250.00?**

A: The wage subsidy is designed to keep your employees connected to you. If this applies then you can use the balance for the wages of other affected staff.

**Q: My casual employees work variable rates? How do I work out whether they qualify for the part-time or full time subsidy?**

A: You should average their hours out over the last year. If this average is 20 hours or more, you can apply for the full-time rate, and if it's under 20 hours the part-time rate.

If they have worked for less than a year, you should average the hours worked during their total employment period.

**Q: I have an employee who works part-time for me and part-time elsewhere. Can I get wage subsidy for that employee if they are already receiving one?**

A: Yes. As an employee who is employed by two or more different businesses, can receive the wage subsidy from multiple employers, as long as the usual criteria are met.

**Q: I have heard that you can't require people to take annual leave if they are getting the wage subsidy. Is that correct?**

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A: Yes, you cannot unlawfully compel or require any of the employees named in your application to use their leave entitlements for the period you receive the subsidy in respect of those employees.

### Q: Can I pay annual leave on top of the subsidy?

A: Yes, if that is what the employee wants and ask for. Just be careful because annual leave is calculated based on the greater of Average Weekly Earnings (AWE) or Ordinary Weekly Pay (OWP). If the employee is in receipt of the subsidy their OWP = \$585, not their normal pre COVID wages. So, they may see a lesser amount than they were expecting.

### Q: What happens if I want to make an employee redundant?

A: The short answer is that if you applied for and received a wage subsidy after 5pm Friday 27 March, you can't make anyone redundant for the duration of the subsidy (currently 9 June 2020).

### Q: But I applied before 5pm on 27 March – am I still stuck?

A: In those circumstances your original declaration remains and that did not include any requirement or undertaking that there would be no redundancies. So, subject to the usual good faith obligations you can commence a restructuring process.

### Q: Bother, if I had known about the new scheme I wouldn't let an employee go. Is there anything I can do?

A: Yes, you can apply for the Wage Subsidy if you re-employ your employees before you apply and if your employees were:

- employed by you as of 17 March 2020; and
- you had to let them go because of COVID-19; and
- you did not apply for the COVID-19 Wage Subsidy for the employees.

It is expected that employers and employees would operate in 'good faith' and employers would look to re-hire on at least the same terms and conditions.

### Q: I already applied for the Wage Subsidy, but only for some of my employees. Can I make another application for my remaining employees?

A: Yes. You can make an additional application for any of your employees whom you haven't already applied for.

### Q: Can I use the wage subsidy I received for a named employee to pay other outgoings, like rent?

A: No, when you apply you also declare that you will only use the subsidy for the purposes of meeting your named employees ordinary wages and salary.

### Q: Surely MSD won't be checking?

A: The scheme and its success depends on honesty. All government agencies will be sharing information and there will be a public register and information available to employees to confirm receipt of the subsidy. If you are caught this will be fraud and the MSD will act accordingly.

In the declaration you have to acknowledge and consent to the Ministry of Social Development sharing information about you or your business provided with respect to your application (both at the time of application, and any information provided at a later time) with other agencies (including non-government agencies) to the extent necessary to make decisions about your application, and to audit and review any subsidy that is granted (to you or another applicant) and how any subsidy granted is paid to employees.

### Q: Do I have to tell my employees that I am applying?

A: Yes because it is good faith but as part of the application you must have discussed this application

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with the employees named in it and the employee must have consented to a number of matters recorded in the declaration:

- the information about them in your application being provided to the Ministry of Social Development; and
- you providing the Ministry of Social Development with any further information about them required in order for the Ministry of Social Development to make decisions about your application, and to audit and review any subsidy that is granted (to you or to another applicant) and how any subsidy granted is paid to employees; and
- you advising the Ministry of Social Development if they end their employment relationship with your business at a time when you are receiving a subsidy with respect to them.

**Q: What about sick leave – I see the leave payment scheme is gone.**

A: Yes, the Government folded the previous sick leave scheme into the wage subsidy scheme to prevent double-dipping. From 3pm on Friday March.

So an employee's entitlement to sick leave should only be used if they are sick or caring for a dependent who is sick.

**Q: What do I do about my vulnerable employees who are over 70 or pre disposed to serious health complications?**

A: The Government has announced that they are looking into a new policy to provide support to workers in essential services where they **required** to take sick leave. We expect this to apply to vulnerable employees. Detail will be announced this week.

**Q: Can shareholders apply for the subsidy if they work for the business and are paid a wage, salary or draw income from the work they do for the business?**

A: Yes and the same applies for partnerships.

**Q: If my circumstances change what should I do?**

A: You must notify the Ministry of Social Development within 5 working days if anything changes that may affect a business's eligibility or entitlement to the subsidy, including if any of the employees named in your application end their employment relationship with you.

**Q: Is it possible that the business will have to repay any part of the subsidy?**

- A: Yes, you agree to repay the subsidy or any part of the subsidy paid to you if you:
- fail to meet any of the obligations about how you must use the subsidy; or
  - were not or stop being eligible for the subsidy or any part of the subsidy;
  - provide false or misleading information in your application; or
  - receive insurance such as business interruption insurance for any costs covered by the subsidy.

**Want to know more?**

If you have any questions about the Covid-19 Wage Subsidy please contact our specialist [Employment Team](#).