



Masks and Face Coverings



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What are my obligations if a direction or order to wear a mask or face covering comes into effect?

From time to time, governments or public health bodies may introduce or re-instate the mandatory wearing of face coverings or masks in response to COVID-19 outbreaks. This order or direction may change depending on the development of COVID-19 outbreaks in your area.

When mask-wearing restrictions are introduced, you may need to direct your employees to wear a mask or face covering in the workplace unless an exception applies (**the Restriction**). As the direction relates to your health and safety obligations, you will also need to conduct a risk assessment in consultation with your employees.

Follow these steps to comply with your obligations:

- Visit the health department or ministry website for your area to learn:
 - who must wear a mask or face covering
 - what is considered to be a mask or face covering
 - for how long the direction or order will be in place
 - in what circumstances one must be worn, and
 - whether there are exceptions

The details are usually set out in alerts, public health directions, or updates.

- Conduct a risk assessment in consultation with your employees taking the public direction into account
- Implement your control measures e.g. directing employees to wear a mask in the workplace, issuing a memo to employees about the new measure, ensuring you keep a supply of masks on hand in the workplace
- For workers who refuse to wear a mask, refer to the next page for further information

Do I have to provide my employees with a mask?

Yes, if the Restriction applies to you and employees do not have a clean one of their own to use.

You have a health and safety obligation to your workers to provide and maintain, so far as is reasonably practicable, a working environment that is safe and without risks to health. When a Restriction is introduced or re-instated, it becomes part of your duty of care to your employees to provide them masks or face coverings in your workplace. Additionally, you must also provide instruction, training, and information to your employees on the safe handling, use, storage, decontamination, and disposal of the mask or face covering. It is recommended that you undertake a risk assessment in consultation with your employees to identify the risks and implement control measures.

What if my employee refuses to wear a mask?

- Discuss with the employee the reason for their refusal. An exception may apply allowing the employee to be at work and not wear a face covering. Your occupational health and safety obligations may still require you to arrange alternative control measures for the employee's health and safety (e.g. physical barriers)
- Consider whether the employee:
 - can work from home. If so, you can lawfully direct them to work at these locations for their health and safety
 - would like to take a period of annual or long service leave, if accrued
- If none of the above applies, you can direct the employee to go home unpaid and not work until they agree to wear a face covering. The employee not doing so may put your business at risk of breaching health and safety legislation and presents an unreasonable risk to your other employees

Can I discipline my employee for unreasonably refusing to wear a mask?

This will depend on the individual circumstances of the case. If you:

- have found out the reasons for the refusal
- have resolved the employee's concerns as much as possible (e.g. risk assessment and control measures),

and the employee is still refusing, this may be grounds to take disciplinary action against them.

In order to confirm if disciplinary procedures are recommended, call the Advice Team on 1300 651 415 to discuss.

What if an employee comes to work without a mask and I don't have a mask to give them?

If your risk assessment identifies that wearing masks or face coverings must occur to control risks to health in your workplace, then part of your duty of care is to take reasonable steps to ensure your employee wears one at all times in the workplace. You may need to quickly purchase a mask and/or direct the employee to return home until you have obtained a mask for them to wear. To confirm whether the employee's absence from the workplace will be paid or unpaid, call the Advice Team on 1300 651 415 to discuss.

What if contractors who come on my premises don't wear a mask?

Your health and safety obligations extend to independent contractors for matters over which you have control, including what happens on your premises. You can direct the independent contractor to wear a face covering that you provide to ensure their health and safety in your workplace. If they refuse, you can ask them to leave.

I want to provide masks but cannot find masks anywhere. They are all sold out. My staff have found some in their local chemist. Can the employee buy the mask and I reimburse them?

As long as you reimburse your employees for the purchasing of masks themselves, this is fine.

Ensure that you get receipts for the cost of the masks and pay the employee back as soon as possible. Keep records of all payments to employees in this regard.