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## LawTalk Blog



# Working from home - Issues for employees and employers in the time of COVID-19

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The unprecedented circumstances which we are facing due to the spread of Corona virus will inevitably lead to significant changes in the way we work.

For those of us fortunate enough to be able to do so, working remotely / from home will become the new “normal”. However, working from home can raise a number of issues from both the employee and employer's perspective. This blog will address some of the issues that may be faced.

## Am I still covered for workers compensation while working from home?

Yes. The *Return to Work Act (SA) 2014* applies to all injuries which “*arise from employment*”. For physical injuries this means that the injury must arise out of or in the course of employment, and employment must be A significant contributing cause. For psychiatric injuries this means that the injury must arise out of or in the course of employment, employment must be THE significant contributing cause, and the injury must not arise wholly or predominantly from certain reasonable actions taken by the employer in a reasonable manner.

If a person is working from home, while they are working, they are “*in the course of employment*”. Accordingly, if a person is injured while working at home, as long as the other criteria are satisfied, they should be covered by workers compensation.

There will always be circumstances where there may be room for argument as to whether or not the person in question was “*in the course of employment*” at the time they were injured, and we expect that such circumstances will inevitably arise more frequently in the context of working from home. For example, if a person takes a break from work while working at home to make a cup of tea and is scalded by steam from the kettle, did that injury arise “*in the course of employment*”? If such an injury occurred in the employer’s premises there would be little doubt that it arose in the course of employment but, if it occurred at home, the answer may not be as clearcut.

## Are workers and employers still required to comply with work health and safety legislation while workers are working from home?

Yes. The *Work Health and Safety Act (SA) 2012* applies to all work wherever it takes place. The legislation defines a “*workplace*” as somewhere where work is carried out and includes any place where a worker goes, or is likely to be, while at work.

The legislation provides that both employers and workers have an obligation to ensure, so far as reasonably practicable, the health and safety of workers and others while at work.

Some may argue that, for employers this obligation means that whenever a staff member is working from home, the employer is obliged to examine the work location in the home to ensure that it is safe and free of obvious hazards. Others believe that, to satisfy the employer’s obligation the employer must:

- take action to ensure that staff working from home understand the principles of safe work;
- brief their staff on ensuring that hazards are removed or reduced; and
- ensure that any equipment taken home from the workplace has been tested and is safe.

Workers themselves have an obligation to take reasonable care for their own health and safety while at work. When working from home, this would mean taking care to ensure that the environment is safe, not exposing yourself or others to risks or hazards, and exercising appropriate caution while working.

## Security Issues while working from home

For work that involves access to confidential or private information or personal data, care should be taken to ensure the security and confidentiality of such material.

### How you can ensure security and confidentiality is maintained while working from home:

- ensure that original documents and hard copies of confidential or sensitive information are safely stored while at home so that they cannot be viewed by others in the home, or damaged;
- be conscious of others in the home – do not leave sensitive information lying around where it can be viewed, and make telephone calls in a private location where they cannot be overheard;
- do not share your computer or laptop with others in the home in case they access confidential or private material;

- if leaving your computer for any length of time, shut it down so that others in the home cannot 'eavesdrop';
- use secure wi-fi - do not use a public wi-fi or neighbourhood wi-fi.

## Best practices when working from home

It is a privilege to work from home, and those who have jobs which are conducive to do so are very fortunate. Those whose work is not easily performed at home may lose their jobs, or be required to take unpaid leave, while those who are able to work from home might remain employed.

It may be tempting, when working from home, to sleep late, or to binge on Netflix, resist the temptation!

Abusing the privilege of working from home means employers may be less willing to offer the option to others, resulting in job losses or reductions in working hours much earlier than would otherwise be the case.

In these difficult times it is incumbent upon all of us to “*do our bit*” to ensure that the current circumstances cause as little damage to our jobs, our industries, and our economy. Remaining highly productive while working from home is a critical contribution.

Do you have any questions or issues arising from working from home? Whether COVID-19 related or not, please contact [Margaret, Anthony or Carly](#) from [Andersons Workplace Law Team](#).

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