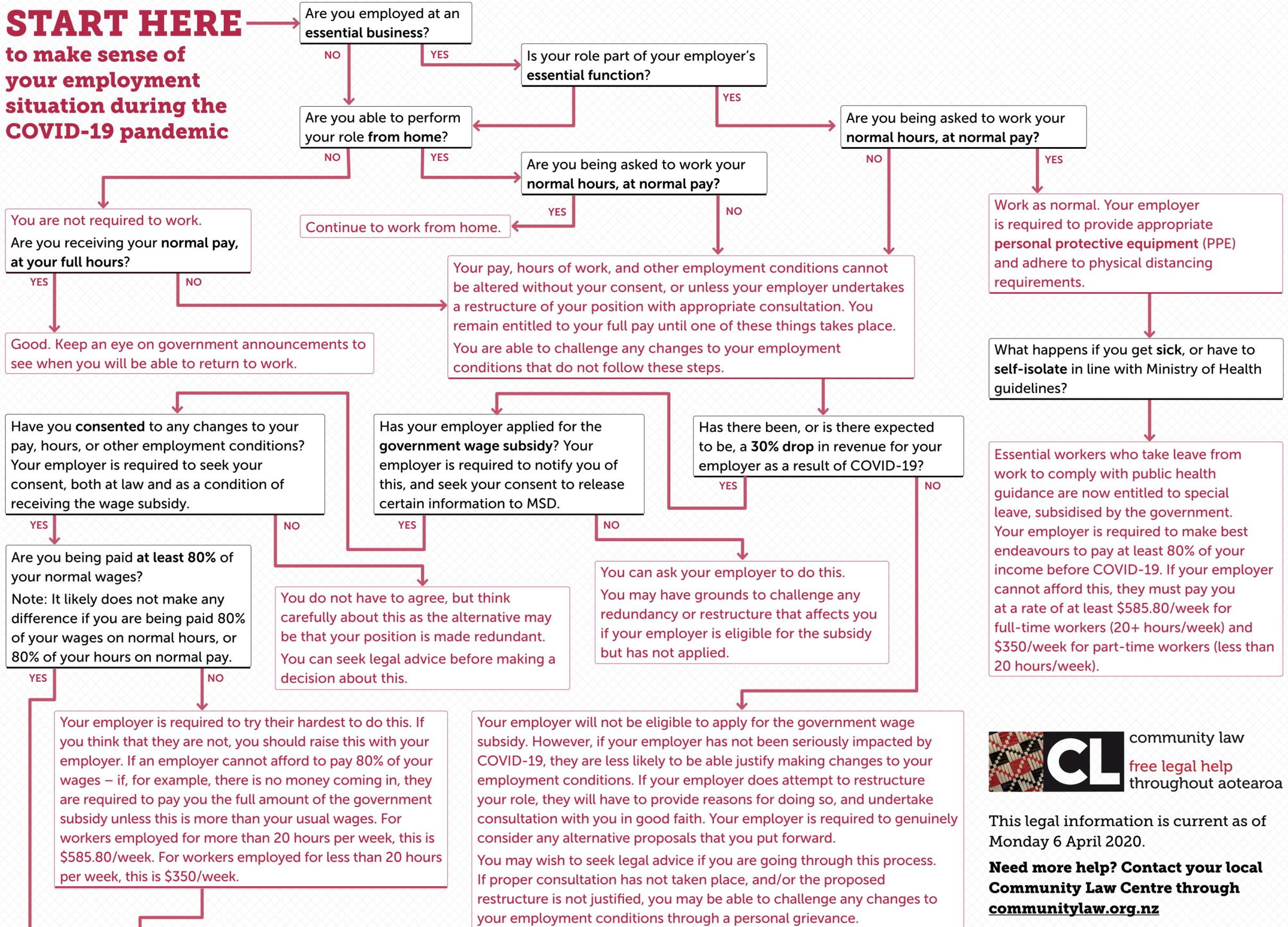


# START HERE

## to make sense of your employment situation during the COVID-19 pandemic



You are not required to work. Are you receiving your normal pay, at your full hours?

**YES**  
Good. Keep an eye on government announcements to see when you will be able to return to work.

Have you consented to any changes to your pay, hours, or other employment conditions? Your employer is required to seek your consent, both at law and as a condition of receiving the wage subsidy.

**YES**  
Are you being paid at least 80% of your normal wages?  
Note: It likely does not make any difference if you are being paid 80% of your wages on normal hours, or 80% of your hours on normal pay.

**YES**  
Your employer is required to try their hardest to do this. If you think that they are not, you should raise this with your employer. If an employer cannot afford to pay 80% of your wages – if, for example, there is no money coming in, they are required to pay you the full amount of the government subsidy unless this is more than your usual wages. For workers employed for more than 20 hours per week, this is \$585.80/week. For workers employed for less than 20 hours per week, this is \$350/week.

What if my hours vary from week to week?

If you work variable hours, you are entitled to be paid on the basis of your average hours over the last 12 months, or over the period of time you have been employed (if less than 12 months).

Good. However, if your employer is in a position to pay you your full wages, they should do so.

Continue to work from home.

Your pay, hours of work, and other employment conditions cannot be altered without your consent, or unless your employer undertakes a restructure of your position with appropriate consultation. You remain entitled to your full pay until one of these things takes place. You are able to challenge any changes to your employment conditions that do not follow these steps.

Has your employer applied for the government wage subsidy? Your employer is required to notify you of this, and seek your consent to release certain information to MSD.

**NO**  
You do not have to agree, but think carefully about this as the alternative may be that your position is made redundant. You can seek legal advice before making a decision about this.

Has there been, or is there expected to be, a 30% drop in revenue for your employer as a result of COVID-19?

**YES**  
You can ask your employer to do this. You may have grounds to challenge any redundancy or restructure that affects you if your employer is eligible for the subsidy but has not applied.

**NO**  
Your employer will not be eligible to apply for the government wage subsidy. However, if your employer has not been seriously impacted by COVID-19, they are less likely to be able justify making changes to your employment conditions. If your employer does attempt to restructure your role, they will have to provide reasons for doing so, and undertake consultation with you in good faith. Your employer is required to genuinely consider any alternative proposals that you put forward. You may wish to seek legal advice if you are going through this process. If proper consultation has not taken place, and/or the proposed restructure is not justified, you may be able to challenge any changes to your employment conditions through a personal grievance.

## MORE WAGE SUBSIDY QUESTIONS

Am I entitled to take annual leave while my wages are being subsidised?

Yes, if you and your employer agree. When taking annual leave, you must be paid whichever the following is greater:

- Your normal pay, on the day you take leave; or
- your average pay over the last 12 months.

If your pay has been reduced as a result of COVID-19, then your 12 month average will likely be higher the amount.

Can I be required to use my annual leave in order to receive government subsidised wages?

No. The purpose of annual leave under the Holidays Act is to allow an opportunity for rest and recreation. Requiring a worker to take annual leave in order to reduce costs associated with Covid-19 is inconsistent with that purpose, and is likely to be unlawful. Even if it were legal to do so, employers are required to give 14 days' notice of annual leave, and cannot require employees to take annual leave in advance. One of the conditions of the government wage subsidy is that employers will not unlawfully compel or require employers to take annual leave during the 12 week subsidy period.

What if I am on a casual employment agreement?

Casual workers are not entitled to ongoing work, so there is no guarantee that you will continue to be employed. Your employer, however, is still able to apply for the wage subsidy and pay you accordingly. It is arguable that an employer should, as a matter of good faith, make a subsidy application on behalf of their casual staff as it costs them nothing to do so.



This legal information is current as of Monday 6 April 2020.

**Need more help? Contact your local Community Law Centre through [communitylaw.org.nz](http://communitylaw.org.nz)**