

Clause 37

37.0 Public Health Emergence (and Civil Defence) Response

- 37.1 The following provisions apply where there is a Public Health Emergency (PHE) declared by the Director-General of Health under the relevant legislation. These provisions shall also apply as applicable to civil defence emergencies declared under the relevant legislation.
- 37.2 The parties acknowledge that the public health system will be a critical part of the national/regional responses to a PHE.
- 37.3 As part of this response, the parties recognise the urgency of any response and the need for flexibility in how services are delivered and accordingly temporary changes may be made to how work is organised without the need for a formal change management processes specified in the MECA. Where circumstances allow, the DHB will engage in good faith with the union prior to progressing any PHE response.
- 37.4 The principles around any such changes are:
- a. Services will work with their staff to develop the most clinically appropriate staffing arrangements to keep patients and staff safe during a PHE
 - b. These arrangements could include ways of working that are outside of the standard provisions of the MECA hours of work clauses provided that:
 - i. The rostered ordinary weekly or fortnightly hours of work do not exceed the current maximums without the agreement of the affected employee(s)
 - ii. No permanent employee shall have their ordinary pay reduced while they are working such arrangements
 - iii. Additional hours of work beyond those reflected in the salary category shall be remunerated in accordance with the relevant provisions of the MECA, and MECA penalties for minimum breaks, etc will continue to operate
 - iv. The alternate arrangements shall only continue in force for the period necessary and required by the DHB's PHE response
 - v. The union shall be informed of any arrangements operating under this provision.
- 37.5 The parties recognise the potentially heightened focus on ensuring staff do not attend work when they themselves (or their dependents) may be unwell during a PHE. To support this, the DHBs will take a permissive approach to access discretionary sick leave provisions where an employee has exhausted their sick leave entitlement. In addition, the DHBs shall waive the recovery of the first 5 days of discretionary sick leave granted during the PHE. These arrangements do not replace the Minor Illness provisions in clause 26.5.
- 37.6 The parties commit to national oversight and engagement on the operation of this clause and other operational matters related to PHE responses, which may include provision of agreed national guidelines

The parties agree that the Special Leave Flowchart (dated 23 February 2021) set out in the DHB COVID-19 Workforce Frequently Asked Questions guidance shall apply unless agreed otherwise or replaced by updated guidance that is explicitly agreed to with STONZ.

Overview – Application

The Public Health Emergency Response clause relates to instances under the Health Act 1956 where the Director-General of Health has additional powers under the Act to declare a Public Health Emergency. Any civil defence emergency relates to decisions made under the Civil Defence Emergency Management Act 2002.

It recognises the general need for flexibility in rostering arrangements in response to Public Health and Civil Defence Emergencies. This is intended to support local service-level temporary responses without triggering change processes.

Frequently Asked Questions (FAQs)

1. In a PHE can my roster be changed at short notice?
 - Yes, but there is still a requirement for services to work with their staff to develop the most clinically appropriate staffing arrangements.
2. Does the DHB need to consult with STONZ over any proposed roster changes as a result of a PHE?
 - Yes the DHB should inform the union of any proposed changes. There is acknowledgement under the PHE provisions that there may not be time for a full change process dependent on the circumstance of the PHE.
3. Do the limits on hours still apply to PHE rosters?
 - Yes, the limits on hours still apply unless agreed otherwise by all affected RMOs on that roster.
4. If my hours of work change as a result of a PHE will that affect my pay?
 - Where your work hours are reduced there will be no reduction in your ordinary pay whilst you are working such arrangements.
 - Any additional hours of work beyond those reflected in the salary category shall be paid in accordance with the relevant provisions in the MECA.
5. What happens if I exhaust my sick leave entitlement as a result of a PHE?
 - DHBs support staff to stay home if they are unwell during a PHE and will take a permissive approach to discretionary sick leave provisions where an RMO has exhausted their sick leave entitlement.

Comparison STONZ and NZRDA MECAs

The following table sets out where there are differences between the STONZ MECA and NZRDA MECAs. Where there is no difference between clauses no detail has been provided in the comparison table.

	STONZ MECA Clause 37.0	NZRDA MECA
Public Health Emergency and Civil Defence Response	<p>Relates to instances under the Health Act 1956 where the Director-General of Health has additional powers under the Act to declare a Public Health Emergency. Any civil defence emergency relates to decisions made under the Civil Defence Emergency Management Act 2002.</p> <p>Recognises the general need for flexibility in rostering arrangements in response to Public Health and Civil Defence Emergencies. This is intended to support local service-level temporary responses without triggering change processes.</p>	No corresponding clause in the NZRDA MECA.