

First Nations Guide to COVID-19 Laws - Queensland

1 December 2020

Governments have introduced wide-ranging temporary measures to help prevent the spread of coronavirus (COVID-19) and keep communities safe. The police have powers to enforce these public health directions.

This may change your daily life and what communities can do together.

This information sheet explains the public health directions in Queensland and the powers of the police.

Directions and police powers are changing regularly and so it is important to check for any updates.

A. Public health laws - Social distancing and travel within communities

What am I able to do from 17 November?

The Queensland Government eased restrictions on 10 July 2020 as part of Stage 3 of the state's recovery plan. Restrictions have been amended over time to respond to suspected outbreaks, but as at 27 November they are continuing to ease.

You are able to leave your home for any reason and for any amount of time, including overnight. But, if you do leave your home, there are restrictions on the extent of any gatherings. These changes mean that:

- You can have a gathering in your home, another home or in a public place with up to 50 people including yourself, members of your household, children, babies or others;
- visit most businesses, but some businesses (such as restaurants, gyms and hairdressers) must operate under an Approved Plan or COVID Safe Framework to keep people safe. Each business will have a limit on numbers of people based on the size of the premises;
- travel within Queensland, with no limit on distance;
- overnight stays away from your home, as long as you are only in a group 50 people.

Social distancing and good hygiene should still be followed. Stay home if you feel sick.

Most businesses and facilities are able to remain open as long as social distancing can be followed and a COVID Safe Checklist can be implemented. If a premises is less than 200 square metres or has no COVID Safe Checklist in place, there is a limit of 50 patrons allowed.

You can:

- stay in any kind of accommodation, including hotels, motels, Airbnb, hostels, caravan parks and camping;
- visit dine-in restaurants, cafes, hotels, pubs and clubs, but you must stay seated and they will need to take down your contact details (most with a 1 person for every 2 square metres rule);
- retail shopping;
- visit food courts for takeaway only;
- return to work, where you have been working remotely;
- return to in-person university and TAFE classes (the gathering limit does not apply);
- visit national parks;
- visit places of worship;
- engage in recreation activities, including fishing, boating, swimming, and to the beach;
- use outdoor exercise equipment and boot camps;
- engage in non-contact indoor and outdoor community sport;
- visit museums, art galleries, libraries, playgrounds, cinemas, theme parks, indoor playcentres, zoos, wildlife parks;
- access hair and beauty therapies;
- travel to the Outback;
- attend a real estate auction.

People with immune system difficulties or chronic diseases are strongly encouraged to talk to their doctor about their situation and take extra precautions, such as staying away from places where they could come into contact with a lot of people. If you feel unwell, stay at home.

What do I have to do if outside of the home?

You are able to gather together with up to 50 people in outdoor spaces including yourself, members of your household or others. You should follow social distancing, wherever possible, good hygiene and stay home if you are sick.

Social distancing means keeping enough space between yourself and others, in order to prevent the spread of COVID-19. This means keeping 1.5m away (or 2 big steps) from other people that are not part of your household (being people that you live with). You should keep good hand hygiene, washing regularly with soap and water, or an antibacterial hand sanitiser. For people who you don't live with, you should try not to hug, touch, kiss or shake hands.

A person who needs assistance to leave their house can continue to have carers or support people with them if necessary.

What about family & friends in other houses, can we visit each other?

You can have a gathering of up to 50 people in your home at a time (including the people who live with you). Children and babies are included in the 50 person gathering limit. The owner of that house should encourage visitors to practice social distancing – staying two big steps away from the other people in the house. You are also required to practice physical distancing while you are outside your home.

There are different rules that apply to visiting homes in a 'restricted area', but right now there are no restricted areas in Queensland. If an area becomes a restricted area, you are permitted to have up to 10 people gather at a home. Again, you must encourage physical distancing and practice it when you visit others.

What if I am homeless?

If you are currently homeless or think you might soon be homeless, you can call the Queensland Homelessness Hotline for advice on 1800 474 753.

If you attend a community centre or service, try and reduce the amount of time you spend there and reduce contact with people. Make sure you are social distancing. If you are feeling unwell, call first and tell them before you go.

When do I have to self-isolate or quarantine?

If you are diagnosed with COVID-19, you are required to self-isolate. This means that you must stay at home until cleared from self-isolation. If you are in hospital for medical treatment, once discharged you must directly travel home or to your hotel or other place of residence to self-isolate. You must travel to your home or hotel in an ambulance, a private vehicle, a taxi equipped with a protective shield between driver and passenger, or transport arranged by a government authority. If none of these are available, you may travel in a taxi or ride-share wearing a protective mask and sitting in the back seat on the passenger side.

You must not leave your place of self-isolation unless you are getting essential medical care or supplies, to avoid injury or illness, to escape a risk of harm, or in the event of an emergency situation.

You are 'cleared' and may leave self-isolation:

- after 14 days if a further direction to self-isolate has not been given to you;
- if a further direction has been given to you, 14 days after that direction; or
- if a registered nurse or doctor from a treating hospital tells you that you have met the 'release from isolation' criteria.

From 1 December, if you are a Queensland resident who has just returned to Queensland from any place that has been declared a "COVID-19 Hotspot", you will need to self-quarantine in a 'nominated premises' for 14 days.

A 'nominated premises' is a hotel or other accommodation which will be nominated by the authorities. You must not leave the nominated premises within the 14 days except in an emergency situation, to get essential medical care or supplies, to avoid injury or to escape a risk of harm, or as instructed by the authorities. No one else may enter the nominated premises during the 14 days unless they usually live there, or they are providing medical care.

Can I care for Elders & older people?

Note that there are currently **no restricted areas in Queensland**. This might change.

You and your family are allowed to visit Elders and older people in their own home to care for them, with

up to 50 people in the house at one time in a non-restricted area, and up to 10 people in the house at one time in a restricted area, including those people who live there. As older people may be more at risk from difficulties with COVID-19, it is important to practice social distancing as much as possible and be careful to stay away if you feel sick.

In non-restricted areas, you are still allowed to visit an Elder or older person in an aged-care facility for the purposes of a 'care and support visit'. A 'care and support visit' can only be made by one or two people.

Residents of aged care facilities in non-restricted areas are permitted to leave the facility for most reasons, such as to attend a family gathering, but are only permitted to leave with fellow residents who are part of their family, or with their close friends.

For aged care facilities in a restricted area, care and support visits are no longer allowed.

Residents of aged care facilities in restricted areas, excluding end of life residents, are not permitted to leave the facility except:

- to receive or access health care; or
- to attend a funeral; or
- in the case of emergency or on other compassionate grounds.

Every person that enters the premises of an aged care facility in a listed Local Government Area must wear a single use surgical face mask.

In both restricted and non-restricted areas, you are still permitted to visit an Elder or older person in an aged-care facility to give them support at the end of their life. There are no restrictions on how many people can visit for an end of life visit.

However, you cannot visit any aged-care facility if:

- You have returned from overseas in the last 14 days; or
- You have had contact with a person who has a confirmed case of COVID-19 in the last 14 days; or
- You have been in a COVID-19 hotspot; or
- You have a temperature of 37.5 degrees or higher; or
- You have been tested for COVID-19, but have not yet received the results of your test; or
- You have symptoms consistent with COVID-19; or

- You have not had the influenza vaccine, if the vaccination is available to you.

Can we still get together for community events?

In non-restricted areas, cultural ceremonies and community events, both indoors and outdoors, can have up to 50 people attend, with social distancing.

In a restricted area, such events must be limited to 10 people.

The Queensland Chief Health Officer may grant an exemption to part or all of this Direction on compassionate grounds or for other exceptional circumstances.

Some communities have used technology to hold events or have decided to postpone larger events.

What about Sorry Business and funerals?

Funerals held indoors or outdoors, can have up to 200 people as well as up to three funeral officials. The 200 person limit is for the total number of people, it is not possible to have 200 people inside and more people attend outside, without an exemption.

The Chief Health Officer can provide exemptions to allow for more people to attend a funeral. Reasons for granting exemptions have included cultural reasons.

Everyone attending must follow social distancing and hygiene requirements.

Can I travel across the Queensland border?

Travel into Queensland is still restricted. As stated above, if you are a Queensland resident travelling into Queensland from an area that has been declared a "COVID-19 Hotspot", you will need to self-quarantine in a 'nominated premises' for 14 days. People entering Queensland from overseas or from a hotspot must also apply for and receive a "Queensland Border Declaration Pass" before entering Queensland. To obtain the pass, you must declare, among other things, whether you have, in the previous 14 days:

- been overseas;
- been in a COVID-19 hotspot;
- had known contact with a person who is or was a confirmed case of COVID-19; or
- had symptoms consistent with COVID-19.

You may also need to provide proof of residency/ID documentation.

You must also present for a COVID-19 test if you develop symptoms after your return.

You should check restrictions in other states before you travel.

What if I can't pay my rent?

If you have lost your job, or you are making less money because of COVID-19, you should get in touch with your landlord as soon as possible to talk about options.

If you fall behind in rent, you can't be evicted if you:

- can't pay rent because you are suffering hardship because of COVID-19; and
- have lost 25% or more of your income OR your rent is 30% or more of your income.

You can still be evicted for other things, like damaging your property or not paying rent because of other reasons. Landlords are not allowed to increase rent at this time.

The Queensland Government may also give a one-off payment of up to \$500 a week for up to four weeks (\$2000 maximum) to Queenslanders who are homeless, or at risk of becoming homeless and meet the following criteria:

- are renting a property currently or will shortly move into a new property;
- have lost their job and have applied to Centrelink for the COVID-19 income support;
- are waiting for their application with Centrelink to be approved; and
- have evidence that they have tried to negotiate a payment plan with their landlord.

If you get an eviction notice, you should call The Aboriginal and Torres Strait Islander Legal Service (ATSILS) on 1800 012 255.

B. Restrictions on movement into remote Aboriginal communities

The previous restrictions put in place restricting access to 'designated areas' in remote communities have been revoked.

C. Police enforcement powers

Can I be fined for not following these directions?

If you breach the Queensland Health Department directions without a reasonable excuse, this is a criminal offence and a police officer can give you a maximum on-the-spot fine of \$1,334.50.

The Queensland Health Department directions apply to all people and police officers can give on-the-spot fines to adults and young people aged 10 - 18 (but may choose to use their discretion not to give a fine, depending on the circumstances).

Specifically, when completing a Queensland Border Declaration Pass (necessary to enter Queensland), if you provide false, misleading or incorrect information on the Declaration you can be fined up to \$4,003.

Are there other penalties?

If you do any of the following, you are committing an offence and a court may issue with a fine of up to \$13,345:

- fail to do what a police officer can direct you to do (see below), without reasonable excuse;
- fail to assist the police to enforce a direction;

Additionally, you may be penalised if you say anything or give a document to an officer that is false or misleading (risking a fine of up to \$13,345) or obstruct an officer (risking a fine of up to \$26,690).

If you breach a Commonwealth declaration (which includes a health direction given by the Federal Government), this is also an offence and could lead to either five years imprisonment and / or a maximum penalty of \$63,000.

Can the police arrest me?

An officer may be able to arrest you when you fail to comply with any of the above in certain circumstances. However, arrest is a last resort.

The police may arrest you if they reasonably believe that you have or are committing an offence (e.g. breaching a Health Department directive) and will repeat or commit another offence, or to work out your identity.

What can the police ask me to do if I am to self-isolate? Do I have to do it?

Where you are required to self-isolate, a police officer has the power to ask you to:

- (a) not to enter or not to remain within a place;
- (b) stop using a place for a stated purpose;
- (c) go to a stated place;
- (d) stay at or in a stated place; and
- (e) answer certain questions.

If the direction is to stay at or in a certain place (the officer can decide) for a maximum of 14 days (known as the “isolation period”), the officer must give the direction in writing and tell you that failure to comply, without reasonable excuse, is an offence.

The police officer must warn you that it is an offence to fail to comply with the requirement / direction, unless you have reasonable excuse, and that it is not a reasonable excuse that to comply would be to incriminate yourself.

You can film your interaction with police in a public place if you are concerned about your rights.

Do I have to tell the police my name, age and address?

A police officer can require you to state your name and residential address, provide evidence that the name or residential address is true (e.g. drivers’ licence). You do not need to say anything more.

Can I appeal or have the fines waived or reduced?

If you are fined and believe you have a reasonable excuse, you can object to the fine by disputing it with the agency that issues you with the notice (i.e. the State Penalties Enforcement Registry for on-the-spot fines) or in court.

You should think carefully and see a lawyer before objecting to a fine in court. This process can be expensive and time consuming.

Even if the fine is cancelled by a court, you **will not be able to get any compensation for loss or damage** if it was issued by an officer under the powers outlined above.

If you are not objecting to the fine, you should either pay the whole fine or arrange with the State Penalties Enforcement Registry (or other agency that issues the fine) for a “voluntary instalment plan” within 28 days.

D. Businesses

From 26 November 2020, restrictions were further eased for businesses in Queensland and all business types can now reopen. Businesses must continue to ensure that all staff and customers observe social distancing, ensure customer details are retained, and ensure that any staff or customers who are showing any symptoms do not enter the premises.

- For indoor restricted businesses and activities (including retail food services, hairdressing and beauty therapy, pubs, casinos, gyms and sports clubs), the 1 person per 2 square metre rule applies. Accommodation providers can only have 1 person per 4 square metres in sleeping quarters.

This is calculated by measuring the areas of the business that are open to or used by the public (e.g. for a restaurant, the dining area would be counted but the kitchen area is not). There is no specific customer cap for businesses.

Certain “restricted” businesses must keep a register of customers who visit that business and store their information securely for at least 56 days.

Events may operate in compliance with an approved industry plan, site specific plan or event plan (for example, a sporting event or a community fair). If more than 500 people (indoor events) or more than 1,500 people (outdoor events) will be in attendance at an event operating under a COVID Safe Event Plan, the organiser must tell the local public health unit at least 10 business days before the event taking place.

The following businesses and areas can reopen only if they have an Approved Plan in place:

- casinos, gaming and gambling venues (including electronic gaming machines) for gaming; and

non-therapeutic massage, saunas and bathhouses (including floatation tanks) (with either an Approved Plan or COVID Safe Checklist for a maximum of 50 people). All venues can allow up to 100% of seated capacity if patrons are in ticketed and allocated seating.

Weddings and funerals can have up to 200 people attending. These venues must keep contact details of all attendees for at least 56 days. Dancing is allowed at weddings in both indoor or outdoor spaces. Dancing is allowed in outdoor dance areas subject to

the 1 person per 2 square metre rule. A school or business hosting a school event or school formal can allow dancing in an indoor or outdoor space as long as no more than one person per 2 square metres dances in the dance area.

Sports, recreation and fitness organisations can now (when following a COVID Safe industry plan):

- resume activities including competitions and physical contact sports;
- limit spectators to 1 person per 2 square metres.

COVID Safe checklists and COVID Safe industry plans continue to apply, with any adjustments required to reflect the new changes.

You can find more information about what you need to put in the COVID SAFE Checklist here, which must be approved by Queensland Health and displayed in your workplace: <https://www.worksafe.qld.gov.au/coronavirus/workplace-risk-management-b>.

If businesses do not comply with these restrictions and do not have a reasonable excuse, they can be given a penalty of up to \$6672.50.

E. Who to call for help or information

General information and helplines

- National Coronavirus Helpline: 1800 020 080;
- Queensland Health: 13 HEALTH (13 43 25 84)

If you need to talk to someone about fines?

- **Aboriginal and Torres Strait Islander Legal Service (ATSILS):** 1800 012 255 <https://www.atsils.org.au/>
- **Legal Aid Queensland:** 1300 650 143 <https://www.legalaid.qld.gov.au/Home>

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This guidance sheet is not a substitute for legal advice. You should contact a lawyer for specific legal advice or referral.