

# First Nations Guide to COVID-19 Laws - Victoria

11 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. Where you live may affect what you can do.

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

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

The State of Emergency in Victoria has been extended until 3 January 2021.<sup>1</sup>

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

### **What am I able to do from 22 November?**

There are currently no limits on your movement within Victoria and you no longer need a 'reasonable excuse' to leave your house. You can now travel around Victoria, visit businesses, and visit friends and family in other households – subject to limits on the amount of people gathered.

Business, venues and facilities, which are open, will need to allow for physical distancing restrictions and have limits on the number of people who can gather together, as set out below.

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

Gatherings of more than 100 people in public places have been banned to help prevent transmission of the coronavirus. When you are in a public place, ensure you comply with physical distancing recommendations. This includes reducing close physical contact by standing at least 1.5 meters apart and avoiding touching people, for example, handshakes.

The aim of physical distancing is to maintain space between yourself and others, in order to prevent the spread of COVID-19.

### **Do I have to wear a mask?**

From 11:59pm 6 December 2020, you only need to wear a mask when:<sup>3</sup>

- You are on public transport or in a commercial passenger vehicle (for example a Taxi, Uber, etc.)
- You are in an indoor space at a large retail venue including shopping centres, supermarkets and department stores

It is strongly recommended you wear a face mask indoors and outdoors when you cannot maintain a distance of 1.5 metres from other persons.

A mask must cover your nose and mouth. You can use a scarf or bandana to cover your nose and mouth if you do not own a mask.

You do not have to wear a mask if:<sup>4</sup>

- You are in an outdoor space and you can maintain a distance of 1.5 metres from other persons
- You have medical reasons why you cannot wear a mask
- You are under the age of 12
- You are a student while onsite at a primary school or outside school hours care
- You are communicating with someone who is deaf, hard of hearing or mouth visibility is essential for communication
- You are doing strenuous physical exercise. Strenuous exercise includes activities like jogging, running or cycling, but not walking
- If your profession requires clear enunciation or visibility of their mouth

<sup>1</sup> [Extension of Declaration of a State of Emergency](#), 6 December 2020.

<sup>3</sup> [Stay Safe Directions \(Victoria\)](#) (No 4) Part 2, s 5(7).

<sup>4</sup> [Stay Safe Directions \(Victoria\)](#) (No 4) Part 2, s 5(8).

- If you are working on your own property with members of your household, but no staff or contractors on site
- When directed to remove it for identification reasons
- During emergencies
- If you are communicating with someone who is deaf or hard of hearing and seeing their mouth is essential for communication
- You are working by yourself in an enclosed indoor space
- You are working by yourself in an outdoor space
- You are one of two persons getting married
- You are travelling by yourself or with someone else in a vehicle
- You are consuming food, drink or medicine
- You are smoking or vaping (including e-cigarettes)

You must still carry your mask with you at all times, even if you do not have to wear the mask.<sup>5</sup>

If you do not wear a mask, you may be fined \$200.

You can leave the house for any reason, including to:

- Attend work
- Visit a restaurant. There are no limits on the size of group you can dine with and sit in
- Visit retail stores, hairdressing, beauty and personal care
- Obtain educational services where students are undertaking VCE, VCAL or VETiS, enrolled in special schools, are vulnerable young persons
- Tertiary education can also occur where not reasonably practicable to occur remotely
- Provide care and support for health reasons or child-minding services
- Visit the home of another person. There can only be 30 visitors at once<sup>6</sup>
- Exercise or meet outdoors for social interaction with up to 99 other people.<sup>7</sup>
- Visit indoor and outdoor entertainment facilities e.g. cinemas, galleries, museums, arenas and zoos

- Attend an auction, private inspection of a premises or move home
- Play sport at outdoor facilities e.g. golf or tennis
- Visit holiday accommodation and camping sites, including participating in outdoor tourism e.g. hiking, horse-back riding and walking
- Play professional sports
- Go to an outdoor skate park
- Play outdoor sports (contact and non-contact sports for under 19s; non-contact sport for over 19s)
- Attend an outdoor religious gathering and ceremonies (now no limit on guests or attendees)
- Attend a funeral (now no limit on guests or attendees, subject to the two square metre rule where electronic record keeping is used, unless it is at someone's house, in which case can be no more than 30)<sup>8</sup>
- Attend a wedding (now no limit on guests or attendees, subject to the two square metre rule where electronic record keeping is used, unless it is at someone's house, in which case can be no more than 30)<sup>9</sup>

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

Yes, you can invite up to 30 visitors (who do not have to live together) to your house each day (plus their children).<sup>10</sup>

### What if I don't feel safe in my home?

You can leave if there is family violence, or violence by another person in the home.

If you are in a family violence refuge or other emergency accommodation and you don't have an alternative safe accommodation option, you can stay there.

### When do I have to self-isolate or quarantine?

**Self-isolation** means that if you are confirmed to have COVID-19, you must stay at home (or at other accommodation) until you are told by a Public Health Officer that you can go back to your usual activities. If you live with other people, you should stay in a different room as much as possible, use a different bathroom, and wear a surgical mask when you see

<sup>5</sup> [Stay Safe Directions \(Victoria\) \(No 4\)](#) Part 2, s 5(7).

<sup>6</sup> [Stay Safe Directions \(Victoria\) \(No 4\)](#) Part 4, s 7(2)(h)(ii).

<sup>7</sup> [Stay Safe Directions \(Victoria\) \(No 4\)](#) Part 4, s 7(3).

<sup>8</sup> [Stay Safe Directions \(Victoria\) \(No 4\)](#) Part 4, s 7(5).

<sup>9</sup> [Stay Safe Directions \(Victoria\) \(No 4\)](#) Part 4, s 7(4).

<sup>10</sup> [Stay Safe Directions \(Victoria\) \(No 4\)](#) Part 4, s 7(2)(h)(ii).

other people. You must not go out, except if you need medical attention.<sup>11</sup>

**Quarantine** means staying in your home, hotel or health care setting for a minimum of 14 days, as a precaution in particular circumstances, in case you develop COVID-19. You must quarantine if you:<sup>12</sup>

- have been in close contact with someone who is a confirmed case of COVID-19
- if you have COVID-19 symptoms: fever or a cough, sore throat, shortness of breath or respiratory illness
- if you have returned to Australia from overseas
- if you travel between some states (for example, if you travel over the border to South Australia- see further below)

If you have COVID-19 symptoms during quarantine, you should contact a health professional.

### Can I care for Elders?

You can care for an Elder in need. However, older people are the most vulnerable to COVID-19 and you should think of ways you can care for them without close contact. For example, you could leave food on their doorstep, or clean or do other chores while they sit away in another room. You should stay at least 1.5 metres away at all times.

If you are well and have not been in known contact with a confirmed case of COVID-19 in the past 14 days, you can visit an aged-care facility to give care and support to a resident. You should keep 1.5 metres away from the residents and workers. There are no longer any limits on how long you can visit for.<sup>13</sup>

You should call the aged-care facility ahead of visiting to check they don't have any other restrictions in place.

### Can we still get together outside for community events?

Yes. You can attend a gathering of up to 100 people outdoors.

### What about Sorry Business and funerals?

You can attend Sorry Business and funerals. There is now no limit on the number of guests for outdoor Sorry Business and funerals (subject to the two square

metre rule where electronic record keeping is used). If it will be held at someone's house, a maximum of 30 guests can attend.<sup>14</sup>

You will still need to follow social distancing protocols.<sup>15</sup>

### 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 discuss options.

If you fall behind in rent, until 28 March 2021, you can't be evicted if you can't pay rent because you are suffering hardship as a result of COVID-19.<sup>16</sup> You can still be evicted for other things, like damaging your property or not paying rent because of other reasons. You may also be eligible for a rent relief grant if you are suffering hardship.<sup>17</sup> If your application is successful, payments will be made directly to your agent or landlord to contribute towards your rent payments. Details on how to apply are set out in Part E of this factsheet.

Landlords are not allowed to increase rent at this time.<sup>18</sup>

## B. Police enforcement powers

### What powers do the police have to enforce these directions?

If you don't comply with social distancing, self-isolation, wearing a mask when required or any other Government order, police may:

- issue an on-the-spot fine
- arrest you
- restrict your movements within Victoria
- prevent you from entering Victoria
- give any other direction reasonably necessary to protect public health

### Do police have to issue a fine?

No, the police have the discretion to choose how to respond. For example, police can decide to give you a warning and not issue a fine.

### Can police arrest me if I do not follow a public health direction?

<sup>11</sup> [Diagnosed Persons and Close Contacts Directions \(No 14\)](#) s 4.

<sup>12</sup> [Diagnosed Persons and Close Contacts Directions \(No 14\)](#) s 6.

<sup>13</sup> [Care Facilities Directions \(No 18\)](#).

<sup>14</sup> [Stay Safe Directions \(Victoria\) \(No 4\)](#) Part 4, s 7(5).

<sup>15</sup> [Stay Safe Directions \(Victoria\) \(No 4\)](#) Part 4, s 7(5).

<sup>16</sup> Residential Tenancy Act, section 542; see also [COVID-19 Commercial and Residential Tenancies Legislation Amendment \(Extension\) Act 2020](#) which extends the operation of Part 16 of the RTA until 28 March 2021.

<sup>17</sup> <https://rentrelief.covid19.dhhs.vic.gov.au/>

<sup>18</sup> [Residential Tenancy Act](#), section 539.

Yes, under certain circumstances. If police believe on reasonable grounds that someone constitutes a serious risk to public health, they can arrest that person for as long as reasonably necessary to eliminate or reduce that risk. An arrest should always be a last resort.

### **What do I have to do if approached by police?**

If requested by a police officer, you need to provide your name, address, and any other information they require for the purpose of investigating, eliminating or reducing a risk to public health. This could include the reason why you are not wearing a mask when required. Refusing to give this information without a reasonable excuse could result in a fine.

Before asking you to do something, police will give you a warning that it is against the law not to follow their instructions, unless it is not practicable to do so.

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

### **What are the possible penalties?**

Victoria Police have the power to issue the following on-the-spot fines:

- \$1,652 for persons and \$9,913 for businesses who do not comply with any Government directions<sup>19</sup>
- \$200 for persons who are not wearing a face covering and do not have a lawful reason for doing so<sup>20</sup>
- \$4,956.6 for persons who do not self-isolate or self-quarantine when they are required to do so<sup>21</sup>

Instead of issuing an on-the-spot fine, police may decide to either arrest a person and/or issue a court notice requiring them to attend court. An arrest should only be a last resort, especially if the offence is less serious. The court may impose a fine of up to \$19,826.40 for individuals and \$99,132 for businesses.<sup>22</sup>

Fines can be issued to a person aged 10 years or over.

### **Appeals, waiver, reduction**

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<sup>19</sup> [Public Health and Wellbeing Regulations 2019](#) (SR No. 135/2019) Schedule 8, item 74.

<sup>20</sup> [Public Health and Wellbeing Amendment \(Further Infringement Offences\) Regulations 2020](#) (SR No. 76/2020) s 3.

<sup>21</sup> [Public Health and Wellbeing Further Amendment \(Infringements\) Regulations 2020](#) (SR No. 79/2020) s 3.

You can request a review of your penalty notice by contacting Fines Victoria and/or have the matter heard in the Magistrates' Court (or the Children's Court, if you are under 18 years of age).

You may have a defence if there was a reasonable reason for you being unable to follow the Government order.<sup>23</sup> You may also be able to seek a reduction or waiver on grounds of financial disadvantage or arrange to pay by instalments.

You should get legal advice before taking the matter to court, as the court may order you to pay further costs.

## **C. Restrictions on movement into Aboriginal communities and interstate**

### **Can I travel to another State?**

Although most restrictions on movement between Victoria and other states and territories have now been eased, there may be restrictions on travelling to some states. You should check the rules in the state or territory before you travel.

#### *Travelling to NSW*

Since Monday 23 November, the NSW-Victoria border has been open.<sup>24</sup> From this time:

- permits to enter NSW are not required
- there is no requirement to quarantine when you arrive in NSW from Victoria

#### *Travelling to South Australia*

Borders between South Australia and Victoria reopened from 1 December. You must complete a [Cross Border Travel Application](#).

#### *Travelling to Western Australia*

From 8 December, the border between Western Australia and Victoria will reopen.<sup>25</sup> You must obtain a [G2G PASS](#) prior to travelling.

#### *Travelling to Queensland*

Borders between Queensland and Victoria reopened from 1 December.

#### *Travelling to the Northern Territory*

Victorians are no longer required to undertake quarantine when travelling to the Northern Territory,

<sup>22</sup> [Public Health and Wellbeing Act 2008](#) s 203(1).

<sup>23</sup> [Public Health and Wellbeing Act 2008](#) s 203(2).

<sup>24</sup> [NSW government website](#).

<sup>25</sup> [WA government website](#).

provided they have not recently been in an active declared COVID-19 hot spot. Travellers must complete a [Border Entry Form](#).<sup>26</sup>

### *Travelling to Tasmania*

Since 27 November, travellers from Victoria no longer need to quarantine. You must continue to register your travel via the [Tas e-Travel system](#).<sup>27</sup>

### *Travelling to the ACT*

There are no travel restrictions for people travelling from Victoria to the ACT.<sup>28</sup>

### **Can I travel to remote communities in Victoria?**

Yes. You can now travel to remote communities in Victoria.<sup>30</sup>

### **Metro-Regional Work Travel Permit**

From 11:59pm on 8 November, workers no longer require a permit to travel between Metropolitan Melbourne and Regional Victoria for work.<sup>31</sup>

## **D. Businesses**

Businesses and workplaces must comply with social distancing requirements for shared spaces. This limits the number of persons who can enter a shared space to no more than

one person for every two-square-metres of available floor space for shared indoor and outdoor spaces. For example, if an outdoor restaurant has a total floorspace of 8 square metres, then no more than 4 people (including staff) can be in that space at the same time.<sup>33</sup>

It is an offence for a business to not follow a direction.

Businesses subject to trading restrictions include:

- Restaurants and cafes can open for dining subject to the 'two square metre' density limit. Dancefloors can reoperate subject to the four-square meter-rule or to the maximum of 50 persons
- Retail shops can open subject to compliance with density quotients for each indoor space
- Office based work premises can reopen provided that no more than 25% of workers attend the

premises (to be increased to 50% from 11 January)<sup>34</sup>

- Hairdressing services, beauty and personal care are open for the number of persons permitted by the density quotient (with electronic record-keeping) or subject to the four-square-meter rule (with no electronic record keeping)<sup>35</sup>
- Libraries and community centres can operate activities in an indoor or outdoor area for the number of persons permitted by the density quotient (with electronic record-keeping) or subject to the four-square-meter rule (with no electronic record keeping)<sup>36</sup>
- Real estate inspections and auctions can occur subject to compliance with density quotients (with electronic record-keeping) or subject to the four-square-meter rule (with no electronic record keeping)<sup>37</sup>
- Physical recreation facilities will reopen in most cases:
  - Indoor sports centres and community sport including gyms and training facilities can operate subject to the four-square-meter rule. Indoor gym classes can also occur with up to 50 participants (subject to the four-square-meter rule)<sup>38</sup>
  - Outdoor sporting facilities and community sport can operate open to the lower of 1000 people or the number permitted by the density quotient. Outdoor personal training can only occur with the lower of 100 participants plus the instructor or the number permitted by the density quotient<sup>39</sup>
  - Indoor and outdoor swimming pools will be open with no patron limits but subject to the density quotient permitted in the water and non-water parts of the facility (where there is electronic record-keeping) or subject to a 'four square

<sup>26</sup> [NT government website](#).

<sup>27</sup> [Tasmanian government website](#).

<sup>28</sup> [ACT government website](#).

<sup>30</sup> Since 8 November 2020, the area directions have been revoked and there are no restrictions on travel to regional Victoria. [Revocation of Area Directions \(No 9\)](#).

<sup>31</sup> [Revocation of Metro-Regional Work Travel Permit Scheme Directions](#) s 1.

<sup>33</sup> [Workplace Directions \(No 12\) s 6\(14\)](#).

<sup>34</sup> [Workplace Directions \(No 12\) s 6\(3\)](#).

<sup>35</sup> [Restricted Activity Directions \(Victoria\) \(No 3\)](#) s 10.

<sup>36</sup> [Restricted Activity Directions \(Victoria\) \(No 3\)](#) s 7.

<sup>37</sup> [Restricted Activity Directions \(Victoria\) \(No 3\)](#) s 15.

<sup>38</sup> [Restricted Activity Directions \(Victoria\) \(No 3\)](#) s 5.

<sup>39</sup> [Restricted Activity Directions \(Victoria\) \(No 3\)](#) s 5.

metre' rule (where there is no electronic record-keeping)<sup>42</sup>

- Entertainment facilities (including theatres, cinemas, music halls, art galleries, zoos) can operate subject to compliance with density quotients for indoor and outdoor seated and non-seated facilities<sup>44</sup>
- Educational facilities can operate for all Victorian schools and childcare centres
- Drive-in cinemas can operate provided it is entirely outdoor and accessed by vehicles<sup>45</sup>
- Holiday accommodation and camping can operate<sup>46</sup>
- Places of worship will be open. Religious gatherings can occur for the number of persons permitted by the density quotient (with electronic record-keeping) or subject to the four-square-meter rule (with no electronic record keeping)<sup>47</sup>

All businesses, including essential businesses, must follow social distancing requirements, cleaning requirements and ensure employees wear face coverings at all times.<sup>48</sup>

## **E. Who to call for help or information**

### **General information and helplines**

If you are looking for further information on COVID-19, you can contact:

- National Coronavirus Helpline: 1800 020 080
- Victoria State Government, Health and Human Services – Corona virus hotline: 1800 675 398

### **Apply for a rent relief grant**

Before you can apply for a grant, you must reach an agreement for a rent reduction with your landlord and lodge this agreement with Consumer Affairs Victoria, or complete a mediation process with Consumer Affairs Victoria.

Once you have done this, you can apply for a Rent Relief Grant online:

<https://rentrelief.covid19.dhhs.vic.gov.au/>.

### **If you need to talk to someone about fines?**

- Victorian Aboriginal Legal Service (VALS) on 1800 064 865 or [www.vals.org.au](http://www.vals.org.au)

- Victoria Legal Aid on 1300 92 387 or [www.legalaid.vic.gov.au](http://www.legalaid.vic.gov.au)

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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.*

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<sup>42</sup> [Restricted Activity Directions \(Victoria\) \(No 3\)](#) s 14(5).

<sup>44</sup> [Restricted Activity Directions \(Victoria\) \(No 3\)](#) s 8(3)-(6).

<sup>45</sup> [Restricted Activity Directions \(Victoria\) \(No 3\)](#) s 9.

<sup>46</sup> [Restricted Activity Directions \(Victoria\) \(No 3\)](#) s 13.

<sup>47</sup> [Stay Safe Directions \(Victoria\) \(No 2\)](#) Part 4, s 7(4), (5).

<sup>48</sup> [Workplace Directions \(No 12\)](#) s 6.