

# First Nations Guide to COVID-19 Laws - ACT

15 May 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 the ACT 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

### When can I leave the house?

In the ACT, there is no formal rule requiring you to stay home. However, the ACT Government has urged residents not to leave their homes except for:

- shopping for essentials (like groceries);
- shopping for non-essential items such as retail and electronics;
- medical care;
- compassionate reasons (sorry business – we talk about this below);
- exercise (while practising social distancing); or
- work or education, if it cannot be done remotely.

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

If you leave the house, you cannot be with more than 10 people.

It is also important that you maintain social distancing practices between you and those not in your household. **Social distancing** means separating yourself from other people as much as possible and avoiding crowded places.

You should:

- keep a distance of 1.5 metres between you and everyone else;
- practice good hygiene such as washing your hands regularly for 20-30 seconds, covering your mouth and nose when coughing and sneezing and avoid touching your eyes, nose and mouth;
- stay away from crowds and large public gatherings;
- not shake hands, hug, or kiss other people; and
- not visit vulnerable people, such as the elderly or people who are sick.

If you are inside, there must be distancing of 1 person per 4 square metres.

### When can I be with more than 10 other people?

You can participate in a gathering of more than 10 people in certain circumstances, including:

- gatherings of members of the same household or family unit;
- gatherings of members from 2 households;
- Sorry Business and funerals – a maximum of 20 people are allowed to attend indoor funerals and a maximum of 30 people are allowed to attend outdoor funerals;
- weddings – a maximum of 10 people is allowed (excluding the celebrant and professional wedding photographer);
- when using public transport;
- when using private vehicles, but only when everyone is from the same household;
- for the purposes of emergency services and law enforcement;
- at a medical or health service facility, disability or aged care facility, correctional centre, place of detention, court, tribunal or Parliament;
- at a food market, supermarket, grocery store, retail store, shopping centre or at a

- restaurant or café to collect or deliver takeaway meals and drinks;
- at an office building, factory, construction site, school, university, educational institution or childcare facility;
- at a hotel or motel;
- at a vet; and
- for the purposes of a bootcamp, personal training, a real estate auction, display home or open house inspection.

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

Yes, you can visit family in other houses. Under the rules, up to 10 people can visit a house at one time, if social distancing of 1 person per 4 square metres is observed.

Gatherings of over 10 people in a house are allowed if people from only 2 households attend. This means all people present must be from one of the 2 households. No additional people are permitted.

This means the members of one household can visit another household if social distancing of 1 person per 4 square metres is observed, and there are no other visitors present. A household means people who normally live together in the same house.

If visitors do not live in the same house, then no more than 10 people can visit and be in the house (including children and those who normally live there). You must also make sure that social distancing of 1 person per 4 square metres can be maintained.

This means that an entire household can visit your home if there are no other visitors present, or a maximum of 10 people from different households can be in your home, including those who normally live there. Whenever anyone visits your home, or you visit someone else's home, you must observe social distancing.

### **What if I am homeless?**

You should practice social distancing. There is no rule forcing you to stay in a house.

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

There is no rule forcing you to stay home. You can leave your home if you do not feel safe.

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

*If you are sick*, you should stay away from other people. If you have to "self-isolate", you must stay home and not see other people.

**Quarantine** means staying away from people if you may have been exposed to COVID-19. You might have to be in quarantine even if you are healthy. People who are returning from overseas or have been in close contact with someone who has COVID-19 must self-quarantine in their home.

You must quarantine if you have returned to the ACT from overseas. You must stay at a suitable place until you are cleared by a medical officer.

You must self-isolate if you have been diagnosed with COVID-19. You must travel directly from the doctor to your home and stay there until clearance from self-isolation is given by an authorised medical officer.

If you require medical treatment, you may go to the hospital (but should call the hospital before you go). After you leave the hospital, you should then travel directly to your home and stay there until you are cleared by an authorised medical officer.

When self-isolating you must also:

- tell any person who you have come into contact with that you have been diagnosed with COVID-19;
- listen to police officers or members of the ambulance service to produce proof of identification;
- not leave where you are staying except for obtaining medical care or medical supplies, in any other emergency situation; and
- not allow any other person to enter where you are staying unless they usually live there, are self-isolating there or are there for medical or emergency purposes.

### **Can I use my car?**

You can use your car to travel in the ACT, but no more than 10 people are allowed in your car, unless they are part of your family unit or live with you.

### **Can I care for Elders?**

Yes, but older Aboriginal and Torres Strait islander people and people with serious medical conditions are at greater risk from COVID-19.

You should not see elders unless it is necessary.

You can care for Elders if you comply with other rules such as ensuring that there is no more than 2 people in a house at one time in plus the people who normally live there. You should continue to practice social distancing, so keeping 1.5 metres distance between you.

You may only visit residents in an aged care facility (other than for allowed work and emergency purposes):

- to provide care and support visit of no more than 2 hours to a resident on a particular day, provided it is the only visit to the resident on that day;
- to provide end of life support for a resident; and
- for someone who may be a prospective resident of the aged care facility.

From 1 May 2020 you must have had your influenza (flu) vaccination to visit an aged care facility.

Do not visit an aged care facility if you:

- you are self-isolating or quarantining;
- have symptoms associated with COVID-19;
- do not have an up-to-date vaccination against influenza;
- or are under 16, you are not allowed to enter a residential aged care facility in any circumstances.

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

You must not attend or organise a gathering of more than 10 people inside or outside.

Gatherings for community events are not allowed unless one of the exceptions to the 10-person rule applies, such as the event only involves people of the same household or 2 households or you are attending a wedding or a funeral, provided it complies with the above-mentioned rules.

This 10-person rule also applies to activities such as ceremonies, hunting and visiting cultural sites.

### **What about Sorry Business and funerals?**

Sorry Business and funerals can be held, but no more than 20 people can attend an indoor

funeral and no more than 30 people can attend an outdoor funeral. This does not include any person conducting the funeral service and other service staff.

Everyone attending a funeral must ensure that social distancing of 1 person per 4 square metres is maintained. A funeral may be held at a place of worship if these restrictions can be complied with.

### **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 speak with your landlord as soon as possible about options.

If you fall behind in rent, until 21 July 2020, you can't be evicted if you can't pay rent because you are impacted by COVID-19.

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.

You are impacted by COVID-19 if:

1. your income has been stopped or reduced;
2. The reason your income has been stopped or reduced is either because:
  - You were ill with COVID-19;
  - You were taking care of a family member who was ill with COVID-19; or
  - You were required not to work because of a law introduced or other measure taken by the government because of COVID-19.
3. Your household's weekly gross income (before tax) has been reduced by at least 25%.

## **B. Police enforcement powers**

### **What powers do the police have?**

#### **On-the-spot fines**

ACT police can issue on-the-spot-fines for breaching COVID-19 directions. Fines can be up to \$8,000 (the maximum penalty). In practice, fines are likely to be around \$1,000.

On the spot fines can be given to people aged 10 years and over.

### **Do police have to issue a fine?**

No. Issuing a fine is not mandatory and police can decide not to give a fine. For example, police can decide to give you a warning instead. The ACT police have publicly stated that their priority is to educate individuals before issuing them with warnings and fines.

### **Can I be arrested?**

Yes, in certain circumstances. If police suspect on reasonable grounds that someone has, or is committing an offence, they have the power to arrest. But they can only arrest if they are satisfied that the arrest is necessary (i.e. to prevent the further commission of the offence, to protect a person's safety or welfare, or because of the seriousness and nature of the offence). An arrest should always be a last resort, especially for minor offences.

### **What do I have to do if approached by police? Do I need to provide proof of identification?**

A police officer can require you to provide your name and address if you are found in breach, or suspected breach, of a public health order.

If you are found attending a non-essential gathering, police have the power to request that you produce proof of identification.

A failure to state your name and address when asked by police can result in a \$150 fine.

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

### **What if I want to appeal my fine?**

If you do not agree with a fine, deny you have committed the offence or wish to appeal or contest the fine, you can lodge an application for withdrawal or Notice to Dispute liability within 28 days after you were given the fine.

Withdrawal applications and dispute notices are referred to the ACT Magistrates' Court. It is best to seek legal advice before going to court - if you are unsuccessful the Court may order you to pay further costs.

### **I can't afford to pay my fine, what can I do?**

Criminal Infringement Notices cannot be withdrawn or waived on the basis of financial hardship or compassionate grounds.

The amount of the fine cannot be altered or reduced.

If you are struggling to pay your fine, your best option is to seek an extension of time to pay (see below).

### **Can I get an extension to pay my fine?**

You can request a withdrawal or an extension of the time to pay your Criminal Infringement Notice by lodging an online application within 28 days after the date of service. You can seek an extension for a period of 1-6 months and must provide a reason for the extension request.

You also have the option to make a partial payment or to pay in instalments via Direct Debit Request. This can be done by completing and submitting a Direct Debit request form to [MClisting@act.gov.au](mailto:MClisting@act.gov.au).

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

### **Are there any areas in the ACT that I am not allowed to go?**

There are no "designated areas" in ACT where you are not allowed to go because of Covid-19.

### **Can I cross the border from ACT to NSW?**

Yes, the border between ACT and NSW is open. If individuals cross the border into NSW, the NSW restrictions will apply while they are in NSW. This means that people should consider whether their activities are permitted under both the ACT and NSW restrictions.

## **D. Businesses**

### **How do the COVID-19 health laws affect me as a business owner?**

The ACT has declared a public health emergency. If you own a business you must comply with Government directions for the duration of the public health emergency.

There are 2 emergency requirements which apply to ACT business owners:

- Businesses which operate premises in the ACT must not allow or organise gatherings of more than 10 people on their ACT premises; and
- Non-essential businesses are not to operate.

There are exceptions to these rules.

### What are the exceptions?

The ban on gatherings of 10 or more people does not include gatherings such as:

- at a medical or health service facility that is necessary for the normal business of the facilities;
- at a disability or aged care facility that is necessary for the normal business of the facility;
- at a food market, supermarket, grocery store, retail store, shopping centre that is necessary for the normal business of those premises;
- for the purposes of attending at, or operating, a restaurant or café to collect or deliver takeaway meals and beverages and where social distancing of 1 person per 4 square metres is observed;
- at an office building, factory or construction site (or any other place that is not excluded from operation by the Government), that is necessary for normal operation;
- at a school, university, educational institution or childcare facility that is necessary for the normal business of the facility;
- at a hotel or motel that is necessary for the normal operation of accommodation services; and
- at a veterinary clinic or a place where animals are kept where more than 2 persons are required to provide treatment or care for an animal or animals.

### What are non-essential businesses?

Essential businesses may continue to operate. Non-essential businesses are not allowed to operate unless no more than 2 people enter the premises and

social distancing or 1 person per 4 square metres is observed, or the business is operating solely on an online or virtual basis, or through delivery, takeaway or pickup services.

Non-essential businesses and undertakings include businesses that supply liquor for consumption on premises, hotels (licensed or unlicensed), gyms, indoor sporting centres, saunas, swimming pools, galleries, museums, community centres, restaurants or cafes, food courts, hairdressers, concert venues, theatre, arenas, auditoriums, stadiums, libraries, gambling venues, casinos, cinemas, night clubs, entertainment venues of any kind, nail salons, tattoo parlours, brothels, amusement parks, auction houses, places of worship, public playgrounds and skate parks.

Boot camps, personal trainers are included in the definition of non-essential businesses and undertakings but not to the extent that it involves outdoor activities for groups of no more than 10 people (excluding trainer) where social distancing of 1 person per 4 square metres is observed. Organised sporting-based activity is also included in the definition but not to the extent that it involves activities for groups of no more than 2 people and where social distancing of 1 person per 4 square metres is observed.

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

The following service may be able to provide general COVID-19 information:

- **ACT COVID-19 Helpline:** (02) 6207 7244

Updated on 15 May 2020.

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