

First Nations Guide to COVID-19 Law - Queensland

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 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

To slow the spread of COVID-19, the Queensland Government has ordered restrictions around staying at home, going outside, and having visitors to your home.

When can I leave the house?

You must stay at home, except for the following reasons:

- get essential goods and services such as food, medicine and fuel
- visit the doctor, hospital or other health service
- enjoy a recreational activity within 50km of your home, if you are with people you live with or one person you don't live with (e.g. a picnic with one friend).
- perform essential work or business, which can't be done from home
- attend childcare, school, university or college
- support immediate family members or visit a terminally ill relative
- visit close friends and family (maximum of 2 visitors at a time, or 5 visitors if they all come from one household);
- to attend an outdoor gathering of up to 10 people;
- continue existing child custody and contact arrangements
- attend a funeral, wedding or other service (restrictions apply, below)
- attend court or tribunal
- avoid injury, illness or harm including domestic and family violence

- comply with a police direction or court order

First Nations people 50 years and over with one or more chronic diseases are strongly encouraged to stay at home as much as possible.

What do I have to do if outside of the home for one of these reasons?

Social distancing means keeping enough space between yourself and others, in order to prevent the spread of COVID-19. When leaving the house, you must practise social distancing to the extent that is reasonable, which means keeping 1.5m away from other people that are not part of your household. For example, stay two big steps away from other people at the grocery store.

You can leave the house with a reasonable excuse with the people who are part of your household. Your 'household' is the people who live at your house, but also includes people who live in multiple houses because of family or cultural customs.

You can also leave the house with a reasonable excuse with one person who is not part of your household. For example, you and a friend can go for a walk together (but make sure you are practising social distancing).

A person who needs assistance to leave their house can have more than one carer or support person with them if necessary.

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

Houses can have up to two visitors at a time that are not usually a member of that house or a house can have five visitors if each of those five people live together. However, 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 can also visit an immediate family member in another house to provide assistance, care or support to them. Children under 18 who do not live in the same house as their parents or siblings can still visit them.

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. When you call this number, someone can tell you where to go to stay safe, give you advice on accommodation and talk with you about services and support.

Services providing essentials to homeless people and community centres which assist homeless people are allowed to stay open. If you know of a place locally, you can go there or call the Queensland Homeless Hotline for advice about local services. There is a chance that not all services will be open.

When you attend a community centre, try and reduce the amount of time you spend there and reduce contact with people. Make sure you are social distancing – that is, keeping two big steps away from other people. If you are feeling unwell, call first and tell them before you go somewhere (if possible).

If you are stopped by the police while in public, let them know that you are homeless and do not have a place to socially isolate.

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

You are allowed to leave your house if you are not safe at home. This includes leaving because of domestic and family violence.

If you or someone in your family are in immediate danger, you should call for help now on 000.

If you need to leave, you can travel to stay with a friend or family member (as long as only you and one other person who does not live at the household are at the house).

You can still get help from specialist domestic, family and sexual violence services, such as refuges, shelters, counselling or legal services. You should call 1800 737 732.

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 a private vehicle, or in a taxi or ride-share wearing a protective mask.

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

You are 'cleared' and may leave self-isolation: after a registered nurse or doctor from a treating hospital tells

you that you have met the 'release from isolation' criteria; or 14 days after you are diagnosed.

If you have just returned to Queensland from overseas, you will need to self-quarantine in a 'nominated premises' for 14 days. You need to follow the authorities' instructions who will tell you where to go and how to get there.

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 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.

What restrictions are there around using my car?

You can only leave your home in your car for one of the essential reasons listed above. Members of your household can accompany you in the car, or one other person that is not a member of your house.

You can have driving lessons if the instructor is in your household and you're leaving the house for an essential reason.

You can still go to a petrol station to fill up your car, and to the mechanic if your car needs to be serviced.

Can I care for Elders?

You are allowed to visit Elders in their own home to care for them. However, you can only visit the Elder alone, with one other person who is not a member of your household, or only two people can visit the Elder in their home at a time with up to 5 members of your household. You should practice social distancing if you can (staying two big steps away from each other).

You are also allowed to visit an Elder in an aged-care facility for the purposes of a 'care and support visit'. A 'care and support visit' is a visit of no longer than 2 hours and can be made by one or two people. An Elder is only allowed to have one care and support visit per day.

You are also permitted to visit an Elder in an aged-care facility to give them support at the end of their life.

However, you cannot visit an 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 a temperature of 37.5 degrees or higher; or

- You have symptoms of an acute respiratory infection; or
- You are under 16, unless you are visiting the Elder to provide end of life support.
- You have not had the flu vaccine, if the vaccination is available to you.

Can we still get together outside for community events?

Gatherings in public are not allowed if they have more than 10 people who are not part of your household.

What about Sorry Business and funerals?

At this stage, only 10 guests, with no more than one person per 4 square metres, are allowed to attend funerals. However, Step 1 of the Federal Government's '3 step framework for a Covidsafe Australia' allows up to 20 mourners at an indoor funeral, and 30 outdoors. Queensland is introducing these limits from Friday, 15 May 2020.

You can apply for an exemption to this rule, to allow more family and community to attend. In Queensland, exemptions can and have been granted by the Chief Health Officer for cultural reasons, the loss of a child or a traumatic death.

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 is also giving 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 Australian Government has made a Determination which requires people to not travel to certain remote communities ('designated areas'), except in certain circumstances.

You **cannot** enter these local government areas unless you have done certain things beforehand (outlined below):

- Aurukun,
- Burke,
- Cherbourg,
- Cook (includes communities of Coen and Laura),
- Doomadgee,
- Hope Vale,
- Kowanyama,
- Lockhart River,
- Mapoon,
- Mornington,
- Napranum,
- Northern Peninsula Area,
- Palm Island,
- Pormpuraaw,
- Torres Strait Islands,
- Weipa,
- Woorabinda
- Wujal Wujal,
- Yarrabah.

For someone to enter these places, they need to meet these rules:

- Completed 14 days quarantine (not seeing anyone and not leaving the house);
- No COVID-19 symptoms in the last 14 days;
- No overseas travel in last 14 days;
- If they are an essential service worker (e.g. doctor), they need an 'approved plan' to manage risks).

There are another six exceptions that apply. The exceptions are:

- the person is entering the area primarily to engage in an essential activity that is urgent or can be done in a way that minimises the exposure to other people in the area;
- the person has permission to enter the area from a relevant decision maker that area;
- the person is transiting through the area to a destination beyond the area. The route through the area must be 'the most direct practicable route' and the journey must not involve the person becoming exposed to anyone else in the area;

- in certain circumstances where the person is travelling between designated areas through non-designated areas or traveling outside a designated area and returning.
- the person is moving from one designated area to another designated area adjoining each other that are across state borders.

If you live in one of the designated areas and you leave that area, you need to have completed 14 days quarantine before you can come back. Make sure you have a plan in place for quarantining if you are going to leave.

Fraser Island (K'gari), Moreton Island (Moorgumpin) and North Stradbroke Island (Minjerribah) are closed to visitors, day trippers, holiday makers and holiday home owners until the end of the COVID-19 emergency.

Those who usually live in the designated area are exempt from this ban but must be able to provide evidence if requested by a relevant authority. People who provide an essential service such as health care services are also allowed to enter. There are also several permitted purposes that mean someone can enter a designated area.

You may be required to self-quarantine if you have been in a COVID-19 hotspot in the last 14 days.

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).

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? Do I have to do it?

A police officer has the power to ask you to:

- not to enter or not to remain within a place;
- stop using a place for a stated purpose;
- go to a stated place; and
- stay at or in a stated place.

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), and /or answer questions.

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.

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

Queensland has declared a public health emergency in relation to COVID-19. Until the end of the declared public health emergency of COVID-19, you cannot operate any non-essential business or activity in the State of Queensland (even if it is at a private residence).

From 15 May 2020, the following restrictions will apply:

Some businesses must be **closed** to the public. A full list can be found on the Queensland Health website, but some of these include:

- **Food courts** (but you can still operate takeaway and home delivery, provide food at a hospital, prison or aged care facility as long as it is reasonably necessary, provide food at a truck driver rest facility, provide food or drink to the homeless, or hotel room service for hotel guests) and outdoor and indoor markets (but you can still operate food markets and farmers markets)
- Tanning, waxing, tattoo parlours, and spas and massage parlours (unless they are health services provided by health practitioners, with social distancing observed as much as possible)
- **Nightclubs and cinemas, casinos, gaming or gambling venues** such as TAB agencies and retail outlets
- **Public playgrounds**, skate parks, BMX tracks and outside gyms, and indoor sporting centres, including gyms, health clubs and fitness centres and swimming pools (unless the pool is in your house)
- **Community and recreation centres** (but these can stay open for essential voluntary or public services, such as food banks or homeless services, with social distancing observed)
- **Libraries, community centres, and youth centres** (but community hubs in remote communities that provide child care, youth, harm minimisation and diversion can stay open if they are distributing health or medical information or education to the community, with social distancing observed)
- **Community facilities** (such as community halls, clubs, RSLs, PCYC) (but community

facilities can stay open if they provide formal out of school hours care, with social distancing observed) and local government non-essential facilities and services (such as libraries and pools)

- **Caravan and camping parks** (unless you live there permanently, are living there in the interim while your house is not available, or are an essential worker e.g. health practitioner, emergency services or infrastructure projects, with social distancing observed) and campgrounds
- **Places of worship, weddings and funerals** (with some exceptions for weddings attended by a maximum of 5 people including the celebrant, the couple and two witnesses and no more than one person per 4 square metres, and funerals attended by a maximum of 10 people with no more than one person per 4 square metres, except if the Chief Health Officer gives an exemption to this rule for compassionate reasons. You can live stream any other service at a place of worship if the service is conducted by no more than 5 people including the camera operator, with social distancing observed)

Some businesses can be **opened with restrictions**:

- **Cafes, restaurants and pubs, registered and licensed clubs, RSL clubs and hotels**, with 10 people at any one time and only 1 customer per 4 square metres (not including staff) and only with a COVID SAFE Checklist, but no bars or gaming.
- **Open homes and auctions** of up to 10 people, ensuring social distancing is observed. Agents are required to keep a record of names and contact details of each person to assist with contact tracing if required.
- **Beauty therapy and nail salons** (with a COVID SAFE Checklist).
- **Takeaway food** (as long as you implement and monitor social distancing, including keeping 1.5 metres between people, ensuring that gathering to order or collect does not exceed one person per 4 square metres and not allowing people to eat takeaway food or drink on or near your premises. Tables and chairs should be removed)
- **Hairdressers and barber shops**, with no more than one person per 4 square metres, with social distancing observed to the extent possible. Hairdressers and barber shops are also now required to keep a record of names and contact details of each client that they service and to help the Queensland Government with contact tracing if required.
- **Bottle shops** and off license premises attached to venues, with social distancing observed
- **Outdoor sporting-based activities**, boot camps and personal training and social sporting-based activities (limited to 2

Updated 15 May 2020

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

- people, with social distancing observed). For boot camps, up to 10 people are allowed to attend with equipment disinfected between each use. Participants must maintain the 4 square metres per person and are encouraged to bring their own equipment where possible.
- **Hostels, bed and breakfasts,** backpackers, boarding houses (which can continue to operate for permanent residents, temporary residents and workers of the facility, with social distancing observed, but limited to 2 people in common areas such as lounge rooms and shared facilities, with no more than one person per 4 square metres and limited to 2 people in outdoor areas, with social distancing observed)
- **Zoos and wildlife centres** (to maintain and care for the animals)

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>.

In certain outback areas, dining in is allowed at restaurants, cafes, pubs, registered and licensed clubs, RSL clubs and hotels for locals only for a maximum of 20 people at any one time (but no bars or gaming). You can find a full list of these areas at: <https://www.covid19.qld.gov.au/government-actions/outback-queensland>.

If businesses do not comply with these restrictions and do not have a reasonable excuse, they can be given a penalty of up to \$13,300.

Food and grocery businesses can now be opened from 7am on any day the shop is allowed to trade to allow people to buy essential groceries until the end of the COVID-19 emergency.

The Queensland Government is expecting to ease restrictions further on 12 June 2020 (Stage 2) and 10 July 2020 (Stage 3), which will allow more businesses to re-open and more people permitted at any one time in those businesses. For further information and updates, go to the Roadmap to Easing Restrictions website: <https://www.covid19.qld.gov.au/government-actions/roadmap-to-easing-queenslands-restrictions>.

E. Who to call for help or information

General information and helplines

- You can find more general information on COVID-19, social distancing and self-isolation on the Queensland Government's website here: <https://www.qld.gov.au/health/conditions/health-alerts/coronavirus-covid-19>. You can find information specific to First Nations people here: [https://www.qld.gov.au/health/conditions/health-alerts/coronavirus-covid-](https://www.qld.gov.au/health/conditions/health-alerts/coronavirus-covid-19)