



FREQUENTLY ASKED QUESTIONS: CORONAVIRUS (COVID-19)

Information current as at 13 March 2020

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A. Event cancellations, venue closures and travel

1. Has the government banned events and mass gatherings?

The Australian Government has today advised against organised non-essential mass gatherings of more than 500 people, from 16 March 2020. This advice is a precautionary measure.

Exclusions include:

- Schools;
- Public transport;
- Universities;
- Offices and workplaces;
- Airports; and
- Parliament.

2. Do event organisers need to cancel performances or venues need to close as a precaution?

While the advice from government health authorities is that the risk to the general population from COVID-19 remains low, the government is advising the suspension of organised non-essential gatherings of 500 people or more as a precautionary measure. LPA is seeking further government advice and will inform Members if the situation changes.

Event organisers may choose to cancel events depending upon business circumstances. If tickets have been on sale for these events, ticket holders must be provided with a refund.

3. If the government bans events and mass gatherings over 500 people, can the event still proceed in a venue with capacity greater than 500 but audience numbers are limited to less than 500 people?

Subject to further clarification from government.

4. What is the latest government advice regarding overseas travel?

As of 13 March 2020, government has increased the advice level for overseas travel to Level 3: only essential overseas travel should be undertaken.

There are some countries and regions in the world where the government advice is '[do not travel](#)'. These are mostly for security reasons, but some are also because of a very high risk of COVID-19 transmission. For all other destinations, you should reconsider your need to travel. This is a global advisory considering the widespread nature of the COVID-19 outbreak and the significant measures in place to curb it.

B. Work Health and Safety obligations

5. Are employers obliged to take steps to protect employees and contractors from COVID-19?

Employers have an obligation under workplace health and safety (WHS) laws to ensure the health and safety of their workers and others at the workplace (as far as reasonably practical).

In order to meet your obligations under WHS Laws, LPA recommends that employers conduct a risk assessment of the workplace, and any new production, and prepare a risk mitigation plan, and do what is reasonably necessary to eliminate or mitigate those risks. Further general guidance is available at [‘LPA Guide - Safety Guidelines for the Live Entertainment and Events Industries - The Work Environment Hazard Guide’](#).

An appropriate range of actions may include:

- Keep your employees and contractors updated on any health advice from the Australian Government Department of Health;
- Inform employees when they should not attend work:
 - You may require all employees and contractors who are at [risk of infection from COVID-19](#) (for example because they have recently travelled through mainland China, South Korea, Italy or Iran, or have been in contact with someone who had the virus) to seek medical clearance from a doctor before returning work, and that they work from home (if possible), or not attend the workplace for at least 14 days.
 - You may require employees who have COVID-19 symptoms to inform their employer that they are unwell, and to seek medical advice and to stay home (or work from home) if they are unwell, even in the case of mild cough or fever.
 - You may require employees who cannot come to work because they are sick or who are required to self-isolate to take personal leave, and not return to work until they have medical clearance from a doctor, and have a medical certificate stating that they are fit for work.
- Have a contingency plan to manage staff absences, and ongoing business requirements, in the event your business must close or operate at a lower capacity.
- Provide employees with information and links to relevant services (such as an Employee Assistance Program) if they require support.
- Ensure that your workplace is clean and hygienic, and that surfaces and objects such as handrails, doors, keyboards and telephones are regularly wiped and cleaned.
- Ensure soap and running water, hand sanitizer, antiseptic and alcohol wipes are available in the workplace. Make sure dispensers are regularly refilled.
- Publish and encourage good workplace hygiene. You may do this by preparing guidelines, displaying posters that promote handwashing, and consistently reminding employees and contractors at staff meetings to regularly wash their hands.
- Promote good respiratory hygiene by providing tissues and/or face masks for those with symptoms of infection and a closed bin for their disposal.

6. Are employees obliged to take steps to care for their own health and safety and the health and safety of their colleagues?

Employees and contractors have a duty to take reasonable care of their own health and safety and to not adversely affect the health and safety of others. Employees and contractors should always practice hygiene and employ other measures to protect against infections, including by:

- washing their hands often, with soap and water, or carrying hand sanitizer and using it as needed;
- covering their mouth while coughing or sneezing, without using their hands to do so;
- seeing a health care professional if they start to feel unwell;
- avoiding contact with others, including shaking hands or hugging;
- not attending work if they are sick or required to self-isolate, and not returning to work until they have medical clearance from a doctor and have a medical certificate stating that they are fit for work.

C. Employment

7. What if an employee or their family member is sick with COVID-19?

Full and part-time employees who cannot come to work because they are sick can take paid personal leave.

If an employee needs to take leave in order to look after a family member or member of their household who is sick, or suffering an unexpected emergency, they are entitled to take paid carer's leave.

If a full or part-time employee has exhausted their entitlement to personal/carer's leave, they are entitled to take unpaid leave.

Casual employees are entitled to 2 days of unpaid carer's leave per occasion.

8. What if an employee is stuck overseas or required to be in quarantine?

Employers and employees will need to come to their own arrangements. This may include:

- taking sick leave, if the employee is sick;
- taking annual leave;
- taking other leave available to an employee (such as annual leave or long service leave, or any other leave available under an Award Enterprise Agreement or contract of employment); or
- arranging any other paid or unpaid leave by agreement between the employee and employer.

9. What if an employee has been in contact with a person who has COVID-19 (for example, they attended the same theatre, or were on the same flight) and has been told by a medical practitioner to self-isolate?

If an employee has been told by a medical practitioner or has received advice from the relevant Health Department to self-isolate, they should not attend the workplace.

If the employee is not sick, they would still be eligible to take paid personal leave (or unpaid personal leave if they had exhausted their entitlement to personal leave). It is at the discretion of the employer whether or not an employee with no personal leave is paid for the self-isolation period.

An employer should request that their employee seek medical clearance from a doctor before attending the workplace.

10. What if an employee wants to stay home as a precaution?

If an employee wants to stay home, as a precaution to being exposed to COVID-19, they may make a request to work from home (if possible), or take some form of unpaid leave, or paid leave such as annual leave or long service leave.

Employers are not obliged to allow employees to work from home, but may grant the request if possible.

In respect of taking leave, these requests are subject to the normal leave application process in your specific workplace and the [National Employment Standards \(NES\)](#).

Under section 88(2) of the [Fair Work Act 2009 \(FW Act\)](#) an employer must not unreasonably refuse to agree to a request from an employee to take paid annual leave.

11. What if an employer wants their employees to stay home as a precaution?

If an employee is at [risk of infection from COVID-19](#), (for example because they have recently travelled through mainland China, South Korea, Italy or Iran, or have been in contact with someone who had the virus) you should request that the person seek medical clearance from a doctor before returning to work, and that they work from home, or not attend work for at least 14 days. If an employee is directed to attend a medical examination, it should be paid for by the employer.

For up-to-date information about self-isolation please refer to the [Department of Health's Isolation Guidance](#).

12. If an employer directs an employee, who is not sick, not to attend work are they entitled to be paid?

Full and Part-time Employees

In general, if an employer directs a full or part-time employee not to attend work (when the employee is not sick and does not have any symptoms or has not been diagnosed with COVID-19), the employee would be entitled to be paid, subject to any obligations or entitlements set out in any contract of employment, Award or Enterprise Agreement, or workplace policies.

Casual Employees

Employers can ask a casual worker not to attend any rostered shift, for any reason, as the nature of casual work is that it ends with each engagement.

However, if an employer directs a casual employee to cease work after they have commenced a shift, or an employer cancels a shift without adhering to the change of roster provision in the relevant award or enterprise agreement you will have to pay the employee for the minimum period of engagement.

13. What if a cast member (or other employee) contracts COVID-19 and the rest of the cast, crew or other company employees are then required to self-isolate during a production season?

A cast member (or other employee) who is ill, and any other cast member, crew member or company employee would be eligible to take paid personal leave (or unpaid personal leave if they had exhausted their entitlement to personal leave).

If an employee, such as a cast member or crew member, is engaged for a specific period or for a fixed term and the contracts have been executed, they may be entitled to be paid for the full term of the contract, even if the production does not proceed.

Performers Collective Agreement

If cast engaged under the [Performers Collective Agreement 2017 \(PCA\)](#) have commenced work and the production is cancelled, they will be eligible to be paid for the full term of the contract, if the contract was for a fixed term.

If cast have been contracted, and work on the production does not commence, the cast are eligible for 4 weeks' pay and not the whole contracted period (see clause 16.6).

14. What if the following events occur?

- a. **The Australian Government or your state/territory government cancels mass gatherings or events, and as a result there is no work for employees to do.**
- b. **The Australian government or your state/territory government places the country in quarantine and your employees cannot come to work, and/or a production is cancelled.**
- c. **Public transport is interrupted or shuts down, and employees can't get to work.**

Under section 524 of the [FW Act](#) (stand down provision), an employee can be stood down without pay if the employee cannot be usefully employed due to a stoppage of work for which the employer cannot reasonably be held responsible. All of the above scenarios constitute a situation which is outside the employer's control, for which they cannot be reasonably held responsible, and an employer would not be obliged to pay an employee (depending on any obligations or entitlements set out in any contract of employment, Award or Enterprise Agreement, or workplace policies).

In this circumstance, employers may utilise the stand down provision under the FW Act or the PCA to stand down performers without pay, even if the production has commenced and/or the performer has been engaged under a fixed-term contract.

Although employers are not under an obligation to pay employees who have been stood down, employers and employees may come to their own arrangements, such as:

- employees may elect to use their annual leave;
- employers may agree to provide annual leave in advance for employees who have exhausted their entitlement to annual leave;
- employers may agree for employees to use their long service.

Under section 88(2) of the [FW Act](#) an employer must not unreasonably refuse to agree to a request from an employee to take paid annual leave.

If an employee chooses not to access their annual leave or long service leave, they will not be paid for a stand down period.

D. Refund obligations

15. If a ticket holder is sick, should he/she attend a performance?

Government health authorities are currently recommending that anyone who is unwell should refrain from attending public events.

Ensure that any communications from Members to the general public/ticket holders about whether or not to attend events is based on government recommendations (and are not Member recommendations).

16. A ticket holder has asked for a refund due to COVID-19. Do Members need to provide a refund?

Members do not need to provide refund or exchange if:

- a ticket holder does not wish to attend an event due to fears of exposure to COVID-19; or
- a ticket holder is unwell and does not attend an event (in line with government recommendations)

Members may wish to provide a discretionary refund or exchange in the above circumstances.

Members should provide a refund or exchange if a ticketholder is required to self-isolate (and the event falls within the isolation period) due to:

- having close contact with a confirmed case of COVID-19
- having recently returned or transited from a [high-risk country](#). Those required to self-isolate include:
 - anyone who has left, or transited through mainland China or Iran, in the last 14 days;
 - anyone who has left, or transited through the Republic of Korea (South Korea), on or after 5 March 2020; or
 - anyone arriving from Italy who has been instructed to isolate at home following a health screening.

17. If an event has to be cancelled because of a government directive and therefore outside the control of the event organisers, do refunds need to be provided to ticket holders?

If events are cancelled because of a government directive, each one will need to be considered on a case-by-case basis, as the consequences of the cancellation will depend on a number of factors which are relevant to each particular event.

These will include things such as the reason for the cancellation, status of insurance, contract terms, the timing of the cancellation, whether the event can be postponed or rescheduled and the laws of the particular State or Territory of Australia they are in.

Therefore, it can be complicated and there is not necessarily one answer for every situation.

Members need to check their insurance policies and speak to their insurance company/broker, check all their contracts including the ticket sale terms for force majeure clauses and seek their own advice.

General guidance regarding consumer refunds

- Under the Consumer Law, the general principle is that if an event is cancelled, consumers should receive a refund for their tickets.
- However, this may vary when the reason for the cancellation is outside the control of the event organiser such as where there is a directive from the government to cancel certain events. If it is a directive, then the event organiser has no choice. The ACCC and various state consumer affairs bodies have indicated that consumers may not be entitled to a refund in this situation. If there is no absolute directive and it is a recommendation only, then the event organiser will have to make its own risk assessment of the situation.

Guidance general contract issues

- **Force Majeure** - Force majeure only applies when there is a specific clause in a contract dealing with events of force majeure (being events outside the control of the parties which result in them being unable to perform their obligations under the contract). If there is a force majeure clause in a contract, it will set out what will happen when events beyond the control of the parties occur. For instance, they usually suspend the obligations of the parties until the force majeure event has ceased and then may provide the right to terminate if the event continues for a certain period.
- **Frustration** - If there is no force majeure clause in a contract then the general doctrine of 'frustration' occurs which is where, due to event beyond the parties' control, the performance of the contract is impossible. When a contract is frustrated, the contract comes to an end and the parties are discharged from their future obligations after that time. Under the general law, losses of each party under a frustrated contract are the responsibility of the party incurring the loss but various States have legislation which can vary this and make it less harsh. In addition, if a party has obtained a benefit before the contract is frustrated, that party may be required to pay an amount to the other party (but not an amount in excess of the benefit they obtained). Therefore it may be reasonable for an event organiser to deduct the expenses it has incurred in connection with the event but then to give consumers a partial refund so that the event organiser does not receive a benefit from, or is 'unjustly enriched', as a result of the cancellation. Similarly, if the event organiser is covered by insurance and receives compensation under a policy enabling it to refund consumers in whole or part for their tickets, it should do so.

E. Privacy

18. In cases where a patron attended an event and was later diagnosed with COVID-19, can event organisers/venues/ticketing agents share the personal information of the other patrons who attended the event with government/health authorities?

The [Privacy Act 1998](#) allows for Australian Privacy Principles (APP) entities (i.e. generally organisations with annual turnover of more than \$3 million) to share personal information in the interests of public health and safety to relevant authorities (subject to conditions – see below).

Specifically, section 16A of the Privacy Act states that APP entities can share personal information if the following conditions are satisfied:

- a. it is unreasonable or impracticable to obtain the individual’s consent to the collection, use or disclosure; and
- b. the entity reasonably believes that the collection, use or disclosure is necessary to lessen or prevent a serious threat to the life, health or safety of any individual, or to public health or safety.

F. Confirmed cases of COVID-19 at events/venues

NB: Please note the information below is not an exhaustive list of tips to manage and respond to COVID-19.

Things to do now

- Make sure your emergency number is up to date and the emergency contact person has their phone on at all times
- Develop a communications plan before the event
- Ensure your staff contact lists are up to date
- Speak to your service providers/contractors to ensure they have up to date staff contact lists (in case it is required by health authorities)

When you receive a call from health authorities notifying you of confirmed COVID-19 cases at your event/venue

- Find a pen and paper to write down all necessary information
- Note all information down immediately
- Find out where the affected patron had been in the venue apart from where they had been seated i.e. bars, lifts, bathrooms etc.
- Find out when the news will be made public (i.e. time of press conference)
- Get name and contact details of government/health officials to enable follow up

After the call from health authorities

- Contact the people who need to know within your organisation
- Depending on the movements of the affected patron at the event/venue, others may have been exposed to COVID-19, and therefore will need to be notified. These people may include:
 - Other patrons
 - Venue staff – front of house, back of house, catering, security, box office/ticketing
 - Production staff – performers, technicians, crew, stage managers
 - External service providers (e.g. paramedics)
- Source [guidelines](#) for cleaning the venue. These guidelines may include:
 - Cleaners should clean their hands with alcohol wash pre- and post-clean
 - Cleaners should wear disposable rubber gloves
 - Standard detergent and disinfectant should be used
 - Priority placed on cleaning tactile areas (particularly door handles and rails) and the area in which the patron had been seated
 - Cleaners are not required to wear masks unless the patron was in the vicinity for a prolonged period (i.e. greater than 15 minutes) prior to the clean
- Consider whether potentially affected staff need to be replaced with other staff

G. Federal Government economic stimulus package

On 12 March 2020, the Federal Government announced a [\\$17.6 billion stimulus package](#) in response to the Coronavirus. Initiatives include:

- **Increasing the instant asset write-off:** Lifting the threshold to \$150,000 (from \$30,000) — and making more businesses eligible to use it
- **Backing business investment:** Offering businesses a time-limited incentive to invest, by accelerating depreciation deductions
- **Boosting cash flow for employers:** Helping small and medium-sized businesses cover the costs of employee wages and salaries (50 per cent of PAYG withheld, with a minimum \$2,000 payment and up to a cap of \$25,000 over 6 months)
- **Supporting apprentices and trainees:** Wage assistance to help small businesses to keep their apprentices and trainees
- **Stimulus payments:** One-off payment of \$750 to social security, veteran and other income support recipients and eligible concession card holders to support confidence and domestic demand in the economy
- **Support for Coronavirus-affected regions and communities:** Financial support to help regions and communities most affected by the Coronavirus to recover.

LPA is advocating for [targeted measures](#) for the live performance industry.

H. Resources

Department of Health resources

- The status of COVID-19 cases in Australia is being regularly updated by the [Department of Health](#)
- [COVID-19](#) general information
- [Information for employers](#)
- [High-risk countries and regions for COVID-19](#)
- [Environmental cleaning and disinfection principles](#)

State and territory resources

- ACT Government COVID-19 [FAQs](#)
- NSW Government COVID-19 [FAQs](#)
- NT Government COVID-19 [Update](#)
- QLD Government COVID-19 [FAQs](#)
- SA Government COVID-19 [Information for the Community](#)
- TAS Government COVID-19 [Information](#)
- VIC Government COVID-19 [Information for the Victorian public](#)
- WA Government COVID-19 [FAQs](#)

Fair Work Ombudsman resources

- [COVID-19 and Australian workplace laws](#)

Safe Work Australia resources

- [COVID-19 advice](#)

World Health Organisation (WHO) resources

- [Guidelines](#) for preventing the spread of COVID-19 in workplaces
- [Advice for the public](#)
- [Key planning recommendations for Mass Gatherings in the context of the COVID-19 outbreak](#)
- [Q&A on Mass Gatherings and COVID-19](#)