

Legislative changes related to the Corona virus (current as of 1 April 2020)

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1 Public gatherings

1.1 Public gatherings, excluding household members, have been reduced to a maximum of two people.

1.2 Exceptions include:

- (a) People of the same household going out together;
- (b) Funerals - a maximum of 10 people;
- (c) Weddings - a maximum of 5 people; and
- (d) Family units.

1.3 Breach of orders made under the [Public Health Act 2010](#) is a criminal offence and attracts heavy penalties

1.4 In the case of an individual, the maximum penalty is \$11,000, or imprisonment for 6 months, or both and a further \$5500 penalty may apply for each day the offence continues. The NSW Police may also issue on-the-spot fines of \$1000 for an offence.

1.5 In the case of any corporation, the maximum penalty is \$55,000 and a further \$27,500 penalty may apply for each day the offence continues.

1.6 In NSW this [order](#) (*Public Health (COVID-19 Restrictions on Gathering and Movement) Order 2020*) (the Order) details these restrictions

1.7 A reasonable excuse includes

- (a) Obtaining food or other goods and services;
- (b) Or travelling for the purposes of work or education if it is not possible to do it at home,
- (c) Or exercise,
- (d) Or medical or caring reasons

1.8 Notably taking holidays in a regional area does not constitute a reasonable excuse (s 5 (4) of the Order)

2 JobKeeper stimulus update

2.1 The Government has announced a \$130 billion JobKeeper payment to help keep more Australians in jobs and support businesses affected by the significant economic impact caused by the Coronavirus.

2.2 The Government will provide \$1,500 per fortnight per employee for up to 6 months.

2.3 Eligible **employers** will be eligible for the subsidy if:

- (1) Their business has a turnover of less than \$1 billion and their turnover has fallen by more than 30 per cent (of at least a month); or
- (2) Their business has a turnover of \$1 billion or more and their turnover has fallen by more than 50 per cent (of at least a month); and
- (3) The business is not subject to the Major Bank Levy.

2.4 Eligible **employees** are employees who:

- (1) Are currently employed by the eligible employer (including those stood down or re-hired);
- (2) Were employed by the employer at 1 March 2020;
- (3) Are full-time, part-time, or long-term casuals (a casual employed on a regular basis for longer than 12 months as at 1 March 2020);
- (4) Are at least 16 years of age;
- (5) Are an Australian citizen, the holder of a permanent visa, a Protected Special Category Visa Holder, a non-protected Special Category Visa Holder who has been residing continually in Australia for 10 years or more, or a Special Category (Subclass 444) Visa Holder; and
- (6) Are not in receipt of a JobKeeper Payment from another employer.

3 JobSeeker stimulus update

3.1 Eligible recipients will receive an additional two cash payments of \$750 each. Eligible recipients include those who are or receive:

- (1) Unemployed and on JobSeeker allowance;
- (2) Students on Austudy or Abstudy;
- (3) Youth allowance;
- (4) Family Tax Benefit or parenting payment recipients;
- (5) Pensioners;
- (6) Carer allowance; and
- (7) Farm household allowance.

3.2 \$550 coronavirus co-payment payments are scheduled to begin on April 27 and apply to:

- (1) JobSeekers
- (2) Students and apprentices receiving government subsidies
- (3) Casual workers, self-employed, contract workers and or freelancers who have lost income

4 Foreign investment

4.1 Effective from 10.30pm AEDT on Sunday, 29 March 2020, and subject to the *Foreign Acquisitions and Takeovers Act 1975* (Cth), threshold amounts which determine whether Foreign Investment Review Board (**FIRB**) approval is required for particular investments by foreign persons have all been reduced to \$0.

4.2 This has the impact of requiring acquisitions by foreign investors to now require FIRB approval.

5 Employment legislation and awards

5.1 The Fair Work Commission (**FWC**) has granted an urgent application to vary the *Clerks – Private Sector Award 2010* (**the Clerks Award**), making changes to annual leave, minimum hours and notice requirements.

5.2 These changes came into effect 24 March 2020 and will last until 30 June 2020. The changes include:

- **Alternative duties** – employers can direct employees to perform any duties within their ‘skill and competency’, however wages must not be reduced.
- **Minimum shifts** – two hour minimum shifts for part-time and casual employees working from home.
- **Span of hours** – employees working from home may request to work their ordinary hours within an extended span of hours, being 6.00am – 11.00pm Monday to Friday and 7.00am – 12.30pm on Saturday.
- **Reduction of ordinary hours** – employers can reduce hours of work for full-time and part-time employees to 75 percent of their ordinary hours, if it is approved by at least 75 percent of full-time and part-time employees in the workplace (e.g. through a vote).
- **Annual leave** – employers may direct employees to take annual leave, and at a reduced rate if agreed upon, by giving at least one week’s notice:
 - (a) At any time, provided the employee has at least two week’s accrued annual leave at the time the direction is made
 - (b) During a close down of the employer’s business (in this case, where employees have insufficient leave they can be directed to take unpaid leave).

5.3 *Long Service Leave Act 1955 (NSW)* – s 15A Covid-19 Pandemic special provisions:

- (1) Employers with worker consent may give periods of long service leave less than one month and with worker consent may give less than one month’s notice

6 **Coronavirus Economic Response Package Omnibus Act 2020 (Cth) (the Act)**

- 6.1** The Act amends a range of debt and finance related acts to make the following non-exhaustive list of changes:
- (a) An increase to the minimum amount for a creditor to issue a statutory demand to a company from \$2000 to \$20,000;
 - (b) An increase to the threshold at which a creditor can initiate bankruptcy proceedings from \$5,000 to \$20,000;
 - (c) An increase to the time companies and individual debtors have to respond to statutory demands or bankruptcy notices from 21 days to 6 months
 - (d) Relieves directors from their duty to prevent insolvent trading regarding any debts incurred in the ordinary course of the company’s business. This means that except of cases involving ‘egregious dishonesty or fraud’

directors may avoid personal liability for insolvent trading regardless of whether they have been taking 'safe harbour' steps.

7 Rent, landlord and tenancy proposals

7.1 The Australian government is considering a raft of changes for landlords and tenants

7.2 The Prime Minister announced on 29 March 2020 a 6-month moratorium on some evictions (yet to be fully implemented in NSW)

7.3 Further changes **may** include the following:

- (1) A Tasmanian bill (*Covid-19 Disease Emergency (Miscellaneous Provisions) Bill 2020*) (the Bill) is before the Tasmanian Parliament that will provide for 120 days relief from rent arrears or eviction notices with a possible 90-day extension in exceptional circumstances
- (2) The Bill includes a proposed power to prevent landlords from increasing rents for both commercial and residential tenants
- (3) A further proposed power under the Bill may permit tenants and owners to break fixed term leases if they can prove that continuing under the lease would cause severe hardship (subject to Residential Tenancy Commissioner approval)

7.4 These proposed changes provide initial scope for changes that might reasonably be expected in other states and territories

8 Closures of businesses and premises

8.1 The following are to be closed:

- (1) Open house inspections and auctions
- (2) Cafes, food courts and restaurants are restricted to take-away service only (bar cafes or canteens in hospitals, care homes or schools, prisons and military bases).
- (3) Food services for the homeless can continue without restriction.
- (4) Markets (unless a food market) and auction houses
- (5) Amusement parks and arcades
- (6) Indoor and outdoor play centres
- (7) Community and recreation centres, health clubs, fitness centres, yoga, barre, spin facilities, saunas, wellness centres

- (8) Public swimming pools
- (9) Galleries, museums, national institutions, historic sites, libraries, community centres
- (10) In-store beauty therapy, tanning, waxing, nail salons and tattoo parlours, spa and massage parlours (excluding allied-health-related services, like physiotherapy)
- (11) Shopping centres themselves will remain open

8.2 Disclaimer

While all care has been taken to ensure the above information is accurate, the law is currently changing on a daily basis. The information contained in this document is provided as personal information only. It is not intended to be legal advice and it should not be used as legal or professional advice.