

Critical COVID-19 Response Information for WA Employers

Current as at 4:00pm – 18 August 2020

The following information is intended to assist businesses to navigate the unprecedented changes arising out of enhanced responses to the COVID-19 pandemic. Information about Government Response measures were current at the time of publication however, given the rapidly evolving situation, businesses should monitor reliable Government sources for updated information.

<p>What is the Current Stage Response?</p>	<p>Most of the restrictions implemented by the WA Government have been relaxed under the 6 phase Roadmap process for lifting restrictions (Roadmap)</p> <p>The main principles guiding the easing of restrictions is the 2 square metre rule - provide at least 2 square metres of floor space per person.</p> <p>The details of the 6-Phase Roadmap are discussed in further detail below.</p> <p>Under the current Stage Response, the following businesses may reopen subject to the following conditions:</p> <table border="1" data-bbox="446 873 1412 1951"> <thead> <tr> <th data-bbox="446 873 813 963">Business, premises, or place</th> <th data-bbox="813 873 1412 963">Conditions</th> </tr> </thead> <tbody> <tr> <td data-bbox="446 963 813 1400"> Food Businesses and Licensed Premises (cafes, restaurants, pubs, clubs, hotels, roadhouses, taverns) </td> <td data-bbox="813 963 1412 1400"> No limit on the number of patrons permitted in a venue. 2 square metre rule and physical distancing applies. Large hospitality venues that can hold more than 500 patrons must include staff in their patron account in providing for the 2 square metre rule. Alcohol can be served as part of an unseated service. No patron register required. </td> </tr> <tr> <td data-bbox="446 1400 813 1500"> Casino </td> <td data-bbox="813 1400 1412 1500"> Casino gaming floor reopen. 2 square metre rule applies. </td> </tr> <tr> <td data-bbox="446 1500 813 1951"> Major sporting and entertainment venues </td> <td data-bbox="813 1500 1412 1951"> 50 percent capacity rule applies Optus Stadium: <ul style="list-style-type: none"> • Sport: 30,633 • Concerts: 35,000 HBF Park: <ul style="list-style-type: none"> • Sport: 10,150 • Concerts: 16,500 RAC Arena <ul style="list-style-type: none"> • Sport: 7,150 </td> </tr> </tbody> </table>	Business, premises, or place	Conditions	Food Businesses and Licensed Premises (cafes, restaurants, pubs, clubs, hotels, roadhouses, taverns)	No limit on the number of patrons permitted in a venue. 2 square metre rule and physical distancing applies. Large hospitality venues that can hold more than 500 patrons must include staff in their patron account in providing for the 2 square metre rule. Alcohol can be served as part of an unseated service. No patron register required.	Casino	Casino gaming floor reopen. 2 square metre rule applies.	Major sporting and entertainment venues	50 percent capacity rule applies Optus Stadium: <ul style="list-style-type: none"> • Sport: 30,633 • Concerts: 35,000 HBF Park: <ul style="list-style-type: none"> • Sport: 10,150 • Concerts: 16,500 RAC Arena <ul style="list-style-type: none"> • Sport: 7,150
Business, premises, or place	Conditions								
Food Businesses and Licensed Premises (cafes, restaurants, pubs, clubs, hotels, roadhouses, taverns)	No limit on the number of patrons permitted in a venue. 2 square metre rule and physical distancing applies. Large hospitality venues that can hold more than 500 patrons must include staff in their patron account in providing for the 2 square metre rule. Alcohol can be served as part of an unseated service. No patron register required.								
Casino	Casino gaming floor reopen. 2 square metre rule applies.								
Major sporting and entertainment venues	50 percent capacity rule applies Optus Stadium: <ul style="list-style-type: none"> • Sport: 30,633 • Concerts: 35,000 HBF Park: <ul style="list-style-type: none"> • Sport: 10,150 • Concerts: 16,500 RAC Arena <ul style="list-style-type: none"> • Sport: 7,150 								

Current as at 4:00pm, 18 August 2020

The content of this publication is for informational purposes and does not constitute legal advice. You should seek legal advice before acting or relying on any of the content.

- Concerts: 8,250

Health clubs, fitness centres, yoga, barre and spin facilities, saunas, bathhouses and wellness centres	Gyms may operate unstaffed. Regular cleaning must be maintained. 2 square metre rule applies.
---	---

Concert halls, live music venues, bars, pubs and nightclubs	Unseated performances permitted. 2 square metre rule applies.
---	--

Transport, freight and logistics	Any truck driver entering Western Australia will need to show evidence of a negative COVID-19 test results within the past 7 days. If a test has not been taken, they will be required to take a test within 48 hours.
----------------------------------	---

The following activities are not permitted under Phase 4:

- Large scale, multi-stage music festivals.

What are some of the restrictions that have been lifted in WA under Phase 4?

Phase 4 of the Roadmap was implemented on 27 June 2020 and is currently in place. Under Phase 4, physical distancing, good hygiene, the 2 square metre rule apply to all activities.

Under Phase 4, businesses that have previously been closed and are reopening for the first time must:

- comply with conditions outlined in the [COVID Safety Guidelines](#). There are industry specific COVID Safety Guidelines, which include the following:
 - [COVID Safety Guidelines - Food Businesses and Licensed Premises](#);
 - [COVID Safety Guidelines – Sport and Recreation](#); and
 - [COVID Safety Guidelines – Beauty and Personal Care Services](#)
- ensure a [COVID Safety Plan](#) (based on the [COVID Safety Guidelines](#)) is completed by the person responsible for the premises and is up to date. There are industry specific COVID Safety Plans, which include the following:
 - [COVID Safety Plan: Food and Licensed Venues](#);
 - [COVID Safety Plan: Sport and Recreation](#); and
 - [COVID Safety Plan: Beauty and Personal Care Services](#).
- display a COVID Safety Plan Certificate in a visible location on the premises — this is included in the plan
- where applicable, ensure staff have completed the AHA Hospitality & Tourism COVID-19 Hygiene Course
- maintain a minimum of 2 square metres per person
- maintain hygiene and frequent cleaning

The other key elements of the Phase 4 period include:

Current as at 4:00pm, 18 August 2020

The content of this publication is for informational purposes and does not constitute legal advice. You should seek legal advice before acting or relying on any of the content.

	<p>Public gatherings</p> <ul style="list-style-type: none"> • No patron limit. • 2 square metre rule and physical distancing applies. <p>Food and beverage</p> <ul style="list-style-type: none"> • No patron limit. • 2 square metre rule and physical distancing applies. • Alcohol may be served unseated. <p>Leisure and recreation</p> <ul style="list-style-type: none"> • Gyms may operate unstaffed. <p>Community facilities</p> <ul style="list-style-type: none"> • No patron limit. • 2 square metre rule must be maintained. <p>Regional travel</p> <ul style="list-style-type: none"> • Access into remote Aboriginal communities remains prohibited. <p>Gaming venues</p> <ul style="list-style-type: none"> • Crown Casino gaming floor permitted to reopen under temporary restrictions.
<p>For how long will the Current Stage Response be in place?</p>	<p>Phase 4 was expected to be in place for three weeks. However, due to increasing interstate infection rates, Phase 4 has been extended four times.</p> <p>Subject to local and interstate infection rates, the new tentative date for the commencement of Phase 5 is 24 October 2020.</p> <p>Phase 5 will see the removal of the 2 square metre rule and the removal of the 50% capacity limit for major venues. WA's hard border and restricted access to remote Aboriginal communities will remain.</p>
<p>What if I am not one of the employers that is included in the types of businesses included in the Current Stage Response?</p>	<p>Businesses that are not on the list of businesses as part of the Current Stage Response are permitted to continue to open and operate but must adhere to the 2 square metre rule, maintain social distancing and follow other measures to mitigate against potential infection exposure.</p>
<p>Are the borders closed?</p>	<p>WA's borders were closed from midnight on Sunday 5 April 2020. A person cannot currently enter Western Australia unless an exemption has been granted. These restrictions apply to all air, sea, rail and road entry points.</p> <p>Even persons who have an exemption are not permitted to enter Western Australia if they have had close contact with person who has COVID-19, has, or has symptoms of, COVID-19 or is awaiting a COVID-10 test result.</p> <p>Businesses may apply for exemptions for the following.</p>

Current as at 4:00pm, 18 August 2020

The content of this publication is for informational purposes and does not constitute legal advice. You should seek legal advice before acting or relying on any of the content.

- Persons providing transport or freight and logistics services into or out of Western Australia.
- Persons who are employed or engaged in primary industry that requires the person to be physically present in Western Australia.
- FIFO workers, provided that they will isolate for a mandatory 14 day self-isolation period after entering Western Australia.
- Family members of FIFO workers, provided that they will also isolate for a mandatory 14 day self-isolation period after entering Western Australia.
- Other critical or essential workers which satisfy certain conditions.

The WA Government has developed an application, the G2G Pass, enabling individuals and businesses to apply for approval to travel under the relevant exemptions.

The G2G Pass application can also be used to manage a person's entitlement to travel to and within WA subject to the exemptions.

Employers should seek legal advice as to whether they meet the requirements to apply for a specific exemption.

Restrictions between WA and NSW and Victoria

From 20 July 2020, the WA border closed to persons from Victoria and New South Wales.

Restrictions

- An individual will not be permitted to enter WA if they have been in Victoria or New South Wales within the past 14 days unless they meet exemption requirements.
- **Victoria:** Anyone arriving in WA who has been in Victoria in the past 14 days will be required to undertake 14 days hotel quarantine at their own expense.
- **NSW:** Anyone arriving in WA from NSW will be required to undertake 14 days self-quarantine.

COVID Test

- If an individual arrives at Perth Airport from NSW or Victoria they will be required to complete a COVID-19 test on arrival or within 48 hours.
- Persons permitted to enter WA will be required to have a COVID-19 test on day 11 of their arrival, or at any point that symptoms develop.

Application to enter WA from NSW or Victoria will be sought through the G2G Pass. A list of individuals exempt from the restriction is available [here](#).

What are the internal travel restrictions within WA?

From Friday 5 June 2020 most regional travel restrictions have been removed.

Travel restrictions remain in place for remote Aboriginal communities. These restrictions may be lifted as part of Phase 6.

Current as at 4:00pm, 18 August 2020

The content of this publication is for informational purposes and does not constitute legal advice. You should seek legal advice before acting or relying on any of the content.

<p>What is the going on with the High Court Constitutional Challenge?</p>	<p>Mining magnate Clive Palmer has brought a High Court action against the WA government, arguing the State's border policy is unconstitutional.</p> <p>The Commonwealth originally supported Mr Palmer's action. However the Commonwealth has since withdrawn this support and has called on Mr Palmer to discontinue the action.</p> <p>Depending on the success of Mr Palmer's challenge, the WA Government may be required to adjust its border policy. However, it is anticipated that limited border restrictions will still be allowed to remain in place.</p> <p>The matter is expected to be heard in High Court in mid-September.</p>
<p>Do I need to keep paying workers?</p>	<p>If your workers can work safely from home (discussed below), then they may do so.</p> <p>In the circumstances that impacted businesses experience a stoppage of work and all paid leave has been exhausted, there may arise the basis to implement a stand down without pay, however legal advice should be sought first.</p> <p>In all cases, where an eligible business has experienced a drop in turnover of 30% or more (or 50% for a business with an annual turnover of \$1billion or more), full time, part time and casual employees (provided the casual employee has at least 12 months service) who were employed at 1 March 2020 may be eligible to receive a flat \$1,500 per fortnight JobKeeper Payment.</p> <p>The \$1,500 JobKeeper payment is payable irrespective of whether the employee is continuing to perform some paid work or whether they have been stood down without pay.</p> <p>Eligible employers can enrol for JobKeeper here.</p>
<p>What should I be thinking about in implementing working from home arrangements?</p>	<p>Kingston Reid has developed a Working from Home Checklist, to which employers may refer in preparing employees to work from home.</p> <p>This Checklist is not exhaustive, and employers should have regard to any particular safety, information security and other considerations that may be unique to the work undertaken by particular employees.</p>
<p>What are other safety measures that I should be considering right now?</p>	<p>The nature of the Response measures, the effects of isolation and the gradual lifting of restrictions under the Roadmap will invariably have an impact upon the mental health of all workers. Check in regularly with employees at home and ensure that all are reminded of Employee Assistance Programs.</p> <p>Employers should remain mindful that, if employees are directed to undertake non-essential work, and they become infected, there will foreseeably arise exposure to workers' compensation and potentially negligence claims under the workers' compensation scheme.</p>

Christa Lenard
Partner
Sydney
+61 2 9169 8404
christa.lenard@kingstonreid.com

Katie Sweatman
Partner
Melbourne
+61 3 9958 9605
katie.sweatman@kingstonreid.com

Michael Stutley
Partner
Perth
+61 8 6381 7060
michael.stutley@kingstonreid.com

Current as at 4:00pm, 18 August 2020

The content of this publication is for informational purposes and does not constitute legal advice. You should seek legal advice before acting or relying on any of the content.