

Western NSW Community Legal Centre Inc



Version 4 of this document is current as at 3 June 2020. The most significant changes made since version 3 was published on 12 May 2020 are in the areas of Public Health Orders (see Part 1), Employment, Industrial Relations and Work Health and Safety (see Part 4) and Courts and Corrective Services (see Part 7).

SUMMARY OF KEY COVID-19 LEGISLATIVE CHANGES AFFECTING PEOPLE IN NEW SOUTH WALES VERSION 4 – CURRENT AS AT 3 JUNE 2020	
	1. PUBLIC HEALTH ORDERS
Private gatherings	A maximum of 5 people (including children) can visit another household at any one time.
Public gatherings	A maximum of 10 people (including children) can gather in public (except where the gathering is with the person's immediate household or where the gathering is in premises that are permitted to open). Weddings can take place with a maximum of 20 guests. Funerals can take place with a maximum of 50 guests. Religious gatherings/ worship can take place with a maximum of 50 worshippers.
Non-essential services	The following services can now RE-OPEN:

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Intentional spitting or coughing	It is an offence to intentionally spit or cough on a public official, while they are at work or are travelling to or from work, in a way that is likely to cause fear of the spread of COVID-19. Public officials include health workers, police officers, and other workers such as retail workers and transport workers. The penalty for doing so is a \$5,000 fine.	
	2. ENFORCEMENT POWERS	
Arrest	A police officer may arrest a person if the police officer suspects on reasonable grounds that the person is contravening a PHO relating to the COVID-19 pandemic.	
Fines	If a person breaches a PHO, NSW Police have the power to issue on-the-spot fines of \$1,000 for individuals and \$5,000 for corporations. The maximum penalties that can be imposed are 6 months imprisonment and/or a fine of \$11,000 for individuals or \$55,000 for corporations. Additional fines can be issued for each day that an offence continues: \$5,500 per day for individuals and \$27,500 for corporations.	
	3. FINANCIAL SUPPORT	
Mutual obligations	Mutual obligation requirements for JobSeeker Payment, Youth Allowance as a job seeker and Parenting Payment have been suspended until 8 June 2020 . From 9 June 2020, some mutual obligation requirements are being reintroduced. From Tuesday 9 June 2020, job seekers will be required to undertake at least one appointment with their employment services provider.	
COVID-19 supplement	Any person receiving an eligible Centrelink payment will have their payment increased by the COVID-19 supplement, being an additional \$550.00 per fortnight , from 27 April 2020 . The supplement is payable for a 6-month period, with the possibility of an extension, up to 3 months.	
Economic support payment	Eligible persons will receive up to two "Economic Support Payments" of \$750.00, with the first payment being made after 31 March 2020, and the second payment being made after 13 July 2020. The second Economic Support Payment will be automatically paid to people who, as at 10 July 2020, are eligible Centrelink payment recipients or eligible concession card holders (as above). However, the second payment will not be made to those in receipt of the COVID-19 supplement.	
Superannuation	Amendments have been made to superannuation legislation allowing eligible persons to make a one-off withdrawal of up to \$10,000 from their superannuation in the 2019-2020 financial year, and an additional one-off withdrawal of up to \$10,000 from their superannuation in the 2020-2021 financial year. Tax is not required to be paid on the amounts released.	
Essential services – hardship assistance	If you are struggling to pay your energy bills or other essential services (i.e. water or Council rates) due to COVID-19 related financial hardship you should contact your provider directly as soon as possible to request flexible payment options or other financial hardship arrangements.	

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Energy assistance	NSW has expanded its Energy Accounts Payment Assistance (EAPA) scheme which provides \$50.00 vouchers to people suffering financial hardship which can be used to credit home electricity or gas accounts.	
Home Loan Repayment Pauses	Banks have implemented home loan repayment pauses for up to 6 months for eligible, existing customers who are financially impacted by COVID-19.	
Bankruptcy	Changes have been made to bankruptcy legislation which took effect on 25 March 2020 and will remain in place for 6 months. They include: an increase in the bankruptcy notice minimum debt amount from \$5,000 to \$20,000; an increase in the time period a debtor has to comply with the notice from 21 days to 6 months; and an increase in the stay period afforded by a declaration of intention to present a debtor's petition from 21 days to 6 months.	
	4. EMPLOYMENT/ INDUSTRIAL RELATIONS/ WORK HEALTH AND SAFETY	
JobKeeper scheme	A JobKeeper scheme has been introduced to support businesses affected by COVID-19. The government will make payments to businesses, of \$1,500 per fortnight per employee for up to 6 months. The first payments were received by employers in the first week of May.	
Migrant workers	JobSeeker eligibility: The JobSeeker payment is only available to "Australian residents" and those who are exempt from residency requirements. Non-Australian Residents are only eligible for the JobSeeker payment if they hold a non-protected SCV and have lived in Australia continuously for at least 10 years. SCV holders are only eligible for the JobSeeker payment for a single 6-month period. Migrant workers on other visa types are not eligible for the JobSeeker payment.	
	Student visa holders: Working hour restrictions have been relaxed for international student visa holders working in specified industries. For student visa holders working in aged care and for NDIS providers the 40-hour work limit has been relaxed indefinitely. Student visa holders enrolled in any health care related course can also undertake work to support the health effort against COVID-19 and enforcement action will not be taken against them.	
	Temporary skills shortage visa holders: Temporary skills shortage visa holders who have been stood down (but not laid off) will maintain their visa validity and can have their hours reduced without being in breach of their visa conditions.	
	Other: Temporary changes have been introduced to the Seasonal Worker Programme, the Pacific Labour Scheme and the Working Holiday Makers Scheme. Under the changes, Seasonal Worker Programme workers and Pacific Labour Scheme workers with visas due to expire will be able to apply for new visas of specified subclasses. Workers currently in Australia under these programs will also be exempt from the requirement to work for a single employer.	
Changes to Modern Awards	The Federal Government has announced two key changes to 99 modern awards: (1) employees are entitled to 2 weeks' unpaid COVID-19 pandemic leave if the employee is, by virtue of government or medical authorities, required to self-isolate or is otherwise prevented from working. Pandemic leave is only available until 30 June 2020; and	

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	(2) an employer and employee may agree for the employee to take twice as much annual leave at half rate of pay. Additional changes have also been made to the Hospitality Industry (General) Award 2010, the Clerks – Private Sector Award 2010, the Restaurant Industry Award 2010, the Educational Services (Schools) General Staff Award 2010, the Fast Food Industry Award 2010 and the Vehicle, Manufacturing, Repair, Services and Retail Award 2010. The Fair Work Commission is in the process of considering changes to health sector awards, the Real Estate Industry Award 2020, the Social, Community, Home Care and Disability Services Industry Award 2010, the Building and Construction General On-Site Award 2010, the Joinery and Building Trades Award 2010 and the Mobile Crane Hiring Award 2010.	
Enterprise agreements	The minimum notice period that employers must give employees of proposed changes to enterprise agreements has been reduced from 7 days to 1 day.	
Employees stood-down	Annual leave/annual holidays continue to accrue for a worker who is stood down without pay between 25 March 2020 and 26 September 2020 as a result of COVID-19. Long service leave also continues to accrue during any period in the pandemic during which a worker is stood down without pay.	
Long service leave	Where agreed between the employee and employer, long service leave can be taken with less than one month's notice and in blocks of less than a month. Until 12 September 2020, the employee and employer can also agree for long service leave to be taken over multiple periods of not less than 1 day.	
Privacy	Employers cannot require employees to use the Federal Government's COVIDSafe app as a condition of employment.	
Working from home	Employers must allow an employee to work from home where it is reasonably practicable to do so.	
Worker's compensation	Workers that face increased risk of exposure to COVID-19 due to their employment are now entitled to a presumptive right to workers compensation in the event that they contract COVID-19. This amendment is in place until April 2021.	
	5. HOUSING	
Residential tenancies NSW	NSW has introduced a 6-month moratorium period for residential tenancies, commencing on 15 April 2020 and ending on 14 October 2020. During the moratorium period, a residential landlord is prohibited from giving a tenant who has been financially affected by COVID-19, a termination notice for non-payment of rent or charges; AND is further prohibited from applying to the Tribunal for an order to terminate a residential tenancy agreement for non-payment of rent or charges by a tenant who has been financially impacted by COVID-19. However, the prohibition on giving a termination notice DOES NOT apply where the landlord has: 1. issued a termination notice after 13 June 2020 (being 60 days after the changes came into effect); AND 2. participated, in good faith, in a formal rent negotiation process with the tenant; AND	

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	3. it is fair and reasonable in the circumstances of the case for the landlord to give a termination notice.
	During the moratorium period, a landlord terminating a fixed-term tenancy, a periodic tenancy, a tenancy which has been breached for a reason other than non-payment of rent or charges OR a tenancy of 20 years or more, must give the tenant a minimum of 90 days' notice of termination (regardless of whether the tenant has been financially impacted by COVID-19 or not). The requirement for 90 days' notice of termination does not apply to social housing tenancy agreements.
Public housing	Increased social security payments (i.e. the Economic Support Payment and the COVID-19 Supplement (referred to above)), do not constitute assessable income for the purpose of determining eligibility for public/ community housing. This means that people living in public or community housing should not have their rent increased even if their income has increased because of COVID-19 payments.
Homelessness	The NSW government has announced additional funding for homelessness services in response to the COVID-19 pandemic. The additional funding means that the initial period of Temporary Accommodation provided for new homeless clients has been increased from 2 nights to 5 nights and the limit of 28 days of temporary accommodation per year will not apply in 2020.
Inspections/ auctions	Real estate agents and property vendors may now hold open house property inspections and on-site auctions provided that social distancing measures are implemented. Real estate agents must also keep records of all people attending open homes and auctions.
International students	Temporary crisis accommodation is available for international student visa holders who have been evicted or are facing imminent eviction, have evidence of being laid off and have less than \$1,500 in savings and no other avenues of support.
	6. FAMILIES (INCLUDING FAMILY AND DOMESTIC VIOLENCE)
Shared care arrangements	During the COVID-19 pandemic, the paramount consideration in parenting/care matters remains the best interests of the child/ren. Courts still expect parents and carers to comply with orders in relation to parenting arrangements including facilitating time being spent by the children with each parent or carer pursuant to parenting orders.
Interstate movement of children	Some state/territory borders have been closed which may have an impact on contact/ care arrangements between parents and children. Courts are working with state and territory authorities to introduce exemptions in relation to movement across borders where parenting orders are in place. A specific exemption is yet to be introduced, but parents may be required to show court orders and photo ID to border control personnel as evidence of essential movement. Parents should seek advice from state authorities as to how the border restrictions may impact their situation.

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Carers	Authorised carers and home day-care service providers are not required to provide proof of their identity when applying for a Working with Children Check clearance at a motor registry or Government Access Centre. Instead, they may provide it in the way the child's guardian approves.
Family Dispute Resolution services	The Family Relationships Advice Line can provide information, advice and telephone-based Family Dispute Resolution services to assist parents and carers to discuss any issues that arise and help them come to an agreement. The Family Relationships Advice Line can be contacted on 1800 050 321 .
Domestic violence services Apprehended Violence	The Federal Government has committed additional funding to domestic violence services. The following telephone hotlines remain fully operational: • 1800 RESPECT (1800 737 732): confidential information, counselling and support service. • NSW Domestic Violence Line (1800 65 64 63): telephone crisis counselling and referral service for women. • Link2Home (1800 152 152): refer women experiencing domestic violence to crisis accommodation. In addition to the above state/national services, Western Women's Legal Support provides FREE legal and non-legal support to women and children across central western New South Wales. Call 6885 4531 for assistance. Under the Public Health Orders in place, a person is permitted to leave their home to escape the risk of harm (including from domestic violence) and to access domestic violence services. The time that a provisional Apprehended Violence Order (AVO) can be in place has been extended from 28 days to up to 6 months.
Orders (AVOs)	
	7. COURTS AND CORRECTIVE SERVICES
Domestic and personal violence court proceedings	Until otherwise advised: (a) no new AVO hearings will be listed; (b) AVO hearings listed prior to 1 May 2020 will not proceed; (c) AVO cases listed for hearing with related criminal charge(s) will be adjourned to the same date as the criminal charge; (d) AVO cases listed for hearing with no related criminal charges(s) will be adjourned for mention for at least 3 months; and (e) parties are permitted to appear in writing or by email, including when seeking orders by consent. Consent orders may be made in the absence of the parties involved. If the order is contested, the matter will be adjourned in accordance with the timeframes in (c) and (d).

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	However, contested AVO proceedings that do not require the calling of witnesses may be brought before the Court and listed for hearing.
	New provisional AVOs will be listed:
	(a) where there is no related criminal charge, on a domestic violence list day 3 months from the date the provisional AVO is made;
	(b) where there are related criminal charges, on the same date the criminal charge is listed. At the first return date the criminal charge will be adjourned for 8 weeks. The provisional AVO must be adjourned to that same date so that the matters continue together; and
	(c) where the application is known to be contested, Magistrates should set a timetable for filing evidence. Where possible, evidence is to be served by email.
	The Court will soon re-list defended hearings of Domestic Violence matters where the defendant is on bail or otherwise at liberty.
	The Court continues to accept urgent applications for variation or interim orders. Parties making urgent applications should contact the Court as soon as possible via email and specify the nature of the application and why it is urgent.
	The Court will NOT REQUIRE the attendance of the person in need of protection in respect of any application brought by police for an apprehended domestic violence order unless the proceedings are fixed for hearing.
Local Court – Criminal	Significant amendments have been made to criminal procedure legislation to allow for judge-alone trials, witness statements to be given via pre-recorded evidence, and witness evidence recorded in the original trial to be used in a subsequent trial. Amendments have also been made around evidence laws to facilitate greater use of audio and audio-visual links in trials.
	All hearings where the defendant is not in custody and which have been listed for hearing between 4 May and 31 July 2020 will be vacated and listed for mention in September 2020. All defended hearings where the defendant is in custody and which were listed for hearing between 30 March and 31 July 2020 have been vacated, and will be listed for a Status Mention in the week commending 9 June 2020. At the Status Mention, a hearing date should be fixed in July or August 2020. Defendants in custody can appear via AVL at a Status Mention hearing. Wherever possible, defendants should provide an email address, residential address or mobile telephone number to facilitate communication with the court.
Local Court – Small Claims Division	The hearing of matters before an assessor in the Small Claims Division of the Local Court is to take place by teleconference. The physical appearance of a party will not be required.
District Court	On and from 1 June 2020, in person appearances will be allowed in some NSW District Court proceedings. In the criminal jurisdiction, personal appearances are permitted in appeals from the Local Court, sentencing hearings, judge alone trials, pre-trial arguments, pre-recorded evidence hearings, and contested bail proceedings. In the civil jurisdiction, personal appearances are permitted for contested hearings involving witnesses. The District Court will enforce social distancing measures and a 10-person limit in all courtrooms.

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	Jury trials at selected District Court locations will resume from Monday 15 June 2020 with strict social distancing, health and hygiene measures to be implemented to ensure jurors' and other court participants' safety.
Family Court	The Family Court remains open, however court operations have changed. Registry services will only be available via telephone and online, with face-to-face interactions only permitted in urgent circumstances, at the discretion of the Court. Urgent and priority trials and contested hearings will remain listed. Current listings will proceed electronically where possible. Non urgent face-to-face hearings will likely be delayed.
	The Family Court has established a COVID-19 List to deal with urgent matters arising as a direct result of the COVID-19 pandemic. The COVID-19 List will operate for approximately three months and matters will be dealt with electronically. The following types of matters may be suitable for filing in the COVID-19 List: • family violence: where there has been an increase in risk resulting from the restrictions imposed on families during the COVID-19 pandemic; • supervised contact: current parenting arrangements involve supervised contact and the contact centre is closed or the supervisor is unable to perform their role, and the parties cannot agree on alternative arrangements; • border restrictions: the parties live in different States or Territories and the child cannot travel due to border restrictions; and • medical: the parties and/or the child have tested positive for COVID-19 and cannot fulfil parenting obligations due to sickness or risk of infection. To contact the Family Court of Australia, National Enquiry Centre call 1300 352 000, between 8.30 am and 5.00 pm, Monday to Friday.
Children's Court	The Children's Court remains open, however court operations have changed. Parties and their legal representatives should avoid attending Court wherever possible. Matters are to be listed for Readiness Hearing (at least 14 days prior to the final hearing) to ascertain whether appropriate arrangements can be made for the hearing to proceed virtually. In both the criminal and care jurisdictions, a Readiness Hearing Checklist must be completed by the parties prior to the hearing. Circuit: From 25 March 2020 and until further notice, Children's Court circuits are suspended. Cases listed in a Children's Court circuit will continue to be dealt with by a Children's Magistrate or President at another location by video conference.
	To contact the Children's Court service centre, call 1300 679 272 .
NCAT	All NCAT hearings are currently being held online, over the phone or "on the papers" (i.e. without a hearing). A direction has been given for people to avoid attending NCAT registries. Priority will be given to urgent cases. NCAT may extend the time for a party to lodge an application, appeal, or review of a decision where the party is unable to lodge the application in time because of exceptional circumstances arising from COVID-19.

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Early release of prisoners	The Commissioner may release an inmate on parole if the inmate belongs to a specific class of prisoners and the Commissioner is satisfied that releasing the inmate on parole is reasonably necessary because of the risk to public health or to the good order and security of correctional premises. The Commissioner cannot make an early release order in relation to an inmate serving a life sentence; an inmate serving a sentence of imprisonment for murder, a serious sex offence or an offence of a sexual nature, a terrorism offence; a serious offender; or an inmate kept in custody in relation to an offence against a law of the Commonwealth, among others. The Commissioner must consider: the risks to community safety of releasing the inmate, the impact of the release of the inmate on any victim whose name is recorded in the Victims register, the availability of suitable accommodation for the inmate and, in the case of an inmate who has previously been convicted of a domestic violence offence, the protection of the victim of the domestic violence offence and any person with whom the inmate is likely to reside with if released.
Visiting corrective services and child detention facilities	All family and social visits to adult and youth corrective centres in New South Wales have been suspended. Inmates across NSW are being provided with three (3) free phone calls per week. The use of Audio-visual-links (AVL) for social contact is being trialled across New South Wales corrective centres. At this stage, visits at adult corrective centres are not suspended for professional visitors (including legal advisors) and existing visiting arrangements for the Inspector of Custodial Services and the Ombudsmen will continue to go ahead. However, professional visitors and essential contractors are subject to screening questions and a body temperature check before entering correctional centres and, where possible, Corrective Services NSW recommends the use of AVL contact for professional visits to reduce the risk of transmitting COVID-19. Professional and legal visitors are restricted from entering youth justice centres. Young people in custody can speak to their lawyers via AVL and telephone.
	8. HEALTH
Quarantine/ self-isolation	Any person arriving in NSW who has been in a country other than Australia within 14 days of arrival must self-isolate and enter quarantine for a period of 14 days as directed by New South Wales police. During this period, visitors may be required to quarantine in allocated accommodation including designated hotels. For returning travellers who are in quarantine facilities, they can call 1300 290 994 for physical and mental health support. The affected individual must not allow anyone to enter the premises, excluding those residing at the premises, and may not leave except in an emergency or for the purposes of obtaining medical care, or in circumstances where the person is able to avoid close contact with other persons (leaving their premises for the purpose of exercise or purchasing goods or services is not allowed).
	All persons diagnosed with COVID-19 must travel directly to a residence suitable for quarantine and self-isolate until they are medically cleared. They may not leave the premises except for the purposes of obtaining medical care or in an emergency (leaving their premises for the purpose of exercise or purchasing goods or services is not allowed). They may not permit any other person to enter the residence except for the purposes of obtaining medical care, in an emergency, or where that person resides there. Entry onto the premises for the delivery of food or essential items is allowed, provided no person enters the residence itself.

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Telehealth	To protect healthcare workers and patients from unnecessary exposure to COVID-19 and other infections, telephone health consultations have been made available to all Australians who hold a Medicare card.
Hospital Screening	All NSW public hospital and health services will require staff and visitors to be screened when entering the facility for symptoms of COVID-19. The screening will be in the form of temperature checks and questions regarding an individual's potential for contact with a COVID-19 positive case. Many public hospitals are also reducing the number of visitors allowed to visit patients.
	9. TRAVEL
Border closures	Australia's international borders have been closed to all non-citizens and non-residents. The only people allowed to enter Australia are Australian citizens, permanent residents and their immediate family, including spouses, de facto partners, legal guardians and dependants. New Zealand citizens residing in Australia, as well as New Zealand and Pacific Island residents transiting to New Zealand or a Pacific Island through Australia, are also exempt from the ban.
Overseas travel ban	Australian citizens and permanent residents are prohibited from leaving Australian territory as passengers on outgoing aircrafts or vessels. Some exemptions apply. Travellers who believe they meet a travel restriction exemption can apply online to the Commissioner of the Australian Border Force. Any application should be made as early as possible (at least 48 hours before intended departure time). If granted an exemption, evidence of the exemption MUST be produced at the airport. As soon as it is safe to do so, the Australian and New Zealand governments will introduce a trans-Tasman COVID-safe travel zone.
International arrivals	All international travellers arriving in Australia are required to undertake a mandatory 14-day self-isolation at designated facilities such as a hotel, in their city of arrival. Following appropriate immigration checks, travellers will be transported by police directly to their designated facility. Some groups may be exempt from the mandatory 14-day quarantine, including: Unaccompanied minors; International passengers transiting through Australia who have 8 to 72 hours until their departing international flight; Diplomats; and People travelling on compassionate or medical grounds.
Interstate travel	Queensland, Tasmania, South Australia, the Northern Territory and Western Australia have closed their borders, significantly restricting people who are allowed to enter. Any person intending to travel from New South Wales to these states/territories should confirm whether they fall within an exception before travelling or risk being turned around at the border.

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Travelling to remote and regional areas	Restrictions on travelling within regional NSW have been lifted. There is no limit on the distance that a person may travel. Non-essential travel into and between regional and remote Indigenous communities should be limited.		
	10. EDUCATION		
Schools	Students have returned to in-class learning at school. However, parents and other visitors cannot access school sites unless it is essential. Individual schools will provide guidance as to who is considered essential and advice on drop off and pick up procedures. Parents should contact their school directly for more information.		
Subsidised tertiary education	The Federal Government is subsidising the cost of university short-course degree and diplomas in national priority areas for 6-months from May 2020 to assist those who are out of work because of COVID-19. TAFE NSW is also offering 21 fee-free short courses across a range of industries to assist job seekers and workers looking to diversify their skills.		
	11. OTHER		
Driving tests	Roads and Maritime Services NSW have temporarily suspended all practical driving tests for at least 2 months. If a person believes they have an urgent need for a driving test, they can apply for a priority request.		

This document was produced by Western NSW Community Legal Centre Inc. If you would like to provide feedback on this document or subscribe to email updates please contact Hannah Robinson at LegalHelp@wnswclc.org.au.

If you are in the Western NSW region (including Bourke, Brewarrina, Cobar, Coonabarabran, Coonamble, Dubbo, Gilgandra, Lightning Ridge, Mudgee, Narromine, Nyngan, Warren, Walgett or Wellington) and require FREE legal advice, please contact:

- Western NSW Community Legal Centre Inc on 6884 9422 for general civil or family law advice; OR
- Western Women's Legal Support on 6885 4531 for holistic domestic violence support.

If you are elsewhere in NSW and require <u>FREE</u> legal advice please contact Law Access NSW on 1300 888 529 between 9am to 5pm, Monday to Friday (excluding public holidays), or contact your local Community Legal Centre. You can find contact details for your local Community Legal Centre at: https://www.clcnsw.org.au/.