

THE IMPACT OF CORONAVIRUS: MEASURES TAKEN BY THE AUSTRALIAN GOVERNMENT

Recent measures have been implemented by the Australian government to help companies in Australia to continue their business whilst the markets may deteriorate and uncertainties continue.

OVERVIEW

Australia is a federal constitutional monarchy which comprises the Commonwealth of Australia and a number of States and Territories, each of which have their own legislatures. The Commonwealth has primary authority over matters such as foreign affairs and defence and the States and Territories have primary responsibility for health.

This means that when a major health emergency occurs such as COVID-19, the States and Territories work with the Commonwealth to facilitate a consistent and integrated response across Australia.

The Australian Health Protection Principal Committee ("AHPPC") comprises the Chief Health Officers from each State and Territory, the Commonwealth Chief Medical Officer and representatives from key government departments and is the key decision making committee for health emergencies.

A specially convened National Cabinet, comprising the Prime Minister, State Premiers and Territory Chief Ministers, has also been set up in response to the crisis and is currently meeting at least weekly to address the country's response to COVID-19.

AUSTRALIAN HEALTH SECTOR EMERGENCY RESPONSE PLAN

The AHPPC endorsed the [Australian Health Sector Emergency Response Plan for Novel Coronavirus](#) on 17 February 2020. The Prime Minister activated this response plan on 27 February 2020.

COMMONWEALTH EMERGENCY POWERS

Commonwealth, States and Territories are currently implementing emergency powers to deal with the spread of COVID-19.

The Governor-General issued the Biosecurity (Human Biosecurity Emergency) (Human Coronavirus with Pandemic Potential) Declaration 2020 pursuant to the *Biosecurity Act 2015* (Cth) on 18 March 2020, declaring that a human biosecurity emergency exists due to COVID-19.

During a biosecurity emergency period the Health Minister may issue legally enforceable requirements that he or she is satisfied are appropriate and adapted to prevent or control the establishment or spread of the relevant declaration disease (i.e. COVID-19).

This may include:

- requirements that apply to persons, goods or conveyances when entering or leaving specified places;
- requirements that restrict or prevent the movement of persons, goods or conveyances in or between specified places; and/or
- requirements for specified places to be evacuated.

These emergency powers may override any Commonwealth, State or Territory laws although State and Territory officials cannot be directed without agreement.

The first emergency requirement made under the declaration formally prohibited international cruise ships from entering Australian ports for an initial 30 day period.

FINANCING RELATED MEASURES

Fiscal measures

Between 12 March 2020 and 22 March 2020, the Commonwealth Government [announced](#) an A\$189 billion fiscal stimulus package to enhance the prospects of Australian companies surviving the financial consequences of COVID-19. The package includes the elements described below.

Stimulus payments

One-off payments of A\$750 will be paid to Australian residents who are recipients of eligible welfare payments between 12 March 2020 and 13 April 2020, including pensions, other social security payments and veteran income support. The payments are expected to be made to around 6.5 million lower-income Australians and will be paid from 31 March 2020.

Certain welfare payment recipients will also receive a supplementary payment of \$550 per fortnight on top of their existing welfare payments, to be paid over a six month period. Eligible welfare recipients who do not qualify for this payment will receive a second A\$750 one off-payment, to be paid from 13 July 2020.

Cashflow assistance to small and medium businesses

The Government is providing direct payments of between A\$20,000 and A\$100,000 to eligible small and medium sized businesses and not-for-profits (including charities) that employ people.

Eligible businesses that withhold tax on employee salary and wages will automatically receive an initial tax free payment equal to 100% of the amount of tax withheld on employee salaries and wages in the March and June quarters. The minimum payment per business is A\$10,000 and maximum payment is A\$50,000 and the payment will be made automatically by the Australian Taxation Office from 28 April 2020, with a second payment of equal value to be paid from 28 July 2020.

These payments are available for businesses and not-for-profits with a turnover of less than \$50 million and who lodge business activity statements for the March and/or June quarters.

Support for apprentices and trainees

Small businesses with fewer than 20 full-time workers will be eligible to receive 50% of an apprentice or trainee's wage paid during the 9 months from 1 January 2020 to 30 September 2020. For each apprentice or trainee, the Government will provide up to A\$7,000 in wage assistance per quarter. The wage subsidy will be open to businesses with fewer than 20 full-time workers and employers of any size that re-employ someone who loses their position as a result of the coronavirus downturn. The measure is expected to support up to 70,000 small businesses, employing around 117,000 apprentices.

Coronavirus SME Guarantee Scheme

The Commonwealth Government will establish the 'Coronavirus SME Guarantee Scheme' under which the Government will guarantee 50 per cent of new loans issued by eligible lenders to small and medium enterprises. The Government will guarantee up to A\$20 billion to support A\$40 billion in SME loans.

Loans will be used for working capital and be unsecured. The guarantee will cover loans granted within six months from 1 April.

Tax incentives for business investment

Businesses with turnover of less than A\$500 million are eligible for an expanded instant asset write-off for asset investments of up to A\$150,000 (previously this incentive was only available to businesses with a turnover of less than A\$50 million and allowed a write-off of up to A\$30,000).

Businesses with turnover of less than A\$500 million will also be able to access accelerating depreciation deductions for plant, equipment and certain intangible assets such as patents acquired after 21 March 2020 and first used or installed by 30 June 2021.

Assistance to severely affected regions and sectors

The Commonwealth Government has set aside A\$1 billion in support to regions severely affected by the COVID-19 outbreak, including those heavily reliant on industries such as tourism, agriculture and education. The design of these measures remains to be determined; however the Government has indicated it will include the waiver of applicable government fees and charges, assistance to businesses, and measures to promote domestic tourism.

The Commonwealth has also committed:

- an additional A\$2.4 billion to support the health system to manage any further outbreak in Australia;
- to pay for half of all additional costs incurred by states and territories in diagnosing and treating patients with, or suspected of having, COVID-19, and efforts to minimise the spread of the virus; and
- A\$715 million for an aviation assistance package for the refunding and ongoing waiving of a range Government charges on the aviation industry, including the aviation fuel excise, charges on domestic airline operations and domestic and regional aviation security charges, with measures to be backdated to 1 February 2020.

Monetary measures

On 19 March 2020, the Reserve Bank of Australia announced the following measures would be implemented to support the Australian economy:

- a reduction in the cash rate target (to 0.25 per cent);
- access to a fixed-rate funding facility for authorised deposit-taking institutions;
- accelerated remuneration of settlement balances (given the volume of late settlements, such settlements will be remunerated at 10 bps rather than zero); and
- RBA will commence purchase of Government bonds in the secondary market in order to achieve a target for the yield on 3-year government bonds of circa 0.25 per cent.

CORPORATE COMPLIANCE RELATED MEASURES

AGMs

Relief has been granted by the Australian corporate regulator for listed and unlisted public companies in meeting upcoming AGM requirements.

Public companies are required to hold an AGM at least once in each calendar year and within 5 months of the end of its financial year.¹ While there must be at least one physical venue for AGMs, technology can be used to allow shareholders to attend from different locations, including via online platforms.²

Given COVID-19 may impact the ability of companies to hold physical meetings, the Australian Securities and Investments Commission ("**ASIC**") issued [guidance](#) on 20 March 2020 which provided that (subject to an entity complying with its constitution) ASIC would take no action against entities for non-compliance with the Corporations Act 2001 (Cth) ("**Corporations Act**") in the following circumstances:

- for entities with a financial year end of 31 December 2019, where that entity fails to hold their AGM by 31 May 2020, provided the entity holds the AGM by 31 July 2020 (or such later date as ASIC advises);
- where entities elect to hold a virtual (i.e. entirely online) AGM up to 31 July 2020 (or such later date as ASIC advises), provided the technology used provides members as a whole a reasonable opportunity to participate (e.g. by allowing members to ask questions and for votes to occur by way of polling); and
- for entities which have already dispatched notices for AGMs to be held on or before 31 May 2020, where that entity issues supplementary notice electronically at least 2 business days before the relevant meeting providing instructions for online participation.

Amendments to Corporations Act

The Commonwealth Government presented the [Coronavirus Economic Response Package Omnibus Bill 2020](#) in Parliament on 23 March 2020 to provide an economic response, and deal with other matters, relating to COVID-19.

¹ Corporations Act 2001, section 250N(2).

² Corporations Act 2001, section 249S.

In addition to legislating the fiscal measures described above, this Bill includes the following proposed amendments to the Corporations Act:

- giving the Treasurer new legislative powers for a period of 6 months to exempt or modify the operation of the Corporations Act on classes of people, where COVID-19 makes it unreasonable to expect compliance from such persons, or otherwise where exemption or modification is either necessary or appropriate to ensure business continuity through COVID-19 or to mitigate the economic impact of COVID-19;
- amending provisions relating to statutory demands³ to increase the threshold at which creditors can issue a statutory demand on a company from A\$2,000 to A\$20,000 and to extend the time companies have to respond to statutory demands they receive from 21 days to 6 months; and
- providing temporarily relief to directors from the risk of personal liability under section 588G of the Corporations Act for insolvent trading, provided the relevant debts are incurred in the ordinary course of business. The company itself will remain liable for debts incurred, and cases involving dishonesty and fraud will continue to be subject to criminal sanction. These changes will apply for a period of 6 months.

Financial Reporting

ASIC has advised that it is closely monitoring developments that may affect financial reporting, talking to market participants and auditors, and considering possible impacts and responses. At present, there appear to be no widespread indications of any significant issues for entities in meeting their full-year and half-year financial reporting obligations at 31 December 2019.

SOCIAL DISTANCING MEASURES

Various social distancing measures have been agreed at the National Cabinet meetings over the last few weeks, including those detailed below.

Places of Social Gatherings

From midday on 23 March 2020, the following facilities have been restricted from opening:

- pubs, registered and licensed clubs (excluding bottle shops attached to these venues), hotels (excluding accommodation);
- gyms and indoor sporting venues;
- cinemas, entertainment venues, casinos, and night clubs;
- restaurants and cafes will be restricted to takeaway and/or home delivery; and
- religious gatherings, places of worship or funerals (in enclosed spaces and other than very small groups and where the 1 person per 4 square metre rule applies).

General Population – Indoor Gatherings

Non-essential indoor gatherings of greater than 100 people (including staff) have been prohibited since 18 March 2020. For this purpose, an indoor gathering refers to a gathering within a single enclosed area (i.e. an area, room or premises that is or are substantially enclosed by a roof and walls,

³ Corporations Act 2001, sections 459E-459G.

regardless of whether the roof or walls or any part of them are permanent, temporary, open or closed).

From 20 March 2020, in a given occupied space there must be a density of no more than 1 person per 4 square meters of floor space and this will be mandated through State and Territory regulatory arrangements.

General Population – Outdoor Gatherings

A ban on non-essential static gatherings of greater than 500 people has been in place from 16 March 2020. Outdoor events of fewer than 500 attendees may proceed, provided they implement general measures including:

- in a given occupied space, there must be no more than 1 person per 4 square metres of ground space; and
- availability of hand hygiene products and suitable waste receptacles, with frequent cleaning and waste disposal.

Food markets are exempt from the 500 person limit, however must undertake additional measures, such as control of patronage level numbers or stall density reduction to decrease the risk of COVID-19 transmission.

There may be other gatherings that are considered essential and it is at the discretion of the individual State and Territory Chief Medical Officers or equivalent to assess each on their merits and determine whether they can continue if mitigated by social distancing measures.

Travel

General

All Australians have been advised to only consider travelling when it is essential. If unwell, people must stay at home, unless seeking medical care. In all cases, appropriate social distancing and hygiene practices should be applied.

International travel

On 15 March 2020 the Commonwealth Government announced:

- all travellers to Australia will be required to self-isolate for 14 days; and
- a ban on cruise liners from foreign ports arriving at Australian ports for 30 days.

On 19 March 2020, the Prime Minister announced that all non-citizens and non-residents would be banned from entering Australia from 9.00pm on 20 March 2020.

Domestic travel

On 19 March 2020, the Premier of Tasmania announced that all "non-essential" travellers into the State will be required to self-isolate for 14 days. "Essential" travellers include people required to keep the State's health system and trade operational. Western Australia, South Australia and Queensland subsequently enacted similar restrictions.

Domestic travel (including air travel) between other States and Territories remains unrestricted. Further domestic travel restrictions, including travel to and from sensitive locations, will be developed with advice of States and Territories.

Public transport

Public transport continues to be considered essential and AHPPC advice applies in relation to public transport (trains, trams, buses, ferries), taxi and ride share vehicles and transport of vulnerable populations, with particular attention given to cleaning and hygiene.

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