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| Victoria’s pandemic management framework |
| The Victorian Government has developed a specific framework to manage pandemics |
| OFFICIAL |

## A new framework to manage pandemics now and into the future

The Victorian Government has introduced a framework specific to pandemics in the *Public Health and Wellbeing Act 2008* – Part 8A. The framework ensures Victoria can continue to effectively manage the COVID-19 pandemic and that it has fit-for-purpose legislation to manage future pandemics.

It is the first pandemic legislation of its kind in Australia and is specifically designed to assist in the prevention and management of public health risks posed by pandemics. The framework is built on many lessons learnt over the last two years managing the COVID-19 pandemic in Victoria, Australia and around the world.

This factsheet provides an outline of the new framework.

### Why do we need a specific pandemic framework?

The State of Emergency framework under the *Public Health and Wellbeing Act 2008* has served Victoria well in managing the risks the COVID-19 pandemic posed to public health. It has helped Victoria to avoid large-scale transmission of the virus and substantial loss of life seen in most other countries around the world.

The State of Emergency framework was designed to respond to serious but short-term events. The framework was not designed to deal with something as long-term and complex as the COVID-19 pandemic.

The *Public Health and Wellbeing Act 2008* sets limits on the amount of time that Victoria can be in a State of Emergency. The time limit has been extended by Parliament multiple times over the course of the pandemic. The COVID-19 State of Emergency ended on 15 December 2021.

With all public health evidence indicating that COVID-19 will remain in our community for some time, especially with the emergence of the new variants of concern, a pandemic-specific framework is essential to ensure a continued legal basis for any public health measures needed to protect Victorians.

### When will the changes start?

The pandemic-specific framework makes changes to the *Public Health and Wellbeing Act 2008*. Most of the key changes relate to the way that public health measures are implemented in Victoria and come into effect when a pandemic declaration is made by the Premier.

Some of the changes made to the *Public Health and Wellbeing Act 2008* will commence at a later date – for example, the new concessional fines scheme which is expected to start in mid-2022.

The powers and functions in this pandemic framework can only be applied to public health measures when a pandemic declaration is in force.

A pandemic declaration was made on 10 December 2021 but came into force at 11.59 pm on 15 December 2021. This means the powers in this pandemic-specific framework can be used to manage COVID-19.

### What happens to the State of Emergency?

The pandemic-specific framework will be available to be used instead of the State of Emergency framework for managing COVID-19 or any future pandemics where the Premier is satisfied on reasonable grounds that a pandemic disease, or a disease that has the potential to cause a pandemic, poses a serious risk to public health.

The State of Emergency in Victoria ended at 11.59 pm on 15 December 2021 and will not be extended to manage the COVID-19 pandemic.

## How it works

### Pandemic declaration

If satisfied on reasonable grounds that there is a serious risk to public health resulting from a disease that is or has potential to be a pandemic disease, the Premier can make a pandemic declaration after considering the advice of the Chief Health Officer and the Minister for Health.

#### How is a pandemic declared?

The Premier is responsible for making pandemic declarations. The Premier can only do this if satisfied on reasonable grounds that there is a serious risk to public health resulting from a disease that is or could be a pandemic disease.

The declaration must be in writing and explain:

1. The area where the declaration applies (all of Victoria, or one or more specified areas)
2. The disease the declaration relates to
3. The length of time the declaration operates.

A declaration can be in place for no more than four weeks initially but can be extended for three months at a time.

There is no limit on how many times a declaration can be extended. However, the Premier must revoke a pandemic declaration if satisfied on reasonable grounds that there is no longer a serious risk to public health arising from a disease that is or has potential to be a pandemic disease.

#### Accountability measures for pandemic declarations

When making a pandemic declaration, the Premier will need to:

1. Report to Parliament, and therefore all Victorians, why the Premier has made a pandemic declaration.
2. Include the advice given by the Chief Health Officer and the Minister for Health that informed the decision to make a pandemic declaration in the report to Parliament.

### Pandemic orders

The Minister for Health can make ‘pandemic orders’ to protect public health if a pandemic declaration has been made by the Premier. These orders can be made to put in place similar health measures that have been introduced by the public health directions made by the Chief Health Officer during the State of Emergency. Before the Minister for Health can make any orders, the Minister for Health must consider the advice of the Chief Health Officer but can also consider additional advice. This means that the Minister can listen to others and look at the matters like social and economic factors, before making a pandemic order.

#### What is a pandemic order?

A pandemic order is similar to the public health directions that have been issued by the Chief Health Officer under the State of Emergency framework to help contain the spread of COVID-19 and keep Victorians safe.

A pandemic order can include restrictions that are necessary to protect the community during a pandemic. Some examples may be:

* Wearing a face mask to stop transmission of a virus
* Telling people who have COVID-19 that they need to stay at home to avoid spreading it to others
* Limiting the amount of people who can go to a venue to avoid a ‘super-spreading’ event
* Maintaining control over who can come into Victoria during the pandemic
* Protecting vulnerable people, for example, by limiting entry to aged care facilities.

#### Accountability measures for pandemic orders

When making a pandemic order, the Minister for Health will need to:

1. Publish a statement of reasons explaining why the pandemic order was reasonably necessary to protect public health.
2. Release the Chief Health Officer’s advice.
3. Publish an assessment of any human rights that are limited by the pandemic orders.

A copy of pandemic orders and the material required to be published is available on the Pandemic Order Register.

In addition, the Independent Pandemic Management Advisory Committee will be able to review pandemic orders and provide advice to the Minister for Health. They will also provide advice to the joint Parliamentary investigative committee on request, which can also review pandemic orders.

#### **Independent Pandemic Management Advisory Committee**

An Independent Pandemic Management Advisory Committee will be established to review and provide advice and reports on the new pandemic management framework, including the pandemic orders being made by the Minister for Health. The Committee can also review any decisions made by the Premier, Minister for Health, Chief Health Officer and any authorised officers under the new pandemic framework.

The Committee will be made up of experts and leaders from across the community. With experts in relevant fields and representatives from Victoria’s diverse communities, the Committee will provide an independent and wide view on the nature and effects of pandemic orders affecting the Victorian community.

#### **Pandemic Declaration Accountability and Oversight Committee**

A joint Parliamentary investigative committee will be established called the Pandemic Declaration Accountability and Oversight Committee. This Committee can review and make recommendations to Parliament about a pandemic order.

To further strengthen accountability and Parliamentary oversight, this Committee can recommend that a pandemic order be ‘disallowed’ (that is, stopped) under certain circumstances. They can report to Parliament and recommend disallowance if the Committee is of the view that the pandemic orders are incompatible with human rights or if they appear to have improper legal authority. This Committee can also recommend changes be made to the orders.

Due to the significant and wide-ranging impact pandemic orders can have, and because they are in place to protect the public health, two things need to happen before a pandemic order can be disallowed:

* The Pandemic Declaration Accountability and Oversight Committee must ask the Independent Pandemic Management Committee for its advice.
* If disallowance is recommended, all of Parliament needs to pass a majority vote to stop the order.

## Protecting your information

### Who can access my check-in and QR code information?

The pandemic-specific framework includes more stringent restrictions on the use and disclosure of any information you provide to assist with the pandemic response. This information may include QR code check-in records or answers provided to assist with contact tracing.

Contact tracing information can only be used or disclosed if there is a public health purpose or:

* You give consent for your information to be used or disclosed
* In the performing functions or exercising powers under the new pandemic framework
* To address an immediate risk to someone’s life, safety, health or wellbeing
* To undertake enforcement action against you for providing false or misleading information under the Act or against a person who has used or disclosed the information where not permitted to do so.

### Can Victoria Police access the information I have provided?

No, Victoria Police will not have access to this information unless they are required to take any of the actions outlined above.

## Fines and penalties

It is important to note that the pandemic-specific framework is first and foremost a way to protect public health and wellbeing in Victoria during a pandemic. This means that enforcement action, such as fines and penalties, is only intended to be taken against people for not complying with pandemic orders or other public health directions necessary to protect public health and wellbeing.

This approach to compliance and enforcement will be outlined in the Secretary to the Department of Health’s Compliance and Enforcement Policy for the COVID-19 pandemic.

### What happens if I do not follow a pandemic order and break the law?

If you do not comply with a pandemic order or any other public health directions given by an authorised officer, and you do not have a reasonable excuse, you may be charged with the offence and fined. An example of this is where a person is issued an infringement notice and fined for refusing to wear a mask when required to do so.

### How much are the fines?

Maximum penalties for failing to comply with a pandemic order or other public health directions are:

* $10,904 for an individual
* $54,522 for a business.

This general offence is an infringement offence, which means regulations determine the penalty amount for a breach.

Examples of different types of infringement penalties are listed below:

* Penalties for failing to comply with pandemic order:
  + Body corporate: $5,452
  + Adult: $909
  + Minor 15-17 years: $364
  + Child 10-15 years: $91
* Penalties for not wearing a face covering when required:
  + Adult: $100
  + Minor 15-17 years: $40
  + Child 10-15 years: $20.
* Penalties for failing to comply with self-isolation, restricted movement, gathering and entry to Victoria requirements:
  + Adults: $2,726
  + Minor $454
  + Child 10-15 years: $91

### What if I can’t afford to pay?

The pandemic-specific framework includes several elements to make pandemic-related fines fairer and more proportionate. For example, under the new concessional fines scheme, reforms to Victoria’s fines system will include a number of ways to have a fine or penalty amount reviewed, such as:

* If you have serious personal issues, disorders or difficulties, it may be possible to apply for a review of your fines under ‘special circumstances’
* Applying to have your fine reduced because of financial hardship.

These reforms will not be implemented immediately. It is expected that some time will be required to allow the 120 Victorian enforcement agencies which issue infringement fines and the Director, Fines Victoria to make the necessary changes to operational processes, including IT changes and updates to policies, procedures and website content. The changes are expected in mid-2022.

## Detention

It is important to note that a detention order is not a punishment. It does not mean that a person is to be arrested or sent to jail.

### What is pandemic detention?

Pandemic detention refers to quarantine that is necessary to reduce the risk of the spread of a pandemic disease. For COVID-19, this means in hotels or other facility-based quarantine arrangements for some overseas travellers coming into Victoria.

Pandemic detention will only be required where it is reasonably necessary to protect public health, and has been especially important to protect those most vulnerable in our community, such as the elderly and those with compromised immune systems.

### What are my rights if I am in pandemic detention?

If you are required to go into pandemic detention in a government quarantine facility, such as a hotel, your rights include:

* Being given a detention notice explaining why you are being detained, the terms of your detention, any exemptions available, your rights and entitlements, and a warning that refusing or failing to comply with a detention notice is an offence.
* Your pandemic detention will be reviewed by an authorised officer at least once every 24 hours, unless that is not reasonably practical.
* You may ask for your detention to be reviewed by a Detention Appeals Officer, which may lead to confirmation of your detention, changes to the conditions of your detention, or your release.
* You may make a complaint to the Victorian Ombudsman. The process for this will be outlined in your detention notice.
* You may also make a complaint to the Secretary of the Department of Health or seek review in a court.

### How much will it cost me to be in hotel or other facility-based quarantine?

The following maximum fees will be charged to people who are in hotel or other facility-based quarantine:

* $3,000 for one adult
* $1,000 for each additional adult in the same room or apartment
* $500 for each child between 3–18 years.

No fee is charged for children under three years.

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