



Covid restrictions

The Legal Position

ARE STATE BORDER CLOSURES LAWFUL?

● Yes

Australia is a federation of States. Section 92 of the Constitution provides for freedom of movement between States. But the High Court has held that does not prevent each State closing its State borders for health reasons.

ARE STATE LOCKDOWNS LAWFUL

● Yes

Each State Parliament is supreme in passing its own laws on lockdowns. It has power to override the Universal Declaration of Human Rights which provides for the basic rights and freedoms of individuals, including the right of free movement within State borders and to leave the State and return, and the right to peacefully assemble.

ARE THE POWERS OF THE STATE HEALTH OFFICIALS IN RELATION TO COVID LAWFUL?

● Yes

The State health officials have been given wide powers and protections by the State Governments. Victoria declared a 'state of emergency' under the Public Health and Well Being Act.

ARE THE POWERS OF STATE POLICE IN RELATION TO COVID LAWFUL?

● Yes

On the request of Victorian Police Association, the Victorian Government declared a 'state of disaster' under the Emergency Management Act to give Victorian Police greater powers in relation to Covid. There are limits on the exercise of powers, for example what happened to Zoe Buhler, the pregnant mother who expressed her opinion on Facebook.

DO AUSTRALIANS HAVE ANY FREEDOMS LEFT THAT CANNOT BE OVERRIDDEN BY STATE PARLIAMENTS?

● No

The only freedom left is to think. And subject to certain restrictions, a person has freedom to express his or her views. The State Government has, however, the power to override the freedom to express a person's views. It is open to debate whether these laws are just.