



GOVERNANCE RISK & OPERATIONS

Event Force Majeure: A Protection That Only Exists If You Negotiate It

Australian law has no general force majeure doctrine. Narrow vs broad clause wording decides whether you can cancel penalty-free

Force majeure is not a general legal protection Australian associations can simply assume applies to their conference or event contracts. It is purely a contractual concept, meaning the protection exists only if your venue or supplier contract actually contains a force majeure clause, and only to the extent that clause's specific wording covers what happens.

Which rules apply to your association?

The law depends on how your association is set up. A **company limited by guarantee** follows the Corporations Act 2001 (Cth) and its constitution. An **incorporated association** follows its state or territory associations Act and its rules. A **registered charity** also follows the ACNC Act and the ACNC Governance Standards, and some Corporations Act rules are replaced for charities that are companies. Check your own governing documents, and get advice before decisions with legal consequences.

In this resource

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3. [The Harder Fallback, And Where State Law Helps](#)

Why This Must Be Negotiated, Not Assumed

Australian law does not recognise force majeure as a general common law doctrine. It exists only where the contracting parties have deliberately written it into their agreement, and because it is a product of negotiation, its wording varies significantly from contract to contract. A venue contract with no force majeure clause at all leaves an association with no access to this protection whatsoever, regardless of how disruptive an unforeseen event turns out to be.

The Wording That Actually Decides Whether You Can Cancel Without Penalty

Experience during the COVID-19 disruptions showed how much clause wording matters. Many venue clauses use a restrictive illegal or impossible standard, which gives an association almost no room to cancel without penalty unless the event is unambiguously and legally prohibited by government order at that exact date and location. Broader force majeure language generally gives an association more room to cancel a disrupted event without financial penalty. This is an actionable point worth raising directly during venue contract negotiation, before signing, rather than discovering the clause's real limitations only once a disruption has already occurred. The difference between a narrow and a broad force majeure clause is not a minor drafting preference. It is the difference between an association that can cancel a disrupted event without penalty and one locked into paying full contracted fees for an event it cannot hold.

The Harder Fallback, And Where State Law Helps

Without a usable force majeure clause, an association's remaining option is the common law doctrine of frustration, difficult to establish. It is not enough that performance became merely difficult, uneconomic, or inconvenient; the event must happen without either party's fault and make performance impossible or radically different from what was agreed, and an event the contract already provides for will not frustrate it. Courts are also less inclined to find frustration where a force majeure clause already exists in the contract, since its presence shows the parties had already turned their minds to this kind of risk. New South Wales (Frustrated Contracts Act 1978), Victoria (Australian Consumer Law and Fair Trading Act 2012) and South Australia (Frustrated Contracts Act 1988) have laws that adjust losses once a contract is actually frustrated, although contracts can often exclude them. Elsewhere, common law frustration simply lets losses lie where they fall, meaning a forfeited deposit stays forfeited even where the disruption was entirely beyond anyone's control.

- Confirm whether your association's venue and supplier contracts contain a force majeure clause at all, since this protection does not exist under Australian law without one.
- Negotiate broad force majeure language before signing any significant venue contract, rather than accepting a narrow illegal or impossible standard by default.
- Plan attendee refunds in line with the Australian Consumer Law, since invoking force majeure or frustration against a venue does not change what attendees may be owed, and ask whether unfair contract terms protections apply to the venue's standard form contract.
- Confirm whether your specific state's frustration legislation applies to a disrupted contract, given NSW, Victoria and South Australia have statutes that adjust losses once a contract is frustrated.
- Take documented steps to mitigate the impact of any disrupting event before relying on a force majeure clause, since most clauses require reasonable mitigation efforts as a condition of relief.

An association running conferences and major events carries real financial exposure the moment an unforeseen disruption makes an event impossible to hold as planned. The specific wording negotiated into a venue contract, well before any disruption ever occurs, determines whether that exposure is manageable or a costly, contractually locked-in commitment.

This is one of the practical governance topics built into our Board Director course, alongside the papers, tools and frameworks that turn the principle into your board's actual practice. [Explore the course](#)

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BOARDROOM ACTION WORKSHEET

Event Force Majeure: A Protection That Only Exists If You Negotiate It

Turn the resource into evidence, a decision and an accountable next step. Keep the completed record in your association's approved board records system.

1 What is the issue or decision?

State the governance question in one clear sentence.

2 What evidence do we already have?

Record the facts, source documents and stakeholder evidence available now.

3 What evidence is still needed?

Identify the legal, regulatory, financial, member or operational information still required.

4 What is the agreed next action?

Capture the owner, timeframe and how the matter will return to the board.

Action owner	Review date	Board decision or resolution

General education, not legal, financial, tax, clinical or governance advice. Confirm specifics at the relevant primary source or with your own qualified adviser. Nexus Leadership is operated by Lipstick Consulting Pty Ltd · ABN 15 619 120 482.

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