



## **Australian Government**

Australian Government Response to the  
Senate Legal and Constitutional Affairs Legislation Committee  
report:

National Emergency Declaration Act 2020

APRIL 2024

## **Government Response to the Committee's 30 June 2021 Report Recommendations**

### **Recommendation 1:**

**2.58 The committee recommends that the Commonwealth government considers amending the National Emergency Declaration Act 2020, through the removal of subsection 12(5), so that any extension of a declaration beyond the three month period is subject to disallowance.**

Response:

The Government **notes** this recommendation. However, given the passage of time since the report was tabled, a substantive Government response is no longer appropriate.

### **Recommendation 2:**

**2.62 The committee recommends that the Senate takes note of this report.**

Response:

The Government **notes** this recommendation. However, given the passage of time since the report was tabled, a substantive Government response is no longer appropriate.

## **Additional comments from the Australian Labor Party**

### **Recommendation 1**

**1.34 Adopt the Senate Standing Committee for the Scrutiny of Bills' recommendation to omit subsections 11(6) and 12(5) so that national emergency declarations made under subsection 11(1) and extensions of a national emergency declaration under subsection 12(1) are subject to the usual parliamentary disallowance process.**

Response:

The Government **notes** this recommendation. However, given the passage of time since the report was tabled, a substantive Government response is no longer appropriate.

### **Recommendation 2**

**1.35 More generally, that the normal disallowance provisions apply to instruments made under the National Emergency Declaration Act 2020, namely, that within 15 sitting days after tabling a senator may give notice of a motion to disallow the instrument.**

Response:

The Government **notes** this recommendation. However, given the passage of time since the report was tabled, a substantive Government response is no longer appropriate.

### **Recommendation 3**

**1.36 Recommendation 3 of the Australian Human Rights Commission's submission to this inquiry be implemented in full so that, among other things, a determination made under section 15 of the National Emergency Declaration Act 2020 (the Henry VIII clause) is subject to greater parliamentary oversight.**

Response:

The Government **notes** this recommendation. However, given the passage of time since the report was tabled, a substantive Government response is no longer appropriate.

### **Recommendation 4**

**1.37 The National Emergency Declaration Act 2020 should be amended to require that a special parliamentary committee be established upon any declaration of a national emergency.**

Response:

The Government **notes** this recommendation. However, given the passage of time since the report was tabled, a substantive Government response is no longer appropriate.

### **Recommendation 5**

**1.38 After consultation with the states and territories, the Commonwealth government should amend the National Emergency Declaration Act 2020 to clarify the meaning of key terms, including clearer definitions of 'emergency' and 'Commonwealth interest'.**

Response:

The Government **notes** this recommendation. However, given the passage of time since the report was tabled, a substantive Government response is no longer appropriate.

### **Recommendation 6**

**1.39 That consultation be undertaken with the states and territories to ensure that there is a coordinated framework for all jurisdictions to operate effectively under the National Emergency Declaration Act 2020.**

Response:

The Government **notes** this recommendation. However, given the passage of time since the report was tabled, a substantive Government response is no longer appropriate.

## **Additional comments from the Australian Greens**

### **Recommendation 1**

**1.6 The Greens recommend that, as part of the current consultation process between Commonwealth and states and territories in relations to the operation of the National Emergency Declaration Act 2020, the government adopts a clear definition of the terms 'emergency' and Commonwealth interest'.**

Response:

The Government **notes** this recommendation. However, given the passage of time since the report was tabled, a substantive Government response is no longer appropriate.

### **Recommendation 2**

**1.7 The Greens recommend that national emergency declarations be subject to disallowance.**

Response:

The Government **notes** this recommendation. However, given the passage of time since the report was tabled, a substantive Government response is no longer appropriate.

### **Recommendation 3**

**1.8 The Greens recommend that the number of extensions of a national emergency declaration be restricted.**

Response:

The Government **notes** this recommendation. However, given the passage of time since the report was tabled, a substantive Government response is no longer appropriate.

### **Recommendation 4**

**1.9 The Greens recommend that the government reconsider section 15 of the Act, or modify it to require stronger preconditions for the exercise of the determinations and expand the list of legislation that cannot be modified.**

Response:

The Government **notes** this recommendation. However, given the passage of time since the report was tabled, a substantive Government response is no longer appropriate.