



Senate Standing Committee on Legal and Constitutional Affairs Inquiry into the Operation of the *National Emergency Declaration Act 2020*

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Department of Home Affairs
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Joint Submission

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Introduction

The Attorney-General's Department, Department of Home Affairs and the Department of the Prime Minister and Cabinet thank the Senate Legal and Constitutional Affairs Legislation Committee for the opportunity to make a joint submission to the inquiry into the review of the operation of the *National Emergency Declaration Act 2020* (the Act).

The bills that became the Act and the *National Emergency Declaration (Consequential Amendments) Act 2020* (Consequential Amendments Act) came into effect on 16 December 2020.

This submission provides:

- a summary of the Royal Commission into National Natural Disaster Arrangements and the Australian Government's response to the recommendations
- an overview of the Act (including the development of the National Emergency Declaration framework and principles that underpin this framework)
- a summary of the new powers under the National Declaration Framework and the legal thresholds for making or varying a declaration, and
- a discussion on how the framework interacts with existing Commonwealth emergency management processes and how it would be operationalised.

Royal Commission into National Natural Disaster Arrangements

In response to the unprecedented scale and extent of the 2019-20 Black Summer bushfires, on 20 February 2020, the Prime Minister announced the Royal Commission into National Natural Disaster Arrangements (the Royal Commission). The Terms of Reference focused on:

- the responsibilities of, and coordination between, the Commonwealth and state, territory and local governments for preparedness for, response to, resilience to, and recovery from, natural disasters, and how to improve arrangements
- Australia's preparedness, resilience and response to natural disasters, across all levels of government, and
- the legal framework for the Commonwealth's involvement in responding to national emergencies, and interactions with state and territory legal frameworks.

On 28 October 2020, the Royal Commission presented its Final Report to the Governor-General and Governors (or equivalent) of each state and territory. The Attorney-General tabled the Final Report out of session to Parliament on 30 October 2020.

The Royal Commission delivered 80 Recommendations in its Final Report, with 55 recommendations directed to the Australian Government (in full or part).

The Royal Commission makes it clear that while states and territories have primary responsibility for natural disaster response arrangements, there is a greater role for the Australian Government to play in supporting, enhancing and complementing state and territory arrangements.

The Royal Commission also found that there is '*no formal mechanism for the Australian Government to convey the seriousness of a natural disaster to Australian communities and internationally. Australian natural disaster arrangements would benefit from a specific, legislative mechanism for a declaration that provides both a signal of a state of emergency, and articulates the role and objectives of Australian Government support.*'

Recommendation 5.1 of the Royal Commission Final Report recommends that:

The Australian Government should make provision, in legislation, for a declaration of a state of national emergency. The declaration should include the following components:

- (1) the ability for the Australian Government to make a public declaration to communicate the seriousness of a natural disaster*
- (2) processes to mobilise and activate Australian Government agencies quickly to support states and territories to respond to and recover from a natural disaster, and*
- (3) the power to take action without a state or territory request for assistance in clearly defined and limited circumstances.*

Government Response to the Royal Commission

On 13 November 2020, the Prime Minister released the Australian Government's response to the Royal Commission's Final Report. National Cabinet established the National Emergency Management Ministers' Meeting (NEMMM) to drive and coordinate implementation of the Royal Commission's recommendations, including design of ongoing governance mechanisms.

The Australian Government supports 32 recommendations (including recommendation 5.1), supports in principle 25 recommendations, and noted the remaining recommendations. The Government did not disagree with or 'not support' any of the recommendations.

The Australian Government is progressing a number of interlinked reforms to implement the recommendations for which it is responsible. The Act and Consequential Amendments Act implement recommendation 5.1 by establishing a legislative framework through the Act and Consequential Amendments Act for the declaration of a national emergency by the Governor-General, on the advice of the Prime Minister.

The Attorney-General's Department led on the development of the Act and the Consequential Amendments Act, which together provide for the national emergency declaration framework, with policy support from the Department of Home Affairs (Home Affairs) and Department of the Prime Minister and Cabinet.

National Emergency Declaration Framework

Principles underpinning the framework

Nationally significant harm

The core objective of making a national emergency declaration is to clearly signal to the Australian community the severity of an emergency that has risen to the level of national significance; and to provide certainty about the Australian Government's role and the statutory powers that are available in respect of an emergency event. The framework centres on the definition of 'nationally significant harm', which is harm that has a significant national impact because of its scale or consequences. Applying this high standard ensures a declaration is made only in exceptional circumstances. Harm is defined to encapsulate the varied ways in which an emergency event may affect the life, health and livelihoods of individuals. In addition, this principle recognises that the concept of national significance is not confined to geographical impact.

All hazards approach

The legislative framework takes an 'all hazards' approach, and encompasses a broad range of natural and human-caused emergency events. The framework is not limited to incidents occurring in isolation, and encompasses situations where there are consecutive, concurrent and compounding events. Examples of emergencies covered by the framework might include a tsunami, earthquakes, space weather events, concurrent and compounding natural disasters across multiple jurisdictions (similar to the 2019 – 20 Black Summer bushfires), large-scale terrorist or cyber attacks, and major chemical and radiological contamination incidents. Importantly, the emergency must also meet the high threshold of having caused, causing, or likely to cause nationally significant harm. This ensures that a national emergency declaration may only be made in exceptional circumstances, where the scale or consequences of the harm caused by the emergency rise to the level of creating a significant national impact.

Time-limited

A national emergency declaration is intended to be time-limited, and confined to the immediate need to undertake preparatory, responsive or recovery measures in relation to a nationally significant emergency. What constitutes the immediate need will differ depending on the nature, scale and severity of an emergency, and the progress of the relief and recovery effort in relation to that emergency, taking into account the affected jurisdiction's capacity to respond. The framework was designed with this need for flexibility in mind. However, the declaration is not intended to extend for a longer period than is necessary to facilitate Australian Government support for the progress of the relief and recovery effort in the aftermath of an emergency.

Consolidation of existing Australian Government support

Finally, the framework is designed to quickly facilitate Australian Government support to respond to an emergency event by streamlining the exercise of existing Commonwealth emergency powers across the statute book. The framework focuses on Commonwealth powers and actions – it is not intended, and does not operate to, interfere or override the states and territories' primary responsibility for emergency management or the legal and regulatory frameworks underpinning this responsibility. The making of a national emergency declaration serves as a prompt to Australian Government Ministers to prepare to mobilise their resources to support the response to an emergency and to consider what existing Commonwealth powers could be utilised to ensure the expeditious provision of Government support to affected communities. Where the exercise of these powers is appropriate in the given circumstances, the Act makes it easier for those powers to be enlivened quickly.

Development of the framework

Scope of the framework

The framework's 'all hazards' approach ensures that the framework can be adapted to a variety of emergencies, including those that are beyond current contemplation and experience, as well as compounding or overlapping emergencies. This flexibility is necessary and appropriate so as not to limit the circumstances in which a declaration can be made in relation to certain types or kinds of defined emergencies.

There are a number of matters and scenarios that are outside the scope of the framework. The Act does not enable a national emergency to be declared in relation to long-term issues or hazards, such as drought or coastal erosion. These types of events require a sustained and ongoing response rather than the exercise of time-limited, emergency powers. The framework is similarly not intended to capture protests or industrial action. There is an existing comprehensive framework set out in the *Fair Work Act 2009* that regulates the conduct of industrial action, including industrial action that threatens or endangers life, health, safety or public welfare.

The framework is not intended to capture emergencies that cause pure economic loss, such as a financial crisis. There is an existing comprehensive legislative and regulatory framework to address financial crises with appropriate, and carefully set, intervention powers. However, it is possible that a financial crisis could result in harm that is captured by the framework, such as disruption to an essential service. In those circumstances, the Prime Minister could consider whether it would be appropriate to request the Governor-General make a national emergency declaration, if the other elements of the test for making a declaration are also satisfied.

Identification of national emergency powers

The Consequential Amendments Act amended a number of Commonwealth laws to provide alternative, simplified thresholds for certain 'national emergency laws' where a national emergency declaration is in force.

The Attorney-General's Department, Home Affairs and the Department of the Prime Minister and Cabinet consulted broadly with Australian Government departments and agencies to identify existing powers across the Commonwealth statute book. The Attorney-General's Department additionally conducted research into legislative and secondary resources to identify Commonwealth powers that would be appropriate for inclusion in the framework, including examining the recent experiences from the COVID-19 pandemic and the 2019 – 20 Black Summer bushfires to identify what Commonwealth powers were exercised to assist in the response and recovery effort. The national emergency laws included in the framework reflect the outcomes of consultation across government to identify emergency powers and powers that are often used, or are helpful, in an emergency.

Interactions with other emergency frameworks

The framework creates a unified framework of existing Commonwealth powers that may be appropriate to exercise in extraordinary circumstances and which complement other existing frameworks.

States and territories have emergency declaration frameworks that enliven the operation of emergency powers within their respective jurisdictions. The Act does not exclude or limit the operation of a law of a state or territory that is capable of operating concurrently with the national emergency declaration framework (section 9 of the Act). The Act does not interfere with the states and territories' primary responsibility for responding to, and recovering from, most emergencies. If a national emergency declaration is made, it will not override or displace any emergency declaration that an affected state or territory has made under its corresponding legislation. It will be important to carefully and clearly message the role of the national emergency declaration and reiterate the relationship between a national emergency declaration under the Act and any relevant state or territory declaration that is on foot concurrently.

As the Act focuses solely on Commonwealth powers, states and territories were not consulted on the initial development of the legislative framework. However, the Australian Government intends to consult with state and territory jurisdictions on the next phase of work to identify opportunities to enhance the declaration framework.

In respect of Commonwealth frameworks, the making of a national emergency declaration does not trigger the call out of the Australian Defence Force (ADF), whether under Part IIIAAA (in response to a domestic violence incident) or new section 28 of the *Defence Act 1903*. Section 28 of the *Defence Act 1903* provides a streamlined process for the call out of the ADF Reserves, including by expediting the approval process to enable a timely and effective response to natural disasters and emergencies. While these mechanisms may be used concurrently with a national emergency declaration, the making of a declaration itself is not a precondition for, and does not trigger, the call out of the ADF.

Making a declaration

The Act enables the Governor-General to make a national emergency declaration on the advice of the Prime Minister. This decision-making apparatus is intended to reflect the significance and seriousness of the emergency event for which a declaration is sought.

Section 11 of the Act provides the mechanism for making a national emergency declaration. The declaration (as well as any variation or revocation of the declaration) is a legislative instrument, but is exempt from disallowance by the Parliament. The exemption from disallowance reflects the critical nature of the declaration, its objective in providing clarity about the severity of an emergency event, and ensures that urgent and decisive action can be taken with certainty in response to a nationally significant event.

A declaration may be initiated via written request from each of the state and territory governments in which the emergency has caused, is causing or is likely to cause nationally significant harm (subparagraph 11(1)(c)(i)), or it can be initiated by the Australian Government in one or more of the following circumstances:

- Where, because of the emergency, the Prime Minister is satisfied that it is not practicable for a request to be made under subparagraph 11(1)(c)(i) (subparagraph 11(1)(c)(ii)). This enables the Government to initiate the making of a declaration where the government of the affected jurisdiction is, for example, incapacitated by the emergency and consequently is unable to make a written request.
- Where the Prime Minister is satisfied that the emergency has affected, is affecting or is likely to affect Commonwealth interests (subparagraph 11(1)(c)(iii)). 'Commonwealth interests' is not defined and is intended to reflect the full extent of the Commonwealth's constitutional interests and power.
- Where the Prime Minister is satisfied that the making of the declaration is appropriate, having regard to the nature of the emergency and the nature and severity of the nationally significant harm (subparagraph 11(1)(c)(iv)).

These circumstances are not mutually exclusive. For instance, the government of a state or territory in which the emergency is causing nationally significant harm may request the making of a declaration, in respect of a Commonwealth interest in its jurisdiction.

In addition, the Prime Minister must also be satisfied of each of the following prior to a declaration being made:

- That an emergency has recently occurred, is occurring, or is likely to occur (whether in or outside Australia). The term 'emergency' is not defined under the Act, and instead takes its natural and ordinary meaning. The term 'emergency' is not intended to be limited to a single incident or disaster. It is intended that multiple concurrent or successive incidents or disasters, or incidents and disasters that occur in a particular set of circumstances, may together constitute an emergency.
- That the emergency has caused, is causing or is likely to cause nationally significant harm in Australia or in the Australian offshore area. 'Nationally significant harm' is defined in section 10 of the Act as harm that:
 - has a significant national impact because of its scale or consequences; and
 - is any of the following:
 - harm to the life or health (including mental health) of an individual or group of individuals
 - harm to the life or health of animals or plants
 - damage to property, including infrastructure
 - harm to the environment, or
 - disruption to an essential service.
- That, for reasons relating to emergency management, it is desirable for the declaration to be made for the purposes of one or more national emergency laws. 'Emergency management' is defined in section 10 of the Act to mean emergency risk reduction, preparedness, response or recovery, engaged in before, during or in the immediate aftermath of an emergency. 'National emergency law' is also defined, providing

an authoritative list of the provisions across the Commonwealth statute book that contain powers that may be enlivened while a national emergency declaration is in force.

State and territory consultation is integrated into the process. Before the making of a declaration, the Prime Minister must consult with the government of each state or territory (if any) in which the Prime Minister is satisfied the emergency has caused, is causing or is likely to cause nationally significant harm. While there is an expectation of consultation that underlies the framework, there are some exceptions.

The caveat 'if any' is intended to ensure that the Prime Minister is not required to consult the states or territories where the emergency has caused, is causing or is likely to cause nationally significant harm in an Australian offshore area. In addition, the Prime Minister is not required to consult with the government of a state or territory if the government of the state or territory requested the making of the national emergency declaration under subparagraph 11(1)(c)(i)—in which case there would be limited utility for further consultation — or if the Prime Minister is satisfied that it is not practicable to do so.

Once the Prime Minister is satisfied of these elements, the Governor-General may make the declaration.

New powers under the framework

When a national emergency declaration is in force, a range of powers are available to Ministers under the framework to assist with response and recovery from the emergency to which the declaration relates. The exercise of these powers are contingent on their being a relevant national emergency declaration in force at the time the power is exercised, or alternatively, for the relevant Minister to be satisfied that there is an emergency (in the case of subsection 313(4D) of the *Telecommunications Act 1997*).

Use of streamlined emergency powers

The Consequential Amendments Act provides alternative, simplified thresholds for national emergency laws where a national emergency declaration is in force. Section 10 of the Act defines 'national emergency law', and lists the relevant Commonwealth powers for the purposes of the national emergency declaration framework.

Making a national emergency declaration does not automatically trigger those powers – rather it enlivens the ability of the responsible Australian Government Minister to use the corresponding streamlined test for the exercise of a national emergency power in relation to an emergency for which a declaration is made. The alternative tests provided by the framework simplify each test's thresholds by either removing the requirement to consider whether there is an emergency where those thresholds contain an 'emergency test', or removing elements of the thresholds that overlap with the test for making a national emergency declaration. The alternative, simplified thresholds do not otherwise alter or remove the existing important safeguards around the use of those powers.

Attachment A contains a list of national emergency powers that may be exercised while a national emergency declaration is in force.

Power to suspend, vary or substitute 'red tape' requirements during a national emergency

Under section 15 of the Act, a responsible Minister may make a determination to suspend, vary or substitute procedural 'red tape' requirements where doing so would be of benefit to the public or a section of the public. This power will allow Ministers to tailor their response to an emergency by suspending, varying and substituting regulatory requirements, depending on the particular emergency. This power will also ensure government services are accessible in circumstances where usual regulatory requirements are obstructive or challenging. For instance, the power may be exercised in circumstances where:

- due to a flood or fire, a person may be unable to produce certain proof of identity documents, which may prevent them from obtaining Commonwealth support, or
- a person or entity may be unable to have certain documents certified or signatures witnessed due to the imposition of public health measures during a pandemic.

This power is strictly limited to modifying procedural requirements. The Act explicitly sets out the kinds of procedural requirements that may be appropriate to alter where a national emergency declaration is in force. This ensures that the power is not used to modify substantive requirements by, for example, altering eligibility criteria for a benefit, removing protections, imposing obligations or liabilities on individuals, or

removing benefits or requirements that exist to protect individuals or the community. A determination that modifies the procedural requirements is also disallowable by the Parliament, which provides an additional safeguard.

The Act also recognises that there are a number of requirements across the Commonwealth statute book that should not be able to be suspended, varied or substituted during a national emergency. Subsection 15(8) lists Acts or provisions of Acts to which the power does not apply, with a mechanism for additional provisions to be added to this list. This includes requirements relating to powers for law enforcement and intelligence agencies, along with legislation relating to oversight agencies and Parliamentary statutory committees. This explicit carve-out reflects the ongoing importance of these provisions, even in emergencies.

Power to require Commonwealth entities to report on stockpiles during a national emergency

Section 16 of the Act enables the Prime Minister to require accountable authorities of Commonwealth entities to provide specified information to the Prime Minister for the purposes of preparing for, responding to or recovering from a declared national emergency. The purpose of this power is to ensure that the Australian Government can quickly gain a comprehensive picture of the resources at its disposal and what could be made available to assist in the response to or recovery from a national emergency. The types of information that the Prime Minister may request could include, but are not limited to:

- stockpiles of medical or other supplies held by the Australian Government entity;
- assets or other resources held by the Australian Government entity, and
- options or recommendations relating to actions that may be taken by the Australian Government.

Power to require telecommunications providers to provide assistance

The Consequential Amendments Act also amended the *Telecommunications Act 1997* to provide a clear legislative basis for requiring telecommunications providers to give the Australian Government and state and territory governments such help as is reasonably necessary during emergencies. These amendments are important to provide industry with a clear legislative basis for giving this assistance and ensure they do not incur civil liability while doing so. The existing terms and conditions on which industry must provide help, including the cost-recovery arrangements, will be extended to apply to assistance provided in relation to emergencies.

The amendments also give the Minister administering the *Telecommunications Act 1997* the ability to declare that an emergency exists for the purposes of subsection 313(4D) of the *Telecommunications Act 1997*. This ensures the Minister can act rapidly where an emergency arises and require telecommunication providers to give assistance in relation to the emergency, in unforeseen emergencies that, while serious, are not subject to a national declaration or state or territory emergency or disaster declaration, where the Minister would not otherwise be able to leverage the capability of carriers. This will also ensure telecommunication providers are given appropriate immunities and do not incur costs when providing assistance in unforeseen emergencies that, while serious, do not rise to the level of a national, state or territory emergency declaration.

The Australian Government consulted telecommunications providers with respect to these amendments.

Safeguards

The framework contains a range of safeguards to ensure that a national emergency declaration and any powers exercised in respect of a declaration are proportionate and appropriate, having regard to the circumstances of the emergency.

High threshold

While the legislation is deliberately drafted to allow flexibility for the kinds of scenarios and emergencies to which it might apply, this flexibility is bounded by the requirements in the legislation that require a high degree of satisfaction. In particular, the concept of 'nationally significant harm', which is central to the making of a declaration, is a high threshold.

Time-limited

Each national emergency declaration is intended to be time-limited. The Act specifies that the period for which a declaration can be in force must not be longer than the period that the Prime Minister considers necessary for the purposes of emergency management, and in any case, must not be longer than 3 months. It is intended that a declaration be revoked by the Governor-General when the circumstances that gave rise to the declaration no longer exist, with the Act providing that the Governor-General may revoke the declaration if the Prime Minister is satisfied that, in all the circumstances, it is appropriate to do so. While a declaration may be varied or extended, the same rigorous tests apply to any variation or extension of the declaration. This requires the Prime Minister to meet the same high thresholds when considering whether it is appropriate for a declaration to continue in force beyond the initial period, or if the nature of the emergency has changed such that it is necessary to update a declaration to reflect this.

Statutory reviews

The framework is subject to a rigorous scheme of reviews to ensure that it is proportionate and remains appropriate to respond to emergencies of national significance. This includes the Committee's current inquiry (paragraph 18(a) of the Act) and the requirement for the Committee to undertake a statutory review of the Act five years after its commencement (paragraph 18(b) of the Act). Furthermore, the Committee must review each national emergency declaration made by the first anniversary of the day the declaration is made, and report its findings to the Senate as soon as practicable after completing the review (section 14A of the Act). These review requirements will ensure that the framework remains appropriate, adapted and responsive to Parliament and the community's expectations.

Reporting

Finally, the Minister responsible for administering relevant national emergency laws must report on the exercise of powers or the performance of functions under the relevant law if a national emergency declaration is made and powers are exercised or functions are performed for the purposes of the declaration (section 17 of the Act). This ensures Parliament, and the public, have visibility of the use of national emergency laws during a national emergency.

Operationalisation of the Framework

As stated above, the Act takes an ‘all hazards’ approach, in order to capture both natural and human-caused emergency events.

When an emergency event occurs, crisis mechanisms under the Australian Government Crisis Management Framework (AGCMF) are implemented. The Australian Government Crisis Coordination Centre is fully activated (including the Crisis Coordination Team) to ensure the Government is positioned to proactively respond to the emerging situation.

Home Affairs through Emergency Management Australia (EMA) and the National Coordination Mechanism (NCM) coordinates the Australian Government response to disasters and provides a 24/7 service that monitors national situational awareness for all disasters and crises that impact on Australian interests.

When the Prime Minister is satisfied that an emergency event meets the threshold for making a national emergency declaration, the Prime Minister will make a recommendation to the Governor-General to declare a national emergency. To inform the Prime Ministers’ consideration, the Australian Government official responsible for the management of the hazard (for example the Director General, EMA) would brief the Prime Minister advising if the making of a national emergency declaration be considered.

If a national emergency declaration has been made, the Director General of EMA will also call a meeting of the Commissioners and Chief Officers Strategic Committee to brief them of the declaration and national situation. The NCM will also be activated to provide a forum for information sharing and collaboration between First Ministers’ Departments and any relevant stakeholders who are not otherwise engaged through existing committees or mechanisms. The Prime Minister will also maintain contact with counterparts from the states and territories effected by the emergency.

It is intended that, as a starting point, a national emergency declaration would be initiated via a request from an affected state or territory government. This starting point is reflected and supported by the order of the paragraphs in subsection 11(1)(c). This request may be sought from a state or territory or through mechanisms such as National Cabinet. The Prime Minister may also unilaterally recommend to the Governor-General to declare a national emergency if appropriate, for example, where the nationally significant harm does not, or will not, affect a state or territory because it is located in the Australian offshore area. However, in most cases, it is intended that the Prime Minister would consult relevant state and territory counterparts prior to recommending the Governor-General make a national emergency declaration.

From 1 July 2021, the new National Resilience, Relief and Recovery Agency (NRRRA) will be responsible for relief and recovery coordination and will mobilise Australian Government agencies to quickly support states, territories and communities that have been impacted by a national emergency. An update to the AGCMF, reflecting the establishment of NRRRA and the operations of the Act will be published by 1 July 2021.

Emergency powers that can be exercised when a national emergency declaration is in force	'National emergency law' as defined under section 10 of the <i>National Emergency Declaration Act 2020</i>
Modification of administrative requirements during a national emergency	
Enables Ministers to modify procedural statutory requirements during a national emergency	Section 15 of the <i>National Emergency Declaration Act 2020</i>
Provision of emergency management information	
Requires Commonwealth entities to provide certain information during a national emergency	Section 16 of the <i>National Emergency Declaration Act 2020</i>
Transport: Airports(curfews), Aircraft and ports	
Aircraft may take off or land in emergencies despite curfew restrictions where being used for, or in connection with, a national emergency declaration	Section 16 of the <i>Adelaide Airport Curfew Act 2000</i> Section 17 of the <i>Air Navigation (Gold Coast Airport Curfew) Regulations 2018</i> Section 18 of the <i>Sydney Airport Curfew Act 1995</i>
Aircraft above usual weight limit may take off and land despite curfew restrictions and weight limit where being used for, or in connection with, a national emergency declaration	Section 14 of the <i>Air Navigation (Essendon Fields Airport) Regulations 2018</i>
Notice may be given to airport operator to give access to airport services for the purpose of managing a national emergency (where that management involves the Australian Defence Force)	Section 250 of the <i>Airports Act 1996</i>
Airservices Australia can provide services and facilities to assist when a national emergency is declared	Section 20 of the <i>Air Services Regulations 2019</i>
Secretary of Home Affairs may give a security direction directing that additional security measures appropriate to support a national emergency declaration which is in force are taken, implemented or complied with	Division 7 of Part 4 of the <i>Aviation Transport Security Act 2004</i> Section 33 of the <i>Maritime Transport and Offshore Facilities Security Act 2003</i>
Civil Aviation Safety Authority may grant an exemption from compliance with provisions of the <i>Civil Aviation Safety Regulations</i> or a Civil Aviation Order	Regulation 11.185 of the <i>Civil Aviation Safety Regulations 1998</i>
Declaration of emergencies in the Territories (Christmas Island, Cocos (Keeling) Islands, Jervis Bay and Norfolk Island)	
Streamlined ability of the relevant Territory Administrator, Controller or Minister to declare an emergency situation on Christmas Island, Cocos (Keeling) Islands, Jervis Bay Territory and Norfolk Island	Section 16A or 17 of the <i>Christmas Island Emergency Management Ordinance 2012</i> Section 16A or 17 of the <i>Cocos (Keeling) Islands Emergency Management Ordinance 2012</i> Section 15 of the <i>Jervis Bay Territory Emergency Management Ordinance 2015</i>

	Section 9 of the <i>Disaster and Emergency Management Act 2001</i> (Norfolk Island)
Competition/taxation response to a national emergency	
Enables authorisation for a person to engage in anti-competitive conduct where it would assist in the response to, or recovery from, a national emergency	Sections 88 and 90 of the <i>Competition and Consumer Act 2010</i>
Provides alternative test for the Minister to declare an emergency to be a disaster for the purpose for the purpose of deducting a gift made to a disaster relief fund	Section 30-45A of the <i>Income Tax Assessment Act 1997</i>
Information sharing	
Enables the Minister to determine, by legislative instrument, that an incident is one in relation to which Division 11A of Part 1D of the <i>Crimes Act 1914</i> applies, including where the Minister is satisfied that the incident is or has created a national emergency, such as an emergency to which a national emergency declaration relates. Such a declaration permits the use of information stored on DNA database systems, DNA profile matching and the disclosure of certain information to assist with the identification of deceased persons who died in or as a result of the incident and criminal investigations relating to the incident	Section 23YUF of the <i>Crimes Act 1914</i>
Enables framework under the <i>National Health Security Act 2007</i> for public health surveillance and information sharing to apply to a national emergency declaration	Part 2 of the <i>National Health Security Act 2007</i>
Streamlines ability for Prime Minister or Minister to make declaration of an emergency for purposes of the <i>Privacy Act 1988</i> to modify rules for the collection, use and disclosure of private information during an emergency	Section 80J of the <i>Privacy Act 1998</i>
Intellectual property	
Simplifies test for Crown use of a registered design in an emergency	Section 96A of the <i>Designs Act 2003</i>
Simplifies test to allow Crown to exploit an invention that would otherwise infringe a patent during a national emergency	Section 163A of the <i>Patents Act 1990</i>
Communications	
Extends exceptions for offences (relating to unlicensed operation and unlawful possession of radiocommunication devices, radio emissions from non-standard transmitters, possession of non-standard devices, and offences related to interference with radiocommunications or transmission from a foreign vessel, aircraft or space object to a person doing anything they reasonably believe is necessary for responding to a national emergency	Sections 49, 172 and 196 of the <i>Radiocommunications Act 1992</i>

Provides that if a national emergency declaration is in force, the declaration is taken to be a Proclamation of a period of emergency under section 219 of the Radiocommunications Act and clarifies how the national emergency declaration interacts with the provisions for a Proclamation, in order to simplify the process for the making of a restrictive order under the Radiocommunications Act where a national emergency declaration is in force	Sections 219 and 220 of the <i>Radiocommunications Act 1992</i>
Provides clear basis for requiring carriers and carriage service providers to provide authorities and officers of the Commonwealth, states and territories such help as is reasonably necessary in relation to a national emergency	Section 313 of the <i>Telecommunications Act 1997</i>
Environment	
Simplifies the requirement to establish an emergency in the test to allow Commonwealth actions that have, will have, or are likely to have, a significant impact on the environment where the actions are necessary in the interests of preventing, mitigating or dealing with a national emergency	Section 28 of the <i>Environment Protection and Biodiversity Conservation Act 1999</i>
Clarifies that 'national emergency' includes a declared national emergency in the test to exempt a person proposing to take a controlled action from specified provisions of Part 3 of Chapter 4	Section 158 of the <i>Environment Protection and Biodiversity Conservation Act 1999</i>
Simplifies requirement to establish an emergency in the test to grant a permit for dumping or incineration at sea, or loading for dumping or incineration at sea, of any controlled material where there is an emergency	Section 19 of the <i>Environment Protection (Sea Dumping) Act 1981</i>
Provides an alternative test for the Minister to issue an exceptional circumstances authorisation for the introduction of an industrial chemical, if it is in the public interest, where the Governor-General has declared a national emergency. It does not otherwise affect the exercise of powers under the Act	Section 67 of the <i>Industrial Chemicals Act 2019</i>
Enables Minister to suspend the regulation of certain security-sensitive biological agents (that could be used in an act of bioterrorism or biocrime) during a national emergency, to reduce the threat posed, while still maintaining adequate security controls	Section 60A of the <i>National Health Security Act 2007</i>
Simplifies the requirement to establish an emergency in the test to declare an oil pollution emergency	Clause 2A of Schedule 2A of the <i>Offshore Petroleum and Greenhouse Gas Storage Act 2006</i>
Liquid fuel	
Creates an alternative test for declaring a national liquid fuel emergency	Section 16 of the <i>Liquid Fuel Emergency Act 1984</i>

Access to pharmaceuticals/medicine/biologicals/other medical devices	
Clarifies that reference to 'emergency' in the test to determine the classes of persons in respect of whom an entitlement to pharmaceutical benefits can be evidenced otherwise than by provision of a Medicare number, can mean an emergency to which a national emergency declaration relates	Section 86E of the <i>National Health Act 1953</i>
Establishes an alternative basis for exempting therapeutic goods, including medicines, biologicals and medical devices, from certain requirements (such as registration, listing or inclusion in the Australian Register of Therapeutic Goods) as part of the response to or recovery from the declared national emergency	Sections 18A, 32CB and 41GS of the <i>Therapeutic Goods Act 1989</i>
Commonwealth financial assistance/social security	
Enables the Minister to determine in writing that an event is a 'major disaster' or a 'Part 2.23B major disaster' for the purposes of the <i>Social Security Act 1991</i> if it is an event to which a national emergency declaration relates, triggering the payment of disaster recovery payments or disaster recovery allowance to eligible individuals	Sections 36 and 36A of the <i>Social Security Act 1991</i>
Enables Secretary of Department of Social Services to make a determination varying the restricted portion of a restrictable payment under cashless welfare arrangements if a person is unable to use their debit card as a direct result of a national emergency declaration	Section 124PJ of the <i>Social Security (Administration) Act 1999</i>