

Attachment A – List of national emergency laws

Emergency powers that can be exercised when a national emergency declaration is in force	'National emergency law' listed in section 10 of the <i>National Emergency Declaration Act 2020</i>	Minister responsible for administering the relevant Act/national emergency law	Responsible agency
<b>Modification of administrative requirements during a national emergency</b>			
Enables Ministers to modify procedural statutory requirements during a national emergency	Section 15 of the <i>National Emergency Declaration Act 2020</i>	Minister for Emergency Management	Department of Home Affairs
<b>Provision of emergency management information</b>			
Requires Commonwealth entities to provide certain information during a national emergency	Section 16 of the <i>National Emergency Declaration Act 2020</i>	Minister for Emergency Management	Department of Home Affairs
<b>Transport: Airports (curfews), Aircraft and ports</b>			
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>	Minister for Infrastructure, Transport, Regional Development and Local Government	Department of Infrastructure, Transport, Regional Development, Communications and the Arts
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>	Minister for Infrastructure, Transport, Regional Development and Local Government	Department of Infrastructure, Transport, Regional Development, Communications and the Arts
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>	Minister for Infrastructure, Transport, Regional Development and Local Government	Department of Infrastructure, Transport, Regional Development, Communications and the Arts
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>	Minister for Infrastructure, Transport, Regional Development and Local Government	Department of Infrastructure, Transport, Regional Development, Communications and the Arts
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>	Minister for Home Affairs	Department of Home Affairs

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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>	Minister for Infrastructure, Transport, Regional Development and Local Government	Department of Infrastructure, Transport, Regional Development, Communications and the Arts
<b>Declaration of emergencies in the Territories (Christmas Island, Cocos (Keeling) Islands, Jervis Bay and Norfolk Island)</b>			
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)	Minister for Infrastructure, Transport, Regional Development and Local Government	Department of Infrastructure, Transport, Regional Development, Communications and the Arts
<b>Competition/taxation response to a national emergency</b>			
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>	Treasurer	Department of the Treasury, Australian Competition and Consumer Commission
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>	Treasurer	Department of the Treasury
<b>Information sharing</b>			
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	Section 23YUF of the <i>Crimes Act 1914</i>	Attorney-General	Attorney-General's Department

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died in or as a result of the incident and criminal investigations relating to the incident			
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>	Minister for Health and Aged Care	Department of Health and Aged Care
Streamlines ability for Prime Minister or Minister to make declaration of an emergency or disaster for purposes of the <i>Privacy Act 1988</i> to modify rules for the collection, use and disclosure of personal information during an emergency or disaster	Section 80J of the <i>Privacy Act 1998</i>	Attorney-General	Attorney-General's Department
<b>Intellectual property</b>			
Simplifies test for Crown use of a registered design in an emergency	Section 96A of the <i>Designs Act 2003</i>	Minister for Industry, Science and Resources	Department of Industry, Science and Resources
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>	Minister for Industry, Science and Resources	Department of Industry, Science and Resources
<b>Communications</b>			
Extends exceptions (for offences related to the unlicensed operation and unlawful possession of radiocommunications 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 and 196 of the <i>Radiocommunications Act 1992</i>	Minister for Communications	Department of Infrastructure, Transport, Regional Development, Communications and the Arts
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	Sections 221A of the <i>Radiocommunications Act 1992</i>	Minister for Communications	Department of Infrastructure, Transport, Regional Development, Communications and the Arts

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Radiocommunications Act where a national emergency declaration is in force.			
Provides that a national emergency declaration is to be taken to be a period of emergency during which the Minister may make a restrictive order prohibiting or regulating the use of radiocommunications transmitters, or the operation of transmitters if such use is likely to interfere with radiocommunications.	Section 222 of the <i>Radiocommunications Act 1992</i>	Minister for Communications	Department of Infrastructure, Transport, Regional Development, Communications and the Arts
Provides that a person is not liable under Part 4 of the Regulatory Powers Act to have a civil penalty order made against the person for a contravention of a civil penalty provisions of this Act if the person carries out the conduct constituting the contravention in response to an emergency related to the national emergency declaration.	Section 269 of the <i>Radiocommunications Act 1992</i>	Minister for Communications	Department of Infrastructure, Transport, Regional Development, Communications and the Arts
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>	Minister for Communications	Department of Infrastructure, Transport, Regional Development, Communications and the Arts
<b>Critical Infrastructure</b>			
Streamlines the test for the Minister to make authorisations relating to a cyber security incident for purposes of the <i>Security of Critical Infrastructure Act 2018</i>	Section 35AB of the <i>Security of Critical Infrastructure Act 2018</i>	Minister for Home Affairs	Department of Home Affairs
<b>Environment</b>			
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>	Minister for the Environment and Water	Department of Climate Change, Energy, the Environment and Water
Clarifies that 'national emergency' includes a declared national emergency in the test to	Section 158 of the <i>Environment Protection and Biodiversity Conservation Act 1999</i>	Minister for the Environment and Water	Department of Climate Change, Energy, the Environment and Water

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exempt a person proposing to take a controlled action from specified provisions of Part 3 or Chapter 4			
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>	Minister for the Environment and Water	Department of Climate Change, Energy, the Environment and Water
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>	Minister for Health and Aged Care	Department of Health and Aged Care
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>	Minister for Health and Aged Care	Department of Health and Aged Care
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>	Minister for Resources	Department of Industry, Science and Resources
<b>Liquid fuel</b>			
Creates an alternative test for declaring a national liquid fuel emergency	Section 16 of the <i>Liquid Fuel Emergency Act 1984</i>	Minister for Climate Change and Energy	Department of Climate Change, Energy, the Environment and Water
<b>Access to pharmaceuticals/medicine/biologicals/other medical devices</b>			
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>	Minister for Health and Aged Care	Department of Health and Aged Care

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<p>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</p>	<p>Sections 18A, 32CB and 41GS of the <i>Therapeutic Goods Act 1989</i></p>	<p>Minister for Health and Aged Care</p>	<p>Department of Health and Aged Care</p>
<p><b>Commonwealth financial assistance/social security</b></p>			
<p>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</p>	<p>Sections 36 and 36A of the <i>Social Security Act 1991</i></p>	<p>Minister for Home Affairs</p>	<p>Department of Home Affairs</p>
<p>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</p>	<p>Section 124PJ of the <i>Social Security (Administration) Act 1999</i></p>	<p>Minister for Social Services</p>	<p>Department of Social Services</p>