

SUBMISSION

Review of the National Emergency Declaration Act 2020

Citizen Concerns Regarding Safeguards, Oversight, and Potential for Misuse

1. Introduction

This submission is made by a concerned Australian citizen in relation to the Review of the National Emergency Declaration Act 2020. While the Act plays an important role in enabling coordinated national responses to genuine emergencies, recent experiences during the COVID-19 pandemic have highlighted the importance of ensuring that emergency powers remain clearly defined, proportionate, time-limited, and subject to strong parliamentary and judicial oversight.

2. Broad Executive Discretion

The Act grants the Executive Government significant discretion to declare a national emergency. Key terms such as “national emergency” and “Commonwealth interests” are not tightly defined. Clearer statutory definitions would help ensure that emergency powers are reserved only for extraordinary circumstances.

3. Limited Parliamentary Oversight

A national emergency declaration is not subject to parliamentary disallowance, and emergency powers can be exercised without prior parliamentary approval. Enhanced parliamentary review and mandatory reporting would strengthen democratic accountability.

4. Risk of Normalising Emergency Powers

There is a risk that emergency declarations may be extended repeatedly and that temporary measures may become semi-permanent. Emergency powers should remain exceptional and temporary.

5. Potential Scenarios for Overreach

Emergency powers could be applied in situations such as climate events, energy shortages, cyber disruptions, civil unrest, or future health emergencies. Safeguards are needed to ensure restrictions remain necessary, proportionate, and time-limited.

6. Safeguards for Civil Liberties

The Act does not explicitly outline how fundamental freedoms are protected during a national emergency. Clearer guidance would reassure citizens that rights will not be unnecessarily restricted.

7. Role of States and Local Conditions

Australia’s federal system allows states to respond to emergencies based on local conditions. Federal coordination should support, not override, state decision-making.

8. Recommendations

- Clearer definitions of national emergency
- Stronger parliamentary oversight
- Stricter time limits and renewal criteria
- Enhanced reporting requirements
- Explicit consideration of civil liberties
- Greater consultation with states and territories

9. Conclusion

Strong safeguards, transparency, and accountability are essential to ensure emergency powers remain exceptional, proportionate, democratic, and temporary.