

States of emergency – jurisdictional comparison

Requirement to report to Parliament and the ability of Parliament to disallow

Summary

- Victoria is the only jurisdiction in Australia that requires a declaration of a state of emergency (or an equivalent declaration) to be reported to Parliament.
- No jurisdictions in Australia have a process whereby a declaration of a state of emergency (or an equivalent declaration) can be disallowed by Parliament.
- All jurisdictions require a declaration of a state of emergency (or an equivalent declaration) to be published in some form (e.g. gazettal).
- Each Australian jurisdiction has its own statutory frameworks for declaring states of emergency or disasters.

Table comparing jurisdictions

Jurisdiction	Relevant legislation	How long can a SOE be in place?	Does the legislation require the State of Emergency (SOE) to be reported to Parliament?	Does the legislation provide for disallowance of the SOE by Parliament?
Victoria	A declaration of a state of emergency under s 198 of the Public Health and Wellbeing Act 2008 .	<ul style="list-style-type: none">• Continues in force for the period not exceeding 4 weeks specified in the declaration• May be extended by another declaration for further periods not exceeding 4 weeks	Yes. If a state of emergency is declared, the Minister must report on the state of the emergency and the public health risk powers and emergency powers exercised to both Houses of Parliament:	No.

		<ul style="list-style-type: none"> The total period that the declaration continues in force cannot exceed 6 months 	<p>(a) if Parliament is then sitting, as soon as practicable after the declaration is made or varied; and</p> <p>(b) if Parliament is not then sitting, as soon as practicable after the next meeting of the Parliament.¹</p>
NSW	A declaration of a state of emergency under s 33 of the State Emergency and Rescue Management Act 1989 .	<ul style="list-style-type: none"> Can be declared for up to 30 days There is no limit on the number of further states of emergency (of up to 30 days) that may be declared. 	No. ² No.
SA	A declaration of a major emergency under s 23 of the Emergency Management Act 2004 .	<ul style="list-style-type: none"> Can be declared for up to 14 days There is limit on the number of extensions 	No. ³ No.
QLD	A declaration of a public health emergency under s 319 of the Public Health Act 2005 .	<ul style="list-style-type: none"> Can be declared for up to 7 days, but may be extended by up to 90 days There is no limit on the number of times it may be extended 	No. ⁴ No.

¹ See s 198(8). A declaration of a state of emergency is also subject to some publication requirements, e.g. gazettal (s 198(5)).

² A declaration of a state of emergency is also subject to some publication requirements, e.g. gazettal (s 34).

³ A declaration of a major emergency must be in writing and published in a manner and form determined by the Minister (s 23(2)(a)).

⁴ A declaration of a public health emergency is subject to some publication requirements, e.g. gazettal (s 321).

WA	A declaration of a state of emergency under s 56 of the Emergency Management Act 2005 .	<ul style="list-style-type: none"> • Can be made for up to 3 days which can be extended for up to a maximum of 14 days (for all powers, except property use and information sharing powers where there is no time limit) 	No. ⁵	No.
TAS	A declaration of a state of emergency under s 42 of the Emergency Management Act 2006 .	<ul style="list-style-type: none"> • Can be made for up to 12 weeks which can be extended for up to 12 week periods • There is no limit on the number of times it may be extended 	No. ⁶	No.
NT	A declaration of a public health emergency under s 48 of the Public and Environmental Health Act 2011 .	<ul style="list-style-type: none"> • Can be issued for 90 days, and can be extended for further period of up to 90 days without a limit on the number of extensions. 	No. ⁷	No.
ACT	A declaration of a public health emergency under s	<ul style="list-style-type: none"> • Can be declared for a maximum limit of 5 	No. ⁸	No. ⁹

⁵ A declaration of a public health emergency is subject to some publication requirements, e.g. gazettal (s 60).

⁶ As soon as practicable after a declaration of a state of emergency is made, the State Controller is to provide a copy of the declaration to the persons who may exercise special emergency powers under the declaration (2 42(7)).

⁷ A declaration of a public health emergency is subject to some publication requirements, e.g. gazettal (s 51).

⁸ The Minister must give additional public notice of an emergency declaration, and any extension of the period of a declaration, as soon as practicable after it is made (s 119(6)).

⁹ A public health emergency declaration is a 'notifiable instrument', which means it must be registered on the Legislation Register. Unlike legislative instruments, notifiable instruments are not subject to Parliamentary disallowance (s 119(5)).

119 of the [Public Health Act 1997](#).

days which can be extended for up to 90 days in relation to COVID-19 (otherwise it is 2 days)

- There is no limit on the number of extensions.
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