



Australian Government

Australian Government response to the
Joint Standing Committee on Electoral Matters' report:

Report of the inquiry on the future conduct of elections operating
during times of emergency situations

OCTOBER 2021

Introduction

The Australian Government is committed to ensuring voters, political actors and Government officials are able to safely participate in the conduct of an election during times of emergency situations.

On 24 June 2021, the Joint Standing Committee on Electoral Matters (JSCEM) tabled a report entitled *Report of the inquiry on the future conduct of elections operating during times of emergency situations* (the Report).

On 28 October 2021, the *Electoral Legislation Amendment (Contingency Measures) Bill 2021* (the Bill) was introduced into the House of Representatives.

The Bill:

- a) amends the Electoral Act to enable the Electoral Commissioner to modify the operation of certain aspects of the conduct of elections when a Commonwealth emergency law is in force; and
- b) addresses the recommendations in the Report.

The recommendations of the Report are addressed in detail below.

Government Response to the Joint Standing Committee on Electoral Matters report:
Report of the inquiry on the future conduct of elections operating during times of emergency situations

#	Recommendation	Government Response
1	<p>The Committee recommends that the <i>Commonwealth Electoral Act 1918</i> (Electoral Act) be amended to grant the authority to the Electoral Commissioner, in the event of an emergency being declared by Commonwealth, state or territory law, and to facilitate the safe conduct of an electoral event, to:</p> <ul style="list-style-type: none"> • extend the reasons electors can vote by post or pre-poll; • streamline application and/or declaration requirements for postal and pre-poll voting; • extend operating or polling hours (pre-poll only); • conduct scrutiny safely. <p>This authority must:</p> <ul style="list-style-type: none"> • be limited to circumstances in which all alternative avenues to conduct an electoral event without exercising emergency provisions have been deliberated and exhausted; • be limited to the extent necessary to conduct an electoral event; • be limited to the geographical area in which the emergency situation has been declared, noting that this may only be part of an electorate; • be exercised by the Electoral Commissioner and cannot be delegated; • be time limited only to the time necessary to respond to the emergency situation and conduct the electoral event. <p>To maintain transparency the Electoral Commissioner must, as soon as practicable:</p> <ul style="list-style-type: none"> • publish the decision to modify the electoral event and the modifications to be made; and • inform the Joint Standing Committee on Electoral Matters of actions taken. 	<p><u>The Government supports the recommendation in-principle.</u></p> <p>The Government supports amending the <i>Commonwealth Electoral Act 1918</i> to implement this recommendation. The <i>Electoral Legislation Amendment (Contingency Measures) Bill 2021</i> is designed to ensure the Australian Electoral Commission (AEC) can duly conduct an election, ensuring participation while minimising the potential risk of harm to electors, electoral participants, employees and contractors when an emergency declaration is in force under a Commonwealth law.</p> <p>The Government does not support the recommendation for authority to be granted on the basis of state or territory law. Decisions that alter the administration of a federal election are the responsibility of the Commonwealth, and should only be considered as a consequence of a Commonwealth emergency declaration.</p>

#	Recommendation	Government Response
2	The Committee recommends that the Electoral Act be amended to provide conditions to change the date of polling where an emergency situation prevents voting occurring on the date fixed for polling.	<p><u>The Government notes the recommendation.</u></p> <p>The Government supports the aim of this recommendation, however legislative change will not be required as section 286 of the Electoral Act already provides the power and conditions for the date of polling to be altered.</p>
3	The Committee recommends that sections 240A to 243 of the <i>Commonwealth Electoral Act 1918</i> be reviewed to ensure that they are in line with the recommendations set out in this report.	<p><u>The Government supports the recommendation.</u></p> <p>The Government supports amending the Electoral Act to uplift the existing power to temporarily suspend or adjourn polling away from local polling booth presiding officers, and to the Electoral Commissioner personally. The <i>Electoral Legislation Amendment (Contingency Measures) Bill 2021</i> proposes amendments to sections 240A, 241 and 242 of the Electoral Act to implement this.</p>