



The Centre for Public Integrity

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Submission to the Senate Select Committee on COVID-19

1st June 2020

Dear Dr Thomson,

Thank you for the invitation to make a submission to the Senate Select Committee on COVID-19.

The Centre for Public Integrity is an independent think tank dedicated to preventing corruption and increasing public trust in government. Our submission therefore focuses on the accountability and transparency of the Government's response to COVID-19, in particular the increase in executive power.

The Government's response to COVID-19 has concentrated power in the hands of individual Ministers, much of it implemented via delegated legislation:

- The Minister for Health has 'human biosecurity emergency powers' including power to issue requirements necessary to prevent and control the spread of COVID-19 (e.g. social distancing rules; movement restrictions) under the *Biosecurity Act 2015* (Cth).
- \$40 billion Advance to the Finance Minister under the *Appropriation Act (No 5) 2019-2020* (Cth) and the *Appropriation Act (No 6) 2019-2020* (Cth). The Minister for Finance has broad discretion to allocate this funding.
- The Minister for Social Services has been given the power to alter eligibility rules and payment rates for all social security payments under the *Coronavirus Economic Response Package Omnibus Act 2020* (Cth).
- The Minister for Industrial Relations has the power to exempt specified employers from provisions dealing with JobKeeper, enabling stand-down provisions under the *Coronavirus Economic Response Package Omnibus (Measures No. 2) Act 2020* (Cth)
- The Treasurer has the power to set rules for the \$130 billion JobKeeper scheme under the *Coronavirus Economic Response Package (Payments and Benefits) Act 2020* (Cth).

Accountability measures in place to ensure these decisions are made in the public interest and follow proper process are limited. These decisions are not given detailed deliberation in Parliament and are not transparent to public scrutiny. The Ministerial

Standard of Conduct is not independently enforced. There is no National Integrity Commission established to investigate allegations of corrupt conduct involving Ministers.

Of the 137 new laws made via delegated legislation since the beginning of the COVID-19 crisis, 32 are exempt from disallowance.¹ Exemption from disallowance means that Parliament cannot intervene to block legislation, and that the Senate Standing Committee for the Scrutiny of Delegated Legislation cannot provide oversight.

Reforms to increase scrutiny and accountability of Ministerial decision-making should include limiting the use of delegated legislation and its exemption from disallowance, the independent enforcement of the Ministerial Standard of Conduct, and the establishment of a National Integrity Commission.

Further analysis of the issues surrounding the increasing concentration of executive power in the response to COVID-19 is provided in the attached briefing paper '*COVID-19 Ministerial power needs to be reined in*'.

Warm regards,

A photograph of a handwritten signature in blue ink on a light-colored background. The signature is written in a cursive style and reads "H. Aulby".

Han Aulby

Executive Director

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About The Centre for Public Integrity

The Centre for Public Integrity is an independent think tank dedicated to preventing corruption, protecting the integrity of our accountability institutions, and eliminating undue influence of money in politics in Australia. Board members of the Centre are the Hon Tony Fitzgerald AC QC, the Hon David Ipp AO QC, the Hon Stephen Charles AO QC, the Hon Anthony Whealy QC, Professor George Williams AO, Professor Joo Cheong Tham and Geoffrey Watson SC. More information at www.publicintegrity.org.au.

¹ Middleton, 2020, *Parliament bypassed for Covid-19 legislation*, The Saturday Paper, 16 May 2020, <https://www.thesaturdaypaper.com.au/news/politics/2020/05/16/parliament-bypassed-covid-19-legislation/15895512009842>