

National Emergencies Act

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The **National Emergencies Act** (Pub.L. 94–412 (<http://legislink.org/us/pl-94-412>), 90 Stat. 1255 (<http://legislink.org/us/stat-90-1255>), enacted September 14, 1976, codified at 50 U.S.C. § 1601

National Emergencies Act



Long title An Act to terminate certain authorities with respect to national emergencies still in effect, and to provide for orderly implementation and termination of future national emergencies.

Acronyms (colloquial) NEA

Enacted by the 94th United States Congress

Effective September 14, 1976

Citations

Public law 94-412 (<http://www.gpo.gov/fdsys/pkg/STATUTE-90/pdf/STATUTE-90-Pg1255.pdf>)

Statutes at Large 90 Stat. 1255 (<http://legislink.org/us/stat-90-1255>)

Codification

Titles amended 50 U.S.C.: War and National Defense

U.S.C. sections created 50 U.S.C. ch. 34 (<https://www.law.cornell.edu/uscode/text/50/chapter-34>) § 1601 et seq.

Legislative history

- **Introduced in the House as H.R. 3884** (<https://www.congress.gov/bill/94th-congress/house-bill/3884>) **by** Peter W. Rodino (D–NJ) **on** February 27, 1975
- **Committee consideration by** House Judiciary, Senate Government Operations
- **Passed the House on** September 4, 1975 (388-5) (<http://www.govtrack.us/congress/votes/94-1975/h373>))
- **Passed the Senate on** August 27, 1976 (passed) **with amendment**

- **House agreed to Senate amendment on August 31, 1976** (agreed)
- **Signed into law by President Gerald Ford on September 14, 1976**

(<https://www.law.cornell.edu/uscode/text/50/1601>)-1651) is a United States federal law passed to stop open-ended states of national emergency and formalize the power of Congress to provide certain checks and balances on the emergency powers of the President. The Act of Congress imposes certain "procedural formalities" on the President when invoking such powers. The perceived need for the law arose from the scope and number of laws granting special powers to the executive in times of national emergency.

The H.R. 3884 legislation was passed by the United States 94th Congressional session and signed by the 38th President of the United States Gerald R. Ford on September 14, 1976.^[1]

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Background

Starting with Franklin D. Roosevelt in 1933, presidents asserted the power to declare emergencies without limiting their scope or duration, without citing the relevant statutes, and without congressional oversight.^[2] The Supreme Court in *Youngstown Sheet & Tube Co. v. Sawyer* limited what a president could do in such an emergency, but did not limit the emergency declaration power itself. A 1973 Senate investigation found (in Senate Report 93-549) that four declared emergencies remained in effect: the 1933 banking crisis with respect to the hoarding of gold,^[3] a 1950 emergency with respect to the Korean War,^[4] a 1970 emergency regarding a postal workers strike, and a 1971 emergency in response to inflation.^[5] Many provisions of statutory law are contingent on a declaration of national emergency, as many as 500 by one count.^[6] It was due in part to concern that a declaration of "emergency" for one purpose should not invoke every possible executive emergency power, that Congress in 1976 passed the National Emergencies Act.

Presidents have continued to use their emergency authority subject to the provisions of the act, with 32 national emergencies declared between 1976 and 2001.^[7] Most of these were for the purpose of restricting trade with certain foreign entities under the International Emergency Economic Powers Act (IEEPA) (50 U.S.C. 1701-1707).

Provisions

Termination of presidential authority

A prior Senate investigation had found 470 provisions of federal law that a President might invoke via a declaration of emergency.^[8] The Act repealed several of these provisions and stated that prior emergency declarations would no longer give force to those provisions that remained. Congress did not attempt to revoke any outstanding emergency declarations *per se*, as these remained the President's prerogative under Article II of the Constitution.^[9]

Procedure for new emergencies

The Act authorized the President to activate emergency provisions of law via an emergency declaration on the conditions that the President specifies the provisions so activated and notifies Congress. An activation would expire if the President expressly terminated the emergency, or did not renew the emergency annually, or if each house of Congress passed a resolution terminating the emergency. After presidents objected to this "Congressional termination" provision on separation of powers grounds, it was replaced in 1985 with termination by an enacted joint resolution. The Act also requires the President and executive agencies to maintain records of all orders and regulations that proceed from use of emergency authority, and to regularly report the cost incurred to Congress.

Exceptions

Certain emergency authorities were exempted from the act at the time of its passage:

- 10 USC 2304(a) (1) (allowing exemption of national defense contracts from competitive bidding)
- 10 USC 3313, 6386(c) and 8313 (regulating the promotion, retirement and separation of military officers)
- 12 USC 95(a) (regulating transactions in foreign gold and silver)
- 40 USC 278(b) (regulating federal property purchases and contracts)
- 41 USC 15 and 203 (limiting the assignment of claims against the federal government)
- 50 USC 1431-1435 (enabling the President to make national defense contracts outside of otherwise applicable rules)

The list of exceptions has from time to time been revised. For example, Public Law 95-223 (1977) repealed the emergency clause of 12 USC 95(a) and arranged for its authority to expire according to the normal provisions of the NEA.

See also

- Senate Report 93-549
- Continuity of Government Plan
- National Security and Homeland Security Presidential Directive
- Rex 84
- United States national emergency with respect to Iran

References

1. Peters, Gerhard; Woolley, John T. "Gerald R. Ford: "Statement on Signing the National Emergencies Act.," September 14, 1976". *The American Presidency Project*. University of California - Santa Barbara.
2. H. Rep. No. 95-459, at 7 (1977)
3. Executive Order 6102
4. Peters, Gerhard; Woolley, John T. "Harry S. Truman: "Proclamation 2914 - Proclaiming the Existence of a National Emergency," December 16, 1950". *The American Presidency Project*. University of California - Santa Barbara.
5. S. Rep. No. 93-549, at 2 (1973), http://www.ncrpublic.org/images/lib/SenateReport93_549.pdf
6. [1] (<https://fas.org/sgp/crs/RS21024.pdf>)
7. [2] (<http://fpc.state.gov/documents/organization/6216.pdf>)
8. Senate Report 93-549, *Emergency Powers Statutes*
9. Miller, Diana (2002) *Terrorism: Are We Ready?* pp. 130-31.

Bibliography

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- "Toward Comprehensive Reform of America's Emergency Law Regime," including compendium of national emergency powers (http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2056822)

External links

- Public Law 94-412 National Emergencies Act (pdf) 5-pages from US Government Printing Office (<http://www.gpo.gov/fdsys/pkg/STATUTE-90/pdf/STATUTE-90-Pg1255.pdf>)

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