



**NOTICE TO INTERESTED PARTIES REGARDING THE PUBLIC ORDER
EMERGENCY COMMISSION**

INTRODUCTION

On April 25, 2022, the Government of Canada established the Public Inquiry into the 2022 Public Order Emergency [“Public Order Emergency Commission”] to inquire into the circumstances that led to the declaration of emergency that was in place from February 14-23, 2022, and the measures taken for dealing with the emergency. Justice Paul Rouleau was appointed Commissioner.

The Commission will examine and assess the basis for the Government’s decision to declare a public order emergency, the circumstances that led to the declaration, and the appropriateness and effectiveness of the measures selected by the Government to deal with the then-existing situation. The Commission will also conduct a policy review of the legislative and regulatory framework involved, including whether any amendments to the *Emergencies Act* may be necessary.

The Commission’s Final Report must be delivered to the Governor in Council in both official languages by February 6, 2023, and to Parliament by February 20, 2023. The latter is a mandatory statutory deadline that cannot be altered without legislative amendment.

In order to deliver its Report in both official languages by February 6, 2023, the Commission will have to complete its hearings and fact-finding process by the end of October 2022 in order to allow sufficient time for analysis as well as drafting, editing, translating and publishing of the Report.

The Commission has a very broad mandate that must be fulfilled in a very short timeframe. This will be a challenge that can only be accomplished with procedural creativity and, importantly, cooperation from all parties. The Commission is committed to meeting its deadline, to conducting a meaningful inquiry, and to doing so in a fair and transparent manner. The Commission looks forward to working with participants and the public in the fulfillment of its important mandate.

The Commission has set a schedule for the process for determining standing and a tentative schedule for the investigative and public hearing process. The key dates are as follows:

Schedule for the Process of Determining Standing and Funding

- June 1, 2022 – Rules of standing and funding to be posted
- June 15, 2022 – Deadline for applicants to submit standing and any related funding applications
- June 20, 2022 – Virtual hearing of standing applications (if necessary)
- June 27, 2022 (tentative) – Release of the Commission’s decisions on standing and funding

Tentative Schedule for Investigation and Hearings

- June 17, 2022 – Draft Rules of Procedure and Practice to be posted by Commission
- June 30, 2022 – Deadline for parties granted standing to comment on Draft Rules of Procedure and Practice
- July 7, 2022 – Final Rules of Procedure and Practice to be posted
- July 18, 2022 – Deadline for documentary production from parties granted standing
- July – October, 2022 – Timeframe for receiving input and submissions from members of the public and organizations who do not have standing
- September - October 2022 – Public Hearings

BACKGROUND

(i) The Declaration of Emergency

On February 14, 2022, the Government of Canada declared a public order emergency pursuant to the *Emergencies Act*. Following the declaration of the emergency, the Government adopted a number of emergency measures via the *Emergency Measures Regulations* and the *Emergency*

Economic Measures Order. The public order emergency was in effect until February 23, 2022, when the Government revoked it.

(ii) The Establishment of the Commission of Inquiry

Section 63(1) of the *Emergencies Act* requires the Government to call an inquiry “into the circumstances that led to the declaration being issued and the measures taken for dealing with the emergency”. The inquiry must be called within 60 days of the expiration or revocation of the declaration of emergency. Section 63(2) of the *Act* requires that the Report of the inquiry be laid before each House of Parliament within 360 days of the expiration or revocation of the emergency.

On April 25, 2022, the Government of Canada established the Commission by Order in Council P.C. 2022-0392. Justice Paul Rouleau was appointed as Commissioner under Part I of the *Inquiries Act*.

(iii) The Commission’s Terms of Reference

The Commission’s Terms of Reference are found in the Order in Council, and are appended in full to this Notice as Appendix A.

The Order in Council directs the Commissioner to examine and report on the circumstances that led to the declaration of a public order emergency and the measures that were taken by the Governor in Council to deal with the public order emergency as well as issues, to the extent relevant to the circumstances of the declaration and measures taken, with respect to

- (A) the evolution and goals of the convoy and blockades, their leadership, organization and participants,
- (B) the impact of domestic and foreign funding, including crowdsourcing platforms,
- (C) the impact, role and sources of misinformation and disinformation, including the use of social media,
- (D) the impact of the blockades, including their economic impact, and
- (E) the efforts of police and other responders prior to and after the declaration

The Order in Council further directs the Commission to set out in a Final Report the “findings and lessons learned, including on the use of the *Emergencies Act* and the appropriateness and effectiveness of the measures taken under the *Emergency Measures Regulations* and

the *Emergency Economic Measures Order*, and to make recommendations, as pertains to the matters examined in the Public Inquiry, on the use or any necessary modernization of that Act, as well as on areas for further study or review”.

The Commission must submit its Final Report, no later than February 6, 2023. The report must be laid before each House of Parliament by February 20, 2023.

THE COMMISSION’S MANDATE

The Terms of Reference entrust the Commission with a broad and far-reaching mandate, which includes both an investigative component and a policy component.

(i) The Commission’s Investigative Mandate

The Commission’s investigative mandate is to examine and assess the basis for the Government’s decision to declare a public order emergency, the circumstances that led to that declaration, and the appropriateness and effectiveness of the measures employed by the Government in furtherance of that decision.

The starting point for the Commission is to inquire into the reasons why the Government declared a public order emergency. It is the Government that deemed it necessary to invoke the *Emergencies Act*; thus it is the Government that must explain its decision to do so.

In light of this, the Commission has asked the Government to disclose to the Commissioner the information, including advice and information that may be protected by Cabinet confidence or any applicable privilege, that led to Cabinet’s decision to declare an emergency.

The Commission is also tasked with assessing the appropriateness and effectiveness of the measures that the Government selected to address the situation. Again, the Commissioner has asked the Government to disclose all information pertaining to the choice of measures and the actions taken (or not taken) pursuant to those choices.

The Commission’s investigation will consider the issues listed in paragraphs (ii) A-E of the Terms of Reference, The Commission will also consider additional issues that may come to light over the course of its investigation that are relevant to its overarching mandate.

(ii) The Commission’s policy mandate

The Commission's policy mandate is to identify the lessons that may be learned from the events of early 2022, to review the legislative and regulatory framework of the *Emergencies Act*, and to recommend whether any amendments to the *Act* should be made. This is a significant mandate that will require careful study and review and may include the consideration of relevant information about practices and procedure in other jurisdictions.

TIMING AND PROCESS

The February 20, 2023 deadline to deliver the Commission's Report to Parliament is a mandatory statutory deadline. As indicated earlier, it cannot be changed without legislative amendment. This means that the Commission has a very significant task to accomplish in a very short period of time.

In order to deliver its Report in both official languages to Cabinet by February 6, 2023 as required by the Order in Council and to Parliament by February 20, the Commission will have to finish its fact-finding process, including its hearings by the end of October in order to allow sufficient time for analysis and well as drafting, editing, translating and publishing the Report.

This is an ambitious schedule. The task cannot be accomplished without the full cooperation and assistance of all interested parties. The Commission looks forward to working with all parties to this end.

The Commission is committed to meeting its statutory deadline in a fair and appropriate manner. In order to do so, procedural steps will be streamlined, timelines will be compressed, and creative means of receiving information from interested parties will be employed. This is the only way the Commission will be able to conduct its investigation, obtain meaningful public input, carry out the necessary fact finding, and formulate appropriate recommendations within the legislated timeframe. Again, cooperation and creativity will be the Commission's touchstones.

While the Commission has not yet finalized its process and procedures, it is evident that time will be of the essence. The Commission will therefore set tight timelines for the collection of materials and information. All parties will be expected to meet the deadlines imposed.

The Commission is also committed to receiving public input and comment. Processes will be put in place that allow members of the public to express their views, suggest avenues of

investigation, provide information, and share their experiences with the Commission. The Commission will welcome input from experts, researchers, academics and others with specialized knowledge on the topics that fall within its mandate. The Commission looks forward to hearing from people and organizations across the country on the important issues raised in this Inquiry.

In all of its work, the Commission will be guided by the principles of fairness, transparency, accessibility, timeliness, expedition, and proportionality.

The Commission anticipates holding public hearings in September and October 2022, which will focus primarily on the investigative, fact-finding component of its mandate.

THE PROCESS FOR DETERMINING STANDING AND PARTICIPATING IN THE COMMISSION'S PROCESS

The Commission is, at this time, calling on interested parties who want to request standing to submit Applications for Standing (see Rules of Standing and Funding to be posted on the Commission's website at publicorderemergencycommission.ca). This process allows individuals and groups with a substantial and direct interest in the subject-matter of the inquiry to apply to participate in the Commission's fact-finding and/or policy proceedings. Applicants who have common interests are encouraged and expected to form groups rather than to apply for standing individually. Different types of standing and rights of participation may be granted depending on the nature of an applicant's substantial and direct interest, all in the context of the Commission's timeframe for completing its work.

It is important to understand that standing is not the only way in which to participate in the activities of, and information gathering by, the Commission. Members of the public who wish to observe Commission hearings and public activities may do so without seeking standing. This is encouraged. Members of the public also will be given an opportunity to share their experiences and provide their views to the Commission in a variety of ways, such as through online submissions. Further details on the opportunities for participating in the Commission's work and the ways to do so will be published on the Commission's website in the near future.

Applicants for standing may also apply for funding to participate in the Commission's work. The Commissioner may make recommendations for funding those granted standing to the

Clerk of the Privy Council where the person or institution would not otherwise be able to meaningfully participate in the Commission (see Rules of Standing and Funding to be posted on the Commission's website at publicorderemergencycommission.ca/documents).

The schedule for the Commission's process for determining standing and funding is as follows:

SCHEDULE FOR THE PROCESS TO DETERMINE STANDING AND FUNDING

- **June 1, 2022 – Rules of Standing and Funding to be posted**
- **June 15, 2022 – Deadline for applicants to submit Standing and Funding Applications**
- **June 20, 2022 – Virtual hearings of Standing and Funding Applications (if necessary)**
- **June 27, 2022 (tentative) – Release of the Commission's decisions on Standing and Recommendation on Funding**

Parties who are granted standing will be required to deliver their materials to the Commission in accordance with the Rules of Practice and Procedure, which are expected to be posted in final form at publicorderemergencycommission.ca/documents shortly after the standing decisions have been issued. The draft Rules of Practice and Procedure will be posted earlier, and parties granted standing will be invited to provide their input and comment. Parties seeking standing are strongly encouraged to begin to take steps now to assemble documents in their possession that might be relevant to the Commission's work. They are also encouraged to prepare a list of witnesses they believe may have important information to provide to the Commission and describe, in brief, the nature of that information. This will enable the parties to adhere to strict timelines that will be imposed on the production of such materials.

Commission staff will also work with parties granted standing to facilitate the presentation of evidence in the most efficient manner: for example through evidentiary reports or "dossiers" that summarize existing evidence, or through agreed statements of fact. It will be beneficial for parties granted standing to work collaboratively, to the extent possible, in assembling and producing relevant materials and ultimately in facilitating the presentation of evidence. Parties granted standing will be expected to work cooperatively with the Commission.

THE INVESTIGATION PROCESS AND PUBLIC HEARINGS

The Commission's investigation will involve a range of activities to facilitate obtaining the information needed to fulfill its mandate. This will include requests for documentary production, witness interviews, consultation with communities, experts and institutions, and research.

The Commission currently plans to hold public hearings in September and October 2022. The hearings will likely begin by inquiring into the circumstances that led to the Government's decision to declare the public order emergency. The Commission will review the information the Government possessed and acted on when it decided to declare the emergency. Subsequently, the various factors that may or may not have played a part in that decision, including but not limited to the issues outlined in paragraphs (ii)(A)-(E) of the Terms of Reference, as well as the appropriateness and effectiveness of the measures selected, will be canvassed and examined at the hearings.

The Commission will endeavour to eliminate unnecessary steps and avail itself of appropriate and proportional creative procedural approaches to streamline the investigation process. These approaches, many of which have been adopted by other public inquiries, may include the creation of overview or foundation documents, institutional reports, affidavits, policy papers, agreed statements of fact and other forms of written evidence. Further details will be provided when the Commission posts its draft Rules of Procedure and Practice, which it anticipates will be in mid-June. Suggestions from parties granted standing will be welcomed. As indicated earlier, the Commission will work with parties to facilitate the presentation of evidence in the most efficient manner. The Rules will encourage, and in some cases require, the filing of evidentiary reports or dossiers, or institutional reports, where appropriate. These summaries will be compiled by or with the assistance of Commission staff, or put forward by parties who have been granted standing. The Commission will provide opportunities for parties to comment on the information presented in this manner. The draft Rules will allow the Commission to set reasonable time limits for testimony of witnesses for both direct evidence and cross-examination and to determine which parties will be entitled to cross-examine.

The Commission has already begun the process of requesting and gathering documents from the federal Government, and the Government has indicated its commitment to facilitating the

document production process. The volume of documents is expected to be considerable. The Commission acknowledges that it will require significant effort by the Government to deliver its documents in a timely manner. However, in order for the Commission to carry out a meaningful inquiry and meet its very ambitious schedule, the Government's cooperation will be needed by prioritizing this task and delivering its documentation on a timely basis. The Commission again welcomes creative approaches to making documentary production and organizing evidence. Prompt, complete and timely disclosure from the Government is essential to the Commission's ability to carry out its mandate. It is expected that the totality of the Government's documentation will be delivered by the end of June at the latest, with documents delivered on a rolling basis in order to allow appropriate time for review. This will leave the Commission only two months to conduct its documentary review, interview key players and potential witnesses, assemble the statements of evidence it intends to file, and prepare for the public hearings.

Timely production of documents will allow for early identification and resolution of any issues that may arise with the production of classified, privileged, or secret information. This will facilitate the crafting of creative and fair solutions without delaying the Commission's work.

The Commission will establish a process to allow parties to make representations to the Commissioner on what documents will be made available to them for review, with or without restrictions. This will include the opportunity to make submissions on issues of confidentiality and privilege.

Though the following dates are provisional, and further steps may be added, the Commission anticipates that the schedule for the investigation and public hearings will be as follows:

TENTATIVE SCHEDULE FOR INVESTIGATION AND HEARINGS

- **June 17, 2022 – Draft Rules of Procedure and Practice to be posted by Commission at publicorderemergencycommission.ca/documents**
- **June 30, 2022 – Deadline for parties granted standing to comment on Draft Rules of Procedure and Practice**
- **July 7, 2022 – Final Rules of Procedure and Practice to be posted at publicorderemergencycommission.ca/documents**
- **July 18, 2022 – Deadline for documentary production from parties granted standing**

- **To Be Determined – Deadline for determination of issues regarding restrictions on document availability, including privilege and confidentiality of documents**
- **September-October 2022 – Public Hearings**

THE POLICY REVIEW

The Commission will employ a variety of processes to arrive at its policy recommendations. It will engage academics and others with relevant expertise to prepare research and policy papers on the issues arising from the Commission's mandate. These papers will play a significant role in informing the Commission's deliberations on the policy aspects of the mandate. The papers will be posted on the Commission's website, and input from interested persons will be invited. The Commission anticipates that the papers will be discussed at a series of meetings or 'roundtables', which the public will be able to observe. The policy component of the Commission's work and the formulation of recommendations will be a significant part of the Commission's work. Issues relevant to the policy review will be addressed when appropriate, during or after the investigatory process and fact-finding hearings.

CONCLUSION

The Commission is not aware of any precedent for a public inquiry of this breadth being conducted over this short a period of time. The Commission acknowledges this challenge. It is important and in the public interest that the Commission fulfill its mandate in a comprehensive, fair and transparent manner. The Commission welcomes ongoing input as to how to achieve its ambitious mandate.

Canadians want and deserve answers to the myriad questions arising from the events that took place in early 2022 and the decision to declare a public emergency. The Commission is committed to discovering and providing those answers, and to making appropriate policy recommendations for consideration and implementation.

As the process unfolds, the Commission will remain flexible and responsive to issues that arise. The Commission looks forward to the input and cooperation of participants and the public as it works to accomplish its mission.

APPENDIX A

The Terms of Reference of the Commission are as follows:

Therefore, Her Excellency the Governor General in Council, on the recommendation of the Prime Minister,

(a) directs that a Commission do issue, for the period ending on March 31, 2023, under Part I of the *Inquiries Act* and under the Great Seal of Canada, appointing the Honourable Paul S. Rouleau to be a Commissioner, to conduct an inquiry under the name of the Public Inquiry into the 2022 Public Order Emergency (“Public Inquiry”), which Commission must

(i) direct the Commissioner to examine and report on the circumstances that led to the declaration of a public order emergency being issued by the federal government and the measures taken by the Governor in Council by means of the *Emergency Measures Regulations* and the *Emergency Economic Measures Order* for dealing with the public order emergency that was in effect from February 14 to 23, 2022;

(ii) direct the Commissioner to examine issues, to the extent relevant to the circumstances of the declaration and measures taken, with respect to

(A) the evolution and goals of the convoy and blockades, their leadership, organization and participants,

(B) the impact of domestic and foreign funding, including crowdsourcing platforms,

(C) the impact, role and sources of misinformation and disinformation, including the use of social media,

(D) the impact of the blockades, including their economic impact, and

(E) the efforts of police and other responders prior to and after the declaration,

(iii) direct the Commissioner to set out findings and lessons learned, including on the use of the *Emergencies Act* and the appropriateness and effectiveness of the measures taken under the *Emergency Measures Regulations* and the *Emergency Economic Measures Order*, and to make recommendations, as pertains to the

matters examined in the Public Inquiry, on the use or any necessary modernization of that Act, as well as on areas for further study or review,

(iv) direct the Commissioner to submit to the Governor in Council a final report in both official languages on their findings and recommendations no later than February 6, 2023,

(v) authorize the Commissioner to

(A) adopt any procedures and methods that they may consider expedient for the proper and efficient conduct of the Public Inquiry, to accept submissions in the manner they choose, including electronically, and sit at any times, in any manner and in any place in Canada that they may decide,

(B) at the Commissioner's discretion, grant any person who in the Commissioner's assessment would provide necessary contributions to the Public Inquiry and satisfies the Commissioner that they have a substantial and direct interest in the subject matter an opportunity for appropriate participation in it,

(C) recommend to the Clerk of the Privy Council that funding be provided, in accordance with approved guidelines respecting the remuneration and expenses and the assessment of accounts, to any person described in clause (B) if, in the Commissioner's view, the person would not otherwise be able to participate in the Public Inquiry, and

(D) at the Commissioners' discretion, engage the services of the experts and other persons referred to in section 11 of the *Inquiries Act*, and pay them remuneration and expenses as approved by the Treasury Board,

(vi) direct the Commissioner to

(A) perform their duties without expressing any conclusion or recommendation regarding the civil or criminal liability of any person or organization,

(B) perform their duties in such a way as to ensure that the conduct of the Public Inquiry does not jeopardize, any ongoing criminal investigation or proceeding or any other investigation, and provide appropriate notice to the government institution responsible of any potential impact, as identified by the Commissioner, on that ongoing investigation or proceeding,

(C) in conducting the Public Inquiry, take all steps necessary to prevent any disclosure of information to persons or bodies other than the

Government of Canada that would be injurious to international relations, national defence or national security,

(D) have the Public Inquiry's primary office in the National Capital Region and use the accommodation provided by the Privy Council Office,

(E) follow established security procedures, including the requirements of the Government of Canada's security policies, directives, standards and guidelines, with respect to persons whose services are engaged under section 11 of the Inquiries Act and the handling of information at all stages of the Public Inquiry,

(F) use the information technology systems and devices and other electronic systems, including record management systems, and associated support, services and procedures specified by the Privy Council Office, including for records management and the creation and maintenance of websites,

(G) use the automated litigation support system specified by the Attorney General of Canada,

(H) ensure that, with respect to any public proceedings, members of the public can, simultaneously in both official languages, communicate with and obtain services from the Commissioner,

(I) file the records of the Public Inquiry with the Clerk of the Privy Council as soon as feasible after the conclusion of the Public Inquiry,

(J) provide the Government of Canada with an opportunity for appropriate participation in the Public Inquiry, and

(K) provide provincial, territorial and municipal governments with an opportunity for appropriate participation in the Public Inquiry, if they request it; and

(b) requires that the report of the Public Inquiry into the 2022 Public Order Emergency be laid before each House of Parliament by February 20, 2023.