



**PUBLIC ORDER
EMERGENCY
COMMISSION**

Introduction to the *Emergencies Act*



Introduction

- The *Emergencies Act* establishes how the federal government can declare an emergency
- When the government declares an emergency, it can enact temporary measures
- This presentation summarizes the conditions for invoking the *Emergencies Act* and the types of measures it allows the government to enact
- The Commission presents this summary to contextualize the evidence that will be called in the coming weeks
- Part of the Commission's mandate is to assess that evidence and the government's actions in light of the statutory requirements of the *Emergencies Act*
- The following is not a complete reproduction of the *Emergencies Act*

National Emergencies: General

- The *Emergencies Act* can be invoked when the government **reasonably believes** there is a national emergency
- A national emergency is an urgent and critical situation of a temporary nature that cannot be effectively dealt with under any other law of Canada and that:
 - Seriously endangers the lives, health or safety of Canadians and exceeds the capacity or authority of a province to deal with it, or
 - Seriously threatens the government's ability to preserve Canada's sovereignty, security and territorial integrity

National Emergencies: Types

- The *Emergencies Act* can be invoked when the government **reasonably believes** there is a national emergency
- A national emergency can be:
 - A public welfare emergency (Part I)
 - *e.g. a natural disaster*
 - A public order emergency (Part II)
 - *A threat to the security of Canada*
 - An international Emergency (Part III)
 - *An act of intimidation, coercion, or use of force by another country*
 - A war emergency (Part IV)
 - *Armed conflict involving Canada or its allies*

Public Order Emergencies

- In February 2022, the government declared a public order emergency
- A public order emergency means an emergency “that arises from threats to the security of Canada and that is so serious as to be a national emergency” (s. 16)
- “Threats to the security of Canada” has the meaning assigned by s. 2 of the *Canadian Security Intelligence Service Act*, i.e.:
 - Espionage or sabotage
 - Foreign-influence
 - Terrorism
 - Violent extremism
- Before declaring a public order emergency, the government must usually consult the provinces (s. 25)

Recap

The government can declare a public order emergency if it reasonably believes that a situation...

- Is urgent, temporary and critical
- Arises from threats to the security of Canada
- Seriously endangers the health and safety of Canadians, or the ability to preserve Canada's sovereignty
- Cannot be dealt with by provinces and territories
- Cannot be dealt with under any other Canadian law

Measures the Government Can Take

- Once it declares an emergency, the government can make orders and regulations that it reasonably believes are necessary in the circumstances
- During a public order emergency, it can make rules about:
 - Regulating or prohibiting public assemblies that may lead to a breach of the peace, travel to specified areas, and the use of specified property
 - Designating and securing protected places
 - Assuming control, restoration and maintenance of public utilities and services
 - Directing people to render essential services
 - Imposing fines or imprisonment for contravening rules about the above

Emergency Measures and Federalism

- The government can enact measures under the *Emergencies Act* that are normally within the exclusive jurisdiction of provinces
- Before the Government can declare an emergency, it must usually consult the provinces
- Consultation does not necessarily mean agreement
- The *Emergencies Act* does not require provinces to consent to the declaration of an emergency

Safeguards contained in the *Emergencies Act*

- The House and Senate must vote on whether the emergency declaration is justified (s. 58)
- The government must clearly and publicly table any orders and regulations made under the emergency (s. 61)
- A multiparty Parliamentary review committee must be struck (s. 62)
- Parliament can revoke an emergency declaration or orders and regulations at any time (ss. 59, 61)
- After the emergency, a commission of inquiry must examine the government's actions and table a report of its findings before Parliament within 360 days (s. 63)

Safeguards contained in the *Emergencies Act* (cont'd)

- Powers used under the *Emergencies Act* must be consistent with the *Charter of Rights and Freedoms*
- The declaration of emergency, and any measures taken under the emergency, are subject to judicial review

The predecessor legislation to the *Emergencies Act* was the *War Measures Act*. The *War Measures Act* did not contain any of these safeguards.

