



PUBLIC ORDER
EMERGENCY
COMMISSION

Section 58 Explanation

Summary of the Federal Government's Explanation
Pursuant to Subsection 58(1) of the *Emergencies Act*

Subsection 58(1) of the *Emergencies Act*

- Subsection 58(1) requires that Parliament review any declaration of emergency
- To enable this review, a motion to confirm the declaration is laid before Parliament
- The motion must be accompanied by an explanation of why the emergency was declared

Summary of the s. 58(1) Explanation

- The federal government gave its s. 58(1) explanation to Parliament on February 16, 2022
- The explanation is publicly available (COM00000670)
- What follows is a summary of the explanation
- 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 evaluate and test the explanation provided by the federal government
- The following is not a complete reproduction or an endorsement of the s. 58(1) explanation

Context of the s. 58(1) Explanation

- The s. 58(1) explanation begins by providing background on the *Emergencies Act*, including:
 - To declare a public order emergency, there must be an emergency arising from **threats to the security of Canada** that are so serious as to be a **national emergency**
 - **Threats to the security of Canada** include threats or acts of serious violence against persons or property to achieve political or ideological objectives
 - A **national emergency** is an urgent, temporary and critical situation that seriously endangers the health and safety of Canadians that cannot be effectively dealt with by the provinces or territories, or that seriously threatens the ability of the Government of Canada to preserve the sovereignty, security and territorial integrity of Canada. It must be a situation that cannot be effectively dealt with by any other law.

Structure of the s. 58(1) Explanation

- The *Proclamation Declaring a Public Order Emergency* identified five components to the emergency
- The s. 58 explanation is structured around those components:
 1. Continuing blockades and activities tied to serious acts of violence against persons or property for the purpose of achieving political or ideological objectives
 2. Adverse effects on the Canadian economy and threats to its economic security
 3. Adverse effects on Canada's relationship with its trading partners
 4. A breakdown in the distribution chain and availability of essential goods, services and resources
 5. The potential for an increase in the level of unrest and violence

Continuing Blockades and Activities Tied to Serious Acts of Violence

- The federal government's explanation mentions:
 - Protestors' demands, ranging from an end to public health restrictions to the overthrow of the elected government
 - Tactics adopted by protestors such as slow rolls, slowing down traffic, creating traffic jams, and bringing children to protest sites to limit police intervention
 - Tow truck drivers refusing to work with governments to remove vehicles from the blockades
 - Violent incidents and threats of violence, including the seizure of a cache of firearms with a large quantity of ammunition in Coutts, AB
 - Violent online rhetoric, increased threats against public officials and the presence of ideological extremists at protest sites indicating a risk of serious violence

Adverse Effects on Economy and Threats to Economic Security

- The federal government's explanation mentions:
 - Blockades and protests along the Canada-U.S. border, including Ambassador Bridge, ON; Emerson, MB; Coutts, AB; and Pacific Highway, B.C., having had a severe impact on Canada's economy
 - Loss of employee wages, reduced automotive processing capacity and overall production loss in the auto industry
 - Two breaches of Canada Border Services Agency plazas resulting in lockdowns
 - Additional blockades being anticipated
 - Media reporting about GiveSendGo indicating that the majority of donations to the protests were made by donors outside Canada

Adverse Effects on Relationship with Trading Partners

- The federal government's explanation mentions:
 - American expressions of concern about the economic impact of the border blockades and possible impacts of violent extremist movements, including by President Joe Biden, the Governor of Michigan, and the Department of Homeland Security
 - Port of entry disruptions having impacted the already fragile supply chain and resulted in temporary closures of manufacturing sites, job loss and loss of revenues
 - An erosion of confidence in Canada as a place to invest and do business, and speculation by politicians in Michigan that the disruptions might lead them to seek American rather than Canadian auto parts suppliers

Breakdown in Distribution Chain

- The federal government's explanation mentions:
 - Canada's uniquely vulnerable trade and transportation system given its challenging geography and climate conditions
 - The imperilment of Canadians' welfare from disruptions in the transport of crucial goods, medical supplies, food and fuel
 - Attempts by protesters to impede access to the Ottawa airport and threats to block railway lines

Potential Increase in Level of Unrest and Violence

- The federal government's explanation mentions:
 - Significant evidence of illegal activity and a situation across the country that remained concerning, volatile and unpredictable
 - The potential for an increase in the number of individuals who support ideologically motivated violent extremism (IMVE) and the prospect of serious violence
 - Efforts by U.S.-based supporters of IMVE to join protests in Canada
 - Protestors having refused to comply with injunctions covering downtown Ottawa and the Ambassador Bridge, or the Ontario government's emergency measures
 - The inability of municipal and provincial authorities to enforce the law or control the protests
 - Protests in Ottawa impeding the proper functioning of the federal government and jeopardizing Canada's ability to fulfil its obligations under the *Vienna Convention on Diplomatic Relations*

Conclusion of the s. 58(1) Explanation

- The s. 58(1) explanation concludes, among other things, that:
 - The Freedom Convoy 2022 created “a critical, urgent, temporary situation that is national in scope and cannot effectively be dealt with under any other law of Canada”
 - The threats and disruptions described in the explanation constituted “an emergency that arises from threats to the security of Canada and that is so serious as to be a national emergency”
 - The measures taken pursuant to the declaration of emergency were “necessary in order to supplement provincial and territorial authorities to address the blockades and occupation and to restore public order, the rule of law and confidence in Canada’s institutions”
 - The measures were tailored such that any effects on *Charter* rights were reasonable and proportionate

