



**PUBLIC ORDER  
EMERGENCY  
COMMISSION**

**COMMISSION  
SUR L'ÉTAT  
D'URGENCE**

# Overview Report: Parliamentary Process

Prepared by: Commission Counsel

## Summary of Report

The following Overview Report summarizes the oversight responsibilities of Parliament and the Parliamentary Review Committee. It outlines the review role each body plays pursuant to the Emergencies Act and traces the application of those statutory provisions following the February 2022 declaration of emergency.

## Note to Reader

Pursuant to Rules 41-45 of the Commission's Revised Rules of Practice and Procedure, the following Overview Report contains a summary of background facts and documents relating to the Commission's mandate.

Overview Reports allow facts to be placed in evidence without requiring those facts and related documents to be presented orally by a witness during the public hearings. The Overview Report may be used to assist in identifying issues relevant to the Commission, make findings of fact and enable recommendations to be made by the Commission.

The Parties with standing at the Commission have been provided an opportunity to comment on the accuracy of this Overview Report. Commission Counsel and the Parties may call evidence from witnesses at the Inquiry that casts doubt on the accuracy of the content of the documents underlying this Overview Report. The Parties may also make submissions regarding what, if any, weight should be given to the Overview Report and the cited documents.

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# Overview Report: Parliamentary Process

## 1. Introduction

1. Declarations of emergency by the Governor in Council are subject to Parliamentary review. The Emergencies Act (“the Act”) provides that once an emergency is declared, each House of Parliament must review and, ultimately, decide whether to confirm the declaration.
2. Broadly speaking, Parliamentary review occurs in two forums: through consideration and debate in both Houses, and through a special joint committee. The following pages summarize the Parliamentary review mechanisms contained in the Act and outline their application in relation to the February 2022 declaration of emergency.
3. It bears emphasizing that these review mechanisms are separate from the work of this Commission. While this Commission must produce a report that will be laid before Parliament, it operates independently of Parliament and its membership is drawn from outside the legislature.

## 2. Consideration by the Houses of Parliament [ss. 58-61]

### 2.1 Legislative framework

4. The Act requires that Parliament promptly review declarations of emergency. Under s. 58(1), after the Governor in Council issues a declaration, a motion for confirmation of the declaration must be laid before each House of Parliament within



seven sitting days.<sup>1</sup> The motion must be accompanied by an explanation of the reasons for the declaration of emergency and a report on any consultation with the lieutenant governors in council of the provinces.<sup>2</sup>

5. Consideration of the motion must begin on the next sitting day and debate must continue without interruption until members are ready to vote.<sup>3</sup> If either House votes against confirming the declaration, the declaration is revoked as of the day of that vote (unless it has previously expired or been revoked).<sup>4</sup>

6. A similar review process exists for amendments to a declaration of emergency. Under s. 24(1) of the Act, the Governor in Council can amend a public order emergency declaration that applies to a specified area of Canada so that it applies to other parts of Canada as well. If the Governor in Council issues a proclamation amending a declaration of emergency, a motion for confirmation of the proclamation must be laid before each House of Parliament within seven sitting days of the proclamation being issued. An explanation of the reasons for issuing the proclamation and a report on any consultation with the provinces must also accompany this motion.<sup>5</sup> Consideration of the motion is to begin the next sitting day and debate must continue without interruption

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<sup>1</sup> The seven-day delay in s. 58(1) does not apply if Parliament is prorogued, a House of Parliament stands adjourned, or the House of Commons is dissolved. In such cases, Parliament or that House must be summoned and the motion for confirmation laid before it on its first sitting day: *Emergencies Act*, s. 58(2)-(4).

<sup>2</sup> *Emergencies Act*, s. 58(1).

<sup>3</sup> *Emergencies Act*, s. 58(5)-(6).

<sup>4</sup> *Emergencies Act*, s. 58(7).

<sup>5</sup> *Emergencies act*, s. 60(2).



until members are ready to vote.<sup>6</sup> If either House votes against confirming the motion, the proclamation amending the declaration of emergency is revoked as of the day of the vote (unless it has previously expired or been revoked).<sup>7</sup>

7. Beyond the initial review mechanisms, declarations of emergency are subject to ongoing Parliamentary oversight. Unless a declaration of a public order emergency is revoked or continued under the Act, it expires after 30 days.<sup>8</sup> The Governor in Council may issue proclamations continuing a public order emergency declaration for up to 30 days at a time.<sup>9</sup> If the Governor in Council continues the declaration of emergency, a motion for confirmation of the declaration must be laid before each House of Parliament within seven days. The motion must be accompanied by an explanation of the reasons for continuing the emergency, and by two reports: one on any consultation with the provinces and one on the review of orders and regulations that have been made before the extension.<sup>10</sup> As with the review of the initial declaration, consideration is to begin on the next sitting day and debate is to continue without interruption until members are ready to vote.<sup>11</sup> If either House votes against confirming the proclamation continuing a declaration, the proclamation is revoked as of the day of the vote (unless it has

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<sup>6</sup> *Emergencies Act*, s. 60(4)-(5).

<sup>7</sup> *Emergencies Act*, s. 60(6).

<sup>8</sup> *Emergencies Act*, s. 18(2).

<sup>9</sup> *Emergencies Act*, s. 23(1), (3). The continuation may apply generally or with respect to an area of Canada.

<sup>10</sup> *Emergencies Act*, s. 60(1).

<sup>11</sup> *Emergencies Act*, s. 60(4)-(5).



previously expired or been revoked).<sup>12</sup> Either House can also amend the motion by removing an order or regulation named in it. If this type of motion is adopted, the orders or regulations that have been deleted from the motion are revoked as of the day the motion is adopted.<sup>13</sup>

8. In addition to the mandatory review processes, members of either House can bring a motion to revoke a declaration of emergency. Provided the motion is signed by a minimum number of members, the House in which it is filed must consider it within three sitting days.<sup>14</sup> The motion is to be debated for up to 10 hours.<sup>15</sup> If the motion for revocation is adopted, the declaration of emergency is revoked to the extent and on the date provided in the motion.<sup>16</sup>

9. Members of both Houses can also vote to revoke or amend orders or regulations made pursuant to a proclamation of emergency. Orders and regulations made pursuant to the Act must be laid before each House of Parliament within two sitting days after they are made.<sup>17</sup> Members of the Senate and of the House of Commons may file a

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<sup>12</sup> *Emergencies Act*, s. 60(6).

<sup>13</sup> *Emergencies Act*, s. 60(7).

<sup>14</sup> *Emergencies Act*, s. 59(1). The motion must be signed by 10 members of the Senate or 20 members of the House of Commons, as the case may be.

<sup>15</sup> *Emergencies Act*, s. 59(2).

<sup>16</sup> *Emergencies Act*, s. 59(3). The date of revocation may not be earlier than the date on which the motion is adopted.

<sup>17</sup> *Emergencies Act*, s. 61(1). If an order or regulation is exempted from publication in the *Canada Gazette* by regulations made under the *Statutory Instruments Act*, the order or regulation is not laid before Parliament but rather referred to the Parliamentary Review Committee described below: s. 61(2).



motion to revoke or amend an order or regulation in their respective House.

Consideration of the motion must begin within three sitting days after it is filed and debate must continue without interruption until members vote.<sup>18</sup>

10. Unlike motions to revoke a declaration of emergency, motions to revoke or amend an order or regulation have no effect unless they are supported by both Houses. If a motion to revoke or amend an order or regulation is adopted in one House, a message must be sent to the other House requesting that the other House concur in the motion.<sup>19</sup> Consideration in that House must begin within three sitting days after the request for concurrence is made and debate must continue without interruption until members are ready to vote.<sup>20</sup> If the members concur in the motion, the order or regulation in question is revoked or amended to the extent and on the date provided in the motion.<sup>21</sup>

## 2.2 Parliamentary Review of the 2022 Public Order Emergency

11. The House of Commons began reviewing the declaration of emergency first. On February 16, 2022, a motion for confirmation of the declaration was tabled along with an explanation of the reasons for declaring the emergency, a report on consultations with the provinces and the order and regulation made pursuant to the Act.<sup>22</sup>

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<sup>18</sup> *Emergencies Act*, s. 61(3)-(4).

<sup>19</sup> *Emergencies Act*, s. 61(5).

<sup>20</sup> *Emergencies Act*, s. 61(6)-(7).

<sup>21</sup> *Emergencies Act*, s. 61(8). The date of revocation may not be earlier than the day of the vote of concurrence.

<sup>22</sup> *House of Commons Journals*, 44-1, No. 32 (16 February 2022), **COM00000599**.





12. On February 17, 2022, the House of Commons began to debate the motion. To facilitate debate, the House also adopted a motion to sit until midnight on February 17, from 7 a.m. to midnight on February 18-20, and beginning at 7 a.m. on February 21 with the motion put to members by 7:30 p.m.<sup>23</sup> On February 18, 2022, the party leaders agreed that the House would not ultimately sit owing to the police operation that began along Wellington Street earlier in the day.<sup>24</sup> Debate resumed on February 19, 2022 and continued through to February 21.

13. The House adopted the motion for confirmation of the declaration on February 21, by a vote of 185-151.<sup>25</sup> Once the Deputy Speaker announced the result, the leader of the Official Opposition rose, on a point of order, indicating that she was filing a motion to revoke the declaration of emergency pursuant to s. 59 of the Act. She stated the matter would be considered at the next sitting week, and the House adjourned until February 28, 2022.<sup>26</sup>

14. On February 21, 2022, a motion for confirmation of the declaration was tabled in the Senate along with an explanation of the reasons for declaring the emergency, a report on consultations with the provinces and the order and regulation made pursuant

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<sup>23</sup> *House of Commons Journals*, 44-1, No. 33 (17 February 2022), **COM00000593**.

<sup>24</sup> *House of Commons Journals*, 44-1, No. 34 (19 February 2022), **COM00000591**.

<sup>25</sup> *House of Commons Journals*, 44-1, No. 36 (21 February 2022), **COM00000596**.

<sup>26</sup> *House of Commons Debates*, 44-1, No. 36 (21 February 2022) at 2883, **COM00000622**.



to the Act. The Senate adopted a motion to sit from 9 a.m. until 9 p.m. on February 22-25, unless the motion was put to the members sooner.<sup>27</sup>

15. On February 22, 2022, the Senate took up the motion. The following day, on February 23, the Governor in Council revoked the declaration of emergency. The motion to confirm the declaration of emergency was withdrawn in the Senate and debate concluded.<sup>28</sup>

### 3. Parliamentary Review Committee [s. 62]

#### 3.1 Legislative Framework

16. Subsection 62(1) of the Act provides that a Parliamentary Review Committee must review the exercise of powers and the performance of duties and functions pursuant to a declaration of emergency. The Committee must be established for this purpose and composed of members of both Houses, including opposition members.<sup>29</sup>

17. The Committee is to report the results of its findings, or cause them to be reported, to each House at specified times. It must do so every 60 days while a declaration of emergency is in effect and within seven sitting days after a declaration expires or is revoked by the Governor in Council.<sup>30</sup>

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<sup>27</sup> Senate of Canada Journals, 44-1, No. 18 (21 February 2022), **COM00000600**.

<sup>28</sup> Senate of Canada Journals, 44-1, No. 20 (23 February 2022), **COM00000597**.

<sup>29</sup> *Emergencies Act*, s. 62(1)-(2).

<sup>30</sup> *Emergencies Act*, s. 61(6). Subsection 61(6) also provides that the Committee must report or cause to be reported its findings within three sitting days after a motion for revocation of the declaration of emergency is filed in either House and within seven sitting days after a proclamation continuing the declaration is issued.



18. In addition, the Committee may be responsible for reviewing orders or regulations made pursuant to the Act. Subsection 61(2) provides that orders or regulations that are exempted from publication in the *Canada Gazette* by regulations made under the *Statutory Instruments Act* are referred to the Parliamentary Review Committee rather than laid before each House. In that situation, the Committee must consider the order or regulation in private.<sup>31</sup> The Committee may, within 30 days after an order or regulation is referred to it, adopt a motion to the effect that the order or regulation be revoked or amended.<sup>32</sup>

19. The Act does not provide a deadline by which the Committee must conclude its work.

### 3.2 The 2022 Special Joint Committee on the Declaration of Emergency

20. The Special Joint Committee on the Declaration of Emergency is the Parliamentary Review Committee convened as required by s. 62(1) of the Act. It was established by motion of the Senate and House of Commons on March 3, 2022.<sup>33</sup> A list of Committee members is appended as Appendix “A”.

21. The Committee is responsible for reporting its findings on the exercise of powers and the performance of duties and functions pursuant to the declaration of emergency. Because the declaration of emergency had already been revoked when the Committee

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<sup>31</sup> *Emergencies Act*, s. 62(4).

<sup>32</sup> *Emergencies Act*, s. 62(5).

<sup>33</sup> Senate of Canada Journals, 44-1, No. 24 (3 March 2022), **COM00000590**; House of Commons Journals, 44-1, No. 39 (2 March 2022), **COM00000594**.



was established, the only applicable statutory reporting deadline was to present a report within seven sitting days after the declaration was revoked.<sup>34</sup>

22. The Committee held its first meeting on March 14, 2022. It presented a first report to the House on March 22, 2022. That initial report is composed of three paragraphs and indicates that the Committee held its first meeting, elected its co-chairs and vice chairs, adopted its routine motions, and intends to table further reports.<sup>35</sup>

23. Since the first report was produced, approximately 40 witnesses have appeared before the Committee.<sup>36</sup> Witnesses have included the Ministers of Public Safety, Justice, Emergency Preparedness, and the Deputy Prime Minister and Minister of Finance, as well as representatives from various departments and police services. A complete list of the witnesses who have appeared before the Committee as of September 22, 2022, grouped by date, is appended as Appendix “B”.

24. Before adjourning for the summer, the Committee held its last meeting on June 21, 2022. The Committee resumed its meetings on September 22, 2022 and intends to hear further witnesses, recall witnesses who could not be heard due to technical issues, and produce additional reports.<sup>37</sup>

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<sup>34</sup> *Emergencies Act*, s. 62(6)(c).

<sup>35</sup> Special Joint Committee on the Declaration of Emergency, *Report 1* (presented to the House 22 March 202), **COM00000598**.

<sup>36</sup> Not all witnesses provided evidence; some were present to complement other witnesses' evidence as needed.

<sup>37</sup> Special Joint Committee on the Declaration of Emergency, *Report 1* (presented to the House 22 March 202), **COM00000598**.



Appendix “A”: Members of the Special Joint Committee on the Declaration of Emergency

**Members Representing the Senate**

**Members Representing the House of Commons**

**Joint Chairs**

Hon. Gwen Boniface

Rhéal Éloi Fortin (BQ)  
Matthew Green (NDP)

**Vice-Chairs**

Hon. Claude Carignan

Arif Virani (Lib)  
Glen Motz (CPC)

**Members**

Hon. Peter Harder  
Hon. Vernon Darryl White

Rachel Bendayan (Lib)  
Larry Brock (CPC)  
Yasir Naqvi (Lib)



Appendix “B”: Witnesses before the Special Joint Committee on the Declaration of Emergency

**N.B.** Not all witnesses presented opening remarks or were formally questioned.

<b>March 29, 2022</b>
<p><b>Senate of Canada:</b> Philippe Hallée, Law Clerk and Parliamentary Counsel</p> <p><b>House of Commons:</b> Philippe Dufresne, Law Clerk and Parliamentary Counsel</p> <p><b>As an individual:</b> The Honourable Perrin Beatty, P.C., O.C.</p>
<b>April 26, 2022</b>
<p>The Honourable Marco E. L. Mendicino, P.C., M.P., Minister of Public Safety</p> <p>The Honourable David Lametti, P.C., M.P., Minister of Justice and Attorney General of Canada</p> <p><b>Canada Border Services Agency:</b> Ted Gallivan, Executive Vice-President</p> <p><b>Canadian Security Intelligence Service:</b> David Vigneault, Director</p> <p><b>Public Safety Canada:</b> Rob Stewart, Deputy Minister</p> <p><b>Royal Canadian Mounted Police:</b> Brenda Lucki, Commissioner</p> <p><b>Department of Justice Canada:</b> François Daigle, Deputy Minister of Justice and Deputy Attorney General of Canada Samantha Maislin Dickson, Assistant Deputy Minister, Public Safety, Defence and Immigration Portfolio Jenifer Aitken, Acting Assistant Deputy Minister, Central Agencies Portfolio</p>



Heather Watts, Deputy Director General and General Counsel, Human Rights Law Section

**May 3, 2022**

**Department of Finance Canada:**

Isabelle Jacques, Assistant Deputy Minister

Julien Brazeau, Director General, Financial Crimes and Security Division, Financial Sector Policy Branch

Manuel Dussault, Senior Director, Framework Policy, Financial Institutions Division, Financial Sector Policy Branch

**Financial Transactions and Reports Analysis Centre of Canada:**

Barry MacKillop, Deputy Director, Intelligence

Donna Achimov, Deputy Director, Chief Compliance Officer, Compliance Sector

**May 10, 2022**

**Royal Canadian Mounted Police:**

Brenda Lucki, Commissioner

Michael Duheme, Deputy Commissioner, Federal Policing

Brian Brennan, Deputy Commissioner, Contract and Indigenous Policing

**Canadian Security Intelligence Service:**

David Vigneault, Director

Cherie Henderson, Assistant Director, Requirements

Marie-Hélène Chayer, Executive Director, Integrated Terrorism Assessment

**June 7, 2022**

**Department of Justice Canada:**

François Daigle, Deputy Minister of Justice and Deputy Attorney General of Canada

Samantha Maislin Dickson, Assistant Deputy Minister, Public Safety, Defence and Immigration Portfolio

Jenifer Aitken, Acting Assistant Deputy Minister, Central Agencies Portfolio

Heather Watts, Deputy Director General and General Counsel, Human Rights Law Section



**Department of Public Safety and Emergency Preparedness:**

Rob Stewart, Deputy Minister

Dominic Rochon, Senior Assistant Deputy Minister, National Security and Cyber Security Branch;

Talal Dakalbab, Assistant Deputy Minister, Crime Prevention Branch

**June 14, 2022**

The Honourable Chrystia Freeland, P.C., M.P., Deputy Prime Minister and Minister of Finance

The Honourable Bill Blair, P.C., M.P., Minister of Emergency Preparedness

**Department of Finance Canada:**

Isabelle Jacques, Assistant Deputy Minister, Financial Sector Policy Branch

Jenifer Aitken, Acting Assistant Deputy Minister, Law Branch

Sarah Paquet, Director and Chief Executive Officer, Financial Transactions and Reports Analysis Centre of Canada

**Privy Council Office:**

Jacqueline Bogden, Deputy Secretary to the Cabinet, Emergency Preparedness and COVID Recovery

**June 21, 2022**

***Committee proceedings were interrupted on this date because of technological issues***

**Ontario Provincial Police:**

Thomas Carrique, Commissioner

Chris Harkins, Deputy Commissioner

Carson Pardy, Chief Superintendent