

Invoking the Federal Emergencies Act

* * * * *

The federal [Emergencies Act](#), originally enacted on July 21, 1988, was invoked by Prime Minister Trudeau on February 14, 2022 in response to perceived threats posed by the Trucker Freedom Convoy presence in Ottawa, Ontario as well as several border closures deemed to be a threat to the economy.

The invocation of the Emergencies Act was a profound shock to most of this country, and promptly initiated several formal reviews of its invocation.

This E-brief unravels and documents these various review mechanisms in operation for the past year.

* * * * *

This E-brief has been divided into the following sections –

1. Immediate parliamentary debates in the Canadian House of Commons and Senate
2. Special Joint Committee on the Declaration of Emergency
3. Public Order Emergency Commission review
4. Federal court judicial review (Court hearing, April 2023; judicial ruling, January 23, 2024)

Invoking the Federal Emergencies Act

1) Immediate parliamentary debates in the Canadian House of Commons and Senate

- Debates on Trudeau's emergency declaration took place in the Parliament of Canada and the Senate of Canada – House of Commons – [February 17, 19, 20, and 21, 2022](#) Senate – [February 22 and 23, 2022](#)
- The Senate debates were scheduled to end February 25 with a vote, but ended at 4:24pm February 23 without a vote, shortly after Prime Minister Trudeau revoked the Act.
- In the Senate debates on February 23, see particularly the comments by Senator Donald Neil Plett (Leader of the Opposition). See also many comments by Senator Marc Gold (the Government Representative in the Senate).
- The government's first requirement was to report within 7 sitting days of the emergency declaration being lifted.

2) Special Joint Committee on the Declaration of Emergency

A joint House-Senate committee was established March 2, 2022, to review the use of the Emergencies Act. Its membership – 3 Liberal MPs, 2 Conservative MPs, 1 New Democrat MP, 1 Bloc Quebecois MP, and 4 Senators.

- A first preliminary report was done within days and was essentially administrative in nature, laying out procedures for future reviews.
- The final full review was expected to take months to complete, possibly into the summer or beyond. Much partisan bickering was expected.

Invoking the Federal Emergencies Act

See these [Toronto Star](#) articles by Jacques Gallant – [“House votes in favour of Emergencies Act oversight committee”](#). March 2, 2022.

[“The Emergencies Act was only used for days. Finding out how will take months”](#). March 4, 2022.

The Canadian House of Commons and the Senate eventually formed a [‘Special Joint Committee on the Declaration of Emergency’](#). Its first meeting was held on March 24, 2022. The Joint Chairs were selected on March 14, 2022.

- The House of Commons ‘Standing Committee on Finance’ has also been meeting to discuss [the ‘Invocation of the Emergency Act and Related Measures’](#).
- A more formal second inquiry into the reasons for the emergency declaration was also required that must be called within 60 days. This second inquiry must report within one year. The form of this inquiry – public or secret – is controversial and has not yet been established. This more formal inquiry eventually evolved into the [Public Order Emergency Commission](#).

[“Emergencies Act’s architect fears review of its use will be ‘poisoned with partisanship’](#). Jacques Gallant. The Toronto Star. February 26, 2022.

[The Emergencies Act: Parliament’s Role During a National Emergency](#). Stephanie Feldman. Hill Notes. Canada, Library of Parliament. February 22, 2022.

[Proclamation Revoking the Declaration of a Public Order Emergency: SOR/2022-26](#). Canada Gazette, Part II, Volume 156, Extra Number 2.

Invoking the Federal Emergencies Act

[The clock is ticking on the *Emergencies Act*](#). Vincent Gogolek. Policy Options. March 24, 2022.

[Members of first-ever Emergencies Act review committee get down to work, split on Trudeau's invocation or order as work on witness list begins](#). Mike Lapointe. The Hill Times. March 28, 2022.

[Scrutinizing the emergency response](#). Joanna Harrington. National Magazine, Canadian Bar Association. March 1, 2022.

[Report to the Houses of Parliament: *Emergencies Act* Consultations](#). Public Safety Canada. February 16, 2022.

[New emergency measures: implications for financial service providers](#). Elizabeth Sale, et al. Osler. February 16, 2022.

[Ottawa cites cabinet confidentiality over decision to invoke Emergencies Act, court filing shows](#). Sean Fine. The Globe and Mail. April 23, 2022.

* * * * *

By December 10, 2022, the Parliament of Canada's [Special Joint Committee on the Declaration of Emergency](#) had held 21 meetings to review the federal government's declaration of emergency powers, beginning its meetings March 14, and continuing several times a month throughout the year until December 8, 2022.

- [Meetings](#) (March 14 – December 8, 2022)
click on individual meeting days for specific activities
- [Work and Reports](#)
- [Membership](#)
- [Mandate](#)

[As of March 10, 2023](#), the Special Joint Committee was still posting notice of future meetings (ie March 21, 2023). This Special Joint Committee still appears to be working but is unclear for how long.

Invoking the Federal Emergencies Act

3) Public Order Emergency Commission

The federal government eventually established the [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’.

Appointed Commissioner: Justice Paul Rouleau.

Public Order Emergency Commission (POEC)

- [About the Commission](#) – biography of Commissioner, its Final Report
- [Members](#)
- [Mandate](#)
- [Documents](#) - Order in Council / exhibits, presentations & reports / policy papers / procedural documents, decisions, and legislation
- [Public hearings](#) – webcasts / transcripts of proceedings / witness list

Public hearings

The Commission held 36 days of public hearings, from October 13 – December 2, 2022, in Ottawa, Ontario.

It began its ‘policy phase’ on November 28. consisting of a series of [roundtable discussions](#) to assist the Commissioner on the Commission’s mandate, recommendations, and defining areas for further review or study.

Final Report

On February 17, 2023, Commissioner Rouleau released the [Final Report of the Public Inquiry into the 2022 Public Order Emergency](#).

[News Release: Public Order Emergency Commission Releases Report.](#)
The Commission. February 17, 2023.

Invoking the Federal Emergencies Act

The Final Report consisted of 5 volumes (downloadable as PDF files) –

Volume 1: Executive summary and consolidated list of recommendations

Volume 2: Analysis and review of evidence presented (part 1)

Volume 3: Analysis and review of evidence presented (part 2)

Volume 4: Explanation of the review process and appendixes

Volume 5: text of 17 Policy Papers

Selected **Global News articles**, April 25 – December 1, 2022, on the ‘Emergencies Act Inquiry’

The Emergencies Act required the federal government to call an inquiry into the use of that legislation within 60 days of revoking the declaration. The federal government waited until almost the last moment possible to call such an inquiry.

Ottawa nears deadline to call inquiry into Emergencies Act use over convoy protests. Laura Osman. Global News. April 25, 2022.

The Emergencies Act inquiry was due to begin public hearings on September 19, 2022, but was delayed one month – to October 13 – due to the illness (involving a surgical procedure) of the Inquiry Commissioner, Paul Rouleau.

Emergencies Act inquiry to be delayed until October due to commissioner’s illness. National Post. September 2, 2022.

Ontario Premier Doug Ford and Deputy Premier Sylvia Jones successfully avoided testifying at the Emergencies Act inquiry by claiming immunity because of parliamentary privilege. Because the Ontario Legislative Assembly was in Session during the time period of public hearings held by the inquiry, both Ford and Jones invoked a long-standing and historical parliamentarian protection from scrutiny of the court.

Judge rules Doug Ford immune from testifying at Emergencies Act inquiry. CBC News. November 7, 2022.

Invoking the Federal Emergencies Act

The cost of the Emergencies Act inquiry was estimated to be approximately \$19M. The final cost won't be known until after the inquiry finishes its work, but the federal government has approved \$18.8 million to cover its cost.

[Emergencies Act inquiry price tag estimated at nearly \\$19M.](#) CBC News. Darren Major. November 26, 2022.

[Doug Ford 'abandoned' Ontario's second-largest city, Emergencies Act report finds.](#) Stephanie Levitz. Toronto Star. February 17, 2023.

[Report on use of Emergencies Act is Liberal-biased.](#) Lorne Gunter. Toronto Sun. February 18, 2023.

Invoking the Federal Emergencies Act

4) Federal court judicial review (April 3 – 5, 2023)

As of late February 2023, there have been four legal challenges to the use of the Emergencies Act, arguing that Justin Trudeau's Liberal government broke the law and violated the Canadian Constitution. The charges were expected to be heard by Federal Court justice, [Richard Mosley](#) in Ottawa, early April 2023.

Judge Mosley's judicial review began April 3, 2023. It lasted three days. Judge Mosley's final decision was rendered January 23, 2024.

The four challenges have been launched by –

1. [The Canadian Constitution Foundation](#)
2. [Charter Advocates Canada](#)
3. [Canadian Civil Liberties Association](#)
4. [Canadian Frontline Nurses](#)

[CCF disappointed in Public Order Emergency Commission report, looks forward to Federal Court hearing.](#) Canadian Constitution Foundation. February 17, 2023.

[Justice Rouleau's deferential report is not the final word on the Emergencies Act.](#) Joanna Barton. The Hub. February 21, 2023.

[This top court could find Justin Trudeau broke the law when he used the Emergencies Act.](#) Alex Ballingall. Toronto Star. February 22, 2023.

[Legal tussling over the Emergencies Act is far from over.](#) Paul Daly. Policy Options. May 31, 2023.

[Judicial review a 'test case' to build framework to review future use of emergency powers: lawyer.](#) Aidan Macnab. Canadian Lawyer. August 23, 2022.

[CCF announces legal challenge to Trudeau's invocation of federal Emergencies Act.](#) Canadian Constitution Foundation.

Invoking the Federal Emergencies Act

February 17, 2022. [Update in CCF legal challenge to access Emergencies Act evidence from government – “just trust us” isn’t good enough](#). Canadian Constitution Foundation. August 29, 2022.

* * * * *

On January 23, 2024, Federal Court Justice Richard Mosley ruled that invoking the federal Emergencies Act during the so-called ‘Freedom Convoy’ was ‘unreasonable’ and outside the scope of the law. This ruling followed Judge Mosley’s court hearings covering a 3-day period beginning April 3, 2023.

For the text of the 190-page Federal Court ruling, [click here ...](#)

For a summary news bulletin from the Federal Court, [click here ...](#)

* * * * *

Federal Court finds Emergencies Act for ‘Freedom Convoy’ violated Charter. Touria Izri, et al. Global News. January 23, 2024.

Invocation of Emergencies Act unreasonable, measures against Freedom Convoy unconstitutional: Court. Aidan Macnab. Canadian Lawyer. January 23, 2024.

In case of emergency, do not break law. Editorial Board. The Globe and Mail. January 24, 2024.

Judge Says Feds Shouldn't Have Used Emergencies Act - What Now? Tara MacIsaac. The EPOCH Times. Updated January 24, 2024.

Emergencies Act: Finally, a Canadian Court Rules Against Government. John Carpay. The EPOCH Times. Updated January 24, 2024.

Invoking the Federal Emergencies Act

[Does anyone really know how or when the Emergencies Act can be used?](#) Matt Gurney. TVO Today. January 24, 2024.

[Ontario deputy premier defends feds over Emergencies Act ruling.](#) Isaac Callan and Colin D'Mello. Global News. January 24, 2024.

[If Canada's Top Court Overrules Latest Emergency Act Decision, Confidence in the Judiciary Will Be Diminished.](#) Peter Menzies. The EPOCH Times. January 25, 2024.

[There Must Be Some Redress for the Emergencies Act Mistake.](#) Anthony Furey. The EPOCH Times. January 25, 2024.

[Federal Court Judge Pulls Canada Back from the Brink.](#) Bruce Pardy. Brownstone Institute. January 25, 2024.

[ANALYSIS: How the Federal Court Decision on the Emergencies Act Differs From Public Order Commissioner's Finding.](#) Matthew Horwood. The EPOCH Times. Updated January 26, 2024.

[Federal Court finds *Emergencies Act* orders exceed government's powers.](#) Kylie de Chastelain, et al. Torys. January 26, 2024.

[Canadian Truckers Score Big Victory Over Trudeau in Federal Court.](#) Michael Nevradakis. Global Research. January 28, 2024.

[Watch: The Un-Constitutionality of Emergencies Act.](#) Canadian Patriot Podcast with Randy Hillier. BitChute. January 30, 2024.

[State of the Nations: Is there room for political compromise in Canada? Even on this, Canadians are evenly split.](#) Angus Reid Institute. January 30, 2024.

[Podcast: The Federal Court's Rebuke.](#) Interview with Canadian Constitutional law expert, Ryan Alford. Tara Henley. Substack. January 31, 2024.

Invoking the Federal Emergencies Act

[Federal Court Rules that the Government's Invocation of the Emergencies Act on February 14, 2022, Was Unreasonable and not Justified.](#) Myrna El Fakhry Tuttle. Alberta Civil Liberties Research Centre. February 1, 2024.

* * * * *

Deputy Prime Minister Chrystia Freeland indicated Ottawa will appeal the ruling.

[No response from Ottawa as deadline set by Emergencies Act commission passes.](#) Laura Osman. CBC News. February 18, 2024.

[The only clear lesson of the Emergencies Act mess? Reform is needed.](#) Michael Kempa. The Hub. February 22, 2024.

[Ottawa Appeals Court Decision Finding Its Use of Emergencies Act Was Unreasonable.](#) Canadian Press. The EPOCH Times. February 23, 2024.

[Ottawa appeals court decision calling use of Emergencies Act on convoy protests unreasonable.](#) CBC Lite. February 23, 2024.