
In accordance with this Act, a declared state of emergency allows the government to exercise extraordinary powers that lets it suspend rights during the time of the crisis/emergency. These powers may include controlling movement (directing where you can or cannot go), forcing people to evacuate an area, closing down public or private places, the seizure of property and the power to search properties without a warrant.

At the Black Legal Action Centre (BLAC), we are concerned about the new Emergency Order in Council, which allows officers to demand your identifying information (name, address, date of birth) if they have reasonable and probable grounds to believe that you have violated one of the emergency orders. BLAC and others[2] are concerned about the potential for these emergency measures to be used to perpetuate the legacy of racial profiling and harassment of the Black community in this province. We are concerned about the retention of this data post-crisis and how it may be used to further criminalize our community. In light of these concerns, we have created this resource to assist our community during this time.[3]

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**The information below does not constitute legal advice**

If you require legal advice and you believe you are being discriminated against because you are Black, please contact BLAC at 1-877-736-9406 (toll-free), at 416-597-5831 or on our TTY Line (through Bell’s Relay Service): 1-800-855-0511. You may also contact Legal Aid Ontario at 1-800-668-8258 (toll free) or at 416-979-1446.

[3] Information in this resource has been sourced from the following organizations: Steps to Justice and the Canadian Civil Liberties Association.
ORDERS

So far, the Ontario Government passed the following orders:

- Closure of all businesses and services with exception to essential ones such as grocery stores, gas stations, and pharmacies. Read the list of essential workplaces in response to COVID-19 here.

- **Closure** of all outdoor amenities (e.g. playgrounds, condo parks and gardens, and provincial parks). You can still walk through parks, trails and recreational areas that are not otherwise closed, but you can’t use structures such as benches and tables.

- Banning social gatherings of more than five (5) people. This applies to an event or gathering even if it is held at a private dwelling. The only exceptions are:
  1. A gathering of members of a single household; and
  2. A gathering for the purposes of a funeral service that is attended by not more than 10 persons.

If you are caught breaking these emergency orders, the police can charge you with one or more offences. The charges will be laid under the **Provincial Offences Act** [4]. The minimum punishment for each offence is a fine of $750.00. You can be fined $1,000.00 if you try to stop the officer from giving you or someone else a ticket. The maximum punishment for each offence is one year in jail, or a fine of up to $100,000.00. If you continue to break the rules, you can be charged with a separate offence for each day that you do not follow the rules.

In addition to police officers, powers have been granted to various provincial offences officers to enforce orders under the law.

In Ontario, a state of emergency must end 14 days after it comes into effect. Once in place, it may be extended *once* by cabinet for another 14 days. The legislature can then extend the state of emergency for another 28 days. The current state of emergency will remain in place until at least April 14, 2020. It is important to know that this timeline may change.

OTHER MUNICIPAL BY-LAWS

In addition to the declared state of emergency at the provincial level, there are local by-laws at the municipal level. For instance, the City of Brampton enacted a by-law to enforce physical distancing to contain the spread of COVID-19. Individuals not adhering to a physical distance of two (2) metres between them, on any public property (unless they live together), can be fined a minimum of $500.00 and maximum of up to $100,000.00 for each offence.

Toronto also enacted a physical distancing by-law, and it is in effect for at least 30 days. According to this by-law, any two (2) people who don’t live together, who fail to keep two (2) metres of distance between them in a park or public square, can receive a $1,000.00 ticket – the maximum set fine available. Officers can issue tickets with higher fines that, on conviction in court, may be as high at $5,000.00.
**IMPORTANT QUESTIONS**

_What if an officer approaches me in a park or a public square for breaking an emergency rule?_

You may ask the officer to verify the offence that you are being charged with. If the offence you are charged with is NOT related to the COVID-19 emergency rules, you don’t have to stop and answer the officer’s questions, unless they have arrested you or detained you. Even then, you have a right to remain silent, a right to be told what is happening, and a right to speak to a lawyer.[5]

_What if an officer asks me to identify myself? Are there any consequences for refusing to do so?_

You should be cooperative. The emergency rules require any person charged with violating an emergency order to identify themselves (name, date of birth, address) to officers [6].

If the officer has reasonable and probable grounds to believe you have committed an offence under the emergency rules (e.g. because you are playing in a park) and you refuse to identify yourself or lie, you may be fined $750.00 or $1,000.00 for obstruction of justice.

_Can I be charged with more than one offence?_

If you’re caught breaking the emergency rules, the police can charge you with one or more offences under the *Provincial Offences Act*. For example, you can be charged for not identifying yourself and for not following an emergency order.

_Where do I challenge the fine/charge against me?_

If you identify as Black or African-Canadian, please contact BLAC if you’ve received a fine/charge under the emergency order. Your provincial offence court hearing will take place at the Ontario Court of Justice after the state of emergency ends. If you’re found guilty, a Justice of the Peace will decide your sentence.[7]

_Do this offence show up on my criminal record?_

Although provincial offences may not show up on your criminal record, the penalties could be substantial, including imprisonment.

[5] Steps to Justice
[6] As defined under the *Provincial Offences Act*
[7] Steps to Justice
The Black Legal Action Centre (BLAC) is a not-for-profit corporation incorporated under the laws of Ontario. BLAC was created to combat individual and systemic anti-Black racism by providing legal services to low and no income Ontarians that identify as Black or African Canadian. BLAC’s service areas include housing, income maintenance, social assistance, human rights, police complaints, employment and education. BLAC also engages in test case litigation, law reform and community development. We deliver summary legal advice, brief services, and public legal education.

ALWAYS REMEMBER

- If you are detained or arrested by the police, they must inform you that you can speak with a lawyer and must provide you with an opportunity to do so.

- If you do not have a lawyer, the police are obligated to tell you that free legal advice is available through legal aid and must give you the phone number to reach a legal aid lawyer.

- It may be a good idea to not answer questions from the police until you have spoken with a lawyer.

- Anything you say to the police can be used as evidence in court.

- In most cases, the police can only search you if you have been placed under arrest or if you have consented to the search. However, there are exceptions to this.

- If you believe that you have been wrongly searched, tell the police that you object to the search, and speak to a lawyer afterwards about your concerns.