

Ministry of the Solicitor GeneralPublic Safety Division
Public Safety Training Division25 Grosvenor St.
12th Floor
Toronto ON M7A 2H3Telephone: (416) 314-3377
Facsimile: (416) 314-4037**Ministère du Solliciteur général**Division de la sécurité publique
Division de la formation en matière
de sécurité publique25 rue Grosvenor
12^e étage
Toronto ON M7A 2H3Téléphone: (416) 314-3377
Télécopieur: (416) 314-4037

MEMORANDUM TO: All Chiefs of Police and
Commissioner Thomas Carrique
Chairs, Police Services Boards

FROM: Richard Stubbings
Assistant Deputy Minister
Public Safety Division and Public Safety Training Division

SUBJECT: **O. Reg. 98/20: Emergency Order on Price Gouging and
Referrals to Police Services**

DATE OF ISSUE:	April 19, 2020
CLASSIFICATION:	For Action
RETENTION:	Indefinite
INDEX NO.:	20-0055
PRIORITY:	High

As part of the effort to stop the spread of COVID-19, the government has made an emergency order ([O. Reg. 98/20](#)) under the *Emergency Management and Civil Protection Act* (EMCPA) to address price gouging. The order prohibits retailers and individuals from raising prices significantly on the necessary goods Ontarians need to protect themselves and their families from COVID-19.

The emergency order is now in force and applies to individuals who own or operate retail businesses and who are charging unconscionable prices for necessary goods. The emergency order also applies to any individual who did not ordinarily deal in selling necessary goods before the declaration of the provincial emergency came into effect on March 17, 2020. The emergency order does not apply to sales or offers to sell that are made by a manufacturer, distributor or wholesaler.

Breaches of this emergency order can only be enforced in relation to conduct that occurred on or after the date on which it came into effect (i.e., March 27, 2020).

Necessary goods covered under the emergency order include:

- Masks and gloves used as personal protective equipment in relation to infections;
- Non-prescription medications for the treatment of the symptoms of COVID-19, as those symptoms are described by Public Health Ontario;
- Disinfecting agents intended for cleaning and disinfecting objects or humans; and
- Personal hygiene products, including soap products and paper products.

Establishing Evidence of Price Gouging

The emergency order states that no person shall sell or offer to sell necessary goods at an “unconscionable price”. An “unconscionable price” includes the sale of necessary goods at a price that grossly exceeds the price at which similar goods are available to like consumers.

Proof that the price grossly exceeds the price at which similar goods are available to like consumers will require evidence of:

- a) the pricing and availability of similar products at brick and mortar stores in the same geographical area, and/or
- b) the pricing and availability of similar products online.

Please note that individuals can either be issued a ticket under Part I or an information can be laid under Part III of the *Provincial Offences Act* (POA) whereas a corporation can only be prosecuted under Part III of the POA. If the accused is a corporation then the articles of incorporation should be obtained. In either case, the investigator should ascertain who was responsible for setting the price.

Investigators should be mindful of innocent explanations for an increase in pricing, including higher costs paid by the retailer to purchase the goods at wholesale or to operate the business (e.g., labour and overhead expenses). It will also be helpful to seize business records establishing the retailer’s costs and prices before and after the declaration of the provincial emergency. Business records and other documents that may engage a privacy interest should be seized by means of a POA warrant.

If your police service requires legal advice as to what constitutes an “unconscionable price” or other assistance on evidentiary issues arising in individual cases, you may contact your local Crown Attorney’s office.

Referral to Police Services for Investigation and Enforcement

All complaints received from members of the public through the government's [online portal](#) will be reviewed by the Ministry of Government and Consumer Services (MGCS) and assessed against screening criteria. Based on the severity of the alleged contravention, MGCS, in consultation with the Ministry of the Solicitor General, will commence proportionate actions, including referral to the local police service for further investigation and enforcement as appropriate.

Once referrals are made, Chiefs of Police should commence the appropriate investigations into those accused of "unconscionable price" gouging and take any appropriate enforcement actions authorized under the EMCPA.

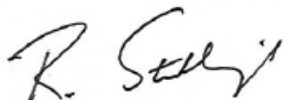
When your police service receives complaints directly from members of the public, please ensure that your organization follows up on those complaints and conducts any appropriate investigations and/or enforcement actions.

To ensure referrals that are made to your police service are streamlined and tracked, please identify a lead investigator for your police service in relation to "unconscionable price gouging". Once you have identified the lead investigator, please send their contact information (i.e., first name, surname, phone number and email address) to Rosa Taddeo at Rosa.Taddeo@ontario.ca by **April 21 at 12:00pm EST**.

Rosa will send any referrals to the identified lead investigator. Your police service can triage appropriately thereafter in accordance with your organization's response protocols and prioritization level. In addition, your police service may choose to triage some of the referrals from the ministry to by-law enforcement officers, where appropriate. You may wish to refer to the attached Q&A package for further information.

Thank you for your continued assistance.

Sincerely,



Richard Stubbings
Assistant Deputy Minister
Public Safety Division and Public Safety Training Division

Attachment