

# Questions and Answers – Prohibition on Price-Gouging of Necessary Goods

## **GENERAL QUESTIONS**

### **1. Who should policing personnel contact for urgent matters?**

During the declaration of provincial emergency, if circumstances arise where a case of price gauging requires urgent attention, the prosecutor may work with the criminal court trial coordinator to bring the matter to the local administrative judge or regional senior judge for direction and potential scheduling.

### **2. Who should I call with questions?**

Call your local Crown attorney's office for specific questions dealing with the prohibition against price gouging.

## **ABOUT UNCONSCIONABLE PRICE GOUGING**

### **3. What is the prohibition against price gouging?**

The prohibition is a regulatory offence that prohibits people from selling or offering to sell necessary goods at an unconscionable price. The offence occurs each day that the price is unconscionable.

### **4. What is an “unconscionable price”?**

“Unconscionable price” includes a price that grossly exceeds the price at which similar goods are available to like consumers.

### **5. When did the prohibition take effect?**

The prohibition took effect on March 27, 2020. Only sales or offers to sell after March 27, 2020 are covered by the prohibition.

### **6. How long will the prohibition continue?**

The prohibition can be renewed in periods of up to 14 days during the state of emergency. Checking [here](#) will provide the updated extension dates.

### **7. Can it continue beyond the state of emergency?**

Yes. The Ontario government can extend the prohibition after the end of the state of emergency in blocks of up to 14 days at a time, where the prohibition is necessary to deal with the effects of the emergency.

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## 8. To whom does the prohibition apply?

The prohibition applies to:

- i. persons who own or operate a retail business; and
- ii. persons who did not ordinarily deal in “necessary goods” before March 17, 2020

Note that “persons” includes not just individuals but also other entities and corporations.

The prohibition does **not** apply to manufacturers, distributors or wholesalers.

## 9. What does “necessary goods” include?

The prohibition defines “necessary goods” as “includ[ing]”:

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

Investigators considering a charge involving “necessary goods” other than those listed above should call their local Crown Attorney’s office for advice.

## **ENFORCEMENT**

### 10. How is the prohibition enforced?

The prohibition is governed by the *Provincial Offences Act* (“POA”) and enforced via Part I Certificates of Offences (i.e. tickets) or Part III Informations.

The limitation periods that normally apply under the POA (whether Part I, II or III), including the six month limitation period set out in s.76 of the POA, have been suspended pursuant to [O. Reg. 73/20](#) made under ss. 7.1(2) of the EMCPA. The suspension is retroactive to Monday, March 16, 2020.

Additionally, the OCJ is no longer scheduling justices of the peace in POA courts to receive information or review certificates of offence.

Proceedings may be initiated once the declaration of provincial emergency is lifted by the provincial government. However, if circumstances arise where a case of price gauging requires urgent attention during the state of emergency, the prosecutor may work with the criminal court trial coordinator to bring the matter to the Local

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Administrative Judge or Regional Senior Judge for direction and potential scheduling.

Once the declaration of provincial emergency is over, and normal court operations resume, these matters will be scheduled and heard in the POA courts in the ordinary course.

## **11. What evidence will I need?**

Evidence of this offence may take many forms including personal observations, witness statements, business records and other documentary evidence. The evidence should establish both the profit margin to the offender and the price of similar goods available to consumers in the community.

## **12. How do I seize business records and other documents?**

Business records and other documents that may engage a privacy interest should be seized by means of a POA warrant.

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## 13. Who will prosecute EMCPA price gouging offences?

To be consistent with current POA prosecution responsibilities, prosecution responsibility is clarified in the following chart:

	Charges Laid under Part I of the POA	Charges Laid under Part III of the POA
Type of Provincial Offences Officers	Prosecution Falls To	Prosecution Falls To
Police officers and First Nations constables	Municipalities pursuant to the transfer agreement with MAG	Ministry of the Attorney General (MAG), Criminal Law Division (CLD)
Police service employed special constables	Municipalities pursuant to the transfer agreement with MAG	MAG, CLD
Non-police service employed (special constables) who are employed by the Government of Ontario or its agencies	Individual organizations have their own in-house prosecution service or other arrangement  Exception: Niagara Parks Commission charges are prosecuted by municipalities pursuant to the transfer agreement with MAG	Individual organizations have their own in-house prosecution service or other arrangement.  Exception: Niagara Parks Commission charges are prosecuted by MAG, CLD
Non-police service employed special constables who are <u>not</u> employed by the Government of Ontario or its agencies	Municipalities	Municipalities
Municipal law enforcement officers	Municipalities	Municipalities
By-law enforcement officers	Municipalities	Municipalities
Officers, employees or agents of any municipality/local board	Municipalities	Municipalities
Other Provincial Offences Officers employed by ministries of the Government of Ontario	MAG, Civil Law Division	MAG, Civil Law Division