

# Changes to the War Measures Act



## Background Briefs

Historic injustices and redress in Canada

The *War Measures Act*, passed in 1914, has been amended a number of times, during times of war as well as peace. Following its use in the October Crisis of 1970, there was much criticism that the act granted too much power to the government. In 1988, the *War Measures Act* was replaced with a new law known as the *Emergencies Act*.

### The *Emergencies Act*, 1988

The *Emergencies Act* retains many of the provisions in the *War Measures Act* to enable the government to act to maintain public order and national security in times of crisis, emergency or war. The main changes are added checks on government power. The *Emergencies Act* includes protections to prevent or limit overreaching government actions during war, emergency or internal crisis.

- All orders and regulations are subject to Parliamentary review. This means that Cabinet must seek the approval of Parliament and cannot act alone.
- Individuals who are negatively affected by the government during times of emergency may seek compensation.
- The government's actions are subject to the *Charter of Rights and Freedoms*. This provision acknowledges that rights and freedoms can be limited subject to Section 1, Reasonable Limits.

### The *Anti-Terrorism Act*, 2001 and *Combatting Terrorism Act*, 2013

In 2001, following the September 11th attacks on the World Trade Center, the government of Canada passed a new anti-terrorism law designed to increase national security. Various

provisions of this law lapsed (were cancelled) in 2007, in what are known as “sunset clauses.” The *Combatting Terrorism Act* of 2013 renewed many of these provisions. This *act* grants law enforcement agencies the following powers:

- detention of terror suspects for three days without charge;
- preventative detention of someone suspected of committing a terror crime in the future;
- hold secret hearings (non public) for terror suspects;
- arrest of someone trying to leave the country for suspected reasons of terrorist activities;
- require individuals with knowledge of terror activities to disclose information or face prison if they do not;
- stiff penalties for harbouring, financing or training terrorists.

The above legislation can be amended or repealed by the government at any time. In any future crisis, war or emergency, the government has the power to introduce new legislation that could limit rights and freedoms; however, the *Charter of Rights and Freedoms* remains entrenched in the Constitution.