

IFRC Review of Emergency Decrees: ANTIGUA AND BARBUDA

Overview

Covid-19 was declared to be a dangerous infectious disease under the Antigua and Barbuda Public Health Act (Cap 353)¹ on 20 March 2020. A proclamation of a state of public emergency was made by the Governor General under section 20(1) of the Antigua and Barbuda Constitution Order 1981² on 25 March 2020.³ It was approved by the House of Representatives and Senate on 31 March 2020 and remains in force for 60 days unless revoked sooner.⁴

Accompanying the declaration of the state of emergency were the Public Health Act (Dangerous Infectious Diseases) Regulations 2020 ('the Public Health Regulations'), which have been subsequently amended or modified a number of times,⁵ and the Quarantine Act (Coronavirus (COVID-19) Diseases) Order 2020 ('Quarantine Order').⁶

The Quarantine Order enables the Quarantine Authority to take special measures for the purpose of preventing the spread of infection including (a) quarantining crew and passengers of arriving ships and aircraft where an infection has or is suspected of having occurred onboard and (b) quarantining a person arriving in Antigua and Barbuda who is confirmed as having been infected, together with the crew, passengers on board the aircraft or ships and any person having contact. The period of quarantine is 14 days.⁷

The Public Health Regulations confine every person to their residence and impose a 24-hour curfew except for medical emergency and physical exercise. All businesses are closed except for businesses specified in the Regulations, some of which may open for specified hours and all of which must observe social distancing protocols. All religious and educational institutions are closed and there are restrictions on social gathering. The original curfew was

¹ Public Health Act (Cap 353) http://www.vertic.org/media/National%20Legislation/Antigua_and_Barbuda/AG_Public_Health_Act.pdf

² <https://www.legislation.gov.uk/ukxi/1981/1106/contents/made>

³ See Media Statement on the declaration of a state of emergency:

https://ab.gov.ag/pdf/covid_news/mar_27_2020_State_of_Emergency_in_Antigua_and_Barbuda.pdf

⁴ <http://gazette.laws.gov.ag/wp-content/uploads/2020/04/No.-19-Extraordinary-Gazette-Wednesday-1st-April-2020-2.pdf>

⁵ <http://gazette.laws.gov.ag/wp-content/uploads/2020/04/No.-19-Extraordinary-Gazette-Wednesday-1st-April-2020-2.pdf>; <http://gazette.laws.gov.ag/wp-content/uploads/2020/04/No.-21-Extraordinary-Gazette-Tuesday-7th-April-2020.pdf>; <http://gazette.laws.gov.ag/wp-content/uploads/2020/04/No.-23-Extraordinary-Gazette-dated-Thursday-9th-April-2020.pdf>; <http://gazette.laws.gov.ag/wp-content/uploads/2020/04/No.-24-Extraordinary-Gazette-dated-15th-April-2020.pdf>

⁶ https://ab.gov.ag/pdf/covid_news/Sl_No_17.pdf

⁷ Quarantine Order, art 3.

declared until 11 April, but that now appears to have been extended until 22 April,⁸ with the potential for further extension.

Guidelines on the Curfew imposed under the State of Emergency were published on 29 March.⁹

The Public Health Regulations are made under the Public Health Act.¹⁰ Where a declaration of a dangerous infectious disease has been made, there is power to provide reception and isolation hospitals, and spend such money and do such things as the Cabinet deem necessary¹¹ and to make wide ranging regulations.¹² There are a number of ancillary prohibitions and restrictions including the compulsory reporting by medical practitioners of COVID-19 cases and a prohibition on infected persons carrying on certain occupations.¹³

An Emergency Powers (Dangerous Infectious Disease) Bill 2020 was mentioned in the Government Gazette of 30 March as having been introduced in Parliament but a copy cannot be accessed, and it is not therefore clear if this has been progressed or what it contains.

There is a general Disaster Management Act 2002 ('DMA') which makes provision for national disaster preparedness and response.¹⁴ As a state of emergency has been declared under s 20 of the Constitution the provisions of this Act which extend to disaster emergencies should be applicable.

Antigua and Barbuda is a member of the Caribbean Disaster Emergency Management Agency ('CDEMA') and the Caribbean Public Health Agency ('CARPHA').

1. Is there coordination between state and non-state actors, e.g. through a national emergency response mechanism?

There is no reference to coordination in the emergency measures.

Instead, it is assumed that reliance will be placed on the arrangements under the standing Disaster Management Act. This establishes a National Disaster Preparedness and Response Advisory Committee (NDPRAC) to manage a Disaster Response Policy and a National Disaster Response Plan and appoints a Director of Disaster Preparedness and Response

⁸

https://ab.gov.ag/pdf/covid_news/Essential_Services_Statement_April_16_2020_24_Hrs_Lockdown_Continues.pdf

⁹ https://ab.gov.ag/pdf/covid_news/mar_29_2020_state_of_emergency.pdf

¹⁰ http://www.vertic.org/media/National%20Legislation/Antigua_and_Barbuda/AG_Public_Health_Act.pdf

¹¹ Public Health Act, s. 101.

¹² Public Health Act, s. 102.

¹³ Public Health Act, s. 108.

¹⁴ <http://www.oas.org/dsd/EnvironmentLaw/CaribbeanLegislationProject/Disaster%26StateEmergency/Ant%26Bar/Disaster%20Management%20Act.pdf>

responsible for coordinating the general policy relating to the mitigation of, preparedness for, response to and recovery from emergencies and disasters. NDPAC is a multi-sectoral committee chaired by the Prime Minister that includes (a) a number of Ministries, including the Ministry for Public Health, and (b) other persons or organisations, including non-governmental organizations who volunteer or who are required by law to perform functions related to the mitigation of, preparedness for, response to and recovery from emergencies and disasters.¹⁵

District Disaster Committees have been established in each of the seventeen political constituencies as volunteer arms of the national emergency organization and are responsible for coordination of community resources to meet the challenges of disaster management.¹⁶ A number of civil society agencies provide support for the disaster risk reduction strategies, including the Antigua and Barbuda Red Cross.¹⁷

There will also be regional cooperation and coordination through CDEMA and CARPHA.

According to the Country Document there is a National Comprehensive Disaster Management, although that could not be found on the government websites. This, again according to the Country Document, defines the role of the private sector and civil society.

2. Is there mention of the role of Red Cross (RC) or humanitarian actors? In what areas/sectors? What responsibilities are ascribed to RC?

There is no explicit mention in the emergency measures. There are apparently roles for NGOs under the DMA and standing arrangements (see above).

3. Are there exceptions to travel restrictions that will facilitate the movement of RC/humanitarian relief teams and/or aid across borders? What (if any) quarantine requirements or other conditions are attached?

No express exceptions appear to have been made. The Quarantine Order provides for the quarantining of (a) crew and passengers of arriving ships and aircraft where an infection has or is suspected as having occurred onboard and (b) a person arriving in Antigua and Barbuda who is confirmed as having been infected, together with the crew and passengers of the aircraft or ship on which they arrived any person with whom they had contact. The quarantine period is 14 days.

There are no exceptions and refusal to comply is a criminal offence.

¹⁵ DMA. S. 6

¹⁶ See National Office of Disaster Services, Country Document for Disaster Risk Reduction: Antigua and Barbuda 2016 ('Country Document')
https://reliefweb.int/sites/reliefweb.int/files/resources/54920_annex04drrcdantiguaandbarbuda.pdf

¹⁷ Country Document.

However, the Quarantine Order gives the Quarantine Authority a discretion to quarantine individuals, so, in principle, an exception could be made, even if not expressly contained in the Order.

4. Are there exceptions to quarantines, curfews and other restrictions on movement that allow RC/humanitarian organizations access to vulnerable populations (including for psychosocial or non-medical aid)?

Potentially yes. Again, although there is no express exception for RC or humanitarian organisations, the curfew does not apply to persons who are employees or officers of emergency medical services and healthcare workers and employees of allied health care services.¹⁸

It should be noted that any person leaving their residence (including while travelling in a motor vehicle) must wear a face mask.¹⁹

5. Have any special legal facilities or exemptions been put in place for the importation of medical aid or other relief items or personnel (International Disaster Response Law)? What (if any) quarantine requirements or other conditions are attached?

No provision of this nature appears to have been made yet. Reliance appears to still be placed on pre-existing measures and arrangements which appear to be principally contained in the Customs (Control and Management) Act.²⁰ The Act does not contain any specific provision for the importation of medical aid.

6. Is the RC (or humanitarian organizations) categorized as 'essential' or 'emergency' services, for the purposes of exemptions to restrictions on business operations and opening hours?

Not expressly. However, the list of businesses that may remain open include doctors and dentists, clinics, pharmacies, provision of health care services and residential care services, residential or elderly care facilities and establishments, whether provided in a private or public capacity.²¹

In addition, 'wholesale or retail grocery stores, supermarkets or 'community shops' [although community shops are not defined] are permitted to open during the curfew between 7 am and 12 noon.²²

¹⁸ Public Health Regulations, reg 5A.4.

¹⁹ Public Health Regulations, reg 5A.7.

²⁰ [https://customs.gov.ag/resources/pdf/The_Customs_\(Control%20and%20Management\)_Act_No_3_of_2013.pdf](https://customs.gov.ag/resources/pdf/The_Customs_(Control%20and%20Management)_Act_No_3_of_2013.pdf)

²¹ Public Health Regulations, reg 5A.4(2).

²² Public Health Regulations, reg 5A.4(3).

7. What other measures are provided in the emergency decrees? (for governmental actors, for communities, for health workers, etc).

The measures in force are outlined above.

8. Have restrictions been adopted or put in place that ban the export of protective medical equipment?

No provision of this nature appears to have been made yet. Reliance seems to be placed on the pre-existing arrangements which appear to be principally under the Customs (Control and Management) Act.²³ The Act does not contain any specific prohibition on exportation of PPE although there is power for the Minister to add specific items to the list of prohibited exports by order.²⁴

**Simon Whitbourn
Knightwood Legal**

20 April 2020

²³ [https://customs.gov.ag/resources/pdf/The Customs \(Control%20and%20Management\) Act No 3 of 2013.pdf](https://customs.gov.ag/resources/pdf/The_Customs_(Control%20and%20Management)_Act_No_3_of_2013.pdf)

²⁴ Customs (Control and Management) Act, s 92.