



Prepared by: **WHITE & CASE**

IFRC Review of Emergency Decrees: Barbados

Overview

The Barbados Department of Emergency Management, in association with the European Civil Protection and Humanitarian Aid Operations (ECHO) and The United Nations Office for Disaster Risk Reduction (UNISDR) completed a comprehensive *Country Document for Disaster Risk Reduction* for Barbados in December 2014. This included a review of the legal, normative and institutional framework of the country. In the review, it was found, *inter alia*, that:

[Barbado's] Emergency Management Act is sound with respect to its coverage of disaster response, duties and powers of the DEM [Disaster Emergency Management] Director and disaster management personnel, and provisions relating to vulnerable areas and public participation. However, the Act does not yet have Regulations, which would among others clarify and govern the roles and responsibilities of the actors in the DRR [Disaster Risk Reduction] system. A review of the legislation was conducted and recommendations for updating the Act were submitted to the EMAC [Emergency Management Advisory Council] in March 2014, which are under review.¹

Barbados is a Member State of the Caribbean Disaster Emergency Management Agency (CDEMA) and provides regular updates on the country's Covid-19 response at: <https://www.cdema.org/>.

Barbados reported its first two cases of Covid-19 on 17 March.² As at 2 June, the Government Information Service reported that Barbados had dealt with a total of 92 cases of Covid-19 and that 7 deaths had been attributed to the disease. On 1 June no new cases were reported.³

On 22 March, all those entering Barbados from the US, UK and Continental Europe were ordered to undergo a mandatory 14-day quarantine and cruise ship crews were no longer authorised shore leave.⁴ Although the Grantley Adams International Airport initially remained open, in mid-March, commercial air carriers drastically cut back their scheduled flights.⁵ At the time of writing, all those entering Barbados (from any country) must undergo a mandatory 14-day quarantine period and the airport is closed to commercial air travel through 30 June.⁶

¹ Country Document for Disaster Risk Reduction: Barbados, 2014 <http://dipecholac.net/docs/files/784-documento-pais-barbados-web.pdf> p 48-49.

² <https://barbadostoday.bb/2020/03/17/barbados-records-first-two-cases-of-covid-19-2/>

³ <https://gisbarbados.gov.bb/blog/covid-19-update-no-new-positives-in-28-tests/>

⁴ <https://www.loopnewsbarbados.com/content/visitors-uk-europe-and-us-undergo-quarantine>

⁵ <https://gisbarbados.gov.bb/blog/borders-remain-open-commercial-flights-cease/>

⁶ <https://www.gov.uk/foreign-travel-advice/barbados/return-to-the-uk> (accessed 1 June 2020).

On 23 March, Parliament passed an act to amend the Emergency Management Act, Cap 160A in order to make provision for the declaration and management of a public health emergency.⁷

On 28 March, the Governor-General declared a public health emergency and the Cabinet issued the Emergency Management (Covid-19) Order 2020. The Governor-General's declaration and the Cabinet's order were issued in accordance with the Emergency Management Act (as amended).

The Emergency Management (Covid-19) Order 2020 sets out the general legal framework for the government's response to Covid-19 and includes, *inter alia*, provisions for screenings, quarantines, imposed physical distancing, requisitions, and curfews.⁸ Several directives have since been issued which provide more detailed instructions on the implementation of the Order. The first of these, the Emergency Management (Covid-19) Curfew Directive⁹ put into place restrictions on movement and business operations. Like similar measures adopted in other countries, non-essential services were ordered to close and essential services were subject to restrictions on opening hours. Physical distancing rules were introduced in those shops which remained open and a general stay-at-home order was instituted.

The Curfew Directive has since been updated five times and the most current version at the time of writing is the Emergency Management (Covid-19) Curfew (No. 6) Directive.¹⁰ This Directive will expire on 14 June.

Tourism accounts for 40% of economic activity in Barbados, so the collapse in this sector has led to furloughs and is expected to significantly depress economic activity in 2020. As of writing, most businesses are beginning to re-open subject to physical distancing requirements. Even so, given magnitude of the economic impact of Covid-19, the government is responding with a number of fiscal measures designed to mitigate the economic fallout of the virus. This includes undertaking new infrastructure projects to boost employment and making changes to the country's benefits and tax systems to shore up household finances. Loans are being offered to provide capital to specified businesses in the tourism industry.¹¹

In addition, the Central Bank of Barbados has announced several monetary measures to help with the economic shock and it is supporting commercial banks to provide a 6-month debt-payment moratorium for individuals and businesses directly impacted by Covid-19.¹²

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

At the country level

⁷ Emergency Management (Amendment) Act, 2020.

https://www.barbadosparliament.com/uploads/bill_resolution/d9099a83cfa18d0598d3372b4c3e8009.pdf

⁸ <https://gisbarbados.gov.bb/download/official-gazette-march-28-2020-part-a-package/>

⁹ *ibid*

¹⁰ <https://gisbarbados.gov.bb/download/official-gazette-may-30-2020-part-a-no-56-package/>

¹¹ <https://www.imf.org/en/Topics/imf-and-covid19/Policy-Responses-to-COVID-19#B> (Accessed 2 June 2020)

¹² *ibid*

There is no specific mention of coordination between state and non-state actors in the Emergency Management (Covid 19) Order, 2020¹³ or in the Emergency Management (Covid-19) Curfew (No. 6) Directive, 2020.¹⁴

However:

The Emergency Management Act Cap 160A (as amended)¹⁵ establishes the Emergency Management Advisory Council. This body provides strategic-level guidance related to emergency management. The Act itself does not explicitly mention any representation by non-state actors on the Council. Instead, para 1(c)(xv) of Schedule 1 allows the Minister to nominate “other persons or organisations as the Minister thinks fit who volunteer or are required by law to perform functions related to the mitigation of, preparedness for, response to and recovery from emergencies and disasters in Barbados”. Therefore, relevant non-governmental actors may be added to the Council by the Minister.

Moreover, section 9 of the Emergency Management Act requires the Director of the Department of Emergency Management to submit annually to the Minister an Emergency Management Plan. This plan, *inter alia*, includes procedures for or related to;

9(2)(a) preparedness and response to disasters or other emergencies of public officers, Ministries and Departments of Government, statutory bodies and persons or organisations who volunteer or are required by law to perform functions related to emergency management in Barbados;

...

9(2)(k) guidelines for cooperation with regional and international organisations and governments of countries outside Barbados during a threatened hazard or in the event or the aftermath of a disaster or other emergency;

...

9(2)(l) acceptance and the facilitation of the distribution of volunteer services and relief supplies during a threatened hazard or in the event or the aftermath of a disaster or other emergency;

The National Emergency Management System (NEMS), coordinated by the Department of Emergency Management includes representation from non-state actors in practice. The Barbados *Country Document for Disaster Risk Reduction* states that the NEMS is “made up of the Emergency Management Advisory Council (EMAC) and its Standing Committees, national emergency services, local volunteers, non-governmental (NGOs) and community-based organisations (CBOs), regional and international partners and the private sector”.¹⁶ Moreover, the Department of Emergency Management’s Strategic Plan 2019-2023 which is publicly available on the Department’s website, confirms that the NEMS includes “local

¹³ See above at note 8

¹⁴ See above at note 10

¹⁵ Barbados Emergency Management Act

<http://dem.gov.bb/public/downloads/EmergencyManagementAct.pdf> [NB: The IFRC Disaster Law Database only has the Bill and not the finalized Act for this legislation – it may be helpful to update this].

¹⁶ See above at note 1, p 40

volunteers, non-governmental (NGOs) and community-based organisations (CBOs), regional and international partners and the private sector”¹⁷

At the time of writing, Barbados’ annual Emergency Management Plan was not easily accessible online. As this plan sets out the legal basis for the Government’s coordination with other actors in the private and voluntary sectors, it would be helpful for it to be clearly posted (e.g. on the Department of Emergency Management website: <http://dem.gov.bb/>).

Therefore, whilst the emergency order and its associated directives do not mention non-state actors, the government does appear to coordinate with such organisations during emergencies in practice.

At the regional (CARICOM) level

In addition to national coordination, Barbados participates in the CARICOM-led Caribbean Disaster Emergency Management Agency (CDEMA), which coordinates with UN and other bilateral and multilateral donor partners and the International Federation of Red Cross and Red Crescent Societies. The Caribbean Disaster Emergency Response Agency Act 1998¹⁸ gives effect to the treaty which established CDEMA and mentions the Agency’s role in maintaining relations with international relief organisations.

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 specific mention of the role of the components of the RC/RC Movement or other humanitarian actors in the Emergency Management (Covid 19) Order 2020¹⁹ or in the Emergency Management (Covid-19) Curfew (No. 6) Directive 2020.²⁰

No component of the RC/RC Movement or other specific humanitarian actor is mentioned in the Emergency Management Act Cap 160A.

However, the Barbados Red Cross Society Act 1969 sets out the Society’s role as an auxiliary to the public authorities.²¹

Moreover, according to the Barbados *Country Document for Disaster Risk Reduction* – in practice – the Barbados Red Cross Society is represented on the Emergency Management Advisory Council (EMAC).²² In addition, the Society cooperates with District Emergency Organisations (DEOs), which are the branches of the National Emergency Management System responsible for local-level disaster/emergency response.

¹⁷ Department of Emergency Management Strategic Plan: 2019-2023

[http://dem.gov.bb/public/downloads/DEM %20Strategic Plan design final 26March2020.pdf](http://dem.gov.bb/public/downloads/DEM_%20Strategic_Plan_design_final_26March2020.pdf) p 8.

¹⁸<http://oas.org/dsd/EnvironmentLaw/CaribbeanLegislationProject/Disaster%26StateEmergency/Barbados/Caribbean%20Disaster%20Emergency%20Response%20Agency.pdf>

¹⁹ See above at note 8

²⁰ See above at note 10

²¹ <https://ihl-databases.icrc.org/applic/ihl/ihl-nat.nsf/xsp/.ibmmodres/domino/OpenAttachment/applic/ihl/ihl-nat.nsf/0512687A591443F0C125706200481464/TEXT/Barbados%20Red%20Cross%20Society%20Act%20-%20ENG.pdf>

²² See above at note 1, p 41

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?

The Grantley Adams International Airport is closed to commercial air travel through 30 June.²³ In March, as commercial air operations were being wound down, Minister of Tourism and International Transport, Kerrie Symmonds, stated that the airport would not shut completely²⁴ and – at the time of writing – it remains open for “cargo flights, medevac flights, technical stops for fuel, and special authorised flights e.g. humanitarian aid and repatriation flights”.²⁵

The legal basis for Barbados’ commercial flight restrictions is unclear as it does not appear in any Gazetted statutory instrument or directive/regulation.

The Emergency Management (Covid-19) Order 2020²⁶ grants public health officers broad powers to detain, screen and – as necessary and proportionate – isolate those entering Barbados if they have reasonable grounds to believe that a person may be infected with Covid-19. There are no exceptions mentioned, but the Chief Medical Officer may overrule a decision made by a public health officer.

At the time of writing, all individuals entering Barbados are required to undergo a 14-day quarantine in a government facility upon arrival.²⁷ The legal basis for this mandatory quarantine is unclear as it does not appear in any Gazetted statutory instrument or directive/regulation.

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)

Perhaps. The Emergency Management (Covid-19) Curfew (No. 6) Directive 2020²⁸ includes an exception for employees or members of essential services. Section 15(3)(a) of the Emergency Management (Covid-19) Order²⁹ defines “essential services” as including, *inter alia*, “disaster management services”. Since the Barbados Red Cross Society is part of the NEMS, this *could* allow the National Society and other humanitarian actors who have a formal role within the structure of the NEMS to continue their work.

However, more general charitable organisations which are not formally part of the NEMS may find it more difficult to argue that the exception applies to their situation. For instance, section 2(10)(e) of the Curfew (No. 6) Directive explicitly forbids “a meeting of a fraternal society, private or social club or civic association or organisation”.

²³ See above at note 7

²⁴ See above at note 6.

²⁵ See above

²⁶ See above at note 8

²⁷ See above at note 7

²⁸ See above at note 10

²⁹ See above at note 8

It is important to note that section 1(3) of the Curfew (No. 6) Directive requires employees or members of an essential service to carry proof of employment or membership of that service at all times.

Regarding access to vulnerable populations, it may be difficult for RC/RC personnel or other humanitarian actors to reach certain individuals or groups of people. For instance, the Curfew (No. 6) Directive forbids any person from visiting any place of quarantine or isolation station (section 2(11)); or a prison or Government Industrial School (section 2(13)). In addition, only one visitor at a time is allowed to see a patient at a hospital, nursing home, senior citizens' home or drug rehab clinic (section 2(24)).

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?

There are no specific legal facilities or exemptions in place for medical aid or other relief items in the Emergency Management (Covid-19) Order 2020.³⁰ However, neither are there any new legal barriers. Cargo flights and specially authorised humanitarian aid flights are still allowed to enter the country via Grantley Adams International Airport.³¹

Section 11(1)(b) grants the Prime Minister the power to issue a directive to regulate exports and imports “in a manner calculated to serve the interest of the community”. It is possible that – should it serve the interest of the community – further facilitations for medical aid or relief items may be sought from the Prime Minister’s office.

As mentioned above, all new arrivals into Barbados are subject to a 14-day quarantine.³² This requirement may be waived by the Chief Medical Officer.

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?

Perhaps. RC/RC actors and other humanitarian organisations are not expressly mentioned in either the Emergency Management (Covid-19) Order 2020³³ or the Emergency Management (Covid-19) Curfew (No. 6) Directive 2020.³⁴

However, section 15(3)(a) of the Emergency Management (Covid-19) Order defines “essential services” as including, *inter alia*, the “disaster management services”. Since the Barbados Red Cross Society is part of the National Emergency Management System (NEMS), this *could* allow the National Society and other humanitarian actors who have a formal role within the structure of the NEMS to continue their work unaffected by the restrictions on business operations and opening hours imposed by the Curfew (No. 6) Directive.

³⁰ See above at note 8

³¹ See above at note 6

³² See above at note 7

³³ See above at note 8

³⁴ See above at note 10

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

The Emergency Management (Covid-19) (Nurses) Order 2020³⁵ allows nurses who are qualified to practice in Cuba to work as nurses in Barbados throughout the public health emergency caused by Covid-19.

On 30 May, the Emergency Management (Covid-19) Order 2020 was amended to allow the government to issue directives relating to the designation of certain vehicles as public service vehicles. To give practical effect to this order, the Emergency Management (Covid-19) Public Service Vehicle and Designated Maxi Taxis and Tour Couches (Covid-19) Directive 2020 is appended to the Curfew (No. 6) Directive.³⁶ It grants private tour buses and maxi taxis the ability to act as public service vehicles and to use facilities designated for buses, minibuses and route taxis. All transport is limited to 60 percent of seating capacity and other virus control measures apply, such as mandatory wear of face masks.

The Emergency Management (Covid-19) Churches Directive³⁷ is also appended to the Curfew (No. 6) Directive. It establishes virus control measures for religious institutions, such as mandatory wear of face masks, physical distancing rules and mandatory sanitation of religious buildings. Religious institutions must also keep a record of all present for services in case contact tracers need to follow-up suspected cases at a later date.

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

Not expressly. However, section 10 of the Emergency Management (Covid-19) Order 2020³⁸ grants broad powers for the Prime Minister to requisition supplies. These include: “medicines, drugs, dressings, personal protective equipment, medical and surgical appliances, equipment, tools and surgical instruments.”

Furthermore, section 11 of the Order grants the Prime Minister the power to issue directives to maintain, control or regulate the supply of goods and services so as to:

11(1)(b) regulate exports and imports in a manner calculated to serve the interests of the community;

...

11(1)(d) prohibit the importation or exportation of goods or of any class or description of goods from or to any country;

...

11(1)(e) prohibit the importation of any class or description of goods from or to any country except under the authority of the Prime Minister.

No directives regarding the export of goods have yet been Gazetted.

³⁵ <https://gisbarbados.gov.bb/download/official-gazette-statutory-instrument-part-a-april-8-2020/>

³⁶ See above at note 10

³⁷ See above at note 10

³⁸ See above at note 8

Therefore, whilst no restrictions on the export of protective medical equipment have been issued to date, it is possible that such restrictions could be put into place quickly, should the Prime Minister consider them necessary.

Noel Trew
British Red Cross

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