



Prepared by: **WHITE & CASE**

IFRC Review of Emergency Decrees: CAYMAN ISLANDS

AS AT 13 MAY 2020

Overview

The Cayman Islands has had 84 confirmed COVID-19 cases, the first on the 12 March 2020, and 1 fatality. New cases are still being reported.¹

Since February, the Cayman Islands has made a number of regulations under its Public Health Law² to deal with the COVID-19 pandemic. The principal legislation now in place is the Prevention, Control and Suppression of COVID-19 Regulations 2020³ ('the Suppression Regulations') (together with similar regulations for the sister islands of Little Cayman and Cayman Brac:⁴ this review focuses on the regulations made in relation to Grand Cayman) and the Control of COVID-19 Regulations 2020 ('the Control Regulations').⁵

The Control Regulations principally deal with entry into the Cayman Islands and the self-isolation or quarantining of those arriving in the Islands.

No tourist visitor is permitted to land in the Islands, whether by ship or aircraft, where that person has travelled to, from or through an infected country within a period of fourteen days or less immediately preceding the tourist visitor's arrival in the Islands.⁶

Caymanians and residents arriving in the Cayman Islands must remain at their home or other place of quarantine specified by the Minister of Health for the purposes of surveillance.⁷ Tourist visitors are required to be quarantined, for the purposes of surveillance, at a quarantine facility specified by the Minister of Health.⁸

The international airports in Grand Cayman and Cayman Brac are closed to international passengers, including those flying on private aircraft until 31st August 2020. Travel between

¹ Source: WHO 13 May 2020.

² <https://www.hsa.ky/wp-content/uploads/2018/07/Public-Health-Law-2002-Revision.pdf>

³ <http://www.gov.ky/portal/pls/portal/docs/1/12948658.PDF>

⁴ Prevention, Control and Suppression of COVID-19 (Little Cayman) Regulations 2020 <http://www.gov.ky/portal/pls/portal/docs/1/12952513.PDF> and Prevention, Control and Suppression of COVID-19 (Cayman Brac) Regulations 2020 <http://www.gov.ky/portal/pls/portal/docs/1/12952547.PDF>

⁵ <http://www.gov.ky/portal/pls/portal/docs/1/12928489.PDF>

⁶ Control Regulations, reg 3.

⁷ Control Regulations, reg 4(1).

⁸ Control Regulations, reg 4(2).

the Islands is also currently restricted. Cargo and courier flights are unaffected by this temporary airport closure and air ambulances are also allowed to operate as normal.

Chartered flights may carry international passengers with an urgent or compassionate need to travel under strict requirements, including mandatory isolation at a Government-provided facility for Caymanians and residents returning to the Cayman Islands.

Cruise ships and private vessels are not being accepted in Cayman Islands' ports until 31st August 2020. Cargo ships are unaffected by this ban, including for inter-island transport of freight. No person shall offer for hire or seek to travel on a boat sailing inter-island except to transport freight, import and distribute seafood, or transport persons carrying out essential services. In Cayman Brac and Little Cayman, persons are similarly restricted from travelling inter-island by boat for pleasure.⁹

The Suppression Regulations restrict movement. A person must remain in their place of residence unless they are within a prescribed category listed in the Regulations. "Exempt persons" include:

- (a) staff within a health care facility or persons delivering emergency medical services, persons providing pain management services or persons providing treatment of chronic pain;
- (b) persons who provide care to other persons with a disability or who are otherwise vulnerable persons;
- (c) non-profit organisations which, and other persons who, engage in the preparation and delivery of food and supplies to persons with disabilities or to persons who are vulnerable persons, where those non-profit organisations and persons are approved by the Competent Authority;
- (d) persons who operate retail stores and persons employed by retail stores to provide delivery services in respect of the goods;
- (e) persons providing services connected with the loading and unloading of cargo ships and with the storage and delivery of goods;
- (f) other members of an essential service or an essential services provider, as designated by the Competent Authority after consultation with the Hazard Management Department of the Cayman Islands, for the purposes of performing their employment duties; and
- (g) other persons involved in such other activities, duties, businesses, purposes or undertakings as may be specified by the Competent Authority, subject to such conditions as may be imposed by the Competent Authority.¹⁰

There is also a general exemption from the shelter in place requirements where a person has to leave their place of residence because they are at risk of injury or death.¹¹

There does appear to be a softening of these rules with what are described as "soft curfew" during the day from Monday to Saturday, 5am to 8pm, followed by a "hard curfew" from 8pm to 5am daily and all day on Sunday.¹²

⁹ <https://www.explore.gov.ky/government-covid19-policies>

¹⁰ Suppression Regulations, reg 8.

¹¹ Suppression Regulations, reg 8(6).

¹² See <https://www.explore.gov.ky/coronavirus-curfew>

The Suppression Regulations also prohibit public meetings, processions and festive ceremonies;¹³ close all establishments, institutions, businesses, organisations and offices other than essential ones;¹⁴ restrict the undertaking of prescribed activities;¹⁵ and prohibit visits to places of quarantine, a detainee in a prison or place of detention and a patient in a health facility or a residential home care facility without the permission of a Medical Officer of Health.¹⁶

There is also the standing Disaster Preparedness and Hazard Management Law ('DPHML').¹⁷ This provides for the establishment of the Department of Hazard Management Cayman Islands ('HMCI')¹⁸ the functions of which include "developing and implementing policies and programmes to achieve and maintain an appropriate state of national preparedness for managing all emergency situations which may affect the Islands" and "encouraging and supporting disaster preparedness and mitigation measures in the Islands in collaboration with community based organisations, private agencies and voluntary agencies, respectively."¹⁹

HMCI has published a detailed National Hazard Management Plan.²⁰ Vol 3G of the Plan contains the National Pandemic Plan [not available online].

A proclamation of a state of emergency can also be made under the Emergency Powers Law by the Governor. This permits regulations to be made for securing the essentials of life to the community.

The Cayman Islands is a member of the Caribbean Disaster Emergency Management Agency ('CDEMA') and the Caribbean Public Health Agency ('CARPHA').

The Cayman Islands Red Cross Law 2018²¹ incorporates the Cayman Islands Branch of the British Red Cross Society. Its objects include "to work for the improvement of health, for the prevention of disease and for the prevention and alleviation of human suffering in the Islands and throughout the world."²²

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

No specific mechanism appears to have been created for COVID-19. The pandemic appears to be being managed under the general emergency response mechanism under the DPHML and National Hazard Management Plan.

¹³ Suppression Regulations, reg 4.

¹⁴ Suppression Regulations, reg 5.

¹⁵ Suppression Regulations, reg 6.

¹⁶ Suppression Regulations, reg 7.

¹⁷ <http://www.caymanprepared.ky/portal/pls/portal/docs/1/12818531.PDF>

¹⁸ DPHML, s 3.

¹⁹ DPHML, s 4.

²⁰ <http://www.caymanprepared.ky/portal/page/portal/hmchome/resources/hazardmanagementplans>

²¹ https://legislation.gov.ky/cms/images/LEGISLATION/PRINCIPAL/2018/2018-0023/CaymanIslandsRedCrossLaw2018_Law%2023%20of%202018.pdf

²² Cayman Islands Red Cross Law 2018, s 4.

A National Hazard Management Executive and Council is established under the DPHML. The Council includes the chair of the Sister Islands Emergency Committee, the Director of the Cayman Islands Red Cross and directors from a number of other NGOs.²³

The role of voluntary organisations, including the Red Cross is expressly mentioned in the National Hazard Management Plan. “Non-Governmental Organizations and voluntary agencies play an important role in the response and recovery after a disaster, and are recognized as equal partners united by the common goal of assisting with emergency response and disaster relief. The primary role is to support humanitarian relief activities through the [National Emergency Operations Centre (NEOC)]. The [Emergency Support Team (EST)] will also act as an auxiliary for the Human Concerns Groups functions ... The EST serves as the point of contact for all NGO’s, voluntary agencies and non-profit organizations that wish to play a role in the disaster management process and is chaired by CI Red Cross.”²⁴

There is also likely to be regional coordination of response through membership of CDEMA and CARPHA and Cayman Island’s relationship with the UK.

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 roles for the RC in particular under the DPHML 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 closure of air and seaports is, though, not absolute and cargo planes and ships appear able to enter.

The prohibition on entry on individuals applies to “tourist visitors” which means “a person arriving in the Islands for a visit of not more than six months’ duration otherwise than for a professional, financial trade or business purpose or for the purpose of seeking or engaging in employment.”²⁵ If the prohibition is limited to tourists, a person entering for a professional or business purpose may still be permitted to enter, although this will need to be checked with the Cayman Islands immigration authorities .

The general monitoring, surveillance and quarantine provisions would apply and there are no express exceptions. A person admitted from an infected country who shows symptoms would be required to go into mandatory quarantine.²⁶

²³ DPHML, Schedule 1.

²⁴ p 42

²⁵ Immigration (Transition) Law 2018, s 2. <http://www.immigration.gov.ky/portal/page/portal/ver-1/immhome/help/legislation/81C8CE4700E86465E053891F6F0AE981>

²⁶ Control Regulations. Reg 4.

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 persons excepted from the shelter at home rules include:

- (a) staff within a health care facility or persons delivering emergency medical services, persons providing pain management services or persons providing treatment of chronic pain;
- (b) persons who provide care to other persons with a disability or who are otherwise vulnerable persons;
- (c) non-profit organisations which, and other persons who, engage in the preparation and delivery of food and supplies to persons with disabilities or to persons who are vulnerable persons, where those non-profit organisations and persons are approved by the Competent Authority;
- (d) persons who operate retail stores and persons employed by retail stores to provide delivery services in respect of the goods;
- (e) persons providing services connected with the loading and unloading of cargo ships and with the storage and delivery of goods;
- (f) other members of an essential service or an essential services provider, as designated by the Competent Authority after consultation with the Hazard Management Department of the Cayman Islands, for the purposes of performing their employment duties; and
- (g) other persons involved in such other activities, duties, businesses, purposes or undertakings as may be specified by the Competent Authority and notified in the *Gazette*, in any other official Government website or official means of communication, subject to such conditions as may be imposed by the Competent Authority.²⁷

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 specific facilities could be identified online.

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, if a person or operation falls within a category of person or operation exempt from the shelter at home provisions (see the examples listed in **Q4**) it is classed as an “essential establishment, institution, business, organisation and office”.²⁸

In any event, the Suppression Regulations operate on the basis that they prevent or restrict specified activities from being undertaken. If the nature of the activity does not fall within

²⁷ Suppression Regulations, reg 8

²⁸ Suppression Regulations, reg 2(1).

the specified activities, it may operate within the conditions and between the hours laid down in the Regulations.²⁹

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.

One piece of legislation not mentioned is the Price Gouging Control (Emergency Circumstances) Law (2015 Revision) which established a Price Gouging Control Commission and prohibits renting or selling of commodities at unconscionable prices upon a declaration of a state of emergency, during a storm or immediately following a natural disaster.³⁰

It is also noteworthy that there is an express exemption from the shelter in place requirements where a person has to leave their place of residence because they are at risk of injury or death.³¹ This has not been included in many other legislation which this reviewer has seen and, although obvious may be something other states and territories may wish to consider, especially as the hurricane season approaches.

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.

9. Is there support available for charities or other not-for-profit organisations in any economic support packages?

No specific package for charities could be found online.

More generally a Cayman Islands Centre for Business Development has been established and the Government has implemented a number of measures to support local business and commerce. These include financial assistance for small and medium businesses and the transport industry, temporary waiver of Trade & Business Licensing fees and extension of the temporary layoff period for most industries.³²

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²⁹ Suppression Regulations, reg 6.

³⁰ <http://www.gov.ky/portal/pls/portal/docs/1/12022118.PDF>

³¹ Suppression Regulations, reg 8(6).

³² See <https://www.explore.gov.ky/government-covid19-policies>