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IFRC Review of Emergency Decrees: MONTSERRAT

AS AT 11 MAY 2020

Overview

Montserrat has had 11 confirmed COVID-19 cases, the first on the 17 March 2020, and 1 fatality. There have been 27 days since the last reported case.¹

Since the 13 March, Montserrat has made a number of regulations and orders, principally under its Public Health Act to deal with the COVID-19 pandemic. The principal legislation now in place is the Public Health (COVID-19 Suppression) Order 2020 (the 'COVID-19 Order')² and the Immigration (Prohibition on Entry) Order 2020 (the 'Prohibition on Entry Order').³

The COVID-19 Order, which will expire on 22 May,⁴ imposes a curfew under which persons must not be in a public place and shall remain at home, subject to specified exceptions.⁵ The exceptions include being in a public place between 5 a.m. and 7 p.m. on a Monday, Tuesday, Wednesday, Thursday or a Friday if the purpose for being in the public place is to:

- (a) carry out functions as an essential service provider which includes travelling to or from work as an essential service provider,
- (b) assist, transport or provide an ancillary service for an essential service provider,
- (c) seek medical care,
- (d) visit the doctor or pharmacy,
- (e) shop for necessities to include food, medicine, fuel or other necessity, provided that only one person from each household may leave the home for this purpose,

¹ Source: WHO 11 May 2020.

² Public Health (COVID-19 Suppression) Order 2020 , <http://agc.gov.ms/wp-content/uploads/SRO-No-15-of-2020-Public-Health-Covid-19-Order.pdf>, as amended by the Public Health (COVID-19 Suppression) (Amendment) Order 2020, <http://agc.gov.ms/wp-content/uploads/SRO-No-32-of-2020-Public-Health-Covid-19-Suppression-Amendment-Order-2020.pdf>

³ <http://agc.gov.ms/wp-content/uploads/SRO-No-19-of-2020-Immigration-Prohibition-on-Entry-Order.pdf>

⁴ COVID-19 Order, para 21.

⁵ COVID-19 Order, para 3.

- (f) conduct a banking transaction or a transaction at a money transfer business provided that only one person from each household may leave the home for this purpose,
- (g) pay utility bills provided that only one person from each household may leave the home for this purpose,
- (h) engage in an activity to include running, walking, swimming, alone or with no more than 4 members of the same household, each day between of 5 a.m. to 8 a.m. and 4 p.m. to 6:30 p.m. but no later than 7 p.m. and provided no motor vehicle is used to get to and from the place where the activity is being done,
- (i) attend a funeral,
- (j) engage in an activity as a tradesman such as a plumber, and
- (k) access a business or service referred to in paragraph 5(1) of the Order.⁶

The curfew also does not apply to specified categories of individuals including those employed to provide an essential service, those seeking medical attention and those given permission by the Minister, in exceptional circumstances, to be in a public place between 7pm to 5am weekdays or at any time at weekends.⁷

The COVID-19 Order also specifies which persons, businesses or organisations may operate on a Monday, Tuesday, Wednesday, Thursday or a Friday. These include an essential service provider, a grocery store, bakery, wholesale business or agricultural produce business, tradesmen and a business, person or organisation that is granted permission to operate by the Minister.⁸ These businesses must establish and practise social distancing measures.⁹ No business and organisation shall open or operate on a Saturday or a Sunday except with written permission of the Minister and prescribed businesses (bars, restaurants, including take-aways, night clubs, barbers or gyms) and businesses not otherwise listed in the order shall not operate at all.¹⁰ Schools remain closed¹¹ and there are prohibitions on gatherings of more than 4 persons except for funerals (maximum 15 persons) or at a permitted business or organisation provided social distancing is maintained.¹²

The Minister may give a person, business, organisation or Department written permission to (a) offer an essential service and/or engage in an activity between 5 a.m. and 7 p.m. on a Monday, Tuesday, Wednesday, Thursday or a Friday.¹³

⁶ COVID-19 Order, para 4.

⁷ COVID-19 Order, para 4(2) and (3).

⁸ COVID-19 Order, para 5.

⁹ COVID-19 Order, para 6.

¹⁰ COVID-19 Order, para 7.

¹¹ COVID-19 Order, para 8.

¹² COVID-19 Order, para 11.

¹³ COVID-19 Order, para 15.

There are restrictions on visits to (a) another person's home, (b) a place of quarantine or isolation, (c) a patient in the hospital, except with permission from the hospital, (d) a person in a residential care establishment or facility; or (e) a detainee or prisoner in a correctional facility.¹⁴

Since 24 March, there has been a prohibition on any person travelling to Montserrat, except for:

- (a) Montserratians or permanent residents,
- (b) crew of aircraft or ships, and
- (c) their dependents.

The Minister may exempt any other person for the purpose of the suppression of COVID-19.¹⁵ The airport and seaports shall not be used for the disembarkation of a non-Montserratian travelling to Montserrat, except for:

- (a) the disembarkation of a person travelling to Montserrat for the purpose of aiding in the treatment, control and suppression of COVID-19,
- (b) for the purpose of providing support to the health services,
- (c) the embarkation of a person travelling from Montserrat,
- (d) the embarkation and disembarkation of a member of the crew of an aircraft or vessel (including freight, cargo or courier aircraft or vessel),
- (e) the purpose of a medical evacuation, and
- (f) freight, cargo, and courier services.¹⁶

A Montserratian arriving from outside Montserrat or who, in the opinion of a Medical Officer is likely to be infected with COVID-19, must answer questions and provide the Medical Officer with information which would allow an assessment of the measures that would be necessary to prevent, limit or suppress the spread of COVID-19. He or she may be subjected to a clinical examination by a Medical Officer. Individuals considered by a Medical Officer to be high risk of being infected with COVID-19 may be isolated, required to present themselves for surveillance and may be removed to a hospital or other suitable place approved by the Chief Medical Officer. All those arriving in Montserrat must self-quarantine for 14 days whether or not the person has symptoms suggestive of COVID-19.¹⁷

Standing measures include the Public Health Act 1981¹⁸ under which the COVID-19 Order has been made.

There is also the Disaster Preparedness and Response Act ('DPRA').¹⁹ This provides for the appointment of a Director of Disaster Preparedness and Response²⁰ and the establishment of a National Disaster Preparedness and Response Advisory Committee.²¹ The Director is

¹⁴ COVID-19 Order, para 9.

¹⁵ Prohibition on Entry Order, para 3.

¹⁶ COVID-19 Order, para 10.

¹⁷ COVID-19 Order, para 16.

¹⁸ <http://agc.gov.ms/wp-content/uploads/Public-Health-Act.pdf>

¹⁹ <http://agc.gov.ms/wp-content/uploads/Disaster-Preparedness-and-Response-Act-1.pdf>

²⁰ DPRA, s 3.

²¹ DPRA, s 6.

required to prepare annually a National Disaster Preparedness Response Plan.²² The Caribbean Disaster Emergency Response Agency Agreement has the force of law in Montserrat.²³

A National Hurricane Plan has been produced,²⁴ but no other plans could be found online. The reviewer does, however, have a copy of an unsigned National Emergency Management Plan dated July 2014 which seeks to address all disasters and refers to the role of the Montserrat Red Cross throughout.

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

There appears to be no Act incorporating the Montserrat Red Cross.

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.

Under the DPRA, the National Disaster Preparedness and Response Advisory Committee should include "such other persons or organisations as the Governor 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 Montserrat."²⁵

Although not seemingly applicable to the COVID-19 pandemic, the National Hurricane Plan, contains sections on the responsibilities of the Montserrat Red Cross. The unsigned national Disaster Plan of 2014 also refers to the Montserrat Red Cross throughout although it is not clear if this Plan has been finalised or activated.

There is also likely to be regional coordination of response through membership of CDEMA and CARPHA and Montserrat'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 DPRA 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?

²² DPRA, s 8.

²³ DPRA, s 25.

²⁴ <http://www.gov.ms/wp-content/uploads/2011/02/Montserrat-National-Hurricane-Plan.pdf>

²⁵ DPRA, s 6(1)(c)(ix).

No express exceptions appear to have been made.

The prohibition on entry, however, does not apply to crew of aircraft or ships or to any other person exempted from the prohibition by the Minister for the purpose of the suppression of COVID-19.²⁶ Although airports and sea ports should generally not be used for the disembarkation of a non-Montserratian, they can be used for the disembarkation of a person travelling to Montserrat for the purpose of aiding in the treatment, control and suppression of COVID-19, for the purpose of providing support to the health services, or the embarkation and disembarkation of a member of the crew of an aircraft or vessel (including freight, cargo or courier aircraft or vessel), the purpose of a medical evacuation, and freight, cargo, and courier services.²⁷

The general monitoring, surveillance and quarantine provisions would apply and there are no express exceptions. But a Medical Officer has a discretion to isolate persons with a high risk of being infected with COVID-19 and/or to require them to present themselves for surveillance and to remove them to a hospital or other suitable place approved by the Chief Medical Officer. All those arriving in Montserrat must self-quarantine for 14 days whether or not the person has symptoms suggestive of COVID-19.²⁸

In addition, a person who travels to Montserrat for the purpose of aiding in the treatment, control and suppression of COVID-19, must possess a medical certificate which certifies that they are not infected with COVID-19.²⁹

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 curfew include essential service providers and those who assist, or transport, or provide an ancillary service for, an essential service provider.³⁰ Essential service providers include:³¹

- (a) medical health, hospital, infirmary or nursing homes services;
- (b) services connected with the loading and unloading of ships and with the storage and delivery of goods etc at or from a dock, wharf or connected warehouse;
- (c) services connected with essential government functions as determined by the Deputy Governor; or
- (d) another service granted permission to operate by the Minister.

There is also power for the Minister to give any person, in exceptional circumstances, permission to be in a public place.³²

²⁶ Prohibition on Entry Order, para 3.

²⁷ COVID-19 Order, para 10.

²⁸ COVID-19 Order, para 16.

²⁹ COVID-19 Order para 10(4).

³⁰ COVID-19 Order, para 4.

³¹ COVID-19 Order, para 2.

³² COVID-19 Order, para 4(3).

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?

A person who imports sanitizer, medical masks, surgical gloves, vitamins, medical disposal suits, soap and disinfectants is exempted from the payment of customs duty, consumption tax and the processing fee on the importation of the item.³³

Beyond this, and the possible exceptions for personnel described above, there appear to be no specific facilities.

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.

Business or organisations listed in the COVID-19 Order may operate on a weekday. The list includes essential service providers.³⁴ As noted above, essential service providers include medical health, hospital, infirmary or nursing homes services; services connected with the loading and unloading of ships and with the storage and delivery of goods etc at or from a dock, wharf or connected warehouse; services connected with essential government functions as determined by the Deputy Governor; or another service granted permission to operate by the Minister.³⁵

In addition to essential service providers, a doctor's office or pharmacy, a grocery store, bakery, wholesale business or agricultural business, a hardware store and any business, person or organisation that is granted permission to operate by the Minister may operate during the week.³⁶

A person, business, organisation permitted to operate must cease to operate no later than 6 p.m. on a Monday, Tuesday, Wednesday, Thursday or a Friday and may resume operations no earlier than 5 a.m. on a Monday, Tuesday, Wednesday, Thursday or a Friday.³⁷

No person, business or organisation shall operate on a Saturday or Sunday except with the permission of the Minister.³⁸

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

³³ Customs Duties and Consumption Tax (Covid-19 Personal Protective Items) (Exemption) Order, 2020. <http://agc.gov.ms/wp-content/uploads/SRO-No-26-of-2020-Customs-Duties-and-Consumption-Tax-Covid-19-Personal-Protective-Items-Exemption-Order-2020.pdf>

³⁴ COVID-19 Order, para 5(1)

³⁵ COVID-19 Order, para 2.

³⁶ COVID-19 Order, para 5(1)(c), (d), (j) and (p).

³⁷ COVID-19 Order, para 5(2).

³⁸ COVID-19 Order, para 7.

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.

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. Financial support packages have been introduced to provide salary support for employees across all business sectors and one-off grants for eligible businesses in the tourism sector.³⁹

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³⁹ <http://www.gov.ms/deadline-extended-for-covid19-financial-support-packages/>