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IFRC Review of Emergency Decrees: UNITED KINGDOM'S OVERSEAS TERRITORIES

GENERAL INTRODUCTION

The United Kingdom has 14 Overseas Territories:

1. Anguilla,
2. Bermuda,
3. British Antarctic Territory (BAT),
4. British Indian Ocean Territory (BIOT),
5. (British) Virgin Islands (BVI),
6. Cayman Islands,
7. Falkland Islands,
8. Gibraltar,
9. Montserrat,
10. Pitcairn, Henderson, Ducie and Oeno Islands (referred to collectively as 'Pitcairn'),
11. St Helena, Ascension and Tristan da Cunha,
12. South Georgia and South Sandwich Islands (SGSSI),
13. Sovereign Base Areas of Akrotiri and Dhekelia (SBA), and
14. Turks and Caicos Islands (TCI).

Each Overseas Territory is a constitutional unit separate from the others and the UK with its own executive headed by a Governor, Commissioner or Administrator appointed by the Sovereign. Most Territories now have their own government and legislature from which a cabinet or council of ministers is drawn. Although most governmental functions are devolved onto the Territory's government, the UK retains responsibility for defence, security and international relations.

The laws of each Overseas Territory are typically a combination of (a) UK legislation made or enacted in the UK which has been extended to the Territory, and (b) laws locally enacted by an Overseas Territory's legislature or government. The latter are made under powers conferred on the Overseas Territory's legislature to make laws for its peace, order and good government under its constitution.

Public health laws are, in almost all cases, within the competence of the Territory's Government.

Disaster management laws, however, are found in a combination of, primarily, local laws with United Kingdom legislation enabling some territories to enact emergency powers, as a fall back.

In all Territories the Governor has considerable powers in the event of an emergency. These include the power to declare an emergency and, having done so, to issue emergency regulations during the period of the emergency. The legal basis for these powers is the Constitution in the Cayman Islands, BVI and Montserrat, while elsewhere the powers are derived from local legislation.

This local legislation includes measures dealing solely with disaster response, e.g. the Bermuda Emergency Powers Act 1963;¹ some with both planning and response, e.g. Anguilla's Disaster Management Act;² some with recovery, e.g. the Turks and Caicos Hurricane Relief Ordinance 1946;³ and some with all aspects of disaster management including declarations of states of emergency, e.g. the British Virgin Islands' Disaster Management Act 2003,⁴ the Montserrat Disaster Preparedness and Response Act 2002,⁵ and the Cayman Islands' Disaster Preparedness and Hazard Management Law 2016.⁶

A number of Territories with limited local measures in place (Anguilla, BAT, BIOT, the Falkland Islands, Pitcairn, St Helena, Ascension and Tristan da Cunha, SGSSI, SBA and TCI) may in addition to local legislation, or in its absence, rely on powers given to the Governor, etc. in the Emergency Powers (Overseas Territories) Order 2017⁷ (the 2017 Order) to proclaim an emergency and make emergency regulations.

In terms of the UK's relationship with the European Union (EU), although, Gibraltar apart, the Territories are not part of the EU, the territories can receive equivalent or favourable treatment as a territory of an EU member. A relevant example is that the EU prohibition on the export of personal protective equipment (PPE) outside the EU without prior authorisation does not apply to the export of PPE to the overseas territories.⁸

The nine overseas branches in the Territories form part of the British Red Cross.

This review is divided into three parts:

Part 1 reviews the COVID-19 measures within the British Red Cross' Caribbean overseas branches of Anguilla, Bermuda (although strictly speaking Bermuda is not in the Caribbean), the British Virgin Islands, Cayman Islands, Montserrat and the Turks and Caicos Islands.

Part 2 reviews the other 3 Territories in which the BRC has branches, namely the Falkland Islands, Gibraltar and St Helena (including the Territories of Ascension and Tristan da Cunha).

¹ Bermuda Emergency Powers Act 1963

² Disaster Management Act (Anguilla) (2008) R.S.A. c. D27.

³ Hurricane Relief Ordinance 1946, Chapter 18.05 (TCI).

⁴ Disaster Management Act 2003 (British Virgin Islands).

⁵ Montserrat Disaster Preparedness and Response Act 2002.

⁶ Cayman Islands' Disaster Preparedness and Hazard Management Law 2016 (Law 46 of 2016).

⁷ Emergency Powers (Overseas Territories) Order 2017, S.I. 2017/181. (2017 Order).

⁸ Commission Implementing Regulation (EU) 2020/402 of 14 March 2020 ('the EU PPE Regulation').

Finally, Part 3 reviews the COVID-19 measures in the remaining territories of BAT, BIOT, Pitcairn, SBA and SGSSI.