



Prepared by: British Red Cross

IFRC Review of Emergency Decrees: BRITISH VIRGIN ISLANDS (BVI)

AS AT 8 MAY 2020

[NB: Most of the materials mentioned have been accessed from the BVI's Official Gazette website. To access issues of the Gazette registration is required, but once registered copies of the measures can be viewed and downloaded free of charge.]

Overview

BVI has had 7 confirmed COVID-19 cases and 1 fatality. There has been 1 day since the last reported case.¹

There has also been recent reported seismic activity with an earthquake in Puerto Rico prompting the Governor of BVI to issue a statement reminding residents that if evacuation orders have to be issued, they “would take precedence over any existing curfew or stay at home advice.”²

COVID-19 was added to the list of infectious diseases under the Infectious Diseases (Notification) Act 2013 on 16 March 2020³ and as a notifiable disease for the purposes of the Public Health Act⁴ as a disease subject to the International Health Regulations on 19 March 2020.⁵

¹ Source: WHO 8 May 2020.

² <https://bvi.gov.vg/media-centre/statement-his-excellency-governor-augustus-jaspert-covid-19-and-emergencies>

³ Infectious Diseases (Notification (Amendment) Order 2020
<https://eservices.gov.vg/gazette/sites/eservices.gov.vg.gazette/files/newattachments/S.I.%20No.%2012%20-%20Infectious%20Diseases%20%28Notification%29%20%28Amendment%29%20Order%202020.pdf>

⁴ <https://bvi.gov.vg/sites/default/files/resources/Public%20Health%20Act%20Cap%20194.pdf>

⁵ Public Health (Notifiable and Communicable Diseases) Regulations, 2020
<https://eservices.gov.vg/gazette/sites/eservices.gov.vg.gazette/files/newattachments/SI%20No%2015%20of%202020-Public%20Health%20%28Notifiable%20and%20Communicable%20Diseases%29%20Regulations%2C%202020.pdf>

The COVID-19 Control and Suppression (Miscellaneous Provisions) Act, 2020 (No. 5 of 2020) was signed on 1st April,⁶ enabling orders to be made quarantining individuals, prohibiting or restricting the entry into BVI of ships and aircraft and prohibiting or restricting assemblies. The Act also disapplies provisions of the Medical Act in respect of medical practitioners permitted to enter BVI for the purposes of the prevention, control and suppression of the COVID-19 virus or any other infectious disease.

Under this Act, a ferry, pleasure boat, commercial vessel, commercial airline, private aircraft or any other means of transportation at any port in the BVI is prohibited or restricted from entering the Territory, except as the Minister in exceptional circumstances may by direction in writing authorise.⁷

A number of orders prohibiting entry into BVI have also been made, the latest is believed to be the Immigration and Passport (Prohibition of Entry) (No. 6) Order, 2020 ('Prohibition of Entry Order').⁸ This prohibits

- (a) a person visiting the Virgin Islands from or through any of the countries listed in the Schedule to the Regulations or
- (b) any person travelling by sea or air to the Virgin Islands from entering the Virgin Islands until the 2 June 2020.

The Order also provides [although it is questioned if the drafting is correct and this provision is, instead, intended to be an exemption] that a person "who falls within the following categories, shall be prohibited from entering the Virgin Islands, ... until the 2 June, 2020...(a) persons enjoying relevant diplomatic or consular or other similar privileges by virtue of any Act or in accordance with recognised international practice; (b) persons who are work permit holders or persons who are exempted from the requirement of a work permit; (c) persons employed on contract in the service of the Government of the Territory; or (d) husband, wife or child (dependents) of any person within categories (a) to (c), whether travelling with or separately from such person."⁹

A member of a crew of an aircraft or a ship (including freight, cargo or courier craft or vessels) who has travelled to, from or through the countries listed in the Schedule to the Prohibition of Entry Order within a period of fourteen days or less, may be permitted to enter BVI, provided that all international crew members shall remain on the aircraft or ship and comply with all relevant public health measures. Other members of crew may be

⁶ The reviewer has a pre-signature copy sent to the Governor. The Act should be published in the Gazette, but the reviewer was unable to immediately locate it.

⁷ Prohibition or restriction of commercial vessels or aircraft (COVID-19) Order, 2020.
<https://eservices.gov.vg/gazette/sites/eservices.gov.vg.gazette/files/newattachments/SI%20No%2030%20of%202020%20-%20Prohibition%20or%20%20restriction%20of%20commercial%20vessels%20or%20aircraft%20%28COVID-19%29%20Order%2C%202020.pdf>

⁸ <https://eservices.gov.vg/gazette/sites/eservices.gov.vg.gazette/files/newattachments/SI%20No%2036%20of%202020%20-%20Immigration%20and%20Passport%20%28Prohibition%20of%20Entry%29%20%28No.6%29%20Order%2C%202020.pdf>

⁹ Prohibition of Entry Order, s 3.

allowed entry into BVI, provided that all international crew members on an aircraft or ship remain within the port facility and comply with all relevant public health measures in effect.

¹⁰

Three ports of entry appear now to be authorised: Road Harbour (including Port Purcell) and West End for shipping and the Terrance B. Lettsome International Airport Beef Island for aircraft.¹¹

BVI first imposed a curfew under its Curfew Act 2017 on 25th March. It has subsequently made a number of replacement curfew orders, the latest of which is the Imposition of a Curfew (No. 16) Order 2020 which came into force on 10 May 2020 ('the Curfew Order').¹² A

curfew is imposed until 24 May 2020, between the hours of 7:00 p.m. to 6:00 a.m. daily. During curfew, no person is permitted to be on the streets, and every person is confined to their place of residence, except for the persons or class of persons specified in the Schedule to the Order.¹³ A person subject to a mandatory quarantine order or quarantine direction is prohibited from leaving their home for the period of quarantine.¹⁴

Hotels, accommodation facilities, public swimming pools, cinemas, gyms, bars night clubs and other entertainment facilities must remain closed. Other "approved" business and establishments may open and operate from 6.01 am to 6.59 pm provided that they have been inspected, approved and certified by the Social Distancing and Monitoring Task Force.¹⁵ The owner or operator of an approved business and establishment must adhere to social distancing protocols and put in place relevant sanitisation measures, including ensuring that all customers and staff maintain physical distancing of no less than six feet; and ensure that allowance is made for staff and employees to report to and leave work within the imposed hours.¹⁶ Beaches are now open for exercise and therapy from 6 am to 1 pm, provided beach users adhere to social distancing protocols and restrictions on assembly of persons.¹⁷ An apparent relaxation from previous orders is that there is no longer a prohibition on the movement of private and commercial boats in BVI waters.

There is also a standing Public Health Act 1977¹⁸ under which a number of public health orders have been made, the latest of which is which the Public Health (Covid-19 Control and Suppression Measures) (No.2) Order 2020.¹⁹ This Order provides for the closure of all

¹⁰ Prohibition of Entry Order, s 5.

¹¹ Immigration and Passport (Authorised Ports of Entry) (Amendment) Regulations 2020

<https://eservices.gov.vg/gazette/sites/eservices.gov.vg.gazette/files/newattachments/SI%20No%2010%20--%20Immigration%20and%20Passport%20%28Authorised%20Ports%20of%20Entry%29%20%28Amendment%29%20Regulations%2C%202020.pdf>

¹² <https://eservices.gov.vg/gazette/sites/eservices.gov.vg.gazette/files/newattachments/SI%20No%2051%20of%202020%20-%20Imposition%20of%20a%20Curfew%20%28No.16%29%20Order%2C%202020.pdf>

¹³ Curfew Order, ss 2 and 3.

¹⁴ Curfew Order, s 8.

¹⁵ Curfew Order, s 4.

¹⁶ Curfew Order, s 5.

¹⁷ Curfew Order, s 7.

¹⁸ <https://www.bviddm.com/download/public-health-act-1977/>

¹⁹ <https://eservices.gov.vg/gazette/sites/eservices.gov.vg.gazette/files/newattachments/SI%20No%2045%20of%202020%20-%20Public%20Health%20%28Covid-19%20Control%20and%20Suppression%20Measures>

schools²⁰ and the restriction of gatherings to 20 persons, except in the case of vulnerable persons when it is limited to 10.²¹

Every establishment including offices, businesses and organisations shall put in place social distancing protocols and sanitisation measures and ensure that all staff and customers adhere to these.²² The sanitation measures are listed in regulation 5(2) of the Public Health (Covid-19 Control and Suppression Measures) (No.2) Order.²³

BVI has a standing Disaster Management Act 1993 ('DMA')²⁴ which, first, permits the Governor to declare a disaster area where a "disaster emergency" exists. A "disaster emergency" is defined as "a state of emergency declared under section 2 of the Emergency Powers (Disasters) Ordinance²⁵ or section 2 of the Virgin Islands (Emergency Powers) Order, 1967 on account of the occurrence of a disaster."²⁶ It is not clear though whether a disaster emergency as such has been declared.

Whether or not a disaster area has been declared, the DMA provides for the Governor to prepare a comprehensive disaster plan and programme;²⁷ creates the post of Director of Disaster Management;²⁸ one of whose responsibilities is to prepare a National Disaster Management Plan;²⁹ and establishes a National Disaster Management Council.³⁰ In accordance with these arrangements, a National Disaster Plan³¹ (along with a number of other plans³²) has been produced.

BVI is a participating state in the Caribbean Disaster Emergency Management Agency ('CDEMA') and the Caribbean Public Health Agency ('CARPHA').

The BVI Red Cross was incorporated under the British Virgin Islands Red Cross Act 2013.³³

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

Yes, but this appears to be made through the standing disaster management arrangements rather than through specific measures for the COVID-19 pandemic.

[%29%20%28No.2%29%20Order%2C%202020%20%281%29.pdf](#)

²⁰ Public Health (Covid-19 Control and Suppression Measures) (No.2) Order, reg 4.

²¹ Public Health (Covid-19 Control and Suppression Measures) (No.2) Order, reg 3.

²² Public Health (Covid-19 Control and Suppression Measures) (No.2) Order, reg 5(1).

²³ Public Health (Covid-19 Control and Suppression Measures) (No.2) Order, reg 5(2).

²⁴ <https://www.bviddm.com/download/disaster-management-act-2003/>

²⁵ <https://www.bviddm.com/download/emergency-powers/>

²⁶ Disaster Management Act, s 2.

²⁷ DMA, s 4.

²⁸ DMA, ss 5 to 8.

²⁹ DMA, s 11.

³⁰ DMA, s 9.

³¹ <https://www.bviddm.com/download/national-disaster-plan/>

³² See <https://www.bviddm.com/plans/>

³³ See BVI Red Cross website: <https://www.redcross.vg/about/our-constitution/> A copy of the Act could not be located online.

The DMA requires the Director of Disaster Management to prepare the National Disaster Plan which must include “procedures related to disaster preparedness and response of public officers, Ministries and Departments of Government, statutory boards and persons or organizations who volunteer or are required by law to perform functions related to the preparedness for and response to disasters in the Territory”.³⁴

The DMA requires that the National Disaster Plan be reviewed by the National Disaster Executive Council, which should include “persons nominated by such organizations 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 the Territory.”³⁵ It is not clear if the BVI Red Cross is on the Council from online sources but it is hoped that they would be included.

The National Disaster Plan sets out the mechanism for responding to all emergencies including epidemics. The Plan refers to the role of the BVI Red Cross and other voluntary agencies. The Plan refers to an MOU with the Virgin Islands Red Cross, but that was not attached to the online version of the Plan on the Department of Disaster Management’s website.

There is also likely to be coordination of response through membership of CDEMA and BVI’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 described in the overview.

The BVI Red Cross is, though, a key agency mentioned in the National Disaster Plan. It forms part of the Operations Group,³⁶ and has primary responsibility under the Plan for tracing individuals³⁷ during a disaster. It is a named support agency for the tasks of emergency accommodation and shelter management, precautionary evacuations, primary health care, search and rescue, simulation exercises and welfare assistance.³⁸

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?

Ferries, pleasure boats, commercial vessels, commercial airlines, private aircraft or any other means of transportation are prohibited or restricted from entering BVI at any port. Although there are no express exceptions for the RC or humanitarian organisations, exceptions may be permitted where the Minister in exceptional circumstances may by direction in writing authorise.³⁹

³⁴ DMA, s 11(2)

³⁵ DNMA, s 9(2) and Schedule, para 1(1)(l).

³⁶ National Disaster Plan, p 16.

³⁷ National Disaster Plan, p23.

³⁸ National Disaster Plan, pp 33 – 35.

If entry is permitted, it appears that this must be through the three authorised ports of entry: Road Harbour (including Port Purcell) and West End for shipping and the Terrance B. Lettsome International Airport Beef Island for aircraft.⁴⁰

The prohibitions on entry also contain no express exceptions. Although the wording suggests the opposite, it is possible that BVI intends there to be an exception for “persons enjoying relevant diplomatic or consular or other similar privileges by virtue of any Act or in accordance with recognised international practice”.⁴¹ Beyond this, the only persons permitted to enter appear to be those who are deemed to belong to BVI and holders of certificates of residence.⁴²

A member of a crew of an aircraft or a ship (including freight, cargo or courier craft or vessels) who has travelled to, from or through the countries listed in the Schedule to the Prohibition of Entry Order within a period of fourteen days or less, may be permitted to enter BVI, provided that all international crew members remain on the aircraft or ship and comply with all relevant public health measures. Other members of crew may be allowed entry into BVI, provided that the international crew members on an aircraft or ship remain within the port facility and comply with all relevant public health measures in effect.⁴³ It is not entirely clear what quarantine measures are in place. Under s 2 of the COVID-19 Control and Suppression (Miscellaneous Provisions) Act 2020, the Minister may by an Order published in the *Gazette* declare that a person who is permitted to enter BVI shall be quarantined for a period of fourteen days. Quarantine should be at the person’s place of residence or at any facility appointed as a quarantine facility.⁴⁴ It is not clear though if it has been necessary to make such an 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)?

There are no express exceptions for RC or humanitarian organisations from the curfew, but the list of persons permitted to be out during the curfew includes “persons employed as public and private sector social care providers, who are on duty, when traveling to or from duty”, “persons employed for humanitarian support purposes, who are on duty, when

³⁹ Prohibition or restriction of commercial vessels or aircraft (COVID-19) Order, 2020.

⁴⁰ Immigration and Passport (Authorised Ports of Entry) (Amendment) Regulations 2020 <https://eservices.gov.vg/gazette/sites/eservices.gov.vg.gazette/files/newattachments/SI%20No%2010%20--%20Immigration%20and%20Passport%20%28Authorised%20Ports%20of%20Entry%29%20%28Amendment%29%20Regulations%2C%202020.pdf>

⁴¹ Prohibition on Entry Order, s 2 and 3. <https://eservices.gov.vg/gazette/sites/eservices.gov.vg.gazette/files/newattachments/SI%20No%2036%20of%202020%20-%20Immigration%20and%20Passport%20%28Prohibition%20of%20Entry%29%20%28No.6%29%20Order%2C%202020.pdf>

⁴² Prohibition on Entry Order, s 4

⁴³ Prohibition of Entry Order, s 5.

⁴⁴ COVID-19 Control and Suppression (Miscellaneous Provisions) Act 2020, s2.

traveling to or from duty” and “persons employed at the health and emergency operations centre who are on duty, when traveling to or from duty”.⁴⁵

Now that the restrictions on businesses have been relaxed, and the position is that only specified establishments or businesses must now be closed, so long as they comply with the various conditions for social distancing and sanitation etc and have been inspected and approved to trade, other businesses would appear to be free to operate during limited hours of opening.

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?

Limited information was available. Reliance would appear to be placed on pre-existing measures and arrangements in customs legislation, see BVI Customs website:

<http://www.bvi.gov.vg/departments/her-majestys-customs>.

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?

No. However, now that the restrictions on businesses have been relaxed, and the position is that only specified establishments or businesses must be closed, so long as they comply with the various conditions for social distancing and sanitation etc and have been inspected and approved to trade, other businesses would appear to be free to operate during limited hours of opening.⁴⁶

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

The measures 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.

⁴⁵ Curfew Order, s 3 and Schedule

⁴⁶ See Curfew Order, s 4.