



Prepared by: **WHITE & CASE**

IFRC COVID-19 Emergency Decree Pro Bono Research: Nigeria

White & Case Team: Jowita Mieszkowska, Charlotte Deans, Kate Curran, Dominic Ross (London)

- *Questions to be answered by close of business Friday, 27 March are listed below.*
- *Please be sure to include English translations of relevant text where possible.*

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

Summary of the legal framework

Legislation	Function
2010 National Disaster Framework (“NDF”)¹	<ul style="list-style-type: none"> • Establishes functional disaster management institutions at all levels of governance (NEMA, SEMA and LEMA)
2002 National Disaster Response Plan (“NDRP”)²	<ul style="list-style-type: none"> • Establishes a process and structure for the delivery of Federal assistance, to address the consequences of any major disaster or emergency declared by the President
1999 Constitution of the Federal Republic of Nigeria (the “Constitution”)³	<ul style="list-style-type: none"> • Allows the President to declare a state of emergency
1926 Quarantine Act (“Quarantine Act”)⁴	<ul style="list-style-type: none"> • Governs the response to “dangerous infectious diseases” and allows the President to make regulations in response

The NDF

The **NDF** provides [the] mechanism that serves as a regulatory guideline for effective and efficient disaster management in Nigeria.” The NDF’s main objectives are to:

- Establish functional disaster management institutions at all levels of governance to prepare for, prevent, mitigate, respond to and recover from disaster events in Nigeria; and
- Develop capacity of relevant institutions and stakeholders for effective and efficient disaster management in Nigeria.⁵

¹ National Disaster Framework (2010), available at <https://www.refworld.org/docid/5b3f84874.html>

² National disaster response plan 2002 available at <https://www.preventionweb.net/english/professional/policies/v.php?id=21707>

³ Constitution of the Federal Republic of Nigeria 1999

⁴ Quarantine Act 1926 an Act to provide for and regulate the imposition of quarantine and to make other provisions for preventing the introduction into and spread in Nigeria, and the transmission from Nigeria, of dangerous infectious diseases.

⁵ Art 2.1 National Disaster Framework



The NDF created, the National Emergency Management Agency (“**NEMA**”) which is the Federal Government’s institution tasked with the following functions:

- a) Formulate policy on all activities relating to disaster management in Nigeria;
- b) Coordinate the activities of other stakeholders in Disaster Management;
- c) Co-ordinate plans and programmes for efficient and effective response to disasters in the country;
- d) Co-ordinate and promote research activities relating to disaster management in the country;
- e) Monitor the state of preparedness of all organizations and agencies which may contribute to disaster management in Nigeria;
- f) Collate data and report from relevant agencies to enhance forecasting, planning and field operations of disaster management;
- g) Educate the public on disaster prevention and control measures;
- h) Co-ordinate and facilitate the provision of necessary resources for search and rescue and other types of disaster curtailment activities;
- i) Co-ordinate and support the activities of non-governmental organizations and development partners engaged in disaster management in the country.
- j) Mobilize financial and technical resources from private sector, international nongovernmental organisations and development partners for the purpose of disaster management in Nigeria;
- k) Collect emergency relief materials or supplies from local, international and nongovernmental agencies for distribution to the people affected by disaster;
- l) Work closely with SEMA and LEMA to assess and monitor where necessary the distribution of relief materials to disaster survivors and Internally Displaced Persons (IDPs), refugees, and those adversely affected by mass deportation and repatriation from any other country as a result of crises, disasters or foreign policies;
- m) Assist in the rehabilitation of survivors, IDPs and refugees where necessary, and those adversely affected by mass deportation and repatriation from any other country as a result of crises, disasters or foreign policies;
- n) Prepare the annual budget for disaster management in Nigeria;
- o) Process relief assistance to such countries that have experienced disaster as may be determined by the Federal Government of Nigeria from time to time;
- p) Foster strong working relationship with all relevant National and International Agencies including the United Nations institutions for the reduction of disasters;
- q) Facilitate the establishment of enabling legislation and monitor the activities of State Emergency Management Agency (SEMA) and Local Emergency Management Authority (LEMA); and
- r) Perform such other functions which, in the opinion of the Governing Council are required for the purpose of enhancing effective disaster management in Nigeria.

The NDF also sets up organisations at the state and local levels to provide a coordinated disaster response programme at all levels of Nigerian governance.

The NDRP

In addition to the NDF, the NDRP establishes “a process and structure for the systematic, coordinated, and effective delivery of Federal assistance, to address the consequences of any major disaster or emergency declared by the President of the Federal Republic of Nigeria”.⁶

The Constitution

⁶ National disaster response plan 2002 available at <https://www.preventionweb.net/english/professional/policies/v.php?id=21707>



The declaration of a state of emergency is governed by Article 305 of the Constitution allows the Nigerian President to amend regulations to facilitate a response to emergencies, which include epidemics.⁷

Quarantine Act

The Quarantine Act⁸ governs the response to “dangerous infectious diseases” and allows the President to make regulations:

- a) to declare an infected local area
- b) prescribing the introduction of any dangerous infectious disease into Nigeria
- c) preventing the spread of any dangerous infectious disease
- d) preventing the transmission of any dangerous infectious disease
- e) prescribing the powers and duties of such officers
- f) fixing the fees and charges to be paid for any matter or thing to be done under such regulations⁹

As at the date of this memorandum, no state of emergency has been declared in Nigeria, however this is an ever-changing situation; if cases of the virus continue to rise it is likely that a state of emergency may be declared. As a point of reference, a state of emergency was declared in 2014 to fight the Ebola outbreak in the country.¹⁰

2. Is there mention of the role of Red Cross (RC) or humanitarian actors? In what areas/sectors? What responsibilities are ascribed to RC?

The NDRP describes the Nigerian Red Cross as a “Federal agency in coordinating the use of Federal mass care resources, in a presidentially declared disaster or emergency”¹¹ The NDRP describes the structure for organising, coordinating, and mobilising Federal resources to augment State and local response efforts.

The NDF also states that all States in the Federation shall ensure the establishment of a body to be known as State Emergency Management Agency (SEMA), governed by a Council which consists of the Deputy Governor of the State, the Secretary to the State government and one representative from the Nigerian Red Cross (amongst others).¹² The SEMA performs a similar function to the NEMA (see question 1 above) but focuses on the state level of government.

A similar structure also operates at the local level.

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?

⁷ Art. 305, Constitution of the Federal Republic of Nigeria 1999

⁸ Quarantine Act 1926 an Act to provide for and regulate the imposition of quarantine and to make other provisions for preventing the introduction into and spread in Nigeria, and the transmission from Nigeria, of dangerous infectious diseases.

⁹ Art 4, Quarantine Act

¹⁰ Voa News ‘Nigeria Declares State of Emergency over Ebola’ (8 August 2014) available at <https://www.voanews.com/africa/nigeria-declares-state-emergency-over-ebola>

¹¹ Art. 1(B)(3), National Disaster Response Plan (National Emergency Management Agency) (2002) available at: <https://www.refworld.org/docid/5b3f83af4.html>

¹² Art. 2.2.2 NDF



The Federal Government of Nigeria has issued a ban on all international flights effective from the 23 March 2020, with the exception of emergency and essential flights for an initial period of time¹³

The Federal Ministry of Health is working with Nigerian Customs Service and Nigeria Immigration Service to ensure surveillance at land and sea borders. Ships coming in through the seaports are also subjected to mandatory health screenings and clearance by Port Health Services, especially ships that (i) sailed from high-risk ports (ii) have been at sea for less than 14 days, or (iii) have crew members who are ill.¹⁴

All travellers who have returned to Nigeria in the last 14 days are required to self-isolate for 14 days even if they are not showing symptoms.¹⁵ It is assumed that such rules also apply to movement of persons providing humanitarian aid.

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)?

The ban on all international flights excludes “emergency and essential flights for an initial period of time”. This may assist humanitarian organisations with accessing vulnerable populations, however there is no clarification as to what this exclusion covers and for how long the exclusion will apply. At the date of this memorandum, domestic flight operations are scheduled to continue as normal at all airports in Nigeria.

All travellers returning to Nigeria from “high risk” countries prior to the restriction will be placed into supervised self-isolation, monitored by Nigerian Centre for Disease Control and Port Health Services (NCDC).¹⁶ The guidance does not state whether there are any exclusions to this rule.

Nigerian hotel booking agency, Hotels.ng, recently announced it has partnered with 10 hotels in Nigeria to set up self-isolation centres at a minimal cost to assist individuals with observing the 2 week NCDC-imposed quarantine period.¹⁷ Temporary facilities such as these may assist aid workers with accessing vulnerable populations.

In a circular released by the Office of the Head of Service of the Federation, the Government has issued a directive ordering non-essential public servants on grade level 12 and below to work remotely until further notice.¹⁸ However, public workers on essential duties may continue to work as normal, providing social distancing rules are observed.

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?

Mid-February 2020, health ministers of the 15-member Economic Community of West African States (ECOWAS) converged in Mali to develop a regional preparedness plan and boost cross-border

¹³ Nigeria Centre for Disease Control 'Public Health Advisory to Nigerians on Coronavirus Disease' (18 March 2020) available at <http://covid19.ncdc.gov.ng/advisory.html#about>

¹⁴ *ibid*

¹⁵ *ibid*

¹⁶ *ibid*

¹⁷ See Naija Blog 'COVID-19: Hotels.Ng Partners Others To Provide Self-Isolation Centres For Nigerians' (24 March 2020) available at <https://see-naija.com/covid-19-hotels-ng-partners-others-to-provide-self-isolation-centres-for-nigerians/>

¹⁸ OSAG 'Health Alert: Nigeria, Movement Restrictions and Repatriation Details' (25 March 2020) available at <https://www.osac.gov/Content/Report/01edfca9-8adf-4714-83c6-18493b9dcbf8>



collaboration.¹⁹ Furthermore, on 25 March 2020, the United Nations system in Nigeria announced that it has mobilised \$2 million to help the Government procure essential medical supplies. There is no publicly available information as to the conditions attached to this aid.

The Jack Ma Foundation founded by Chinese businessman Jack Ma (Executive Chairman of Alibaba) donated medical supplies comprising of 1,000 protective gowns and 20,000 test kits. The consignment was first sent to the Headquarters of African Union in Addis Ababa, Ethiopia before being transported by a Nigerian Air Force cargo plane, arriving in Abuja on March 24, 2020.²⁰ The supplies will be distributed to frontline health workers and hospital laboratories. The system by which these supplies have been imported to Nigeria suggests similar imports of medical aid will involve governmental supervision.

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?

There are currently no restrictions on business operations and opening hours in Nigeria and therefore no relevant exemptions.

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

The Emergency Economic Stimulus Bill (the “**Emergency Bill**”) was introduced and passed for third reading on the 24 March 2020 by the National Assembly of the Federal Republic of Nigeria²¹ to “provide relief on Corporation Tax Liability, Suspension of Import Duty on Selected Goods and Deferral of Residential Mortgage Obligations to the Federal Mortgage Bank of Nigeria for a fixed term”.²² The Emergency Bill aims to both protect jobs and alleviate the financial burden that citizens face due to the outbreak of COVID-19. Relief is provided under the Emergency Bill both to companies and individuals. The Bill states that:

- a) Any employer which maintains the same employee status (without reducing their staff) as at 1 March 2020 until 31 December 2020 will be entitled to a 50% income tax rebate on the total amount due or paid of PAYE Tax.
- b) All mortgage payment obligations on residential mortgages are deferred for a period of 180 days effective from 1 March 2020.

The intention behind point a) is to protect the employment status of Nigerians who “might otherwise become unemployed as a consequence of management decisions to retrench personnel in response to the prevailing economic realities”.²³ Thus, management are provided with tax-based incentives to keep their employees on the company’s payroll.

However, as at the date of the memorandum, the Bill has yet to come into force.

¹⁹ Al Jazeera, 'Nigeria will deal with this': High alert after coronavirus case' (1 March 2020) <https://www.aljazeera.com/news/2020/03/deal-high-alert-coronavirus-case-200301140838366.html>

²⁰ Africa News, Coronavirus - Nigeria: Federal Government (FG) receives donated consignment from Jack Ma Foundation China (26 March 2020) available at <https://www.africanews.com/2020/03/26/coronavirus-nigeria-federal-government-fg-receives-donated-consignment-from-jack-ma-foundation-china/>; TVC News, 'FG receives medical supplies donated by Jack Ma Foundation' <https://www.tvcnews.tv/fg-receives-medical-supplies-donated-by-jack-ma-foundation/> 26 March 2020

²¹ Nigeria National Assembly 'Covid-19: Reps Pass Economic Stimulus Bill' available at <https://www.nassnig.org/news/item/1472>

²² Emergency Economic Stimulus Bill 2020 (24 March 2020)

²³ Nigeria National Assembly 'Covid-19: Reps Pass Economic Stimulus Bill'



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

No restrictions have been put in place or adopted as of yet. Nigeria are currently focusing on facilitating the importation of protective medical equipment, as demonstrated by the recently enacted Economic Stimulus Bill (see Question 7) which has waived the import duty on medicines and medicinal goods effective until 31 December 2020 (see also Question 5 for more details).