



## CARIBBEAN EMERGENCY LEGISLATION PROJECT (CELP)



### Legal Framework

#### The Constitution of 1983

Section 19 of the Constitution addresses the declaration of emergency in Saint Kitts and Nevis. According to the provision the Governor-General may by proclamation declare that a state of emergency exists either in Saint Christopher or Nevis. Section 19(2) provides that *'such a proclamation shall not be effective unless it includes a declaration that the Governor-General is satisfied that a public emergency has arisen being either*

*a) because of the possibility that Her Majesty may shortly be at war;*

*b) because of the occurrence of any accident or natural calamity, or*

*c) because action has been taken by any person, or there is an imminent threat of action by any person, of such a nature and on so extensive a scale as to be likely to endanger the public safety or to deprive the community or any substantial portion of the community of supplies or services essential to life.*

*However in the exercise of his powers to make or revoke any such declaration as is referred to in subsection (4) the Governor-General shall act in accordance with the advice of the Prime Minister but no such advice shall be given without the concurrence of the Premier (Nevis).*

Further, Section 19(3) provides that, *'Every declaration of emergency shall lapse-*

*a) in the case of a declaration made when the National Assembly is sitting, at the expiration of a period of seven days beginning with the date of publication of the declaration; and*

*b) in any other case, at the expiration of a period of twenty-one days beginning with the date of publication of the declaration unless it has in the meantime been approved by resolution of the Assembly.*

Additionally, according to Section 19(4), a declaration of a state of emergency may be made in respect of all or part of either island and may be extended from time to time with each extension not exceeding twelve months from the date of the resolution effecting the extension, and any such resolution may be revoked at any time by a further resolution.

According to Section 19(5) a declaration of emergency may at any time be revoked by the Governor-General similarly by proclamation.

With regard to Nevis Island, unless sooner revoked a declaration of emergency that has been approved by resolution of the Nevis Island Assembly in

pursuance of Section 19(3) shall cease to be in force until that resolution cease to be in force; and furthermore a declaration of emergency that has been approved by resolution of the Nevis Island Assembly in pursuance of Section 19(4) shall, to the extent that it relates to the island of Nevis, notwithstanding that a declaration of the National Assembly approving it in pursuance of Section 19(3) remains in force. A resolution of the Assembly extending any such resolution shall not be passed in the Assembly unless it is supported by the votes of not less than two-thirds of all the Representatives and Senators; and a resolution revoking any such resolution shall not be passed

unless it is supported by the votes of a majority of all the Representatives and Senators.

According to Section 16 of the Constitution (entitled – “Emergency measures derogating from S.5 or 15”). ‘nothing contained in or done under the authority of a law enacted by Parliament shall be held to be inconsistent with or in contravention of Section 5 or 15 to the extent that the law authorises the taking during any period of public emergency of measures that are reasonably justifiable for dealing with the situation that exists in Saint Christopher and Nevis or in part of Saint Christopher and Nevis during that period’.

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## Emergency Powers Act No. 15 of 1967

This Act provides for emergency powers in times of war, public calamity or public disturbance.

Other relevant pieces of legislation which relate to various Agencies/Institutions which are part of the National Disaster Organisation, include:

- Police Act No.6 of 2003
- Fire and Rescue Services Act No. 6 of 1999
- St Christopher and Nevis Defence Force Act No. 10 of 1997
- Island Constables Act No. 31 of 2009
- Saint Kitts and Nevis Red Cross Society Act No 6 of 1985.

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## National Disaster Management Act No. 5 of 1998

The National Disaster Management Act, Saint Christopher and Nevis, No. of 1998 establishes the legal framework for disaster management. The Act provides for the effective management and control of disasters, and for related or incidental matters. Section 3 of the Act establishes the National Emergency Management Agency (NEMA). NEMA prepared the country’s National Disaster Mitigation Plan and policy document

in 1999<sup>1</sup>. The Plan provides for the engagement of public and private, governmental and non-governmental organizations. Community mobilization is organized through district committees. The development of contingency plans at the community level has been ongoing for several years.

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1 Revised in 2001



## Development Control and Planning Act in 2000

Following the devastating impact of Hurricane Georges in 1998, the Government of Saint Kitts and Nevis enacted the Development Control and Planning Act in 2000. The Act provides the legislative framework for the regulation of the construction sector and for the orderly undertaking

of physical development activities. In support of the Act, the Saint Kitts-Nevis Building Code was upgraded and the Building Inspectorate was increased. Other measures have since been taken to minimise the impact of disasters on government buildings.

## Institutional Framework

### National Emergency Management Agency (NEMA)

NEMA is the agency responsible for coordination in times of national emergency. It is established as a department in the Ministry of National Security. It is generally responsible for management, mitigation, control and recovery in times of national emergency. NEMA coordinates the various activities of the institutions with the necessary resources to deal with the national emergency.

NEMA's points of contact within the Ministries and other organisations are the Permanent Secretaries of the various Ministries and the Heads of Departments or Heads of the various organisations (specified in the Saint Kitts and Nevis National Disaster Plan). NEMA is also responsible for preparedness, coordination of training and educational exercises during non-emergency times.

The Saint Kitts and Nevis National Disaster Plan was prepared under the Disaster Management Act officially endorsed and approved by the Cabinet of Ministers in 1999. Since that time the Plan has been the guiding document during two national emergencies in Saint Kitts and Nevis: Hurricane Lenny (1999) and Hurricane Omar (2008). The Plan is currently being reviewed because new Agencies that did not exist when the plan was approved in 1999 are now involved, including the fire and rescue service and the emergency medical service. Other institutions with disaster and emergency related functions and responsibilities include the police and defence force, the Red Cross, faith-based organizations, and the Chamber of Commerce.

### Nevis Disaster Management Department

NEMA works together with the Nevis Disaster Management Department to ensure that the island is in a state of preparedness at all times. The Department was set up by the Nevis Island Administration; hence, it is not a Federal Department but specifically established to deal with disasters/national emergencies in the island of Nevis. It has set up a Committee within the

Department to coordinate with NEMA with respect to emergencies affecting the island of Nevis. Its area of planning includes collaboration with NEMA, coordination with District Emergency Organisations and advising NEMA on the requirement for anticipatory orders under the Emergency Powers Act.

## CELP PROFILE Saint Kitts and Nevis

The Department has prepared a Nevis Disaster Management Plan which, according to the National Coordinator, is in need of various modifications. There is a proposal by the Nevis Disaster Management Department to completely replace this plan and work is on the way to secure funding to undertake the revamping of this plan. The Department hopes to start the review in mid-2010.

### Budget appropriation and execution

The Ministry of Finance is the government agency that is responsible for budget appropriation and the Financial Secretary (assisted by the Accountant General) responsible for oversight. There is no change in “budget execution oversight” at times of emergency/disaster. There is within the budget a contingency reserve fund which may be accessed in the case of a national emergency. In addition to the contingency reserve fund, the Minister of Finance may issue an appropriation warrant in the case of a national emergency. Any appropriation warrant that is issued in the case of a national emergency has immediate effect but must eventually be validated by Parliament’s approval by way of passing a related Supplementary Appropriation Bill.

The Financial Secretary, assisted by the Accountant General, is responsible for budget execution oversight in the case of funds allocated for a national emergency. This system has been found to be very efficient in cases of national emergency because all of the detailed paper work which would cause delays is dealt with after the Minister has issued the appropriation warrant and the funds have been disbursed for, among other things, effective disaster mitigation.

In Nevis the Nevis Island Administration is also responsible for the disbursement of funds in case of a national emergency affecting the island of Nevis.

The annual budget for the NEMA is EC \$500,000.00 which primarily covers administrative costs.



## Recommendations

### Specific

- Amend the Emergency Powers Act by:
  - Eliminating References to Saint Christopher, Nevis and Anguilla which are no longer relevant.
  - Providing that a proclamation to declare a state of national emergency should also be published/broadcast through various media
- Amend, modify or replace the National Disaster Management Act No. 5 of 1998 because a statutory body referred to as the National Disaster Management Agency was established under that Act but was never established in the Federation.
- Statutorily establish NEMA or clarify/reconcile its roles and responsibilities with the National Disaster Management Act
- Implement Regulations to not only address how the law should operate in practice but also outline the terms of access to Federal and international funding for national emergencies affecting Nevis.
- Prepare a formal agreement or arrangement between NEMA and the Nevis Disaster Management Office to regulate cooperation and coordination of activities between these agencies.
- Update the National Disaster Management Plan to include the Nevis Plan
- Organize more drill during times of non-emergency.
- Revisit and test the roles and responsibilities of agencies involved in disaster and emergency management

- Establish a reliable and sustainable funding source for disaster and emergency management
- Improve the effectiveness (coverage, equipment, etc.) of current communication systems relied upon during disasters and emergencies.

### General

- Establish adequate legislative authority for disaster management
- Enact legislation to promote the implementation of improved standards for all buildings and infrastructure
- Establish adequate funding mechanisms for disaster management
- Create mechanisms for transparency and accountability of external agencies
- Promote capacity building and strengthen institutional arrangements
- Enhance risk management and insurance coverage for disasters
- Promote the transfer and exchange of disaster information
- Improve access to information and promote effective communication
- Update National Emergency Plans and Procedures
- Strengthen Community Committees
- Improve capability of disaster and emergency personnel



Organization of  
American States