



CARIBBEAN EMERGENCY LEGISLATION PROJECT (CELP)



Legal Framework

The Commonwealth of Dominica Constitution, No. 1027 of 1978

Section 14 of the Constitution authorizes the taking during any period of public emergency, of measures that are reasonably justifiable for dealing with the situation that exists in Dominica during that period.

A Proclamation made by the President may declare that a state of emergency exists if he is satisfied that -

- (a) that a public emergency has arisen as a result of the imminence of a state of war between Dominica and a foreign state;
- (b) as a result of the occurrence of any earthquake, hurricane, flood, fire, outbreak of pestilence, outbreak of infectious disease or other calamity; or

(c) action has been taken or is immediately threatened 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 substantial portion of the community, of supplies or services essential to life. (section 17(3))

The Constitution defines a “period of public emergency” as, inter alia, a period during which “(a) Dominica is engaged in any war; (b) there is in force a proclamation by the President declaring that a state of emergency exists; or (c) there is in force a resolution of the House supported by the votes of not less than two-thirds of all the members of the House declaring that democratic institutions in Dominica are threatened by subversion.

Emergency Powers Act, Chapter 15:02

The Emergency Powers Act provides for the security of the State in an emergency. Under this Act the President or a person duly authorized by him may put certain measures in place during a period of public emergency as are reasonably required for dealing with the situation.

The President is empowered to make and publish Regulations and to issue orders and instructions for the purpose of exercising the powers conferred on him by the Act (Emergency Powers). If it is impracticable or impossible to publish the regulations in the Gazette a proclamation notice, regulations or order in pursuance of the Act, the

President may publish by notices affixed to public buildings or distributed to the public by oral pronouncements.

A number of subsidiary legislation has been made under the Act the most recent of which are the following:

- State of Emergency Proclamation 1994 SRO 17 of 1994
- Emergency Powers Regulations
- Emergency Powers (Curfew) Regulations SRO, No. 18 of 1994
- Emergency Powers Curfew Order 1994 No. 19 of 1994

Emergency Powers (Disaster) Act, Chapter 15:03

This Act seeks to provide for the welfare and safety of the community in cases of disaster and for matters related to disaster. A disaster for the purposes of the Act is defined in Section 2 to mean –

“any grave abnormality such as hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, earth quake, volcanic eruption, landslide, drought, fire, explosion, epidemic, pollution, transportation accident, oil spill or any other catastrophe that warrants mobilization and use of extraordinary human and economic resources to repair damages caused or to circumvent those that could arise during the situation or to generally confront and overcome such a severe and unusual situation”.

The Act confers on the President the power to declare a state of emergency where Dominica or any part of Dominica is affected or is imminently likely to be affected by any disaster. A Proclamation made under this Act is valid for no longer than one month. Parliament must be notified of the proclamation where a proclamation of emergency has been made and while it is in force. The President is given the power to make orders securing the essentials of life to the community and for the preservation of health, welfare and safety of the public.

An order made under the Act may provide, inter alia, for requisitioning and regulating the supply and distribution of food, clothing, water, fuel, light and other necessities of life. The demolition of any building or other structure deemed to be dangerous and the disposal of the dead may also be ordered.



Institutional Framework

National Emergency Planning Organization (NEPO)

NEPO is “the government organization that has responsibility for the planning and organization of counter-disaster measures at the central level.” The Prime Minister is the chairman of the NEPO while the National Disaster Coordinator is the secretary to the NEPO. NEPO has in turn established a National Advisory Committee. This Committee is meant to develop and recommend policies, plans and guidelines for the prevention, mitigation, preparedness, response, and recovery measures for Dominica.

According to the National Disaster Plan in the absence of the President, the line of succession (authority) for declaring a national disaster is the Prime Minister, the Minister for Communications, Works and Housing, Cabinet Secretary and the Permanent Secretary of the Ministry of Communications, Works and Housing. The Plan requires NEPO to develop, operate and maintain a National Emergency Operations Centre in accordance with the Plan. A number of subcommittees comprising representatives from several government agencies have been put in place under the NEPO.

Office of Disaster Management (ODM)

The Office of Disaster Management does not have a separate status and personality in law. It was established in response to the recent increases in natural disasters particularly hurricanes. The ODM is responsible for the management, coordination and response to disasters. It is also in the process of adopting a comprehensive Disaster Management framework that will include mitigation, response and recovery.

The Office of Disaster Management plays a pivotal role in the implementation of the Plan once it is activated.

The ODM is required to monitor and supervise any activity which may have bearing on the level of preparedness, prevention and safety in the society. In performance of its functions the ODM coordinates with the various departments of government and other institutions and organizations. The institutions with which the ODM coordinates may vary depending on the disaster or emergency situation to be addressed.

Budget appropriation and execution

The Parliament of Dominica appropriates monies toward disaster management within the annual budgetary allocations to governmental entities. Funds are appropriated to the Ministry with responsibility for disaster under which the ODM falls and the necessary payments are made to the ODM or purchases made to meet the needs of the ODM. A contingency budget is also made available to the ODM. The ODM's annual budget is EC \$1 million. It covers the operation budget only which includes salaries, recurring expenses, and education outreach.

Should a disaster actually occur, the Ministry of Finance issues funds to agencies based on the responsibilities they discharge. The amount of the actual disbursement takes into account the results of an assessment of the disaster. The Minister of Finance must authorize the disbursement. The Permanent Secretary as chief accounting officer for the respective governmental entity is responsible for the day to day distribution at that entity. These measures are in accord with the provisions of the National Disaster Plan.

As a participating state of the Caribbean Disaster Emergency Management Agency (CDEMA), the Commonwealth of Dominica is entitled to receive contributions from its Emergency Assistance Fund. Voluntary contributions from individuals and aid agencies are also disbursed through the Ministry of Finance.



Recommendations

Specific

- The Emergency Powers (Disaster) Act should clearly identify the lead organizations that deal with national disasters, their roles and responsibilities in the event of a disaster.
- Finalize and enact this draft Disaster Preparedness and Emergency Management Act, and ensure that it supports the National Disaster Plan.
- Statutorily establish the Office of Disaster Management, outlining clearly its roles and responsibilities.
- Ensure that the National Disaster Plan covers all hazards.
- Prepare a national disaster and emergency management policy.
- Improve the effectiveness of national communication systems operable during a disaster/emergency.
- Prepare an emergency telecommunication action plan.

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
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