



## CARIBBEAN EMERGENCY LEGISLATION PROJECT (CELP)



### Legal Framework

#### The Saint Lucia Constitution Order 1978

The emergency powers arrangements in Saint Lucia are established in two main legislative instruments: – the Constitution which establishes the power to declare a state of emergency, and the Emergency Powers Act which furthers the implementation of its provisions.

Section 17 (1) of the Constitution provides that the Governor General may, by proclamation published in the Official Gazette, declare that a state of emergency exists. Further, Section 17(2) states that such proclamation ‘shall not be effective unless it contains a declaration that the Governor-General is satisfied-

*a) that a public emergency has arisen as a result of the imminence of a state of war between Saint Lucia and a foreign state;*

*b) that a public emergency has arisen as a result of the occurrence of any earthquake, hurricane, flood, fire, outbreak of pestilence or of infectious disease, or other calamity whether similar to the foregoing or not; or*

*a) that 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 any substantial portion of the community of supplies or services essential to life.’*

Section 17 also sets out the procedures for revocation, extension and lapse of such a declaration.

The Governor-General is also authorised to impose regulations and make orders to deal with situations existing or likely to exist during a period of public emergency. Parliament has a similar right to enact laws during this period. However, the Governor General’s power supersedes any power exercised by Parliament during the relevant period. Nevertheless, Parliament is allowed to enact laws even in circumstances where such laws maybe in breach of Section 3 (the protection of right of personal liberty) or Section 13 (protection from discrimination of the grounds of race etc.). According to Section 14 however, any such law and/ - or regulation must be reasonably justifiable to deal with the existing situation or likelihood of situations to occur during the period of

public emergency. This seems to create a balance between the government's responsibility to safe guard public interest and the protection of individual's liberties.

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## Emergency Powers Act No. 5 of 1995

The provisions of this Act supplements and implements Section 17 of the Constitution by setting out the hierarchy of responsibility and actions to be taken after the Governor General has proclaimed a public emergency under Section 17 of the Constitution. According to the Act, the Minister with responsibility of disaster preparedness and prevention is authorized to make

orders during a public emergency. These orders relate to the requisitioning of transport, food, clothing and other necessities of life. However, the government (the Senate and House of Assembly) must approve of these orders by resolution.

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## Disaster Management Act, 2006

This Act repeals and replaces an earlier Disaster Management Act. It contains detailed provisions regarding the functions and operation of the National Emergency Management Organisation (NEMO). The Act requires a Director to head the organisation along with a National Emergency Advisory Committee chaired by the Prime Minister. The Committee's responsibilities include establishing up additional district committees to assist in carrying out the objectives and functions of the organization as stipulated in the Act and in accordance with the national plan of the country. The Act imposes the responsibility on the Director to submit an annual report to the Committee. The report is adopted after consultation with the Prime Minister and becomes part of the national plan of the country.

The Act also authorizes the Governor General to proclaim the whole or part of any treaty to be law during an emergency period. This is an important provision because it creates assimilation of systems and guidelines which facilitates and encourages international mutual assistance during disaster and emergency situations. In some instances treaties are treated as self-executing thereby deemed applicable in domestic law. The Caribbean Disaster Response Agency Agreement, forms part of the Third Schedule of the Act in this context.



## Health Practitioners Act – 16.11 of the Revised laws of Saint Lucia (the Act)

Under Section 39(1) of the Act, the Governor General acting on the advice of the Chief Medical Officer may, during times of public emergency, authorize the registration of persons who may not otherwise qualify as medical practitioners. However, any person so registered must cease to

practice when the Governor General orders that the state of public emergency is over. This is a necessary authority to increase human resource power which is critical to respond to emergency and disaster situations.

## Institutional Framework

### National Emergency Management Organization

NEMO was established under the Disaster Preparedness and Response Act (2001) which has been repealed and replaced by the Disaster Management Act (2006). There is a duty imposed on the organization and the government to notify the public of hazard or emergency or evacuation situations.

NEMO is operated by a small core of administrative staff and volunteers in implementing the National Emergency Management Plan 2007. Generally the plan consists of a number of very comprehensive

practices, policies and plans for preparedness and response to emergency and disaster situations. The plan provides for consultation of various groups some of which include district committees, government ministry, advisory committee, private sector and NEMO. This collaborative effort is important to order to secure full participation to encourage a wide range of ideas to secure guidelines for disaster and emergency preparedness and administrative execution.

## Budget appropriation and execution

The Saint Lucia Constitution Order (1978) in Sections 78 and 79 establish the duty to make disbursements from the Consolidated Fund or other public fund. According to that process as it pertains to NEMO, the Ministry of Finance prepares the macroeconomic outlook for the upcoming fiscal year. Macroeconomic indicators are reviewed and projections for recurrent revenue, recurrent expenditure and capital expenditure are formulated. A request/call for new initiatives for recurrent revenue, recurrent expenditure as well as capital expenditure is then sent to the Ministries. The Ministries/Agencies (including NEMA) submit their new initiatives. The Ministry

of Finance reviews the submissions, including estimates requests, and prepares recommendations in consultation with the Agencies. Several meetings are held with the Agencies, within the Ministry of Finance, at the Technical Budget Committee and Minister of Finance Budget Policy levels. The Minister of Finance also meets with selective Agencies, where their achievements for the current year, other significant issues, and estimate requests are discussed. After extensive reviews and dialogue the Ministry of Finance present the draft estimates to the Minister of Finance. The Minister and Finance Officials meet with Cabinet to finalize the Estimates.

Following the Cabinet meeting, Ministry of Finance prepares the printed estimates and develops the budget papers. The Attorney General develops the Appropriation Bill and the Resolution. When passed the Appropriation Act is then assented to by the Governor General and Gazetted. During this phase the Ministry of Finance releases the Allocation to Agencies on a quarterly basis. The release of Allocation is based in part on the revenue performance in the case of recurrent expenditure. Capital expenditure allocation, on the other hand is determined based on the availability of the loan or grant and the status of the projects. NEMA along with other Agencies are required to submit monthly revenue reports and quarterly performance reports to the Ministry of Finance. It is estimated that 0.04% of the annual national budget is allocated to NEMA. The funds allocated are for capital (usually for infrastructure), recurrent (administrative costs), and response expenditures.

Section 81 of the Saint Lucia Constitution Order 1978 establishes the responsibility of Parliament for establishing a contingency fund to meet any financial requirements in which the Minister of Finance is satisfied that an urgent and unforeseen expenditure has arisen for which no other provision exist to make advances from that fund to meet that need. This may include a situation of public emergency. In these circumstances a supplementary estimate and bill must be approved by House of Assembly as soon as possible for the purpose of replacing the amount advanced.

Similarly, Section 80 of the Constitution authorises Parliament to make expenditures in advance of the Appropriation bill at the behest of the Minister of Finance for expenditures necessary for government services provided that the appropriation law has not come into effect by the beginning of the financial year. This provision may be relevant to activate in an emergency situation which has taken place after the budget has been passed by the government and which requires essential governmental services.



## Recommendations

### Specific

- Maintain the support of committee volunteers and liaison officers by providing them with compensation as essential tools to ensure proper administration between government and the NEMO.
- Draft and implement supporting regulations for disaster and emergency related legislation.
- Consider the Tampere Convention.
- Prepare and implement provision/mechanisms for the termination of international assistance.
- Improve and update communication systems relied upon during disasters/emergencies, and provide training in the use of these systems.
- Provide specific support for disaster funding in legislation.

### General

- 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