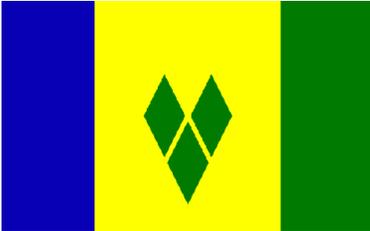




Organization of
American States

CELP PROFILE Saint Vincent and the Grenadines

CARIBBEAN EMERGENCY LEGISLATION PROJECT (CELP)



Legal Framework

St. Vincent and the Grenadines Constitution of 1979, S14, 17 and 72

Section 17 of the Constitution provides that, ‘-the Governor General may, by proclamation which shall be published in the Official Gazette, declare that a state of emergency exists’. According to Section 17(2) a 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 to the imminence of a state of war between Saint Vincent and a foreign state;

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

c. 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 procedure regarding lapse, revocation and extension. A declaration

made during the sitting of the House lapses within a week from the date of publication, and according to Section 17 (8) any provision that a declaration of emergency shall lapse or cease to be in force at any particular time is without prejudice to the making of a further such declaration whether before or after that time. The declaration is revoked in like manner as it is made, that is, by proclamation published in the Gazette. Irrespective of whether a former declaration has lapsed or been revoked, section 17(8) provides for a subsequent declaration to be made.

Section 18(2) defines a period of public emergency to mean any period during which-

a. Her Majesty is at war; or

b. a declaration of emergency is in force under section 17 of (the) Constitution

Emergency Powers Act, Cap 274 (Rev.)

This Act is supplementary to Section 17 of the Constitution which speaks to the power to declare an emergency. Section 3 of this Act empowers the Governor General to make regulations touching and concerning several aspects of governance such as communications and transport, utilities and imposition of curfews. It provides a non-exhaustive list of the powers of the Governor General who is the primary government official constitutionally authorized to declare a state of

emergency. It illustrates that the power wielded by the Governor General and by extension the Executive during a formally declared period of emergency is far-reaching. The declaration of a state of emergency therefore elicits the exercise of certain powers as statutorily ordained.

The Emergency Powers Act is useful in its expression of the scope of the Governor General's powers and responsibilities.

National Emergency Management Organization Act, No. 15 of 2006

Part 1 of this Act defines "disaster" as "an actual or imminent situation, whether natural or otherwise, which requires a significant and coordinated response and is caused by an occurrence such as volcanic eruption, earthquake, hurricane, flood, tidal wave, landslide, fire or epidemic and which causes or threatens to cause widespread loss or damage to property, widespread loss of human life, injury or illness to human beings, or damage to or degradation of the environment, but excluding events occasioned by war or military confrontation". The definition is quite comprehensive and coincides essentially with the situations expressed in section 17 (3) of the Constitution but it precludes a military confrontation.

The Act imposes an obligation on the Director of the National Emergency Organization (NEMO) upon consultation with the National Emergency Council to prepare an annual report on the exercise of the functions of NEMO. The report is required to include a Disaster Management Policy Review related to disaster management in the State. This report is to be submitted to the Minister responsible for disaster management and then to the House of Assembly for approval. If approved, it is then published.

The Act distinguishes between a disaster and an emergency defining the latter to mean "an

adverse event that can be taken care of by local community resources", thus on a smaller scale to a disaster. Nonetheless, Section 3(2) of the NEMO Act underscores the linkage between the Governor General's constitutional power to declare a state of emergency and that of the Minister's power to declare a disaster. It provides that, "where a period of emergency exists, the National Emergency Management Organization and any other person or body exercising powers and functions under this Act may, if it is required by the Governor-General, exercise such powers and functions as the Governor-General may permit."

Part 5 underscores the need for effective communication between the Director of NEMO and various Permanent Secretaries and heads of government departments through liaison officers. Section 26(2) in particular emphasizes the importance of ensuring that the lines of communications are clear and that funds allocated for disaster management are managed well and made readily available. This section allows for the involvement of persons, bodies or organizations that is presumed to be a worthwhile alliance. Part 6 concerns the designation of vulnerable areas and highlights the involvement of the Planning Board by virtue of Section 7 (1) (b) of the Town and Country Planning Act in disaster management.



Institutional Framework

National Emergency Management Organization (NEMO)

NEMO is a statutory body whose chief responsibility is that of “coordinating disaster management in the state”. NEMO is responsible for preparing the National Response Plan. The National Emergency Council, the National Emergency Executive Committee and District Disaster Management Committees are the key organs of NEMO. These supplementary centres are indeed the hub through which all activities in response to disaster and disaster alerts are channeled.

NEMO’s mandate is comprehensive and its activities are all encompassing, integrating the input of both government and non-governmental agencies and department. NEMO operates as a local initiative enabling a degree of self sufficiency to address local concerns involving the handiwork of local individuals, organs and ministries with financial support from the Government through funds appropriated annually. Undoubtedly, regional and international networking with relevant agencies and organization is part of holistic disaster management.

The National Emergency Council

This Council represents the pooling of resources for a wide cross section of influential persons in the state and is chaired by the Prime Minister. The composition of the council includes:

- the Deputy Prime Minister;
- the Attorney General; the Director General of Finance and Planning;
- the Director of the National Emergency Management Organisation;
- the Commissioner of Police.

- the Ministers responsible for -
 - disaster management,
 - national security,
 - works,
 - housing,
 - telecommunications,
 - health and the environment,
 - social development or mobilization,
 - energy;

The National Emergency Executive Committee

This body exercises a supervisory role over sub committees established concerning matters such as public information, training and education, damage and needs assessment, transport and road clearance, emergency shelters and shelter management, emergency supplies, health services,

emergency telecommunications, search and rescue (land and sea), rehabilitation and reconstruction and voluntary services. The members of these sub committees are listed in the Saint Vincent and the Grenadines National Response Plan which is a document required by the NEMO Act to be

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prepared by NEMO. Overall, the Executive Committee is obligated to report to the Council whose authority exceeds it. The Executive Committee is chaired by the Director of NEMO with the Permanent Secretary in the Ministry responsible for disaster management as Deputy Chairperson.

District Disaster Management Committees

These Committees are chaired by the designated District Coordinator and is comprised of as many persons as are necessary for it to function efficiently. There is a measure of flexibility in terms of its membership and as such the membership is reliant on the scale of disaster or emergency involved.

Specific areas once so designated by Order as being vulnerable are published in the Official Gazette. Any such designation can be challenged within the conditions as expressed in this section.

Budget appropriation and execution

Emergency budget appropriation and execution is primarily governed by the Finance Administrative Act (2004). This Act instructs the preparation of annual estimates of revenue and expenditure, current and capital and the passage of an Appropriations Bill after the estimates prepared by the Minister and submitted to the House of Assembly for approval at the beginning of each financial year. The conclusion of the annual budget discerns how much monies are allocated to various departments and government agencies such as NEMO. The Act regulates budget appropriation and execution not solely in the scope of day-to-day administration but also in emergency and disaster situations.

In disaster and emergency situations, NEMO is geared specifically towards disaster management and response and not particularly financial issues arising from the threat or impact of a disaster or emergency. While NEMO has an annual budget of EC\$1million, each year since its inception,

sums exceeding EC\$70,000 have been allocated to sustain NEMO's administrative expenditures. This sum is taken from the Consolidated Fund which according to Section 14 of the Act and Section V of the Constitution is where all public funds are paid into, with a few exceptions.

In essence, any monies to be expended ought to be addressed in the budget and any approval takes effect by way of an "Appropriation Bill". Furthermore, Section 25 of the Act provides for the making of supplementary estimates and Appropriation Bills.

Section 41(2) of the NEMO Act authorizes the Minister responsible for Finance by a contingencies warrant under his hand, to "make advances out of the Contingencies Fund if he is satisfied that there has arisen an urgent and unforeseen need for expenditures for which no other provision or no other sufficient provision exists for the relief of persons in the State for the purposes of disaster



management”. This provision is in keeping with Section 72(1) of the Constitution which compels the establishment of a Contingencies Fund and empowers the Minister in like manner as well as section 29 of the Finance Administration Act which in effect establishes the said Fund.

The main provision of the Act however is Section 28 which concerns “special warrants” which caters to “expenditure for a service not foreseen and not provided for, or not sufficiently provided for, is required for the public good”. This special warrant is issued under the hand of the Finance Minister. The Cabinet is usually involved in deliberations

regarding the value of the special warrant to be advanced. Further the Ministry of Finance, especially the Director General, Accountant General, Budget Director and other Officers, are required to establish a workable manual system to properly record and process the special warrant in the event that all computer functions and systems are disabled. This takes effect as a supplementary appropriation out of the Consolidated Fund provided the Fund is sufficiently replenished to meet the request being made.

Recommendations

Specific

- Improve the administration and functioning of the National Emergency Management Organisation.
- Establish a National Building Code.
- Ensure that fiscal policies effectively plan for disasters and provide resources for mitigation.
- Include climate change adaptation in the National Disaster Policy.
- Refine the definition of disasters.
- Increase awareness among disaster/emergency management agencies of relevant international agreements to which the country is a party.
- Improve communication systems relied upon during a disaster or emergency.

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



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