

**COMMONWEALTH OF DOMINICA**

## ARRANGEMENT OF SECTIONS

Section

**PART I  
PRELIMINARY**

1. Short title.
2. Interpretation.
3. Objects.

**PART II  
THE DOMINICA CLIMATE RESILIENCE  
POLICY BOARD**

4. Establishment of the Dominica Climate Resilience Policy Board.
5. Functions of the Board.
6. Power of Board to appoint sub-committees or co-opt.
7. Duties of Cabinet Secretary.
8. Establishment of CREAD.

**PART III  
THE CLIMATE RESILIENCE  
EXECUTION AGENCY FOR DOMINICA**

9. Functions of CREAD.
10. Directions as to policy.
11. Duties of CREAD.
12. Executive Management Committee.
13. Chief Executive Officer.
14. The Major Capital Projects Unit.
15. Appointment of staff.

**PART IV  
FINANCIAL PROVISIONS**

16. Funds and resources of CREAD.
17. Accounts and audit.
18. Annual report.

**PART V  
THE CREAD SUPERVISORY COMMITTEE**

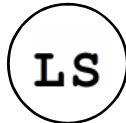
19. Establishment of the CREAD Supervisory Committee.
20. Functions of the Supervisory Committee.
21. Audit and risk sub-committee.

**PART VI  
MISCELLANEOUS**

22. Regulations.
23. Act binds the State.
24. Commencement.
25. Duration.

**COMMONWEALTH OF DOMINICA**

ACT NO. 16 OF 2018

*I assent***CHARLES A. SAVARIN***President*

19th December, 2018

**AN ACT TO PROVIDE FOR THE ESTABLISHMENT  
OF THE CLIMATE RESILIENCE EXECUTION  
AGENCY FOR DOMINICA (CREAD) AND TO  
PROVIDE FOR MATTERS RELATED  
THERE TO.**

*(Gazetted 20th December, 2018.)*

WHEREAS the Commonwealth of Dominica was devastated by Hurricane Maria, which made landfall as a Category 5 hurricane on 18<sup>th</sup> September, 2017 and caused the loss of approximately 226% of GDP;

And whereas the warming of the Atlantic Ocean and the Caribbean Sea means that the magnitude of the disaster caused by Hurricane Maria could be of increasing frequency and is therefore uninsurable;

And whereas it is necessary that the Commonwealth of Dominica be rebuilt as a climate resilient nation which is better able to withstand future hurricanes, earthquakes and other natural disasters with minimal loss of life and minimal damage to infrastructure, property and livelihoods;

And whereas the Government of the Commonwealth of Dominica is committed to establishing an executive agency to be known as “the Climate Resilience Execution Agency of Dominica” or “CREAD” in order to rebuild Dominica as the first climate resilient nation in accordance with a single Climate Resilience and Recovery Plan developed by the Commonwealth of Dominica and its partners;

And whereas it is intended that CREAD shall serve the interests of the nation of the Commonwealth of Dominica as a whole, giving due consideration to the needs of persons who are vulnerable on account of their age, gender or disability, and that CREAD shall operate to the highest standards of transparency, financial management, accountability, gender-inclusiveness and community engagement;

And whereas it is desirable that due regard be had to applying the principles of gender equality in the structure and operation of CREAD and whereas it is understood for this purpose that “gender equality” means that women, men, girls and boys enjoy the same human rights status, have equal opportunities, equal access and control over resources and equal participation in decision making;

BE IT ENACTED by the Parliament of the Commonwealth of Dominica as follows:

**PART I  
PRELIMINARY**

1. This Act may be cited as the -

Short title.

**CLIMATE RESILIENCE ACT, 2018.**

2. In this Act –

Interpretation.

“Audit and Risk Committee” means the CREAD Audit and Risk Committee established under section 21;

“Board” means the Dominica Climate Resilience Policy Board established under section 4;

“Chief Executive Officer” means the Chief Executive Officer of CREAD appointed under section 13;

“climate resilient” means resilient to natural hazards which may cause climate-related disasters;

“CREAD” means the Climate Resilience Execution Agency for Dominica established under section 8;

“climate-related disaster” means a hurricane, tropical storm or any other extreme weather event or natural hazard which causes –

(a) the death or injury of a person;

(b) any loss of, or damage to, livelihood or property; or

(c) the serious disruption of the functioning of a community or society;

“community engagement” includes discussions with representatives of Indigenous Peoples, non-governmental organisations, women, persons with disabilities and the elderly;

“Executive Management Committee” means the CREAD Executive Management Committee established under section 12;

“financial year” means the period of 12 months ending on 30<sup>th</sup> June in any year;

“Supervisory Committee” means the CREAD Supervisory Committee established under section 19.

Objects.

**3. (1)** The objects of this Act are –

- (a) to promote the swift and cost-effective recovery of Dominica from climate-related disasters;
- (b) to ensure that any physical and other infrastructure damaged or destroyed during a climate-related disaster is reconstructed or restored to a state that is better than its state before the occurrence of that disaster;
- (c) to ensure that Dominica will be more resilient to natural hazards and better able to respond to climate-related disasters; and
- (d) to assist the public and private sectors and civil society to be better equipped to manage and recover from climate-related disasters.

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**PART II**  
**THE DOMINICA CLIMATE RESILIENCE**  
**POLICY BOARD**

4. (1) There is established a board to be known as “the Dominica Climate Resilience Policy Board”.

Establishment of the  
Dominica Climate  
Resilience Policy Board.

(2) The Board shall comprise seven members as follows:

(a) the Prime Minister or his designate who shall be the Chairperson; and

(b) six persons appointed by the Prime Minister from among members of the Cabinet, persons employed in the public service and persons with relevant expertise.

(3) An appointment under subsection (2)(b) shall be in writing and published in the *Gazette*.

(4) The Prime Minister may revoke the appointment of any person appointed under subsection (2)(b).

(5) The Chairperson and three other members of the Board shall form a quorum.

(6) The Board shall have the power to regulate its own proceedings.

5. The functions of the Board are –

Functions of the Board.

(a) to define the measures needed to make Dominica a climate resilient nation in all sectors;

(b) to develop in consultation with CREAD and other experts, and to approve, the Dominica Climate Resil-

ience and Recovery Plan which shall specify recovery priorities, targets and goals for Dominica;

- (c) to review and approve the 4-year and annual operational plans, the annual business plan and the annual budget for CREAD;
- (d) to determine where any public sector recovery action or project is best delivered, whether from a line Ministry a partnership between CREAD and a donor, or CREAD itself; and
- (e) to advise the Government on –
  - (i) the promotion, through public messaging or other means, of any measures referred to in paragraph (a);
  - (ii) the establishment of national standards to ensure that all new public and private built infrastructure is climate resilient within the specific hydrological and geophysical context of Dominica; and
  - (iii) the implementation by administrative, legislative or other means, of any measures or standards referred to in subparagraph (i) or (ii).

Power of Board to appoint sub-committees or co-opt.

**6.** The Board may appoint a sub-committee or co-opt any person to attend its meetings for the purpose of assisting or advising it.

Duties of Cabinet Secretary.

**7.** The Cabinet Secretary shall –

- (a) be responsible for liaising between the Prime Minister and CREAD;
- (b) ensure that CREAD is facilitated and supported as is



necessary for the effective delivery and implementation of its mandate;

- (c) advise the Prime Minister on the strategic direction of CREAD in the context of wider cross-governmental objectives;
- (d) advise the Prime Minister on the response to strategic performance information; and
- (e) perform such other duties as the Prime Minister may assign.

**PART III**  
**THE CLIMATE RESILIENCE**  
**EXECUTION AGENCY FOR DOMINICA**

**8.** There is established as a body corporate, an agency to be known as “the Climate Resilience Execution Agency for Dominica”.

Establishment of CREAD.

**9.** The functions of CREAD are –

Functions of CREAD.

- (a) to ensure the climate-resilience of the physical and other infrastructure of Dominica;
- (b) to coordinate recovery action following a climate-related disaster, including the construction, reconstruction or restoration of physical or other infrastructure and the execution of projects aimed at building national climate resilience, in order to –
  - (i) prioritise and accelerate projects and, where necessary, to ensure that projects are properly sequenced;
  - (ii) avoid duplication;

- (iii)* maximise economies of scale;
- (iv)* identify and reduce critical gaps in funding and other areas;
- (v)* expedite the granting of approvals, permits and licences and other processes;
- (vi)* ensure consistency with the Dominica Climate Resilience and Recovery Plan;
- (c)* to identify, develop, and recommend to the Board, climate-resilient systems;
- (d)* to promote the development of Dominica as a climate-resilient nation by disseminating relevant information throughout the public and private sectors and by other means;
- (e)* to implement major capital projects;
- (f)* to prepare a Dominica Climate Resilience and Recovery Plan;
- (g)* to be accountable to the Board for the delivery of targets set in the Dominica Climate Resilience and Recovery Plan and the CREAD Strategic Plan;
- (h)* to facilitate processes for procurement, licensing and the granting of permissions relating to recovery action;
- (i)* to execute projects within the Dominica Climate Resilience and Recovery Plan;
- (j)* to establish and maintain a database containing information on recovery needs and potential and existing projects;

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- (k) to monitor progress against reconstruction targets and evaluate the social and economic impact of interventions;
  - (l) to review relevant government policies and plans to advise on their consistency with the Dominica Climate Resilience and Recovery Plan;
  - (m) to support Government Ministries to enable them to implement climate-resilient policies and priority recovery projects;
  - (n) to establish a facility which allows it to provide surge capacity to Government Ministries in a range of technical areas;
  - (o) to make available support, including legal expertise, to assist in building the capacity of Government Ministries and other agencies to meet donor conditions for drawdown of funds, procurement, climate-resilient planning and project management;
  - (p) to establish assurance systems that protect against fraud and corruption and set the highest standards of transparency; and
  - (q) to do such other things as are necessary or expedient for the performance of its functions.

**10.** (1) The Board may, after consultation with the Chief Executive Officer, give to CREAD any written direction concerning the policy to be followed by CREAD in the performance of its functions as appears to the Board to be necessary in the public interest.

Directions as to policy.

(2) CREAD shall give effect to any directions given by the Board under subsection (1).

Duties of CREAD.

**11.** (1) CREAD shall coordinate recovery action in relation to all relevant sectors, especially the prescribed key target areas.

(2) CREAD shall efficiently and effectively carry out its annual operational plan and annual business plan and operate in accordance with the highest standards of transparency, financial management, accountability and community engagement.

(3) CREAD shall ensure that –

(a) there is community engagement in the design, implementation and evaluation of all projects managed by it;

(b) public consultations are held for communities affected by large scale infrastructure projects; and

(c) it holds stakeholders' forum meetings at least twice a year to engage in dialogue with, and receive feedback from, civil society, the private sector, and other interested individuals on its work and proposed work plan.

(4) CREAD shall provide publicly accessible web-based and other monitoring of the progress of projects.

Executive Management Committee.

**12.** (1) CREAD shall be managed by a committee to be known as “the CREAD Executive Management Committee”.

(2) The Executive Management Committee shall comprise –

(a) the Chief Executive Officer, who shall be its Chairperson;

(b) the Chief Operating Officer; and

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(c) no less than four other persons appointed by the Chief Executive Officer with the approval of the Board.

(3) The Chairperson and three other members of the Executive Management Committee shall form a quorum.

(4) The Executive Management Committee may appoint a sub-committee or co-opt any person to attend its meetings for the purpose of assisting or advising it.

(5) The Executive Management Committee shall have the power to regulate its own proceedings.

(6) The Executive Management Committee shall prepare and submit to the Board for its approval –

(a) a four-year operational plan setting out how it intends to achieve the Dominica Climate Resilience and Recovery Plan prepared by the Board; and

(b) an annual operational plan which shall specify key performance targets for the relevant year.

(7) The Executive Management Committee shall prepare and submit to the Board and the Supervisory Committee for their approval, an annual business plan together with an annual budget to implement that business plan.

(8) An annual business plan shall include such matters as may be prescribed.

(9) The Executive Management Committee shall be responsible, and accountable to the Board, for implementing the goals and targets approved by the Board.

(10) A member of the Executive Management Committee shall not have a direct interest in a contract made or proposed to be made by CREAD.

(11) Members of the Executive Management Committee who are indirectly interested in a contract made or proposed to be made by CREAD –

(a) shall disclose the nature of their interest at a meeting of the Executive Management Committee; and

(b) shall absent themselves from any meeting of the Executive Management Committee at which the contract is being discussed unless the Executive Management Committee is satisfied, on the basis of documentary evidence, that they have divested themselves of their interest.

(12) A person who knowingly contravenes subsection (10) or (11) commits an offence and is liable on summary conviction to a fine of twenty-five thousand dollars or to imprisonment for a term of three years or to both such fine and imprisonment.

Chief Executive Officer.

**13.** (1) The Prime Minister shall appoint the Chief Executive Officer of CREAD on such terms and conditions as the Prime Minister may, after consultation with the Supervisory Committee, determine.

(2) An appointment under subsection (1) shall be in writing and published in the *Gazette*.

(3) The Chief Executive Officer shall be the Accounting Officer of CREAD.

(4) The Chief Executive Officer shall be directly ac-

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countable to the Prime Minister and responsible for the day-to-day management of CREAD.

(5) The Chief Executive Officer shall report at least once every six months to a Committee of the House of Assembly or a CREAD Parliamentary Oversight Committee established under the Standing Orders of the House of Assembly.

(6) The CREAD Parliamentary Oversight Committee referred to in subsection (5) shall comprise the Attorney General as Chairperson and 2 government and 2 opposition members of the House of Assembly.

**14.** (1) There shall be established within CREAD, a unit to be known as “the Major Capital Projects Unit” which shall be responsible for the implementation and supervision of major infrastructural projects of the Government that relate to climate resilient construction.

The Major Capital  
Projects Unit.

(2) CREAD may be appointed to act as the agent of the Government in relation to any major infrastructural project referred to in subsection (1) which is ongoing immediately before the commencement of this Act, and where CREAD is so appointed, the Major Capital Projects Unit shall perform the functions of agent.

(3) The Major Capital Projects Unit shall manage procurement for projects managed by CREAD and may manage procurement for projects implemented by other entities.

(4) CREAD may, for the purposes of major infrastructural projects referred to in subsections (1) and (2), procure goods, services and works under –

(a) section 24 of the Public Procurement and Contract Administration Act, 2012, if applicable; or

(b) section 38 of the Public Procurement and Contract Administration Act, 2012.

(5) For the purposes of giving effect to subsection (4)(b) –

(a) the conditions specified in section 38(1) and (2) of the Public Procurement and Contract Administration Act, 2012 shall be deemed to be satisfied as long as this Act is in force;

(b) the period of emergency referred to in section 38(4)(a) of the Public Procurement and Contract Administration Act, 2012 shall be deemed to be the period during which this Act is in force; and

(c) section 38(5)(c) of the Public Procurement and Contract Administration Act, 2012 shall not apply.

(6) Notwithstanding any other law, CREAD may enter into a Memorandum of Understanding with an entity for the purpose of establishing Standard Operating Procedures for the issuing of permits or other approvals by the entity in relation to projects managed by CREAD.

(7) Standard Operating Procedures referred to in subsection (6) shall state the timeframe within which a response is required and shall provide for a procedure to escalate an application for a permit or other approval if the timeframe is not adhered to.

Appointment of staff.

**15.** The Executive Management Committee may appoint and employ such officers, servants and agents as it thinks necessary for the proper performance of its functions.



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**PART IV  
FINANCIAL PROVISIONS**

**16.** (1) The funds and resources of CREAD shall consist of –

Funds and resources of CREAD.

- (a) such sums as may be provided by the Government for the purpose;
- (b) any grant made to CREAD with the approval of the Minister of Finance, by a person, body or international organisation; and
- (c) all other monies and other property which may in any manner become payable to, or vested in CREAD in respect of any matter.

(2) There shall be established, solely for the benefit of CREAD, an account in a financial institution operating in Dominica and approved by the Financial Secretary.

(3) Any funds or resources vested in CREAD immediately before the expiration of this Act shall, upon the expiration of this Act, be returned to the person, body or international organisation referred to in subsection (1)(b) unless the Government has entered into a written agreement with the person, body or international organisation for any residual funds to be otherwise utilized.

**17.** CREAD shall keep proper accounts of its transactions and its accounts shall be audited annually by the Director of Audit and the external auditor appointed by the Supervisory Committee pursuant to section 20(b).

Accounts and audit.

**18.** (1) The Chief Executive Officer shall prepare and present an annual report to the Prime Minister within six months after the expiration of the financial year.

Annual report.

(2) The annual report shall contain the activities of CREAD during the last financial year and shall include a statement of its audited accounts.

(3) The Prime Minister shall, at the first sitting of the House of Assembly after a report is presented under subsection (1), lay a copy of the report before the House of Assembly.

**PART V**  
**THE CREAD SUPERVISORY COMMITTEE**

Establishment of the  
CREAD Supervisory  
Committee.

**19.** (1) The Prime Minister shall appoint a committee to be known as “the CREAD Supervisory Committee”.

(2) The Supervisory Committee shall comprise seven members with appropriate qualifications and experience as follows:

- (a) four persons nominated by donors that contribute to CREAD’s core funding or that implement their projects through CREAD;
- (b) two public officers with financial management responsibilities; and
- (c) one senior representative of the local or regional private sector with experience in audit and nominated by the members appointed under paragraphs (a) and (b).

(3) The members of the Supervisory Committee shall elect a member to be the Chairperson and may elect another member to be the Deputy Chairperson.

(4) An appointment of a member of the Supervisory Committee shall be in writing and published in the *Gazette*.

(5) A member of the Supervisory Committee shall hold office for 2 years and is eligible for re-appointment.

(6) The Prime Minister may revoke the appointment of a member of the Supervisory Committee only for inability to perform the duties of his or her office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour.

(7) Four members of the Supervisory Committee, including one public officer, shall form a quorum.

(8) The Chairman or Deputy Chairman shall preside at meetings of the Supervisory Committee.

(9) The Supervisory Committee shall have the power to regulate its own proceedings.

**20.** The functions of the Supervisory Committee are –

Functions of the Supervisory Committee.

(a) to oversee the assurance systems of CREAD;

(b) to appoint an external auditor for CREAD; and

(c) to ensure that CREAD has effective arrangements in place to provide assurance on financial management, audit, controls and institutional governance.

**21.** (1) The Supervisory Committee shall appoint a sub-committee to be known as “the CREAD Audit and Risk Committee”.

Audit and Risk Sub-Committee.

(2) The Audit and Risk Committee shall comprise four members as follows:

(a) one member of the Supervisory Committee with experience in audit as Chairperson;

(b) one person with experience in finance;

(c) one person with experience in project management; and

(d) one public officer,

and at least one of the members shall also have knowledge and experience in donor procurement and reporting requirements.

(3) The functions of the Audit and Risk Committee are –

(a) to recommend to the Supervisory Committee an external auditor for CREAD;

(b) to review CREAD's internal and external audit reports and submit recommendations to the Supervisory Committee;

(c) to oversee regular audits of procurement and tender practice; and

(d) to approve requests from CREAD for additions to its budget not exceeding fifteen percent of its annual budget or make recommendations to the Supervisory Committee for larger additions.

## PART VI MISCELLANEOUS

Regulations.

**22.** The Prime Minister may make Regulations for the purpose of implementing the provisions of this Act, including regulations pertaining to –

(a) the selection of candidates for the position of Chief Executive Officer;

(b) the appointment of the Chief Executive Officer;

- (c) the assessment of the performance of the Chief Executive Officer;
- (d) the matters to be included in the annual business plan of CREAD;
- (e) the key target areas for recovery action carried out or coordinated by CREAD; and
- (f) the scope of external audits of CREAD.

**23.** This Act binds the State.

Act binds the State.

**24.** This Act shall come into force on such date as the Prime Minister may, by Order published in the *Gazette*, appoint.

Commencement.

**25.** This Act shall continue in force for a period of four years from the date of its commencement, unless the Prime Minister extends it for one further year by Order subject to negative resolution of the House.

Duration.

Passed in the House of Assembly this 12th day of December, 2018.

**JO-ANN THOMAS (MRS.)**

*Clerk of the House of Assembly (Ag.)*

**DOMINICA**

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