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CHAPTER 267

NATIONAL DISASTER

Act 31 of 2000

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NATIONAL DISASTER

An Act relating to the management of disasters.

PART 1 – PRELIMINARY

1. Interpretation

In this Act, unless the contrary intention appears:

“agency” means a government agency or a non-government agency;

“Center” means the National Disaster Operations Center established under section 8;

“Committee” means the National Disaster Committee established under section 4;

“Director” means the Director of the National Disaster Management Office referred to in section 7;

“disaster” has the meaning given by section 2;

“disaster area” means the area in which a state of emergency is declared under section 13, and includes a part of a disaster area;

“emergency services officer” means:

- (a) a police officer; or
- (b) a person appointed by the Director under section 7 to be an emergency services officer;

“government agency” means:

- (a) a ministry or department of the government; or
- (b) any body established by or under an Act for a public purpose; or
- (c) a provincial council; or
- (d) a municipal council;

“Minister” means the Minister responsible for disaster management;

“municipal council” means a council established under the Municipalities Act [Cap. 126];

“non-government agency” means:

- (a) a voluntary organisation or any other private body within Vanuatu; or
- (b) an international body or agency; or
- (c) a foreign government or a body or agency of a foreign government;

“Office” means the National Disaster Management Office established under section 6;

“preparation” in relation to a disaster includes arrangements or plans to deal with a disaster or the effects of a disaster;

“prevention” in relation to a disaster includes the identification of hazards, the assessment of threats to life and property and the taking of measures to reduce potential loss to life or property;

“property” includes land, places, buildings, vehicles, vessels or aircraft;

“province” means a local government region within the meaning of the Decentralization Act [Cap. 230];

“provincial council” means a council established under the Decentralization Act [Cap. 230];

“recovery” in relation to a disaster includes the process of returning an affected community to its proper level of functioning after a disaster;

“resources” includes food, water, tents, fuel, vehicles, aircraft, plant, implements or equipment;

“responding agency” means:

- (a) the Vanuatu Police Force; or
- (b) the Ministry responsible for health; or
- (c) the Ministry responsible for public works; or
- (d) the Civil Aviation Authority; or
- (e) such other agencies as are specified by the Director under section 7;

“response” in relation to a disaster includes the process of combating a disaster and of providing immediate relief for people affected by a disaster;

“volunteer” means a person who:

- (a) assists a government or non-government agency or an emergency services officer in response to a disaster; or
- (b) assists, on his or her own initiative, in response to a disaster in circumstances in which the assistance was reasonably given.

2. Meaning of disaster

A disaster is an actual or imminent occurrence of one of the following:

- (a) an earthquake, tsunami, cyclone, storm, flood, volcanic eruption, drought, bush fire or other natural happening;
- (b) an explosion, fire, oil spill, chemical spill, air disaster, maritime disaster or accident of any other kind;
- (c) an infestation, plague or epidemic;

being an occurrence that:

- (d) endangers, or threatens to endanger, the safety or health of people in Vanuatu; or
- (e) destroys or damages, or threatens to destroy or damage, property in Vanuatu.

3. Act does not apply in certain circumstances

- (1) This Act authorises the taking of civil defence measures, but not if such measures are actual military combat or preparations for military combat.
- (2) This Act does not authorise the taking of action:
 - (a) to bring an industrial dispute to an end; or
 - (b) to control a riot or other civil disturbance (other than a riot or civil disturbance resulting from and occurring during a state of emergency declared under section 13).

PART 2 – NATIONAL DISASTER COMMITTEE

4. Establishment and functions of the National Disaster Committee

- (1) The National Disaster Committee is established.
- (2) The functions of the Committee are:
 - (a) to develop strategies and policies for the prevention of, preparation for, response to and recovery from disasters; and
 - (b) to ensure that such strategies and policies are implemented by the National Disaster Management Office, other government agencies and non-government agencies; and
 - (c) to advise the Minister on the need for aid to counter the effects of a disaster and on any agreement proposed to be entered into by the Government in relation to such aid; and
 - (d) to advise the Minister on the declaration of states of emergencies; and
 - (e) subject to the approval of the Commission of Police, to determine the number of members of the Vanuatu Police Force to be deployed in the prevention of, preparation for, response to and recovery from a particular disaster; and
 - (f) to ensure that government agencies comply with directions given by the Minister under section 16; and
 - (g) to advise the Minister on all other matters relating to disasters.

5. Membership of the National Disaster Committee

- (1) The National Disaster Committee consists of:
 - (a) the Director-General of the Ministry responsible for disaster management who is the chairperson of the Committee; and
 - (b) the Commissioner of Police; and
 - (c) the Director of the National Disaster Management Office who is to provide secretarial support to the Committee; and
 - (d) 3 representatives (1 of whom must be a woman) of such non-government agencies as the Committee may from time to time determine.
- (2) The representative of a non-government agency is to be nominated by that agency.
- (3) If a member of the Committee (including the chairperson) is absent from Vanuatu or is for any reason unable to perform his or her duties as a member of the Committee, the Committee may appoint a person to act as the member.
- (4) The Committee is to meet as often as is necessary for the efficient performance of its functions. The Committee may adopt its own rules of procedure.

PART 3 – NATIONAL DISASTER MANAGEMENT OFFICE AND DISASTER PLANS

6. Establishment and functions of National Disaster Management Office

- (1) The National Disaster Management Office is established.
- (2) The Office has the following functions:
 - (a) to implement the strategies and policies of the National Disaster Committee;
 - (b) to advise the Committee in relation to disasters;
 - (c) to ensure that aid for disasters is used for the purpose for which it was

provided;

- (d) to establish clear communication networks between government and non-government agencies at all levels;
- (e) to develop disaster education programs for the community and to organise disaster training exercises;
- (f) to perform such other functions as are conferred on it by or under this Act.

7. Director, Deputy Director and staff

- (1) Subject to subsection (2), the Director of the National Disaster Management Office is to be appointed by the Public Service Commission.
- (2) The person undertaking the duties of the Director immediately before the commencement of this Act is to be seconded to the office of the Director by the Police Services Commission for a period of 2 years.
- (3) The Director has the following duties:
 - (a) to ensure the National Disaster Management Office performs its functions properly, efficiently and effectively;
 - (b) to ensure that clear directions are given to all government and non-government agencies responsible for taking action in relation to disasters;
 - (c) to establish operational committees to assist the Office in relation to the prevention of, preparation for, response to and recovery from disasters;
 - (d) to develop a Standard Operational Procedure for the National Disaster Emergency Center;
 - (e) to appoint in writing persons with appropriate qualifications or expertise to be emergency services officers for the purposes of this Act;
 - (f) to specify in writing agencies to be responding agencies for the purposes of this Act;
 - (g) such other functions as are conferred on the Director by this Act.
- (4) The Deputy Director of the Office is to be appointed by the Public Service Commission.
- (5) During the absence or a vacancy in the office of the Director, the Deputy Director must undertake the duties of the Director.
- (6) The Office is to have such staff as are necessary for the Office to perform its functions having regard to the budget of the Office.
- (7) Staff of the Office are to be:
 - (a) appointed by the Public Service Commission in accordance with the Public Service Act [Cap. 246]; or
 - (b) seconded to the Office by ministries, departments or other government agencies; or
 - (c) provided to the Office by non-government agencies and funded by those agencies.
- (8) The Public Service Act [Cap. 246] does not apply to staff referred to in subsection (7)(c).

8. National Disaster Operations Center

- (1) The National Disaster Operations Center is established.
- (2) The Center is to become operational in the event of a disaster ("the current disaster") in accordance with the instructions of the Director. The Center can be operational whether or not a state of emergency has been declared.
- (3) The Director is in charge of the Center while it is operational during the current disaster and must ensure that the Center undertakes its functions in accordance with the Standard Operational Procedure.
- (4) The Center has the following functions in relation to the current disaster:
 - (a) to coordinate the actions of all government and non-government agencies;
 - (b) to control and direct the allocation of aid provided by government and non-government agencies;
 - (c) to coordinate requests for aid;
 - (d) to prepare situation reports and disseminate such reports and other information through public broadcasting networks, other media outlets and other communication facilities so as to keep members of the public throughout Vanuatu well informed.
- (5) The Center is to be staffed on a 24 hour basis while it is operational by officers of the Vanuatu Police Force agreed to by the Director and the Commissioner of Police, and such other officers of government agencies as the Director determines.

9. National Disaster Plan

- (1) The National Disaster Management Office is to prepare a National Disaster Plan ("the Plan") in consultation with government and non-government agencies within 6 months or such longer period as the Director allows after this Act commences.
- (2) The Plan does not come into force until the Minister approves it.
- (3) The objective of the Plan is to provide for nationally coordinated actions by government and non-government agencies in the prevention of, preparation for, response to and recovery from disasters.
- (4) The Plan is to:
 - (a) specify the actions to be taken by government agencies in the event of disasters; and
 - (b) specify the actions to be taken by non-government agencies in the event of disasters; and
 - (c) contain such other matters as are specified by the National Disaster Committee.
- (5) The Director must ensure that the Office reviews the Plan annually and makes such amendments as are necessary to keep the Plan up to date.
- (6) The Minister must approve any such amendment before it comes into force.

10. National Disaster Support Plans

- (1) The National Disaster Management Office is to prepare a National Disaster Support Plan for each kind of disaster in consultation with government and non-government agencies within 6 months or such longer period as the Director allows after the commencement of this Act (e.g. there will be a National Disaster Support Plan for cyclones and a National Disaster Support Plan for earthquakes).
- (2) A National Disaster Support Plan does not come into force until the Minister approves

it.

- (3) The objective of a National Disaster Support Plan is to provide for nationally coordinated actions by government and non-government agencies in the prevention of, preparation for, response to and recovery from the kind of disaster that the Plan covers.
- (4) A National Disaster Support Plan is to:
 - (a) identify the government agency ("the primary agency") that is primarily responsible for taking actions in relation to the kind of disaster that the Plan covers and specify such actions; and
 - (b) specify the actions to be taken by other government and non-government agencies to assist the primary agency in relation to that kind of disaster; and
 - (c) contain such other matters as are specified by the National Disaster Committee.
- (5) Each responding agency must prepare an agency support plan for the kind of disaster covered by a National Disaster Support Plan. Each agency support plan must be submitted to the Director for his or her approval.

11. Provincial Disaster Plans

- (1) Each provincial council and the municipal council (if any) within that province must in consultation with the Director prepare a Provincial Disaster Plan for that province within 6 months or such longer period as the Director allows after the commencement of this Act.
- (2) Each provincial council must submit its Provincial Disaster Plan to the Director for approval.
- (3) The Director may refuse to approve a Provincial Disaster Plan if it is inconsistent with the National Disaster Plan or a National Disaster Support Plan. A Provincial Disaster Plan does not come into force until it is approved by the Director.
- (4) The objective of each Provincial Disaster Plan is to provide for coordinated actions by provincial councils, municipal councils, government and non-government agencies in the prevention of, preparation for, response to and recovery from disasters in that province.
- (5) Each Provincial Disaster Plan must:
 - (a) identify the actions to be taken by provincial councils and municipal councils in the event of a disaster in that province; and
 - (b) specify the activities to be undertaken by government and non-government agencies to assist the provincial council and municipal council in the event of a disaster in that province; and
 - (c) contain such other matters as are specified by the Director.
- (6) A provincial council and municipal council must review its Provincial Disaster Plan annually and make such amendments to it as are necessary to keep it up to date. The Director must approve any such amendment before it comes into force.

12. Activation of Plans

- (1) The Minister may, on the advice of the National Disaster Committee, activate the National Disaster Plan, a National Disaster Support Plan or a Provincial Disaster Plan.
- (2) Such a Plan may be activated without the need for a declaration of a state of emergency.

- (3) On the activation of such a Plan, the Director is responsible for ensuring that the Plan is put into effect.

PART 4 – STATE OF EMERGENCY

13. Declaration of state of emergency

If the President is, on the advice of the Council of Ministers, satisfied that a disaster:

- (a) constitutes a significant and widespread danger to life or property in Vanuatu; and
- (b) exceeds the affected community's capabilities to deal with that disaster;

the President may, by order in writing, declare that a state of emergency exists in the whole, or a specified part or parts, of Vanuatu in relation to that disaster.

14. Broadcasting of declaration

As soon as practicable after the President makes a declaration of a state of emergency, the Minister must cause notice of the declaration to be broadcast throughout Vanuatu by public broadcasting networks and other media outlets.

15. Duration of declaration

- (1) A declaration of a state of emergency has effect immediately on its being made.
- (2) The declaration of a state of emergency does not prevent the declaration of a further state of emergency in relation to the same or a different disaster.

16. Minister's power to direct government agencies

- (1) While a declaration of a state of emergency is in force, the Minister may, on the advice of the National Disaster Committee, direct any government agency to do or refrain from doing any act, or to exercise or refrain from exercising any function.
- (2) If a direction is given to a government agency under this section, the government agency must comply with the direction despite any other Act or law to the contrary.
- (3) The Minister must as soon as possible inform the Council of Ministers of any direction given.
- (4) Officers, employees and agents of government agencies must exercise due care in using any government or non-government property (e.g. motor vehicles) to carry out any direction given by the Minister.

17. Director to activate National Disaster Operations Center

Upon a declaration of a state of emergency in relation to a disaster, the Director must as soon as possible cause the National Disaster Operations Center to become operational in relation to that disaster.

18. Other special powers while declaration is in force

- (1) The powers in this section apply only during a state of emergency.
- (2) If the Director is satisfied that it is necessary in the interest of safety, he or she may authorise an emergency services officer (other than a police officer) or a volunteer:
 - (a) to direct a person to do any or all of the following:
 - (i) to leave particular premises and to move out of a disaster area;
 - (ii) to take any children or adults present in particular premises who are in the person's care and to move them out of a disaster area;
 - (iii) not to enter a disaster area; or
 - (b) to close to traffic any street, road, lane, thoroughfare or footpath or place open to or used by the public in a disaster area; or
 - (c) to close any other public or private place in a disaster area; or

- (d) to order any wall or premises that have been damaged or rendered insecure in a disaster area to be pulled down or repaired at the expense of the owner; or
 - (e) to shut off or disconnect the supply of any water, gas or electricity in a disaster area; or
 - (f) to take possession of, and remove, any material or thing in a disaster area that may be dangerous to life or property.
- (3) If the person does not comply with the direction, an emergency services officer or volunteer may do all such things as are reasonably necessary to ensure compliance with it, using such force as is reasonably necessary in the circumstances.
- (4) The Commissioner of Police has the same powers in relation to a police officer and a volunteer as the Director does under subsection (2) in relation to an emergency services officer and a volunteer.
- 19. Offence to obstruct disaster operations**
- (1) A person must not obstruct or hinder an emergency services officer, a volunteer or a police officer in the carrying out of activities authorised under this Part.
- (2) A person who contravenes subsection (1) is guilty of an offence punishable on conviction by a fine not exceeding VT 500,000 or imprisonment for 2 years, or both.

PART 5 – MISCELLANEOUS

20. Immunity from liability

A person (“the first mentioned person”) may not bring legal proceedings against the State, a Minister or any other person or body for any damage, loss, death or injury sustained by the first mentioned person if it was sustained:

- (a) during a state of emergency; and
- (b) because of anything done or omitted to be done in good faith under this Act by an emergency services officer, a volunteer, a police officer or any other person acting in accordance with this Act.

21. Reports

- (1) The Director must, within 2 months after the end of each year, provide the Director-General of the Ministry responsible for disaster management with a report of the activities of the National Disaster Management Office for that year.
- (2) The Director must provide the Director-General with any additional information he or she requires about a matter contained in a report.
- (3) The Director-General must include the contents of the Director's report in the annual report required under the Public Service Act [Cap. 246].

22. Delegation of functions and powers

- (1) The Director may, by instrument in writing, delegate all or any of his or her functions and powers under this Act to another person with appropriate qualifications or expertise, except this power of delegation.
- (2) The delegation:
 - (a) may be made either generally or as otherwise provided by the instrument of delegation; and
 - (b) does not prevent the performance or exercise of the function or power so

delegated by the Director.

23. This Act does not limit other Acts and laws

This Act does not limit the operation of any other Act or law, except as expressly provided by this Act.

24. Presumption of death

- (1) The common law presumption of death is reduced from 7 years to 2 years in relation to deaths arising out of or suffered in the course of a disaster.
- (2) If the Supreme Court is satisfied that there is sufficient evidence to establish that a person's death arose out of or was suffered in the course of a disaster, the Court may, at any time before the 2 years has expired, make a declaration to that effect for the purposes of this Act or any other Act or law specified in the order.
- (3) Any member of the person's immediate family may apply for a declaration under subsection (2).
- (4) The presumption of death referred to in subsection (1) is rebuttable by evidence to the contrary.

25. Regulations

The Minister may make regulations not inconsistent with this Act for the better carrying out or to give effect to the provisions of this Act.

26. Repeal of Search and Rescue Act

The Search and Rescue Act [Cap. 89] is repealed.