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DISASTER RISK MANAGEMENT ACT, 2022

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No. 39 of 2022

DISASTER RISK MANAGEMENT ACT, 2022

AN ACT TO PROVIDE FOR A MORE EFFECTIVE AND COMPREHENSIVE DISASTER RISK MANAGEMENT POLICY AND FRAMEWORK THROUGH THE ESTABLISHMENT OF THE DISASTER RISK MANAGEMENT AUTHORITY, AND FOR CONNECTED MATTERS

[Date of Assent - 9th December, 2022]

Enacted by the Parliament of The Bahamas

1. Short title and commencement.

- (1) This Act may be cited as the Disaster Risk Management Act, 2022.
- (2) This Act shall come into force on a date to be appointed by the Minister by notice published in the Gazette.

2. Objectives of Act.

The purpose of this Act is to –

- (a) develop, promote and implement an approach to disaster risk management that –
 - (i) is holistic, comprehensive, integrated, and proactive in lessening the socio-economic and environmental impacts of disasters including climate change; and
 - (ii) focuses on reducing risk, including the risk of loss of life, health, physical integrity, economic disruption and damage to the environment and property, especially to those members of the population who are most vulnerable by reason of age, disability, poverty, lack of resources, physical displacement or gender; and

- (b) promote the involvement and participation of all relevant sectors and stakeholders, at all levels of the society.

3. Interpretation.

- (1) In this Act —

“**Administrator**” means a Family Island Administrator appointed under section 37 of the Local Government Act (Ch.37);

“**acceptable risk**” means the level of potential disaster loss or impact within a period of time, which is considered admissible to determine the minimum safety requirements or demands, for protection and planning purposes, in the event of possible dangerous phenomena, and includes the social, economic and environmental consequences that a society assumes or tolerates where it considers an intervention for their reduction unnecessary, unfeasible, inopportune or impossible given the existing economic, social, political, cultural and technical context;

“**Agency Agreement**” means the Agreement establishing the Caribbean Disaster Emergency Response Agency the text of which is set out in the Second Schedule;

“**Authority**” means the Disaster Risk Management Authority established under section 26;

“**Building Control Officer**” has the meaning ascribed to it in the Building Regulations Act (*Ch. 200*);

“**building permit**” has the meaning ascribed to it in the Building Regulations Act (*Ch. 200*);

“**citizen**” has the meaning ascribed to it in the Constitution;

“**climate change**” means a change in the state of the climate that may be identified by changes in the mean value of its properties or by the variability of its properties, which persists over a long period of time, and is usually due to natural internal processes, external forcing or persistent anthropogenic changes in the composition of the atmosphere or in land use;

“**Committee**” means the Inter-Ministerial Committee on Disaster Risk Management established under section 22;

“**critical infrastructure**” consists of the physical structures, technical facilities and systems that are socially, economically or operationally essential to the functioning of a society or community, both in normal circumstances and in extreme circumstances, such as during and after a disaster;

“**database**” means an organized collection of information or structured data on –

- (a) the effects, damage or impacts of disasters that occurred, quantified by the size of the population and number of houses affected, the infrastructure damaged, the impact on economic activities and natural resources and the total amount of damage and loss; and
- (b) disaster risk;

“disaster” means a serious disruption of the normal functioning of a community or society due to natural hazards interacting with vulnerable social conditions, resulting in widespread adverse human, material and economic or environmental effects that require immediate response to meet essential human needs and to provide support to facilitate rehabilitation and recovery;

“disaster alert” means an alert declared by order of the Prime Minister under section 50 as a result of the imminent threat posed by a disaster which may be triggered by the occurrence of a hazard;

“disaster emergency” means a disaster declared by order of the Prime Minister under section 49 as a result of the occurrence of a disaster;

“disaster emergency measures” means a measure referred to in section 54;

“disaster preparedness” means the process involved in planning, organizing and testing those procedures and protocols which govern the response of the Government and society, to a disaster, and which aim to ensure the adequate and timely care of people affected by a disaster and the rehabilitation and restoration of essential basic services, and the recovery of physical assets, natural capital and livelihoods in a resilient manner, to allow for the normalization of activities in the disaster zone;

“disaster response” means the immediate reaction to the occurrence of a disaster for the timely attention of the most urgent needs of the population affected by the disaster;

“disaster risk” means the likelihood of serious disruption of the normal functioning of a community or society due to a natural hazard interacting with vulnerable social conditions, resulting in widespread adverse human, material and economic or environmental effects that require immediate response to meet essential human needs, and support to facilitate rehabilitation and recovery;

“disaster risk management” means the management of activities before, during and after the occurrence of a disaster including those related to risk analysis, disaster risk reduction, disaster preparedness, financial protection, disaster response, rehabilitation and recovery;

- “disaster risk reduction”** means the process by which exposure, vulnerabilities, and risks are minimized, to avoid or limit the impact of a natural hazard;
- “disaster zone”** means the area designated as a disaster zone under section 55;
- “District Council”** has the meaning ascribed to it in the Local Government Act (*Ch. 37*);
- “drill”** means a practical exercise in which damages and injuries are staged in a hypothetical disaster, during which participants are required to use similar skills, knowledge, personnel and material resources with which they would attend a real disaster with similar facts, and which is recreated to demonstrate the management of operational actions used to respond to disaster;
- “early warning system”** means a system identified in section 18;
- “evacuation order”** means an order made under section 56 which allows for the Prime Minister to order inhabitants to move out of an area identified in a disaster alert or disaster emergency declaration and to implement any measures referred to in section 56(2);
- “ex ante disaster risk management activities”** means the disaster risk management activities which are planned and executed prior to the occurrence of a disaster and are aimed at analyzing disaster risk and avoiding or minimizing the impact of natural hazards on vulnerable populations, physical assets, natural capital and livelihoods, including activities related to risk analysis, disaster risk reduction, disaster preparedness and financial protection;
- “ex post disaster risk management activities”** means the disaster risk management activities which are implemented after a disaster has occurred to ensure the immediate provision of humanitarian assistance and the restoration of basic services, physical assets, natural capital and livelihoods, including activities related to disaster response, rehabilitation, and recovery;
- “financial instrument”** means a tool, whether publicly or privately owned, which is used to facilitate the transfer of financial resources between economic agents, which resources are to be used to finance the disaster risk analysis, disaster risk reduction, disaster preparedness, and the immediate response to, or rehabilitation and recovery from, a disaster;
- “financial protection”** means the use of financial instruments to facilitate access to economic resources, as required, to allow for the timely response to and rehabilitation and recovery from, a disaster, and includes –

- (a) risk retention instruments such as reserve funds, budget reallocation, contingent lines; and
- (b) risk transfer instruments such as insurance, catastrophic bonds;

“former Disaster Reconstruction Authority” means the Disaster Reconstruction Authority established under section 3 of the former Disaster Reconstruction Authority Act, 2019 (*No. 36 of 2019*);

“former National Emergency Management Agency” means the National Emergency Management Agency established under the former Disaster Preparedness and Response Act (*Ch. 34A*);

“Government” means the Government of The Bahamas;

“hazard” or **“threat”** means the latent danger posed by the probable manifestation of a physical phenomenon of natural origin which, under certain conditions of exposure and vulnerability, may produce adverse effects on people, physical assets, economic activity and natural resources, and includes a natural hazard;

“information system” means an integrated set of components used for the collection, storage and processing of data, and for the provision of information, knowledge and digital products;

“local government district” has the meaning assigned to it in the Local Government Act (*Ch. 37*);

“Minister” means the Minister responsible for disaster risk management;

“National Disaster Emergency Council” means the council established under section 23(e);

“National Disaster Emergency Operations Centre” has the meaning given in section 14;

“National Disaster Emergency Plan” means the National Disaster Emergency Plan referred to in section 9;

“National Disaster Risk Management Plan” means the National Disaster Risk Management Plan referred to in section 8;

“National Humanitarian Assistance Standards” means the standards referred to in section 21;

“natural hazard” means a geophysical hazard (earthquake, volcanic eruption, landslide, tsunami, seiche) and a hydro-meteorological hazard (tropical cyclone, flood, drought, extreme temperature, severe storm, hailstorm and tornado), or a combination thereof;

“non-profit organization” has the meaning ascribed to it in the Non-Profit Organizations Act, 2019 (*No. 25 of 2019*);

“Policy” means the National Disaster Risk Policy referred to in section 5;

“prescribed” means prescribed in Regulations;

“public body” means –

- (a) a body corporate established by an Act of Parliament over which the Government exercises control; or
- (b) an entity owned or controlled by the Government that provides services in the market or undertakes commercial activities;

“recovery” means the process of re-establishing acceptable and sustainable living conditions after the occurrence of a disaster, through the –

- (a) restoration and reconstruction of infrastructure and any other physical asset, natural asset, good or service, after the occurrence of a disaster; and
- (b) restoration of livelihoods,
under conditions of lower risk than those that existed before the disaster;

“Regulations” means regulations made under section 80;

“rehabilitation” means the temporary restoration of vital services which were interrupted, damaged or destroyed as a result of a disaster;

“resilience” means the ability of a system and its components to anticipate, absorb, adapt to or recover from the effects of a hazard, in a timely and efficient manner, including by ensuring the preservation, restoration or enhancement of essential basic structures and functions of the system;

“risk analysis” means the process by which information about the –

- (a) origins, causes, scope, frequency and possible evolution of natural hazards; and
- (b) location, causes, evolution, resistance and recovery capacity of socio-economic and natural elements,

is obtained, and includes the analysis of potential consequences of a natural hazard and, in relation to a hydrometeorological hazard, the potential contribution of climate change to such consequences;

“simulation” means a desk exercise that recreates a hypothetical disaster situation in which participants make decisions based on the information they receive during the exercise;

“underlying risk factor” means a latent process or condition that influences the level of disaster risk by increasing levels of exposure and vulnerability or reducing the capacity to cope with a disaster, and includes any compounding factor.

- (2) In any other written law, a reference to the “Disaster Reconstruction Authority” or the “National Emergency Management Agency” shall be

read and construed as a reference to the “Authority” as defined in subsection (1).

4. Act to prevail.

This Act shall prevail over all Acts that are inconsistent with this Act in relation to disaster risk management, except for the Public Finance Management Act, 2021 (*No.8 of 2021*) and as specifically stated in this Act.

PART II - THE NATIONAL DISASTER RISK MANAGEMENT POLICY

5. National Disaster Risk Management Policy.

- (1) The National Disaster Risk Management Policy (hereinafter referred to as “the Policy”) is a set of decisions approved by the Government to address an issue related to disaster risk.
- (2) Each person and entity upon whom a duty in relation to the Policy, is placed under this Act, shall, to the extent of their liability and as far as reasonably practicable, ensure the implementation of that aspect of the Policy within their control.
- (3) The Policy shall, as far as reasonably practicable, be consistent with other public policies which have shared objectives and provide for the use of the same financial instruments, resources, mechanisms and processes, and includes policies related to disasters, sustainable development, climate change adaptation, local development, land use planning, environmental management and water resource management.

6. Principles of the Policy.

The Policy referred to in section 5 shall be guided by the following principles—

- (a) the supremacy of life, security and health of a person, his property and livelihood, and the environment;
- (b) the responsibility of the Government to assume financial responsibility for the risk analysis, disaster risk reduction, financial protection, preparedness for, response to, rehabilitation and recovery from, disasters occurring in The Bahamas, to the extent provided under this Act or any other law;
- (c) the duty of the Government to intervene and take responsibility for a disaster which exceeds the capacity of an Administrator;

- (d) the duty of the relevant authority to take disaster risk into consideration in the formulation, approval, implementation, monitoring and evaluation of public investment projects;
- (e) the duty of an entity to make information about disasters, hazards, disaster alerts, disaster risk and disaster risk activities, accessible to the public, subject to any law;
- (f) the establishment and implementation of mechanisms which allow for the participation of citizens, volunteers, the public, private entities and non-profit organizations in the implementation of the Policy;
- (g) the special needs of certain groups within the population affected by the disaster are considered in the response to a disaster; and
- (h) consideration of any political, historical and socioeconomic considerations unique to The Bahamas is taken into account.

PART III - INSTRUMENTS OF DISASTER RISK MANAGEMENT POLICY

7. Instruments of the Disaster Risk Management Policy.

The Policy shall include the instruments set out in sections 8 to 21.

8. National Disaster Risk Management Plan.

- (1) The National Disaster Risk Management Plan, shall consolidate activities, programs and projects aimed at –
 - (a) risk analysis;
 - (b) disaster risk reduction;
 - (c) disaster preparedness;
 - (d) financial protection; and
 - (e) strengthening the governance framework of the country in relation to disaster risk management.
- (2) The plan shall include –
 - (a) specific, measurable, attainable, action-oriented, relevant and time-bound indicators;
 - (b) a benchmark of acceptable multi-hazard disaster risk; and
 - (c) a budget that is consistent with the Comprehensive Financial Strategy for Disaster Risk Management.

9. National Disaster Emergency Plan.

- (1) The National Disaster Emergency Plan, shall establish the actions and contingency arrangements required to manage alerts and disaster emergencies in order to safeguard life, protect property and restore normalcy to society during the disaster response, rehabilitation and recovery phases and it is aimed at coordinating the technical, financial and operational capacities of a public body and an Administrator, to effectively manage alerts and disaster emergencies.
- (2) The plan referred to in subsection (1) shall be reviewed and updated, as the case may be –
 - (a) annually; and
 - (b) after the occurrence of a disaster which, due to its severity or its special characteristics, justifies the review or update.

10. Public body plans.

- (1) A public body shall prepare, with the support and advice of the Authority, a Public Body Disaster Risk Management Plan and a Public Body Disaster Emergency Plan, which plans shall contain such information as is contained in the National Disaster Risk Management Plan and the National Disaster Emergency Plan, respectively, in relation to the public body.
- (2) A Public Body Disaster Risk Management Plan and a Public Body Disaster Emergency Plan referred to in subsection (1) shall be implemented by the public body.

11. Local plans.

- (1) Every Administrator shall prepare, after consultation with the Disaster Risk Management Consultative Committee and with the support and advice of the Authority —
 - (a) a Local Disaster Risk Management Plan; and
 - (b) a Local Disaster Emergency Plan,which plans shall contain such information as is contained in the National Disaster Risk Management Plan and the National Disaster Emergency Plan, respectively, in relation to the local government districts under his responsibility.
- (2) Where in respect of a Family Island there is more than one Administrator, the Administrators shall liaise with each other with the intent of submitting to the Authority one Local Disaster Risk Management Plan and one Local Disaster Emergency Plan, in respect of the island.

- (3) The Local Disaster Risk Management Plan and the Local Disaster Emergency Plan referred to in subsections (1) and (2) shall be implemented by the Administrator in the local government districts for which he is responsible.

12. Plans to include baseline of disaster risk.

A plan referred to in sections 8 to 11 shall include a baseline of disaster risk, differentiating that portion of risk that is not acceptable for the country, public body or District Councils and which shall be addressed through the implementation of the plan.

13. Comprehensive Financial Strategy for Disaster Risk Management.

- (1) The Minister responsible for Finance in consultation with the Authority shall prepare the Comprehensive Financial Strategy for Disaster Risk Management, which shall combine financial instruments to finance –
 - (a) risk analysis;
 - (b) disaster risk reduction;
 - (c) disaster preparedness;
 - (d) financial protection;
 - (e) disaster response;
 - (f) rehabilitation; and
 - (g) recovery.
- (2) The strategy shall –
 - (a) be based on the risk analysis of the most relevant hazards in the country and shall be consistent with the scope, objectives, goals and indicators of the National Disaster Risk Management Plan and the National Disaster Emergency Plan; and
 - (b) establish the fiscal responsibility of the Government in relation to the disaster response, rehabilitation and recovery, including the livelihoods and private assets damaged or destroyed by a disaster.

14. National Disaster Emergency Operations Centre.

The Authority shall establish and maintain a National Disaster Emergency Operations Centre, which shall function as the headquarters for activities undertaken in response to a disaster.

15. National Disaster Coordination Protocols.

- (1) The National Disaster Coordination Protocols, shall define procedures, standards and the entity designated to guide a public body before, during

and after the occurrence of a disaster, and through the phases of alert, disaster response, rehabilitation and recovery.

- (2) The protocols referred to in subsection (1) shall be reviewed and updated, as the case may be –
 - (a) annually; or
 - (b) after the occurrence of a disaster which, due to its severity or its special characteristics, justifies the review or update.

16. National Disaster Risk Information System.

The Authority shall establish and maintain a National Disaster Risk Information System, which shall include databases with information about –

- (a) the impact of past disasters, including any analysis of their underlying risk factors;
- (b) disaster risk calculations; and
- (c) projections of future disaster scenarios.

17. National Network of Hazard Monitoring Forecasting Systems.

The Authority shall establish and maintain a National Network of Hazard Monitoring and Forecasting Systems, which shall —

- (a) provide the information required to identify potential natural hazards to lives, physical assets, livelihoods, and natural resources; and
- (b) facilitate the issuance of early warnings and the disaster risk calculations.

18. National Early Warning System.

The Authority shall establish and maintain a National Early Warning System, which shall integrate –

- (a) hazard monitoring and forecasting;
- (b) risk analysis; and
- (c) the communication of disaster alerts and disaster preparedness activities,

to enable individuals, communities, governments, businesses and others to take timely action to reduce disaster risks in anticipation of a natural hazard.

19. Disaster Emergency Fund.

The Authority shall maintain the Disaster Emergency Fund, which shall be used to fund –

- (a) disaster response;

- (b) rehabilitation;
- (c) recovery; and
- (d) the adoption of financial protection instruments.

20. Disaster Prevention Fund.

The Authority shall maintain the Disaster Prevention Fund, which shall be used to fund risk analysis, disaster risk reduction and disaster preparedness activities.

21. National Humanitarian Assistance Standards.

The Authority shall establish the National Humanitarian Assistance Standards which shall provide the minimum standard to be met by any humanitarian assistance provided by the Government, to the Government or by humanitarian aid organizations, in relation to –

- (a) the supply of water supply;
- (b) the promotion of sanitation and hygiene;
- (c) food security and nutrition;
- (d) shelter and settlement; and
- (e) health.

PART IV - THE INTER-MINISTERIAL COMMITTEE ON DISASTER RISK MANAGEMENT

22. Composition of Inter-Ministerial Committee on Disaster Risk Management.

- (1) There shall be a sub-Committee of the Cabinet (hereinafter referred to as “the Committee”) comprising the following members—
 - (a) the Prime Minister, who shall be the Chairman of the Committee;
 - (b) the Minister responsible for –
 - (i) disaster risk management;
 - (ii) finance;
 - (iii) national development planning;
 - (iv) tourism;
 - (v) housing;
 - (vi) transport;
 - (vii) public works;
 - (viii) health;
 - (ix) agriculture;

- (x) the environment;
 - (xi) foreign affairs;
 - (xii) public utilities;
 - (xiii) social welfare;
 - (xiv) communications;
 - (xv) national security; and
 - (xvi) any other Ministry which is required under any law to perform a task related to disaster risk management.
- (2) Notwithstanding subsection (1), the Prime Minister may request a Minister not listed therein to be a member of the Committee.

23. Functions of the Committee.

The Committee shall —

- (a) advise and make recommendations to the Minister on the development of the Policy and any other issue related to disaster risk management;
- (b) report to the Parliament on the implementation of the Policy and of the Comprehensive Financial Strategy for Disaster Risk Management;
- (c) advise the Prime Minister on the activation of disaster emergency measures pursuant to section 54, upon the occurrence of a disaster or the threat of a disaster;
- (d) advise the Prime Minister on the designation of disaster zones, based on the assessment conducted by the Authority;
- (e) be constituted as the National Disaster Emergency Council in accordance with section 53;
- (f) approve —
 - (i) the National Disaster Risk Management Plan, including the benchmark of acceptable multi-hazard risk for the Plan;
 - (ii) the National Disaster Emergency Plan;
 - (iii) the National Humanitarian Assistance Standards;
 - (iv) the National Disaster Coordination Protocols; and
 - (v) any other plan or strategic document which the Committee deems necessary to achieve the objectives of the Policy;
- (g) recommend to the Cabinet, the allocation of budgetary resources to support the objectives of the Policy;
- (h) foster collaboration among public bodies, Administrators and the Authority, for the development and implementation of the national information system for disaster risk management;

- (i) promote the consideration of disaster risk in the formulation, approval, implementation, monitoring and evaluation of public investment projects;
- (j) promote the adoption of financial protection instruments by the Government;
- (k) forward requests for international assistance to the Ministry responsible for foreign affairs;
- (l) promote cohesion between the Policy and other public policies which have shared objectives and provide for the use of the same financial instruments, resources, mechanisms and processes, including policies related to disasters, sustainable development, climate change adaptation, local development, land use planning, environmental management and water resource management;
- (m) conduct, or cause to be conducted, an evaluation of the Policy, annually; and
- (n) perform any other function conferred or imposed on it by this Act or any other law relating to disaster risk, or cause such function to be performed.

24. Functions of Prime Minister.

In addition to his functions in his capacity as Chairman of the Committee, the Prime Minister may –

- (a) declare a disaster alert in accordance with section 50;
- (b) declare a disaster emergency in accordance with section 49;
- (c) activate the disaster emergency measures in accordance with section 54;
- (d) designate a disaster zone and prescribe restrictions on the use of land in a disaster zone and the relocation of any person, business, infrastructure or other thing, in accordance with section 55;
- (e) issue evacuation orders;
- (f) designate the Authority to coordinate disaster response after the occurrence of a disaster pursuant to section 57(2), where such response exceeds the capacity of the Administrator;
- (g) designate any person or group of persons to be responsible for the rehabilitation and recovery after the declaration of a disaster emergency pursuant to section 57(6); and
- (h) perform any other function conferred or imposed on him by this Act or any other law relating to disaster risk.

25. Committee may co-opt persons.

The Committee, may, in the performance of its functions, co-opt any one or more persons to attend any particular meeting of the Committee for the purpose of assisting or advising the Committee in any matter with which the Committee is dealing, but no co-opted person shall have the right to vote at any meeting of the Committee.

PART V - THE DISASTER RISK MANAGEMENT AUTHORITY

26. Establishment of the Disaster Risk Management Authority.

- (1) There is hereby established a body to be known as the Disaster Risk Management Authority.
- (2) The Authority shall be responsible for disaster risk management in The Bahamas.
- (3) The Authority is a body corporate having perpetual succession and a common seal, with power to purchase, lease or otherwise acquire, hold and dispose of land and other property of whatsoever kind.
- (4) The Authority may sue and be sued in its corporate name and may for all purpose be described by that name.

27. Constitution and procedure of the Board.

- (1) There shall be a Board of Directors of the Authority.
- (2) The Board shall be the governing body of the Authority and shall perform the functions and exercise the powers of the Authority.
- (3) The Board shall consist of —
 - (a) the Managing Director of the Authority ex officio;
 - (b) the Chairman and the Deputy Chairman, who shall be appointed by the Minister on the advice of the Prime Minister;
 - (c) a representative of the Ministry responsible for Disaster Risk Management, appointed by the Minister;
 - (d) a representative of the Ministry responsible for Finance, appointed by the Minister of Finance;
 - (e) the Head of the National Disaster Emergency Operations Centre or a representative, where such person is not the Managing Director of the Authority; and
 - (f) not more than seven nor less than three other persons representing financial, industrial, commercial or other institutions and

professional organisations and members of the general public to be appointed by the Minister after consultation with the Prime Minister or the Minister and referred to in the First Schedule as “appointed members”.

- (4) The chairman shall not hold any political office and shall have the appropriate skillsets and time to fulfil his functions.
- (5) Any member appointed under subsection (3)(f) shall have qualifications and experience in one or more of the following—
 - (a) engineering;
 - (b) environmental management;
 - (c) public health;
 - (d) water resource management;
 - (e) finance;
- (6) The proceedings of the Board shall be as stated in the First Schedule.
- (7) The Minister may by Order amend or revoke the First Schedule.

28. Staff of the Authority.

- (1) There shall be a Managing Director of the Authority who shall be appointed by the Board with the prior approval in writing of the Prime Minister or the Minister.
- (2) The Managing Director shall be the Chief Executive of the Authority and shall be responsible to the Board for —
 - (a) the day to day administration of the affairs of the Authority and
 - (b) the provision of technical advice and guidance in matters of policy.
- (3) The Prime Minister or the Minister shall determine the salary and any other benefits to be paid to the Managing Director of the Authority.
- (4) The Managing Director may, with the prior approval of the Prime Minister or the Minister, be removed from office on the grounds of misconduct, inefficiency or other good cause.
- (5) Whenever the Managing Director is absent from The Bahamas or is for any reason unable to perform the functions of his office, the Board may appoint a person to act as Managing Director during such absence or inability.
- (6) Save for the appointment of the Managing Director, the Board shall employ a secretary and such public officers or other employees on a full-time, part-time or temporary basis upon such remuneration and terms and conditions as it determines for the proper discharge of its functions.

- (7) Notwithstanding subsection (1), the Authority may second employees from relevant government ministries in order to perform its assigned functions.

29. Transfer of public officers.

- (1) Where a public officer holding a pensionable office under the Government of the Bahamas, ceases to be the holder of that office by reason of his transfer with his consent to the service of the Authority and that person subsequently retires from the service of the Authority in such circumstances that, had he remained a public officer, he would have been eligible for pension under the Pensions Act (*Ch. 43*), then in any such case subsections (2) and (3) shall have effect.
- (2) A pension payable to a person mentioned in subsection (1) by the Authority to whose service he has been transferred shall be calculated and granted to him in respect of his total service under the Government of The Bahamas and with the Authority taken together and such service shall be reckoned as continuous for pension purposes.
- (3) There shall be payable out of the Consolidated Fund upon the warrant of the Minister of Finance to the Authority a contribution to every pension paid in accordance with subsection (2), such amounts as would have been payable to the person concerned by way of pension under the Pensions Act (*Ch. 43*), if that person had retired from the public service and if he has been granted a pension under the Pensions Act (*Ch. 43*) upon the date of his ceasing to be public officer.

30. Functions of the Authority.

The Authority shall —

- (a) advise the Prime Minister on —
- (i) the declaration of a disaster alert and a disaster emergency;
 - (ii) the delegation of specific functions to an entity, upon the declaration of a disaster emergency;
- (b) advise the Cabinet and the Committee on any issue related to disaster risk, upon the request of the Committee or on its own volition;
- (c) validate an area designated by the competent authority as an area prone to disasters which requires the implementation of land use restrictions or action to facilitate disaster risk reduction;
- (d) publish the name of an area referred to in paragraph (c) in the Gazette and in at least one local newspaper and on an official Government website, as soon as reasonably practicable after the validation of the designation;

- (e) coordinate and monitor the implementation of the Policy;
- (f) ensure, that as far as reasonably practicable, the Policy is consistent with other public policies with shared objectives and which provide for the use of the same financial instruments, resources, mechanisms and processes, including those policies related to disasters, sustainable development, climate change adaptation, local development and land use planning, environmental management and water resource management.
- (g) advise the Ministry of Finance on the formulation of the benchmark of acceptable multi-hazard disaster risk for the National Disaster Risk Management Plan;
- (h) prepare and submit to the Committee, and report to the Committee on the implementation of –
 - (i) the National Disaster Risk Management Plan, including the benchmark of acceptable multi-hazard disaster risk for the Plan;
 - (ii) the National Disaster Emergency Plan; and
 - (iii) any other plan or strategic document which the Committee deems necessary to achieve the objectives of the Policy;
- (i) review, and where necessary, recommend changes to any plans referred to in paragraph (h);
- (j) prepare and submit to the Committee for its approval, the National Humanitarian Assistance Standards and any updates of these standards, and report to the Committee on the compliance of these standards as assessed by the disaster response provided after each disaster emergency declaration.
- (k) advise and assist Administrators and public bodies on –
 - (i) matters related to –
 - (A) risk analysis;
 - (B) disaster risk reduction;
 - (C) disaster preparedness; and
 - (D) disaster response, rehabilitation and recovery;
 - (ii) the formulation, implementation, monitoring and evaluation of their disaster risk management plans and disaster emergency plans;
 - (iii) the development of methodologies and guidelines required for the implementation of the Policy; and
 - (iv) the conduct of disaster risk management activities;

- (l) develop guidelines and standards and provide technical advice to a public body and an Administrator on the development of their risk analysis;
- (m) approve a risk analysis conducted by a public body or an Administrator and include them in the National Disaster Risk Information System, together with any supportive data on hazards, exposure and vulnerability;
- (n) establish and maintain the National Disaster Risk Information System and to inform citizens about disaster risk through public information and education activities;
- (o) develop, in coordination with the national agency responsible for the appraisal and approval of public investment projects, disaster risk management guidelines and standards for public investment projects;
- (p) in coordination with the Ministry responsible for public works and housing, establish, review and update periodically, benchmarks of acceptable risk for natural hazards in relation to buildings and construction;
- (q) assist a public body and an Administrator with the integration of disaster risk considerations in the formulation, approval, implementation, monitoring and evaluation of public investment projects;
- (s) implement, on a regular basis, coordinate and provide assistance to Administrators and public bodies on the conduct of, drills and simulations;
- (t) establish and maintain the National Disaster Emergency Operations Centre or such other supplementary disaster emergency operations centre as the Authority may deem necessary;
- (u) conduct a needs assessment after a disaster, in coordination with an Administrator, to determine the humanitarian assistance required by the affected population pursuant to section 58;
- (v) direct any disaster response which exceeds the capacity of an Administrator, as determined by the Prime Minister pursuant to sections 24(f) and 57(2);
- (w) direct rehabilitation and recovery pursuant to section 57;
- (x) develop guidelines for the formulation of the National Disaster Risk Management Plan, the National Disaster Emergency Plan and the equivalent plans for a public body and an Administrator;
- (y) develop, update and submit for approval of the Committee, the National Disaster Coordination Protocols;

- (z) together with an Administrator, install, operate and maintain of early warning systems;
- (aa) issue an early warning based on advice provided by an Administrator or a public body;
- (bb) provide training for persons involved in disaster risk management;
- (cc) take into consideration any information on hazards, exposure, vulnerability and risk provided by a national technical or scientific entity, when making a decision;
- (dd) recommend to the Committee that a request be made for international assistance when the domestic resources are not sufficient to meet the humanitarian needs, damages and losses sustained in The Bahamas after a disaster;
- (ee) monitor compliance with this Act and recommend any changes;
- (ff) perform any other function conferred or imposed on it by this Act or any other law relating to disaster risk; and
- (gg) perform any other function conferred or imposed on the former National Emergency Management Agency and the former Disaster Reconstruction Authority.

31. Resources of the Authority.

- (1) The funds of the Authority shall consist of —
 - (a) such sums as may be allocated by Parliament for the purpose of the Authority;
 - (b) sums arising from grants, covenants donations and other receipts from persons including national and international bodies; and
 - (c) all other sums or property which may in any manner become payable.
- (2) All funds collected or received for the purpose of this Act by the Government or any Ministry, agency or entity controlled by the Government, shall be directed and allocated to the Authority without delay.
- (3) Remuneration of members of the Board and staff of the Authority shall only be taken from the funds allocated by Parliament.
- (4) The sum of money allocated to remuneration and pension shall not exceed twenty percent of the annual budget without the consent of the Minister.

PART VI - LOCAL GOVERNMENT

32. Application of sections 38 to 46 to local government.

Sections 38 to 46 shall apply to Administrators mutatis mutandis with respect to local government districts under his responsibility.

33. Authority to direct Administrator.

The Administrator shall perform his functions under this Act under the direction of the Authority.

34. Disaster Risk Management Consultative Committee.

- (1) The Minister after consultation with the Managing Director of the Authority and each Administrator on a respective Family Island shall appoint a Disaster Risk Management Consultative Committee (hereinafter known as the Consultative Committee) which shall be responsible for advising the Administrator on disaster risk management for that area.
- (2) The Consultative Committee shall consist of not less than three members of each District Council under the responsibility of the Administrator to which it will advise.
- (3) The Administrator shall be the Chairman of the Consultative Committee and he may designate any member of Consultative Committee to chair a meeting in his absence.

35. Humanitarian needs assessment.

As soon as reasonably practicable after the occurrence of a disaster, each Administrator shall —

- (a) conduct a needs assessment, upon the advice and with the assistance of the Authority, to determine the immediate humanitarian needs of the population affected by the disaster in the local government districts under his responsibility; and
- (b) report the information referred to in paragraph (a) to the Authority.

36. Assistance from another Administrator.

- (1) Subject to subsection (2), an Administrator may at any time in writing, request the assistance of another Administrator, to ensure the effective implementation of the disaster risk management responsibilities under this Act.
- (2) Where after the declaration of a disaster emergency, an Administrator is of the opinion that the urgency of the situation makes it necessary to seek immediate assistance from another Administrator, the Administrator may

request the assistance, other than in writing, and shall forward the written request to the Administrator from whom the assistance was obtained, as soon as reasonably practicable after the alleviation of the urgent situation.

- (3) Notwithstanding subsection (2), an Administrator may provide assistance to a local government district other than the local government districts for which he is responsible, subject to approval from the Director of Local Government.
- (4) Where an Administrator receives a request for assistance made pursuant to subsection (2), the Administrator shall, as far as reasonably practicable, provide the assistance requested using the resources of the local government districts that he is responsible for.

37. Early warning systems.

An Administrator shall –

- (a) in coordination with the Authority, install, operate, and maintain early warning systems in any local government district that he is responsible for;
- (b) advise the Authority on the issuance of an early warning based on —
 - (i) any risk analysis conducted in the local government districts over which the Administrator has responsibility; and
 - (ii) advice received from a public body referred to in section 47; and
- (c) protect the early warning systems in any local government district that he is responsible for from theft and vandalism.

PART VII - PUBLIC BODIES

38. Responsibilities of a public body.

A public body shall be responsible for –

- (a) analyzing and managing disaster risks within the scope of their functions and jurisdictions, with the assistance of the Authority;
- (b) considering disaster risk at every stage of the public investment project cycle, with the assistance of the Authority and pursuant to the regulations, guidelines and standards established by the national agency responsible for the appraisal and approval of public investment projects; and

- (c) assisting the Authority and Administrators in the disaster response, rehabilitation and recovery processes within the scope of their functions and jurisdictions

39. Budget tagger.

A public body shall use the disaster risk budget tagger to allocate funds and shall differentiate between the resources budgeted for ex ante disaster risk management activities and ex post disaster risk management activities.

40. Public Body Disaster Risk Management Plan.

- (1) A public body shall, upon the advice of the Authority, prepare a disaster risk management plan for the body, which plan shall include the elements contained in, and shall be consistent with, the National Disaster Risk Management Plan and forward such plan to the Authority for review.
- (2) Upon the receipt of a plan referred to in subsection (1), the Authority –
 - (a) shall review the plan; and
 - (b) may make such recommendations as it deems necessary.

41. Public Body Disaster Emergency Plan.

A public body shall, upon the advice of the Authority, prepare a disaster emergency plan for the body, which plan shall –

- (a) include the elements contained in the National Disaster Emergency Plan;
- (b) be approved by the Authority; and
- (c) be reviewed and updated, as the case may be –
 - (i) annually; and
 - (ii) after the occurrence of a disaster which, due to its severity or its special characteristics, justifies the review or update.

42. Critical infrastructure.

A public body shall –

- (a) conduct an inventory of critical infrastructure under its responsibility and a risk analysis of such infrastructure pursuant to the guidelines and standards developed by the Authority in accordance with section 30(1); and
- (b) reduce their exposure and vulnerability to natural hazards based on their risk analysis.

43. Sharing disaster and risk information.

A public body shall provide the Authority with any information and data related to the impact of disasters, natural hazards, exposure, vulnerability, and risk, that the body has prepared, generated or obtained in the performance of its duties and such information and data shall be part of the National Disaster Risk Information System databases.

44. Public body to adopt financial protection instruments.

A public body shall adopt financial protection instruments to protect their assets from disasters.

45. Liaison officer.

Each public body shall designate an area or liaison officer who shall facilitate communication and coordination with the Authority.

46. Damage and loss assessment.

After the declaration of a disaster emergency, a public body shall –

- (a) assess the damage and loss to goods and facilities under its responsibility;
- (b) determine the rehabilitation and recovery needs based on the assessment referred to in paragraph (a); and
- (c) immediately submit the information in paragraphs (a) and (b) to the Authority.

47. Hazard monitoring and forecasting system

A public body involved in the provision of technical or scientific data which is relevant for disaster risk management shall –

- (a) be responsible for the installation and maintenance of its hazard monitoring and forecasting system;
- (b) provide recommendations to the Authority and an Administrator on the issuance of early warnings, based on an analysis of the data produced by its hazard monitoring and forecasting system; and
- (c) provide the Authority, other public bodies, Administrators, the private sector and the public, with data that is relevant for the design and implementation of disaster risks management actions.

PART VIII - MINISTER OF FINANCE

48. Functions of the Minister of Finance.

The Minister of Finance shall –

- (a) develop, submit for the approval of the Committee and implement, in consultation with the Authority, a Comprehensive Financial Management Strategy for Disaster Risk Management that combines investments in disaster risk reduction and the adoption of risk retention and risk transfer instruments;
- (b) establish, in consultation with the Authority, a benchmark of acceptable multi-hazard risk for the National Disaster Risk Management Plan;
- (c) be responsible for the financial protection component of the National Disaster Risk Policy;
- (d) prepare, in coordination with the Authority, those aspects of the National Disaster Risk Management Plan and the National Disaster Emergency Plan that are related to financial protection and budgeting;
- (e) adopt financial protection instruments to protect public assets and the fiscal balance of the country;
- (f) facilitate the adoption of financial protection instruments by public bodies and Administrators;
- (g) develop guidelines and standards for the insurance of public and private assets, including concessions, and provide advice in the adoption of risk transfer instruments;
- (h) adopt a budget tagger to allocate funds, including differentiating between the resources budgeted for ex ante and ex post disaster risk management activities;
- (i) approve such sums as may be obtained through a donation, grant or loan agreement, for allocation to the Disaster Emergency Fund and the Disaster Prevention Fund; and
- (j) prepare and submit a report on the implementation of the Comprehensive Financial Strategy for Disaster Risk Management, to the Committee, annually.

PART IX - DISASTER ALERT AND DISASTER EMERGENCY

49. Declaration of disaster emergency.

- (1) The Prime Minister may declare that a disaster emergency exists, upon the advice of the Authority that a disaster triggered by a natural hazard has occurred.
- (2) An Order declaring that a disaster emergency exists shall include a designation of the disaster zone which designation shall be based on the results of the assessment conducted by the Authority pursuant to section 55.

50. Declaration of disaster alert.

- (1) Subject to subsection (2), the Prime Minister may declare a disaster alert after receipt of advice from –
 - (a) the Authority stating that there is a substantial prospect of the occurrence of a disaster triggered by a natural hazard; or
 - (b) an agency, whether within The Bahamas or otherwise, certified by the Authority as an Accredited Disaster Alert Notification Service pursuant to section 52, who broadcasts or otherwise publishes an announcement warning of the threat of the occurrence of a disaster triggered by a natural hazard, within a prescribed period (if any).
- (2) The Prime Minister may by Order, on like advice as is provided in subsection (1) (a) or (b), declare that notwithstanding an announcement referred to in subsection(1)(b), the country is not in a state of disaster emergency or disaster alert.

51. Advice on disaster.

The Authority shall advise the Prime Minister on request, and at any time the Authority considers appropriate, of the occurrence of, or of the likely occurrence of, a disaster triggered by a natural hazard.

52. Accredited Disaster Alert Notification Service.

- (1) The Authority may certify any agency, whether within The Bahamas or otherwise, which the Authority considers to have a high level of technical expertise in the prediction or assessment of risk of any kind of disaster, as an Accredited Disaster Alert Notification Service for the purposes of this Act.
- (2) A certification referred to under subsection (1) may be general or limited to specified kinds of disaster, as prescribed.

53. National Disaster Emergency Council.

In the event of a disaster, or where there is a substantial prospect of the occurrence of a disaster, the Committee, in its capacity as National Disaster Emergency Council, shall meet with the Authority to facilitate the coordination of the disaster response, rehabilitation and recovery by the Government.

54. Activation of disaster emergency measures.

The Prime Minister, considering the characteristics of the disaster and upon the advice of the Committee —

- (a) shall instruct the implementation of measures pursuant to the National Disaster Emergency Plan and National Disaster Coordination Protocols; or
- (b) may activate other measures, including those referred to in sections 56 and 72.

55. Identification of disaster zone.

- (1) After the occurrence of a disaster, the Authority shall conduct an assessment to determine the geographical area impacted by the disaster to identify the disaster zone.
- (2) Where an area is designated as a disaster zone, the Authority may recommend to the Prime Minister, restrictions on the use of land in that zone and the relocation of any person, business, infrastructure, or any other thing.
- (3) Upon receipt of recommendations referred to in subsection (2), the Prime Minister may prescribe restrictions on the use of land in a disaster zone.

56. Evacuation orders.

- (1) Where the Prime Minister declares a disaster alert in accordance with section 50 or a disaster emergency in accordance with section 49, the Prime Minister may, upon the advice of the Committee, and evidence provided by the Authority, which evidence confirms the high probability that not acting diligently may risk the health or safety of persons, by Order, demand the evacuation of any person or group of persons from any specified area or island.
- (2) An evacuation order made under subsection (1) may provide for –
 - (a) the prohibition of the movement of any person or group of persons to, from or within any specified area or island, where necessary;
 - (b) imposition of a general or specific curfew as to the time when persons should remain indoors;

- (c) imposition on persons in a specified area of the prohibition or restriction on their travel routes;
 - (d) the immediate closure of all public and private business premises;
 - (e) authorisation of any person or class of persons, to render essential services of a type that that person, or a person of that class, is competent to provide and the provision of reasonable compensation in respect of services so rendered;
 - (f) the provision of essential goods, services and resources;
 - (g) regulation of the distribution of essential goods, services and resources;
 - (h) authorise the taking of any steps which is reasonably justifiable in the circumstances by any person or class of persons to suppress anarchy, civil disorder, looting, home or shop breaking, or any assault of any kind against any person; or
 - (i) any other action or thing which is reasonably justifiable in the circumstances for dealing with the disaster or the threat of a disaster.
- (3) Where an evacuation order is in effect and residents within the specified area or island have not evacuated, no first responder shall have a duty to risk his life to rescue or recover any person in the specified area or island until the Authority or the public body responsible for hazard monitoring and forecasting has given the all clear that the natural hazard is no longer a threat.
- (4) Where the Prime Minister issues an Order under subsection (1), he shall not be liable for any act done by him in good faith in the execution of any duty or function under this section.

PART X - DISASTER RESPONSE, REHABILITATION AND RECOVERY

57. Coordinating entities.

- (1) Subject to subsection (2), the Administrator responsible for the affected area shall be responsible for coordinating disaster response activities after the declaration of a disaster emergency in that area.
- (2) Where the Prime Minister determines that the disaster response activities to be performed after the occurrence of a disaster exceed the capacity of an Administrator referred to in subsection (1), he shall instruct the Authority to coordinate the activities.

- (3) Subject to subsection (6), the Authority shall be responsible for coordinating rehabilitation and recovery, after the declaration of a disaster emergency.
- (4) The Administrator responsible for, and a public body operating within, the affected area, shall collaborate with the Authority in the rehabilitation and the recovery.
- (5) The Authority shall –
 - (a) direct a public entity to conduct a damage and loss assessment of essential services, in a fast-tracked manner, to determine the most urgent rehabilitation needs of the population and the country;
 - (b) ensure that rehabilitation efforts focus on the rapid restoration of essential services to the population affected by the disaster;
 - (c) coordinate the execution of damage and loss assessments, in collaboration with the appropriate public body, and such assessments shall include an analysis of the underlying risk factors of the disaster;
 - (d) determine the nature, scope and content of the recovery on the basis of a damage and loss assessment conducted pursuant to paragraph (c);
 - (e) prepare, together with the Administrators and public bodies, and submit for the approval of the Committee, a Recovery Plan, which plan shall identify the duration of time proposed for the –
 - (i) restoration of livelihoods;
 - (ii) repair or rebuilding of affected houses; and
 - (iii) any other activity identified through the damage and loss assessment referred to in subparagraph (c);
 - (f) ensure that the recovery process is so resilient that it avoids the creation or exacerbation of vulnerabilities to future disasters; and
 - (g) implement the Recovery Plan.
- (6) Notwithstanding subsection (3), where the Prime Minister deems it necessary, he may designate any person or group of persons, by Order, to –
 - (a) be responsible for;
 - (b) coordinate with the Authority to facilitate; or
 - (c) assist the Authority with,rehabilitation and recovery after the declaration of a disaster emergency.
- (7) A person designated under subsection (6), shall possess the necessary skill set to perform the activities specified in the designation Order;

- (8) An Order made under subsection (6) shall provide for the necessary resources and the conditions of work of the persons designated in the Order.
- (9) A designation under subsection 6(a) shall be for the period identified in subsection (5)(e) and shall be deemed necessary to execute the activities identified in the Recovery Plan referred to in subsection (5)(e).
- (10) Notwithstanding subsection (9), the Prime Minister may extend the period of a designation referred to in subsection (6), for such time as he may deem necessary upon the advice of the Authority.

58. Humanitarian assistance.

- (1) The Government shall be responsible for providing humanitarian assistance to the population affected by disasters, in accordance with the National Humanitarian Assistance Standards developed pursuant to section 21.
- (2) Humanitarian assistance referred to under subsection (1) shall be based on a needs assessment conducted or endorsed by the Authority, in coordination with an Administrator, giving due consideration to the needs of persons who are vulnerable on account of their age, disability, poverty, lack of resources, physical displacement or gender.

59. Responsibility of the Government in rehabilitation and recovery processes.

The Government shall —

- (a) be responsible for the rehabilitation of essential services and the recovery of public assets, including natural resources, damaged as a result of, or destroyed by, a disaster; and
- (b) establish in the Comprehensive Financial Strategy for Disaster Risk Management, the scope of its fiscal responsibility in relation to the recovery of livelihoods and private assets damaged or destroyed by a disaster.

PART XI - FUNDS

60. Disaster Emergency Fund.

- (1) For the purposes of this Act, there is hereby established a fund to be known as the “Disaster Emergency Fund”.
- (2) The Disaster Emergency Fund shall be under the control and management of the Authority as may be prescribed.

- (3) The Disaster Emergency Fund shall consist of such sums as may be –
 - (a) appropriated by Parliament for the use and operation of the Fund;
 - (b) donated or offered as a grant, by any person or entity who may be approved by the Minister of Finance;
 - (c) obtained through a loan agreement approved by the Minister of Finance; and
 - (d) obtained by the Authority through activities organized for that purpose by or on behalf of the Authority.
- (4) The allocation of sums to the Disaster Emergency Fund shall be based on an optimal accrual and expenditure rule of expected annual loss and information on historical records of disaster losses.
- (5) Monies from the Disaster Emergency Fund shall be used to fund –
 - (a) disaster response;
 - (b) rehabilitation;
 - (c) recovery; and
 - (d) the cost of adopting financial protection instruments.
- (6) Any monies in the Disaster Emergency Fund may be designated for a specific purpose or made subject to a specific condition, and any money so designated shall be preserved and utilized solely for the designated purpose.
- (7) Where, in any given year, it is not necessary to spend the monies from the Fund for any purpose referred to in subsection (5), such monies shall be accumulated for use at a later date, solely for a purpose referred to in that subsection.

61. Disaster Prevention Fund.

- (1) For the purposes of this Act, there is hereby established a fund to be known as the “Disaster Prevention Fund”.
- (2) The Disaster Prevention Fund shall be under the control and management of the Authority as may be prescribed.
- (3) The Disaster Prevention Fund shall consist of such sums as may be –
 - (a) appropriated by Parliament for the use and operation of the Disaster Prevention Fund;
 - (b) donated or offered as a grant, by any person or entity who may be approved by the Minister of Finance;
 - (c) obtained through a loan agreement approved by the Minister of Finance; and
 - (d) obtained by the Authority through activities organized for that purpose by or on behalf of the Authority.

- (4) The allocation of sums to the Disaster Prevention Fund shall be based on the risk analysis, disaster risk reduction and disaster preparedness targets in the National Disaster Risk Management Plan.
- (5) Monies from the Disaster Prevention Fund shall be used to fund –
 - (a) risk analysis;
 - (b) disaster risk reduction activities; and
 - (c) disaster preparedness activities.
- (6) Any monies in the Disaster Prevention Fund may be designated for a specific purpose or made subject to a specific condition, and any money so designated shall be preserved and utilized solely for the designated purpose.
- (7) Where, in any given year, it is not necessary to spend the monies from the Fund for any purpose referred to in subsection (6), such monies shall be accumulated for use at a later date, solely for a purpose referred to in that subsection.

62. Accounts and audit of the Disaster Emergency Fund and the Disaster Prevention Fund.

- (1) The Authority shall –
 - (a) cause to be kept, proper accounts and other records of receipts, payments, assets and liabilities of the Disaster Emergency Fund and the Disaster Prevention Fund; and
 - (b) cause to be prepared in respect of each financial year, a statement of accounts of the Disaster Emergency Fund and the Disaster Prevention Fund, in a form that complies with international accounting and financial standards.
- (2) The accounts of the Disaster Emergency Fund and the Disaster Prevention Fund shall be audited annually, before 30th April of each year, by an independent auditor appointed by the Authority on the recommendation of the Minister responsible for Finance.
- (3) The Authority shall –
 - (a) cause to be laid before each House of Parliament, a copy of the statement referred to in subsection (1)(b) and a copy of the report of the auditor prepared pursuant to subsection (2); and
 - (b) cause such number of copies referred to under paragraph (a) to be made available to the public at a reasonable price.

63. Funds to be separate.

- (1) The Disaster Emergency Fund and the Disaster Prevention Fund shall be two separate funds with independent allocations.

- (2) Subject to subsection (3), no monies from one fund shall be used for any purpose related to the other fund.
- (3) Notwithstanding subsection (2) or section 60(6) and (7), where, after a prescribed period, no money is spent from the Disaster Emergency Fund, such monies may be used for a purpose related to the Disaster Prevention Fund.

PART XII - PUBLIC PARTICIPATION IN DISASTER RISK MANAGEMENT

64. Non-Governmental Consultation Council.

- (1) The Authority shall appoint a Council to be known as the Non-Governmental Consultation Council.
- (2) The Non-Governmental Consultation Council shall consist of such number of persons selected from the following: individuals who possess qualifications, skills or experience in the management of disaster risk; community-based organisations; non-profit organisations, corporations and other private organisations who specialise in the management of disaster risk.
- (3) The Non-Governmental Consultation Council shall regulate its own procedure.

65. Engagement of participants.

The Authority shall, where necessary, request the assistance of the Non-Governmental Consultation Council or any other person, as the case may require, in disaster risk management.

PART XIII - INTERNATIONAL DISASTER ASSISTANCE

66. International assistance.

- (1) The Government may accept assistance from a country or territory outside The Bahamas or an international organization, during a disaster alert or after the occurrence of a disaster and any matter related to such assistance, including –
 - (a) the procedure regulating the acceptance and termination of the assistance; and

- (b) any privileges and immunities to be offered to a person providing international assistance, shall be prescribed.
- (2) After the declaration of a disaster emergency, the Authority shall determine the humanitarian needs and damages and losses sustained in The Bahamas, and whether domestic resources are sufficient to meet the needs of the country to facilitate the disaster response, rehabilitation and recovery.
- (3) Where the Authority is of the opinion that domestic resources are not sufficient to meet the needs identified in subsection (2), the Authority shall advise the Committee that a request be made for international assistance and such request shall include –
 - (a) a list of the goods, equipment and services being requested; and
 - (b) an identification of the sum of monies which may be preferred to the in-kind aid.

67. Intervention of Minister of Foreign Affairs.

Where the Committee receives a recommendation for international assistance pursuant to section 66(3), the Committee shall forward the request to the Minister of Foreign Affairs who shall make the request to such countries or territories as the Committee, upon the advice of the Authority, may recommend.

68. List of aid required.

The Authority shall prepare a list of the goods, equipment and services being requested through international assistance and such list shall be published in the Gazette and in a daily newspaper of general circulation in The Bahamas, as soon as reasonably practicable after the preparation of the list.

69. Travel clearance.

- (1) Where a request for international assistance includes a visit by a field team, the Authority shall assist in facilitating any travel clearance or exemption which the field team may require.
- (2) A travel clearance or exemption referred to in subsection (1), as the case may be, shall not attract any fee or charge and shall be valid for a period consistent with that stated in a disaster declaration.

70. Authority to be liaison.

Where international assistance is received pursuant to this Part, the Authority shall act as the liaison between the international actor and the Government.

PART XIV - MISCELLANEOUS

71. Building permits.

- (1) A person who wishes to apply for –
 - (a) a building permit under section 5 of the Buildings Regulations Act; or
 - (b) approval under bye-law 7 of the Freeport (Building Code and Sanitary Code) Bye-Laws,shall conduct an analysis of the risks to which the proposed construction may be exposed, and the risks that may be generated or exacerbated by the proposed construction, before making the application.
- (2) Where a person makes an application for –
 - (a) a building permit under section 5 of the Buildings Regulations Act; or
 - (b) approval under bye-law 7 of the Freeport (Building Code and Sanitary Code) Bye-Laws,the application shall be accompanied by a copy of the analysis conducted pursuant to subsection (1).
- (3) Where an application is submitted to a Building Control Officer pursuant to section 5 of the Buildings Regulations, such Officer shall forward a copy of the analysis conducted pursuant to in subsection (1) to the Authority and the Authority may submit comments to the Officer on the results of the analysis.
- (4) A Building Control Officer -
 - (a) shall take the results of the disaster risk analysis referred to in subsection (1); and
 - (b) may take any comments he receives from the Authority pursuant to subsection (3) into consideration before he approves an application for a building permit.
- (5) A person referred to in subsection (1) shall adopt the prescribed disaster risk reduction measures during the construction phase of the project.

72. Declaration of relief by Prime Minister in a disaster.

- (1) Notwithstanding any other law, where an order under section 49 or 54 has been made, the Prime Minister (and where the Prime Minister is not the Minister of Finance, in consultation with the Minister of Finance) may by Order, declare and make provisions for relief by providing for one or more of the following –

- (a) a rebate of business licence fees to licensees under the Business Licence Act where donations are made by such licensees to either -
 - (i) The Bahamas Government Hurricane Donation Account;
 - (ii) Rebuild Bahamas Account; or
 - (iii) any other relief fund or charity approved by the Cabinet for the purpose of carrying out disaster relief;
 - (b) a waiver, refund or reduction of value added tax or zero rating on the importation of goods specified therein;
 - (c) an exemption of any excise tax payable on the importation of goods specified therein;
 - (d) an exemption of any tariff or tax of any kind on the importation of goods specified therein; or
 - (e) a waiver of any other fee, levy, tax or duty payable under any other law.
- (2) An Order made pursuant to subsection (1) –
- (a) shall specify –
 - (i) the kind of relief granted;
 - (ii) the persons or class of persons to benefit from the relief;
 - (iii) the amount of the exemption, waiver, rebate or reduction;
 - (iv) the duration of the relief granted; and
 - (v) such other conditions as the Prime Minister may deem appropriate; or
 - (b) may have retrospective effect from the date of the disaster, provided that no relief granted may extend beyond the financial year in which the relief is granted.
- (3) The procedure for the donation or importation of anything specified in the Order shall be as prescribed.

73. Publishing of Order.

- (1) Any order made pursuant to sections 56 or 72 may be published –
 - (a) by announcement on any television or wireless transmission by any media duly licensed to operate for transmission and reception in The Bahamas;
 - (b) by notice affixed to the outside of magistrate courts, police stations located in the area of The Bahamas and to the outside of every Administrator's office on the Family Islands to which the order applies; or

- (c) by notice on the official website of the Government, except that as soon as practicable thereafter the order shall be published in the Gazette.
- (2) The means of authentication for notices published pursuant to subsection (1) shall be –
 - (a) in the case of media announcements, the voice of the Prime Minister or the Commissioner of Police; or
 - (b) in the case of posted notices, the actual or electronic signature of the Prime Minister.
- (3) An Order made under this section shall be subject to a negative resolution.

74. Duration of Order.

Unless otherwise provided for in the Order, an Order made under sections 56 or 72 shall expire on the thirtieth day from the date of the Order and the Prime Minister, in his discretion, may extend the Order if conditions require.

75. Offences and penalties.

A person referred to in section 71(1) who fails to -

- (a) conduct an analysis pursuant to that section; or
- (b) adopt measures pursuant to section 71(4),

commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars and to imprisonment for a period not exceeding two years, or both.

76. Exemption from civil liability.

No officer of the Authority shall be liable for any act done by him in good faith in the execution of any duty or function under this Act.

77. Judicial review.

- (1) Any person aggrieved by the designation of an area as an area prone to disasters, who desires to question the validity of that designation on the grounds that such designation is not within the powers of this Act or that any requirement of this Act has not been complied with in relation to the designation of the area, may within six weeks from the date on which the notice is published in the Gazette under section 30(d), make an application to the Supreme Court under this section in accordance with any Rules of Court for the time being in force.
- (2) On an application made under this section, the Supreme Court, if satisfied that the designation is not within the powers of this Act or that the interests of the applicant have been substantially prejudiced by a failure to

comply with any requirement of this Act may quash the designation referred to in section 30(d) or any provision contained in it, either generally or in so far as it affects any property of the applicant.

- (3) Where a designation is quashed in accordance with subsection (2), the Authority shall prepare a new designation and such new designation shall be published in accordance with section 30(d).

78. Application of Act to other disasters.

Notwithstanding anything to the contrary in this Act, the Prime Minister may, by Order, direct that the powers conferred by this Act, shall apply to any event which the Prime Minister determines is a disaster for the purposes of this Act, having regard to the ensuing widespread loss of life, serious illness or destruction of property.

79. Provisions of Caribbean Disaster Agency Agreement to have force of law.

Articles 21 to 23 and 26 to 30 of the Agency Agreement have the force of law in The Bahamas.

80. Regulations.

The Minister may, subject to negative resolution and in consultation with the Authority, make regulations –

- (a) prescribing anything which by the provisions of this Act may be or is to be prescribed; and
- (b) for giving effect to and carrying out the purpose, intention and provisions of this Act.

81. Reports.

- (1) The Authority shall, on or before April 30th in each year, prepare and cause to be submitted to the Committee in such form as the Committee may require, a report on the implementation of the Policy, including any recommendations he deems necessary to support the implementation of the Policy.
- (2) The Minister responsible for Finance shall, on or before April 30th in each year, prepare and cause to be submitted to the Committee in such form as the Committee may require, a report on the implementation of the Comprehensive Financial Strategy for Disaster Risk Management.
- (3) The Committee shall submit the reports referred to in subsections (1) and (2), with or without such modifications as it deems necessary, to the Parliament, annually, and in any event not later than the thirty-first day of

December in any year, and the report shall be laid in the House of Assembly or the Senate on the next date on which the Parliament sits.

82. Repeals.

- (1) The Disaster Preparedness and Response Act is repealed in its entirety.
- (2) The Disaster Reconstruction Authority Act is repealed in its entirety.

83. Act binds the Crown.

This Act binds the Crown.

84. Consequential amendments.

The laws set out in the first column of the Third Schedule are amended to the extent specified in the second column of that Schedule.

FIRST SCHEDULE

(Section 27)

PROCEEDINGS OF THE BOARD

1. Temporary membership.

Where membership of the Board is by virtue of an office and the holder of the office is absent or unable to act, then, the person acting in the office shall be a member of the Board for as long as he so acts.

2. Resignation.

- (1) Any member of the Board, other than the Chairman, may at any time resign his office by instrument in writing addressed to the Minister and transmitted through the Chairman, and from the date of receipt by the Minister of such instrument, such member shall cease to be a member of the Board.
- (2) The Chairman may at any time resign his office by instrument in writing addressed to the Minister, and such resignation shall take effect as from the date of receipt by the Minister of such instrument.

3. Removal.

The Minister may by Order published in the Gazette, revoke the appointment of any appointed member of the Board if he is satisfied that the appointed member

-
- (a) has been absent for more than three consecutive months without the permission of the Board;
 - (b) has become bankrupt;

- (c) is incapacitated due to physical or mental illness; or
- (d) is otherwise unable or unfit to discharge his functions.

4. Seal of Authority.

- (1) The common seal of the Authority shall be kept in such custody as the Board directs and shall not be used except upon the order of the Board.
- (2) The common seal of the Authority shall be authenticated by the signatures of the Chairman of the Board or any other member of the Board duly authorised by the Board in that behalf, and of the Secretary.
- (3) The common seal of the Authority when affixed to any document and duly authenticated under this section shall be judicially and officially noticed, and, until the contrary is proven, any necessary order or authorisation of the Board under this section shall be presumed to have been duly given.

5. Publication of appointments and contracts.

The —

- (a) appointment or resignation of a member; and
- (b) any contract of the Board,

shall be published in the Gazette.

6. Remuneration.

There shall be paid from the funds of the Authority to the Chairman and other members of the Board such remuneration, if any, whether by way of honorarium, salary or fees, and such allowances, if any, as the Minister may determine.

7. Meetings.

- (1) The Board shall meet at least once each month at such times as may be necessary or expedient for the transaction of business, and its meetings shall be held at such times and places and on such days as the Chairman may determine.
- (2) The Chairman, or in his absence, the Deputy Chairman, shall preside at all meetings of the Board.
- (3) The Chairman, or in his absence, the Deputy Chairman and six other members of the Board shall constitute a quorum.
- (4) The decision of the Board shall be by a majority of votes and in addition to an original vote, in any case in which the voting is tied, the Chairman or Deputy Chairman presiding at the meeting, shall have a casting vote.
- (5) The validity of any proceedings of the Board shall not be affected by any vacancy among the members or by any defect in the appointment of a member.
- (6) Subject to this Schedule, the Board may regulate its own proceedings.

- (7) The Board may invite any person who, in its opinion, has expert knowledge concerning any of its functions, which is likely to be of assistance to the deliberation of the Board, to attend any of its meetings and to take part in its proceedings.

8. Declaration of interest.

A member of the Board, who is in any way, whether directly or indirectly, interested in a contract or a proposed contract with the Authority, that is the subject of consideration by the Board, shall declare the nature of his interest at the first meeting of the Board at which it is practicable for him to do so and shall recuse himself from voting thereon.

9. Minutes.

- (1) Minutes in the proper form of each meeting shall be kept by the Secretary.
- (2) All decisions, resolutions and rules made by the Board with respect to the operation of the Authority, shall be recorded in the Minutes.
- (3) The Minutes of a meeting of the Board shall be confirmed by the Board at its next meeting.

10. Protection of Directors.

- (1) Subject to subparagraph (2), no action, prosecution or other proceedings shall be brought or instituted personally against the Chairman or any other member of the Board in respect of any act done bona fide in pursuance or execution or intended execution of the provisions of this Act.
- (2) Where any director is exempt from liability by reason only of subparagraph (1), the Authority shall be liable to the extent that it would be if that member were a servant or agent of the Authority.
- (3) If in any case, the Authority is not liable for any of the acts specified herein, then subparagraph (1) shall not operate to exempt such member from liability.

SECOND SCHEDULE

(Section 79)

AGREEMENT ESTABLISHING THE CARIBBEAN DISASTER EMERGENCY MANAGEMENT AGENCY (CDEMA)

THE STATES PARTIES:

CONSCIOUS that the fragile economies and ecosystems of States within the Caribbean Region are extremely vulnerable to natural and man-made disasters

including hurricanes, earthquakes, tsunamis, volcanic eruptions, droughts, floods and landslides;

RECALLING that during recent decades a succession of natural disasters including hurricanes, earthquakes, floods, landslides and volcanic eruptions adversely affected many States within the Caribbean Region;

RECOGNIZING the work of the Caribbean Disaster Emergency Response Agency in disaster preparedness and response;

DESIROUS of establishing the Caribbean Disaster Emergency Management Agency to replace and advance the work of the Caribbean Disaster Emergency Response Agency to ensure the sustainable development of resilient communities within the Caribbean Region;

HAVE AGREED AS FOLLOWS:

ARTICLE I

Definitions

In this Agreement, unless the context otherwise requires –

“affected Participating State” means a State in the territory of which a disaster has occurred;

"CARICOM" means the Caribbean Community;

“CDEMA” means the Caribbean Disaster Emergency Management Agency established under Article II;

“CDERA” means the Caribbean Disaster Emergency Response Agency an Institution of the Community recognized under Article 21 of the Treaty;

“Coordinating Unit” means the administrative and operational organ of CDEMA;

“Council” means the Organ of CDEMA referred to in Article VI;

"disaster" means the exposure of the human habitat to the operation of the forces of nature or to human intervention resulting in widespread destruction of lives or property, but excludes events occasioned by war or military confrontation;

“disaster management” means the development and implementation of regional and national policies to prevent and mitigate the effects of disaster ;

“Executive Director” means the Executive Director of CDEMA appointed under Article VII;

“Fund” means the Emergency Assistance Fund established under Article XXVI;

“Management Committee of the Council or MCC” means the Committee established and appointed by the Council under Article VII;

"National Disaster Management Agency" means the government agency responsible for disaster management;

"Participating State" means a State Party to this Agreement;

“requesting State” means a Participating State which has made a request under this Agreement;

“sending State” means a Participating State which has responded to a request for assistance under this Agreement;

"State" includes a non-politically independent territory of the Caribbean

“TAC” means the Technical Advisory Committee referred to under Article X; and

“Treaty” means the Revised Treaty of Chaguaramas establishing the Caribbean Community including the CARICOM Single Market and Economy (CSME) signed at Nassau, The Bahamas on the 5th day of July 2001.

ARTICLE II

ESTABLISHMENT OF CDEMA

The Caribbean Disaster Emergency Management Agency (CDEMA) is hereby established with the organs, membership, structure, and functions herein set forth.

ARTICLE III

LEGAL PERSONALITY

1. CDEMA shall have international legal personality and such legal capacity as may be necessary for the exercise of its functions and the fulfillment of its objectives.
2. CDEMA and its staff shall enjoy all the usual rights, privileges and immunities of Agencies which have international legal personality.

ARTICLE IV

MEMBERSHIP

Membership of CDEMA shall be open to -

- (a) the States and territories listed in the Annex; and
- (b) other States within the Caribbean Region recommended for membership by the MCC under Article XXXIX.

ARTICLE V
OBJECTIVES

CDEMA shall have the following objectives –

- (a) mobilising and coordinating disaster relief;
- (b) mitigating or eliminating, as far as practicable, the immediate consequences of disasters in Participating States;
- (c) providing immediate and coordinated response by means of emergency disaster relief to any affected Participating State;
- (d) securing, coordinating and providing to interested intergovernmental and non-governmental organisations reliable and comprehensive information on disasters affecting any Participating State;
- (e) encouraging –
 - (i) the adoption of disaster loss reduction and mitigation policies and practices at the national and regional level;
 - (ii) cooperative arrangements and mechanisms to facilitate the development of a culture of disaster loss reduction; and
- (f) coordinating the establishment, enhancement and maintenance of adequate emergency disaster response capabilities among the Participating States.

ARTICLE VI
ORGANS OF CDEMA

CDEMA shall have the following Organs with the functions specified in this Agreement:

- (a) The Council;
- (b) The Technical Advisory Committee; and
- (c) The Coordinating Unit.

ARTICLE VII
THE COUNCIL

1. The Council shall consist of the Heads of Government of the Participating States.
2. Each member of the Council shall be entitled to nominate any other competent person to represent that member at meetings of the Council.

3. The Council shall meet in ordinary session at least once in every calendar year and shall convene in extraordinary sessions at the request of three quarters of the Participating States.
4. The Chairperson and Deputy Chairperson shall be elected from among members of the Council.
5. The Chairperson shall preside over the meetings of the Council and the MCC.
6. The Chairperson and Deputy Chairperson shall serve for a period of one year and shall be eligible for re-election.
7. In the absence of the Chairperson, the Deputy Chairperson shall preside over meetings of the Council and the MCC.
8. In the absence of both the Chairperson and the Deputy Chairperson, the Members of the Council present may elect any member to act in the position of Chairperson.
9. The Council shall regulate its own procedure.

ARTICLE VIII

FUNCTIONS OF THE COUNCIL

The Council shall -

- (a) determine the policies of CDEMA;
- (b) receive and approve the annual budget and the contribution of the Participating States to CDEMA;
- (c) designate national disaster and disaster management organizations as Sub-Regional Disaster Emergency Operational Units with the prior consent of the Governments of the Participating States involved;
- (d) appoint the Executive Director on the recommendation of the MCC;
- (e) consider and make decisions based on the recommendations of the TAC;
- (f) perform any other function as it deems necessary or expedient to achieve the objectives of this Agreement.

ARTICLE IX

MANAGEMENT COMMITTEE OF THE COUNCIL

1. There shall be established a Management Committee of the Council whose members shall be appointed by the Council.
2. The membership of the MCC shall comprise -
 - (i) four persons, each representing one of the sub-regions of CDEMA, one of whom shall be Chairperson of the Council;

- (ii) the Chairperson of the TAC; and
 - (iii) the executive Director.
3. The Terms of Reference of the MCC shall be determined by the Council.

ARTICLE X

THE TECHNICAL ADVISORY COMMITTEE

1. The Technical Advisory Committee shall consist of the national disaster coordinators of the Participating States.
2. Notwithstanding paragraph 1, persons may be selected by the TAC from regional institutions engaged in activities related to disaster management to participate in meetings of the TAC.
3. The Chairperson of the TAC shall be elected from amongst its members and shall not be elected to serve as Chairperson for more than two consecutive terms.
5. The Chairperson shall convene the meetings of the TAC which shall meet at least once in every calendar year and convene extraordinary meetings at the request of not less than one-half of its members.
6. The Executive Director shall be the Secretary of the TAC.
7. The TAC shall regulate its own procedure.

ARTICLE XI

FUNCTIONS OF THE TECHNICAL ADVISORY COMMITTEE

The TAC shall –

- (a) act in an advisory capacity to CDEMA on matters relating to strategies for resource mobilization, work programme review and programme development;
- (b) recommend standards and procedures for the fair and equitable deployment of resources for disaster management made available by Participating States;
- (c) recommend the standards and procedures for triggering the disaster response mechanism;
- (d) develop and recommend procedures for mobilising national resources to provide assistance in a timely and efficacious manner;
- (e) recommend guidelines for establishing systems for maintaining and sharing inventories of critical resources likely to be needed by Participating States in the event of a disaster;

- (f) make recommendations for the rapid access of financial resources to cover the cost of mobilisation in the event of disaster in a Participating State;
- (g) recommend protocols to facilitate the movement of resources originating in or transiting in a Participating State having regard to the requirements of immigration and customs authorities;
- (h) recommend and regularly review pro forma lists of the likely requirements of Participating States in the event of disasters;
- (i) advise CARICOM institutions and national institutions on matters relevant to its functions;
- (j) forward its recommendations to the Council for its consideration; and
- (k) perform such other functions as the Council may determine.

ARTICLE XII

THE HEADQUARTERS OF THE COORDINATING UNIT

The Coordinating Unit shall have its headquarters where the Council decides.

ARTICLE XIII

FUNCTIONS OF THE COORDINATING UNIT

1. In addition to any other functions which the Council may specify, the Coordinating Unit shall -
 - (a) develop and maintain a reliable damage assessment system and procedures to facilitate rapid and effective evaluation of national disasters;
 - (b) develop and maintain a comprehensive and reliable data base of all relevant resources necessary to achieve the objectives of CDEMA and a system for updating the database;
 - (c) establish, equip and maintain a coordinated emergency operations system capable of responding to emergency situations;
 - (d) establish and maintain an efficient and reliable system of communications with sub-regional operational focal points in order to facilitate the mobilisation, deployment and coordination of disaster response supplies and services;
 - (e) establish and maintain a reliable system of communications with the heads of national disaster management Agencies and ensure that their disaster response capabilities are maintained at agreed levels of operational efficiency;

- (f) establish arrangements with regional media houses designed to ensure the dissemination of reliable information on national disasters to the public;
 - (g) establish arrangements with the CARICOM Committee of Ambassadors in the metropolitan centres in order to ensure the dissemination to them of reliable information on national disasters in Participating States and their cooperation in mobilising disaster relief resources on a timely and structured basis;
 - (h) establish arrangements with regional airlines and shipping lines in order to ensure access to their facilities on a priority basis in the event of a disaster;
 - (i) establish and maintain relations with international relief organisations in order to facilitate accessing their resources in the event of a disaster;
 - (j) mobilise and organise technical assistance from interested national and international bodies to assist in the development of the disaster response capabilities of Participating States;
 - (k) provide a clearing house for relevant information and intelligence in all matters relating to disasters including current research being undertaken in all related regional institutions;
 - (l) on the basis of a distress call or on such other request as may be agreed after consultation with Sub-Regional Disaster Response Operational Units be capable of triggering the mechanism;
 - (m) provide assistance on request to the heads of national disaster management Agencies in the event of a disaster;
 - (n) on request liaise with the disciplined forces of sending States both in the planning and response stage of any operation mounted after the activation of the triggering mechanism;
 - (o) assist in the development of comprehensive disaster management capabilities and review periodically the disaster response capabilities of Participating States giving due consideration to the availability of resources for immediate and timely response to disaster situations;
 - (p) establish collaborative arrangements and mechanisms with regional disaster management stakeholders to promote disaster loss reduction; and
 - (q) prepare the administrative and emergency budgets of CDEMA for submission to the MCC.
2. The Coordinating Unit shall have the following programming areas -
- (a) education, research and information;
 - (b) finance and administration;

- (c) preparedness and response;
- (d) mitigation and research ; and
- (e) any other programming area which the Council may determine.

ARTICLE XIV

EXECUTIVE DIRECTOR

1. There shall be an Executive Director who shall manage the Coordinating Unit and be the Chief Executive Officer of CDEMA.
2. The Executive Director shall be appointed for a term not exceeding three years and is eligible for reappointment.
3. A Deputy Executive Director shall be appointed by the MCC on the recommendation of the Executive Director for a term not exceeding three years and is eligible for reappointment.
4. The Executive Director and the Deputy Executive Director shall be appointed from among persons with experience in matters relating to emergency relief operations, social welfare and management.

ARTICLE XV

RESPONSIBILITIES OF THE EXECUTIVE DIRECTOR

1. The Executive Director shall have the following responsibilities -
 - (a) implementing the policies of CDEMA;
 - (b) the administration and coordination of activities and programmes of CDEMA;
 - (c) the control of the revenue and expenditure of CDEMA as approved by the Council;
 - (d) the creation and implementation of special programmes and projects where necessary;
 - (e) ensuring that correct procedures are followed with respect to all matters within the competence of CDEMA;
 - (f) prepare an administrative budget biennially;
 - (g) cause the accounts of CDEMA and the Fund to be audited annually by external auditors approved by the MCC;
 - (h) submit annually the audited financial report of CDEMA and the Fund and the budget of CDEMA to the Council for its consideration;
 - (i) submit an annual report to the Council on the work of CDEMA;
 - (j) appoint the staff of the Coordinating Unit except the Deputy Executive Director;

- (k) subject to the approval of the MCC, the determination of the terms and conditions of service of the staff of the Coordinating Unit; and
 - (l) the performance of any other function or duty in pursuance of the objectives of CDEMA.
2. In the performance of their duties the Executive Director and staff of CDEMA shall seek to maintain their independence and shall not engage in any activity or function in a manner which would compromise the functional independence of CDEMA.

ARTICLE XVI

SUB-REGIONAL DISASTER EMERGENCY RESPONSE OPERATIONAL UNITS

1. Where, pursuant to paragraph (e) of Article VII, the Council has designated Sub-Regional Disaster Emergency Response Operational Units, such bodies shall -
- (a) acquire and maintain on an updated basis comprehensive information on the facilities and services available in each of the Participating States for which they have responsibility;
 - (b) maintain and test on a regular basis communications with the Coordinating Unit and with critical response agencies under the control of national relief organisations;
 - (c) maintain independent fuel and power supplies and ensure that relevant physical facilities are in a condition to withstand a major disaster; and
 - (d) keep and maintain at the operational focal point in serviceable and optimal working condition an equipment package containing essential items recommended by the TAC.
2. In making a designation referred to in paragraph 1 of this Article, the Council shall identify the States for which the Sub-Regional Disaster Response Operational Unit concerned shall have responsibility.

ARTICLE XVII

THE ADMINISTRATIVE BUDGET

1. CDEMA shall establish an administrative budget, the funds of which shall be used to defray the ordinary expenses incurred in administering its affairs.
2. Participating States shall contribute to the administrative budget in accordance with a scale of assessment recommended by the MCC and approved by the Council.

3. A Participating State whose economy has been severely affected by a natural disaster may request a waiver of assessed contributions to the budget of CDEMA.
4. The Executive Director, with the approval of the Council, shall establish financial regulations for CDEMA and the Fund in accordance with international accounting standards.

ARTICLE XVIII

EMERGENCY ASSISTANCE FUND

1. CDEMA shall establish an Emergency Assistance Fund (hereinafter referred to as “the Fund”) which shall be used solely to defray expenses incurred in connection with the rendering of assistance in the event of a disaster occurring in a Participating State.
2. Participating States shall contribute to the Fund in accordance with a scale of assessment recommended by the MCC and approved by the Council.
3. A Participating State whose economy has been severely affected by a natural disaster may request a waiver of assessed contributions to the budget of the Fund.
4. The Executive Director may accept contributions to the Fund from external sources on such conditions as may be prescribed by them and agreed by the MCC for the benefit of all Participating States.

ARTICLE XIX

UNDERTAKINGS OF PARTICIPATING STATES

Without prejudice to the requirement to discharge any other obligations assumed under or in connection with this Agreement, Participating States undertake to -

- (a) establish and maintain, as the case may be, national relief organizations capable of responding swiftly, effectively and in a coordinated manner to disasters in Participating States;
- (b) establish emergency disaster planning groups and define national policies and priorities in the event of disasters;
- (c) provide national disaster management agencies with adequate support including named emergency coordinators, liaison officers within key government Ministries, emergency support services and access to utilities.;
- (d) ensure that national disaster management agencies and their coordinators have specific functions and responsibilities to ensure the development of an adequate response capability to support adequate responses to national disasters;

- (e) define the role and functions of key agencies including the Security Services, Health and Public Works in disaster emergency response management and establish a system for regular review of their procedures to ensure coordinated response;
- (f) establish and equip a suitable emergency operations centre capable of handling emergency telecommunications and coordinating emergency response involving relevant services;
- (g) develop and maintain an emergency telecommunications system based on the most appropriate technology to ensure the coordination of emergency operations among stakeholders;
- (h) establish and strengthen procedures for coping with major disaster threats and maintain review systems for testing the procedures through drills and simulations;
- (i) review and rationalize legal arrangements for disaster mitigation and emergency action;
- (j) review and catalogue past disaster events and list credible future emergency responses and identify and map areas with special problems and peculiarities such as flood or landslide prone areas;
- (k) establish data bases of key resources, both human and material, and a system for keeping them current and to computerize and integrate them into an automated emergency information system;
- (l) develop, in collaboration with competent governmental agencies, an emergency shelter policy and programme involving the full participation of local officials from community-based organizations;
- (m) develop and review a system for community participation, local mobilisation and counter disaster action in the event of isolation;
- (n) develop strategies for loss reduction in the public and private sectors focusing on vital economic activities and critical facilities;
- (o) develop a system and procedures for damage assessment in order to facilitate rapid and effective post impact evaluation;
- (p) develop and implement a comprehensive disaster public awareness, information and education programme involving media houses, schools, voluntary agencies and other institutions in order to ensure public participation and community involvement in the disaster management system;
- (q) develop and implement appropriate training programmes for persons involved in the disaster management system;
- (r) identify and seek participation in bilateral and multilateral technical cooperation programmes designed to develop disaster management capabilities;

- (s) identify and maintain in a state of readiness and make available immediately on request by the Executive Director relevant material and human resources in the event of disaster.

ARTICLE XX

RELATIONS WITH GOVERNMENT AND NON-GOVERNMENTAL INSTITUTIONS

1. CDEMA may conclude agreements with Governmental, Inter-Governmental and Non-Governmental Organizations or Agencies in order to achieve its objectives.
2. Unless the Council decides otherwise, the Executive Director may negotiate and conclude such Agreements on behalf of CDEMA.

ARTICLE XXI

DISCIPLINED FORCES

1. Where, in response to a request for assistance by any affected Participating State, members of the disciplined forces of another Participating State are despatched to any part of the territory of the requesting State, the Executive Director shall, subject to the express prior agreement of the competent authorities of the requesting State, designate a Special Coordinator from among the senior officers of such forces, acting after consultation with the Chiefs of Staff or Commanding Officers of the disciplined forces concerned.
2. The Special Coordinator shall be charged with responsibility for coordinating the disaster relief efforts of the disciplined forces in the affected Participating State.
3. No member of the disciplined forces of a Participating State shall be despatched to the territory of an affected Participating State without the express prior consent of that State.
4. In the absence of a contrary agreement between the requesting State and the sending State to that effect, members of the disciplined forces of the sending State shall be under the control and disciplinary authority of their commanding officer.

ARTICLE XXII

DIRECTION AND CONTROL OF ASSISTANCE

1. Subject to paragraph 2, the overall direction, control, coordination and supervision of assistance despatched to a requesting State shall be the responsibility within its territory, of the requesting State.

2. Where the assistance from a sending State involves personnel other than disciplined forces, the sending State shall designate in consultation with the requesting State the person who should be in charge of, and retain immediate operational supervision over the personnel, equipment and supplies provided by it. The person so designated shall exercise such supervision in cooperation with the competent authorities of the requesting State.
3. The requesting State shall provide to the extent of its capabilities local facilities and services for proper and efficient administration of communications assistance. In particular, the requesting State shall ensure that any ground stations brought into its territory for the purpose of rendering assistance shall be duly licensed to transmit and receive information in accordance with its domestic laws and regulations.
4. In the absence of a contrary agreement, ownership of equipment and materials despatched to a requesting State by a sending State during periods of assistance shall be unaffected and their prompt return shall be facilitated at the request of the sending State.
5. The requesting State shall ensure the protection of personnel, equipment and materials brought into its territory for the purpose of rendering assistance during times of disaster.

ARTICLE XXIII

COMPETENT AUTHORITIES AND CONTACT POINTS

1. In the absence of a contrary indication from a Participating State the competent authority and contact point authorised to make requests for and accept offers of assistance in the event of a disaster shall be the head of the National Disaster Management Agency.
2. The Coordinating Unit shall be immediately informed of any change of the contact and focal points of Participating States.
3. The Coordinating Unit shall expeditiously inform Participating States and relevant international organizations with the information referred to in paragraphs 1 and 2 of this Article.

ARTICLE XXIV

CONFIDENTIALITY AND PUBLIC STATEMENTS

1. Participating States their officials and the staff of CDEMA shall respect and not disclose any confidential information received by them in connection with assistance requested in the event of a disaster and the information shall be used exclusively for its intended purpose.

2. The sending State shall use its best endeavours to coordinate with the requesting State before releasing information to the public on the assistance provided in connection with a disaster.

ARTICLE XXV

COSTS OF PROVIDING ASSISTANCE

Except as may otherwise be agreed between them, the expenses incurred by a sending State in providing assistance to a requesting State shall be defrayed by the sending State.

ARTICLE XXVI

TERMINATION OF ASSISTANCE

1. The Executive Director shall, subject to paragraph 2, after consultation with the requesting State, determine the period of response to a disaster.
2. The requesting or sending State may, at any time, after appropriate consultation and by notification in writing terminate the receipt or provision of assistance received or provided under this Agreement.

ARTICLE XXVII

PRIVILEGES, IMMUNITIES AND FACILITIES TO BE

ACCORDED A SENDING STATE AND ITS PERSONNEL

1. The requesting State shall accord to personnel of the sending State and personnel acting on its behalf the necessary privileges, immunities and facilities for the performance of their functions in rendering assistance.
2. Subject to prior notification by the sending State and acceptance by the requesting State of the personnel of the sending State or personnel acting on its behalf, the requesting State shall:
 - (a) grant to such personnel immunity from arrest and detention;
 - (b) grant to such personnel immunity from legal process in respect of words spoken or written and in respect of all acts and omissions in rendering assistance and the immunity shall continue notwithstanding that the period of assistance has been terminated;
 - (c) grant to such personnel exemption from taxes, duties or other charges, in respect of the performance of their functions in rendering assistance, as is accorded to diplomatic personnel in accordance with international law;
 - (d) facilitate the entry into, stay in and departure from its territory of personnel so notified and accepted.
3. The requesting State shall -

- (a) accord the sending State exemption from taxes, duties or other charges on equipment and property brought into the territory of the requesting State by the sending State for the purpose of rendering assistance;
 - (b) confer immunity from seizure, attachment or requisition of such equipment and property and ensure their return to the sending State; and
 - (c) as far as possible, facilitate access to medical care of sick or injured personnel deployed during the period of assistance.
4. Persons enjoying privileges and immunities under this Article shall respect the law and regulations of the requesting State and shall not interfere in its domestic affairs.

ARTICLE XXVIII

TRANSIT OF PERSONNEL, EQUIPMENT AND PROPERTY

Participating States shall, at the request of either the requesting State or the sending State, take all measures necessary to facilitate the transit through their territory of duly notified personnel, equipment and property involved in rendering assistance to or from a requesting State.

ARTICLE XXIX

CLAIMS AND COMPENSATION

1. Participating States shall cooperate in order to facilitate the determination of legal proceedings and the settlement of claims under this Article.
2. In the absence of an agreement to the contrary the requesting State shall, in respect of death or injury to persons or damage to or loss of property or damage to the environment caused within its territory or under its control or jurisdiction by personnel of the requested State in the course of providing assistance -
 - (a) not bring any legal proceedings against the sending State or persons or other legal entities acting on its behalf;
 - (b) assume responsibility for dealing with all legal proceedings and claims brought by third parties against the sending State or against persons or other legal entities acting on its behalf except in cases of wilful misconduct or gross negligence;
 - (c) hold the sending State or persons or other legal entities acting on its behalf harmless in respect of legal proceedings referred to in subparagraph (b);
 - (d) compensate the sending State or persons or other legal entities acting on its behalf for death or injury to personnel of the sending State or persons or other legal entities acting on its behalf; and

- (e) for loss of or damage to non-consumable equipment or materials brought to the requesting State for the purpose of rendering assistance except in the case of the wilful misconduct or gross negligence by the personnel of the sending State.
- 3. Nothing in this Article shall be construed to prevent compensation or indemnity available under any applicable international agreement or national law of a Participating State nor to require the requesting State to apply paragraph 2 of this Article, in whole or in part, to its nationals or permanent residents.

ARTICLE XXX

PRIVELEGES AND IMMUNITIES OF CDEMA

- 1. CDEMA its property and assets wherever located and by whomsoever held shall enjoy immunity from every form of legal process except or in so far as in any particular case the Executive Director has expressly waived its immunity. Any waiver of immunity shall not extend to any measure of execution.
- 2. Save as provided in paragraph 1 the property of CDEMA, wherever located or by whomsoever held, shall be immune from search, acquisition, confiscation, expropriation and any other form of interference, whether by executive, administrative or judicial action.
- 3. This Article shall not be construed as preventing the Government of a Participating State from taking appropriate action in connection with the investigation of accidents involving motor vehicles belonging to or operated on behalf of CDEMA.

ARTICLE XXXI

ARCHIVES OF CDEMA

- 1. The archives of CDEMA shall be inviolable wherever located.
- 2. Proprietary data, confidential information and personnel records shall not be placed in archives open to public inspection.

ARTICLE XXXII

FACILITIES IN RESPECT OF COMMUNICATIONS

- 1. CDEMA shall enjoy in Participating States freedom of communication for its official communications.
- 2. The official correspondence and all other forms of official communications shall be inviolable.
- 3. CDEMA shall have the right to use codes and to despatch and receive correspondence by courier in sealed bags, which shall not be searched or

detained unless the competent authorities have reasonable grounds to believe that the sealed bags do not only contain articles, correspondence or documents for the exclusive official use of CDEMA, in which case the bag shall be opened only in the presence of an officer of CDEMA.

4. This Article shall not preclude the adoption of appropriate security measures in the interest of a participating State or its Government.

ARTICLE XXXIII

REPRESENTATIVES AND STAFF OF CDEMA

Representatives of Participating States attending meetings of the Council, the MCC or the TAC as well as the Executive Director and other staff of CDEMA, shall enjoy in the territory of each Participating State -

- (a) immunity from legal process with respect to acts performed by them in the exercise of their functions, except to the extent that the State which they represent or CDEMA as appropriate expressly waives this immunity in any particular case;
- (b) where they are not nationals of that Participating State, the same exemptions from immigration restrictions, alien registration requirements and national service obligations, the same facilities as regards exchange restrictions and the same treatment in respect of traveling facilities as are accorded by that Participating State to the representatives, officials and employees of comparable rank of other Participating States.

ARTICLE XXXIV

EXEMPTION FROM TAXES AND CUSTOMS DUTIES

1. CDEMA, its assets, property, income, operations and transactions shall be exempt from all direct taxation and goods imported or exported for its official use shall be exempt from all customs duties. CDEMA shall not claim exemption from taxes which are no more than charges for services rendered.
2. Where purchases of goods or services of substantial value necessary for the official activities of CDEMA are made by or on behalf of CDEMA, and where the price of the goods or services includes taxes or duties, appropriate measures shall, to the extent practicable, be taken by Participating States to grant exemptions from such taxes or duties or provide for their reimbursement.
3. Goods imported or purchased under an exemption provided for in this Article shall not be sold or otherwise disposed of in the territory of the Participating State granting the exemptions, except under conditions agreed with that Participating State.

4. No tax shall be levied by Participating States in respect of salaries, other types of emoluments or any other form of payment made by CDEMA to the Executive Director and staff of CDEMA as well as experts performing missions for CDEMA.
5. Paragraph 4 does not apply where the Executive Director or the staff member of CDEMA is a national of the Participating State where CDEMA is located.

ARTICLE XXXV

SUSPENSION OF RIGHTS AND PRIVILEGES OF MEMBERSHIP

1. A Participating State which is in arrears in the payment of its financial contribution to the administrative budget of CDEMA shall have no vote in the Council or the MCC if the amount of the arrears equals or exceeds the amount of the contributions due from it for the preceding two financial years.
2. A Participating State which has violated the obligations assumed under this Agreement may be suspended from the exercise of the rights and privileges of membership by the Council.

ARTICLE XXXVI

ARBITRATION

1. Any dispute between a State Party and CDEMA arising out of the interpretation or application of this Agreement, which is not settled by negotiation or other agreed mode of settlement shall be referred for final decision to an arbitral tribunal of three arbitrators at the instance of either party.
2. Each party shall be entitled to appoint one arbitrator within fifteen days following the request of either party and the two arbitrators shall within fifteen days following the date of their appointments appoint a third arbitrator who shall be the Chairperson of the arbitral tribunal.
3. Where any party fails to appoint an arbitrator under paragraph 2 the other party may request the Secretary-General of the Caribbean Community to appoint an arbitrator within ten days.
4. Where the two arbitrators appointed under paragraph 2 fail to appoint a third arbitrator either party may request the Secretary General of the Caribbean Community to appoint an arbitrator within ten days.
5. The arbitral tribunal shall establish its own rules of procedure.

ARTICLE XXXVII

SIGNATURE AND RATIFICATION

The Agreement shall be open for signature by the States listed in the Annex and shall be subject to ratification in accordance with their respective constitutional procedures.

ARTICLE XXXVIII
ENTRY INTO FORCE

This Agreement shall enter into force when Instruments of Ratification have been deposited by at least seven of the States listed in the Annex.

ARTICLE XXXIX
ACCESSION

1. This Agreement shall be open to accession by any Caribbean State which on the recommendation of the MCC has been admitted to membership of the CDEMA by the Council on such terms and conditions as the Council may decide.
2. A State admitted to membership in accordance with paragraph 1 shall deposit an Instrument of Accession with the Secretary-General of the Caribbean Community.

ARTICLE XL
DEPOSITARY

1. The original of this Agreement and any amendments thereto shall be deposited with the Secretary General of the Caribbean Community
2. The Secretary-General of the Caribbean Community shall notify the Coordinating Unit of CDEMA of the Deposit of Instruments of Ratification or Accession, as the case may be and forward certified copies of such Instruments to the Coordinating Unit.

ARTICLE XLI
AMENDMENTS

1. Any Participating State may propose amendments to this Agreement.
2. Any proposal for an amendment to this Agreement shall be submitted to the Coordinating Unit, which shall transmit it to the MCC with its comments.
3. The MCC shall consider the proposal together with the comments of the Coordinating Unit and make a recommendation to the Council.

4. The Council shall consider the proposal for amendment and may adopt it with such modifications as it deems necessary.
5. Amendments shall enter into force when ratified by all Participating States.

ARTICLE XLII

WITHDRAWAL

1. Any Participating State may withdraw from CDEMA.
2. Any Participating State wishing to withdraw from CDEMA shall give to the Coordinating Unit twelve months' written notice of its intention to do so and the Executive Director shall immediately notify the other Participating States.
3. A notice given under paragraph 2 of this Article may be withdrawn at any time prior to the date on which withdrawal is to take effect.
4. A Participating State withdrawing from CDEMA shall honour any financial obligations duly assumed by it during the period of its membership.

ARTICLE XLIII

PROVISIONAL APPLICATION

Seven or more of the Participating States listed in the Annex to this Agreement may, upon signature, or at any later date before this Agreement enters into force, declare their intention to apply it provisionally.

THIRD SCHEDULE

(Section 84)

CONSEQUENTIAL AMENDMENTS

ACT	AMENDMENT
Communications Act, Ch. 304	A. Section 2 of the principal Act is amended by the insertion in the appropriate alphabetical order, the following definitions, - ““disaster alert” has the meaning ascribed to it in section 3 of the Disaster Risk Management Act;

	<p>“disaster emergency” has the meaning ascribed to it in section 3 of the Disaster Risk Management Act;</p> <p>“early warning” has the meaning ascribed to it in section 3 of the Disaster Risk Management Act;”.</p> <p>B. Section 8(3)(e) of the principal Act is amended by the insertion of the words “or the issuance of an early warning”, after the word “disaster”.</p> <p>C. Section 53(2)(j) of the principal Act is amended by the insertion of the words “, including the declaration of a disaster alert or a disaster emergency, or the issuance of an early warning.” after the word “conditions”.</p>
<p>Public Finance Management Act, 2021</p>	<p>A. Section 2 of the principal Act is amended by the insertion in the appropriate alphabetical order, the following definition—</p> <p>““disaster emergency” has the meaning ascribed to it in section 3 of the Disaster Risk Management Act;”.</p> <p>B. Section 27(1) of the principal Act is amended in the chapeau by –</p> <p>(a) the deletion of the words “an order that a disaster emergency exist is made” after the words “Constitution or” and the substitution of the words “a disaster emergency is declared”; and</p> <p>(b) the deletion of the words “27 of the Disaster Preparedness and Response Act (Ch. 34A)”.</p>

	<p>C. Section 48 of the principal Act is amended by the deletion of the words “and directions” and the substitution of the words “, directions and any other law”.</p>
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