

Uttarakhand Disaster Mitigation, Management and Prevention Act, 2005

(Uttarakhand Act No. 29 of 2005)

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An Act to provide for Disaster Mitigation, Management and Prevention in the State of Uttarakhand and the matters connected therewith or incidental thereto
Be it enacted by the State Assembly in the Fifty sixth year of the Republic of India as follows :-

CHAPTER-I

Preliminary

1. Short title, Extent and commencement. - (1) This act may be called the Uttarakhand Disaster Mitigation, Management and Prevention Act, 2005.

(2) It extends to the whole of the State of Uttarakhand.

(3) It shall come into force at once.

2. Definition. - In this Act, unless the context otherwise requires-

(a) "*Disaster*" means a catastrophe, calamity or mishap, a grave occurrence being, natural or otherwise, which causes, human sufferings, destruction or annihilation of human/animal and plant life, damage to and destruction of property, degradation of environment which overwhelms the prudent and protective measures and disrupts and paralyses the normal functioning of Government and society at large, and includes anyone or more of the occurrences mentioned in Schedule;

(b) "*disaster affected area*" means the area where a disaster as defined under Schedule has occurred;

(c) "*Authority*" means the Uttarakhand State Disaster Management Authority established under sub-section (1) of section 5;

(d) "*Commissioner Disaster Management*" means the State Commissioner for Disaster Management to be appointed under sub-section (1) of section 10;

(e) "*disaster management*" means a continuing and integrated process of planning and implementation of measures with a view to-

- (1) mitigate or reducing the risk of disasters,
- (2) mitigating the severity or consequence of disasters,
- (3) capacity-building; for prevention of disaster,
- (4) emergency preparedness,
- (5) assessing the effects of disasters,
- (6) providing emergency relief and rescue, and
- (7) post-disaster rehabilitation and reconstruction;

- (f) "*emergency preparedness*" means the State of readiness which enables stakeholders to mobilize, organize and provide relief to deal with an impending or actual disaster or the effects of a disaster;
- (g) "*Local Authority*" means a municipal corporation, nagar panchayat, municipal council, district panchayat, gram panchayat, notified area committee or cantonment board constituted under relevant local authority law;
- (h) "*member*" means a member of the Authority;
- (i) "*mitigation*" means measures aimed at reducing the impact or effects of a disaster;
- (j) "*prescribed*" means prescribed by rules made under this Act;
- (k) "*prevention*" means measures the object of which is to avoid the occurrence of a disaster;
- (l) "*reconstruction*" means repair and reconstruction of a property undertaken after a disaster;
- (m) "*regulation*" means any activity the objects of which is to restore normalcy in conditions caused by a disaster;
- (n) "*relief*" means measures taken during or immediately after a declaration of disaster to diminish, or alleviate any suffering, pain, injury distress or hardship caused on account of the disaster;
- (o) "*disaster prone area*" means an area where there have been repeated occurrence of disasters and apprehension of such repetition in future.

CHAPTER-II

Authorities for Disaster Management

3. Authorities for Disaster Management. - For the purposes of the Act the following shall be the competent Authorities namely :-

- (a) The State Government,
- (b) The Uttarakhand State Disaster Management Authority,
- (c) The Heads of Departments under the State Govt.,
- (d) Commissioner,
- (e) District Magistrate of the Districts,
- (f) Local Authorities,
- (g) Disaster Mitigation and Management Centre.

CHAPTER-III

Functions of the State Government

4. Functions of the State Government. - (1) The State Government shall ensure that all the authorities and agencies under section 3 of the Act take all such measures as are necessary or expedient for the purposes of managing a disaster and mitigating its effects.

(2) In particular and without prejudice to the generality of the provisions of sub section (1) such measures may include all or any of the following measures, namely:-

- (a) Ensuring that appropriate policies and guidelines are developed;
- (b) Ensuring that the State administration and local authorities take into consideration the guidelines laid down by the Authority while planning its activities;
- (c) Ensuring that a comprehensive communication and technology network is established and maintained;
- (d) Ensuring that disaster management plans are prepared and training for managing disaster is given;
- (e) Ensuring that adequate funds are available for disaster management;
- (f) Take appropriate steps in the field of research and development including opening of an Institute, for better management, prevention and mitigation of disasters.

(4) Subject to the provisions of this Act, the State Government, may in exercise of its powers and performance of its functions under this Act, issue a direction in writing to a person or authority for the purpose of avoiding an imminent damage arising out of a disaster or mitigation of its effects and such person or authority shall comply with such direction.

(5) Subject to the provisions of this Act, the State Government may in exercise of its powers and performance of its functions under this Act, suspend operation of any executive order if such executive order prevents, hinders or delays any necessary action in coping with disaster.

(6) All department of the State Government shall provide assistance to the Authority, the Commissioner and the District Magistrate or any local authority in setting up communication centres, drawing up contingency plans, capacity building, data collection and identifying and training personnel.

CHAPTER-IV

Establishment and Incorporation of the State Disaster Management Authority

5. Establishment and incorporation of Disaster Management Authority. - (1) The State Government, shall, by notification in the Official Gazette, establish an Authority to be known as the Uttarakhand State Disaster Management Authority with effect from such date as may be specified in the notification.

(2) The Authority shall be a body corporate, with perpetual succession and common seal and shall sue or be sued in its corporate name and shall, subject to the provisions of this Act, be competent to acquire, hold and dispose off property, both movable and immovable, and to contract and to do all things necessary for the purposes of this Act.

(3) The Headquarters of the Authority shall be at Dehradun.

(4) The Authority may, with the approval of the State Government, for the purpose of provisions of this Act establish offices at such other places within or outside the State as the Authority may deem fit.

6. Constitution of Authority. - (1) The Authority shall consist of the following :-

- (a) Chief Minister of the State, Chairperson - ex-officio

- (b) Such elected member of the Legislative Assembly, who have been designated by the State Government -as Vice Chairperson
- (c) Chief Secretary, Member of - ex-officio
- (d) Principal Secretary/Secretary, Disaster Management, Government of Uttarakhand - ex-officio members
- (e) Three Principal Secretaries to be nominated Government of Uttarakhand for amongst the Department of Home, Medical, Finance, PWD, Power, Irrigation, Food and Civil Supplies, Rural Development - ex-officio members
- (f) Head of the Department of Earthquake Engineering, Indian Institute of Technology, Roorkee - ex-officio members
- (g) Director, Wadia Institute of Himalayan Geology Dehradun - ex-officio member
- (h) Director, Institute of Remote Sensing, Dehradun - ex-officio member.
- (i) Three members to be nominated by the State Government from amongst the persons having knowledge and practical experience in matters relating to disaster Management and control.
- (j) Divisional commissioners - ex-officio members
- (k) Commissioner Disaster Management to be nominated as Chief Executive Officer-under the Ordinance, member Secretary - ex-officio
- (l) Representative of NDM, MOH, Gol, not below the rank of Director -ex-officio member
- (m) Executive Director, Disaster Mitigation and Management Center, Dehradun, and -ex-officio member;
- (n) Commander, Uttarakhand, Sub-Area, Dehradun - ex-officio member.

(2) The members other than *ex-officio* members of the Authority shall hold office during the pleasure of the State Government and shall receive the remuneration as may be prescribed by regulation.

7. Meetings of the Authority. - (1) The Authority shall meet at such times and places and shall, subject to the provisions of sub-section (2), observe such rules of procedure in regard to the transaction of its business at its meetings (including quorum) as may be prescribed by the regulations.

(2) Every meeting shall be presided over by the Chairperson, if present at the time appointed for holding the same and, if the Chairperson is absent, by the Vice Chairperson or in his absence by the senior most member present.

(3) All the issues at the meeting of the Authority shall be decided by a majority of votes of the members present and voting and, in the event of an equality of votes, the Chairperson shall have a second or casting vote.

(4) (a) Every member, who is, in anyway, whether directly or indirectly, concerned or interested in the contract or arrangement, entered into or proposed to be entered into, by or on behalf of the Authority, shall disclose the nature of his concern or interest before or at the meeting of the Authority.

(b) No member shall take any part in discussion, or vote on, any contract or arrangement entered into or to be entered into by or on behalf of the Authority if he is in anyway, whether directly or indirectly, concerned or interested in the contract or arrangement:

Provided that a member shall not be deemed to be concerned or interested as aforesaid by reason of his being a shareholder holding directly and indirectly in the aggregate less than two percent of the paid-up equity share capital of a company concerned or interested in any such contract or arrangement.

8. Proceeding not to invalidated by vacancy etc. - No act or proceeding of the Authority shall be invalid merely by reason of-

(a) any vacancy existing therein or any defect in constitution thereof, or

(b) any irregularity in its procedure not affecting the merit of the case.

9. Officers and employees of Authority. - (1) The State Government shall nominate Commissioner Disaster Management to be the *ex-officio* Chief Executive Officer of the Authority who shall exercise such power and perform such functions as are prescribed by the regulations.

(2) The Authority may appoint such other officers and employees subordinate of the Chief Executive Officer as it considers necessary for the efficient performance of its functions.

(3) The officers and employees appointed under sub-section (2) shall be entitled to receive such salaries and allowances and shall be governed by such terms and conditions of service as are prescribed by the regulations.

(4) The officers and employees of the Authority shall perform such functions as may be imposed upon them by a general or special order in writing issued by the Chief Executive Officer.

10. State Commissioner for Disaster Management. - (1) The State Government may for the whole State appoint an officer not below the rank of Additional Secretary to Government of Uttarakhand belonging to Indian Administrative Service to be the State Commissioner for Disaster Management.

(2) The said Commissioner shall perform such functions related to disaster management as are imposed on him by or under this Act (3). The said Commissioner shall be entitled to receive such salary and allowances and shall be governed by such conditions of service as may be prescribed by regulations.

CHAPTER V

Functions of the Authority

11. Functions of the authority. - (1) Subject to the provisions of this Act, the Authority shall be primarily responsible for promoting an integrated and coordinated system of disaster management, including prevention or mitigation of disaster, by the local authorities, stakeholders and communities.

(2) The Authority shall-

- (a) act as the central planning, coordinating and monitoring body for disaster management and post-disaster reconstruction, rehabilitation, evaluation and assessment;
- (b) assist the State Government in formulation of policy relating to emergency relief notwithstanding that the implementation of emergency relief shall be the responsibility of the Revenue Department and other departments of the Government;
- (c) inform the State Government and departments of that Government on progress made and problems faced in disaster management;
- (d) Promote general education and awareness on disaster management emergency planning and response and matters related their with or incidental thereto;
- (e) The State Government, the District Magistrate concerned officers of the State Government and the local authorities in the State shall give such assistance and support to the Authority in performing the functions as may be required by the Authority, Generate and disseminate the basic knowledge that documents potential hazards and information on mitigation approaches both at Government and private sector decision makers;
- (f) act as an agency for implementation of building construction codes;
- (g) Develop an objective warning system and identification of areas of refuge;
- (h) Develop and implement an efficient and proactive Search & Rescue mechanism;
- (i) Develop and implement an Emergency Medical System;
- (j) Build and educate constituency for risk management;
- (k) Development and promulgation of standards;
- (l) Create an open process for development decision makers;
- (m) Creating strategic alliances within Government, merging natural and technological hazards and risk management;
- (n) Utilize regulation and insurance to drive mitigation;
- (o) Professionalize and standardize emergency management;
- (p) Ensure comprehensive, coordinated Government response through fail safe communication among various sectors;
- (q) Focus on disaster management centered development.

12. Recommendations to be made to the appropriate authority. - The authority shall inspect the quality of construction of any building or structure in any local area in the State and where the Authority is of the opinion that the quality of reconstruction of such building or structure is such that it may result in loss of life or damage to property, if a disaster occurs, it may recommend the local authority to take such action as may be necessary under the relevant local authority law to avoid such consequence.

CHAPTER-VI

Powers and Functions of the Chief Executive Officer

13. Powers and Functions of the Chief Executive Officers. - While functioning within the jurisdiction of the Authorities, the Chief Executive Officer shall exercise and perform the following powers and functions, namely :-

- (a) Coordinate and monitor activities relating to prevention and mitigation of disasters, including capacity-building;
- (b) Coordinate and monitor rehabilitation and reconstruction activities;
- (c) Monitor the progress of the preparation and updating of disaster management plans and coordinate the implementation of such plans;
- (d) Prepare and submit periodically a report to the authority on the activities undertaken by the authority;
- (e) Delegate his powers and functions to officers and employees of the authority;
- (f) To exercise such powers and perform such functions as may be delegate by the authority;
- (g) To exercise such other powers and perform such other functions as may be specified by the regulations; and
- (h) To declare that the State or any part thereof is a disaster effected area.

CHAPTER-VII

Powers and Functions of the State Commissioner for Disaster Management

14. Emergency Relief. - (1) During the period an area is declared as a "disaster effected area" the Commissioner may issue directions to the District Magistrate and the local authority having jurisdiction over the affected area to provide emergency relief in accordance with disaster management plans and CRF/NCCF Guidelines, and it will be mandatory for all the local authority from District Magistrate downwards including District Magistrate to whom such directions are given to act in accordance to such directions.

(2) For the purpose of -

- (a) assisting and protecting the community;
- (b) providing relief to the community;
- (c) preventing or combating disruption; or
- (d) dealing with the destructive and other effects of the disaster, the Commissioner may-
 - (i) make arrangements for release and use of available resources,
 - (ii) control and restrict vehicular traffic to, and from and within the affected area,
 - (iii) control and restrict the entry of any person into, movement within and departure from any affected area or part thereof,
 - (iv) remove debris,
 - (v) conduct search and rescue operations,
 - (vi) make arrangements for the disposal of the unclaimed dead body by appropriate means,

- (vii) provide alternative shelter,
- (viii) provide food, medicines and other essentials,
- (ix) require experts and consultants in the fields relevant to the disaster to provide relief under his direction and supervision,
- (x) procure exclusive or preferential use of amenities, as and when required,
- (xi) take possession and make use of any property, vehicles, equipment, buildings and means of communication on such terms and conditions, as may be prescribed,
- (xii) construct temporary bridges or other necessary structures,
- (xiii) demolish unsafe structures which may endanger the public,
- (xiv) ensure that non-governmental organizations carry out their activities when disaster effected area in an equitable manner,
- (xv) disseminate information to the public to deal with the disaster,
- (xvi) evacuate any population from any affected area for the purpose of preservation of life and for such evacuation use such force as may be necessary, and
- (xvii) authorize any person, to make entry into any place, to open or cause to be opened, any door, gate or other barrier, if he considers such an action is necessary for presentation of life and property, if the owner of occupier is absent, or being present, refuses to open such door, gate or barrier.

(3) The Commissioner may issue such directions to any person or Government agency and take such other steps as may be necessary to curtail the escalation of the disaster or to alleviate, contain or minimize the effects of disaster.

(4) The Commissioner shall keep the authority informed of the actions taken by him, generally for providing relief and particularly under sub-section (1) to (3).

15. Other Functions of Commissioner. - (1) The Commissioner shall-

- (a) provide inputs to the authority relating to various aspects of disaster management, such as early warnings and status of preparedness;
- (b) development an appropriate relief implementation strategy for the State in consultation with the authority, taking into account the unique circumstances of each district and efficiency in institutional capacity and resources of the State;
- (c) prepare, review and update District or Divisional Level emergency plans and guidelines and ensure that these plans are prepared revised and updated and are in tune with the "master plan" prepared by the Authority;
- (d) reassess from time to time contingency plans related to disaster management;
- (e) ensure that disaster management drills are carried out periodically;
- (f) ensure that communication systems are in order, and contingency plans provide for maximum involvement of local agencies;
- (g) exercise such powers and perform such functions as may be delegated by the Authority; and

- (h) exercise such other powers and perform such other functions as may be specified by the regulations.

CHAPTER-VIII

Disaster Mitigation and Management Center

16. Disaster Mitigation and Management centre (D.M.M.C.). - The Disaster Mitigation and Management Center, will work as a think tank for the Authority and prepare plan for each stages of disaster namely predisaster, during disaster and post-disaster stages which may finally be approved by the Authority. The D.M.M.C. will be located at a place in Uttarakhand as decided by the State Government.

The D.M.M.C. will consist of the following :-

- (i) Executive Director, such faculty members as the State Government, in consultation with the Authority, may decide to have;
- (ii) Executive Director-
 - (a) a professional in disaster management, as the State Government in consultation with the Authority, may decide to have,
 - (b) the Executive Director shall perform such functions related to disaster management as are imposed on him by authority,
 - (c) the Executive Director shall be entitled to receive such salary and allowances and shall be governed by such conditions of service as may be prescribed.

17. Functions of D. M.M. C. - (1) Data Collection and Research-

- (a) The D.M.M.C. shall take reasonable steps to collect or cause the data to be collected on all aspects of disasters and disaster management and analyze such data and cause and conduct research and study relating to the potential effects of events that may result in disasters; and how to prevent, manage and mitigate these disasters.
- (b) The D.M.M.C. may by notice in writing, require any person to provide such information as may be useful for the purpose of sub-section (1) to the D.M.M.C. within such period as may be specified in the notice.

(2) Repository of Information- The D.M.M.C. shall act as a repository of information concerning disasters and disaster management, and shall-

- (a) ensure the establishment of communication links and setting up of emergency communication and early warning systems in the State;
- (b) maintain database of information required for the disaster management operations;
- (c) ensure establishment of communication links with disaster management agencies in India and other countries, including institutions performing functions similar to those of the authority;
- (d) to exchange information, and to have access to international expertise on disaster management.

(3) Disaster Management Plans -

- (a) The D.M.M.C. shall develop or cause to be developed guidelines for the preparation of a master disaster plans and strategies and keep them update and shall assist such

departments of Government, local authorities and person, as may be specified by the Authority in preparation of plans and strategies and coordinate them.

(b) The plan preparing agency while preparing the plan under sub-section (1) shall make suitable provisions in the plan after considering the following, namely:-

- (i) The types of disaster that may occur and their possible effects;
- (ii) The communities and property at risk;
- (iii) Provision for appropriate prevention and mitigation strategies;
- (iv) Inability to deal with disasters and promote capacity building;
- (v) The integration of strategies for prevention of disaster and mitigation of its effects with development plans, programmes and such other activities in the State;
- (vi) Provision for assessment of the nature and magnitude of the effects of a disaster;
- (vii) Any other matter required by the Authority;
- (viii) The D.M.M.C. shall prepare, or cause to be prepared, and maintain a master plan for the State.

(4) Awareness and preparedness-

(A) The D.M.M.C. shall promote or cause to be promoted awareness and preparedness and advise and train the community, and stakeholders with a view to increasing capacity of the community and stakeholders to deal with potential disasters by-

- (a) publishing guidelines and recommendations in this behalf;
- (b) facilitating access to its electronic database;
- (c) promoting disaster management capacity-building and training programmes amongst communities and other stakeholders;
- (d) assisting in the development of methodologies for reduction of vulnerability of disasters;
- (e) coordinating the integration of methodologies for awareness and preparedness with development plans, programmes and such other activities; and
- (f) acting in any other manner as it deems fit in this behalf.

(B) The D.M.M.C. shall formulate such policy relating to mechanism for risk transfer including insurance for disaster preparedness as it deems necessary and implement the same or cause to be implemented.

CHAPTER-IX

Powers and Functions of the Divisional Commissioner and District Magistrate

18. Powers and Functions of the Divisional Commissioner. - (1) The Divisional Commissioner shall coordinate and guide the officers and the local bodies in the matter of disaster management in the respective division and shall exercise such general and specific power as may be delegated to him by the Authority, the Commissioner Disaster Management or the State Government.

(2) On the invocation DDMAP, the Divisional Commissioner shall-

- (a) provide for reinforcement of resources from other districts within the division;
- (b) keep in constant touch with Chief Secretary, Principal Secretary (Disaster Management), Commissioner Disaster Management, EOC/DMMC.

19. Powers and Functions of the District Magistrate. - (1) During the period an area is an affected area, the District Magistrate may issue directions to the officers of the departments of the Government and local authorities in the affected area, to provide emergency relief in accordance with the disaster management plans under the supervision of the Commissioner for Disaster Management.

(2) The District Magistrate may-

- (a) make arrangement for release and use of available resources;
- (b) control and restrict traffic to, from and within the area effected by a disaster;
- (c) control and restrict the entry of any person into, movement within and departure from any disaster area or part thereof;
- (d) remove devris;
- (e) conduct search and rescue operations;
- (f) make arrangements for the disposal of the unclaimed dead bodies, by appropriate means;
- (g) provide alternative shelter;
- (h) provide food, medicines and other essentials;
- (i) require experts and consultants in the matters relevant to the disaster to provide relief under his direction and supervision;
- (j) take possession and make use of any property, vehicles, equipment, buildings and means of communication on such terms and conditions, as may be prescribed;
- (k) procure exclusive or preferential use of amenities, as and when required;
- (l) construct temporary bridges or other structures;
- (m) demolish unsafe structures which may endanger the public;
- (n) coordinate with non-governmental organizations and ensure that such entities carry out their activities within disaster effected area in equitable manner;
- (o) disseminate information to the public to deal with the disaster;
- (p) direct and compel evacuation, of all or part of the population from any disaster affected area for the purpose of preservation of life and for such evacuation, use such force as may be necessary;
- (q) authorize any person, to make entry into any place, to open or cause to be opened, any door, gate or other barrier, if he considers such an action is necessary for preservation of life and property, if the owner or occupier is absent, or being present, refuse to open such door, gate or barrier.

(3) The District Magistrate may exercise the powers contained in sub-section (2) to the extent only that this is necessary for the purpose of-

- (a) assisting and protecting the community;
- (b) providing relief to the community;
- (c) preventing or combating disruption; or
- (d) dealing with the destructive and other effects of the disaster.

(4) The District Magistrate may issue such directions to any person or Government agency and take such other steps, as may be necessary to curtail the escalation of the disaster or to alleviate, contain or minimize the effects of disaster.

20. Other Powers and Functions of District' Magistrate. - (1) District Magistrate shall-

- (a) ensure that actions for prevention of a disaster or mitigation of its effects or preparedness to cope up with such effects are carried out in accordance with guidelines as may be prescribed;
- (b) provide inputs to Authority relating to various aspects of disaster management, such as early warning and status of preparedness;
- (c) ensure that officials in the District acquire the knowledge to deal with disaster management;
- (d) ensure that District disaster management plans are prepared, revised and updated;
- (e) facilitate and, coordinate with, local Government bodies to ensure that predictors and disaster management activities the District are carried out;
- (f) facilitate community training, awareness programmes and the installation of emergency facilities with the support of local administration, nongovernmental organizations, and the private sector;
- (g) establish inter-department of coordination on matters related to disaster management;
- (h) review emergency plans, contingency plans and guidelines;
- (i) ensure that local authorities in the District are involved in developing their own mitigation strategies;
- (j) ensure linkage between disaster management activities and planning;
- (k) ensure that communication systems are in order;
- (l) ensure that fire fighting equipments and other equipments related to disaster management are so maintained as to be ready for use;
- (m) coordinate the activities of reconstruction and rehabilitation in the district;
- (n) ensure that disaster management drills are carried out periodically;
- (o) assist the Authority in monitoring the progress and outcome of efforts for reconstruction and rehabilitation;
- (p) exercise such powers and perform such functions as may be delegated to it by the State Government, the Authority and the Commissioner;

- (q) exercise such other powers and perform such other functions as may be prescribed by regulations.

CHAPTER-X

Functions of local authorities

21. Functions of Local Authorities. - (1) Once the State or any area thereof has been declared as a disaster affected area, the local authority shall subject to such directions as the Authority may give and under the supervision of the State Commissioner and the District Magistrate -

- (a) assist the Authority, the Commissioner and the District Magistrate;
- (b) ensure that the staff of the local authority is trained;
- (c) ensure that all resources related to disaster management are so maintained as to be ready for use;
- (d) ensure that all buildings and other structures in the local area comply with the specifications laid down in this behalf by the department of Government and the Authority;
- (e) carry out relief operations in the affected area subject to directions of the State Commissioner;
- (f) carry out reconstruction and rehabilitation activities in accordance with the guidelines framed by the Authority;
- (g) coordinate the preparation and the implementation of plan with those of the organizations of the State and stakeholders;
- (h) conduct disaster management drills periodically; and
- (i) provide such assistance to the Authority, the Commissioner and the District Magistrate and take such other steps as may be necessary for disaster management

(2) Each local authority shall submit to the Authority and the Commissioner a copy of its disaster management plan proposed under sub-section (1) and any amendment thereto.

22. Disaster Management Plans for Districts. - (1) District Magistrate with the assistance of the local authorities shall prepare a disaster management plan for the District.

(2) The District Magistrate while preparing a plan under sub-section (1) shall-

- (a) anticipate the types of disaster that may occur in the District and their possible effects;
- (b) identify the communities and property at risk;
- (c) provide for appropriate prevention and mitigation strategies;
- (d) identify the inability to deal with possible disasters and promote capacity building;
- (e) facilitate maximum emergency preparedness; and
- (f) keep contingency plans and prescribed emergency procedures in the event of a disaster, providing for-

- (i) allocation of responsibilities to the various stakeholders and coordinate in the carrying out of their responsibilities,
- (ii) prompt disaster response and relief,
- (iii) procurement of essential goods and the providing of essential services,
- (iv) establishment of strategic communication links,
- (v) the dissemination of information, and
- (vi) such other matters as may be provided for in the regulations and any other matters required by him.

(3) District Magistrate shall ensure that the "disaster management plan" of his district is completed within a period of 90 days from the date, this act comes into effect and notified in the official Gazette, provided that it will be open for the Chief Executive Officer to give a reasonable extension to link the District Magistrate, if such an extension is asked for. But in no case the extension shall be given beyond a period of six months.

CHAPTER XI

Declaration of Area as Disaster Prone Area Or Disaster Affected

23. Area Declaration of an area as disaster prone area or disaster affected area. - (1)

The Chief Executive Officer of the Authority, on report of a District Magistrate or District Magistrates, as the case may be, or otherwise declare an area to be disaster prone area or disaster effected area. The declaration so made shall be laid before the Authority by the Chief Executive Officer within one week of such declaration for the approval of the Authority.

(2) The notification issued under sub-section (1) in respect of an area shall specify the period, not exceeding fifteen days, during which the said area shall, for the purposes of this Act, remain to be the affected area:

Provided that the State Government may extend this period, from time to time by any period not exceeding fifteen days, at one time, if the State Government, having regard to a report made in that behalf by the Commissioner or, as the case may be, the District Magistrate or otherwise, is of the opinion that it is expedient to do so.

(3) (a) During the period an area remains an affected area the Authority shall perform or cause to be preformed in that area functions relating to-

- (i) prevention of disaster, or
- (ii) mitigation of effects of disaster,
- (b) facilitating, coordinating and monitoring emergency relief, and
- (c) monitoring and coordinating reconstruction and rehabilitation and, such other functions as are prescribed by or under the Act or as are supplemental, incidental or consequential to the aforesaid functions.

(4) Where the affected area is spread over more than one District, the Government and where the affected area is restricted to a District, the District Magistrate shall perform such of the functions related to disaster management as are imposed on him by or under this Act.

(5) (a) Where the Commissioner or the District Magistrate makes a report under sub section (1), simultaneously he shall commence performing the necessary functions imposed on him by or under this Act from the time for therewith; and

- (b) he shall cease to perform the functions-

- (i) where an area is declared under sub-section (1) of section 23 as the affected area for the period specified under sub-section (2) on the expiry of such period, or
- (ii) where such period is extended from time to time under the proviso to sub section (2) on the expiry of the period last extended, or
- (iii) where an area is not so declared, on the receipt of a communication to that effect from the State Government as under clause of subsection (5).

(6) The Authority, the Commissioner, the District Magistrate and all other agencies, shall cease to perform their functions in the aforesaid area, on the expiry of the period referred to in sub-clause (i) or (ii) of clause (b) of subsection (5).

CHAPTER-XII

Finance, Accounts, Audit and Reports.

24. Fund of Authority. - (1) The Authority shall have its own fund called the Disaster Management Fund and all receipts of the Authority shall be credited thereto and all payments by the Authority shall be made therefrom.

(2) The Authority may accept grants, subscriptions, donations and gifts from the Central or State Government or a local authority or any individual or body, whether incorporated or not, for the purposes of this Act.

(3) The money from the fund may be applied in payment of-

- (i) expenses incurred by the Authority in performing its functions under this Act,
- (ii) remuneration to members,
- (iii) salaries and allowances to officers and employees of the Authority,
- (iv) expenses for such other purposes of the Act as may be prescribed.

(4) (a) All moneys belonging to the fund of the Authority shall be deposited in such Nationalized bank as the State Government may, by general or special order, direct.

(b) Where the amount in the fund is not required to be applied immediately or at an early date for the purpose of this Act, it may be invested in any of the securities specified in clause (a), (b), (bb), (c) or (d) of section 20 of the Indian Trusts Act, 1882;

(c) Any interest earned on such deposits and investments shall be credited to the fund.

25. Borrowing of Money. - The Authority, may with the previous approval of the State Government, borrow money in the open market or otherwise for the purpose of carrying out its functions under this Act.

26. Budget. - (1)(a) The Authority shall, by such date in each year as may be prescribed, submit to the State Government for approval a budget in the prescribed form for the next financial year, showing the estimated receipts and expenditures, and the sums which would be required from the State Government during that financial year.

(b) If any sum granted by the State Government remains wholly or partly unspent in any financial year, the unspent sum may be carried forward to the next financial year and taken into account in determining the sum to be provided by the State Government for that year.

(2) No sum shall be expended by or on behalf of the Authority unless the expenditure is covered by provision in the budget approval by the State Government.

- 27. Accounts and Audit.** - (1) The accounts of the Authority shall be prepared and maintained in such form and manner as may be prescribed.
- (2) The Authority shall cause to be prepared for each financial year an annual statement of accounts in such form as may be prescribed.
- (3) The accounts of the Authority shall be audited by an auditor duly qualified to act as an auditor of companies under section 226 of the Companies Act, 1956.
- (4) The said auditor shall be appointed by the Authority.
- (5) Every auditor appointed to audit the accounts of the Authority under this Act shall have a right to demand the production of books of accounts, connected vouchers and other documents and papers, to inspect the offices of the Authorities and to require such information from the Authority as he may think necessary for performance of his duty as an auditor.
- (6) The auditor shall send a copy of his report together with an audited copy of accounts to the Authority which shall, as soon as, may be after the receipt of the audit report, forward the same to the State Government.
- (7) The State Government shall, as soon as, may be after the receipt of the audit report under sub-section (6), cause the same to be laid before the State Assembly.

- 28. Annual Report.** - (1) The Authority shall, once in the every year, prepare in such form and at such time of the year, as may be prescribed-
- (a) an annual report giving a full, true and fair accounts of its activities during the previous year; and
 - (b) programme of work likely to be undertaken by the Authority in the next year, and a copy of such report shall be forwarded to the State Government.
- (2) The State Government shall, as soon as, may be after the receipt of the annual report under sub-section (1) causes the same to be laid before the State Assembly.

CHAPTER-XIII

Offences and Penalties

- 29. Offences and Penalties.** - (1) Whoever-
- (a) without reasonable cause prevents or obstructs any officer of the State Government or of local authority or the Authority or the Commissioner or the District Magistrate from carrying out functions under this Act, or
 - (b) without reasonable cause refuse to comply with the directions given by an officer of the State Government or the Authority or the Commissioner or the District Magistrate while carrying out his functions under this Act, or
 - (c) falsely predicts the occurrence of a disaster without any scientific basis and thereby creates panic in the community, or
 - (d) makes a false claim for assistance for reconstruction or repair from any officer of the State Government or Authority or the Commissioner or the District Magistrate.

shall on conviction be punishable with imprisonment for a term which may extend to six months or with fine which may extend to ten thousand rupees or both.

- 30. Cognizance of Offences.** - No Magistrate shall take cognizance of an offence under section 29 except on a complaint in writing made by an Officer of the Authority generally or specially authorized in this behalf or the Commissioner or the District Magistrate.

31. Offences by Companies. - (1) Where an offence may punishable under this Act has been committed by a company, every person who, at the time the offence was committed in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of such offence and shall be liable to be prosecuted against and punished accordingly:

Provided that nothing contained in this sub-section shall render any person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence was committed with the consent or connivance of, or is attributable to any negligence on the part of any Director, Manager, Secretary or other officer of the company, such Director, Manager, Secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation. - Yet the purposes of this section -

- (a) "*Company*" means a body corporate and includes a firm or other association of person; and
- (b) "*Director*" in relation to a firm means a partner in the firm.

CHAPTER-XIV

Miscellaneous

32. Power of entry. - (1) The Chief Executive Officer, the Commissioner, Divisional Commissioner or the District Magistrate, generally or specially authorized by the State Government in this behalf, may, at all reasonable times, enter upon any land and there do such things as may be reasonably necessary for the purpose of lawfully performing functions imposed upon them by or under this Act.

(2) Any officer or employee of the Authority, generally or specially authorized by it in this behalf, may, at all reasonable times, enter upon any land and there do such things as may be reasonably necessary for the purpose of lawfully carrying out any of the functions imposed upon him by or under this Act.

33. Delegation of Functions. - (1) The Authority may, by a general or special order in writing, delegate to the Chief Executive Officer, the Commissioner, the District Magistrate or any other officer such of its functions under this Act as may be specified in the order.

(2) The Authority may, by a general or special order in writing, form one or more committees consisting of its members and delegate to such committee such of the functions of the Authority as may be specified in the order.

(3) The Commissioner may, by an order in writing, delegate to any person such of the functions imposed on him by or under this Act as may be specified in the order.

(4) The District Magistrate may, by an order in writing, delegate to the Chief Development Officer or any other person such of the functions imposed on him by or under this Act as may be specified in the order.

(5) An order under sub-section (1), (3) or (4) may specify the conditions subject to which the functions specified therein may be performed.

34. Powers of State Government to issue directions. - (1) In the performance of its functions under this Act, the Authority shall be bound by such directions on questions of policy as the State Government may give in writing to it from time to time :

Provided that the Authority shall be given an opportunity to express its view before any direction is given under this sub-section.

(2) The decision of the State Government, whether a question is one of policy or not, shall be final.

35. Power to issue direction. - (1) The Authority, the Commissioner, Divisional Commissioner or the District Magistrate for the purpose of performing functions under this Act, and for reasons to be recorded in writing, issue an order directing a person to do or abstain from doing a specified thing within the affected areas in which the emergency relief measures are being undertaken.

(2) Any person receipt of such order shall comply with the same.

36. Members and employees to be public servants. - Every member, the Chief Executive Officer, the Commissioner and every officer and employee of the Authority shall, when acting or purporting to pursuance of the provisions of this Act or of any rule or regulation made thereunder, be a public servant within the meaning of section 21 of the Indian Penal Code.

37. Protection of action taken under the Act. - No suit, prosecution or other legal proceeding shall lie against the Authority or any member or officer or employee of the Authority or the Chief Executive Officer, the Commissioner or the District Magistrate for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act or of any rule or regulation or order made thereunder.

38. Powers of State Government to make rules. - (1) The State Government may, by notification in the official gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality to the foregoing power, such rules may be made to provide for all or any of the matters expressly required or allowed by this Act to be prescribed by rules.

(3) All rules made under this section shall be laid within thirty days before the State Assembly as soon as possible after they are made and shall be subject to the approval by the State Assembly or to such modification as the State Assembly may make during the session in which they are so laid or the session immediately following.

(4) Any approval or modification so made by the State Assembly shall be published in the Official Gazette, and shall thereupon take effect.

39. Powers of Authority to make regulations. - (1) The Authority may, with the previous approval of the State Government, by notification in the Official Gazette, make regulations not inconsistent with the Act and the rules made there under, for enabling it to perform its functions under this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may be made to provide for all or any of the matters expressly required or allowed by this Act to be specified by regulations.

40. Savings. - The Authority, its officers and employees, the Chief Executive Officer, the Commissioner and the District Magistrate shall perform functions imposed by or under this Act in addition to and not in derogation of functions performed by the State Government or any of its officers in pursuance of the provisions of any law for the time being in force or in exercise of the executive powers of the State for the prevention of occurrence of disasters, mitigation of effects of disasters, facilitating, coordinating and monitoring emergency relief and monitoring and coordinating measures for reconstruction and rehabilitation in the aftermath of the disasters in the State or in relation thereto.

Schedule

List of Disasters

I. Water and Climate Related Calamities

(a) Floods & Drainage Management

(b) Cyclones

(c) Tornadoes and Hurricanes

(d) Cloud Burst

(e) Landslide

(f) Thunder and Lightning

(g) Heat and Cold Wave

(h) Drought

(i) Avalanche

(j) Hailstorm

II. Geologically Related Calamities

(a) Earthquakes

(b) Dam Bursts

(c) Mine Fire

III. Chemical/Industrial & Nuclear Disasters

(a) Chemical/ Industrial Nuclear Disasters

(b) Forest Fire

IV. Accident Related Disasters

(a) Road and Train Accidents, Air Crash, Boat Capsizing

(b) Building Collapse

(c) Electric Accident

(d) Urban and Rural Fire

(e) Festival Related Disasters

(f) Bomb Blast

(g) Mechanical Failure

(h) Death or Injury due to Stone or Boulder Hits from Hill

V. Biological Disasters

(a) Human and Animals Epidemics

(b) Food Poisoning.

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