



Tuvalu

CLIMATE CHANGE RESILIENCE ACT

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CAP 30.03



Tuvalu

CLIMATE CHANGE RESILIENCE ACT

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Tuvalu

CLIMATE CHANGE RESILIENCE ACT¹

AN ACT TO BUILD AN EFFECTIVE CLIMATE CHANGE RESPONSE AND ENSURE LONG-TERM, JUST TRANSITION TO A CLIMATE RESILIENT AND LOWER CARBON ECONOMY AND SOCIETY AND RELATED MATTERS

Commencement [1st July 2019]

1 Short Title

This Act may be cited as the Climate Change Resilience Act 2019.

2 Interpretation

In this Act, unless the context otherwise requires:

“**Act**” includes regulations made under this Act;

“**adaptation**” means actions to limit or adjust to the impacts of climate change;

“**adverse effects of climate change**” means changes in the physical environment or biota resulting from climate change which have significant deleterious effects on the composition, resilience or productivity of natural and managed ecosystems or on the operation of socio- economic systems or on human health and welfare;

“**building**” means any type of construction, whether on land or in the seas, and includes temporary structures and structures for the housing or containment of livestock;

“**climate change**” means a change of climate which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods;

“**climate system**” means the totality of the atmosphere, hydrosphere, biosphere and geosphere and their interactions;

“**Conference of the Parties**” means the supreme decision-making body of the UNFCCC, established under Article 7 of the UNFCCC and which serves as the meeting of Parties to the Paris Agreement, established under Article 17 of the Paris Agreement;

“**Conventions to which this Act applies**” are the international Conventions listed in the Schedule;

“**Council**” means the National Advisory Council on Climate Change convened under section 19;

“**Department**” means the Department of Climate Change and Disaster of the Office of the Prime Minister, established under section 12;

“**development**” means any enterprise or undertaking, for industrial or commercial purposes, which includes:

- (a) the erection of a building or structure;
- (b) the carrying out of work, in, on, over or under land or sea;
- (c) the use of land, building, structure or work; and
- (d) the subdivision of land;

“**Director**” means the Director of the Department of Climate Change and Disaster, appointed under section 13 and includes a person acting in the position of the Director;

“**emissions**” means the release of greenhouse gases or their precursors into the atmosphere;

“**environment**” includes all natural, physical and social resources and ecosystems or parts thereof, people and culture and the relationship that exists between these elements;

“**Falekaupule**” means the traditional assembly in each island of Tuvalu which, subject to the Falekaupule Act, is composed in accordance with the Aganu of each island;

“**Forum**” means the National Climate Change Resilience Forum convened under section 18;

“**greenhouse gas**” means gaseous constituents of the atmosphere, both natural and anthropogenic, that absorb and re-emit infrared radiation;

“**Iloga**” means the traditional local customs and usages of an island as given under the Falekaupule Act;

“**Intergovernmental Panel on Climate Change**” is an international scientific and intergovernmental body, established in 1988 by the United Nations Environment Programme and the World Meteorological Organization, to review and assess scientific, technical and socio-economic information produced worldwide to provide a clear scientific view on the current state of knowledge in climate change and its potential environmental and socio- economic impacts;

“**international convention**” includes a climate change related conference, forum, association, meeting, agency or program of an international or regional agency in which Tuvalu is entitled to membership or participation;

“**Kyoto Protocol**” means the Kyoto Protocol to the UNFCCC, adopted in Kyoto on 11 December 1997 at the third session of the Conference of the Parties to the UNFCCC held at Kyoto from 1 to 11 December 1997;

“**land**”, for the purpose of this Act, includes:

all things growing on land; and

buildings and other things permanently fixed to land;

“**measure**”, in relation to climate change, includes a decision, policy, program or process;

“**Minister**” means the Minister responsible for climate change, or a Minister charged by the Prime Minister with responsibility for the administration of this Act;

“**Montreal Protocol**” means the Montreal Protocol on Substances that Deplete the Ozone Layer, a protocol to the Vienna Convention for the Protection of the Ozone Layer, adopted in Montreal on 16 September 1987;

“**natural resources**” includes land, soil, minerals, water, air, plants and animals and their habitat (whether native or introduced);

“**Paris Agreement**” means the Paris Agreement adopted on 12 December 2015 at the twenty- first session of the Conference of the Parties to the UNFCCC held in Paris from 30 November to 13 December 2015;

“**Secretary**” means the Secretary of the Ministry;

“**pollution**” means the introduction by humans, directly or indirectly, of substances or energy into the environment which may result or likely result in deleterious effects or harm to living resources and ecosystems and hazards to human health, including:

(a) the detriment or degradation of the environment; or

(b) the detriment of any beneficial use, and includes pollution as prescribed by regulations;

“**resilience**” is generally defined as the capacity for an environmental and socio-ecological system to:

(a) absorb stresses and maintain function in the face of external stresses imposed upon it by climate change; and

(b) adapt, reorganise, and move into more desirable and sustainable configurations that improve the sustainability of the system, and addresses the vulnerability that communities have with regards to consequences of climate change;

“**sustainable development**” means the management or the human use, development, conservation, protection, maintenance and enhancement of the natural, physical and cultural resources of Tuvalu in a way or at a rate, which enables people and

communities to provide for their social, economic and cultural well-being and to their health and safety while sustaining the potential of natural and physical resources to meet the needs of future generations;

“**UNFCCC**” means the United Nations Framework Convention on Climate Change, adopted in New York on 9 May 1992;

“**vulnerable communities and populations**” include children, women, the elderly, persons with disabilities, minority church groups, and other people in vulnerable situations;

“**water**” in this Act refers to freshwater used for human consumption, and also the ocean that is under the jurisdiction of Tuvalu.

3 Conventions to which this Act applies

- (1) Subject to subsection (2), the Conventions listed in the Schedule are the Conventions to which this Act applies.
- (2) The list of Conventions in the Schedule may be added or deleted by regulations made under this Act.

4 Act to bind the Crown

This Act binds the Crown.

5 Territorial application

This Act applies to all things done in, on, above or below the:

- (a) land or sea boundaries of Tuvalu;
- (b) waters of Tuvalu to which it exercises or claims jurisdiction or sovereign rights and includes the:
 - (i) exclusive economic zone;
 - (ii) continental shelf; and
 - (iii) seabed and subsoil underlying those waters; and
- (c) airspace above Tuvalu, including over its land or sea boundaries.

PART II – OBJECTIVES AND COMMITMENTS

6 Policy objectives

The policy objectives of this Act are:

- (a) to regulate Tuvalu’s efforts to reduce greenhouse gas emissions in accordance with section 9 and contribute to the protection of the climate

- system for the benefit of present and future generations of humankind, on the basis of equity and in accordance with Tuvalu's responsibilities and capabilities;
- (b) to build the resilience of Tuvalu's infrastructure, built environment and communities through effective adaptation and disaster preparedness actions;
 - (c) to manage Tuvalu's natural resources, environment, ecosystems and biodiversity to promote their resilience to the impacts of climate change;
 - (d) to protect specific needs, taking into consideration special circumstances of Tuvalu and its vulnerability to the adverse effects of climate change;
 - (e) to promote and support Tuvalu's islands, industries and communities to adjust to the changes and impacts arising from reducing greenhouse gas emissions across the economy;
 - (f) to support vulnerable communities and populations and promote social justice and intergenerational equity on matters related to this Act;
 - (g) to the greatest extent possible, guarantee the security of the people of Tuvalu from the impacts of climate change, to ensure their sustainability and to maintain national sovereignty, including coordinating planning efforts on climate change adaptation initiatives; and
 - (h) to address loss and damage associated with climate change.

7 Purposes of the Act

To achieve the policy objectives and commitments provided under section 8, the Act:

- (a) provides the legal basis for climate change resilience policy and law;
- (b) gives effect to legal obligations of Tuvalu with respect to implementing the UNFCCC, the Kyoto Protocol, the Paris Agreement and other agreements related to climate change that the Government of Tuvalu is a Party to;
- (c) promotes low carbon development;
- (d) establishes the role of Government in coordinating climate change actions and establishes effective governance structures for the implementation of sound climate change policies;
- (e) promotes public awareness and involvement in climate change issues and the preservation of Tu, Iloga mo Faifaiga as it relates to the environment; and complements climate change related provisions in other laws.

8 Commitments

Taking into account Tuvalu's responsibilities and specific national and regional development priorities, objectives and circumstances, Tuvalu shall:

- (a) develop, periodically update, publish and make available to the Conference of the Parties, in accordance with Article 12 of the UNFCCC, national inventories of anthropogenic emissions by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol, using appropriate methodologies agreed by the Conference of the Parties to the UNFCCC;
- (b) produce, implement and update nationally determined contributions and other reporting requirements in accordance with the Paris Agreement;
- (c) formulate, implement, publish and regularly update national, and where appropriate, regional programs containing measures to contribute to the mitigation of climate change by addressing anthropogenic emissions by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol, and measures to facilitate adequate adaptation to climate change;
- (d) promote and cooperate in the development, application and diffusion, including transfer, of technologies, practices and processes that control, reduce or prevent anthropogenic emissions of greenhouse gases not controlled by the Montreal Protocol in all relevant sectors, including the energy, transport, industry, agriculture, forestry and waste management sectors;
- (e) promote sustainable management, and promote and cooperate in the conservation and enhancement, as appropriate, of sinks and reservoirs of all greenhouse gases not controlled by the Montreal Protocol, including biomass, forests and oceans as well as other terrestrial, coastal and marine ecosystems;
- (f) cooperate in preparing for adaptation to the impacts of climate change, and develop and elaborate appropriate and integrated plans for coastal zone management, water resources and agriculture, and for the protection and rehabilitation of areas affected by drought and desertification, as well as sea level rise and floods;
- (g) take climate change considerations into account, to the extent feasible, in their relevant social, economic and environmental policies and actions, and employ appropriate methods, for example impact assessments, formulated and determined nationally, with a view to minimising adverse effects on the economy, on public health and on the quality of the environment, of projects or measures undertaken by them to mitigate or adapt to climate change;
- (h) promote and cooperate in scientific, technological, technical, socio-economic and other research, systematic observation and development of data archives related to the climate system and intended to further the understanding and to reduce or eliminate the remaining uncertainties regarding the causes, effects, magnitude and timing of climate change and the economic and social consequences of various response strategies;

- (i) promote and cooperate in the full, open and prompt exchange of relevant scientific, technological, technical, socio-economic and legal information related to the climate system and climate change, and to the economic and social consequences of various response strategies;
- (j) promote and cooperate in education, training and public awareness related to climate change and encourage the widest participation in this process, including that of non-governmental organisations; and
- (k) communicate to the Conference of the Parties serving as the meeting of Parties to the Paris Agreement, information related to the implementation of the Paris Agreement, in accordance with Article 13 of the Paris Agreement.

9 Greenhouse gas emissions reduction targets

- (1) For the purposes of this Act and subject to this section, the emissions reduction targets for Tuvalu are as prescribed by regulations and in line with its nationally determined contributions made pursuant to the Paris Agreement.
- (2) The Minister may amend or renew, by regulations, the emissions reduction targets if, in the opinion of the Minister, exceptional circumstances apply and as may be required in accordance with Article 4 of the Paris Agreement.

PART III – ADMINISTRATION

10 Functions and powers of the Minister

- (1) The Minister is responsible for the proper administration of this Act.
- (2) The Minister may do all things necessary or convenient to be done to attain or further the objects of this Act, and any other climate change resilience related law which the Department is responsible for administering, including power to:
 - (a) give approvals or grant an authority as provided by law;
 - (b) approve appropriate representatives of the Department at international conventions related to a Convention to which this Act applies, and any other meeting related to the work of the Department;
 - (c) approve reports prepared by the Department on behalf of Government;
 - (d) designate the Department or another appropriate Government agency to be the focal point for the purpose of a Convention to which this Act applies;
 - (e) set fees and charges under this Act; and
 - (f) do any other related act or thing.
- (3) A power under this Act to regulate any matter, act or thing, includes the power to prohibit the matter, act or thing for the purpose of meeting obligations under

a Convention to which this Act applies and for the purpose of protecting Tuvalu against the adverse effects of climate change.

11 Delegation of functions and powers to the Director

- (1) In exercising a function or power under this Act, the Minister may, in writing, delegate to the Director, the functions and powers, either in whole or in part, as may be necessary or appropriate for the efficient and effective administration of the function or the exercise of the power.
- (2) Nothing prevents the exercise of the function or power by the Minister during the period of delegation under this section.

12 Department of Climate Change and Disaster

- (1) The Department of Climate Change and Disaster is established as a Department of the Office of the Prime Minister.
- (2) The Department is headed by a Director, appointed in accordance with section 13, and staffed in accordance with the Public Service Act.

13 Director of the Department

- (1) A Director of the Department shall be appointed as the head of the Department in accordance with laws relating to the appointment of public servants.
- (2) The Director is responsible, through the Permanent Secretary of the Ministry, to the Minister for the efficient and proper administration and management of the Department.
- (3) Subject to the direction of the Permanent Secretary, the Director may do all things necessary or convenient to be done in relation to the proper administration of the Department and the implementation of this Act, and any other law relating to a function of the Department, including the power to:
 - (a) do any act or thing authorised by this Act or any other law;
 - (b) prepare reports as required by Cabinet, the Minister or the Permanent Secretary, or which are required under a Convention to which this Act applies;
 - (c) engage consultants, in compliance with Government's processes, for the purpose of assisting the Department to perform its functions;
 - (d) arrange for the monitoring of an activity that relates to a function of the Department;
 - (e) recommend to the Minister appropriate representatives of the Department at relevant meetings and conferences; and
 - (f) do any other related act or thing.

14 Delegation of powers by the Director

- (1) The Director may, by notice in writing, delegate to an officer of the Department, all or any of the Director's powers and functions under this Act, except this power of delegation.
- (2) Nothing shall prevent the exercise of a function or power by the Director during the period of delegation under this section.
- (3) The Director may delegate a function or power under this section that is a function or power delegated to the Director under section 11, or which relates to the exercise of the function or power.

15 Functions of the Department in building resilience to climate change

- (1) The Department has the following functions in relation to building resilience to climate change:
 - (a) coordinating the implementation of actions to address climate change;
 - (b) undertaking the functions under Part V relating to the development of policies, strategies, and plans to address climate change and build resilience and adaptation to the impacts of climate change;
 - (c) providing policy advice to the Minister regarding the administration of this Act;
 - (d) providing guidance and secretariat support to the Council;
 - (e) seeking and coordinating sustainable funding arrangements to implement this Act, including for climate change mitigation and adaptation projects and actions related to loss and damage;
 - (f) coordinating the implementation of climate change mitigation and adaptation projects, including projects to address loss and damage associated with climate change;
 - (g) collaborating with the Meteorological Office to improve early warning systems for climate change;
 - (h) undertaking climate change risk assessments;
 - (i) regularly undertaking greenhouse gas inventories to monitor sectoral progress on greenhouse gas emissions reduction targets specified under section 9 and undertaking regular reviews and updates of national determined contributions consistent with requirements under the Paris Agreement and related decisions;
 - (j) coordinating with relevant sectors on the development and implementation of policies and plans for renewable energy and energy efficiency, including:
 - (i) with the Department of Energy on energy policies in accordance with the Energy Efficiency Act;

- (ii) with the Ministry of Communications and Transport on transport policies in accordance with the Traffic Act;
 - (iii) with the Department of Environment on environment policies in accordance with the Environment Protection Act;
 - (iv) with the Department of Agriculture on agriculture policies in accordance with the Environment Protection Act;
 - (v) with the Ministry of Home Affairs and Rural Development, the Solid Waste Agency of Tuvalu, and the Kaupule administration on waste management policies in accordance with the Waste Operations and Services Act, the Environment Protection Act, and the Public Health Act;
- (k) providing educational, training and other capacity development opportunities for Tuvaluan's in areas related to mitigating greenhouse gas emissions, building resilience and adapting to the impacts of climate change, and ensuring effective participation in international and regional processes associated with international and regional climate change agreements;
- (l) researching and publishing researches on climate change in Tuvalu, having regard to:
- (i) existing national and global action on climate change, including an undertaking relating to the reduction of greenhouse gas emissions that Tuvalu has given under a Convention to which this Act applies and any other international climate change related Convention or agreement;
 - (ii) climate science, including scientific data developed by the Meteorological Services and a climate science report developed by the Intergovernmental Panel on Climate Change;
 - (iii) climate change technologies;
 - (iv) economic circumstances, in particular the likely impact of the target on the economy and the competitiveness of particular sectors of the economy;
 - (v) social circumstances, in particular the likely impact of the greenhouse gas emissions reduction targets on the health and wellbeing of the people of Tuvalu;
 - (vi) environmental circumstances, in particular the benefits to the environment of greenhouse gas emissions reduction; and
 - (vii) any progress towards the reduction of greenhouse gas emissions.
- (m) fostering gender equality in the development and implementation of policies under this Act;
- (n) liaising with international and regional organisations associated with climate change matters;

- (o) attending international and regional meetings associated with climate change;
 - (p) liaising with the media on climate change matters.
- (2) The functions of the Department in relation to disaster management for effective disaster risk reduction and preparedness, response and recovery are provided for under the National Disaster Management Act.

16 Functions of the Department relating to climate change related Conventions

- (1) Nothing in this section affects or restricts the role of any other Department or agency of Government in relation to a Convention to which this Act applies.
- (2) The roles of the Department in relation to a Convention to which this Act applies includes the following:
 - (a) coordinating Tuvalu's response to international climate change negotiations;
 - (b) making arrangements for the attendance at a meeting of the Parties to a Convention, and other relevant meetings, of a suitably qualified person to represent the interests of the Government of Tuvalu;
 - (c) liaising with relevant regional or international bodies to ensure that the representation of the Government of Tuvalu at a meeting concerning a Convention is informed and effective;
 - (d) accessing and utilising available funds and resources by preparing and submitting project proposals and undertaking programs to implement a Convention;
 - (e) assisting any other Department and agency of Government to implement any aspect of a Convention;
 - (f) preparing any necessary report and reporting on a regular basis to the Minister and Cabinet in relation to the implementation of a Convention to which this Act applies;
 - (g) sharing information and providing cooperation required by a Convention;
 - (h) recommending that a law of Tuvalu be amended or enacted in order to effectively implement a requirement of a Convention; and
 - (i) doing any other act or thing, in conjunction with any other relevant Department or agency of Government, to implement an obligation under a Convention.
- (3) In addition to the roles of the Department under this Act or another Act, the Department may be designated by the Minister as the focal point for the purposes of a Convention to which this Act applies.
- (4) As focal point, the Department shall perform the roles and duties:

- (a) necessary to implement a Convention to which this Act applies; and
- (b) which may be vested in it by law for the implementation of the Convention.

17 Precautionary approach

- (1) All persons and agencies having responsibilities under this Act, or whose functions and powers may involve building resilience against climate change, or the regulation, control, or management of a substance, matter or thing which may adversely impact upon Tuvalu's environment, shall apply the precautionary approach when discharging their responsibilities and functions, or exercising their powers.
- (2) The precautionary approach under subsection (1) is applied if, in the event of a threat of damage to Tuvalu's natural resources or to the environment of Tuvalu, or a risk to human health or wellbeing in Tuvalu, a lack of full scientific certainty regarding the extent of adverse effects of climate change is not used as a reason for not acting to prevent or minimise the potential adverse effects or risks arising in any way from a matter or thing regulated under any law.
- (3) Potential adverse effects or risks under subsection (2) include serious or irreversible loss or damage as a result of climate change.

PART IV – FORUM, COUNCIL AND COMMITTEES

18 National Climate Change Resilience Forum

The Minister may convene a National Climate Change Resilience Forum for the following purposes:

- (a) considering a climate change related matter of national importance;
- (b) giving guidance to the Minister, Director and Department on strategies for a national strategic action plan relating to climate change;
- (c) ensuring that the general community has an opportunity to participate in the formulation of climate change resilience related policies and the implementation of related programs and activities.

19 National Advisory Council on Climate Change

- (1) The Minister may convene a National Advisory Council on Climate Change for the following purposes:
 - (a) providing general guidance over the operation of this Act;

- (b) encouraging the integration of climate change and disaster policies across all levels of Government and private enterprise within Tuvalu.
- (2) In accordance with directions given by the Minister, the Director shall convene meetings of the Council, as may be required for the purposes of this Act.
- (3) Regulations made under this Act may make provision for:
 - (a) the appointment of members of the Council;
 - (b) the procedures of the Council;
 - (c) specific functions, responsibilities and powers of the Council; and
 - (d) the establishment, functions and powers of advisory and technical committees of the Council.

20 Council to provide advice and to act as competent authority

- (1) The National Advisory Council on Climate Change shall provide advice to the Minister on matters relating to climate change and disasters and sustainable development within and, where relevant, outside of Tuvalu.
- (2) The Council may be designated by the Minister, or under any Act or regulations made under this Act, as the competent authority or implementing authority for the purpose of a Convention to which this Act applies.
- (3) In the absence of any competent authority being designated for the purposes of a Convention to which this Act applies, the Council shall act as the competent authority as required by the Convention.
- (4) In its capacity as a competent authority, the Council may lawfully perform functions and exercise powers required to be performed or exercised in accordance with the relevant Convention, and any law that gives effect to the Convention in Tuvalu.

PART V – POLICIES TO ADDRESS CLIMATE CHANGE

21 National Climate Change Policy

- (1) In conjunction with other Ministries, Departments and each Kaupule, and through the involvement of the community, the Department shall formulate, apply, and implement a National Climate Change Policy.
- (2) The National Climate Change Policy shall endeavour to be aligned to Tuvalu's commitments and obligations under international and regional instruments, including Conventions to which this Act applies.
- (3) All other Government policies shall consider climate change impacts and take action to build resilience to the impacts of climate change as well as undertake

actions to reduce emissions, as relevant, and align with the National Climate Change Policy.

- (4) The Minister may review and update the National Climate Change Policy to ensure the goals remain relevant to Tuvalu's development and commitments, including under Conventions to which this Act applies.

22 Strategies and plans to address climate change

- (1) To implement the National Climate Change Policy, the Department shall develop strategies and plans to address climate change resilience, including strategies and plans:
 - (a) to raise the level of understanding about the implications of climate change, and activities which contribute to climate change, on Tuvalu and the future of its people;
 - (b) to promote understanding amongst the people of Tuvalu about the causes and implications of climate change;
 - (c) to secure funding for climate change mitigation and adaptation and issues related to loss and damage associated with the adverse effects of climate change, including extreme weather events and slow onset events;
 - (d) to address the effects of climate change within Tuvalu on its water resources, coastal areas, lands and land usage, food security, biodiversity, fisheries, economic welfare, public infrastructure and its vulnerability to disasters;
 - (e) to implement programs and facilitate projects to protect its water resources, coastal areas, mangroves, lands, biodiversity, fisheries and public infrastructure, and to contribute to the health, well-being and livelihoods of Tuvaluan's;
 - (f) to participate in international conventions with a view to obtaining the fullest possible assistance to address the implications of climate change and undertake adaptation initiatives;
 - (g) to develop and implement national strategies for energy security, low carbon development, renewable energy and energy efficiency;
 - (h) to develop and implement a low carbon and renewable energy transport policy for land, sea and air transport;
 - (i) to facilitate scientific research into the impacts of climate change and technologies to avert or adapt to these impacts;
 - (j) to foster the development of climate change friendly industries and technologies within Tuvalu;
 - (k) to ensure that gender sensitivity policies are incorporated within all functions of this Act;
 - (l) to develop and implement climate change friendly building and housing codes and standards in accordance with Tuvalu Building Code;

- (m) to establish and facilitate scholarships for Tuvaluan's to study climate change related issues at tertiary institutions within and outside of Tuvalu; and
 - (n) to build capacity in all aspects associated with the implementation of this Act.
- (2) Regulations made under this Act may provide for any matter associated with the response in Tuvalu to climate change, and to implement strategies and plans formulated in accordance with subsection (1).

23 Responsibilities in implementation

- (1) To effectively implement the Conventions to which this Act applies, a decision made by Government and a policy, program or process developed or implemented by Government shall appropriately take account of climate change, if it is relevant, by having regard to the policy objectives under section 6 and commitments under section 8.
- (2) All Departments and agencies of Government shall apply the regulatory powers under the laws that they are responsible for administering to regulate or prohibit an activity, matter or thing in accordance with:
- (a) a decision made by the Council; or
 - (b) a request of the Minister.

24 Requirement to provide assistance and information for data collection and analysis

- (1) Where a Convention to which this Act applies requires the making of a report, or the collection or provision of any information or data, the Minister may make a written request to the responsible person or Ministry to provide the information or data.
- (2) Subject to section 32, a person to whom a written request has been made under subsection (1) who, without lawful or reasonable justification, refuses or fails to comply with the request, commits an offence and is liable upon conviction to a fine not exceeding \$500.

25 Climate Change and Disaster Survival Fund

- (1) Funding assistance for adaptation, recovery and rehabilitation from the devastating impacts of climate change and natural disasters is established and administered in accordance with the Climate Change and Disaster Survival Fund Act.
- (2) No loans are to be sought to administer this Act, except for the purposes of actions related to reducing greenhouse gas emissions.

26 Climate Change and Disaster Levy

- (1) The Minister, acting on the advice of Cabinet, may impose any special type of levy relating to the management of the adverse impacts of climate change.
- (2) All levies collected shall be invested into the Climate Change and Disaster Survival Fund established under section 6 of the Climate Change and Disaster Survival Fund Act to support adaptation, recovery or rehabilitation initiatives.

PART VI – ENFORCEMENT**27 Prohibition on the exploration, mining and extraction of fossil fuels**

- (1) Subject to subsection (2) and section 34(2), a person must not explore, mine or extract fossil fuels, including oil, coal, gas or other related substances within Tuvalu, its territorial sea, exclusive economic zone and continental shelf.
- (2) Despite subsection (1), oils and fuels may be extracted from floating or sunken vessels for the purposes of pollution prevention.
- (3) A person carrying out any activity prohibited under this section is liable upon conviction to a fine not exceeding \$1,000 or imprisonment for a term not exceeding 3 months, and in the case of a corporation, to a fine not exceeding \$10,000.

28 Supplying false information

A person who knowingly supplies false information when required to provide information under this Act commits an offence and is liable upon conviction to a fine not exceeding \$10,000 or imprisonment for a term not exceeding 2 years, and in the case of a corporation, to a fine not exceeding \$20,000.

29 Penalty for carrying out any activity or project without approval

A person carrying out an activity or project without approval required under this Act, is liable upon conviction to a fine not exceeding \$1,000 or imprisonment for a term not exceeding 3 months, and in the case of a corporation, to a fine not exceeding \$10,000.

30 Activity to cease

- (1) Where a person is charged with an offence under this Act, the activity for which that person is charged must cease immediately.

- (2) A person who fails to comply with subsection (1) commits an offence and is liable to a fine not exceeding \$1,000, and in the case of a corporation, to a fine not exceeding \$10,000, for each day that noncompliance continues.

31 Offences by corporations

Where a corporation is guilty of an offence under this Act, any officer, director, or agent of the corporation who authorised, assented to or participated in, or by his or her neglect or omission contributed to the commission of the offence, is a party to the offence and is liable upon conviction to the penalty provided for the offence.

32 Immunity

No civil or criminal action shall lie against the Minister or a person appointed or authorised under this Act with respect to anything done or omitted to be done by the person in pursuance or intended pursuance of the powers or functions conferred on the person under this Act unless the person has acted, or omitted to act, in bad faith and without reasonable cause.

PART VII – MISCELLANEOUS

33 Regulations

- (1) The Minister may, with the consent of Cabinet, make regulations as provided for in this Act, or which may be necessary or expedient for giving effect to this Act and for its due administration.
- (2) Without limiting the generality of subsection (1) and subject to subsection (3), regulations may be made, inter alia:
 - (a) to clarify or add to any definition in section 2 or in any Convention to which this Act applies, or to provide a definition for a term used in regulations;
 - (b) providing for additional powers of the Minister and the Director to implement this Act, and to meet its objectives;
 - (c) relating to the operation of the Forum and the Council;
 - (d) relating to the procedures and powers for undertaking and monitoring greenhouse gas emissions reduction targets, and for recording or reporting on the monitoring;
 - (e) providing, in accordance with section 78 of the Customs, Revenue and Border Protection Act, for the prohibition of the importation of goods or products that may adversely affect Tuvalu's greenhouse gas emissions reduction targets;

- (f) to further implement a Convention to which this Act applies, and to meet the obligations under the Convention, or to enjoy the rights arising from the Convention;
 - (g) to vest powers in any officer, person, governmental agency or other body to implement a Convention to which this Act applies;
 - (h) to provide for the functions and powers of competent authorities for the purpose of a Convention to which this Act applies, which may be stated as general powers of competent authorities, or as specific powers under the Convention;
 - (i) to clarify the application of the precautionary approach, and to require its specific application in relation to any procedure, matter or thing;
 - (j) to effectively respond to a matter arising from changes to climate or sea levels;
 - (k) to prescribe necessary forms and impose fees and charges; and
 - (l) to prescribe offences and impose penalties for breaches of regulations, being fines not exceeding \$25,000, or terms of imprisonment not exceeding 3 years.
- (3) In relation to all regulations made under this Act, the provisions of section 41 (2) of the Interpretation and General Provisions Act do not apply, and the penalties which may be prescribed for offences committed against the regulations may be set at any level up to the maximum penalties provided under subsection (2)(l).

34 Consequential amendments

- (1) Part VIII of the Environment Protection Act, relating to responses to climate change, is repealed.
- (2) Section 60 of the Tuvalu Seabed Minerals Act 2014 is amended by inserting the following after paragraph (c):
 - "(d) would be likely to lead to any person contravening section 27 of the Climate Change Resilience Act 2019."

35 Saving and transitional provisions

- (1) A reference made before the commencement of this Act in any enactment or document to the "Climate Change Unit" or "Director of the Climate Change Unit" shall be read as a reference to the "Department of Climate Change and Disaster" and the "Director of the Department of Climate Change and Disaster", respectively.
- (2) All actions taken by the Minister, Forum, Council, Island Climate Change Committee, Director, and the Department, including appointments of officers, before the commencement of this Act shall continue as if made under this Act.

- (3) Employees of the Department employed under the Climate Change Unit at the commencement of this Act continue to hold employment, unless the context otherwise requires.

SCHEDULE**LIST OF INTERNATIONAL CONVENTIONS**

1. United Nations Framework Convention on Climate Change, adopted in New York on 9 May 1992.
2. The Kyoto Protocol to the United Nations Framework Convention on Climate Change, adopted in Kyoto on 11 December 1997.
3. The Doha Amendment to the Kyoto Protocol, adopted in Doha on 8 December 2012.
4. The Paris Agreement, adopted in Paris on 12 December 2015.

ENDNOTES

¹ Act 9 of 2019