



Tuvalu

**NATIONAL DISASTER MANAGEMENT
ACT**

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NATIONAL DISASTER MANAGEMENT ACT

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Tuvalu

NATIONAL DISASTER MANAGEMENT ACT

AN ACT TO PROVIDE FOR THE MANAGEMENT OF THE PRE AND POST EFFECTS OF NATURAL DISASTER IN TUVALU AND OTHER DISASTER RELATED MATTERS.¹

Commencement [1 January 2007]²

PART 1- PRELIMINARY

1 Short title

This Act may be cited as the National Disaster Management Act.

2 Definitions

In this Act the following definitions apply —

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

“**Committee**” means the National Disaster Committee established by section 7;

“**Disaster**” has the meaning given under section 3;

“**Government agency**” means —

- (a) any body constituted by or under any Act for a public purpose;
- (b) any member or officer of such a body; or
- (c) any person in the service of the Government of Tuvalu upon whom any function, power, duty or responsibility is conferred by or under any Act;

“**Group**” means the National Disaster Preparedness Working Group established by section 14;

“**Minister**” means the Minister responsible for Disaster Management;

“**National Disaster Plan**” means the plan formulated, and revised from time to time as necessary, which defines pre and post disaster action to be taken to deal with both the risks and consequences of disasters in Tuvalu;

“**Office**” means the National Disaster Management Office established by section 11.

3 Meaning of Disaster

A disaster is the actual or imminent occurrence of an event which endangers or threatens the safety or health of any communities or persons in Tuvalu, or which destroys or damages, any property in Tuvalu, arising from:

- (a) a cyclone;
- (b) a flood;
- (c) tsunami;
- (d) a drought;
- (e) an air disaster;
- (f) a maritime disaster;
- (g) a major civil accident (such as major fire or explosion);
- (h) a plague or epidemic; or
- (i) any other similar natural or man-made event, except those in section 4 and 5.

4 Limitations

This Act does not authorise the taking of measures to control civil disorder or to bring to an end an industrial dispute.

5 Act limits

This Act does not cover circumstances arising from combating against an enemy, unless specifically authorised by Cabinet Ministers.

PART 2 – ORGANISATION

6 Minister

The Minister responsible to the Cabinet on all disaster-related matters applicable shall:

- (a) ensure that adequate measures are taken by government agencies to mitigate, prepare for and respond to disasters; and
- (b) assist in the recovery from the effects of a disaster by persons or communities to co-ordinate the activities of government agencies carrying out their statutory functions, powers, duties and responsibilities in taking such measures; and
- (c) foster and facilitate the participation of non-government agencies in measures taken by the government for disaster mitigation, preparedness, response and recovery.

7 National Disaster Committee

A National Disaster Committee is established.

8 Function of the Committee

The function of the Committee is:

- (a) to advise the Minister responsible on all matters relating to disaster mitigation, preparedness, response and recovery;
- (b) co-ordination of activities of government and non-government agencies;
- (c) to ensure that such strategies and policies are implemented by the National Disaster Management Office, other government agencies and non-government agencies; and
- (d) to advise the Minister on the need for aid to counter the effects of a disaster and on any agreement proposed for the government to enter into to obtain such aid.

9 Committee Members

The Committee is to consist of:

- (a) Chairman nominated by the Minister;
- (b) the Secretary to Government;
- (c) all Secretaries of government ministries;
- (d) Commissioner of Police;

- (e) Director of Public Works;
- (f) Director of Disaster Management Office;
- (g) a case by case representative by a NGO; and
- (h) a representative of the Funafuti Falekaupule.

10 Adoption of Rules of Procedures

The Committee may adopt its own rules of procedures.

11 National Disaster Management Office

A National Disaster Management Office is established.

12 Main Functions

The Office's main functions include:

- (i) carrying out disaster management;
- (ii) carrying out tasks and responsibilities handed down by the Minister and the Committee;
- (iii) advising the Committee in all matters related to the disaster; and
- (iv) dealing with all the disaster related affairs at the national and international level.

13 Appointment

The Office consists of a Director and subordinate staff appointed by the Public Service Commission.

14 National Disaster Preparedness Working Group

A National Disaster Preparedness Working Group is established within the National Disaster Management Office.

15 Main Functions

The Group's main functions include:

- (a) assisting the Committee during emergency operations carried out in response to a disaster event;
- (b) carrying out the design, development and implementation of effective disaster mitigation and preparedness programmes and activities; and
- (c) advocate and promote public awareness on disaster management.

16 Island Disaster Committee

Except for the Funafuti Falekaupule, an Island Disaster Committee is established on each island.

17 Island Disaster Committees Responsibilities

The Island Disaster Committees are responsible for:

- (i) co-ordinating island disaster-related measures;
- (ii) performing similar tasks with that of the Committee at the island level;
- (iii) acting as the main bridge between the Committee and the local community in all disaster related matters; and
- (iv) taking the responsibility of the Committee when communication with Funafuti is disrupted.

18 The Island Disaster Committee Members

The Island Disaster Committee consists of:

- (a) Pule Kaupule (Chairperson);
- (b) Member of House of Parliament (Vice Chairperson);
- (c) Kaupule Secretary (Secretary);
- (d) The island Dresser or Nurse;
- (e) The Manager of the local Fusi;
- (f) A Red Cross Representative;
- (g) A Police Officer;
- (h) Radio Operator;
- (i) Headmaster of any local school;
- (j) The island Agricultural Officer (if present);
- (k) TEC Supervisor; and
- (l) The Principal of Motufoua (For Vaitupu Only).

PART 3 – PLANS AND PROCEDURES

19 National Disaster Plan

The Office shall draw up a National Disaster Plan (“**the plan**”) in consultation with the government and non-government agencies, which should be submitted to the Cabinet for approval.

20 Plan Details

The plan is to:

- (1) define the action to be taken to deal with disasters in Tuvalu, covering all national land and sea areas;
- (2) cover requirements for disaster mitigation, preparedness, response and recovery; and
- (3) set out the roles and action to be taken by government and non-government agencies.

21 Plan comes into Force

The plan shall come into force once the Cabinet adopts it.

22 Government and Non-government Agencies

Government and non-government agencies are required:

- (1) to adopt their own plan and other arrangements necessary to fulfil their roles under the plan; and
- (2) to make annual report of notification on their status to the National Disaster Management Office.

23 Chairman of the National Disaster Committee

The Chairman of the National Disaster Committee is to be responsible for ensuring that the plan is periodically reviewed and updated as necessary.

24 The Cabinet

The Cabinet must approve such amendment before it comes into force.

25 Falekaupule and Kaupule

Falekaupule and Kaupule to coordinate actions necessary to support the provision and requirement of the National Disaster Plan.

PART 4 – STATE OF EMERGENCY

26 Declaration of state of emergency

The Head of State, acting in accordance with the advice of the Prime Minister, may by proclamation declare that a state of public emergency exists in Tuvalu, or in a part of Tuvalu if circumstances of a disaster:

- (1) appear likely to become beyond the scope, provisions and resources of the National Disaster Plan;
- (2) exceed the capabilities of the affected community to deal with the disaster.

27 Minister must cause notice of declaration

As soon as practical after the Head of State proclaims a state of public emergency, the Minister must cause notice of declaration to broadcast throughout Tuvalu through Radio Tuvalu and all other media outlets.

28 Other specific powers during a state of emergency

During the declaration of state of emergency, the Minister, on the advice of the Chairman of the National Disaster Committee, will recommend to Cabinet actions which may be necessary, including the making of regulations on the following:

- (1) the supply and distribution of food, water, fuel, power, medical assistance, shelter and other necessities;
- (2) the maintenance of the means of transportation by land, air or water and the control of the transport of persons and things;
- (3) the temporary acquisition or control of any property;
- (4) the evacuation of people, in their own interest or public interest out of the disaster area;
- (5) prohibition from entering the disaster area;
- (6) the entering and search of any premises;
- (7) the payment of compensation and remuneration to persons affected by the disaster; or
- (8) any other matters which may apply to a specific disaster event.

PART 5 – MISCELLANEOUS

30 Offence of obstructing a disaster worker

A person must not obstruct, hinder or in any way interfere with a person engaging:

- (a) in any activity as a member officer or volunteer of an agency performing a role in accordance with the National Disaster Plan; or
- (b) in any activity provided by any regulation made under a state of emergency.

31 Immunity from liability

No legal proceedings shall be brought by a person against the State, Minister or any other person or body engaging in any activity in accordance with the National Disaster Plan, for any damage, loss or injury sustained:

- (a) during a state of emergency; or
- (b) because of anything done or omitted to be done in good faith under the Act,

unless such loss or injury is caused by or arises from negligence or wilful default.

32 Claims for compensation and remuneration

Any person who has sustained any damage due to a disaster as defined in section 3 of this Act may request the government for assistance provided that every request for assistance shall be received by the government within 12 months of the date of the disaster.³

33 Outstanding Claims

From 5 July 2021, the government is not authorized to receive nor consider any claims for assistance which do not comply with section 32.⁴

34 Offence of making a false compensation claim

A person must not make any false or misleading statement, or otherwise attempt to mislead, in making any claim for compensation in relation to the provisions of this Act.

35 Making a false statement

Every person who makes a false statement for compensation claim is guilty of misdemeanour and may be liable for imprisonment for 7 years.

36 Utilisation of disaster assistance donations

All donations, in money or in any other form made from within Tuvalu or overseas to assist in recovery from disaster or disaster-related shall:

- (1) be utilised for such particular purpose only; and
- (2) not be diverted for any other purpose without the authority of the Minister.

37 Victims of disaster

Victims of disaster shall utilise all donations, in money or any other forms solely for the purpose of rehabilitation or recovery.

38 Misuse of donations

Misuse of such donations for a purpose other than the assigned purpose will result in a penalty awarded.

39 Relationship of this Act to other Acts⁵

- (1) This Act adopts the process for receiving and assessing “Requests for Assistance” provided under the Climate Change and Disaster Survival Fund Act and its regulations with modifications as necessary for the full functioning of this Act.
- (2) This Act does not affect the provisions of any other Act nor does any Act affect the provisions of this Act unless specifically provided for by regulation within a declared state of emergency.

40 Immunity

No civil or criminal action shall lie against the Minister or any person appointed pursuant to this Act with respect to anything done or omitted to be done by him in pursuance of the powers or functions conferred on him under this Act unless he has acted, or omitted to act, in bad faith and without reasonable cause.⁶

41 Regulations

The Minister may make regulations not inconsistent with this Act for the proper administration or giving effect to the objects and purposes of this Act.

ENDNOTES

¹ Act 10 of 2007

Amended by Act 13 of 2014, commencement 1 January 2015

Amended by Act 2 of 2021, commencement 5 July 2021

² LN 2/2008

³ Substituted by Act 2 of 2021

This section replaces the former section inserted by Act 13 of 2014, that said “Any person who has sustained any loss or damage from a disaster may request the government for assistance”

⁴ Inserted by Act 2 of 2021

⁵ Substituted by Act 2 of 2021

⁶ Inserted by Act 2 of 2021