



**AN ACT TO PROVIDE FOR A MORE EFFECTIVE ORGANISATION
OF THE MITIGATION OF, PREPAREDNESS FOR, RESPONSE
TO AND RECOVERY FROM EMERGENCIES AND DISASTERS.**

Enacted by the Parliament of The Bahamas.

**PART I
PRELIMINARY**

Short
title and
commence-
ment.

1. (1) This Act may be cited as the Disaster Preparedness and Response Act, 2006.

(2) This Act shall come into force on a day to be notified by the Prime Minister by Notice published in the Gazette.

Interpre-
tation.

2. In this Act -

"Advisory Committee" means the Advisory Committee established under section 6(1);

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

- "Director" means the Director of the Department of NEMA appointed pursuant to section 3;
- "disaster emergency" means an emergency declared by Order of the Prime Minister under section 27 on account of the threat or occurrence of a disaster;
- "emergency operations centres" means emergency operations centres established under section 9;
- "hazard inspector" means a hazard inspector appointed or designated under section 3;
- "listed premises" means premises listed in the shelters list;
- "local government unit" means an area constituted under the Local Government Act, Cap. 37;
- "National Preparedness Plan" means the National Preparedness and Response Plan referred to in section 8;
- "Policy Review" means the Disaster Preparedness and Response Policy Review under section 7(1);
- "public body" includes a public corporation, local government unit and any company whose majority shareholding is held by the government;
- "shelter manager" means a shelter manager appointed or designated under section 3;
- "shelter officer" means a shelter officer appointed or designated under section 3;
- "shelter list" means the list of premises established under section 10(1);
- "special area precautionary plan" means a special area precautionary plan under section 16;

PART II
DIRECTOR OF THE NATIONAL EMERGENCY
MANAGEMENT OFFICE

Director
of the
National
Emergency
Management
Agency.

3. (1) There shall be a Department of Government of the name "NEMA" which shall be the governmental agency charged with responsibility for disaster relief management and at the head of which there shall be a public officer holding the office of Director.

(2) The Director shall be assisted by such number of public officers as may be appointed or assigned to NEMA and other persons whose services have been engaged by, or who have volunteered their services to, NEMA.

(3) The Prime Minister may by notice in the Gazette designate any person referred to in subsection (2) to be, and to discharge the functions of, a hazard inspector or shelter manager.

(4) An office or post of NEMA shall be respectively located on a Family Island which the Prime Minister considers would be readily accessible to two or more neighbouring Family Islands and the respective Administrator of the Island shall, subject to the directions of the Director, be responsible for the carrying out of the functions of NEMA in the Island.

(5) The location of public officers appointed or assigned to NEMA shall be approved by the Prime Minister who shall have due regard to the need to have NEMA present and functioning within the Family Islands.

(6) The Prime Minister after consultation with the Director and each Administrator on a respective Family Island shall appoint a disaster Consultative Committee consisting of not less than five residents of each settlement or town area

or district, as the case may be, on a Family Island of whom one shall be designated chairman, though at any meeting of the Committee when the Administrator is present, the latter shall act as Chairman of the meeting.

(7) The Committee shall have the responsibility of assisting the Director and the Administrator in formulating the disaster preparedness measures and in discharging the functions of NEMA in respect of a settlement or town area or district, as the case may be on the Island by the preparation of a draft plan relating to an area represented by the Committee.

(8) Where in respect of a Family Island there are produced by the Committees on that Island more than one draft plan, the Administrators and Committees shall liaise with each other with the intent of submitting to NEMA one draft plan reflecting the disaster preparedness measures and response that are recommended to be put in place in respect of the Island or any part thereof.

(9) It shall be the duty of the Director to carry out a review with each Consultative Committee by the 1st June in every year of the procedures and measures that are to be taken in response to the occurrence of a disaster or disaster alert involving the area represented by the Committee.

(10) The Director in discharging his functions under subsection (9) shall have regard to any draft plan prepared under subsection (8) and in consultation with the respective Administrator and Committee adopt a plan with or without modifications.

(11) Where the respective Administrator is absent from the Island, the Chairman of the Committee shall be regarded during a disaster emergency as the representative of the Administrator in respect of the area represented by the Committee.

(12) Where a school is listed as premises available and suitable for use as a shelter pursuant to section 10 the shelter manager for that school shall be a person designated under the hand of the Director and notice thereof published in the Gazette.

(13) The Director or any police officer shall have all the enforcement powers of a hazard inspector shelter manager or shelter officers conferred by or under sections 10(7) and 30.

Functions
of
Director.

4. (1) The Director shall subject to section 5 be responsible to the Prime Minister for coordinating and implementing the general policy of the Government of The Bahamas relating to the mitigation of, preparedness for, response to and recovery from emergencies and disasters in The Bahamas.

(2) Without prejudice to the generality of subsection (1), the Director shall also -

- (a) review and assess the various programmes and activities of the Government of The Bahamas which have an impact on the mitigation of, preparedness for, response to and recovery from emergencies and disasters in The Bahamas, and make recommendation to the Prime Minister on the likely activities and programmes on disaster preparedness and coordination;
- (b) develop and recommend to the Prime Minister national policies to foster and promote the mitigation of, preparedness for, response to and recovery from emergencies and disasters in The Bahamas;

- (c) in collaboration with Government or other agencies, gather timely and authoritative information concerning the conditions and trends in the quality of the environment, both current and prospective, as these relate to the likelihood of disasters in The Bahamas;
- (d) analyse and interpret the information gathered under paragraph (c) for the purpose of determining whether such conditions and trends are interfering, or are likely to interfere, with the achievement of the mitigation of, preparedness for, response to and recovery from emergencies and disasters;
- (e) in collaboration with Government or other agencies, conduct investigations, studies, surveys, research and analysis relating to ecological systems and environmental quality and document and define changes in the natural environment as these relate to the likelihood of disasters in The Bahamas;
- (f) prepare and review disaster risk assessment maps of The Bahamas;
- (g) conduct programmes of public information and education on the mitigation of, preparedness for, response to and recovery from emergencies and disasters;

- (h) liaise with persons, institution and organisations within and without The Bahamas for the purpose of exchanging information and facilitating the harmonisation of the policies of such persons and organisations with those of the Government of The Bahamas relating to the prevention and mitigation of, preparedness for, response to and recovery from emergencies and disasters in The Bahamas;
- (i) provide technical advice on draft regulations, whether under this Act or any other legislation, relating to the mitigation of, preparedness for, response to and recovery from emergencies and disasters in The Bahamas.

Ministerial
directions
to
Director.

5. (1) The Director shall be subject to such directions of a special or general character in relation to the policy to be followed in the exercise of the powers conferred and the duties imposed on the Director by or under this Act as the Prime Minister gives on any matter that affects the public interests of The Bahamas and the Director shall give effect to all such directions.

(2) The Director shall have the duty to ensure that The Bahamas, in the absence of the Prime Minister, is represented at meetings of the Agency referred to in the Second Schedule by himself or someone designated by the Prime Minister.

PART III
ADVISORY COMMITTEE, POLICY
REVIEW AND PLAN

National
Emergency
Management
Advisory

6. (1) There shall be an Advisory Committee of NEMA comprising such members as may be appointed by the Prime Minister representing -

- (i) the Office of the Prime Minister,
- (ii) the Office of the Cabinet,
- (iii) the Royal Bahamas Police Force,
- (iv) The Royal Bahamas Defence Force,
- (v) the Fire Service,
- (vi) the Ministry responsible for public health,
- (vii) the Ministry responsible for the environment,
- (viii) the Ministry responsible for public works,
- (ix) the Ministry responsible for local government,
- (x) the Public Hospital Authority,
- (xi) the public utilities undertakings,
- (xii) the Department of Meteorology,
- (xiii) the Department of Aviation,
- (xiv) The Bahamas Broadcasting Corporation,
- (xv) such other Ministries, Departments of Government and public bodies as the Prime Minister thinks fit, and
- (xvi) such other persons or organizations as the Prime Minister thinks fit who volunteer or having regard to their

respective role in the economic or commercial sphere of The Bahamas or are required by law to perform functions related to the mitigation of and response to emergencies and disasters in The Bahamas.

(2) The appointments under subsection (1) shall be of such persons as the Prime Minister considers are able to make an input in the formation of the National Preparedness Plan and to issue, and have, the respective directives complied with by personnel employed or attached to the institution or organization respectively represented by them.

(3) The Prime Minister shall be entitled to attend any meeting of the Advisory Committee and in the event that he does so he shall act as Chairman of that meeting.

(4) Subject to subsection (3) the Prime Minister shall designate two members of the Advisory Committee to serve as Chairman and Deputy Chairman respectively of the Committee and may by that designation limit that service to a period.

(5) The Chairman and any four other members of the Advisory Committee shall constitute a quorum for meetings of the Committee.

(6) The Director shall be the Secretary of the Advisory Committee.

(7) The members of the Advisory Committee or of any other Committee under subsection (9) (other than public officers) shall receive such attendance fees and travel or other allowances out of the Consolidated Fund as the Prime Minister may by Order authorize.

(8) The Prime Minister may by Regulations prescribe rules of procedure for the Advisory Committee, but

the Committee may, subject to such Regulations and this Act, determine its own procedure.

(9) The Director shall in consultation with the Advisory Committee establish other committees and sub-committees charged with particular responsibilities, whether defined by geographical area or otherwise, in relation to the response to emergencies and disasters in The Bahamas, which other committees and sub-committees shall be available to be convened whenever a threatened disaster alert arises or a disaster strikes.

Disaster
prepared-
ness and
Response
Policy
Review.

7. (1) The Director shall prepare annually for the approval of the Prime Minister a Disaster Preparedness and Response Policy Review related to the mitigation of, preparedness for, response to and recovery from emergencies and disasters in The Bahamas.

(2) The Director shall consult the Advisory Committee in the preparation of the Policy Review and take into account any existing arrangements established by agencies of the Government in respect of centres and contingency plans in instances of public emergencies.

(3) When the Policy Review is approved by the Prime Minister, with or without amendments, the Director shall publish the Review.

National
Disaster
Response
Plan.

8. (1) The Director shall in consultation with the Advisory Committee prepare annually for the approval of the Prime Minister a National Disaster Preparedness and Response Plan, comprising the statement of the contingency arrangements under the coordination of the Director for responding to the threat or event and aftermath of a disaster in The Bahamas whether or not the threat or the disaster is such as to prompt the declaration of a disaster emergency.

(2) The National Disaster Preparedness and

Response Plan shall include -

- (a) procedures related to disaster preparedness and response of public officers, Ministries and Departments of Government, public bodies and persons or organizations who volunteer or are required by law to perform functions related to the mitigation of, preparedness for, response to and recovery from emergencies and disasters in The Bahamas;
- (b) procedures for coordinating the National Preparedness plan and its implementation with the preparation and implementation of disaster response plans of persons and bodies in paragraph (a);
- (c) procedures for informing persons under paragraph (a) and the public in The Bahamas and elsewhere of the existence of a threatened disaster alert under section 27 or the existence of a disaster emergency;
- (d) procedures for preparing and maintaining inventories of services, systems and supplies for the mitigation of, preparedness for, response to and recovery from emergencies and disasters during the existence of a disaster emergency or a threatened disaster alert under section 27;
- (e) procedures for mobilising services and systems for the mitigation of, preparedness for, response to and recovery

from emergencies and disasters during the existence of a disaster emergency or a threatened disaster alert under section 27, including procedures for the provision of manpower for emergency operations centres and for the protection of the family and property of persons required for the purpose of providing manpower to such centres or required otherwise to perform other duties of protecting the public;

- (f) procedures for the protection and restoration of communications, both nationally and internationally, during a threatened disaster alert under section 27 or in the event or the aftermath of a disaster emergency;
- (g) procedures for informing persons under paragraph (a) and the public in The Bahamas and elsewhere of the state of affairs during a threatened disaster alert under section 27 or in the event or the aftermath of a disaster emergency;
- (h) procedures for the release, distribution and replenishment of emergency stores of supplies of food, water, clothing and medical supplies during a threatened disaster alert under section 27 or in the event or the aftermath of a disaster emergency;
- (i) procedures for safeguarding against fire and epidemics during a threatened disaster

alert under section 27 or in the event or the aftermath of a disaster emergency;

- (j) procedures for the provision of shelter for persons during a threatened disaster alert under section 27 or in the event or the aftermath of a disaster emergency;
- (k) procedures for cooperation with international organizations and governments of countries outside The Bahamas during a threatened disaster alert under section 27 or in the event or the aftermath of a disaster emergency;
- (l) procedures for accepting and facilitating the distribution of volunteer services and relief supplies during a threatened disaster alert under section 27 or in the event or the aftermath of a disaster emergency;
- (m) procedures to apply in the event that the evacuation of all the residents of any area is considered to be desirable in the event of a disaster emergency;
- (n) procedures to apply in the event that the requisitioning of private property is considered to be necessary in the event of a disaster emergency, including procedures for assessing and paying compensation;
- (o) procedures for protecting life and property from the dangers of looting and riotous behaviour in the event or the aftermath of a disaster emergency.

PART IV

EMERGENCY OPERATIONS CENTRES AND SHELTERS

Emergency
Operations
Centres.

9. The Director shall be responsible for the establishment and maintenance of a national emergency operations centre to function as the headquarters of the activities undertaken in response to a disaster emergency, and may establish and maintain supplementary emergency operations centres or facilitate the establishment and maintenance of such supplementary emergency operations centres, whether distributed according to geographical location or local government unit or otherwise, by persons or bodies in section 8(2)(a).

Shelters.

10. (1) The Director shall establish and maintain a list of premises available for and suitable for use as shelters during a threatened disaster alert under section 27 or in the event or the aftermath of a disaster emergency.

(2) The Director shall in the shelters list -

(a) distinguish between government occupied premises and other premises;

(b) list the facilities available at each listed premises;

(c) indicate the suitability of each listed premises for use during a threatened disaster alert under section 27 or in the event or the aftermath of a disaster emergency; and

(d) indicate the periods for which the listed premises would be suitable for use in the instances in paragraph (c).

(3) The Director shall subject to subsection (4)

assign to each listed premises a shelter manager charged with the responsibility of managing the shelter during any period when the building is being used for that purpose, and may assign shelter officers to assist any shelter manager.

(4) Where listed premises are not Government occupied premises, the designation of shelter managers or shelter officers for those premises shall be done in consultation with the occupier of the premises.

(5) The Prime Minister may make Regulations as regards the use of any listed premises by persons taking shelter therein, and Regulations made under this subsection shall apply during the period when the premises are in use as shelters.

(6) In making Regulations under subsection (5) for listed premises which are not Government occupied premises, the Prime Minister shall consult the normal occupiers of the premises.

(7) Regulations under subsection (5) may confer enforcement powers on shelter managers and shelter officers for the purpose of keeping order in shelters including the creation of criminal offences and penalties for those offences.

(8) The owner or occupier of a listed premises shall not be liable to any person taking shelter on the premises for any injury to such person or damage to or loss of any person's property, which injury, damage or loss arises from the condition of the premises, where the use of the premises for shelter was within the listed limits of suitability of the premises under subsection (2).

(9) Subsection (8) is without prejudice to any other right or remedy which the person suffering damage or loss may have -

(a) other than a right or remedy against the

- owner or occupier of the premises; or
- (b) against the owner or occupier of the premises for damage or loss arising otherwise than from the condition of the premises.

PART V

OBLIGATIONS OF OTHER PUBLIC OFFICERS

Liaison
officers.

11. For the purposes of facilitating the attainment and the carrying out of the objectives, procedures and measures of the National Preparedness Plan every Permanent Secretary and head of Department of government or public body shall -

- (a) ensure that there is at all times an officer of his Ministry, Department or body designated as the liaison officer for communication with the Director in relation to the procedures of the Ministry, Department or public body under section 8(2)(a);
- (b) to the utmost possible extent ensure there is collaboration between his Ministry, Department or public body and the Director and his officers and the rendering of the necessary support to NEMA;
- (c) supply annually to the Director in such form and by such date as may be directed by the Prime Minister such information as may be requested by the Director for the purposes of sections 4(2)(a) and 8(2).

Director

12. (1) The Director shall establish a liaison with

to establish a liaison with the private sector.

such organisations in the private sector as he thinks fit for the purposes of establishing communication links with them in relation to the procedures of those organisations under section 11(2)(a).

(2) For the purposes of subsection (1), the Director may enter into such arrangements as he considers necessary with any organisation requiring the provision by that organisation of any information as may be requested by the Director for the purposes of sections 4(2)(a) and 8(2).

(3) It shall be deemed a term of any licence issued to an owner or operator of a wireless telecommunications station that upon the making of, or in the event of there being made, an Order by the Prime Minister under section 27, the station shall comply with any directive given or request made by the Prime Minister, whether orally or in writing or by the Director as regards the broadcasting of bulletins or notices pertaining to an impending or existing disaster.

(4) Any operator, owner or manager of a radio station who, without any reasonable excuse, fails to comply with any directive or request made under subsection (3) shall be guilty of an offence.

Director to be consulted.

13. (1) Subject to subsection (5), before any person exercises any disaster preparedness and response related powers under this or any other Act, that person shall subject to subsections (2) to (4) consult the Director.

(2) The obligation to consult in subsection (1) shall not apply -

(a) during a disaster emergency, where the person exercising the powers under subsection (1) considers that the urgency of the matter or difficulties of logistics makes such consultation impracticable;

(b) in respect of the exercise of any power in relation to which a waiver by the Director of his right to be consulted is in effect under subsection (3).

(3) The Director may with the approval of the Prime Minister waive his right to be consulted, and any such waiver shall take effect when the Prime Minister shall have notified that waiver by Order published in the Gazette.

(4) A waiver under subsection (3) may relate to the exercise of any power or category of powers or to the exercise of a power in a specific instance save however the exercise of the power shall be reasonable in the circumstances and have due regard to the National Preparedness Plan.

(5) Subsection (1) shall not apply to the Attorney-General, a judge or magistrate or a member of the police force in the carrying out of the functions of their respective offices.

Environ-
mental
impact
assess-
ments.

14. Any power under any law to require an environmental impact assessment is, whether such power is express or implied, a disaster preparedness and response related power for the purposes of section 13(1).

PART VI

SPECIALLY VULNERABLE AREAS

Delimit-
ation of
specially
vulnerable
areas.

15. (1) The Prime Minister may in accordance with the provisions of this section designate specially vulnerable areas for the purposes of the mitigation of, preparedness for, response to and recovery from emergencies and disasters by delimiting such areas under this section.

(2) The Director shall prepare for the approval of

the Prime Minister a draft Order delimiting any specially vulnerable area that the Director recommends for designation under subsection (1).

(3) In the course of the preparation of the draft Order, the Director shall invite comments from the general public or any part thereof that would be affected by the proposed draft including the holding of public meetings at which the draft may be discussed.

(4) The Prime Minister shall, if he decides to accept the Director's recommendation for the designation of the area, and after consultation with the Advisory Committee consider what revisions ought to be made to the draft Order and shall settle the delimitation of the specially vulnerable area by making the Order and publishing it in the Gazette.

Special
area pre-
cautionary
plans for
specially
vulnerable
areas.

16. (1) The Director may prepare for the approval of the Prime Minister a draft special area precautionary plan for a specially vulnerable area under section 15(1).

(2) A special area precautionary plan may include-

(a) strategies, policies and standards for development for maintenance of structures in the specially vulnerable area or any proposed specially vulnerable area;

(b) standards for environmental impact assessment for contemplated development in the specially vulnerable area;

(c) provisions designating any part of the specially vulnerable area as a prohibited area for navigation or for the purpose of removing vegetation, sand, stones, shingle or gravel.

(3) A special area precautionary plan may communicate strategies, policies, standards or designations by

means of maps and diagrams.

Draft
special
area pre-
cautionary
plan.

17. (1) The Director shall by notice in at least one local newspaper invite submissions from the public relating to the contents of a draft special area precautionary plan.

(2) The Director shall allow a period of not less than four weeks and not more than eight weeks for the receipt by him of such submissions pursuant to subsection (1).

(3) From the date of the invitation to the public under subsection (1), the Director shall on written application by any person permit access to any technical studies used in the preparation of the draft special area precautionary plan.

Public
enquiry on
draft
special
area pre-
cautionary
plan.

18. (1) When the draft special area precautionary plan is ready, the Director shall publish same in at least one local newspaper and invite comments thereupon from members of the public including the presentation of it at a meeting of members of the public for that purpose.

Revision
of draft
special
area pre-
cautionary
plan.

19. After the public input has been obtained, the Director shall consider what, if any, revisions ought to be made in the draft special area precautionary plan in the light of the comments and submit the draft plan to the Prime Minister with such revisions if any.

Approval or
referring
back of
draft
special
area pre-
cautionary

20. (1) The Prime Minister may -
(a) approve the submitted draft special area precautionary plan; or
(b) refer the draft plan back to the Director for such changes as the Prime Minister may require, in which event the director shall make the changes as required and

plan. resubmit the draft plan to the Prime Minister; or

(c) discontinue the process if he considers that the objectives of the draft plan have already been met under the provisions of other laws.

(2) Section 18 shall apply to a draft special area precautionary plan resubmitted to the Prime Minister under subsection (1)(b) as it applies to a draft plan under section 17.

(3) Before making an Order under subsection (1)(a), the Prime Minister shall consult the Advisory Committee.

Special
area pre-
cautionary
plan.

21. (1) The draft special area precautionary plan approved under section 20(1)(a) shall when published in the Gazette thereby become the special area precautionary plan for the specially vulnerable area until a new amended special area precautionary plan is approved under this Act.

(2) A special area precautionary plan shall not authorize any development which would not be permitted under any law relating to land use or any other law in force in The Bahamas.

Authorities
to have
regard to
special
area pre-
cautionary
plan.

22. Any person or authority exercising any function under this Act or any function under any law in force in The Bahamas affecting the conservation and management of the resources of the specially vulnerable area shall have regard to the special area precautionary plan.

Amendment
of Order
delimiting

23. (1) The Director may with the approval of the Prime Minister at any time prepare draft proposals for amending the Order delimiting the specially vulnerable area.

the specially vulnerable area.

(2) The amendment of the Order delimiting the specially vulnerable area in accordance with such draft proposals shall comply with section 15.

Amendment of special area pre-cautionary plan.

24. (1) The Director may at any time prepare and propose for the approval of the Prime Minister draft amendments to the special area precautionary plan for the specially vulnerable area.

(2) The amendment of the special area pre-cautionary plan in accordance with such drafts shall comply with sections 17 to 20, and the amended plan shall when approved under section 20(1)(a) and published in the Gazette thereafter constitute the special area precautionary plan under section 21(1).

Regulations for special area plans.

25. The Prime Minister may make Regulations for the purpose of implementing the special area precautionary plans.

Judicial review.

26. (1) Any person aggrieved by a special area precautionary plan for a specially vulnerable area, who desires to question its validity or the validity of any provisions in it on the grounds that it is not within the powers of this Act or that any requirement of this Act has not been complied with in relation to the approval or preparation of the plan, may within six weeks from the date on which the notice is published in the Gazette under section 20(1), make an application to the Supreme Court under this section in accordance with any Rules of Court for the time being in force.

(2) On any application under this section, the Supreme Court, if satisfied that the plan, or any powers contained therein, is not within the powers of this Act or that the interests of the applicant have been substantially

prejudiced by a failure to comply with any requirement of this Act may quash the special area precautionary plan or any provision contained in it, either generally or in so far as it affects any property of the applicant.

(3) Where the whole special area precautionary plan is quashed under subsection (2), the Director shall prepare a new draft special area precautionary plan to which sections 17 to 20 shall apply as they apply to a draft plan under section 16(1).

(4) Where a provision of the special area precautionary plan is quashed under subsection (2), but the whole plan is not quashed, the plan without the quashed provision shall be deemed to be an approved amended special area precautionary plan under section 20(1)(a).

PART VII

DISASTER ALERTS AND EMERGENCIES

Periods of
emergency.

27. (1) For the purposes of this Act -
- (a) a disaster emergency exists when the Prime Minister declares by Order that an emergency exists after he has been advised by the Director that a disaster of a kind mentioned in column 1 of the First Schedule has occurred;
 - (b) a threatened disaster alert exists when -
 - (i) the Prime Minister declares by order, after he has been advised by the Director under subsection (2) that there is a substantial prospect that a disaster of a kind mentioned in

column 1 of the First Schedule will occur within the applicable period (if any) mentioned in column 2 of that Schedule; or

- (ii) an agency, whether within The Bahamas or otherwise, certified by the Director as an Accredited Disaster Notification Service under subsection (3), broadcasts or otherwise publishes a formal announcement warning persons of the threat of the striking of a disaster of a kind mentioned in column 1 of the First Schedule within the applicable period (if any) mentioned in column 2 of that Schedule:

Provided that the Prime Minister may by Order on like advice as is provided in paragraph (a) or (b) declare that notwithstanding such an announcement the country is not in a state of emergency or threatened disaster alert.

(2) The Director shall advise the Prime Minister on request, and at any time the Director considers appropriate, of the occurrence of, or of the likely occurrence of, a disaster of a kind mentioned in column 1 of the First Schedule.

(3) The Director may certify any agency, whether within The Bahamas or otherwise, which he considers to have a

high level of technical expertise in the prediction or assessment of risk of any kind of disaster, as an Accredited Disaster Notification Service for the purposes of this Act.

(4) A certification under subsection (3) may be general or limited to specified kinds of disaster.

(5) The provisions of subsections (3), (4) and (5) of section 30 shall mutatis mutandis apply to an Order made under subsection (1)(a) or (b)(I) as they apply to Regulations made under section 30.

PART VIII

MISCELLANEOUS

Visits by
hazard
inspectors.

28. (1) Where a magistrate is satisfied, on evidence on oath by a hazard inspector, that the condition of any premises is reasonably suspected of posing a danger of serious injury to persons outside of the premises in the event of a disaster, the magistrate may issue an order authorising the hazard inspector to enter and inspect those premises for hazards.

(2) An order under this section expires not later than thirty days after the date on which it is made, and may be renewed by a magistrate before expiry for one or more periods each of which is not more than thirty days.

(3) An order under this section shall be carried out during daylight hours unless the order authorises otherwise.

(4) The Director shall provide himself and each hazard inspector with a distinctive badge, tag or other identification device which may conveniently be carried by himself and each hazard inspector while engaged in the performance of their duties under this section.

(5) A hazard inspector who exercises a power under this section shall identify himself as a hazard inspector to any person in control of the premises to be inspected at the time of the inspection, by the production of his hazard inspector's badge, tag or other identification device under subsection (4) and shall explain the purpose of the inspection.

(6) An order under this section may be issued or renewed on application notwithstanding that no notice of the application is given to any person who may be affected thereby.

(7) A hazard inspector shall prepare a report on the results of any inspection carried out under this section, a copy of which shall be provided to the occupier of the premises.

(8) Without prejudice to section 29, where the hazard inspector is of the opinion, after carrying out an inspection under this section, that the condition of any premises poses a danger of serious injury to persons outside of the premises in the event of a disaster, and that the condition of the premises which gives rise to the danger constitutes a violation of any other law, he shall send a copy of the report to any Ministry, Department or other body responsible for the administration of that other law, and notify the occupier of the premises that the report has been supplied to the Ministry or Department in question.

(9) A report of a hazard inspector under this section shall be admissible in any legal proceedings as evidence of the truth of the report's findings of fact, whether or not the Government is a party to such proceedings.

Steps
to abate

29. (1) Where the Director or a hazard inspector identifies premises under section 28(8) as likely to pose a

danger.

danger in the event of a disaster, he or she shall certify that in writing to the owner or occupant of the property and give him or her specific instructions as to the steps to take to abate or remove the danger within three weeks of the receipt of the notice.

(2) Upon failure to comply with the requirements after notice, NEMA by its officers shall take the necessary steps to give effect to the notice including entry by them or its agents upon the premises after due notice to the owner or occupant of the premises.

(3) A person who is served with a notice under subsection (1) who does not take all the steps as directed by the Director or a hazard inspector in the notice to abate or remove the potential danger within three weeks from the date of receipt of the notice, commits an offence and in addition to any penalty imposed under section 33 shall be made to pay any expenses which NEMA incurs to abate or remove the danger.

(4) The Director or a hazard inspector exercising a function under this section shall identify himself or herself as the Director or hazard inspector, to the occupant or owner of the property on which the danger was identified, by the production of his or her badge, tag or other identification device provided under section 28(4) and shall explain the purpose of his or her mission.

Regulations.

30. (1) The Prime Minister may make Regulations for the purpose of implementing the provisions of this Act and without prejudice to the generality of the foregoing, by Regulations provide -

(a) rules of Procedure for the Advisory Committee;

(b) that different periods shall apply in relation to threatened disaster alerts

than those prescribed in the First Schedule;

- (c) that notice of the availability of a report under section 28 may be given by advertisement in at least one daily local newspaper where attempts to identify or find an occupier, for the purpose of providing the report under that section or notifying its contents under section 28(8), have not succeeded after two weeks or such longer period as may be prescribed;
- (d) that during the existence of an Order made under section 27 the movement of all persons or vehicles or any class or type of persons or vehicles are prohibited or restricted in their respective movements in any part of The Bahamas.
- (e) that during the existence of an Order made under section 27(1) persons, other than emergency personnel, shall evacuate an area or may not reside or otherwise be present in such area and during such period as are specified;
- (f) for amending any enactment, for suspending the operation of any enactment and for applying any enactment with or without modification;
- (g) provide for payment of compensation and remuneration to persons affected by these regulations;
- (h) for the taking of possession or control on

behalf of the Government of any property or undertaking.

(2) Regulations made under this section may create offences, impose penalties for the breach thereof and specify any particular persons or class of persons in addition to members of the police force who may take steps to enforce the regulations.

(3) During any disaster emergency or threatened disaster alert Regulations made under this Act, other than Regulations required under subsection (5) to be published in the Gazette, may be published either -

(a) by announcement in any television or wireless transmission media duly licensed to operate for transmission and reception in The Bahamas;

(b) by notice affixed to the outside of every magistrate court and every police station located in the area of The Bahamas to which the Regulations apply.

(4) Publication under subsection (3) shall be deemed to be sufficient compliance, for the duration of any period of disaster alert or disaster emergency, with any requirement of publication under this Act or any other law: Provided that as soon as practicable there-after the Regulations shall be published in the Gazette.

(5) The means of authentication of Regulations published under subsection (3) shall, unless otherwise prescribed by Regulations published in the Gazette, be -

(a) in the case of media announcements under subsection (3)(a), the voice of the Prime Minister or the Commissioner of Police;

(b) in the case of posted notices under

subsection (3)(b), the actual or facsimile signature of the Prime Minister.

- (6) Regulations made under this Act -
- (a) shall be subject to a negative Resolution;
 - (b) notwithstanding anything to the contrary in any law, shall not have effect before the coming into force, and shall not authorize or prohibit anything being done after the existence of, an Order made under section 27(1).

Repugnancy
with other
enactments
and
duration of
Regulations.

31. (1) Regulations made under section 30 shall have effect notwithstanding anything inconsistent therewith contained in any enactment; and any provision of an enactment which may be inconsistent with any regulation shall, whether or not that provision has been amended, modified or suspended in its operation under section 30, to the extent of such inconsistency have no effect so long as such regulation remains in force.

(2) All Regulations, if not sooner revoked, shall cease to have effect when the Order made under section 27(1) or 35 ceases to have effect.

(3) In this section and in section 30 -
"enactment" means an instrument having force of law other than the Constitution and this Act.

Assaulting
or
obstructing
the
Director
or a
hazard

32. A person who assaults or obstructs the Director, a hazard inspector, a shelter manager, a shelter officer, or a member of the Police Force in the execution of his duty in relation to -

- (a) the functions of a shelter manager or shelter officer under section 10; or
- (b) the functions of a hazard inspector under

inspector.

section 28; or

(c) the functions of the Director or hazard inspector under section 29;

(d) the functions of the Director under any Regulations, made under this Act;

commits a summary offence.

Penalties.

33. A person who commits an offence under this Act for which no penalty is prescribed is liable on summary conviction to a fine not exceeding five thousand dollars or to imprisonment for a period not exceeding two years, or both.

Funding
of NEMA.

34. (1) NEMA in the carrying out of the objectives and purposes of an approved National Preparedness Plan as regards the preparation for, the mitigation of and the recovery from emergencies and disasters shall have the legal capacity in its name to operate bank accounts, to receive and disburse monies held in those accounts.

(2) The funds of NEMA shall consist of monies -

(a) provided by Parliament; and

(b) donated by persons,

to NEMA for the objectives and purposes mentioned in subsection (1), including monies earned by NEMA from any investment of those monies held in its accounts.

(3) The accounts of NEMA shall be subject to an annual audit by the Auditor General in the same manner and to the like extent of the accounts of any other department of Government.

(4) Without prejudice to subsection (3), NEMA shall cause all receipts and disbursements of monies during a period of emergency to be audited, within three months of the revocation of the order made under section 27, by an accountant employed by NEMA for the purpose and the report of which audit shall be laid by the Prime Minister in Parliament.

(5) The Prime Minister shall prescribe the manner and under whose signatures monies in the accounts of NEMA shall be disbursed.

Application
of Act
to other
events of
disaster.

35. Notwithstanding anything to the contrary in this Act the Prime Minister may by Order direct that the powers conferred by this Act, other than section 27, shall apply to any event which he has been advised by the Director-General has occurred in the maritime or aviation sector and which the Prime Minister determines is a disaster for the purposes of this Act, having regard to the ensuing wide spread loss of life or destruction of property.

Provisions
of Carib-
bean Disaster
Agency
Agreement
to have
force of
law.

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

Act binds
the Crown.

37. This Act binds the Crown.

Exemption
from civil
liability.

38. The Director, a hazard inspector, a shelter manager, a shelter officer, a member of the Police Force shall not be liable for any act done by him in good faith in the execution of any duty or function under this Act.

FIRST SCHEDULE

(Section 27)

DISASTER ALERT ADVANCE SCHEDULES

Column 1:

Type of Disaster

Earthquakes/Tsunami

Fires

Floods

Column 2:

Disaster Alert Advance Schedules

[]

[]

A flood watch would be issued when conditions are present that could give rainfall amount of three inches in an hour and a half or less within the designated watch area.

Flood warning will be issued when flooding is imminent.

Tropical Cyclones

Storm Alert

When a tropical cyclone can possibly give storm conditions in some parts of The Bahamas within 60 hours a Storm Alert is issued.

Alert plus Watch (36 Hours Away)

When a tropical cyclone will possibly give storm or hurricane conditions within 36 hours in some parts of The Bahamas, a Storm or Hurricane Alert is issued. A storm or Hurricane Watch is announced at the beginning of this Alert.

Alert plus Warning (24 Hours Away)

When a tropical cyclone is likely to give storm or hurricane conditions within 24 hours in some parts of The Bahamas, a Tropical Storm or Hurricane Alert is issued, and includes a Tropical Storm or Hurricane Warning which is announced at the beginning of the Alert.

SECOND SCHEDULE

(Section 36)

AGREEMENT

**ESTABLISHING THE CARIBBEAN DISASTER
EMERGENCY RESPONSE AGENCY**

THE STATES PARTIES:

CONSCIOUS that the fragile economies and ecosystems of

Caribbean states are extremely vulnerable to natural and man-made disasters:

RECALLING that during recent decades many Caribbean States have been adversely affected by a succession of hurricanes, namely Barbados (1955), Cuba, Trinidad and Tobago, Jamaica and Haiti (1964); Dominica and the Dominican Republic (1979); Saint Lucia, Haiti and Jamaica (1980) and Antigua and Barbuda, St. Kitts and Nevis and Montserrat (1989);

RECALLING FURTHER the volcanic eruptions in Martinique and St. Vincent and the Grenadines (1902); Guadeloupe (1976); St. Vincent and the Grenadines (1979) as well as the earthquakes in Jamaica (1902); Puerto Rico (1918); the Dominican Republic (1946) and Antigua and Barbuda (1974);

MINDFUL that, from time to time, several States of the Caribbean are subject to disastrous floods and landslides;

AWARE of the need to complement the initiatives of the Pan Caribbean Disaster Preparedness and Prevention Project by establishing a mechanism among Caribbean States in order to facilitate immediate and coordinated assistance to States participating therein in the event of a disaster;

HAVE AGREED AS FOLLOWS:

ARTICLE 1

DEFINITIONS

In this Agreement, unless the context otherwise requires-

- (a) "Caribbean" means the territories of Member Countries of the Pan Caribbean Disaster Preparedness and Prevention Project;

- (b) "CARICOM" means the Caribbean Community;
- (c) "Coordinator" means the Disaster Emergency Response Coordinator appointed pursuant to Article 7;
- (d) "disaster" means a sudden event attributable directly and solely either to the operation of the forces of nature or to human intervention or to both of them and characterised by widespread destruction of lives or property accompanied by extensive dislocation of public services, but excluding events occasioned by war, military confrontation or mismanagement;
- (e) "national relief organisation" means the governmental agency charged with responsibility for disaster relief management;
- (f) "Participating State" means a State party to this Agreement and "affected Participating State" means such a state in the territory of which a disaster has occurred;
- (g) "State" includes a dependent political entity of the Caribbean.

ARTICLE 2

ESTABLISHMENT OF THE AGENCY

The Caribbean Disaster Emergency Response Agency (hereinafter referred to as "the Agency") is hereby

established with the membership, structure, powers and functions herein set forth.

ARTICLE 3
MEMBERSHIP

Membership of the Agency shall be open to -

- (a) the States listed in the Annex to this Agreement; and
- (b) other States admitted to membership thereof in accordance with Article 32.

ARTICLE 4
OBJECTIVES

The Agency shall have the following objectives:

- (a) to make an immediate and coordinated response by means of emergency disaster relief to an affected Participating State;
- (b) to secure, coordinate and channel to interested inter-governmental and non-governmental organisations reliable and comprehensive information on disasters affecting a Participating State;
- (c) to mobilise and coordinate disaster relief from governmental and non-governmental organisations for affecting Participating States;
- (d) to mitigate or eliminate, as far as practicable the immediate consequences of disasters in Participating States;
- (e) to promote the establishment, enhancement

and maintenance on a sustainable basis adequate emergency disaster response capabilities among the Members of the Agency.

ARTICLE 5

ORGANS OF THE AGENCY

The Agency shall have the following Organs with the powers and functions specified in this Agreement -

- (a) the Council;
- (b) the Board of directors; and
- (c) the Coordinating Unit.

ARTICLE 6

THE COUNCIL

1. The Council shall consist of the Heads of Government of the participating States.

2. Every member of the Council shall be entitled to nominate any other person to represent that member at meetings of the Council.

3. The Council shall meet in ordinary session at least once in every calendar year and shall convene in extraordinary sessions at the request of three-quarters of the membership of the Agency.

4. Subject to the provisions of paragraph 3 of this Article, the Council shall regulate its own procedure.

ARTICLE 7

FUNCTIONS OF THE COUNCIL

The Council shall -

- (a) determine the policy of the Agency;
- (b) determine the organisation with which the Agency may establish functional relationships;
- (c) appoint the Disaster Emergency Response Coordinator on the recommendation of the Board of Directors;
- (d) designate such national disaster relief organizations as it may deem expedient as Sub-Regional Disaster Emergency Response Operational Units with the prior consent of the Government of the Participating State concerned;
- (e) approve the budgets of the Agency and contributions of Participating States thereto;
- (f) perform such other functions as it may deem necessary or expedient to achieve the objectives of this Agreement.

ARTICLE 8

THE BOARD OF DIRECTORS

1. The Board of Directors shall consist of the heads of national disaster relief organizations of Participating States, with the Coordinator as its Chairman.

2. The Chairman shall convene the meetings of the Board of Directors which shall meet at least once in every calendar year. The Chairman shall convene extraordinary meetings of the Board at the request of not less than one-half

of its members.

3. Subject to the foregoing provisions, the Board of Directors shall regulate its own procedure.

ARTICLE 9

FUNCTIONS OF THE BOARD OF DIRECTORS

The Board of Directors shall -

- (a) establish procedures for mobilising national resources to provide assistance in a timely and efficacious manner;
- (b) establish a system for maintaining and sharing inventories of critical resources likely to be needed by Participating States in the event of a disaster;
- (c) establish arrangements for rapidly accessing financial resources to cover the cost of mobilization in the event of disaster in a Participating State;
- (d) establish and maintain systems for facilitating the movement of resources originating in or transiting a Participating State having regard to the requirements of immigration and customs authorities;
- (e) establish pro forma lists of the likely requirements of Participating States in the event of disaster;
- (f) establish standards and procedures for the fair and equitable deployment of resources made available by Participating States in response to a disaster;

- (g) determine the standards and procedures for a phased triggering of the disaster response mechanism;
- (h) assess the contributions of Participating States to the administrative budget of the Agency and the Emergency Assistance fund Referred to in Article 25 and make recommendations to the Council;
- (i) perform such other functions as the Council may determine.

ARTICLE 10

THE COORDINATING UNIT

1. The Coordinating Unit shall be the administrative headquarters of the Agency and it shall be located in such places as the Council shall decide.

2. The Coordinator shall be the Chief Administrative Officer of the Agency and shall act in that capacity at all meetings of the Council.

3. The appointment of the Coordinator shall be for a term not exceeding five years and he may be re-appointed.

4. The Coordinator shall make an annual report to the Council on the work of the Agency.

5. The Coordinator shall appoint the staff of the Unit. In particular, he shall appoint a Deputy Disaster Emergency Response Coordinator (hereinafter referred to as "the Deputy Coordinator") who shall be appointed from among persons with experience of, and shown capacity in, matters relating to emergency relief operations, social welfare or administration. The Deputy Coordinator shall serve for a

period not exceeding two years and he may be re-appointed.

6. The paramount consideration in the recruitment and appointment of staff in the Coordinating Unit and in the determination of their conditions of service shall be the need to ensure the highest standards of competence, efficiency and integrity. Subject to this consideration, due regard shall be paid to the importance of recruiting staff on as wide a geographical basis as possible.

7. In the performance of their duties the Coordinator and his staff shall not seek or receive instructions from the Government of any Participating State or from any source external to the Agency. They shall refrain from any action which may reflect adversely on their positions as international officials responsible only to the Agency.

8. Participating States undertake to respect the international character of the responsibilities of the Coordinator and his staff and not seek to influence them in the discharge of their duties.

9. Subject to the approval of the Board of Directors, the Coordinator shall establish the terms and conditions of service of the staff of the Coordinating Unit.

ARTICLE 11

FUNCTIONS OF THE COORDINATING UNIT

In addition to any other functions which may be allocated to it by the Council or the Board of Directors, the Coordinating Unit shall -

- (a) develop and maintain a reliable damage assessment system and procedures to facilitate rapid and effective evaluation of a national disaster;

- (b) develop and maintain a comprehensive and reliable data base of key relevant resources (persons, facilities, equipment supplies) and a system for updating it;
- (c) establish, equip and maintain an emergency operations system capable of handling emergency telecommunications and facilitating coordination of emergency responses involving many services, supplies and facilities;
- (d) establish and maintain an efficient and reliable system of communications with sub-regional operational focal points in order to facilitate the mobilization, deployment and coordination of disaster response supplies and services;
- (e) establish arrangements with regional airlines and shipping lines in order to ensure access to their facilities on a priority basis in the event of a disaster;
- (f) establish arrangements with regional media houses designed to ensure the dissemination of reliable information on national disasters to the public;
- (g) establish arrangements with CARICOM committees of Ambassadors in various metropolitan centres in order to ensure the dissemination to them of reliable information on national disasters in Member States and to enlist their cooperation in mobilizing disaster relief resources on a timely and structured

- basis;
- (h) establish and maintain a reliable system of communications with the heads of national relief organizations and ensure that their disaster response capabilities are maintained at agreed levels of operational efficiency;
 - (i) establish and maintain relations with international relief organizations in order to facilitate accessing of their resources in the event of a disaster;
 - (j) mobilise and organise technical assistance from interested national and international bodies to assist in the development of disaster response capabilities of Participating States;
 - (k) provide a clearing house for relevant information and intelligence in all matters relating to disasters including current research being undertaken in all related regional institutions;
 - (l) on the basis of a distress call or on such other basis as may be agreed and in consultation with, Sub-Regional Disaster Response Operational Units, trigger the mechanism;
 - (m) provide assistance on request to the heads of national relief organizations in the event of a disaster;
 - (n) liaise with the disciplined forces of the sending States both in the planning and response stage of any operation mounted

after the activation of the triggering mechanism;

- (o) review periodically disaster response capabilities of Participating States and ensure that resources identified for the purpose are immediately available in the event of disasters in Participating States;
- (p) prepare the administrative and emergency budgets of the Agency for submission to the Board of Directors.

ARTICLE 12

SUB-REGIONAL DISASTER EMERGENCY RESPONSE OPERATIONAL UNITS

1. Where, pursuant to paragraph (d) of Article 7, the Council has designated Sub-Regional Disaster Emergency Response Operational Units, such bodies shall -

- (a) acquire and maintain on an updated basis comprehensive information on the facilities and services available in each of the Participating States for which they bear responsibility;
- (b) maintain and test on a regular basis communications with the Coordinating Unit and with critical response agencies under the control of national relief organizations;
- (c) maintain independent fuel and power supplies and ensure that relevant physical facilities are in a condition to withstand

a major disaster;

- (d) keep and maintain at the operational focal point in serviceable and optimal working conditions an equipment package containing essential items determined by the Board of Directors, subject to the approval of the council.

2. In making a designation referred to in paragraph 1 of this Article, the Council shall identify the States for which the Sub-Regional Disaster Response Operational Unit concerned shall have responsibility.

ARTICLE 13

UNDERTAKING OF PARTICIPATING STATES

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

- (a) to establish or maintain, as the case may be, national relief organizations capable of responding swiftly, effectively and in a coordinated manner to disasters in Participating States;
- (b) to establish emergency disaster planning groups and define national policies and priorities in the event of disasters;
- (c) provide national relief organizations with adequate support including named emergency coordinators, liaison officers with key Ministries, emergency services, utilities and the like;
- (d) to task the named agencies (including the

emergency services, Health and Public Works) and their coordinators with specific functions and responsibilities to ensure the development of an adequate response capability to support national disaster action;

- (e) to define the role and functions of key agencies such as the Security Services, Health and Public Works in disaster emergency response management and establish a system for regular review of their procedures for coordinated response;
- (f) establish and equip a suitable emergency operations centre capable of handling emergency telecommunications and coordinating emergency responses involving many services;
- (g) develop and maintain an emergency telecommunications system based on the most appropriate technology to ensure the coordination of emergency operations involving the emergency services mentioned above as well as voluntary private sector services;
- (h) establish and strengthen procedures for coping with major disaster threats and scenarios and review systems for testing the procedures by drills and simulations;
- (i) to review and rationalise legal arrangements for disaster mitigation and emergency action;
- (j) to review and catalogue past disaster

- events and list credible future emergency event scenarios and identify and map areas with special problems like flood prone and landslide prone areas;
- (k) to establish data bases of key resources, both human and material, and a system for keeping them current and to computerise and integrate them into an automated emergency information system;
 - (l) to develop, in collaboration with competent government agencies, an emergency shelter policy and programme involving the full participation of local officials in community-based organizations;
 - (m) to develop and review a system for community participating, local mobilization and counter disaster action in the event of isolation;
 - (n) to develop strategies for loss reduction in the public and private sectors focusing on vital economic activities and life-line activities like water supply;
 - (o) to develop a system and procedure for damage assessment in order to facilitate rapid and effective post impact evaluation;
 - (p) to develop and implement a comprehensive disaster public awareness, information and education programme involving media houses, schools, voluntary agencies and other institutions in order to ensure

public participation and community involvement in the disaster management system;

- (q) develop and implement appropriate training programmes for persons involved in the disaster management system;
- (r) identify and seek participation in bilateral and multilateral technical cooperation programmes designed to develop disaster management capabilities;
- (s) to identify, maintain in a state of readiness and make available immediately on request by the Coordinator relevant material and human resources in the event of disaster.

ARTICLE 14

RELATIONS WITH GOVERNMENTAL AND NON-GOVERNMENTAL INSTITUTIONS

1. The Agency may conclude agreements with Governmental, Inter-Governmental organizations or agencies in order to achieve the objectives of the Agency.

2. Unless the Council decides otherwise, the Coordinator may negotiate and conclude such Agreements on behalf of the Agency.

ARTICLE 15

DISCIPLINED FORCES

1. Where, in response to a request for assistance by any Participating State, members of the disciplined forces

are despatched to any part of the territory of the requesting State, the Coordinator shall, subject to the express prior agreement of the competent authorities of the requesting State, designate a Special Coordinator from among the senior officers of such forces, acting after consultation with the Chiefs of Staff or Commanding Officers of the disciplined forces concerned.

2. The Special Coordinator shall be charged with responsibility for coordinating the disaster relief efforts of the disciplined forces despatched to the Participating State concerned for the purpose.

3. No member of the disciplined forces shall be despatched to the territory of an affected Participating State without the express prior consent of that State.

4. In the absence of a contrary agreement between the requesting State and the sending State to that effect, members of the disciplined forces of the sending State shall be under the control and disciplinary authority of their commanding officer.

ARTICLE 16

DIRECTION AND CONTROL OF ASSISTANCE

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

2. Where the assistance from a sending State involves personnel other than disciplined forces, the sending

State shall designate in consultation with the requesting State the person who shall be in charge of, retain immediate operational supervision over the personnel, equipment and supplies provided by it. The person so designated shall exercise such supervision in cooperation with the competent authorities of the requesting State.

3. The requesting State shall provide to the extent of its capabilities local facilities and services for proper and efficient administration of communications assistance. In particular, the requesting State shall ensure that any ground stations brought into its territory for the purpose of rendering assistance shall be duly licensed to transmit and receive information in accordance with its domestic laws and regulations.

4. In the absence of a contrary agreement, ownership of equipment and materials despatched to the requesting State by a sending State during periods of assistance shall be unaffected and their prompt return shall be ensured.

5. The requesting State shall ensure the protection of personnel, equipment and materials brought into its territory for the purpose of rendering assistance in the event of a disaster.

ARTICLE 17

COMPETENT AUTHORITIES AND CONTACT POINTS

1. In the absence of a contrary indication from Participating States the competent authority and contact point to make requests for and accept offers of assistance in the event of a disaster shall be the head of the national relief organisation.

2. Contact points and focal within the Coordinating Unit shall be made available continuously.

3. The Coordinating Unit shall regularly and expeditiously provide Participating States and relevant international organizations with the information referred to in paragraphs 1 and 2 of this Article.

ARTICLE 18

CONFIDENTIALITY AND PUBLIC STATEMENTS

1. Participating States shall respect the confidentiality of any confidential information becoming available to them in connection with assistance requested in the event of a disaster. Such information shall be used exclusively for the purpose of the assistance agreed upon.

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

ARTICLE 19

COSTS OF PROVIDING ASSISTANCE

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

ARTICLE 20

TERMINATION OF ASSISTANCE

1. The Coordinator shall, subject to paragraph 2 of this Article, in consultation with the requesting State, determine the period of response to a disaster.

2. The requesting or sending State may, at any time, after appropriate consultation and by notification in writing request the termination of assistance provided or received under this Agreement.

3. Upon a request being made in that behalf, the parties concerned shall consult with each other to make arrangements for the termination of the assistance.

ARTICLE 21

PRIVILEGES, IMMUNITIES AND FACILITIES

TO BE ACCORDED A SENDING STATE AND ITS PERSONNEL

1. The requesting State shall accord to personnel of the sending State and personnel acting on its behalf the necessary privileges, immunities and facilities for the performance of their functions in rendering assistance.

2. Subject to prior notification by the sending State and acceptance by the requesting State of the personnel of the sending State or personnel acting on its behalf, the requesting State shall -

(a) grant to such personnel immunity from arrest, detention and legal process including criminal, civil and administrative jurisdiction of the requesting State, in respect of acts or omissions in the performance of their functions in rendering assistance;

(b) grant to such personnel exemption from taxes, duties or other charges, in respect

of the performance of their functions in rendering assistance, as is accorded to diplomatic personnel in accordance with international law;

(c) facilitate the entry into, stay in and departure from its territory of personnel so notified and accepted.

3. The requesting State shall -

(a) accord the sending State exemption from taxes, duties or other charges on equipment and property brought into the territory of the requesting State by sending State for the purpose of rendering assistance;

(b) confer immunity from seizure, attachment or requisition of such equipment and property and ensure their return to the sending State.

4. Nothing in this Article shall require the requesting State to accord its nationals or permanent residents the privileges and immunities provided for in paragraph 2(b) of this Article.

5. All persons enjoying privileges and immunities under this Article have a duty to respect the law and regulations of the requesting State and shall not interfere in the domestic affairs of the requesting State.

ARTICLE 22

TRANSIT OF PERSONNEL, EQUIPMENT AND PROPERTY

Participating States shall, at the request of the requesting State or the sending State, take all measures

necessary to facilitate the transit through their territory of duly notified personnel, equipment and property involved in rendering assistance to and from the requesting State.

ARTICLE 23

CLAIMS AND COMPENSATION

1. Participating States shall cooperate in order to facilitate the settlement of legal proceedings and claims under this Article.

2. In the absence of a contrary agreement, the requesting State shall, in respect of death or injury to persons, damage to or loss of property, or damage to the environment caused within its territory or under its control or jurisdiction in the course of providing the assistance requested -

- (a) not bring any legal proceedings against the sending State or persons or other legal entities acting on its behalf;
- (b) assume responsibility for dealing with legal proceedings and claims brought by third parties against the sending State or against persons or other legal entities acting on its behalf except in cases of wilful misconduct or gross negligence;
- (c) hold the sending State or persons or other legal entities acting on its behalf harmless in respect of legal proceedings referred to in sub-paragraph (b) hereof;
- (d) compensate the sending State or persons or other legal entities acting on its behalf for death or injury to personnel of the

sending State or persons or other legal entities acting on its behalf and for loss of or damage to non-consumable equipment or materials related to the assistance except in cases of wilful misconduct or gross negligence by individuals causing the death, injury or loss or damage.

3. Nothing in this Article shall be construed to prevent compensation or indemnity available under any applicable international agreement or national law of a Participating State nor to require the requesting State to apply paragraph 2 of this Article, in whole or in part, to its nationals or permanent residents.

ARTICLE 24

THE ADMINISTRATIVE BUDGET

1. The Agency shall establish an administrative budget, the funds of which shall be used to defray the ordinary expenses incurred in administering its affairs.

2. Participating States shall contribute to the administrative budget in accordance with a scale of assessment to be determined by the Board of Directors and approved by the Council.

3. The administrative budget shall be established on a biennial basis and the Coordinator shall cause the accounts of the Agency to be audited annually by external auditors approved by the Board of Directors.

4. The report of the auditors shall be presented by the Coordinator to the Board of Directors as soon as practicable for the consideration and approval of the Board.

5. The Coordinator, with the approval of the Board of Directors, shall establish financial regulations for the agency.

ARTICLE 25

EMERGENCY ASSISTANCE FUND

1. The Agency shall establish an Emergency Assistance Fund (hereinafter in this Article referred to as "the Fund") which shall be used solely to defray expenses incurred in connection with the rendering of assistance in the event of a disaster occurring in a Participating State.

2. Participating States shall contribute to the Fund in accordance with a scale of assessment to be determined by the board of Directors and approved by the Council.

3. The Coordinator may accept contributions to the Fund from sources external to the Agency on such conditions as may be prescribed by them and agreed by the Board of Directors but without discrimination as to the Participating States to receive such assistance.

4. The Coordinator shall cause the accounts of the Fund to be audited annually by the auditors referred to in paragraph 3 of Article 24.

5. Paragraph 4 of Article 24 shall apply for the purposes of the Fund.

ARTICLE 26

PRIVILEGES AND IMMUNITIES OF THE AGENCY

1. The Agency shall have international legal personality and such legal capacity as may be necessary for

the exercise of its functions and the fulfillment of its objectives.

2. The Agency, its property and assets shall enjoy in the territories of the Participating States immunity from legal process except to the extent that the Agency waives this immunity expressly in any particular case.

3. The property and assets of the Agency in Participating States wherever located and by whomsoever held shall be immune from search, requisition, confiscation, appropriation or any other form of seizure by executive or legislative action.

4. The property and assets of the Agency shall be exempt from restrictions, regulations, controls and moratoria of any kind.

5. The archives of the Agency, wherever located, shall be inviolable. Proprietary data, confidential information and personnel records shall not be placed in archives open to public inspection.

6. In respect of its official communications the Agency shall be accorded by each Participating State treatment no less favourable than that accorded by that State to other international organizations.

ARTICLE 27

REPRESENTATIVES AND STAFF OF THE AGENCY

Representatives of Participating States attending meetings of the Council of the Board of Directors and the Coordinator and other staff of the Unit shall enjoy in the territory of each Participating State -

- (a) immunity from legal process with respect to acts performed by them in the exercise

of their functions, except to the extent that the State which they represent of the Agency as appropriate expressly waives this immunity in any particular case;

- (b) where they are not nationals of that Participating State, the same exemptions from immigration restrictions, alien registration requirements and national service obligations, the same facilities as regards exchange restrictions and the same treatment in respect of traveling facilities as are accorded by the Participating State to the representatives, officials and employees of comparable rank of other Participating State.

ARTICLE 28

EXEMPTIONS FROM TAXES AND CUSTOMS DUTIES

1. The Agency, its assets and property, its income, and its operations and transactions within the contemplation of this Agreement, shall be exempt from all direct taxation and goods imported or exported from its official use shall be exempt from all customs duties. The Agency shall not claim exemption from taxes which are no more than charges for services rendered.

2. Where purchases of goods or services of substantial value necessary for the official activities of the Agency are made by or on behalf of the Agency, and where the price of such goods or services includes taxes or duties, appropriate measures shall, to the extent practicable, be

taken by Participating States to grant exemptions from such taxes or duties or provide for their reimbursement.

3. Goods imported or purchased under an exemption provided for in this Article shall not be sold or otherwise disposed of in the territory of the Participating State granting the exemptions, except under conditions agreed with that Participating Member State.

4. No tax shall be levied by Participating States or in respect of salaries and other emoluments paid or any other form of payment made by the Agency to the Coordinator and staff of the Agency as well as experts performing missions for the Agency, not being their nationals.

ARTICLE 29

SUSPENSION OF RIGHTS AND PRIVILEGES OF MEMBERSHIP

1. A Participating State which is in arrears in the payment of its financial contribution to the administrative budget of the Agency shall have no vote in the Council or the Board of Directors if the amount of the arrears equals or exceeds the amount of the contributions due from it for the preceding two financial years.

2. A Participating State which has grossly and persistently violated the obligations assumed under this Agreement may be suspended from the exercise of the rights and privileges of membership by the Council.

3. A determination within the meaning of paragraph 2 of this Article shall be made by the Council.

ARTICLE 30
SETTLEMENT OF DISPUTES

In the absence of a contrary agreement between the parties concerned, all disputes arising from or in connection with the interpretation or application of this Agreement shall be settled by the Council.

ARTICLE 31
SIGNATURE AND RATIFICATION

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

ARTICLE 32
ENTRY INTO FORCE

1. This Agreement shall enter into force when Instruments of Ratification have been deposited by at least seven of the States listed in the Annex to this Agreement including Barbados, Jamaica and Trinidad and Tobago.

2. Any other Caribbean State not listed in the Annex to this Agreement may apply to become a member of the Agency. Applications for membership shall be submitted to the Coordinating Unit. Admission to membership of the Agency shall be determined by the Council on the recommendation of the Board of Directors.

3. A State admitted to membership in accordance with paragraph 2 of this Article shall deposit an appropriate

Instrument of Accession with the CARICOM Secretariat before becoming entitled to enjoy the privileges of membership of the Agency.

ARTICLE 33

DEPOSITORY

1. The original of this Agreement and any amendments thereto shall be deposited with the CARICOM Secretariat.

2. The Secretary-General of CARICOM shall notify the Coordinating Unit of the Agency of the deposit of instruments of Ratification or Accession, as the case may be.

ARTICLE 34

AMENDMENTS

1. Any Participating State may propose amendments to this Agreement.

2. Any proposal for an amendment to this Agreement shall be submitted to the Coordinating Unit which shall transmit it to the Board of Directors with its comments.

3. The Board of Directors shall consider the proposal together with the comments of the Coordinating Unit and make a recommendation to the Council.

4. The Council shall consider the proposal for amendment and may adopt it with such modifications as it deems necessary.

5. Amendments shall enter into force when ratified by all Participating States.

ARTICLE 35

DENUNCIATION AND WITHDRAWAL

1. Any Participating State may denounce this Agreement and withdraw from the Agency.

2. Any Participating State wishing to withdraw from the Agency shall give to the Coordinating Unit twelve months' notice of its intention to do so and the Coordinator shall immediately notify the other Participating States.

3. The notice mentioned in paragraph 2 of this Article may be withdrawn at any time prior to the date on which withdrawal is to take effect.

4. A Participating State withdrawing from the Agency shall honour any financial obligations duly assumed by it during the period of its membership.

ARTICLE 36

PROVISIONAL APPLICATION

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

2. Upon any such declaration, the Secretary-General of CARICOM shall convene an inaugural meeting of the Council.

IN WITNESS WHEREOF the undersigned representatives, being duly authorised by their respective Governments, have signed this agreement -

Signed by
For the Government of Antigua and Barbuda on

at

Signed by
For the Government of The Bahamas on

at

Signed by
For the Government of Barbados on

at

Signed by
For the Government of Belize on

at

Signed by
For the Government of the British Virgin Island on

at

Signed by
For the Government of Dominica on

at

Signed by
For the Government of Grenada on

at

Signed by
For the Government of Guyana on

at

Signed by
For the Government of Jamaica on

at

Signed by
For the Government of Montserrat on
at

Signed by
For the Government of St. Kitts and Nevis on
at

Signed by
For the Government of Saint Lucia on
at

Signed by
For the Government of Saint Vincent and the Grenadines on
at

Signed by
For the Government of Trinidad and Tobago on
at

ANNEX

Antigua and Barbuda
The Bahamas
Barbados
Belize
British Virgin Islands
Dominica
Grenada
Guyana
Jamaica

Montserrat
St. Kitts and Nevis
Saint Lucia
Saint Vincent and the Grenadines
Trinidad and Tobago

OBJECTS AND REASONS

The Bill provides a legal and administrative framework for the management of disaster emergencies. Such an emergency arises upon a declaration being made to that effect.

Clause 2 gives the interpretation to be accorded the several terms used in the Bill.

Clause 3 requires the establishment of a government department of the name NEMA to deal with disaster emergencies and to be headed by a Director who would be aided by other public officers. These officers would discharge functions of hazard inspectors or managers of premises to be used as shelters in the event of an emergency.

The functions of the Director are set out in clause 4. These impose upon him the duty to develop plans and policies relating to the mitigation, preparedness and recovery from emergencies and disasters. Further, he shall advise the Prime Minister on those issues.

Clause 5 enables the Prime Minister to give the Director directions as regards matters of policy to be followed by the Director and NEMA.

Clause 6 provides for the establishment by the Prime Minister of a National Emergency Management Advisory Committee and whose meetings at times may be chaired by the Prime Minister.

Under clause 7 the Director has the additional

duty to prepare and submit annually to the Prime Minister a review of the disaster response plan that is mandated by clause 8 to be prepared by the Director in consultation with the Advisory Committee.

Clauses 9 and 10 require the Director to establish and maintain an emergency operation centre and a list of premises suitable for use as emergency disaster shelters. The use of the latter can be regulated by Regulations made for the purpose by the Prime Minister and where private premises are to be used consultation would take place between the Prime Minister and the respective owner.

Departments of the public service and their heads are required by clauses 11 and 12 to liaise with and supply to the Director from time to time information that would promote the involvement of their departments and ministries in any response to, in preparedness for, any emergency disaster.

Clause 13 requires persons who would be acting as managers of shelter or inspectors of premises, who are to ensure that premises do not pose a threat to members of the public in times of an emergency disaster, to consult with the Director before exercising any enforcement powers that are conferred upon them by Regulations made under the Act. This requirement to consult with the Director is also imposed by clause 14 upon any person who can require an environmental impact assessment to be done as such may be material to the disaster response plan.

Clauses 15 through 26 relate to the procedures for the establishment of areas that can be designated by the Prime Minister by Order as being specially vulnerable in times of an emergency disaster. These procedures would reflect input from members of the public either by way of written

submissions or at public meetings prior to the making of any Order. The latter is open to challenge in the Supreme Court on the basis that the procedures of the Act have not been followed.

Clause 27 enables the Prime Minister by Order to declare, after receiving advice from the Director, that an emergency exists by reason of the occurrence in The Bahamas of a disaster of the kind mentioned in the First Schedule to this Bill or because of the imminent threat of such a disaster.

Clause 28 empowers a magistrate to authorize a person appointed as a hazard inspector under the regulations to enter upon premises whose conditions are considered likely to pose a danger to members of the public in the event of a disaster.

Clause 29 permits the inspector thereafter to take steps to abate the hazardous conditions if the owner fails to comply with a prior notice to do so.

Clause 30 confers a general authority upon the Prime Minister to promulgate Regulations to achieve the objectives of the legislation including Regulations which may modify other laws or prohibit or restrict during an emergency the movement or pressure of persons and vehicles generally or otherwise in any part of The Bahamas and for the creation of offences for the breach of these Regulations. It is also provided that notice of the Regulations can be done by publication in the newspaper or by the Prime Minister or the Commissioner of Police over the radio and television.

Clause 31 empowers Regulations made under clause 30 to be contrary to other existing laws other than the Constitution and the legislation.

Clauses 32 and 33 make provision for offences under the Act and their penalties.

Clause 34 enables NEMA for the purpose of attaining its objectives of preparing for, or mitigating the effect and the recovery from a disaster to operate bank accounts and to receive monies subject to any Regulations made by the Prime Minister.

Clause 35 empowers the Prime Minister to apply the provisions of this legislation to a maritime or aviation catastrophe.

Clause 36 gives the force of law to certain articles of this agreement establishing the Caribbean Disaster Emergency Response Agency that is set out as a schedule and to which the Bahamas is a signatory.

Clause 37 provides that the Crown is bound by the legislation.