

CAYMAN ISLANDS



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**A BILL FOR A LAW TO ESTABLISH A DEPARTMENT OF DISASTER
PREPAREDNESS AND HAZARD MANAGEMENT FOR THE PURPOSE
OF COPING WITH EMERGENCY SITUATIONS AFFECTING THE
ISLANDS; AND TO MAKE PROVISION FOR INCIDENTAL AND
CONNECTED MATTERS**

**THE DISASTER PREPAREDNESS AND HAZARD MANAGEMENT
BILL, 2009**

MEMORANDUM OF OBJECTS AND REASONS

The object of the Bill is to create a Department to be called Hazard Management Cayman Islands with responsibility for the comprehensive management of disasters that may befall the Islands, starting with preparedness and following through to response, mitigation and recovery.

Clause 1 of the Bill provides the short title and commencement.

Clause 2 defines certain terms for the purposes of the Bill.

Clause 3 establishes the Department and provides for its staffing.

Clause 4 prescribes the functions of the Department.

Clause 5 sets out the powers of the Director.

Clause 6 circumscribes the duties of the Director in relation to the National Emergency Operations Centre and authorises him to temporarily redeploy staff from other agencies.

Clause 7 makes provision for the identification of premises as emergency shelters and for the assignment of a shelter warden to each shelter.

Clause 8 provides for the establishment of the National Hazard Management Executive and the National Hazard Management Council.

Clause 9 empowers the Governor in Cabinet to designate, by Order, any area to be a specially vulnerable area.

Clause 10 provides for the Governor in Cabinet to declare, by Order, any part of the Islands to be a disaster area or hazardous area and to direct the enforcement of measures that would be considered expedient for the removal or mitigation of the hazard.

Clause 11 requires Chief Officers and Heads of Statutory Authorities or Government Companies to periodically provide the Director, at his request, with information that would facilitate him in his development and implementation of disaster management systems.

Clause 12 provides for the establishment, by the Director, of a liaison with private sector organisations with a view to benefiting from their experience and thus being better poised to lead the Department in the execution of its functions under the Law for which this is the Bill.

Clause 13 enables the Chief Officer to appoint and settle the remuneration of consultants and experts to assist the Department in the performance of its functions.

Clause 14 provides for the establishment and maintenance of various records relating to the activities of the Department.

Clause 15 imposes on the Director a duty, within six months from the beginning of each year, to submit to the Governor in Cabinet a report containing a summary of the activities of the Department for the preceding year.

Clause 16 makes provision for immunity and indemnity in respect of the Department, its employees and other authorised personnel in the lawful execution of their functions under the Law for which this is the Bill.

Clause 17 makes it an offence to assault or obstruct the Director or other authorised person acting in the lawful execution of his duty. The offence is also established of refusing to furnish information required pursuant to clause 11 or to furnish such information knowing it to be false.

Clause 18 prohibits the unlawful entry by a person into a disaster area or hazardous area, or the refusal by a person to leave such area when directed to do so by a properly authorised person.

Clause 19 empowers the Governor in Cabinet to make regulations for carrying into effect the purpose of the Law for which this is the Bill.

The Schedule establishes the organisation and composition of the Management Executive and the Management Council.

**THE DISASTER PREPAREDNESS AND HAZARD MANAGEMENT
BILL, 2009**

ARRANGEMENT OF CLAUSES

1. Short title and commencement
2. Definitions
3. Establishment and staffing of the Department
4. Functions of the Department
5. Powers of the Director
6. National Emergency Operation Centre
7. Emergency shelters
8. National Hazard Management Executive and Council
9. Specially vulnerable areas
10. Disaster area or hazardous area
11. Information to be supplied to the Director
12. Director to establish a liaison with the private sector
13. Appointment of consultants and experts
14. Records
15. Annual report
16. Immunity and indemnity
17. Obstruction; refusal to furnish information
18. Unlawful entry into disaster area or hazardous area
19. Regulations

SCHEDULE

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ENACTED by the Legislature of the Cayman Islands.

1. (1) This Law may be cited as the Disaster Preparedness and Hazard Management Law, 2009.

Short title and
commencement

(2) This Law shall come into force on such date as may be appointed by Order made by the Governor in Cabinet and for that purpose different dates may be appointed for different provisions.

2. In this Law -

Definitions

“All Clear” means an official notification emanating from the Department of Hazard Management that a hurricane, tropical storm or other disaster has passed, or no longer poses a threat;

“Department” means a department of hazard management established by section 3 to be called Hazard Management Cayman Islands;

“Director” means the Director of the Department, appointed under section 3;

“disaster” means the occurrence of an event, caused by an act of God or otherwise, which results in death or injury of persons, loss or damage to property or damage to the environment, on a scale which requires emergency intervention, and includes widespread dislocation of essential services, earthquake, hurricane, flood, fire, outbreak of pestilence, outbreak of infectious disease or other calamity, whether similar to the foregoing or not;

“disaster preparedness” includes an activity undertaken in anticipation of a disaster, hazard or other emergency situation in order to respond to and to reduce any negative impact;

“functions” includes powers and duties;

“hazard” means a natural or man-made phenomenon which has the potential to cause environmental damage, economic loss, or threaten life and well-being, and may require emergency intervention by the Governor, the Department or other appropriate agency.

“Management Council” means the National Hazard Management Council established under section 8;

“Management Executive” means the National Hazard Management Executive established under section 8;

“Management Plan” means the National Hazard Management Plan the preparation of which is assigned to the Director by section 8(4);

“mitigation” means any step taken to reduce the impact of a hazard on the Islands; and

“specially vulnerable area” means an area designated by the Governor in Cabinet in accordance with section 9, as being susceptible to hazards.

Establishment and
staffing of the
Department

3. (1) There is established for the purposes of this Law, a body to be called the Department of Hazard Management Cayman Islands, which shall comprise a Director and Deputy Directors appointed by the Governor, and other persons appointed or designated to discharge the functions of the Department under this Law.

(2) The staff of the Department shall be appointed or designated on such terms and conditions as may be specified in their instruments of appointment or

designation, which terms and conditions shall be subject to the Public Service Management Law (2007 Revision).

(2007 Revision)

4. (1) The functions of the Department are to facilitate and co-ordinate the development and implementation of integrated disaster management systems and, without prejudice to the generality of the foregoing, such functions shall include-

Functions of the Department

- (a) developing and implementing policies and programmes to achieve and maintain an appropriate state of national preparedness for coping with all emergency situations which may affect the Islands;
- (b) encouraging and supporting disaster preparedness and mitigation measures in the Islands in collaboration with community based organisations, private agencies and voluntary agencies, respectively;
- (c) providing appropriate training programmes and consulting services related to all aspects of disaster preparedness, disaster mitigation, loss reduction and disaster management;
- (d) planning and implementing programmes to enhance public awareness and understanding of disaster related issues, emergency management, hazard prevention and other similar matters;
- (e) identifying and analyzing hazards or emergency situations and conducting related operational research into their effects;
- (f) advising the Governor in Cabinet, the Management Executive and the Management Council on major issues relating to disaster mitigation, preparedness, warning systems and emergency management;
- (g) preparing guidelines for disaster relief, response and recovery;
- (h) initiating, co-ordinating, inspecting, evaluating and supporting-
 - (i) the development of a National Hazard Management Plan;
 - (ii) the development and testing of emergency response plans by appropriate agencies including the emergency services, the Royal Cayman Islands Police Force, Government departments, the private sector, and voluntary agencies; and
 - (iii) contingency plans related to specific incidents;
- (i) identifying any emergency contingencies that are within or related to the area of responsibility of each Government department and developing, with that Government department, a plan for mitigating or responding to that contingency;
- (j) being instrumental in stimulating public interest in disaster mitigation, preparedness and emergency management and in securing public co-operation and participation in achieving planned objectives; and

- (k) encouraging-
 - (i) measures for mitigating the effect of hazards and to reduce losses from disaster; and
 - (ii) the development of comprehensive disaster prevention and preparedness programmes and capabilities.
 - (2) For the purpose of discharging his functions under this Law, the Director may, subject to the provisions of this Law and the Public Service Management Law (2007 Revision), do anything and enter into any transaction which, in the opinion of the Director, is necessary to ensure the performance of his functions.
- Powers of the Director
- 5. Where a disaster exists, the Director shall have power to-
 - (a) require public officers to respond and assist as directed;
 - (b) requisition publicly owned vehicles, plant and equipment and determine their use and deployment; and
 - (c) determine how publicly owned facilities shall be used, and for the purposes of this section “publicly owned” means owned by the Government or by a statutory body whose funds include monies appropriated by the Legislative Assembly.
- National Emergency Operation Centre
- 6. (1) The Director shall be responsible for-
 - (a) the operations and maintenance of a National Emergency Operations Centre to function as the headquarters of the activities undertaken in response to a disaster; and
 - (b) the staffing and management of the National Emergency Operations Centre.

(2) In order to assist in both planning and response the Director may temporarily deploy staff from such other agencies as he sees fit.
- Emergency shelters
- 7. (1) The Director shall establish and maintain a list of suitable premises available for use as emergency shelters in the event or the aftermath of a disaster.
 - (2) In the list referred to in subsection (1) the Director shall-
 - (a) distinguish between Government property and other premises;
 - (b) list the facilities available at such premises; and
 - (c) indicate the suitability of each of the listed premises for use during a disaster or in the event or aftermath of a disaster.
 - (3) The Director shall-
 - (a) assign to each of the listed premises, a shelter warden charged with the responsibility of managing the shelter to which he is

assigned during any period where the shelter is being used for the purposes of this Law, and may assign shelter officers to assist any shelter warden; and

- (b) develop and publish at each shelter such rules and guidelines as may be necessary for the proper management of the listed premises that are being used for the purposes of this Law.

(4) A person seeking admission to a shelter shall provide information in such form as the Director may require for registration, to assist in the tracking of persons accommodated during the shelter operation.

(5) No liability shall attach to the Government, shelter wardens, shelter officers, Government employees or agents or the owner or occupier of listed premises in respect of-

- (a) accidental or negligent loss or damage to property brought into the shelter by a person seeking protection; or
- (b) persons who leave the shelter prior to the issuance of an All Clear.

(6) A shelter warden may suspend or expel from the shelter any person who commits a serious breach or persistently breaches any of the guidelines, and may enforce the suspension or expulsion by the use of reasonable force.

(7) Any person who assaults or obstructs a shelter warden or any other authorised person acting in the execution of his duty under this Law commits an offence.

8. (1) There is established a National Hazard Management Executive and a National Hazard Management Council.

National Hazard
Management Executive
and Council

(2) The provisions of the Schedule shall have effect as to the constitution, functions and procedures of the Management Executive and the Management Council.

Schedule

(3) The Governor in Cabinet may by Order amend the provisions of the Schedule.

(4) The Director shall prepare a National Hazard Management Plan comprising a statement of the contingency arrangements under his co-ordination, for responding to the threat, event or aftermath of a disaster in the Islands whether or not the threat, event or aftermath is such as to prompt the issuance of an alert, a declaration of disaster, a declaration of a state of emergency or a notice of evacuation, and shall cause the Management Plan to be reviewed annually.

(5) The Director shall submit the Management Plan to the Management Council to be reviewed and after such review the Management Council shall cause it, together with any recommendations, to be submitted for the review of the Management Executive which shall submit it together with any recommendations for the consideration of the Governor in Cabinet.

Specially vulnerable areas

9. (1) The Governor in Cabinet may, on the recommendation of the Management Council through the Management Executive, designate by Order, any area to be a specially vulnerable area and any such Order shall include a special vulnerable area plan (in this section referred to as a “plan”).

(2) The Director shall in consultation with the relevant Government institutions and organizations and the private and voluntary sectors prepare for the approval of the Governor in Cabinet a plan for the mitigation and prevention of disasters in a specially vulnerable area.

(3) A plan shall include strategies, policies and programmes for the management and development of the specially vulnerable area and for protection of the population in the specially vulnerable area.

(4) A plan may communicate strategies, policies, standards and designations by means of maps and diagrams.

(2008 Revision)

(5) A plan does not authorise any development that is not permitted under the Development and Planning Law (2008 Revision).

(6) Before finalising the plan for the approval of the Governor in Cabinet the Director shall publish a draft of such plan in at least one daily newspaper to enable the public to submit comments in writing on the said draft to the Director.

Disaster area or hazardous area

10. (1) Where the Director reports to the Governor in Cabinet—

- (a) the existence of any local condition in any part of the Islands tending to endanger public safety, and there are no powers under any law other than this section whereby such condition may be removed or guarded against; or
- (b) that any part of the Islands appears to be threatened with or affected by a natural or technological hazard and that measures apart from, or in addition to, those specifically provided for in this Law, should be taken promptly,

the Governor in Cabinet may by Order declare that part of the Islands to be a disaster area or hazardous area and direct the enforcement of any measures recommended by the Department or any other measures that he thinks expedient

for removing or otherwise guarding against any such condition and the probable consequences thereof or mitigating as far as possible, any such hazard.

(2) An Order made under subsection (1) may contain a direction that the disaster area or hazardous area be evacuated by a specified time and in accordance with such procedures, if any, as may be specified therein.

(3) Any Order under this section-

- (a) may extend to the Islands as a whole or to such part thereof or to such particular places as may be specified therein;
- (b) shall, subject to subsection (4), remain in force for such period as may be specified therein;
- (c) may prevent entry into any such area for a specified time and in accordance with specified procedures; and
- (d) may, by way of gazettal, be published by announcement in any medium of mass communications available within the Islands and posted in a conspicuous place outside every police station and post office in the Islands.

(4) An officer or employee of the Department or any other person authorised in writing in that behalf by the Director (in this section referred to as an "authorised officer") may at all times enter any premises for the purpose of ensuring compliance with the provisions of any Order made under this section, and shall, if so required by the person in charge of the premises, produce to that person the authority for such entry.

(5) Where the Director is satisfied that it is necessary for the performance of his duties under this Law to do so, the Director or an authorised officer may enter any premises with or without the consent of the owner or occupier, and take such action as he may consider necessary in the public interest.

(6) The Director shall provide his staff, volunteer organisations and each authorised officer who is not a member of the Royal Cayman Islands Police Service, with a distinctive badge, tag or other identification device which may conveniently be carried while engaged in the performance of their duties under this section.

(7) An authorised officer who exercises a power under this section shall identify himself as an authorised officer to any person in control of the premises to be so entered into, by the production of an authorised officer's badge, tag or other identification device issued under subsection (6) and shall explain the purpose of the entry.

Information to be supplied to the Director

11. Every Chief Officer and Head of a Statutory Authority or Government Company shall-

- (a) supply to the Director annually or at such time, in such form and by such date as may be required by the Governor in Cabinet such information as may be requested by the Director for the purpose of sections 4(1) and 8(4); and
- (b) as required by the Governor in Cabinet, cause Response and Continuity Plans for his Ministry, Department or board to be prepared or reviewed from time to time and then submitted to the Director.

Director to establish a liaison with the private sector

12. (1) The Director shall establish a liaison with 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 8(4).

(2) For the purposes of section 8(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(1) and 8(4).

(3) The Director in consultation with the Management Council may establish District Emergency Response Committees for the purpose of assisting in the preparation for the response to a disaster that may occur in any of the Districts throughout the Islands.

(4) The District Emergency Response Committees shall-

- (a) determine needs and requests;
- (b) receive, record and distribute resources; and
- (c) communicate relevant information from the District to the National Emergency Operations Centre.

(5) The District Emergency Response Committees may be comprised of persons recommended by the Member of the Legislative Assembly for the District, Non Governmental Organisations, churches and community organisations and other volunteers.

Appointment of consultants and experts

13. (1) The Chief Officer may appoint consultants and experts to assist the Department in the performance of the functions of the Department.

(2) The consultants and experts appointed under subsection (1) shall be paid such remuneration as the Chief Officer may approve.

(3) Any remuneration paid pursuant to subsection (2) shall be paid out of the annual operating budget of the Department.

14. The Director shall cause to be established and maintained- Records

- (a) records of the work and activities of the Department; and
- (b) such other records or particulars with respect to the Department as the Director may consider necessary.

15. The Director shall, within six months from the beginning of each year, prepare and submit to the Governor in Cabinet a report containing a summary of its activities for the preceding year. Annual report

16. (1) Neither the Department nor its employees shall be liable in damages for anything done or omitted in the discharge of their respective functions, responsibilities, powers or duties under this Law unless it is shown that the act or omission was in bad faith. Immunity and indemnity

(2) The Department shall indemnify its staff and other authorised personnel against all claims, damages, costs, charges or expenses incurred by them in the discharge of their functions, responsibilities, powers and duties under this Law, except claims, damages, costs, charges or expenses caused by their bad faith.

17. Every person who- Obstruction; refusal to furnish information

- (a) assaults or obstructs the Director or any other duly authorized person acting in execution of his duty under this Law; or
- (b) refuses to furnish any information required pursuant to the provisions of an Order made under section 10, or knowingly furnishes false information,

commits an offence and is liable on summary conviction to a fine of twenty thousand dollars and to imprisonment for twelve months.

18. (1) Any person who without proper authorisation enters or is found in a disaster area or hazardous area or, being in a disaster area or hazardous area, refuses to leave that area, commits an offence and is liable on summary conviction to a fine of twenty thousand dollars and to imprisonment for twelve months. Unlawful entry into disaster area or hazardous area

(2) For the purpose of this section “proper authorisation” means authorisation issued by or on behalf of the Governor, the Commissioner of Police or the Director.

(3) A constable may, in a disaster area or hazardous area, arrest any person that he reasonably suspects to be committing an offence under subsection (1).

(4) Notwithstanding the description of a disaster area or hazardous area specified in an Order made under section 10, a police checkpoint established in respect of a disaster area or hazardous area shall be deemed to be located on the perimeter of that disaster area or hazardous area and a person who crosses that check point without proper authorisation to do so commits an offence and is liable on summary conviction to a fine of twenty thousand dollars and to imprisonment for twelve months.

Regulations

19. The Governor in Cabinet may make regulations generally for giving effect to the provisions of this Law, and without prejudice to the generality of the foregoing, may make regulations-

- (a) in relation to the prevention, mitigation and suppression of technological, medical, environmental and agricultural hazards;
- (b) in relation to the collection and publication of data pertaining to disaster mitigation preparedness, recovery and emergency management;
- (c) prescribing matters in respect of which fees are payable, the amount of such fees and the persons liable to pay them; and
- (d) prescribing the use and management of any listed premises referred to in section 7.

SCHEDULE

(Section 8)

A. - NATIONAL HAZARD MANAGEMENT EXECUTIVE

1. The Management Executive shall be responsible for national policy direction and shall ensure the availability of the most senior government leadership for emergencies.
2. The Management Executive may communicate with the United Kingdom authorities, Overseas Territories, other jurisdictions and international organisations through the Governor's Office.
3. The Management Executive shall comprise the following members and any other persons as deemed necessary by the Governor:

- The Governor – Chairman
- Leader of Government Business
- Leader of the Opposition
- Chief Secretary
- Attorney-General
- Financial Secretary
- Deputy Chief Secretary
- Director, Hazard Management
- Police Commissioner
- Cabinet Secretary
- District Commissioner

B. - NATIONAL HAZARD MANAGEMENT COUNCIL

4. The Management Council shall have overall responsibility for the management of any non-security threat which may affect the Islands.
5. The Chairman of the Council may convene the Council when there is a threat to the Islands from any potential or actual hazard and during response to and recovery from the impact of a hazard.
6. The Council shall meet at least twice per year for purposes of planning and preparedness.
7. The Council shall comprise the following members and any other members co-opted by the Chairman:
 - Chief Secretary-Chairman
 - Deputy Chief Secretary-Deputy Chairman
 - Cabinet Secretary
 - Deputy Financial Secretary
 - Solicitor General (or his designate)
 - Chief Officer, District Administration, Planning, Agriculture and Housing
 - Chief Officer, Health and Human Services
 - Chief Officer, Education, Training , Employment, Youth, Sports and Culture
 - Chief Officer, Communications, Works and Infrastructure
 - Chief Officer, Tourism, Environment, Investment and Commerce
 - Chief Officer, Portfolio of the Civil Service

- Director, Hazard Management Cayman Islands-Secretary
 - Deputy Commissioner of Police
 - Chief Fire Officer
 - Chief Meteorological Officer
 - Director, Public Works
 - Director, National Roads Authority
 - Director, Lands and Surveys
 - Director, Vehicle and Equipment Services
 - Director, Office of telecommunications
 - Chair, Sister Islands Emergency Committee
 - Director, Government Information Services
 - Director, Civil Aviation Authority
 - Director, Department of Environmental Health
 - Director, Department of Environment
 - Chief Immigration Officer
 - Chief Executive Officer, Airports Authority
 - Chief Executive Officer, Port Authority
 - Collector of Customs
 - Chief Executive Officer, Chamber of Commerce
 - Director, Red Cross
 - Director, Adventist Development Relief Agency
 - Director, Water Authority
 - Director, Tourism
 - Director, Risk Management
8. The Council shall support the National Risk Management Programme and the efforts of Hazard Management Cayman Islands to include all residents in national risk management efforts, and shall-
- (a) develop and approve national policies, standards and benchmarks related to hazard and risk management;
 - (b) discuss economic, political, legal and social implications of actual and potential hazards and develop recommendations for their management;
 - (c) evaluate strategies for managing actual and potential hazards;
 - (d) provide advice and guidance to the Management Executive;
 - (e) review and approve the National Hazard Management Plan and ensure incorporation of lessons learnt;
 - (f) review and approve operational plans and procedures;
 - (g) ensure appropriate state of preparedness of all Ministries, Portfolios, Agencies and Departments;

- (h) monitor continuity of operations and recovery planning to ensure that in the event of a disaster, Government will be able to continue operations;
- (i) ensure adequate support for the National Emergency Operations Centre from ministries, agencies, portfolios and departments;
- (j) review laws pertaining to hazard and risk management and recommend amendments where necessary;
- (k) develop drafting instructions for the preparation of Regulations;
- (l) approve designations of specially vulnerable areas, No Build Zones and other special areas as may be declared;
- (m) encourage private sector efforts in risk management and provide technical support where possible;
- (n) support public awareness efforts; and
- (o) direct and monitor work of its committees and sub-committees.

Passed by the Legislative Assembly the day of , 2009.

Speaker.

Clerk of the Legislative Assembly.