

Act No. 14 of 2007



Tonga

EMERGENCY MANAGEMENT ACT 2007

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EMERGENCY MANAGEMENT ACT 2007

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AN ACT TO MAKE PROVISION FOR EMERGENCY MANAGEMENT IN THE KINGDOM

I assent,
George Tupou V
13 September 2007

Commencement [in force on assent and publication]

PART I - PRELIMINARY

1 Short title and commencement

This Act may be cited as the Emergency Management Act 2007.

2 Interpretation

In this Act, unless the context otherwise requires

“**authorised officer**” means a person authorised to exercise emergency powers for a state of emergency under this Act;

“**Director**” means the Director of Works;

“**emergency**” means an event, actual or imminent, which endangers or threatens to endanger life, property or the environment and which requires a significant and coordinated response;

“emergency management” means arrangements about managing the potential adverse effects of an event, including mitigating community risk, preparing for and responding to threatening events and recovering from an emergency;

“emergency operations” means activities undertaken before, during or after an event happens to help reduce loss of human life, illness or injury to humans, property loss or damage or damage to the environment;

“emergency powers” means the powers authorised under this Act to be exercised on a declaration of a state of emergency;

“event” means any of the following —

- (a) a cyclone, earthquake, storm, storm surge, tornado, tsunami, volcanic eruption or other natural happening;
- (b) an explosion or fire, a chemical, fuel or oil spill, or a gas leak;
- (c) an infestation, plague or epidemic;
- (d) a failure of an essential service or infrastructure;
- (e) a terrorist attack against the Kingdom; or
- (f) any other event similar to an event referred to in paragraphs (a) to (e);

“health practitioner” is as defined in the Health Practitioners Act;

“Manager” means the manager of the National Emergency Management Office;

“military personnel” means members of the Tonga Defence Services and any overseas military personnel who are in the Kingdom under a status of forces agreement;

“Minister” means the Minister responsible for emergency management; and

“National Emergency Management Office” means the National Emergency Management Office established under this Act.

3 Act binds the Crown

This Act binds the Crown.

4 Relationship to other Acts

- (1) Except as provided in section 6, the powers under this Act are in addition to and do not limit the making of a declaration or exercise of a power under any other Act.
- (2) The existence of a declaration under any other Act shall not prevent or limit the declaration of a state of emergency under this Act.

5 Effect on powers in other Acts

- (1) This section applies when a state of emergency has been declared under any other Act.
- (2) Where the exercise of powers under any other Act is inconsistent with the exercise of emergency powers under this Act, the emergency powers shall prevail over the powers under the other Act.

6 Limit on application

This Act shall not apply to situations involving —

- (a) armed combat against an enemy;
- (b) industrial disputes; or
- (c) internal disturbances and tensions such as riots, isolated and sporadic acts of violence and other acts of a similar nature, as not being armed conflicts.

PART II - EMERGENCY MANAGEMENT COMMITTEES AND OTHER BODIES

7 Establishment National Emergency Management Office

The National Emergency Management Office is established as a Division within the Ministry, which shall have the following functions —

- (a) provide support and advice to emergency management committees on emergency management and emergency operations in the Kingdom;
- (b) review and monitor the National Emergency Management Plan;
- (c) implement the policies and decisions of the National Emergency Management Committee;
- (d) coordinate emergency management activities in the Kingdom;
- (e) regularly report to the National Emergency Management Committee about the performance of the National Emergency Management Office's functions; and
- (f) establish and maintain effective communication within Government and with non-government organisations and the private sector on emergency management.

8 Functions of the Manager

The Manager shall be responsible to the Director for the following functions —

- (a) manage the functions of the National Emergency Management Office;
- (b) prepare an annual work program for the development of a budget; and
- (c) other functions relating to emergency management the Director considers appropriate.

9 Establishment

The National Emergency Management Committee is hereby established.

10 Functions

The National Emergency Management Committee shall have the following functions —

- (a) make policy decisions of national significance relating to emergency management for the Kingdom;
- (b) coordinate the development and implementation of effective emergency management for the Kingdom;
- (c) approve and regularly review the National Emergency Management Plan;
- (d) ensure that the regular exercise of operational procedures in the National Emergency Management Plan is carried out;
- (e) have in place arrangements with other nations and relevant bodies to provide support to the Kingdom during major emergencies;
- (f) provide support to District Emergency Management Committees; and
- (g) coordinate effective emergency management and emergency response in communities before, during and after the impact of an event.

11 Membership

The National Emergency Management Committee shall consists of the following members —

- (a) the Minister who shall be the chairman;
- (b) Chief Secretary and Secretary to Cabinet;
- (c) the Director;
- (d) Secretary for Finance and Planning;
- (e) Director of Agriculture, Forestry, Fisheries and Food;
- (f) Director of Health;

- (g) Police Commander;
- (h) Commander of Tonga Defence Services;
- (i) Secretary for Lands, Survey, Natural Resources and Environment;
- (j) the Manager who shall be the Secretary; and
- (k) Director of Education.

12 Annual report on emergency management

The Minister shall prepare a report on emergency management in the Kingdom, as part of his annual report to the Legislative Assembly, including the following —

- (a) information about activities undertaken during the year to maintain or enhance the Kingdom's emergency management;
- (b) details of emergency operations undertaken during the year;
- (c) information about priorities for disaster risk reduction; and
- (d) other matters about emergency management the Minister considers appropriate.

13 Establishment and functions of National Emergency Operations Committee

The National Emergency Operations Committee is hereby established, which shall have the following functions —

- (a) activate ministries and organisations in response to an event that has happened, is happening or may happen;
- (b) liaise with ministries, non government organisations and community groups in the execution of their emergency management roles and responsibilities;
- (c) carry out initial assessment;
- (d) collate and prioritise immediate disaster relief requirements; and
- (e) manage the distribution of immediate relief supplies.

14 Membership of National Emergency Operations Committee

The National Emergency Operations Committee shall consist of the following members —

- (a) the Minister who shall be the chairman;
- (b) the Director;
- (c) Police Commander;
- (d) Commander, Tonga Defence Services;

- (e) Secretary for Foreign Affairs; and
- (f) the Manager.

15 Functions of the National Controller

The National Emergency Operations Committee shall have the following functions —

- (a) determine the priority of the response roles of any Government or non-government agency, in consultation with members of the National Emergency Operations Committee;
- (b) direct and coordinate the activities of any Government or non-government agency; and
- (c) allocate all available resources of the government which the Minister, in consultation with the National Emergency Operations Committee, considers necessary,

for responding to events that may, happen, is happening or about to happen.

16 Establishment and functions of National Emergency Recovery Committee

The National Emergency Recovery Committee is hereby established, which shall have the following functions —

- (a) coordinate the recovery phase following any event;
- (b) carry out detailed assessments in partnership with the relevant committee;
- (c) coordinate the provision of emergency relief; and
- (d) coordinate all recovery and rehabilitation works.

17 Membership of National Emergency Recovery Committee

The National Emergency Recovery Committee shall consist of the following members —

- (a) the Minister who shall be the chairman;
- (b) Chief Secretary and Secretary to Cabinet;
- (c) Secretary for Finance;
- (d) Director;
- (e) Secretary for Foreign Affairs;
- (f) Commander of Tonga Defence Services;
- (g) representative of non-government organisations who may be co-opted as required; and

- (h) Manager who shall be the Secretary.

18 Establishment and functions of District Emergency Management Committees

- (1) A District Emergency Management Committee shall be established for each of the following districts of the Kingdom —
 - (a) Ha'apai
 - (b) Vava'u
 - (c) Niuatoputapu;
 - (d) Niuafu'ou; and
 - (e) 'Eua.
- (2) Each District Emergency Management Committee shall have the following functions —
 - (a) prepare, and regularly review, a District Emergency Management Plan;
 - (b) develop and implement effective emergency management in the district in accordance with any relevant policies issued by the National Emergency Management Committee;
 - (c) provide reports and make recommendations to the National Emergency Management Committee about disaster risk reduction and emergency management activities in the district;
 - (d) regularly conduct exercises of operational procedures as required by the District Emergency Management Plan;
 - (e) provide support to communities to ensure effective emergency management in communities before, during and after the impact of an event;
 - (f) promote community awareness of emergency management, including ways of mitigating, preparing for, responding to and recovering from an emergency;
 - (g) identify and coordinate the use of resources for emergency operations in the district;
 - (h) manage emergency operations in the district in accordance with any policies and procedures issued by the National Emergency Management Committee;
 - (i) establish and review communications systems in the district for use when an event threatens or an emergency happens; and
 - (j) provide information about an event or an emergency in the district to the National Emergency Management Committee.

19 Membership of District Emergency Management Committees

Each District Emergency Management Committee shall consist of the following members —

- (a) the Governor or Government Representative of the district who shall be the chairman; and
- (b) any other members appointed by the chairman with the approval of the Minister.

20 Annual report of District Emergency Management Committees

- (1) Each District Emergency Management Committee shall prepare and give to the National Emergency Management Committee an annual report about emergency management in the district, by 30th March of each year.
- (2) The report shall include the following —
 - (a) information about activities undertaken during the year to maintain or enhance the district's emergency management;
 - (b) details of emergency operations undertaken during the year;
 - (c) other matters about emergency management the National Emergency Management Committee considers appropriate.

21 Chairman may give directions

- (1) The chairman of the National Emergency Management Committee, after consulting with the chairman of the District Emergency Management Committee, may give a District Emergency Management Committee a written direction about the performance of its functions if satisfied it is necessary to ensure the functions are adequately performed.
- (2) The District Emergency Management Committee shall comply with the direction given under subsection (1).

22 Establishment of the Village Emergency Committee

The Village Emergency Committee is hereby established, which shall have the following functions —

- (a) develop and implement effective emergency management in the village in accordance with any relevant policies issued by the National Emergency Management Committee;
- (b) provide reports and make recommendations to the District Emergency Management Committee about disaster risk reduction and emergency management activities in the village;

- (c) provide support to village communities to ensure effective emergency management in village communities before, during and after the impact of an event;
- (d) coordinate village community awareness of emergency management, including ways of mitigating, preparing for, responding to and recovering from an emergency;
- (e) identify and coordinate the use of resources for emergency operations in the village;
- (f) manage emergency operations in the village in accordance with any policies and procedures issued by the National Emergency Management Committee;
- (g) establish and review communications systems in the village for use when an event threatens or an emergency happens; and
- (h) promptly provide information about an event or an emergency in the village to the District Emergency Management Committee.

23 Membership of Village Emergency Committee

A Village Emergency Committee shall consist of the following members —

- (a) town officer who shall be the chairman; and
- (b) representatives appointed by the town officer with the approval of the Minister.

24 Annual report of Village Emergency Committee

- (1) Each Village Committee shall prepare and give to the District Emergency Management Committee an annual report about emergency management in the village by 28th of February of each year.
- (2) The Village Emergency Committee shall comply with the direction given in subsection (1).

25 Committee meetings

Each committee shall hold a meeting at least once each quarter at the time and place decided by the chairman of the committee.

26 Chairing of meetings

If the chairman of a committee is absent from a meeting, the members may elect an acting chairman who shall chair that meeting.

27 Minutes

A committee shall keep minutes of its meetings.

PART III - EMERGENCY MANAGEMENT PLANS**28 National Emergency Management Plan**

The National Emergency Management Committee shall prepare a National Emergency Management Plan, to include provision for the following —

- (a) mitigation, preparedness, response and recovery, based on a risk management process;
- (b) specific events under this Act;
- (c) the roles and responsibilities of relevant bodies;
- (d) priorities for disaster risk reduction;
- (e) arrangements of provision of support from other nations and donor agencies;
- (f) support and coordinate the District Emergency Management Committees; and
- (g) any other matter it considers appropriate.

29 District Emergency Management Plans

A District Emergency Management Committee shall prepare a District Emergency Management Plan for the district, to include provision for the following —

- (a) mitigation, preparedness, response and recovery, based on a risk management process;
- (b) specific events that may happen in the district;
- (c) the roles and responsibilities of relevant entities;
- (d) priorities for disaster risk reduction for the district; and
- (e) any other matter it considers appropriate.

30 Plans to be available to the public

Each committee shall —

- (a) keep a copy of their emergency management plans available for inspection by members of the public during business hours at the Ministry of Works' office; and

- (b) provide a copy of the whole or part of an emergency management plan,
free of charge.

31 Guidelines

The Minister may prepare and issue written guidelines for emergency management committees for the development of emergency management plans and any other matters that he considers necessary.

PART IV - DECLARATION OF STATE OF EMERGENCY

32 Declaration of state of emergency

- (1) The Prime Minister may declare a state of emergency for the Kingdom, or a part of the Kingdom, if satisfied that —
 - (a) an emergency has happened, is happening or may happen in the Kingdom; and
 - (b) it is necessary for emergency powers to be exercised to prevent or minimise —
 - (i) loss of human life;
 - (ii) illness or injury to humans;
 - (iii) property loss or damage; or
 - (iv) damage to the environment.
- (2) A declaration made under subsection (1) applies only to the area specified in the declaration and remains in force for 28 days.

33 Duration of declaration

A state of emergency commences when it is declared and ends 28 days after the day it is declared, unless the Prime Minister ends it earlier.

34 Renewal of declaration

- (1) The Prime Minister may renew the declaration of a state of emergency from time to time for a period of up to 28 days.
- (2) The declaration or its renewal shall be published in such manner as the Prime Minister deems necessary for bringing it to the notice of the public.

35 Expiration of declaration

The declaration ceases to have effect on the expiration of 28 days from the date on which it was made, or if renewed, on the expiration of the time it was renewed for.

36 Authorisation for exercise of powers

- (1) The Minister may authorise any person or class of persons to exercise the emergency powers under this Act.
- (2) Police officers and military personnel may exercise emergency powers.

37 Powers on a declaration

For purposes of this section —

“**place**” includes land, premises and a vehicle; and

“**vehicle**” means anything used for carrying anything or any person by land, water or air.

During the period of a state of emergency an authorised officer may exercise emergency powers necessary for the prevention of loss of human lives, illness or injury to humans or animals, loss or damage to property, and damage to the environment, including but not limited to —

- (a) entering property without warrant;
- (b) evacuation of people and animals;
- (c) preventing people, animals, plants, vehicles, and other things from entering a place;
- (d) preventing people, animals, plants, vehicles, and other things from leaving a place;
- (e) taking necessary equipment onto a place to assist them in carrying out their duties;
- (f) directing the movement of people, animals, vehicles and other things;
- (g) shutting off a supply of electricity, fuel, gas or other service, and taking and using electricity, fuel, gas or water;
- (h) maintaining, restoring, or preventing damage to essential services;
- (i) shutting down or dismantling any equipment or motor;
- (j) removing, demolishing or damaging any building or thing;
- (k) placing property under the control, or at the disposal of an authorised officer;
- (l) decontaminating people and property;

- (m) erecting barriers and closing roads; and
- (n) requiring a person to give the authorised officer reasonable help to exercise the authorised officer's emergency powers.

PART V - OFFENCE PROVISIONS

38 Obstruction of authorised officer

Any person who, without lawful excuse, obstructs an authorised officer in the exercise of a power under this Act, commits an offence and shall be liable upon conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years, or both.

39 Failure to comply with direction

Any person who, without lawful excuse, fails to comply with a direction under this Act, or required by an authorised officer to give assistance, commits an offence and shall be liable upon conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years, or both.

40 Impersonation of authorised officer

Any person who knowingly impersonates an authorised officer, commits an offence and shall be liable upon conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years, or both.

PART VI - MISCELLANEOUS

41 Disclosure of information

Nothing in this Act authorises or requires the disclosure of information which may compromise the safety or security of the Kingdom or its people.

42 Immunity of person exercising powers

No legal proceeding or claim shall lie against any person for any act done in good faith and without gross negligence in the exercise of any power or performance of any duty conferred upon him by or under this Act.

43 Regulation-making power

The Minister may, with the consent of Cabinet make regulations generally for carrying into effect the provisions of this Act.

Passed by the Legislative Assembly this 28th day of August 2007.