

REPRINT

NATIONAL DISASTER COUNCIL ACT (CAP. 148)

As in force at: 1 October 2009

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For list of amendments see Endnotes

AN ACT TO ESTABLISH A NATIONAL DISASTER COUNCIL IN SOLOMON ISLANDS AND CONFER CERTAIN POWERS UPON SUCH COUNCIL TO DEAL WITH NATURAL DISASTERS

NATIONAL DISASTER COUNCIL ACT (CAP. 148)

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NATIONAL DISASTER COUNCIL ACT (Cap. 148)

As in force at: 1 October 2009

1 Short title

This Act may be cited as the *National Disaster Council Act*.

2 Interpretation

In this Act, unless the context otherwise requires:

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

“Chairman” means the Chairman of the National Disaster Council and includes any person for the time being performing the functions of the Chairman;

“Committee” means one or any of the Provincial Disaster Committees referred to in section 9 (1);

“Council” means the National Disaster Council established under section 3;

“disaster” means the actual or imminent occurrence of any event which endangers or threatens to endanger the safety or health of any community, or persons, or which destroys, damages, threatens to destroy or damage, any property or endanger or to cause loss of life in consequence of:

- (a) a cyclone,
- (b) a flood,
- (c) an earthquake,
- (d) a landslide,
- (e) a volcanic eruption,
- (f) a tsunami (seismic wave),

(g) a drought, or

(h) any other natural or man-made event,

but does not include civil disorder, industrial disputes or state of war;

“Government Agency” mean:

(a) any body constituted by or under any Act of Parliament for a public purpose;

(b) any member or officer of such a body; or

(c) any person in the service of the Government of Solomon Islands;

“management office” mean the National Disaster management office established by the Minister under section 7;

“Minister” means the Minister who for the time being is charged with responsibility for matters relating to disaster;

“national disaster plan” mean the plan approved by the Government as the national disaster plan for the time being;

“non-government agency” mean:

(a) any voluntary organisation; or

(b) any other person, other than a government agency;

“preparedness” means the identification of hazards, assessment of threats and other preparatory measures taken in advance, which are necessary or deemed to be necessary to deal with counter disaster measures;

“Provincial Government” has the meaning assigned to it by section 3 of the *Provincial Government Act*;

“provincial disaster plans” mean the provincial disaster plans referred to in section 11;

“recovery” means the process by which a community is helped to

return to its normal level of functioning after a disaster;

“response” means the operations undertaken to combat a disaster and to provide for immediate relief to people affected by the disaster;

“state of disaster” mean the existence of a state in Solomon Islands or any part thereof which requires an order to be made by the Minister under section 12.

3 Establishment of Council

- (1) There shall be established for the purposes of this Act, a body to be known as the National Disaster Council (hereinafter referred to as “the Council”) which shall be a body corporate to which the provisions for Part VII of the *Interpretation and General Provisions Act* shall apply.
- (2) The provisions of the First Schedule shall have effect with respect to the constitution of the Council and otherwise in relation thereto.

4 Powers of the Minister

The Minister may after consultation with the Chairman, give the Council such directions of a general character as to the policy to be followed by the Council in the performance of its functions as appear to the Minister to be necessary, and the Council shall give effect thereto.

5 Functions of the Council

The functions of the Council shall be:

- (a) to provide and render advice to the Minister on all matters relating to disaster;
- (b) to approve and co-ordinate all activities necessary in regard to preparedness, response, and recovery;
- (c) to assume full and complete control in operations connected with disaster; and
- (d) to provide and render financial assistance to Committees.

6 Council may establish advisory Committees, groups, etc.

- (1) The Council may where it is of the opinion that it requires assistance in respect of any technical matter, appoint such advisory Committees as it considers necessary.
- (2) Where the occurrence of a disaster appears to be imminent or where a disaster occurs, the Council may establish such control groups as it deems necessary for the purpose of assisting it in disaster operations.

7 Minister to establish National Disaster Management Office

The Minister shall cause to be established in the Ministry charged with responsibility for national disaster a National Disaster Management Office.

8 Functions of the office

The functions of the management office shall be:

- (a) to be responsible to the Council in the administration of this Act, the national disaster plan and other plans which relate to national disaster;
- (b) to ensure that the national disaster plan and other plans referred to in paragraph (a) are periodically reviewed and updated;
- (c) to keep and maintain proper accounts and such registers as the Council directs;
- (d) to prepare the annual reports and other reports or bulletins as the Council may direct;
- (e) to ensure that the provinces are in a state of preparedness to execute the provincial disaster plans, if the need to do so arises; and
- (f) to perform any other functions that may be assigned to it by the Council.

9 Provincial Disaster Committees

- (1) The Council shall establish Provincial Disaster Committees in each province for the purpose of assisting it in administering this Act at provincial level.
- (2) The provisions of the Second Schedule shall have effect as to the constitution of the Committees and otherwise in relation thereto.
- (3) The Committees shall adhere to such directions it may receive from the Council and be responsible for the administration of the provincial disaster plan.

10 National disaster plan

For the purpose of this Act, there shall be a national disaster plan approved by Cabinet which shall as far as practicable:

- (a) set out what action is to be taken to deal with disaster;
- (b) cover the whole of Solomon Islands including its territorial waters;
- (c) include provisions in regard to preparedness, response and recovery from disaster; and
- (d) include such other instructions as the Cabinet deems necessary in order to meet national disasters.

11 Provincial disaster plans

The Council shall ensure that there is in respect of each province an approved provincial disaster plan.

12 Order by Minister

- (1) The Minister may at any time on the advice of the Council consider the conditions in Solomon Islands or in any area and if satisfied that a state of disaster exists, by Order declare the whole of Solomon Islands, or any part thereof, as the case may be, to be in a state of disaster.
- (2) Any Order made under subsection (1) may at any time be varied,

altered, amended or revoked by the Minister on the advice of the Council.

- (3) The Council shall before advising the Minister to revoke an Order made under subsection (1), satisfy itself that the circumstances which occasioned the making of the Order no longer exists.
- (4) Every Order made under this section shall:
 - (a) be broadcast over the radio so as to bring it to the notice of the general public; and
 - (b) as soon as practicable be published in the *Gazette*.

13 Council to assume control in time of emergencies

- (1) Notwithstanding the provisions of any other law, where an Order under section 12 is made, the Council shall assume full and complete control of Solomon Islands as a whole, or in any part thereof, as the case may be, and take whatever safety measures it considers expedient in the public interest and for the protection of life and property.
- (2) Upon the making of a declaration under section 12, the provisions of subsection (1) shall come into force and shall unless otherwise revoked or varied under subsection (2) of section 12 remain in force until such time as complete recovery is made.
- (3) During the continuance in force of an Order made under section 12, the Council may in the execution of its disaster operations disregard any government administrative procedure or public service rules to such extent as would be justifiable in the circumstances.
- (4) Any person who disregards or fails to comply with any order given or instructions issued by the Council pursuant to subsection (3) shall be guilty of an offence and liable to a fine of five hundred penalty units or to imprisonment for a period of three months.
- (5) Nothing in this section shall be construed as authorising the Council to act in defiance of or disregard directions issued by the Commissioner of Police.

14 Power of requisition

- (1) During the continuance of an Order made under section 12, the Council may where the circumstances of the situation reasonably justify, and in the public interest requisition or take possession of any private vehicle, vessel or other property for the purpose of dealing with the disaster situation.
- (2) Where any private vehicle, vessel or other property is to be requisitioned or taken possession of under subsection (1), the Council shall as far as practicable, furnish the owner thereof with notice in writing specifying in sufficient detail the grounds upon which such property is to be requisitioned or taken possession of.
- (3) Where any vehicle, vessel or other property is requisitioned or taken possession of pursuant to subsection (1), the owner or any person who has an interest in or right over such vehicle, vessel or other property shall be paid reasonable compensation within a reasonable period of time having due regard to all the relevant circumstances.
- (4) In this section “**private vehicle, vessel or other property**” includes vehicles, vessels or property owned by statutory authorities.

15 Chairman may issue directives in emergencies

- (1) Nothing contained in this Act shall be construed as preventing the Chairman from issuing directives or taking any action without the approval of the Council, in circumstances where such immediate emergency measures are necessary for the safe-guarding of life and property or in the public interest.
- (2) Any directives issued or action taken by the Chairman pursuant to subsection (1), shall as soon as practicable be brought to the notice of the Council by the Chairman.
- (3) Any directives issued or action taken by the Chairman pursuant to subsection (1) may be ratified, varied or withdrawn by the Council in such manner as it deems fit.

16 Expenses incurred during emergency operation

Any expenses incurred by any Ministry or government agency in

consequence of any directives made in emergency operations, shall be recovered from Parliament.

17 National Disaster Council Fund

- (1) For the purpose of this Act, there shall be established a fund called (the National Disaster Council Fund) which shall be a Special Fund established under section 100(2) of the *Constitution*.
- (2) The funds of the Council shall comprise of:
 - (a) all moneys placed at the Council's disposition for the purposes of this Act by Parliament;
 - (b) all moneys collected by way of donations, grants or contributions;
 - (c) all moneys received by the Council from the sale or disposal of any property vested in or under its control; and
 - (d) all other moneys and other property which may in any manner become payable to, or vested in the Council in respect of any matter incidental to its functions.

18 Investment of funds

All moneys of the Council not required for immediate use shall be invested in securities authorised under the provisions of any Act relating to trustees for the time being in force.

19 Accounts

The Council shall keep proper accounts and other records in respect of its operations and shall cause to be prepared a statement of accounts in respect of each financial year.

20 Audit

The accounts of the Council shall be audited annually by the Auditor-General or by such other persons on such terms and conditions as the Auditor-General may impose.

21 Accounts to be laid before Parliament

- (1) As soon as practicable after the end of each financial year, the Council shall transmit to the Minister:
 - (a) a copy of its statement of accounts for such year;
 - (b) a copy of the report made thereon by the Auditor-General or such other person as may be appointed under the provisions of section 20; and
 - (c) a report on the activities of the Council during such year.
- (2) The Minister shall cause copies of the accounts and reports of the Council to be laid before Parliament.

22 Offences

- (1) It shall be an offence for any person:
 - (a) to obstruct or attempt to obstruct any officer in the execution of his duties under this Act;
 - (b) to refuse to co-operate with any officer in a state of emergency;
 - (c) to refuse to give reasonable assistance to any person seriously affected by disaster; or
 - (d) to give false information or refuse to give information in respect of a disaster to any officer.
- (2) Any person who commits an offence under this section shall be liable on conviction to a fine of one thousand penalty units or to imprisonment for a period of six months.
- (3) In this section “**officer**” includes any person acting on behalf of the Council.

23 Immunity from liability

No person engaged in any activity pursuant to directives issued under this Act shall be personally liable for any act or default done or omitted in good faith in the course of the performance of his duties.

24 Regulations

- (1) The Minister may make regulations generally for the proper carrying out of the provisions and purposes of this Act; and in particular, but without prejudice to the generality of the foregoing, may make regulations:
 - (a) authorising the requisitioning or taking possession of any vehicle, vessel or other property;
 - (b) providing guidelines or the procedure for payment of compensation to persons affected by the deprivation of property;
 - (c) empowering the Council to make orders and issue directives for any of the purposes for which such regulations may be made; and
 - (d) containing such other incidental and supplementary provisions as appear to the Minister to be necessary or desirable for the purposes of such regulations.
- (2) Regulations made under subsection (1) may be made to apply to Solomon Islands as a whole or any part thereof.
- (3) Any regulation made under this section or any rule or order made thereunder shall have effect notwithstanding anything inconsistent therewith in any Act or law, and, to the extent of the inconsistency, such Act or law shall have no effect so long as the regulation, rule or order remains in force.

FIRST SCHEDULE

(Section 3)

1. The Council shall consist of:

Permanent Secretary of the Ministry charged with responsibility for matters relating to disaster

Commissioner of Police

Secretary to Cabinet

Permanent Secretary, Ministry of Foreign Affairs and Trade Relations

Permanent Secretary, Ministry of Transport, Works and Public Utilities

Permanent Secretary, Ministry of Finance and Economic Planning

Permanent Secretary, Ministry of Posts and Communications

Permanent Secretary, Ministry of Health and Medical Services

Permanent Secretary, Ministry of Home Affairs

Permanent Secretary, Ministry of Provincial Government.

The following Permanent Secretaries shall be co-opted members:

- (a) Public Service
- (b) Immigration
- (c) Labour
- (d) Trade
- (e) Commerce
- (f) Industry
- (g) Education
- (h) Training
- (i) Police
- (j) Justice
- (k) Natural Resources

(l) Economic Planning

(m) Agriculture

(n) Lands

Under Secretaries of the Ministries which cover:

(o) Health and Medical Services

(p) Transport

(q) Works

(r) Utilities

Other officials or representatives of the:

(s) Chief Information Officer

(t) Chief Marine Officer

(u) Chief Geologist

(v) Director, Solomon Islands Meteorological Service

(w) Chairman, Solomon Islands Chamber of Commerce

(x) Manager, Solomon Islands Electricity Authority

(y) Manager, Solomon Islands Broadcasting Corporation

(z) Manager, Solomon Islands Ports Authority

(aa) Secretary, Solomon Islands Red Cross

(bb) Clerk to the Honiara Town Council

(cc) Secretary, Solomon Islands Christian Association

(dd) Provincial Secretaries as Chairmen of Provincial Disaster Committees.

2. The Permanent Secretary of the Ministry charged with responsibility for matters relating to disaster shall be Chairman of the Council.
3. The Council may regulate its own proceedings.
4. Minutes in proper form of each meeting shall be kept.
- 5.
- (1) The Council may appoint such Committees as it may think fit and may delegate to any such Committee the power and authority to carry out on its behalf such duties as the Council may determine.
- (2) The constitution of each Committee shall be determined by the Council.
6. There shall be paid from the funds of the Council to the Chairman and other members of the Council such remuneration whether by way of honorarium, salary or fees and such allowances as the Minister may determine.
7. The office of Chairman and member of the Council shall not be a public office for the purpose of Chapter XIII of the *Constitution*.

SECOND SCHEDULE

(Section 9)

1. Provincial Disaster Committees shall as far as practicable comprise of:

The Provincial Secretary as Chairman; and representatives of the:

Police

Health and Medical Services

Transport, Works and Utilities

Communications

Marine

Churches and community leaders.

2. Each Committee shall regulate its own procedure.
3. The Committee shall at all times carry out its functions in accordance with directives issued by the Council.
4. The office of Chairman or member of the Committee shall not be a public office for the purposes of Chapter XIII of the *Constitution*.

ENDNOTES

1 KEY

amd = amended	Pt = Part
Ch = Chapter	rem = remainder
Div = Division	renum = renumbered
exp = expires/expired	rep = repealed
GN = Gazette Notice	Sch = Schedule
hdg = heading	Sdiv = Subdivision
ins = inserted	SIG = Solomon Islands Gazette
It = long title	st = short title
LN = Legal Notice	sub = substituted
nc = not commenced	

NOTE

This Reprint comprises the Act and amendments as in force on 1 March 1996 and published as Chapter 148 of the Revised Edition of the Laws of Solomon Islands, together with amendments made to the Act from that date to 1 October 2009.

2 LIST OF LEGISLATION

National Disaster Council Act (Cap. 148)

Constituent legislation: 18 of 1989 (Commenced 30 April 1990)

Penalties Miscellaneous Amendments Act 2009 (No. 14 of 2009)

Assent date	29 July 2009
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3 LIST OF AMENDMENTS

s 13	amd by Act No. 14 of 2009
s 22	amd by Act No. 14 of 2009