



ST. CHRISTOPHER AND NEVIS

CHAPTER 19.06

NATIONAL DISASTER MANAGEMENT ACT

Revised Edition

showing the law as at 31 December 2002

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NATIONAL DISASTER MANAGEMENT ACT

Act 5 of 1998 ... in force 1st June 1999

Page

3

CHAPTER 19.06
NATIONAL DISASTER MANAGEMENT ACT

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

1. Short title
2. Interpretation

PART II

AGENCY FOR DISASTER PREPAREDNESS AND RESPONSE

3. Establishment of Agency
4. Constitution of the Agency
5. Functions of the Agency
6. Ministerial directions to the Agency
7. Powers of the Agency

PART III

ADMINISTRATION

8. Administrator of the Agency
9. Other staff of the Agency

PART IV

NATIONAL DISASTER MANAGEMENT COUNCIL

10. National Disaster Management Council etc.
11. The Disaster Management Policy Review
12. The National Disaster Management Plan

PART V

DISASTER MANAGEMENT CENTRES AND SHELTERS

13. Emergency Operations Centres
14. Shelters

PART VI

OBLIGATIONS OF PUBLIC OFFICERS

15. Liaison officers
16. Annual report to Agency
17. Agency to be consulted
18. Environmental impact assessments

PART VII

SPECIALLY VULNERABLE AREAS

19. Delimitation of specially vulnerable areas
20. Preparation of draft special area precautionary plans
21. Draft special area precautionary plan
22. Public enquiry on draft special area precautionary plan
23. Revision of draft special area precautionary plan
24. Approval or referring back of draft special area precautionary plan
25. Approved special area precautionary plan
26. Authorities to have regard to special area precautionary plan
27. Amendment of Delimitation Order
28. Amendment of special area precautionary plan
29. Regulations for implementing precautionary plans
30. Judicial review of precautionary plan

PART VIII

THREATENED DISASTER ALERTS

31. Threatened disaster alerts

PART IX

APPLICATION OF TREATIES

32. Application of treaties in time of disaster emergency

PART X

FINANCIAL PROVISIONS

33. Funds of the Agency
34. Reserve Fund
35. Keeping of Accounts of the Agency etc.
36. Agency to prepare and submit report to the Prime Minister
37. Examination of accounts of the Agency

PART XI

MISCELLANEOUS

38. Disaster hazard inspections
 39. Regulations
 40. Assaulting or obstructing a hazard inspector
 41. Penalties
 42. Act binds the Crown
- FIRST SCHEDULE: Meetings and Other Matters of the Board
SECOND SCHEDULE: Public Inquiry Procedure

CHAPTER 19.06

NATIONAL DISASTER MANAGEMENT ACT

AN ACT TO PROVIDE FOR THE EFFECTIVE MANAGEMENT AND CONTROL OF DISASTERS,
AND TO PROVIDE FOR RELATED OR INCIDENTAL MATTERS.

PART I

PRELIMINARY

Short title.

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

Interpretation.

2. In this Act, unless the context otherwise requires—

“Agency” means the Agency for Disaster Management established under section 3 of this Act;

“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 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;

“disaster management” includes all aspects of preparedness, prevention, mitigation, planning, control, response and recovery as they relate to natural and technological disasters;

“Disaster Management Centres” means the Disaster Management Centres referred to in paragraph (e) of subsection (2) section 13 of this Act;

“hazard inspector” means a hazard inspector referred to under subsection 3 of section 9 of this Act;

“listed premises” means premises listed in the shelters list;

“National Disaster Advisory Committee” means the Committee established by subsection (2) of section 10 of this Act;

“National Disaster Management Council” means the Council established under subsection (1) of section 10 of this Act;

“Policy Review” means the National Disaster Management Policy Review referred to in subsection (1) of section 7 of this Act;

“shelter manager” means the shelter manager referred to in subsection (3) of section 9 of this Act;

“shelter officer” means the shelter officer referred to in subsection (3) of section 9 of this Act;

“shelters list” means the list of premises referred to in subsection (1) of section 14 of this Act;

“special area precautionary plan” means a special area precautionary plan referred to in section 20 of this Act;

“State of emergency” as it relates to disasters shall have the meaning assigned to it by paragraph (b) of subsection (2) of section 19 of the Constitution;

“Statutory Board” means a Board, committee or other group which is, under any statute, responsible for the direction, governing or control of any entity other than a Ministry or Department of Government, and a majority of the membership of which Board, committee or other group would under any Act be constituted by persons to be appointed to that Board, committee or other group by a Minister or public officer and by Ministers and public officers who are *ex officio* members of that Board committee or other group;

“Statutory body” means an entity established under an Act and which is directed or governed by either a public officer or an officer appointed by a Minister or public officer of a statutory board.

PART II

AGENCY FOR DISASTER PREPAREDNESS AND RESPONSE

Establishment of Agency.

3. (1) There is established an Agency for Disaster Management to be known as the National Disaster Management Agency.

(2) The Agency shall be a body corporate with perpetual succession and a common seal, and may sue or be sued in its corporate name, and may acquire, hold and dispose of any property.

Constitution of the Agency.

4. (1) The Agency shall be constituted by a Board of Directors consisting of the Director-General, the Disaster Manager for the Island of Nevis, two members from Nevis nominated by the Premier of the Nevis Island Administration and such other persons not exceeding nine, all of whom shall be appointed by the Prime Minister upon such terms and conditions as he or she may determine.

(2) The provisions of the First Schedule to this Act shall apply to meetings and other matters of the Board.

(3) The Prime Minister may at any time direct, by notice in writing, that any member of the Board ceases to hold office, and any member of the Board may at any time by notice in writing to the Prime Minister resign his or her office; but, save as aforesaid and subject to the provisions of subsection (4), every member of the Board shall hold office for such period, not exceeding three years, as may be fixed at the time of his or her appointment, and shall, on ceasing to be a member, be eligible for re-appointment.

(4) If any member of the Board dies or ceases to hold office before the expiration of the term for which he or she was appointed, the term of office of his or her successor shall be so fixed as to expire at the end of the first-mentioned term, but the Prime Minister may, if he or she thinks fit, defer the making of an appointment until the expiration of the said first-mentioned term.

(5) The Minister responsible for National Disaster shall be the President of the Agency, and the Agency shall keep him or her properly informed on all the activities of the Agency.

Functions of the Agency.

5. (1) The Agency shall, subject to the provisions of section 6 of this Act, be responsible for co-ordinating the general policy of Government relating to the management, control, mitigation of, preparedness for, response to, and recovery from disasters and in carrying out those functions the Agency shall be answerable and responsible to the Prime Minister.

(2) The Agency shall, for the purposes of subsection (1) of this section and in addition to any other functions conferred on the Agency under this Act or any other law—

- (a) review and appraise the various programmes and activities of the Government in light of the provisions of this Act and determine the extent to which the programmes and activities are contributing to the achievement of the provisions of this Act, and make recommendations to the Prime Minister with respect thereto;
- (b) develop and recommend to the Prime Minister national policies that are to foster and promote the mitigation of, preparedness for, response to, and recovery from disasters and emergencies;
- (c) gather timely and authoritative information concerning the conditions in the quality of the environment, both current and prospective, as long as such conditions and trends relate to the likelihood of disasters;
- (d) analyse and interpret information gathered under the preceding paragraph and determine whether such conditions and trends may interfere with the achievement of the provisions of this Act;
- (e) conduct investigations, studies, surveys, research and analyses relating to ecological systems and environmental quality and document and define changes in the natural environment that relate to the likelihood of disasters;
- (f) prepare and review disaster risk assessment maps;
- (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 and organisations within and without Saint Christopher and Nevis for the purpose of exchanging information and facilitating the harmonisation of the policies of such persons and organisations with those of the Government relating to the prevention and mitigation of, preparedness for, response to, and recovery from, disasters and emergencies;
- (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, disasters and emergencies;
- (j) be consulted on any national development projects before such projects are approved.

Ministerial directions to the Agency.

6. The Agency 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 Agency under this Act as the Prime Minister or the President

of the Agency may give on any matter that affects the public interest, and the Agency shall give effect to the directions.

Powers of the Agency.

7. (1) For the purposes of discharging its functions under this Act or any other legislation, the Agency shall have power to do all such things as are in its opinion necessary for or conducive to the proper discharge of its functions, and without prejudice to the generality of the foregoing—

- (a) the Agency may carry on such business and things as arise out of its activities, or are necessary or expedient for the purpose of turning to account any property or rights of the Agency;
- (b) the Agency may, with the approval of the Prime Minister or the President of the Agency appoint or arrange for the assistance of advisory committees to give advice to the Board, the Agency's agents, or employees on such matters as the Agency may determine;
- (c) the Agency shall, except so far as the Agency is satisfied that adequate machinery exists for achieving the purposes of this Act, seek consultation with any organisation that appears to it to be appropriate with a view to concluding between itself and the organisation such agreements as appear to be desirable with respect to the establishment and maintenance for—
 - (i) the settlement of terms and conditions of employment of persons employed by the Agency with provision for reference to arbitration in default of the settlement of such cases as may be determined under the agreements, and
 - (ii) the promotion and encouragement of measures affecting the safety, health and welfare of persons employed by the Agency.

(2) The Agency shall send to the Prime Minister copies of the agreements referred to in sub-paragraph (ii) of paragraph (c) of subsection (1) of this section and copies of instruments varying the terms of any agreement.

PART III

ADMINISTRATION

Administrator of the Agency.

8. (1) There shall be appointed an Administrator of the Agency, who shall be responsible for the day to day management of the affairs of the Agency, and for such other duties as the Board may, from time to time, assign to him or her.

(2) The Board shall, acting on the advice of the Prime Minister, appoint the Administrator, upon such terms and conditions as the Board may determine.

(3) The Administrator shall be the secretary to the Board, and shall be responsible to the Chairperson.

Other staff of the Agency.

9. (1) The Board may appoint such other officers and employees as may be necessary to enable the Agency to discharge its functions.

(2) The officers and employees appointed under subsection (1) of this section shall be appointed upon such terms and conditions as the Board may determine.

(3) Without prejudice to the generality of subsection (1) of this section, the Board shall, for the purposes of this Act, appoint such number of shelter managers, shelter officers and hazard inspectors as are necessary to enable the Agency to discharge its functions under this Act.

(4) Subject to this section, the Governor-General may approve the appointment of any officer in the service of the Government to any office of the Agency upon such conditions as he or she may impose.

(5) A person appointed under subsection (4) of this section shall, in relation to any pension, gratuity or terminal benefits, be treated in accordance with the provisions of subsection (6) of this section.

(6) For the purposes of subsection (5) of this section, any pension, gratuity or terminal benefits payable to an officer referred to in that subsection shall be computed on the basis of the salary scale of the officer immediately prior to his or her retirement or termination of his or her services, except that the Government shall only pay what the officer would have been entitled to if he or she had continued in Government Service and the balance shall be payable by the Agency.

PART IV

NATIONAL DISASTER MANAGEMENT COUNCIL

National Disaster Management Council etc.,

10. (1) There is established a National Disaster Management Council comprising of the following—

- (a) the Prime Minister, who shall be the chairperson;
- (b) three other Members of the Cabinet;
- (c) the Premier of the Island of Nevis;
- (d) the Cabinet Secretary;
- (e) the Director-General of the Agency, who shall be Secretary to the Council.

(2) There shall be a National Disaster Advisory Committee responsible for advising the Council and tendering recommendations to the Council, and the members of the Committee shall be appointed by the Prime Minister on the recommendation of the Board, except that the Prime Minister shall, in appointing the members, include on the Committee the Disaster Co-ordinator of the National Red Cross Society.

(3) The Chairperson or alternate Chairperson and any four other members of the National Disaster Advisory Committee shall constitute a quorum for meetings of the Committee.

(4) The Chairperson of the Agency shall be the Secretary to the National Disaster Advisory Committee.

(5) The members of the National Disaster Advisory Committee or of any Committee established under subsection (6) of this section shall receive such attendance fees and travel or other allowances as the Prime Minister may determine.

(6) The Prime Minister may, by Regulations, prescribe Rules of Procedure for the National Disaster Advisory Committee, but the Committee may, subject to such prescribed rules and this Act, determine its own procedure.

(7) The Agency shall, in consultation with the National Disaster Advisory Committee, establish other committees and sub-committees charged with particular responsibilities, whether defined by geographical area or otherwise, in relation to response to a state of emergency and disasters in St. Kitts and Nevis.

The Disaster Management Policy Review.

11. (1) The Agency shall annually prepare, for the approval of the Prime Minister, a National Disaster Management Policy Review relating to the management, control, mitigation of, preparedness for, response to, and recovery from, disasters in Saint Christopher and Nevis.

(2) The Agency shall consult the National Disaster Advisory Committee when preparing the Policy Review.

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

The National Disaster Management Plan.

12. (1) The Agency shall annually prepare, for the approval of the Prime Minister, a National Disaster Management Plan, comprising of the statement of the contingency arrangements under the co-ordination of the Agency for responding to the threat or event, and aftermath of a disaster in Saint. Christopher and Nevis whether or not the threat or the disaster is such as to prompt the declaration of a state of emergency.

(2) The Agency shall include in the National Disaster Management Plan the following information—

- (a) procedures relating to disaster preparedness and response of public officers, Ministries and Departments of Government, statutory bodies, and persons or organisations who or which volunteer or are required by law to perform functions related to the management, control, mitigation of, preparedness for, response to, and recovery from, disasters and emergencies;
- (b) procedures for co-ordinating the national disaster response plan and its implementation with the preparation and implementation of disaster response plans of persons and bodies referred to in the preceding paragraph;
- (c) procedures for informing persons referred to in paragraph (a) of this subsection and the public in St. Kitts and Nevis and elsewhere of the existence of a threatened disaster alert as defined under section 31 of this Act or the existence of a state of emergency;
- (d) procedures for preparing and maintaining inventories of services, systems and supplies for the mitigation of, preparedness for, response to, and recovery from, disasters and emergencies during a threatened disaster alert referred to under section 31 or the existence of a state of emergency;
- (e) procedures for mobilising services and systems for the mitigation of, preparedness for, response to, and recovery from, disasters and emergencies during a threatened disaster alert referred to under section

31 or the existence of a state of emergency, including procedures for the manning of Disaster Management Centres and for the protection of the family and property of persons required to be in charge of such centres or required otherwise to perform other duties relating to the protection of the public;

- (f) procedures for the protection and restoration of communications, both nationally and internationally, during a threatened disaster alert referred to under section 31, or the event, or the aftermath of a state of emergency;
- (g) procedures for informing persons referred to under paragraph (a) of subsection (2) of section 9 and the public in Saint. Christopher and Nevis and elsewhere of the state of affairs during a threatened disaster alert referred to under section 31 or the event, or the aftermath of a state of emergency;
- (h) procedures for the release, distribution and replenishment of emergency stores of food, water, clothing and medical supplies during a threatened disaster alert referred to under section 31 or the event, or the aftermath of a state of emergency;
- (i) procedures for safeguarding against fire and epidemics during a threatened disaster alert referred to under section 31, or the event, or the aftermath of a state of emergency;
- (j) procedures for the provision of shelter to persons during a threatened disaster alert referred to under section 31 or the event, or the aftermath of a state of emergency;
- (k) procedures for co-operation with international organisations and governments of countries outside Saint. Christopher and Nevis during a threatened disaster alert referred to under section 31, or the event, or the aftermath of a state of emergency;
- (l) procedures for accepting and facilitating the distribution of volunteer services and relief supplies during a threatened disaster alert referred to under section 31, or the event, or the aftermath of a state of emergency;
- (m) procedures which are to apply in the event that the evacuation of all the residents of any area is considered desirable in the event of a state of emergency;
- (n) procedures which are to apply in the event that the requisitioning of private property is considered desirable in the event of a state of 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 in the aftermath of a state of emergency.

(3) The Agency shall consult the National Disaster Advisory Committee when preparing the National Disaster Management Plan.

PART V

DISASTER MANAGEMENT CENTRES AND SHELTERS

Emergency Operations Centres.

13. The Agency shall be responsible for the establishment and maintenance of a National Disaster Management Centre that is to function as the headquarters of the activities undertaken in response to a disaster or state of emergency, and may establish and maintain supplementary Disaster Management Centres or facilitate the establishment and maintenance of such supplementary Disaster Management Centres whether distributed according to geographical location or otherwise, by persons or bodies referred to in paragraph (a) of subsection (2) of section 12.

Shelters.

14. (1) The Agency shall establish and maintain a list of premises available for and suitable for use as shelters during a threatened disaster alert referred to under section 31, or the event, or the aftermath of a state of emergency.

(2) The Agency shall, in the Shelters List—

- (a) distinguish between listed premises in Crown or Agency occupation 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 referred to under section 31 or the event, or the aftermath of a state of emergency; and
- (d) indicate the periods for which the listed premises would be suitable for use in the instances referred to in paragraph (c) of this subsection.

(3) The Agency shall, subject to subsection (4) of this section, 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 in Crown or Agency occupation, the designation of shelter managers or shelter officers for those premises shall be subject to the agreement of the occupier of the premises.

(5) The Minister may make By-laws regulating the use of any listed premises by persons taking shelter in the premises, to apply during the period when the premises are in use as shelters.

(6) By-laws made under subsection (5) of this section relating to listed premises which are not in Crown or Agency occupation may be made on the recommendation of the occupiers of the premises.

(7) By-laws made under subsection (5) of this section may confer enforcement powers on shelter managers and shelter officers for the purpose of keeping order in shelters.

(8) Section 42 shall apply to offences created under By-laws made under subsection (5) of this section in the manner that that section applies to Regulations made under this Act.

(9) 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 referred to under subsection (2) of this section.

(10) The provisions of subsection (9) of this section are, 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 VI

OBLIGATIONS OF PUBLIC OFFICERS

Liaison officers.

15. Each Permanent Secretary, Head of Government Department, Chief Executive Officers of Crown Corporations and of Statutory Bodies shall ensure that there is at all times a public officer of his or her Ministry or Department designated as the liaison officer for communication with the Agency in relation to the procedures of the Ministry or Department referred to under paragraph (a) of subsection (2) of section 12.

Annual report to Agency.

16. Each Permanent Secretary, Head of Government Department, Chief Executive Officers of Crown Corporations and of Statutory Bodies shall, annually, supply to the Agency in such form and by such date as may be required by the Prime Minister such information as may be requested by the Agency for the purposes of paragraph (a) of subsection (2) of section 5 and subsection (2) of section 12.

Agency to be consulted.

17. (1) Before any person, other than the Director of Public Prosecutions, a judge or magistrate, exercises any disaster preparedness and response related powers under this or any other Act, that person shall, subject to subsections (2), (3) and (4) of this section, consult the Agency.

(2) The obligation to consult imposed under subsection (1) of this section shall not apply—

- (a) during a disaster emergency, where the person exercising the powers referred to under subsection (1) of this section 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 Agency of its right to be consulted is in effect in accordance with the provisions of subsection (3) of this section.

(3) The Agency may with the approval of the Prime Minister waive its right to be consulted, and any such waiver shall take effect when the Prime Minister, by Order, publishes the waiver in the *Official Gazette*.

(4) A waiver referred to under subsection (3) of this section may relate to the exercise of any power or category of powers or to the exercise of a power in a specific instance.

Environmental impact assessments.

18. Any power conferred 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 subsection (1) of section 17 of this Act.

PART VII

SPECIALLY VULNERABLE AREAS

Delimitation of specially vulnerable areas.

19. (1) The Prime Minister may, on the recommendation of the Agency, designate and delimit specially vulnerable areas for the purposes of mitigation of, preparedness for, response to, and recovery from, disasters and emergencies.

(2) The Agency shall prepare for the approval of the Prime Minister a draft Order delimiting any specially vulnerable area that the Agency recommends for designation under the provisions of subsection (1) of this section.

(3) Before approving the draft Delimitation Order the Prime Minister shall arrange for a public enquiry to be held in conformity with the provisions of the Second Schedule to this Act, at which enquiry the Agency shall present the draft Delimitation Order for discussion.

(4) The Prime Minister may combine a public enquiry under this section with a public enquiry under any other Act or under subsection (1) of section 22 of this Act or both.

(5) After the public enquiry has been held, the Prime Minister shall, if he or she accepts the Agency's recommendation for the designation of the area, consider what revisions ought to be made to the draft Delimitation Order and shall settle the delimitation of the specially vulnerable area by making the Order and publishing it in the *Official Gazette*.

Preparation of draft special area precautionary plans.

20. (1) The Agency may prepare for the Prime Minister's approval a draft special area precautionary plan for a specially vulnerable area referred to under subsection (1) of section 19 of this Act.

(2) The Agency shall include in a draft special area precautionary plan the following—

- (a) strategies, policies and standards for development and for maintenance of structures in the specially vulnerable area or any proposed such 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) The Agency may, in a draft special area precautionary plan, communicate strategies, policies, standards or designations by means of maps and diagrams.

Draft special area precautionary plan.

21. (1) The Agency shall, by notice in the *Official Gazette* and at least one newspaper published in Saint. Christopher and Nevis, invite submissions from the public relating to the contents of a draft special area precautionary plan.

(2) The Agency shall allow a period of not less than four weeks and not more than eight weeks for the receipt by it of such submissions.

(3) From the date of the invitation of submissions from the public in accordance with the provisions of subsection (1) of this section, the Agency 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 precautionary plan.

22. (1) When the draft special area precautionary plan is presented to the Prime Minister for approval, the Prime Minister shall, unless he or she considers that the objectives of the draft plan have already been met under the provisions of other legislation, arrange for a public enquiry to be held in conformity with the provisions of the Second Schedule to this Act, at which enquiry the Agency shall present the draft plan for discussion and comment.

(2) The Prime Minister may combine a public enquiry under this section with a public enquiry under any other Act or under subsection (3) of section 19 of this Act.

Revision of draft special area precautionary plan.

23. After the public enquiry has been held, the Agency shall consider what, if any, revisions ought to be made in the draft special precautionary plan in light of the proceedings of the public enquiry, and resubmit the draft plan to the Prime Minister with such revisions, if any.

Approval or referring back of draft special area precautionary plan.

24. (1) The Prime Minister may—

- (a) approve the resubmitted draft special area precautionary plan by Order, subject to affirmative resolution;
- (b) refer the draft plan back to the Agency for such changes as the Prime Minister may require, in which event the Agency shall make the changes as required and resubmit the draft plan to the Prime Minister; or
- (c) discontinue the process if he or she considers that the objectives of the draft plan have already been met under the provisions of other law.

(2) Section 22 shall apply to a draft special area precautionary plan resubmitted to the Prime Minister under the provisions of paragraph (b) of subsection (1) of section 24 as it applies to a draft plan under section 21.

Approved special area precautionary plan.

25. (1) The draft special area precautionary plan approved under the provisions of paragraph (a) of subsection (1) of section 24 of this Act shall, when published in the *Official Gazette*, become the special area precautionary plan for the specially

vulnerable area until such special area precautionary plan is amended and approved under this Act.

(2) Nothing contained in a special area precautionary plan shall authorise any development which is not permitted under the legislation relating to land use or any other Act.

Authorities to have regard to special area precautionary plan.

26. Any person or authority exercising any function under this Act, or a function under any Act affecting the conservation and management of the resources of the specially vulnerable area shall have regard to the special area precautionary plan.

Amendment of Delimitation Order.

27. (1) The Agency may, with the approval of the Prime Minister, at any time, prepare draft proposals for amending a Delimitation Order made under the provisions of section 19 of this Act.

(2) When preparing the draft proposals referred to in subsection (1) of this section, the Agency shall comply with the provisions of section 19.

Amendment of special area precautionary plan.

28. (1) The Agency 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 areas.

(2) The amendment to the special area precautionary plan shall comply with sections 21, 22, 23 and 24, and the amended plan shall, when approved under the provisions of paragraph (a) of subsection (1) of section 24 and published in the *Official Gazette*, thereafter constitute the special area precautionary plan under subsection (1) of section 25.

Regulations for implementing precautionary plans.

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

Judicial review of precautionary plan.

30. (1) Any person aggrieved by a special area precautionary plan for a specially vulnerable area, who desires to question the validity of the precautionary plan or of any provision contained therein on the grounds that it is not within the powers of this Act or that any requirement of this Act or of any Regulations 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 *Official Gazette* under subsection (1) of section 25, make an application to the High Court under this section in accordance with any Rules of Court for the time being in force.

(2) On receipt of any application under this section, the High 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 or of any Regulations, may quash the special area precautionary plan or any provision contained therein, 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 the provisions of subsection (2) of this section, the Agency shall prepare a new draft

special area precautionary plan to which sections 21, 22, 23 and 24 shall apply as they apply to a draft plan under subsection (1) of section 20.

(4) Where a provision of the special area precautionary plan is quashed under subsection (2) of this section, 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 paragraph (a) of subsection (1) of section 24.

PART VIII

THREATENED DISASTER ALERTS

Threatened disaster alerts.

31. (1) For the purposes of this Act, a threatened disaster alert exists—

- (a) when the Governor-General, on the advice of the Prime Minister, after the Prime Minister has consulted or been advised by the Agency under subsection (2) of this section, declares by Proclamation that there is a substantial prospect that a disaster of a kind specified in the Proclamation is likely to strike within the period specified in that Proclamation;
- (b) when an agency, whether within Saint Christopher and Nevis or otherwise, certified by the Agency as a Disaster Notification Service under subsection (3) of this section, broadcasts or otherwise publishes a formal announcement warning persons that a disaster of a kind specified in the broadcast or announcement is likely to strike within the period specified in the broadcast or announcement, except that the Governor-General may, on the same advice of the Prime Minister, after the Prime Minister has consulted or been advised by the Agency under subsection (2) of this section, declares that Saint Christopher and Nevis is not in a state of threatened disaster alert.

(2) The Agency shall, on request, and at any time the Agency considers appropriate, advise the Prime Minister when there is a substantial prospect that a disaster of a kind specified by the Agency is likely to strike within the period specified by the Agency.

(3) The Agency may certify any agency, whether within or without Saint Christopher and Nevis, which the Agency 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 made under subsection (3) of this section may be general or limited to specified kinds of disaster.

(5) If the Prime Minister, under the provisions of subsection (1) of section 35 of this Act, prescribes that different periods shall apply in relation to threatened disaster alerts than those prescribed in the Proclamation, the Proclamation shall, to the extent of the inconsistency, cease to have effect under this section.

PART IX

APPLICATION OF TREATIES

Application of treaties in time of disaster emergency.

32. Where Saint. Christopher and Nevis is a party to a treaty or other international agreement which the Governor-General considers relevant to the mitigation of, preparedness for, response to, and recovery from, emergencies and disaster in Saint. Christopher and Nevis the Governor-General may, during any disaster emergency or at any other time, proclaim that treaty or any part thereof to be part of the law of Saint. Christopher and Nevis for the duration of any disaster emergency or any particular case or class of case of such disaster emergency, and the provisions of that treaty or part thereof, as the case may be, shall for the duration of that disaster emergency have effect as if enacted under this Act.

PART X

FINANCIAL PROVISIONS

Funds of the Agency.

- 33.** (1) The funds of the Agency shall consist of—
- (a) moneys appropriated by Parliament;
 - (b) grants from external Governments;
 - (c) donations.

(2) For the purpose of enabling the Agency to defray expenses and expenditure properly chargeable to capital account and of providing the Agency with working capital, the Prime Minister may, within five years from the date of the coming into force of this Act, make advances to the Agency in such amounts as he or she may determine.

Reserve Fund.

- 34.** (1) The Agency shall establish and maintain a reserve fund.
- (2) The management of the fund, the sums to be carried from time to time to its credit and the application thereof shall be as the Board may determine except that—
- (a) no part of the funds shall be applied otherwise than for the purposes of the Agency;
 - (b) the Prime Minister may give to the Board such directions as he or she thinks fit as to any matter relating to the establishment or management of the fund, the carrying of sums to its credit, or the application thereof, and the Board shall comply with the directions.

Keeping of Accounts of the Agency etc.

35. (1) The Board shall keep proper accounts and proper records in relation to the accounts of the Agency and shall within three months after the end of each financial year prepare in respect of that financial year a statement of accounts in such form as

the Minister may direct, being a form which shall conform to the generally accepted accounting principles applicable to the Public Service.

(2) The accounts of the Agency shall, within six months after the end of each financial year, be audited by auditors appointed by the Board with the approval of the Prime Minister, except that a person shall not be qualified to be so appointed unless he or she is a member of one or more bodies of accountants approved by the Director of Audit for this purpose.

Agency to prepare and submit report to the Prime Minister.

36. (1) Within three months after the end of each financial year, the Board shall prepare a general report of its proceedings during that year, and transmit it to the Prime Minister who shall consider it and lay copies of the report before the National Assembly.

(2) The Board shall attach to the report the statement of accounts for the year and a copy of any report made by the auditor on it.

(3) The report shall also include information relating to the plans, past and present activities of the Agency, and the financial position of the Agency, as the Prime Minister may from time to time direct.

Examination of accounts of the Agency.

37. The Board shall, at all reasonable times, upon demand by the Prime Minister or by any person authorised by him or her in that behalf—

- (a) afford to him or her full liberty to examine the accounts of the Agency; and
- (b) furnish him or her with all forecasts, estimates, information and documents which he or she may require with respect to the financial transactions and engagements of the Agency.

PART XI

MISCELLANEOUS

Disaster hazard inspections.

38. (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, he or she may issue or renew an order authorising the hazard inspector to enter and inspect those premises for hazards.

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

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

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

(5) A hazard inspector who exercises a power under this section shall identify himself or herself 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 or her hazard inspector's badge, tag or other identification device issued to him or her under subsection (4) of this section, and shall explain the purpose of the inspection.

(6) An order issued 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) The 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) 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 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 or she 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 concerned.

(9) A report of a hazard inspector referred to 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 Crown is a party to such proceedings.

Regulations.

39. (1) The Prime Minister may make Regulations for the purpose of implementing the provisions of this Act.

(2) Regulations, Rules and By-laws made under this Act shall be subject to negative resolution of Parliament.

(3) During any threatened disaster alert or disaster emergency, Regulations, Rules and By-laws made under this Act may be published either—

- (a) by announcement in any television or wireless transmission media licensed under the Telecommunications Act for transmission and reception in Saint. Christopher and Nevis; or
- (b) by notice affixed to the outside of every Magistrate's court and every police station located in the area to which the regulations apply.

(4) Publication of Regulations, Rules and By-laws under subsection (3) of this section 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.

(5) Unless otherwise prescribed by Regulations published in the *Gazette*, the means of authentication of Regulations published under the provisions of subsection (3) of this section shall be—

- (a) in the case of media announcements made in accordance with the provisions of paragraph (a) of subsection (3) of this section, the voice of the Prime Minister, a Permanent Secretary, the Director or a Head of a Department of Government;
- (b) in the case of posted notices made in accordance with the provisions of paragraph (b) of subsection (3) of this section, the actual or facsimile

signature of the Prime Minister, a Permanent Secretary, the Director or a Head of a Department of Government.

Assaulting or obstructing a hazard inspector.

40. A person commits an offence if he or she assaults or obstructs a hazard inspector, a shelter manager, a shelter officer, or a member of the Police Force in the execution of his or her duties under this Act or any other law.

Penalties.

41. (1) A person who commits an offence under this Act or any Regulations made under this Act is liable, on summary conviction, to a fine not exceeding two thousand dollars or to imprisonment for a term not exceeding two years, or both.

(2) Where particular provision is made by this Act or any Regulations made under this Act for a lesser penalty than that which would apply under this section, that lesser penalty shall apply to the exclusion of the penalty which would otherwise be applicable under this section.

(3) It shall be a defence to any charge of an offence under the Regulations which, at the time of the act charged as an offence, had been published only in the manner permitted by subsection (3) of section 35 for the person charged to show that he or she did not hear an announcement or see a notice or learn from credible sources that the act charged constituted an offence.

Act binds the Crown.

42. This Act binds the Crown.

FIRST SCHEDULE

(Section 4(2))

MEETINGS AND OTHER MATTERS OF THE BOARD

Meetings.

1. (1) The Board shall meet at such times as may be necessary or expedient for the transaction of business, and the meetings shall be held at such place and time and on such days as the chairperson may determine.

(2) The chairperson may at any time call a special meeting of the Board, and shall call a special meeting within seven days where any three members of the Board requisition for such meeting.

(3) The chairperson shall call a special meeting of the Board if directed by the Minister responsible for National Disaster Management.

(4) In the absence of the chairperson from any meeting of the Board the members present shall elect one of their number to be the chairperson of that meeting.

(5) The quorum of the Board shall be five including the chairperson.

(6) Decisions of the Board shall be by simple majority, and the chairperson shall, where the votes of members are equally divided, have a casting vote in addition to the deliberative vote.

(7) Minutes of the proceedings of the Board shall be kept in such manner as the Board may determine and shall be confirmed by members at the subsequent meeting.

(8) Subject to the provisions of this paragraph the Board may regulate its own procedure.

Disclosure of interest.

2. (1) A member of the Board who is in any way directly or indirectly interested in a contract made or proposed to be made by the Board shall, as soon as possible after the relevant circumstances have come to his or her knowledge, disclose the nature of his or her interest at a meeting of the Board.

(2) Any disclosure made under sub-paragraph (1) of this paragraph shall be recorded in the minutes of the Board and the member—

- (a) shall not take part, after the disclosure, in any deliberation or decision of the Board with respect to the contract: and
- (b) shall be disregarded for the purpose of constituting a quorum of the Board for any such deliberation or decision.

Application of seal of the Agency.

3. (1) The application of the seal of the Agency shall be authenticated by the signatures of the chairperson of the Board or some other member of the Board authorised by the Board to authenticate the application of the seal thereof, and of the Secretary of the Board or some other officer of the Board authorised by the Board to act in that behalf.

(2) Any document purporting to be an instrument issued by the Board and to be sealed as aforesaid or to be signed on behalf of the Board shall be received in evidence and shall be deemed to be such an instrument without further proof unless the contrary is shown.

SECOND SCHEDULE

(Sections 20(3), 23(1))

PUBLIC INQUIRY PROCEDURE

1. Where a public inquiry is to be held under the provisions of this Act, the Prime Minister shall, by instrument in writing, appoint a person to hold the public inquiry on his or her behalf.

2. A person appointed to hold a public inquiry under this Schedule shall have the same powers as regards the regulation of the proceedings of the inquiry and the summoning and examination of witnesses and shall enjoy the same privilege of immunity from suit as a Commissioner appointed under the Commissions of Inquiry Act, Cap. 3.03 and that Act shall, *mutatis mutandis*, apply in relation to an inquiry under this Act and to any person summoned to give or giving evidence at any such inquiry.

3. The name of every person appointed to hold a public enquiry under this Act shall be published in the *Official Gazette*.

4. Notice shall be published in three issues of the *Official Gazette*, and of at least one newspaper in Saint Christopher and Nevis of the date appointed by the Prime Minister for the holding of a public inquiry under this Act, the first of such notice being not less than two weeks before the date so appointed.
 5. The Agency shall be represented at every public inquiry under this Act.
 6. The person appointed under paragraph 1 may, for the purposes of subsection (4) of section 20 and subsection (2) of section 23 of the Act, discharge the functions under this Act simultaneously with other functions relating to any public inquiry which that person may have been appointed to hold under any other Act.
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