



*Tonga*

# **DISASTER RISK MANAGEMENT ACT 2021**

**Act 11 of 2021**





# DISASTER RISK MANAGEMENT ACT 2021

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# DISASTER RISK MANAGEMENT ACT 2021

Act 11 of 2021

## AN ACT TO MAKE PROVISIONS FOR DISASTER RISK MANAGEMENT IN THE KINGDOM

I assent,

**BE IT ENACTED** by the King and Legislative Assembly of Tonga in the Legislature of the Kingdom as follows:

### PART I – PRELIMINARY

#### 1 Short Title

This Act may be cited as the Disaster Risk Management Act 2021.

#### 2 Interpretation

In this Act, unless the context otherwise requires —

“**authorised officer**” means a person designated as an authorised officer under Part XIV of this Act;

“**border control order**” for the purposes of this Act means an order issued under section 19 of this Act;

“**Chief Executive Officer**” means the Chief Executive Officer of the Ministry responsible for disaster risk management;

**“cluster”** for the purposes of this Act means an entity established under section 43;

**“cluster workplan”** means an annual workplan prepared by a cluster, outlining activities of the cluster for disaster preparedness, response and recovery;

**“cost of operations”** means the cost of all activities related to a specific emergency and organised for disaster preparedness, response and recovery;

**“critical services”** for the purposes of this Act means services that are critical during an emergency, including the provision of water, electricity, telecommunications, transportation and fuel supply;

**“Director”** for the purposes of this Act means the person appointed as the Director of the National Disaster Risk Management Office;

**“disaster”** means a serious disruption within a particular area or generally within the Kingdom caused by an event, resulting in widespread human, economic or environmental loss or impact, and exceeds the ability of the affected community or the country to respond using its own resources;

**“disaster displacement”** means a situation where a person is forced to leave his home or place of habitual residence, due to or as a result of an immediate or foreseeable event;

**“disaster management”** means arrangements for managing potential adverse effects of a disaster;

**“disaster preparedness”** means knowledge and capacities developed by the Government, non-government organisations, communities and individuals to effectively anticipate, respond to and recover from the impacts of likely, imminent or current disasters;

**“disaster risk”** means potential disaster loss including loss of life, health, property, livelihood, or services, which could occur in the Kingdom over a specified future time period;

**“disaster risk management”** for the purposes of this Act means the systematic process of minimising disaster risk and managing the impact of a disaster;

**“disaster risk management plan”** means a plan, developed by an entity, which sets out goals and objectives for reducing –

- (a) disaster risk; and
- (b) disaster impact,

together with related actions to accomplish those objectives;

**“disaster risk reduction”** for the purposes of this Act means the systematic process of minimising disaster risk;

**“emergency”** for the purposes of this Act means a serious, unexpected and often dangerous situation requiring immediate action;

**“Emergency Fund”** for the purposes of this Act means the Fund established under the Emergency Fund Act (Cap 11.08) or any subsequent legislation governing the Fund;

**“emergency operations”** means activities undertaken before, during or after an event to address or reduce –

- (a) illness, injury or loss of human life;
- (b) property loss or damage; or
- (c) environmental damage;

**“emergency powers”** refers to powers authorised under sections 16 and 17 of this Act to be exercised during a declaration of a state of emergency;

**“emergency relief”** means immediate survival assistance to the victims of a disaster;

**“evacuation”** means the act of moving people, property and assets temporarily to a safer place before, during or after an event;

**“evacuation plan”** means a plan, generally established in advance, to enable the movement of one or more persons or assets temporarily, to a safer place, before, during or after an event;

**“event”** refers to the occurrence of a hazard in the Kingdom, including the following —

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

**“first responder”** means a person or agency with specialised training required to provide initial response and assistance at the scene of an emergency;

**“hazard”** means a dangerous phenomenon, substance, human activity or condition that may cause widespread human, economic or environmental loss or impact;

**“imminent”** for the purposes of this Act means that there is a high probability that the event will occur and immediate action is necessary to reduce disaster impact;

**“initial damage assessment”** for the purposes of this Act means a multi-sectoral assessment carried out immediately after a disaster, to obtain an initial evaluation of the damage to the affected population;

**“Inter Cluster Co-ordination Committee”** means a Committee established under section 51 of this Act; **“lead agency”** for the purposes of this Act refers to the agency that will lead the response to a specific emergency, as prescribed in Schedule 1;

**“local tsunami”** for the purposes of this Act means a tsunami which is predicted to reach the Kingdom in one hour or less;

**“human-induced hazard”** means a hazard which is the result of human intent, negligence, or error;

**“Minister”** means the Minister responsible for disaster risk management;

**“Ministry”** means the Ministry responsible for disaster risk management;

**“mitigation”** means the lessening or limiting of the adverse impact of a disaster;

**“multi hazard early warning system”** means the set of capacities needed to provide timely and meaningful information to enable a relevant stakeholder that is likely to be impacted by an imminent hazard to respond appropriately;

**“National Controller”** means the National Controller under section 33(1) of this Act;

**“National Emergency Operations Centre”** means the centre activated under section 62 of this Act;

**“National Disaster Risk Management Plan”** means the national plan prepared by the Office, which sets out national goals and objectives for reducing –

- (a) disaster risks; and
- (b) disaster impact,

together with related actions to accomplish those objectives;

**“natural hazard”** means a hazard which is the result of a natural process or phenomenon;

**“outer islands”** for the purposes of this Act means the island groups of Vava’u, Ha’apai, ‘Eua, Niufo’ou and Niuatoputapu;

**“preparedness”** means knowledge and capacity developed by the Government, response and recovery organisations, communities and individuals to effectively anticipate, respond to, and recover from, the impacts of likely, imminent or current events;

**“reconstruction”** means the medium and long-term rebuilding and restoration of critical services, housing, facilities or livelihoods affected by a disaster;

**“recovery”** means the restoration and improvement of facilities, livelihoods and living conditions of disaster-affected communities, including efforts to reduce disaster risk;

“**warehouse**” for the purposes of this Act means a facility for the storage of –

- (a) machinery, equipment and vehicles for emergency use; or
- (b) relief aid and items intended for distribution to affected communities during or immediately following an emergency;

“**situation report**” means a report developed in accordance with section 67 of this Act;

“**the Office**” means the National Disaster Risk Management Office established under section 28 of this Act; and “**Tonga Meteorological Service**” means the Service established under the Meteorology Act (Cap.21.06).

### **3 Act binds the Crown**

This Act binds the Crown.

### **4 Purpose**

The purpose of this Act is to establish a coherent legal, institutional and regulatory framework for –

- (a) planning and management of disaster risk reduction and preparedness activities before a disaster occurs;
- (b) coordinating emergency response during a disaster; and
- (c) facilitating disaster recovery work following a disaster.

### **5 Scope**

This Act shall apply to all persons residing in the Kingdom.

### **6 Relationship to other Acts**

- (1) Unless otherwise stated, the powers established under this Act are in addition to, and do not limit the exercise of powers under any other Act.
- (2) Notwithstanding subsection (1), where the exercise of a power under any other Act is inconsistent with the exercise of an emergency power under this Act, the emergency power in this Act shall prevail.

### **7 Limit on application**

- (1) Subject to subsection (2), this Act shall not apply to situations involving —
  - (a) armed combat against an enemy;
  - (b) war activities, directly or indirectly affecting the Kingdom;

- (c) nuclear events.
  - (d) industrial disputes;
  - (e) cyber incidents; or
  - (f) internal disturbances and tensions such as riots, isolated and sporadic acts of violence and other acts of a similar nature, not being armed conflicts.
- (2) Where the laws of the Kingdom do not provide for the declaration of a state of emergency in a situation listed in subsection (1)(a) to subsection (1)(f), the Prime Minister may, with the consent of Cabinet, declare a state of emergency under this Act and identify the lead agency to be at the forefront of response activities.

## **PART II – DECLARATION OF A STATE OF EMERGENCY**

### **8 Declaration of a state of emergency due to a natural hazard**

- (1) A declaration of a state of emergency due to a natural hazard shall be made in accordance with this section.
- (2) Subject to subsection (3), the Prime Minister, on the recommendation of the Minister, shall declare a state of emergency due to a natural hazard for the whole or a part of the Kingdom, if he is satisfied that —
- (a) an event due to a natural hazard has happened, is happening or may happen in the Kingdom; and
  - (b) it is necessary for emergency powers to be exercised under this Act to prevent or minimise —
    - (i) loss of human life;
    - (ii) illness, injury to or disaster displacement;
    - (iii) property loss or damage; or
    - (iv) damage to the environment.
- (3) Where an event is imminent and the urgent declaration of a state of emergency is paramount, the Minister shall declare a state of emergency on the advice of a lead agency.
- (4) The advice of the lead agency to the Minister in subsection (3) —
- (a) shall be based on —
    - (i) potential risks to the lives and livelihoods of individuals and communities; and
    - (ii) potential damage to the environment and infrastructure; and
  - (b) shall provide clear technical advice and recommendations on the course of action to be taken, given the immediacy of impact.

- (5) A declaration of a state of emergency under this section shall be made in the prescribed manner.

## **9 Declaration of a state of emergency due to a human induced hazard**

- (1) Subject to subsection (2), the Prime Minister, on the joint recommendation of a lead agency and the Minister, shall declare a state of emergency due to a human induced hazard for the whole or a part of the Kingdom, if he is satisfied that —
- (a) an event due to a human induced hazard 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, or disaster displacement;
    - (iii) property loss or damage; or
    - (iv) damage to the environment.
- (2) Where an event is imminent and the urgent declaration of a state of emergency is paramount, the Minister shall declare a state of emergency on the advice of a lead agency.
- (3) A declaration of a state of emergency under this section shall be made in the prescribed manner.

## **10 Declaration of a state of emergency due to public health**

- (1) A declaration of a state of emergency due to a health hazard shall be made in accordance with this section.
- (2) Subject to subsection (4), the Prime Minister, on the joint recommendation of the Minister and Minister of Health, shall declare a state of emergency due to a health hazard for the whole or a part of the Kingdom, if he is satisfied that —
- (a) an event due to a public health hazard 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; or
    - (ii) illness or injury to, or disaster displacement.
- (3) A declaration of a state of emergency due to a public health hazard shall be made in the prescribed manner.

**11 Declaration of a state of alert**

- (1) Where a situation does not meet the criteria for a declaration of a state of emergency under this Part but requires the general public to be on alert of an imminent event, the Minister may declare a state of alert in accordance with this section.
- (2) The Minister, on the recommendation of the Director, shall declare a state of alert if he is satisfied that –
  - (a) the general public, relevant agencies and governing bodies should be on alert for an imminent event; and
  - (b) preparatory measures shall be taken to lessen the impact of the event
- (3) A declaration of a state of alert shall be made in the prescribed manner.

**12 Declaration of a small scale disaster**

- (1) A declaration of a small scale disaster shall be made in accordance with this section.
- (2) The Minister, on the recommendation of the Director, shall declare a small scale disaster if he is satisfied that –
  - (a) an event has happened or is happening in the Kingdom;
  - (b) the impact or likely impact of the event –
    - (i) is limited to a specific area or locality within the Kingdom but one or more lead agencies are able to respond to the event; or
    - (ii) applies generally to the Kingdom but the level of impact is not to the extent that a declaration of a state of emergency is required, and circumstances still require a co-ordinated national response and provisioning.
- (3) A declaration of a small scale disaster shall be made in the prescribed manner.

**13 Power to act**

- (1) The power to declare or recommend a state of emergency, state of alert or state of small scale disaster under this Part shall extend to a person who is –
  - (a) acting for; or
  - (b) acting with the delegated authority of the principal holder of that power.
- (2) For the purposes of subsection (1), a person is –
  - (a) acting for the principal holder if, at the time that the declaration or recommendation is made, he has been authorised to do so; and



- (b) acting with the delegated authority of the principal holder if, at the time that the declaration or recommendation is made, the authority has been –
  - (i) delegated in writing by the principal holder; or
  - (ii) due to the urgency of the emergency, delegated verbally by the principal holder.
- (3) A person who is acting for or with a delegated authority under this section is subject to, and shall act in accordance with, the requirements of the principal holder of the power under this Part.

#### **14 Procedures to be followed after a declaration**

- (1) Upon a declaration under sections 8, 9, 10, 11 or 12, the National Controller shall have the power to do one or more of the following –
  - (a) co-ordinate the appropriate response in consultation with governing bodies under this Act;
  - (b) activate the National Emergency Operations Centre or direct that it is on standby mode;
  - (c) issue a directive to a person or entity for the publication or dissemination of public notices and periodic updates on the event, imminent event or emergency;
  - (d) issue an alert or a directive to a lead agency or to a government line Ministry;
  - (e) issue an alert or directive to the general public;
  - (f) request access to the Emergency Fund to facilitate required actions in preparation for a potential emergency; or
  - (g) if appropriate, evacuate persons in accordance with Part VII of this Act.
- (2) Upon a declaration under section 12, the National Controller shall have the power to do one or more of the following –
  - (a) issue a notice or directive to a lead agency;
  - (b) alert the public to the nature of the emergency or small scale disaster; or
  - (c) if appropriate, evacuate persons in accordance with Part VII of this Act.
- (3) Procedures to be followed after a declaration has been made under this Part shall be as prescribed.

#### **15 Duration of a declaration**

- (1) A declaration of a state of emergency under sections 8, 9 or 10 shall –
  - (a) apply to the area stated in the declaration; and

- (b) remain in force for a period of up to 28 days until the Prime Minister declares that the state of emergency has ended or renews the declaration in the same manner.
- (2) A declaration of a state of alert under section 11 or a state of small scale disaster under section 12 shall –
  - (a) apply to the area stated in the declaration; and
  - (b) remain in force for a period of up to 28 days until the Prime Minister declares that the state of alert or small scale disaster has ended or renews the declaration in the same manner.
- (3) If following the declaration of a state of alert the situation has escalated and a state of emergency is declared under this Part, the duration of the state of emergency shall end in accordance with subsection (1).
- (4) The Prime Minister may, during a declared state of emergency, state of alert or state of small scale disaster, declare additional rules or conditions to apply.

## 16 Emergency powers

- (1) An authorised officer may exercise such emergency powers as are necessary to prevent the loss of human lives, illness or injury to humans, loss or damage to property, or damage to the environment, which shall include but not be limited to the following —
  - (a) entering a property without a warrant;
  - (b) requiring a person to give the authorised officer reasonable help to exercise the authorised officer’s emergency powers;
  - (c) taking necessary equipment onto a property or premise to assist them in carrying out their duties;
  - (d) directing, preventing or imposing restrictions on the movement of people;
  - (e) evacuation of people;
  - (f) erecting barriers and closing roads;
  - (g) maintaining, restoring, or preventing damage to essential services;
  - (h) shutting down or dismantling any equipment or motor;
  - (i) shutting off, or using a supply of electricity, fuel, gas or water;
  - (j) removing, demolishing or damaging any building or thing;
  - (k) placing property under the control, or at the disposal of an authorised officer;
  - (l) using any property, resource or service in the Kingdom, including private and public, for emergency purposes as and when the situation demands; or
  - (m) decontaminating people and property.

- (2) The emergency powers in subsections (1)(i), 1(j), 1(k),1(l) and 1(m) shall be carried out in accordance with regulations made under this Act.
- (3) The powers in all other provisions in subsection (1) shall be exercised –
  - (a) with the written or verbal approval of the Director;
  - (b) at a local or national level; and
  - (c) in addition to any function or power of an authorised officer.
- (4) Where the approval of the Director is issued verbally, the Director shall, as soon as practicable, record the approval in writing and keep it in the files of the Office.

## **17 Emergency powers of the Director**

- (1) The Director shall have the following emergency powers –
  - (a) request and obtain information from any person, entity or office for the purposes of fulfilling his functions and responsibilities under this Act; and
  - (b) request and be provided with services that are free of charge, including the sending of messages to the public via text messages, announcements to the public on television, radio and internet, and any other form of communication necessary during a state of emergency or state of alert.
- (2) The information requested by the Director under subsection (1)(a) may include a request for data, maps, surveys, or any other manner of information requested by the Director.

## **18 Curfew may be imposed**

- (1) The authority declaring a state of emergency under this Part may, on the declaration, impose a curfew to apply to the whole or a part of the Kingdom.
- (2) The statement of curfew shall provide the prescribed hours in which the movement of people in public places is prohibited.
- (3) The duration of the period of curfew shall be as prescribed in a declaration of a state of emergency and in subsequent extensions.

## **19 Border control order**

- (1) A border control order shall be issued in accordance with this section.
- (2) The Prime Minister shall, on the recommendation of the Minister, in consultation with the National Disaster Risk Management Committee, issue a border control order and impose border control measures if he is satisfied that the order is necessary for –

- (a) restricting the movement of people in or out of the Kingdom; or
  - (b) restricting the movement of people within and across the Kingdom.
- (3) A border control order shall be valid for the period stated on the order and may be extended or cancelled by the Prime Minister in the same manner as in subsection (2).
- (4) A border control order shall only be issued if a declaration has been made under Part II.
- (5) An order under this section, including its extension or cancellation, shall be issued in accordance with regulations made under this Act.

## 20 National quarantine

- (1) A declaration imposing national quarantine measures shall be made in accordance with this section.
- (2) The Prime Minister shall, on the recommendation of the National Disaster Risk Management Committee and in close consultation with the –
- (a) Minister for responsible for Health; or
  - (b) Minister responsible for Agriculture,
- as the circumstances requires, impose quarantine measures if he is satisfied that for curbing the spread of –
- (i) a disease or epidemic, it is necessary to quarantine people travelling in or out of the Kingdom; or
  - (ii) an infestation or plague, it is necessary to quarantine animals, food or things which are imported into the Kingdom.
- (3) A declaration imposing national quarantine measures shall be valid for the period stated on the declaration and may be extended or cancelled by the Prime Minister in the same manner as in subsection (2).
- (4) A declaration imposing national quarantine measures, its extension or cancellation, shall be made in the prescribed manner.

## 21 Rationing

- (1) A declaration imposing rationing measures shall be made in accordance with this section.
- (2) The Prime Minister shall, on the recommendation of the National Disaster Risk Management Committee, impose rationing measures if he is satisfied that the measures are necessary to deal with an expected or current shortage in the supply of an essential item.
- (3) For the purposes of subsection (2), an “**essential item**” is an item that deemed necessary for the wellbeing of the people of the Kingdom, as determined by the National Disaster Risk Management Committee.

- (4) A declaration imposing rationing measures shall be valid for the period stated on the declaration and may be extended or cancelled by the Prime Minister in the same manner as in subsection (2).
- (5) A declaration imposing rationing measures, its extension or cancellation, shall be made in the prescribed manner.

## **22 National co-ordination**

A declaration under sections 18, 19, 20 or 21 shall be implemented and enforced by the Office in co-ordination with relevant Government Ministries and agencies.

# **PART III – ADMINISTRATION**

## **23 Administration of Act**

The Minister shall be responsible for the administration of this Act.

## **24 Functions of the Ministry**

Functions of the Ministry shall include, but not be limited to —

- (a) making policy decisions of national significance in relation to disaster risk management for the Kingdom;
- (b) setting and ensuring disaster risk management standards, requirements and standard operating procedures promulgated under this Act; and
- (c) providing budgetary support to the Office and key governing bodies established under this Act.

## **25 Functions of the Minister**

Functions of the Minister shall include, but not be limited to —

- (a) facilitating coordination between the Ministry, government Ministries and agencies and stakeholders for the implementation of this Act;
- (b) ensuring that the Office is sufficiently resourced, human and financial, to implement this Act and regulations made under this Act;
- (c) reporting to Cabinet and the Legislative Assembly on the implementation of disaster risk management measures under this Act; and
- (d) at a high level, establishing arrangements with other countries, development partners, and international bodies to provide support to the Kingdom during major emergencies.

## **26 Powers of the Minister**

In addition to the exercise of powers under this Act, the Minister shall have all such powers which are necessary or expedient for the proper implementation of this Act, provided that they are not inconsistent with the purposes of this Act.

## **27 Delegation of powers**

- (1) Except for this power of delegation, the Minister may delegate one or more of his functions or powers under this Act to the Chief Executive Officer or to the Director.
- (2) A delegation shall be made in writing and specify the nature and duration of the delegation.
- (3) A delegation shall not prevent the exercise of such power by the Minister.
- (4) Notwithstanding the duration of a delegation, a Minister in office may, in writing, revoke or cancel a delegation which was issued under this section.

# **PART IV – ESTABLISHMENT OF THE NATIONAL DISASTER RISK MANAGEMENT OFFICE**

## **28 Establishment of the National Disaster Risk Management Office**

- (1) The National Disaster Risk Management Office is hereby established.
- (2) The National Emergency Management Office which was established under the Emergency Management Act (CAP.7.02) shall be the National Disaster Risk Management Office under this Act.
- (3) The Office is accountable to the Minister and shall be responsible for the implementation of this Act.

## **29 Functions of the Chief Executive Officer**

The Chief Executive Officer shall ensure that –

- (a) functions of the Ministry and the Office are effectively implemented through branches in Tongatapu and the outer islands; and
- (b) the Office is organised in a manner that directs appropriate attention and resources toward –
  - (i) disaster risk and resilience;
  - (ii) policy advice;
  - (iii) emergency operations;
  - (iv) administration and finance; and
  - (v) donor and development partner engagement.

### 30 Functions of the Director

In addition to other functions under this Act, the Director shall –

- (a) oversee the administration and effective operation of the Office and of its offices in the outer islands;
- (b) facilitate the establishment and effective functioning of all governing bodies established under this Act;
- (c) work closely with governing bodies under this Act to ensure effective disaster risk management strategies and procedures are in place;
- (d) oversee the development, implementation and monitoring of plans and standard operating procedures under this Act;
- (e) ensure –
  - (i) adequate human and financial resources,
  - (ii) adequate and continued availability and maintenance of appropriate machinery and equipment,for the implementation of this Act;
- (f) ensure the authorised use and secure storage of machinery and equipment owned by the Office, maintaining their state of readiness for times of disaster;
- (g) prepare an annual work programme for the development of the annual budget of the Office;
- (h) provide an annual report to the Minister on disaster risk management activities in the Kingdom and progress toward achieving objectives;
- (i) establish an assets management register for recording the acquisition, use, maintenance and disposal of machinery, equipment and assets of the Office;
- (j) as appropriate, liaise with development partners and international organisations to –
  - (i) obtain funding or assistance for the implementation of disaster risk management policies, strategies and programs under this Act;
  - (ii) provide information, respond to enquiries or seek assistance following an event or disaster; and
  - (iii) receive and co-ordinate the distribution of relief supplies to the Kingdom; and
- (k) any other lawful function relating to disaster risk reduction and disaster management that the Minister directs.

### 31 Staff of the Office

- (1) The Director will ensure that each person recruited by the Office -
  - (a) reaches the level of competency required for each position;

- (b) safeguards the integrity of the disaster risk management system pursuant to this Act; and
  - (c) executes his functions and provides quality services in accordance with each person's job description.
- (2) Notwithstanding provisions in any other Act or the imposition of a hiring moratorium by government, the Director shall have the power to request and engage additional staff of the Office for the purposes of this Act, if the Director can establish –
- (a) justification for the requirement to recruit additional staff, such as for response and recovery activities after an event; and
  - (b) funding is available to cover the salary of the requested additional staff within the existing budget of the Office, the Emergency Fund or any other source.

## DIVISION ONE – GENERAL FUNCTIONS

### 32 General functions of the Office

- (1) The Office shall have the following general functions —
- (a) establish and maintain a National Disaster Risk Management Policy for Tonga;
  - (b) as required, advise the Minister and governing bodies established under this Act on disaster risk management and related matters;
  - (c) formulate policies, guidelines and directions on disaster risk management, including disaster mitigation, preparedness, response and recovery;
  - (d) implement policies and decisions of the Ministry under this Act and report to the Minister on the performance of the Office's functions;
  - (e) establish, review and monitor relevant plans, programs and standard operating procedures for disaster risk reduction, disaster preparedness and emergency response in the Kingdom;
  - (f) co-ordinate effective disaster risk reduction, disaster preparedness, and disaster response activities in the Kingdom and facilitate the disaster recovery process;
  - (g) ensure that relevant officers of the Office and Ministry –
    - (i) receive and provide appropriate and ongoing training on disaster management and response; and
    - (ii) maintain the capacity to co-ordinate and work closely with governing bodies, lead agencies, clusters, and key personnel with statutory functions under this Act; and



- (h) as specified in this Act, provide secretariat services to governing bodies established under this Act.

### DIVISION TWO – PRE-DISASTER

- (2) In a pre-disaster situation, the Office shall have the following functions —
  - (a) work closely with –
    - (i) Government Ministries, lead agencies and clusters, non-government organisations, churches and communities to facilitate the development and implementation of disaster risk reduction, disaster preparedness and national disaster risk management capacity building activities in the Kingdom;
    - (ii) Ministry of Finance to mainstream disaster risk management into the Public Finance Management system; and
    - (iii) relevant Ministries to develop protocol for data collection, analysis and dissemination in relation to potential risk, disaster damage and loss;
  - (b) establish frameworks for and conduct disaster risk assessments;
  - (c) establish, manage, and use regularly updated hazard and vulnerability mapping and a disaster loss data system;
  - (d) maintain the warehouse and the pre-positioning of emergency relief materials on Tongatapu and in the Island groups as required;
  - (e) work to strengthen the capacity of the Office, including financial and human resource capacity; and
  - (f) facilitate joint training initiatives with all relevant bodies and entities established under this Act or with a statutory responsibility under this Act, to ensure effective and seamless discharge of functions.
- (3) In relation to the Emergency Management Fund, the Office shall work closely with the Ministry of Finance to –
  - (a) establish clear criteria and guidelines for access to and use of the Emergency Management Fund; and
  - (b) maintain audit and reporting requirements of the Office under the Emergency Fund Act.

### DIVISION THREE – DURING A DISASTER

- (4) During a disaster, the Office shall –
  - (a) act as the focal point for –
    - (i) dissemination of general information to the public relating to the disaster, including potential impact, impacts and appropriate response;

- (ii) provision of early warning and advice on evacuation arrangements, when and where required;
  - (iii) working closely with churches, non-government organisations and community leaders to disseminate early warning information and to co-ordinate response;
  - (iv) making requests for assistance to development partners and international organisations, private contributors and the Tongan diaspora; and
  - (v) receiving disaster relief supplies to the Kingdom, including managing, co-ordinating and distributing disaster relief supplies and donated items;
- (b) ensure that the specific needs of all vulnerable groups are identified and responded to, including people with disabilities; and
  - (c) establish and maintain effective communications with key stakeholders.

#### DIVISION FOUR – POST DISASTER

- (5) Following a disaster, the Office shall have the following functions–
  - (a) establish and lead one or more national assessment teams to conduct an initial damage assessment, the report of which shall contribute to the formal report of the Government on the disaster or event;
  - (b) facilitate the conduct of a post disaster needs assessment by one or more Government Ministries to identify short term and long term recovery needs;
  - (c) ensure the timely and appropriate update and management of disaster data, information, records, and systems;
  - (d) gather information from non-government stakeholders, including churches, the private sector, community leaders and representatives of vulnerable groups in relation to –
    - (i) disaster damage and loss;
    - (ii) recovery needs; and
    - (iii) assistance available from those sectors,which would supplement the initial damage assessment report in (a) and the comprehensive post disaster needs assessment;
  - (e) together with Government Ministries and relevant clusters, develop a national disaster recovery plan for approval by the Disaster Risk Management Committee;
  - (f) based on the national disaster recovery plan, coordinate with Government Ministries, stakeholders and donors to ensure disaster recovery funding needs are met;

- (g) support clusters to prepare a sectoral or a recovery plan and ensure that where a cluster is unable to prepare such a plan, that this is included in the national disaster recovery plan;
- (h) in a timely manner, organise a meeting of national stakeholders for post disaster review and de-briefing; and
- (i) prepare and submit to the Minister a disaster response report.

## **PART V – GOVERNING BODIES**

### **33 National Controller**

- (1) The National Controller shall be the Director or any other person appointed by the National Disaster Risk Management Committee from time to time.
- (2) The National Controller shall have the power to –
  - (a) activate the National Emergency Operation Centre in accordance with Part VI of this Act;
  - (b) in consultation with the National Disaster Risk Management Committee, determine the priority of response roles of a Government or non-government entity;
  - (c) with the consent of the Minister, allocate available resources of government which the Director, considers necessary for responding to an event that may happen, is happening or about to happen; and
  - (d) carry out any other function of the National Controller specified in this Act or in regulations made under this Act.

### **34 Establishment of National Disaster Risk Management Committee and sub-committees**

- (1) For the effective implementation of this Act, the following entities are hereby established –
  - (a) National Disaster Risk Management Committee;
  - (b) National Disaster Operations Sub-committee; and
  - (c) National Disaster Risk Recovery Sub-committee.
- (2) The National Disaster Risk Management Committee shall be a permanent committee, with members meeting throughout the year.
- (3) The National Disaster Operations Sub-Committee and the National Disaster Risk Recovery Sub-Committee shall be called to meet when required by the National Disaster Risk Management Committee.
- (4) Reports of the Sub-Committees shall be prepared and submitted for approval of the main committee.

### 35 Relationship between key governing bodies

- (1) When government resources are required—
  - (a) the Director, in consultation with the National Disaster Risk Management Committee, shall be the primary decision maker during a period of a state of emergency or a state of alert;
  - (b) the National Controller, in consultation with the National Disaster Operations Sub-committee, shall be the operational decision maker during a period of a state of emergency or a state of alert and in the period immediately following; and
  - (c) the Director, in consultation with the National Disaster Risk Recovery Sub-committee shall be the primary decision maker for response and recovery initiatives after a period of a state of emergency.
- (2) At all other times, subject to this Act, the Director and the Office shall be responsible for all policy and administrative decisions.
- (3) An **Island Disaster Risk Management Committee or Village Disaster Risk Management Committee** shall report to the **National Disaster Risk Management Committee**, through the Office, for its work.

## DIVISION ONE – NATIONAL DISASTER RISK MANAGEMENT COMMITTEE

### 36 Functions of the National Disaster Risk Management Committee

- (1) The Director, **in consultation** with the National Disaster Risk Management Committee, shall be responsible for the following—
  - (a) endorsing a report referred to it by a body established under this Act and advising the Cabinet as appropriate on the status of work of each entity toward its objectives;
  - (b) calling on resources of a Government Ministry during a declared state of emergency and facilitating co-ordination among Government Ministries, as required from time to time;
  - (c) endorsing a request for funding from the Emergency Fund in relation to the work of the Committee; and
  - (d) calling a meeting of its sub-committees as required, for the implementation of appropriate response and recovery efforts following a declared state of emergency.
- (2) For the purposes of subsection (1)(b), the following government resources may be requested by the Director and the Committee –
  - (a) Ministry personnel;
  - (b) government vehicles;
  - (c) government owned equipment;

- (d) equipment consumables; and
  - (e) office space.
- (3) To the **extent possible**, a Minister shall, when requested under this Act, provide assistance to or facilitate a request of the Director and National Disaster Risk Management Committee under subsection (1)(b).

### **37 Members of the National Disaster Risk Management Committee**

- (1) The National Disaster Risk Management Committee shall be comprised of the following members —
- (a) Minister (chair);
  - (b) Chief Executive Officer of the Ministry;
  - (c) Chief Secretary and Secretary to Cabinet;
  - (d) Chief Executive Officers of the Ministries responsible for –
    - (i) finance;
    - (ii) agriculture, food and forests;
    - (iii) lands;
    - (iv) health;
    - (v) internal affairs;
    - (vi) education and training;
    - (vii) foreign affairs;
    - (viii) public enterprises; and
    - (ix) infrastructure;
  - (e) Police Commissioner;
  - (f) Commissioner, Fire and Emergency Services;
  - (g) Chief of Staff, His Majesty's Armed Forces;
  - (h) Attorney General;
  - (i) Government Statistician;
  - (j) Director; and
  - (k) Secretary General, Tonga Red Cross Society.
- (2) For any meeting of the Committee, the Minister shall only call on members according to the specific nature of issues being discussed.
- (3) The quorum for a meeting of the Committee is a simple majority of members who have been called to attend a meeting.
- (4) The Committee may, from time to time, invite a representative of a non-government stakeholder to join a meeting of the Committee.
- (5) The Office shall provide secretariat services to the Committee.

- (6) Rules of procedure of the National Disaster Risk Management Committee are outlined in Schedule 2.

## DIVISION TWO – NATIONAL DISASTER OPERATIONS SUB-COMMITTEE

### 38 Functions of the National Disaster Operations Sub-Committee

The National Disaster Operations Sub-Committee, in consultation with the National Controller, shall be responsible for the following —

- (a) initiating the operational response of a Government Ministry or a first responder in relation to an event;
- (b) preparing an initial damage assessment report following an event and submitting this to the National Disaster Risk Management Committee for approval;
- (c) collating and prioritising immediate disaster relief requirements;
- (d) managing the distribution of immediate relief supplies; and
- (e) providing a report to the National Disaster Risk Management Committee on the status or outcome of work which it has been called to conduct.

### 39 Members of the National Disaster Operations Sub-Committee

- (1) The National Disaster Operations Sub-Committee shall be called by the National Disaster Risk Management Committee, as and when required.
- (2) The National Disaster Operations Sub-Committee shall be comprised of the following members —
  - (a) Chief Executive Officer of the Ministry (chair);
  - (b) Director;
  - (c) Police Commissioner;
  - (d) Commissioner, Fire and Emergency Services;
  - (e) Chief of Staff, His Majesty's Armed Forces;
  - (f) Chief Executive Officer responsible for finance;
  - (g) Chief Executive Officer responsible for internal affairs;
  - (h) Secretary General, Tonga Red Cross Society; and
  - (i) any other member of the National Disaster Risk Management Committee which the Committee has determined should form the National Disaster Operations Sub-Committee from time to time.
- (3) When enforcing an evacuation order, the National Disaster Operations Sub-Committee may co-opt the following additional members –
  - (a) Chief Executive Officer of any other Ministry or agency; and

- (b) District Officer or Town Officer from the community or area affected by the Order; or
- (c) any other member of the National Disaster Risk Management Committee,

Provided that a co-opted member shall not form the quorum for a meeting of the sub-committee and shall not be entitled to vote.

- (4) If a member of the National Disaster Operations Sub-Committee is unavailable to attend a meeting, the member may nominate a senior person from his Ministry or office to take part in meetings of the National Disaster Operations Sub-Committee and to make decisions in his absence.
- (5) The quorum for a meeting shall be a simple majority of the permanent members of the National Disaster Operations Sub-Committee.
- (6) The Office shall provide secretariat services to the National Disaster Operations Sub-Committee.
- (7) Rules of procedure of the National Disaster Operations Sub-Committee are outlined in Schedule 3.

### DIVISION THREE – NATIONAL DISASTER RISK RECOVERY SUB-COMMITTEE

#### **40 Functions of the National Disaster Risk Recovery Sub-Committee**

The National Disaster Risk Recovery Sub-Committee shall be responsible for —

- (a) co-ordinating immediate recovery work and rehabilitation work following an event;
- (b) preparing a detailed damage assessment report following an event and submitting this report to the National Disaster Risk Management Committee for approval; and
- (c) providing a report to the National Disaster Risk Management Committee on the status or outcome of work which it has been called to conduct.

#### **41 Membership of the National Disaster Risk Recovery Sub-Committee**

- (1) The National Disaster Risk Recovery Sub-Committee shall be called by the National Disaster Risk Management Committee, as and when required.
- (2) The National Disaster Risk Recovery Sub-Committee shall be comprised of the following members –
  - (a) Chief Executive Officer of the Ministry (chair);
  - (b) Director;

- (c) Chief Executive Officers of the Ministries responsible for –
    - (i) finance;
    - (ii) internal affairs;
    - (iii) infrastructure;
    - (iv) agriculture, food and forest; and
  - (d) any other member of the National Disaster Risk Management Committee which the Committee has determined should form the National Disaster Risk Recovery Sub-Committee from time to time.
- (3) The National Disaster Risk Recovery Sub-Committee may co-opt additional members who are not permanent members of the main Committee,
- Provided that a co-opted member shall not form the quorum for a meeting of the National Disaster Risk Recovery Sub-Committee and shall not be entitled to vote.
- (4) If a member of the National Disaster Risk Recovery Sub-Committee is unavailable to attend a meeting, the member may nominate a senior person from his Ministry or office to take part in meetings of the National Disaster Risk Recovery Sub-Committee and to make decisions in his absence.
- (5) The quorum for a meeting shall be a simple majority of the permanent members of the National Disaster Risk Recovery Sub-Committee.
- (6) The Office shall provide secretariat services to the National Disaster Risk Recovery Sub-Committee.
- (7) Rules of procedure of the National Disaster Risk Recovery Sub-Committee are outlined in Schedule 3.

#### **42 Responsibility for long term recovery work**

- (1) International financial assistance provided through the Office for long term recovery and reconstruction will be deposited into a bank account administered by the Ministry of Finance in accordance with the Public Finance Management Act.
- (2) Long term recovery and reconstruction will be supervised by the responsible Ministry identified in the recovery plan endorsed by Cabinet and or the body assigned this responsibility by Cabinet.
- (3) Notwithstanding subsection (1) the responsible Ministry or body in subsection (2) shall consult with the Office regarding plans for long term recovery and reconstruction, and the Office shall–
- (a) provide input on the nature of the proposed work;
  - (b) ensure accountability of the responsible Ministry or body for the expenditure of any international financial assistance received in subsection (1); and



- (c) prepare a financial report in relation to any recovery and reconstruction carried out, to be included in the annual report of the Ministry.

## DIVISION FOUR – ESTABLISHMENT OF CLUSTERS

### 43 Establishment of clusters

- (1) The following clusters are established under this Act –
  - (a) food security and livelihoods cluster, led by the Ministry responsible for agriculture;
  - (b) health and nutrition, water sanitation and hygiene cluster, led by the Ministry responsible for health;
  - (c) emergency shelter and non-food items cluster, led by the Office on behalf of the Ministry responsible for disaster;
  - (d) emergency telecommunications cluster, led by the Communications Department of the Ministry responsible for disaster;
  - (e) education cluster, led by the Ministry responsible for education and training;
  - (f) safety and protection cluster, led by the Ministry responsible for internal affairs;
  - (g) logistics and coordination cluster, led by the Office on behalf of the Ministry responsible for disaster;
  - (h) critical services cluster, led by the Ministry responsible for public enterprises;
  - (i) reconstruction cluster, led by the Ministry responsible for infrastructure;
  - (j) economic and social recovery cluster, led by Ministry responsible for finance;
  - (k) disaster displacement and evacuation management cluster, led by the Ministry responsible for disaster; and
  - (l) any other cluster that is established by the Cabinet from time to time, on the recommendation of the Minister.
- (2) When the emergency shelter and non-food items cluster is considering long term reconstruction response, the Ministry responsible for infrastructure will be the cluster lead.
- (3) For the purposes of this section, a Ministry or entity responsible for leading a cluster under subsection (1) shall be referred to as a cluster lead.

### 44 Membership of a cluster

- (1) Membership of a cluster shall be set out in regulations made under this Act.

- (2) Notwithstanding subsection (1), a cluster lead shall ensure adequate representation from non-government organisations and communities.

#### **45 Functions and accountability of a cluster**

- (1) Functions of a cluster under this Act shall be prescribed in regulations.
- (2) A cluster is accountable to the National Disaster Risk Management Committee, through the Inter Cluster Coordination Committee.
- (3) A cluster shall submit an annual report to the Inter Cluster Coordination Committee for incorporation into the Ministry's annual report in section 119.
- (4) Based on the issue under consideration, a cluster will meet and prepare recommendations for submission to the National Disaster Risk Management Committee, including a request for the release of funding for proposed work of the cluster.

#### **46 Standard operating procedures**

Within one year of the commencement of this Act, the Director, in consultation with the National Disaster Risk Management Committee, shall submit standard operating procedures for each cluster to the Minister.

#### **47 General objectives of the cluster system**

General objectives of the cluster system is to ensure that –

- (a) coherent, timely, safe and dignifying assistance is provided to a targeted population;
- (b) emergency assistance to the most vulnerable groups in the Kingdom is leveraged to promote early action, response and resilience;
- (c) emergency and recovery interventions –
- (i) are integrated and complement other relevant sectors; and
  - (ii) support and strengthen access, availability, utilisation and stability of each sector;
- (d) procedures are in place to effectively plan and respond to disaster risks and to manage responses in times of disaster, thereby contributing to risk reduction and preparedness;
- (e) procedures are in place to effectively collect and record data of damage, loss and disaster response and provide to the Office when requested; and
- (f) cluster recovery plans, aligned to the national recovery framework, are developed where necessary or as asked by National Disaster Risk Management Committee and implemented to –
- (i) respond to sectoral needs in relation to a disaster; and

- (ii) contribute and give effect to the National Recovery Plan, as appropriate.

#### **48 Cluster Response Plan**

- (1) A cluster shall prepare a cluster response plan before and or immediately after disaster and as asked by the Office and submit it to the Office.
- (2) The Cluster Response Plan shall include among others, potential damage or damage to the sector, estimated loss and need, plan and resource mobilisation strategy to respond to that particular disaster.
- (3) Any activities not included in the response plan shall not be funded under Emergency Fund.

#### **49 Cluster Recovery Plan**

- (1) A cluster shall prepare a Cluster Recovery Plan after each declared disaster and submit it to the Office.
- (2) A Cluster Recovery Plan shall include –
  - (a) detailed estimate of damages and loss to the sector;
  - (b) particular needs of each cluster and estimated cost; and
  - (c) an implementation and resource mobilisation strategy.
- (3) Upon receiving each cluster recovery plan and using these plans as a basis, the Office in coordination with the –
  - (a) Ministry of Finance; and
  - (b) cluster lead for the economic and social recovery cluster,will develop the National Recovery Plan.

#### **50 National Recovery Plan**

- (1) A National Recovery Plan shall be prepared within 3 months following a declared state of emergency and submitted to the Cabinet for approval.
- (2) The National Recovery Plan shall include –
  - (a) estimate of damages and loss, for each identified sector;
  - (b) particular needs of a sector and estimated cost for the recovery program; and
  - (c) plans for generating financial resources.
- (3) General implementation of the National Recovery Plan will be jointly led by the Office, Ministry responsible for Finance and the economic and social recovery cluster.

**51 Establishment of the Inter-cluster Co-ordination Committee**

- (1) The Inter-cluster Co-ordination Committee is hereby established.
- (2) A meeting of the Inter-Cluster Co-ordination Committee shall take place no less than once per quarter.
- (3) Rules of procedure of the Inter-Cluster Co-ordination Committee shall be prescribed in regulations made under this Act.

**52 Members**

The Inter-cluster Co-ordination Committee is comprised of the following members –

- (a) Chief Executive Officer of the Ministry (chair);
- (b) Director (deputy chair);
- (c) Ministry responsible for national planning; and
- (d) a representative of each Ministry which is a cluster lead in section 43.

**53 Functions of the Inter-cluster Co-ordination Committee**

The primary function of the Inter-cluster Co-ordination Committee is to oversee and co-ordinate the activities of a cluster established under section 43.

**54 Funding**

- (1) Funding for the work of the Inter-cluster Co-ordination Committee, if required, shall be from the Emergency Fund.
- (2) The allocation of funds for the work of the Inter-cluster Co-ordination Committee shall be approved by the National Disaster Risk Management Committee.

**55 Scope of work**

- (1) Notwithstanding section 45(1), additional responsibilities of clusters and linkages between each cluster may be contained in –
  - (a) standard operating procedures;
  - (b) terms of reference; or
  - (c) workplans,made under this Act.
- (2) The documents referred to in subsection (1)(a) and (1)(b) shall be approved by the Minister with the consent of Cabinet.

## DIVISION FIVE – ESTABLISHMENT OF ISLAND DISASTER RISK MANAGEMENT COMMITTEES

### 56 Establishment of Island Disaster Risk Management Committee

- (1) An Island Disaster Risk Management Committee shall be established on each of the following island groups —
  - (a) Vava’u;
  - (b) Ha’apai;
  - (c) Niuatoputapu;
  - (d) Niuafu’ou; and
  - (e) ‘Eua.
- (2) An Island Disaster Risk Management Committee shall be established on Tongatapu in accordance with section 58.
- (3) An Island Disaster Risk Management Committee is –
  - (a) accountable to the National Disaster Risk Management Committee and National Disaster Risk Management Office, as required under this Act; and
  - (b) excluding the Tongatapu Committee, responsible at the island level for the same functions as the Operations Sub-Committee under section 38 and the Recovery Sub-Committee under section 40.
- (4) An Island Disaster Risk Management Committee shall, in consultation with the Office, carry out one or more of the following functions in relation to each island group —
  - (a) contribute to the development of any policies, regulations or standard operating procedures made under this Act;
  - (b) develop and implement an effective Disaster Risk Management Plan and initiate programmes in accordance with any directives issued by the Ministry;
  - (c) regularly conduct operational procedures, as requested by the Ministry;
  - (d) provide reports and make recommendations to the National Disaster Risk Management Committee about disaster risk reduction and disaster management activities;
  - (e) provide support to communities to ensure effective disaster risk management before, during and after an event;
  - (f) promote community awareness of disaster risk management, including ways of mitigating, preparing for, responding to and recovering from a disaster;
  - (g) identify and co-ordinate the use of resources for emergency operations and disaster management;

- (h) manage emergency operations in accordance with policies and procedures of the Ministry;
  - (i) establish and review communication systems for use prior to an event, or when emergency disaster happens; and
  - (j) provide information about an event or the impact of a disaster to the National Disaster Risk Management Committee.
- (5) For the discharge of the functions of an Island Disaster Risk Management Committee, the Chief Executive Officer shall ensure that the operational budget of an Island Disaster Risk Management Committee, which includes disaster preparedness, response and recovery activities, is allocated from the Emergency Fund.
- (6) Other priority disaster risk reduction activities which are identified and included in a disaster risk management plan of a Village or Island Disaster Risk Management Committee shall be funded from the recurrent budget of the Ministry.
- (7) A meeting of an Island Disaster Risk Management Committee shall take place no less than once per quarter.
- (8) Rules of procedure of an Island Disaster Risk Management Committee shall be prescribed in regulations made under this Act.

## **57 Membership of an Island Disaster Risk Management Committee**

- (1) Except for the Tongatapu Island Disaster Risk Management Committee, an Island Disaster Risk Management Committee shall be comprised of the following members —
- (a) in relation to —
    - (i) Vava’u or Ha’apai, the Governor;
    - (ii) ‘Eua, Niuafu’ou or Niuatoputapu, the Government Representative,
  - (b) a representative of the Office (deputy chair);
  - (c) District Officers of the island;
  - (d) as applicable, the Officer in Charge of a Government Ministry in section 39(2); and
  - (e) any other member nominated by the chair and approved by the Minister.
- (2) The member in subsection (1)(a)(i) and (1)(a)(ii) shall be the chair of each respective Island Disaster Risk Management Committee.
- (3) In appointing a member pursuant to subsection (1)(e), the Minister shall have due regard to the representation of women, young people, people with disabilities and other vulnerable groups.
- (4) The term of each member shall be —

- (a) for an ex-officio member, as long as he holds the position for which he is appointed to the Committee; and
  - (b) for a member appointed under subsection (1)(e), up to two years and may be reappointed by the Minister.
- (5) The Office shall provide secretariat services to a Disaster Risk Management Committee.

## **58 Membership of the Tongatapu Island Disaster Risk Management Committee**

- (1) The Tongatapu Island Disaster Risk Management Committee is hereby established.
- (2) The Tongatapu Island Disaster Risk Management Committee shall be comprised of the following members —
- (a) representative of the Office (chair);
  - (b) District Officers of Tongatapu; and
  - (c) any other member nominated by the chair and approved by the Minister.
- (3) A meeting of the Tongatapu Island Disaster Risk Management Committee shall take place no less than once per quarter.

## **59 Annual report of Island Disaster Risk Management Committee**

- (1) On or before 30 July each year, an Island Disaster Risk Management Committee, including the Tongatapu Island Disaster Risk Management Committee, shall provide to the National Disaster Risk Management Committee an annual report on disaster management on each island.
- (2) An Annual Report in subsection (1) shall include the following information —
- (a) activities undertaken during the year to prevent, mitigate or reduce disaster risk and to enhance disaster preparedness;
  - (b) details of emergency operations undertaken during the year;
  - (c) priority issues or proposed areas for disaster risk reduction projects;
  - (d) financial report to account for any funds allocated to the Island Disaster Risk Management Committee and expended for the Committee's work;
  - (e) impact and loss data including the estimated value of total damage and loss; and
  - (f) any other matter related to disaster risk reduction and disaster risk management that the National Disaster Risk Management Committee considers appropriate for inclusion in the Annual Report.

DIVISION SIX – ESTABLISHMENT OF VILLAGE DISASTER RISK  
MANAGEMENT COMMITTEES

**60 Establishment of a Village Disaster Risk Management Committee**

- (1) A Village Disaster Risk Management Committee shall be established in each of the villages of the Kingdom.
- (2) A Village Disaster Risk Management Committee is –
  - (a) accountable to the Island Disaster Risk Management Committee and National Disaster Risk Management Office, as required under this Act; and
  - (b) responsible, at the village level, for the functions in subsection 3.
- (3) A Village Disaster Risk Management Committee shall, in consultation with the Office, carry out one or more of the following functions in relation to each village –
  - (a) provide support to its village community to ensure effective disaster risk management before, during and after an event;
  - (b) promote village and community awareness of disaster risk management, including ways of mitigating, preparing for, responding to and recovering from a disaster;
  - (c) manage emergency operations on each village in accordance with policies and procedures of the Ministry;
  - (d) establish and review communication systems for use prior to an event, or when a disaster happens; and
  - (e) provide information about an event or the impact of a disaster in the village to the Island and National Disaster Risk Management Committee.
- (4) A Village Disaster Risk Management Committee will align its work and objectives with its respective Island Disaster Risk Management Committee.
- (5) The Director may, in writing, request a Village Disaster Risk Management Committee to carry out, or assist authorised personnel to carry out, an initial damage assessment following an event or a disaster, for the development of an Initial Damage Assessment Report.
- (6) A meeting of the Village Disaster Risk Management Committee shall take place no less than once per quarter.
- (7) Rules of procedure of a Village Disaster Risk Management Committee shall be prescribed in regulations made under this Act



**61 Membership of Village Disaster Risk Management Committee**

- (1) A Village Disaster Risk Management Committee shall be comprised of the following members —
  - (a) the Town Officer of the village (chair); and
  - (b) up to 8 representatives nominated by the village fono, with the approval of the Minister.
- (2) In appointing the representatives in subsection (1)(b), the Minister shall have due regard to the representation of women, young people, people with disabilities and other vulnerable groups.
- (3) The term of each member shall be —
  - (a) for the Town Officer, as long as he holds his position as Town Officer of the village; and
  - (b) for a member appointed under subsection (1)(b), up to two years and may be reappointed by the Minister.

**PART VI – NATIONAL EMERGENCY OPERATIONS CENTRE****62 Activation of the National Emergency Operations Centre**

- (1) The National Emergency Operations Centre will be activated in accordance with this section when —
  - (a) a threat of a disaster develops; or
  - (b) a disaster occurs.
- (2) There shall be two levels of activation —
  - (a) standby mode; and
  - (b) full activation.
- (3) The power to activate the Centre shall be as follows —
  - (a) standby mode, the Director; and
  - (b) full activation, the Director in consultation with the National Disaster Risk Management Committee.
- (4) Notwithstanding the requirement to consult with the National Disaster Risk Management Committee in subsection (3)(b), where an event or disaster is imminent and the need to fully activate the centre is urgent and paramount, the Director shall have the power to fully activate the National Emergency Operations Centre.

**63 Standby mode**

- (1) In the event of an activation in standby mode, the Centre shall be manned by the Office personnel only, until such time that the activation is cancelled or upgraded to a full activation.
- (2) Key responsibilities and functions of the Centre in standby mode shall be prescribed in standard operating procedures made under this Act.
- (3) Activation of the Centre in standby mode shall be made and published through circulation, radio announcement or digital publication in the prescribed manner.

**64 Full activation**

- (1) In the event of a full activation –
  - (a) the Director shall automatically be deemed to be the National Controller for the purposes of this Act;
  - (b) the National Controller shall have overall responsibility for supervision of the National Emergency Operations Centre and all authorised officers working in the Centre; and
  - (c) the National Emergency Operations Centre shall be manned on a 24 hour basis by authorised officers from the Office, and liaison officers from surge capacity teams drawn from key Government Ministries and agencies.
- (2) Full activation of the National Emergency Operations Centre shall be made and published through circulation, radio announcement or digital publication in the prescribed manner.
- (3) Key responsibilities and functions of the National Emergency Operations Centre when fully activated shall be prescribed in standard operating procedures made under this Act.

**65 Cancellation of activation**

- (1) On the recommendation of the relevant body of Government –
  - (a) the National Controller, in consultation with the chair of the National Disaster Risk Management Committee, shall cancel a full activation of the National Emergency Operations Centre; or
  - (b) the Director shall cancel the activation of standby mode.
- (2) Cancellation of each activation shall be in the prescribed manner.

**66 Functions and procedures**

- (1) The National Emergency Operations Centre shall be the central post for co-ordination and command, at the national level, during an emergency operation.
- (2) Functions of the National Emergency Operations Centre shall include but not be limited to the following –
  - (a) monitoring of potential major threats of disaster;
  - (b) support a lead agency or agencies in relation to response operations;
  - (c) co-ordinate –
    - (i) activities of disaster monitoring, warning and immediate post-disaster response including disaster relief activities; and
    - (ii) requests for assistance during an emergency;
  - (d) obtain timely and accurate information about the impact of an event or disaster;
  - (e) ensure the timely and appropriate update, management and recordkeeping of disaster data, information, records and systems;
  - (f) develop and provide regular situation reports from information gathered from island emergency coordination centres and relevant agencies;
  - (g) liaise with or report to the Prime Minister or Cabinet as required;
  - (h) issue official information on the status of operations and response; and
  - (i) carry any additional functions prescribed in regulations or standard operating procedures made under this Act.
- (3) Functions of the National Controller shall include but not be limited to the following –
  - (a) consult with the chair of the Operations Sub-Committee or the Recovery Sub-Committee as may be required by the circumstances;
  - (b) allocate personnel and equipment to disaster impacted areas to carry out emergency response tasks;
  - (c) control and co-ordinate activities of government Ministries or agencies for the allocation of available resources in response operations;
  - (d) source of official information relating to operations;
  - (e) liaise with all key stakeholders, at the national and local level, for the execution of their emergency operation roles and responsibilities; and
  - (f) any other function provided under this, or any other Act.

**67 Situation report**

- (1) When the Centre is fully activated, the National Controller shall be responsible for overseeing the development of a situation report.

- (2) The Island Disaster Controller will be responsible for overseeing the development of a situation report of the affected communities in its geographical region and for submitting it to the National Controller for inclusion.
- (3) A situation report shall be concise, accurate and timely and shall, in relation to an event or disaster –
  - (a) provide an account of the current situation and the progress of response of the affected communities;
  - (b) indicate a full list of needs of the affected communities and whether those needs can be met locally or require international assistance; and
  - (c) indicate a full list of unmet needs or, if met, provide new list of needs.
- (4) A situation report may either be –
  - (a) internal, designed for government and national decision-makers; or
  - (b) external, designed for development partners and external organisations.
- (5) Upon request, a situation report shall be provided to –
  - (a) the Prime Minister and Cabinet;
  - (b) governing bodies established under this Act; and
  - (c) lead agencies.

## **68 Media bulletins**

- (1) Subject to applicable laws, a media bulletin shall be prepared by authorised personnel of the Ministry at regular intervals or at any time requested by the Director as National Controller acting on behalf when a state of emergency has been declared or at all other times by the Director.
- (2) Prior to release or publication, a media bulletin shall be cleared by the Director as National Controller when a state of emergency has been declared or at all other times by the Director.

## **69 Briefings**

- (1) A media briefing shall be organised by authorised personnel of the Ministry at any time requested by the Director as National Controller when a state of emergency has been declared or at all other times by the Director.
- (2) The content of a briefing shall be cleared by the Director as National Controller prior to the briefing taking place.

## **70 Line of authority**

When the Centre is activated under section 62, the National Controller shall be the operational head of the National Emergency Operations Centre.

**71 National Emergency Operation Centre Task force**

- (1) The National Controller, assisted by the National Emergency Operation Centre Task Force, shall be responsible for discharging the functions of the Centre in section 66(2).
- (2) The Task Force is comprised of the following members –
  - (a) Deputy Chief of Staff for His Majesty’s Armed Forces;
  - (b) Deputy Police Commissioner; and
  - (c) Deputy Fire and Emergency Services Commissioner.
- (3) The task force may, from time to time, request assistance from any other Ministry, agency or stakeholder.

**72 Disaster Liaison Officers**

- (1) A Disaster Liaison Officer is the main point of contact within a Ministry or agency –
  - (a) when the Centre is activated in accordance with section 62; or
  - (b) during an emergency operation under this Act.
- (2) In discharging his functions under this Act, the National Controller shall work closely with members of the Taskforce established under section 71 and Liaison Officers nominated under this section.
- (3) For the purposes of this Act, the Ministry, as well as the following Ministries or agencies shall appoint a senior officer to be its Disaster Liaison Officer –
  - (a) Ministries responsible for –
    - (i) finance;
    - (ii) infrastructure;
    - (iii) health;
    - (iv) agriculture, food and forests;
    - (v) internal affairs;
    - (vi) education and training; and
    - (vii) lands and survey;
  - (b) Department of Statistics;
  - (c) His Majesty’s Armed Forces;
  - (d) Police; and
  - (e) Fire and Emergency Services.
- (4) Specific functions of a Disaster Liaison Officer include –
  - (a) liaising with the National Controller and governing bodies under this Act on emergency operations and assistance;

- (b) provision of information from the Ministry or agency which he represents; and
- (c) engaging in operations of the Centre during an event or disaster.

### **73 Establishment of an Island Emergency Operation Centre**

- (1) Where an event or disaster occurs on any of the islands of Vava'u, Ha'apai, Niuafu'ou, Niuatoputapu or 'Eua, –
  - (a) powers and functions of the National Controller under this Part is deemed to extend to an Island Disaster Controller; and
  - (b) the Island Disaster Controller shall activate and oversee the functions of an Island Emergency Co-ordination Centre in accordance with this Part.
- (2) The Island Emergency Co-ordination Operation shall be the central post for co-ordination and command, at the island group level, during an emergency operation.
- (3) An Island Emergency Operation Centre taskforce shall be comprised of –
  - (a) officers from the Ministry; and
  - (b) nominated representatives from the ministries in section 72(3).
- (4) Functions of the Island Emergency Operation Centre shall be the same as the functions set out in section 66, except that the Island Emergency Co-ordination Centre shall exercise functions in relation to an island group.
- (5) Sections 62 to 72 of this Part shall apply in relation to each Island Emergency Operation Centre.
- (6) For the purposes of this section and section 74, the Island Disaster Controller shall be, in relation to –
  - (a) Vava'u and Ha'apai, the Governor; and
  - (b) Niuafu'ou, Niuatoputapu and 'Eua, the Government Representative.
- (7) In the absence of the Governor of Vava'u or Ha'apai, the Island Disaster Controller shall be the officer in charge of the Ministry on that island group.

### **74 Functions of the Island Controller**

- (1) The Island Controller shall consult and co-ordinate with the National Controller for activating or assisting with emergency or disaster operations on each island.
- (2) Subject to subsection (1), the Island Controller is responsible for –
  - (a) activating or co-ordinating emergency or disaster operations;
  - (b) directing Government Ministries or agencies to make available Government resources for disaster operations and recovery; and

- (c) liaising with an Island Disaster Risk Management Committee or Village Disaster Risk Management Committee for implementing the directions of the National Controller and Ministry.

## **PART VII – EVACUATION POWERS**

### **75 Administration of this Part**

This Part shall be administered by the Disaster Risk Management Operations Sub-Committee.

### **76 Power to order evacuation**

- (1) The Prime Minister may, on the recommendation of the National Controller and being satisfied that such an order is necessary –
  - (a) in the interest of and for the welfare of any particular person or body of persons residing within the Kingdom,
  - (b) due to the risks associated with a pending event or risk to the welfare or livelihood of the public; or
  - (c) following the occurrence of an event or disaster,order the complete or partial evacuation of a person or body of persons from their usual place of work or residence to any other part of the Kingdom.
- (2) An Evacuation Order may be made before, during or after an emergency or disaster.
- (3) The Order in subsection (1) shall cover any person working residing in the Kingdom, whether a person is a Tongan subject or a foreign national.
- (4) An Evacuation Order shall be made in the prescribed manner.

### **77 Emergency evacuation power of Director**

- (1) Notwithstanding section 76, if urgency is paramount and no time is available to contact the Prime Minister, the National Controller may issue an emergency evacuation order under this Part.
- (2) The power to issue an emergency evacuation order under subsection (1) shall relate to the imminent occurrence of a -
  - (a) local tsunami;
  - (b) earthquake;
  - (c) volcanic eruption;
  - (d) fire;
  - (e) chemical spill or leakage; or

- (f) any other circumstances of a similar nature.
- (3) An emergency evacuation order under this section shall be made and issued in the prescribed manner.

## **78 Emergency evacuation power for Tonga Meteorological Services and other lead agencies for respective hazard type**

- (1) Notwithstanding section 76, if urgency is paramount and no time is available to contact the Director, an authorised person on duty on behalf of the agencies, may issue an emergency evacuation order under this Part.
- (2) The power to issue an emergency evacuation order under subsection (1) shall only relate to the imminent occurrence of a disaster including the local tsunami.
- (3) For the purposes of subsection (1), “**an authorised person on duty**” refers a person who –
  - (a) has been authorised, in writing, by the Chief Executive Officer of the respective lead agency to issue an evacuation order; and
  - (b) has undertaken specialised training to know when a particular disaster situation is imminent and an emergency evacuation order is necessary.
- (4) For an evacuation order which relates to Ha’apai, Vava’u, ‘Eua, Niuafo’ou or Niuatoputapu, the Operations Sub-Committee shall be comprised of the following –
  - (a) members of the Operations Sub-Committee in section 39;
  - (b) Governor or Government Representative of the island affected by the Order; and
  - (c) Officer in charge of the Ministry and a representative from the Office located on the island affected by the Order.
- (5) An emergency evacuation order under this section shall be made and issued in the prescribed manner.

## **79 Evacuation powers of the National Disaster Operations Sub-Committee**

- (1) The National Disaster Operations Sub-Committee shall be responsible for the general management and control of an evacuation pursuant to an Order made under sections 76, 77 or 78, and for that purpose may –
  - (a) make such rules, orders or directives as it thinks necessary for securing the expedient and safe evacuation named in the Order;
  - (b) requisition property, for the purposes of the evacuation, in the island or area to be evacuated, or partially evacuated;
  - (c) apply any money received by it from the Ministry of Finance in defraying any of the legitimate expenses of the evacuation; or



- (d) subject to the provisions of this Act, do such other things as appear to it to be necessary or expedient for furthering the interests and well-being of the evacuated persons during the course of evacuation and resettlement.
- (2) Where a person has been evacuated from his usual place of residence to another place in the Kingdom, the Operations Sub-Committee shall, upon the request of the Ministry, provide a list of names of all persons evacuated and the location to which they have been evacuated.

## **80 Exemption from evacuation**

Notwithstanding section 83, where a situation warrants an evacuation to be unsafe or dangerous to the lives of the evacuees or those carrying out the evacuation, the National Disaster Operations Sub-Committee may, as it sees fit, exempt any person from an evacuation under this Part.

## **81 Funds for evacuation**

For the purpose of carrying out an Evacuation Order under sections 76, 77 or 78, the Minister of Finance shall, at the request of the Operations Sub-Committee, advance money from the General Revenue account of government or the Emergency Fund for the transport, accommodation, maintenance and care of persons evacuated under this Part.

## **82 Cancellation of Evacuation Order**

- (1) An Evacuation Order or Emergency Evacuation Order shall remain effective until it is subsequently rescinded, by an Order of the Prime Minister.
- (2) The cancellation of an evacuation order shall be made in the prescribed manner.

## **83 Duty to comply**

A person in the Kingdom has a duty to comply with an Evacuation Order or an Emergency Evacuation Order, and with any rule or directive of the Operations Sub-Committee under this Part.

## **84 Penalty for non-compliance**

A person who fails to comply with any order, rule or directive issued by the Operations Sub-Committee under this Part shall be liable, upon conviction, to a fine not exceeding \$5,000, or a term of imprisonment not exceeding 6 months, or both.

**85 Evacuation of foreigners**

- (1) Where the Operations Sub-Committee shall carry out Order for the evacuation of offices or premises of a foreign diplomat or foreign representative in the Kingdom –
  - (a) where time permits, the Operations Sub-Committee shall convey the order or directive through the Ministry of Foreign Affairs; or
  - (b) where urgency is paramount, the Operations Sub-Committee shall convey the order or directive to the Head of Mission.
- (2) Where foreign nationals are evacuated from their usual place of residence to another place in the Kingdom, the Operations Sub-Committee shall, upon the request of a Head of Mission, provide a list of names of all foreign nationals and the locations to which they have been evacuated.

**86 Ministry to ensure safe evacuation centres**

- (1) The Ministry, in consultation with the Operations Sub-Committee, shall ensure that –
  - (a) prior to an event, adequate provision is made to identify, maintain and equip evacuation centres at appropriate locations throughout the Kingdom;
  - (b) pursuant to an evacuation order, the evacuation centre or location to which a person is evacuated is relatively safe, secure and accessible;
  - (c) subject to the availability of resources, adequate food, water, blankets and other basic items are provided at an evacuation centre; and
  - (d) an evacuee has continued access to clean drinking water and hygienic sanitary conditions.
- (2) Rules for the identification, maintenance and management of evacuation centres or locations shall be prescribed.

**PART VIII – MULTI HAZARD EARLY WARNING SYSTEM****87 Establishment of the multi-hazard early warning system**

- (1) The Government of Tonga shall establish a multi-hazard early warning system for the Kingdom.
- (2) To the extent possible, local practices shall be promoted in designing early warning system radio communication system, early warning sound alert system, remote activated radios and other locally available and practiced mechanism will be combined to develop a national early warning system

- (3) The Ministry shall ensure that standard operating procedures are developed to define roles and responsibilities of key Ministries and agencies responsible for the multi-hazard early warning system and in particular the functions of the –
  - (a) Office;
  - (b) Tonga Meteorological Services;
  - (c) Tonga Geological Services; or
  - (d) any other agency responsible for the provision of early warning information.
- (4) The multi-hazard early warning system shall ensure that early warning information –
  - (a) is accurate and is provided to key decision makers and bodies in a timely manner;
  - (b) focuses on likely impact and suggested actions; and
  - (c) is disseminated quickly to –
    - (i) key decision makers, governing bodies, and relevant stakeholders at the local and national level; and
    - (ii) members of the public, including vulnerable populations, in affected areas or potential areas of risk.

## **88 Dissemination of early warning information**

- (1) The Director of the Tonga Meteorological Services, Tonga Geological Services or any other agency responsible for providing early warning information to the Ministry shall provide early warning information to the Director under this Act.
- (2) Upon receiving early warning information, the Director shall determine whether one or more of the following should occur –
  - (a) a meeting of a body or entity established under this Act should be called, individually or jointly, to consider and respond to the early warning information;
  - (b) a declaration should be made in accordance with Part II;
  - (c) the National Emergency Operations Centre should be activated in accordance with section Part VI;
  - (d) an evacuation order should be issued in accordance with Part VII;
  - (e) a particular Ministry, lead agency or stakeholder should be notified; or
  - (f) no further action is necessary for the time being.
- (3) Regulations or standard operating procedures made under this Act shall outline procedures for the dissemination and management of early warning information under this Act and the functions and linkages of key personnel and governing bodies in relation to the multi-hazard early warning system.

## **PART IX – NATIONAL DISASTER RISK MANAGEMENT POLICY**

### **89 National Disaster Risk Management Policy**

- (1) Within 24 months of the commencement of this Act, the Ministry shall prepare a National Disaster Risk Management Policy for the Kingdom.
- (2) The National Disaster Risk Management Policy shall, among other things, cover the following —
  - (a) national priorities and objectives for disaster risk management and disaster risk reduction in the Kingdom;
  - (b) legal and institutional arrangements for disaster risk management in the Kingdom;
  - (c) key guiding principles for disaster risk management and disaster risk reduction;
  - (d) key entities responsible for disaster risk mitigation, preparedness, response and recovery for the Kingdom, based on a risk management process; and
  - (e) any other issue which the Ministry determines appropriate.
- (2) The Minister, with the consent of Cabinet, shall approve the National Disaster Risk Management Policy and any future revisions.
- (3) The Director shall ensure that a copy of the National Disaster Risk Management Policy is published on the website of the Ministry or the Office.

## **PART X – STRANDARD OPERATING PROCEDURES**

### **90 Standard operating procedures**

- (1) Within 24 months of the commencement of this Act, the Ministry shall develop standard operating procedures for each event, as defined in section 2(a) to 2(f) of this Act.
- (2) A standard operating procedure for each event shall, among other things, cover the following –
  - (a) roles and responsibilities of governing bodies under this Act;
  - (b) roles and responsibilities of key stakeholders;
  - (c) linkages and co-ordination between governing bodies, with particular attention to co-ordination between national and local bodies; and
  - (d) any other matter which the Minister considers appropriate.

**91 Adoption of a standard operating procedure**

- (1) The Minister, with the consent of Cabinet, shall approve a standard operating procedure under this section and any future revisions.
- (2) The Director shall ensure that a copy of a standard operating procedure adopted under this section is published on the website of the Ministry.

## **PART XI – FACILITATION OF INTERNATIONAL ASSISTANCE**

**92 Regulations for facilitation of international assistance**

The Minister shall make regulations for the facilitation of international assistance for disaster response and recovery to the Kingdom under this Act.

**93 Consultation with relevant stakeholders**

The Ministry shall consult with relevant stakeholders for the development of regulations in section 92, in particular –

- (a) key Government Ministries and governing bodies under this Act;
- (b) development partners;
- (c) Tonga Red Cross Society;
- (d) faith based and non-government organisations; and
- (e) to the extent possible, Tongan diaspora.

## **PART XII – EQUIPMENT, MACHINERY AND WAREHOUSE**

**94 Administration of this Part**

- (1) The Office shall administer this Part.
- (2) The cost for administering and implementing this Part shall be covered by the recurrent budget of the Ministry.

**95 Usage**

- (1) Equipment, machinery and vehicles managed by the Office will only be used for the following purposes –
  - (a) disaster preparedness, response and recovery activities under this Act;  
or
  - (b) any other purpose that the Office approves from time to time.

- (2) The Office shall have the power to –
- (a) charge a fee for the use of or periodic maintenance of equipment, machinery or vehicles as prescribed; and
  - (b) impose conditions for the use of such equipment, machinery or vehicles.

## **96 Establishment of warehouses**

The Office shall establish warehouses on Tongatapu and the outer islands for the storage of equipment, machinery vehicles under this Part.

## **97 Maintenance and disposal**

- (1) The Office shall ensure that equipment, machinery, vehicles or other items under its custody are kept in usable condition and maintained throughout the year.
- (2) Any equipment, machinery, vehicles or other items that are damaged or are no longer operational shall be disposed of by the Office in accordance with the relevant policy of the Ministry for the disposal of assets.

## **98 Assets management**

- (1) The Office is responsible for ensuring that an appropriate assets management system is established to register the acquisition, use, storage, maintenance, or disposal of equipment, machinery, vehicles or other items under its custody.
- (2) Information recorded in the assets management system shall be reflected in the register of the Ministry in section 118 of this Act.

# **PART XIII – FINANCIAL MATTERS**

## **99 Budget**

For the implementation of this Act, the budget of the Office shall be from the following sources –

- (a) recurrent budget of the Ministry;
- (b) Emergency Fund; and
- (c) financial assistance received from development partners, regional or international organisations, or private contributions.

**100 Access to the Emergency Fund**

- (1) The Emergency Fund shall be made available for the implementation of an order made under –
  - (a) Part II – state of emergency, state of alert and state of small scale disaster; and
  - (b) Part VII – evacuation order and emergency evacuation order.
- (2) More generally, the Emergency Fund shall be available for the purposes of disaster preparedness, response and recovery and for the work of governing bodies established under this Act.

**101 Operational budget of an Island Disaster Risk Management Committee**

- (1) By 30 November each year, an Island Disaster Risk Management Committee shall prepare and provide to the National Disaster Risk Management Committee, a proposed budget which incorporates anticipated operational and implementation costs for achieving its island disaster risk management plan.
- (2) Upon receiving an allocated budget, the chair of an Island Disaster Risk Management Committee will be accountable to the National Disaster Risk Management Committee for proper use of such funds, which shall be in accordance with regulations made under this Act.
- (3) Notwithstanding subsections (1) and (2), the Tongatapu Island Disaster Risk Management Committee –
  - (a) will, by 30 November submit its budget to the National Disaster Risk Management Committee; and
  - (b) upon receiving an allocated budget from the National Disaster Risk Management Committee, the chair of the Tongatapu Island Disaster Risk Management Committee will be accountable to the National Disaster Risk Management Committee for proper use of such funds, which shall be in accordance with regulations made under this Act.

**102 Operational budget of a Village Disaster Risk Management Committee**

- (1) By 31 October each year, a Village Disaster Risk Management Committee shall prepare and provide to its Island Disaster Risk Management Committee, a proposed budget which incorporates anticipated operational and implementation costs for achieving its village disaster risk management plan.
- (2) Upon receiving an allocated budget, the chair of a Village Disaster Risk Management Committee will be accountable to the Island Disaster Risk Management Committee for proper use of such funds, which shall be in accordance with regulations made under this Act.

**103 Operational budget of a cluster**

- (1) The Ministry responsible as a cluster lead shall allocate an operational budget from its own recurrent budget for the implementation of an annual cluster workplan including activities aimed at mainstreaming disaster risk management.
- (2) The annual cluster workplan for each cluster shall align with the approved terms of reference and standard operating procedures of that cluster.

**104 Entitlement to overtime**

- (1) Notwithstanding any other Act to the contrary, the Director shall be entitled to request and to receive funds from a source under section 99 or section 100 of this Act, for the payment of overtime to –
  - (a) staff of the Office including authorised officers under Part XIV of this Act;
  - (b) member of the National Emergency Operations Centre; or
  - (c) member of the Island Emergency Operations Centre;in relation to overtime work conducted during –
  - (i) a declared state of emergency, state of alert or small scale disaster; or
  - (ii) the implementation of an evacuation order or emergency evacuation order, under this Act.
- (2) The entitlement to overtime pay in subsection (1) shall include pre-approved work carried out by a person on a Sunday or a Public Holiday.
- (3) A member of a governing body established under this Act shall be entitled to a reimbursement of expenses related to travel, accommodation or food paid for by the member in the discharge of the functions of the governing body as prescribed.

**105 Emergency procurement**

- (1) Subject to applicable law, the Minister shall with the consent of Cabinet, make regulations to establish rules for emergency procurement during a declared state of emergency or state of alert under this Act.
- (2) The rules for emergency procurement shall also facilitate access to the Emergency Fund, for achieving the purposes of this Act.



**106 Where budget not allocated**

Where provision has been made for the exercise of a function under this Act, but no specific budget has been allocated to the responsible body, the Minister shall, in consultation with the Director, ensure that such a body receives timely and adequate funding from a funding source under section 99 or 100 of this Act.

**PART XIV – DESIGNATION OF AUTHORISED OFFICERS****107 Designation of an authorised officer**

- (1) The Minister shall, on the recommendation of the Director, designate a person as an authorised officer under this Act.
- (2) A person within the Ministry or outside the Ministry may be designated.
- (3) In addition to subsection (1), the following persons shall be designated as authorised officers under this Act –
  - (a) Chief Executive Officer of the Ministry;
  - (b) Director;
  - (c) National Controller;
  - (d) Island Controller;
  - (e) a person nominated or appointed under this Act to work at the National Emergency Operations Centre; or
  - (f) a member of a governing body established under this Act.
- (4) A person in subsection (1) or (2) of this section shall have undertaken special training facilitated by the Ministry for authorised officers under this Act.
- (5) A designation by the Minister shall be made in the form prescribed in Schedule 4.
- (6) The instrument of designation shall specify the –
  - (a) name of the person designated;
  - (b) period of designation; and
  - (c) specific power or powers of the designated person.
- (7) A person who has been designated as an authorised officer shall be issued with an identity card in the form prescribed in Schedule 5.

**108 Powers of an authorised officer**

An authorised officer shall have one or more the following powers –

- (a) exercise any power that is stated on his instrument of designation pursuant to Part II of this Act;

- (b) power to implement a lawful direction made by a person or body under this Act; and
- (c) power to travel within the Kingdom freely, during a declared state of emergency, public health emergency, small scale disaster, or during the imposition of border control measures as prescribed.

### **109 Revocation of designation**

- (1) A Minister in office may revoke the designation of an authorised officer under section 107.
- (2) A revocation shall be made in the form prescribed in Schedule 6.

## **PART XV – OFFENCE PROVISIONS**

### **110 Obstruction of authorised officer**

A 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 \$50,000 or to imprisonment for a term not exceeding 3 years, or both.

### **111 Failure to comply with a direction**

A 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 \$50,000 or to imprisonment for a term not exceeding 3 years, or both.

### **112 Impersonation of an authorised officer**

A person who knowingly impersonates an authorised officer, commits an offence and shall be liable upon conviction to a fine not exceeding \$30,000 or to imprisonment for a term not exceeding 2 years, or both.

### **113 Damage of equipment, machinery or vehicle**

A person who, without lawful excuse, causes damage to any equipment, machinery or vehicle of the Office or provided to the Ministry for the purposes of this Act, shall on conviction be liable to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 3 years or both.

**114 Damage to signs**

A person who, without lawful excuse, causes damage to a sign erected by the Office, shall on conviction be liable to a fine not exceeding \$30,000 or to imprisonment for a term not exceeding 2 years or both.

**115 Unauthorised use of funds**

A person who directly or indirectly causes the unauthorised use of funds provided under this Act, shall, upon conviction, be liable to -

- (a) the full amount of funds unlawfully used; and
- (b) a fine not exceeding \$20,000,

or a term of imprisonment of up to 12 months, or both.

**116 Unauthorised use of equipment, machinery or vehicle**

(1) A person who –

- (a) uses or moves, without the authorisation of the Office; or
- (b) damages or contributes to the damage of, equipment, machinery, a vehicle under Part XII,

shall, upon conviction, be liable to an offence of up to \$20,000 or a term of imprisonment of up to 12 months, or both.

(2) A person who –

- (a) uses or moves items from a warehouse, without the authorisation of the Office ; or
- (b) damages or contributes to the damage of a warehouse,

in contravention of this Part shall, upon conviction, be liable to a fine not exceeding \$20,000 or a term of imprisonment of up to 12 months, or both.

**117 Theft of equipment, machinery or vehicle**

A person who, directly or indirectly causes the theft of equipment or machinery or a vehicle owned by the Office, shall on conviction be liable to a fine not exceeding \$30,000 or to imprisonment for a term not exceeding 2 years or both.

**PART XVI – REGISTERS****118 Director to keep registers**

- (1) The Director shall establish and maintain a register for the Ministry which contains the following information –

- (a) names and contact details of all key personnel, committee and cluster members under this Act;
  - (b) list of all persons who are delegated with responsibilities under this Act and the effective date and duration;
  - (c) names of all authorised officers, including their date of appointment, powers and duration of appointment;
  - (d) special training, induction training or joint training of authorised officers;
  - (e) any equipment, machinery, vehicles or other assets acquired by and in the custody of the Office under this Act;
  - (f) list and location of warehouses or facilities owned or managed by the Office under this Act;
  - (g) any conflict of interest declared by members of a committee and the nature of those conflicts;
  - (h) complaints lodged under this Act and outcomes;
  - (i) prosecutions initiated under this Act and outcomes; and
  - (j) any other information that the Director deems necessary for the efficient and effective discharge of the functions of the Office.
- (2) To the extent possible, the information on a register shall be kept in electronic form, periodically updated and securely stored.

## PART XVII – MISCELLANEOUS

### 119 Annual report

- (1) The Director shall prepare an annual report on disaster risk management activities in Tonga which shall form part of the Annual Report of the Ministry.
- (2) Among other things, the Annual Report of the Office shall cover —
- (a) national priorities for disaster risk reduction;
  - (b) capacity of the Office and governing bodies to conduct their functions under this Act;
  - (c) activities undertaken during the preceding financial year to maintain or enhance disaster risk management in the Kingdom;
  - (d) details of emergency operations undertaken in the preceding financial year;
  - (e) brief account of disaster recovery strategy and actions undertaken after disaster;
  - (f) update on the policy progress on disaster risk reduction, and disaster preparedness in Tonga, including the engagement and contribution of

- the government to international and regional disaster risk management initiatives;
- (g) nature of international assistance received by the Office or Ministry in the preceding financial year; and
  - (h) any other matter relating to disaster risk management that the Director considers appropriate.

## 120 Regulation-making power

- (1) The Minister shall have the power, with the consent of Cabinet, to make regulations or standard operating procedures generally for carrying into effect the provisions of this Act.
- (2) This regulation making power shall include the power to prescribe the following matters –
  - (a) in relation to Part II, procedures to be followed after a declaration has been made;
  - (b) in relation to section 16, manner in which emergency powers in subsections 16(1)(i), 16(1)(j), 16(1)(k), 16(1)(l) and 16(1)(m) are to be carried out;
  - (c) in relation to section 19(5), manner in which a border control order, including its extension or cancellation, shall be issued;
  - (d) in relation to section 33(2)(d), additional functions of the National Controller;
  - (e) in relation to section 44, membership of a cluster;
  - (f) in relation to section 45(1), functions of a cluster;
  - (g) in relation to section 51(3), rules of procedure of the Inter-Cluster Coordination Committee;
  - (h) in relation to section 56(8), rules of procedure of an Island Disaster Risk Management Committee;
  - (i) in relation to section 60(7), rules of procedure of a Village Disaster Risk Management Committee;
  - (j) in relation to section 67–
    - (i) frequency of development of a situation report;
    - (ii) structure or template for an internal or external situation report;
    - (iii) information required for a situation report and a clear line of responsibility for providing or obtaining this information;
    - (iv) reporting and command process within the Centre;
    - (v) responsibility for releasing information from the Centre; and
    - (vi) responsibility for managing and keeping appropriate records of information;

- (k) in relation to section 66(2)(i), additional functions of the National Emergency Operations Centre;
  - (l) in relation to section 70, line of authority in the National Emergency Operations Centre;
  - (m) in relation to section 78(5), manner in which an emergency evacuation order will be issued and the evacuation protocol in relation to such order;
  - (n) in relation to section 86(2), rules for the identification, maintenance and management of evacuation centres or locations;
  - (o) in relation to section 88(3), procedures for the dissemination and management of early warning information under this Act and the functions and linkages of key personnel and governing bodies in relation to the multi-hazard early warning system;
  - (p) in relation to section 92, process for the facilitation of international assistance for disaster response and recovery to the Kingdom;
  - (q) in relation to section 95(2)(a), fees for the use or maintenance of vehicles;
  - (r) in relation to sections 101 and 102, rules for the use of funds of the Island and Village Disaster Risk Management Committee;
  - (s) in relation to section 104(3), entitlement of a member of a governing body to reimbursement of expenses;
  - (t) in relation to section 105(1), rules for emergency procurement;
  - (u) in relation section 108(c), powers of an authorised officer; and
  - (v) templates of notices issued by the Ministry, National Disaster Risk Management Office or a governing body under this Act.
- (3) Any regulations made under this Act may make provisions for offences and may prescribe penalties –
- (a) if it is an individual, a fine not exceeding \$10,000, or to a term of imprisonment not exceeding 3 years, or both; or
  - (b) if it is company, a fine not exceeding \$50,000.

## 121 Prescribed fees

The Ministry shall prescribe fees under this Act.

## 122 Fund for the purposes of this Act

- (1) The Emergency Fund established under the Emergency Fund Act (CAP. 11.08) shall be the fund which is established for the purposes of this Act.

- (2) The Ministry, jointly with the Ministry of Finance, will ensure that the provisions of the Emergency Fund Act are aligned to the provisions of this Act.

### **123 Immunity of person exercising powers**

A legal proceeding or claim shall not lie against any person for any act done in good faith and without gross negligence, in the exercise of any power or the performance of any duty conferred upon him, by or under this Act.

### **124 Public education and awareness**

The Director shall ensure that the public are informed of disaster risk management processes under this Act.

### **125 Disclosure of information**

Nothing in this Act shall authorise or require the disclosure of information which may compromise the safety or security of the Government or people of Tonga.

### **126 Provisions to apply if standalone Ministry**

Where the portfolio or responsibility for disaster risk management is solely assigned to a Minister, resulting in the Ministry being a standalone Ministry provisions in this Act shall be read as follows –

- (a) functions of the Office shall become functions of the Ministry;
- (b) functions of the Director shall become functions of the Chief Executive Officer of the Ministry;
- (c) all references to the Office under this Act and regulations made under this Act shall become references to the Ministry; and
- (d) all references to the Director under this Act shall become references to the Chief Executive Officer.

### **127 Repeal and savings**

- (1) The following Acts are repealed and replaced by this Act –
  - (a) Emergency Management Act (Cap. 7.02);
  - (b) Evacuation Act (Cap.7.04); and
  - (c) Evacuation of Foreigners Act (Cap.9.01).
- (2) Notwithstanding subsection (1)(a) and subject to this Act, any –
  - (a) order or directive issued by the Minister or Director; or
  - (b) plan or standard operating procedure approved by the Cabinet,

under the Emergency Management Act shall continue in full force and effect as if made under this Act, and shall continue in force and effect until replaced by–

- (i) an order or directive; or
  - (ii) a plan or standard operating procedure,  
made, issued or approved under this Act.
- (3) Notwithstanding the repeal of the Emergency Management Act (Cap.7.02), the Fund established under the Emergency Fund Act (Cap. 11.08) shall continue in force and shall be the Fund which is established for the purposes of this Act.

Passed by the Legislative Assembly this **25<sup>th</sup>** day of **August** 2021.



**SCHEDULE 1***(Section 2)***LEAD AGENCIES**

For the purposes of this Act, the following are lead agencies –

<b>Event</b>	<b>Lead agency or agencies</b>	<b>Authorised personnel</b>
Cyclone, storm, storm surge, tornado or other natural happening	National Disaster Risk Management Office	Director of National Disaster Risk Management Office
Earthquake, tsunami or volcanic eruption	National Disaster Risk Management Office	Director of National Disaster Risk Management Office
Explosion, fire, chemical, fuel or oil spill, gas leak (If event occurs at Nuku'alofa ports) (If event occurs at a wharf on Vava'u, Ha'apai, 'Eua, Niuafo'ou or Niuaotupapu)	Tonga Fire and Emergency Services Tonga Fire and Emergency Services and Ports Authority Tonga Fire and Emergency Services and Marine and Ports Division	Fire and Emergency Services Commissioner  Chair of Ports Authority Board
Infestation, plague, epidemic	Ministry of Health	Chief Executive Officer (Ministry of Health)
Failure of an essential service or infrastructure	Tonga Power Limited (electricity) Tonga Water Board (water) National Reserve Bank of Tonga / Tonga Police / Attorney General's Office (cybercrime affecting banking system)	Chief Executive Officer (Tonga Power Ltd) Chief Executive Officer (Tonga Water Board) Governor (Reserve Bank of Tonga)/ Police Commissioner/ Attorney General
Terrorist attack against the Kingdom	His Majesty's Armed Forces / Tonga Police	Chief of the Defence Staff of the Force / Police Commissioner
Any other event	National Disaster Risk Management Office	Director of National Disaster Risk Management Office

**SCHEDULE 2***(Section 37(6))***RULES OF PROCEDURE OF THE NATIONAL DISASTER RISK  
MANAGEMENT COMMITTEE**

- (1) A meeting of the National Disaster Risk Management Committee shall take place as and when called by the chair, but no less than once per quarter.
- (2) The Minister shall chair a meeting of the Committee and, in his absence, the Chief Executive Officer of the Ministry shall be chair.
- (3) If a member of the Committee is not available to attend a meeting, the member shall nominate a senior person from his Ministry or office to take part and to make a decision in his absence.

**SCHEDULE 3**

*(Section 39(7), 41(7))*

**RULES OF PROCEDURE OF THE NATIONAL DISASTER OPERATIONS SUB-COMMITTEE AND NATIONAL DISASTER RISK RECOVERY SUB-COMMITTEE****1 Meetings of the Sub-Committee**

- (1) The Chair shall convene meetings of the Sub-Committee as he thinks necessary for the efficient performance of the powers of the Sub-Committee's functions under this Act.
- (2) A meeting of the Sub-Committee may be held either —
  - (a) by a quorum of members being assembled together at the place, date, and time appointed for a meeting; or
  - (b) by means of audio or audio and visual communication, by which a quorum of members can simultaneously hear each other throughout the meeting.
- (3) The Chair shall preside at every meeting of the Sub-Committee and where absent, the members shall appoint a deputy chair to preside.

**2 Accountability to National Disaster Risk Management Committee**

- (1) A Sub-Committee shall be accountable to the National Disaster Risk Management Committee.
- (2) Notwithstanding sub-article (1), where it has been directed to implement a decision of the main Committee, a Sub-Committee shall have the power to make operational decisions without requiring further authority from the main Committee.

**3 Quorum**

The quorum of a meeting of a Sub-Committee shall be a simple majority of permanent members.

**4 Voting**

- (1) A question arising at a meeting of the Sub-Committee shall be determined by a majority of votes of the members present and voting.
- (2) Voting may be by show of hands or by secret ballot.

- (3) The Chair shall have a deliberative vote and, in the event of an equality of votes, shall also have a casting vote.

## **5 Functions of the Chair**

- (1) Functions of the Chair shall include –
- (a) calling a meeting of the Sub-Committee;
  - (b) presiding over and directing discussions of the Sub-Committee;
  - (b) representing and speaking on behalf of the Sub-Committee at public hearings and to the media;
  - (c) ensuring that the Sub-Committee effectively and efficiently discharges its functions under this Act and in a manner that is consistent with this Act; and
  - (d) approving and submitting a report of the Sub-Committee to the National Disaster Risk Management Committee or Minister.
- (2) A decision or proceeding of the Sub-Committee shall not be held void or bad for want of form or by reason of any informality.

## **6 Functions of the Deputy Chair**

If the Chair is absent from a meeting, the Deputy Chair shall act in place of the Chair and shall exercise all the powers, functions and duties of the Chair.

## **7 Functions of the Secretary**

Functions of the Secretary shall include –

- (a) liaising between the Sub-Committee and the public, key stakeholders and the media as necessary, for maintaining effective communication between the Sub-Committee and public;
- (b) ensuring that confidential information of the Sub-Committee is kept secure and released only according to a resolution of the Sub-Committee; and
- (c) complying with any other lawful directive of the Sub-Committee.

## **8 Functions of the Secretariat**

Functions of the Secretariat shall include –

- (a) keeping proper minutes of meetings of the Sub-Committee;
- (b) notifying members of meetings of the Sub-Committee and overseeing timely distribution of meeting materials;

- (c) liaising with and between the Ministry and the Chair as necessary, for maintaining effective communication between the Ministry and Sub-Committee;
- (d) carrying out any administrative or financial functions of the Sub-Committee as directed by the Chair; and
- (e) following the lawful directions of the Secretary in accordance with this Act.

## **9 Members not personally liable**

A member of the Sub-Committee shall not be personally liable for any act or omission by the Sub-Committee which was carried out in good faith in pursuance of the powers, duties and functions of the Sub-Committee under this Act.

## **10 Resignation of a member**

- (1) A person who is not an ex-officio member of the Sub-Committee may resign by providing notice, in writing to the chair.
- (2) Where a person has resigned, the chair shall ensure that a person is appointed in his place, in accordance with the Act.

## **11 Removal of a member**

- (1) The Minister may remove a member by a resolution, in writing, of the Sub-Committee.
- (2) Where a member has been removed by the Minister, the chair shall ensure that a person is appointed in his place, in accordance with the Act.

**SCHEDULE 4**

*(Section 107(5))*

**DESIGNATION OF AN AUTHORISED OFFICER**



National Disaster Risk Management Office

Nuku'alofa, Tonga

**Designation of an Authorised Officer**

Pursuant to section 107(1) of the Disaster Risk Management Act, I hereby designate OFFICER'S NAME as an authorised officer under the Act.

You shall hereby hold and shall exercise the full powers of an authorised officer under the Act;

You shall hereby hold and exercise the following powers under the Act –

(a) .....

(b) .....

This designation shall be effective as of today and shall continue in full force and effect until the date specified below or until the designation is renewed or revoked in accordance with the Act.

Unless renewed, your designation as an authorised officer will commence on ..... and automatically lapse on .....[insert date].

**Designation No.** : .....

Issued at Nuku'alofa on this ..... day of .....month, 20..... year.

.....

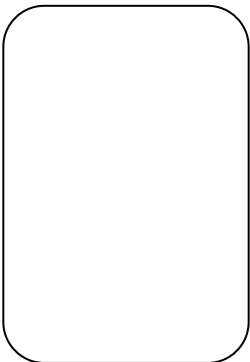
*Hon. [insert name]*

*Minister responsible for disaster*

**SCHEDULE 5***(Section 107(7))***IDENTITY CARD FOR AN AUTHORISED OFFICER**

The Chief Executive Officer shall issue the following photo identification card to an authorised officer who has been designated under this Act –

**FRONT:**

PHOTO 	Name: <input type="text"/>
	Date of Birth: <input type="text"/>
	Title: <input type="text"/>
	Date Issue /Expiration: <input type="text"/>
	ID No.: <input type="text"/>
	Signature: <input type="text"/>

**BACK:**

**THIS ID IS THE PROPERTY OF THE  
DISASTER RISK MANAGEMENT OFFICE**

You are hereby required to carry this identification at all times when you are exercising your powers under the Disaster Risk Management Act and regulations promulgated under the Act.

You shall show this ID if you are requested to do so by any person in the course of your duties.

**SCHEDULE 6***(Section 109(2))***REVOCATION OF DESIGNATION OF AN AUTHORISED OFFICER**

National Disaster Risk Management Office  
Nuku'alofa, Tonga

**Revocation of a designation of an Authorised Officer**

Pursuant to section 109(1) of the Disaster Risk Management Act, I hereby revoke the designation of OFFICER'S NAME as an authorised officer under the Act.

All powers of an authorised officer under the Act which were issued to you under Designation no. .... are hereby revoked.

This revocation is effective immediately.

You are hereby instructed to return your identity card to the Director, National Disaster Risk Management Office, together with any files or property of the Office.

**Revocation No.:** .....

Issued at Nuku'alofa on this ..... day of ..... month,  
20..... year.

.....  
*Hon. [insert name]*  
*Minister responsible for disaster*