

SAMOA

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2007, No. 13

AN ACT to provide for the management of disasters and emergencies in Samoa by effective planning and risk reduction, response and recovery procedures and the promotion of coordination amongst the response agencies, and for related purposes. [16th February 2007]

BE IT ENACTED by the Legislative Assembly of Samoa in Parliament assembled as follows:-

Part 1 - Preliminary

1. Short title and commencement-(1) This Act may be cited as the Disaster and Emergency Management Act 2007.

(2) This Act shall come into force on the date of assent of the Head of State.

(3) Notice of commencement of this Act shall be published in Samoan and English in the Savali and one other newspaper circulating in Samoa.

2. Interpretation-(1) In this Act, unless the context otherwise requires:

“Council” means the National Disaster Council;

“Chief Executive Officer” means the Chief Executive Officer of the Ministry;

“Commissioner” means the Commissioner of Police referred to in the Police Services Act 1977;

“declaration of disaster” means the activation of the disaster response provisions of the National Disaster Management Plan by the Chairperson of the National Disaster Council in accordance with section 19;

“disaster” means a situation in any part of Samoa:

(a) that arises from any happening, whether natural or otherwise, including -

(i) any naturally occurring event affecting the whole or any part of Samoa; or

(ii) any fire caused by any means; or

(iii) any aspect of the safety of a ship or aircraft in Samoa’s territory; or

(iv) any outbreak or spread of disease affecting humans, plants or animals; or

(v) any event, natural or otherwise, which threatens the supply of water or the quality of water resources in Samoa; or

(vi) the breakdown of telecommunications in Samoa or between Samoa and other countries; or

(vii) any other emergency event resulting from systems failure, infrastructure failure or human error; and

(b) which involves threat or danger to human life or health, or to the environment; and

(c) which might require response agencies to respond under this Act;

“Disaster Advisory Committee” means the Disaster Advisory Committee constituted under section 6;

“disaster management” means all activities undertaken in accordance with this Act in disaster preparedness and response, and for recovery from disasters and emergencies;

“Disaster Management Office” means the Disaster Management Office established in accordance with section 7;

“disaster risk reduction” means all mitigation activities undertaken in accordance with this Act to reduce the risk of hazards to the community and its property;

“emergency” means a situation:

- (a) which is more serious than a disaster;
- (b) which could result or has resulted in causing widespread human, property or environmental losses throughout Samoa or in any part of Samoa; and
- (c) which would require a substantial mobilisation and utilisation of Samoa’s resources or which would exceed the ability of Samoa to cope using its own resources;

“Minister” means the Minister who under the Constitution is given responsibility for this Act;

“Ministry” means the Ministry under the Minister who has responsibility for this Act;

“National Disaster Council” means the National Disaster Council constituted under section 5;

“National Disaster Management Plan” means the National Disaster Management Plan provided for in section 9;

“national emergency operations centre” means a facility designated under section 8;

“period of emergency” means the period during which:

- (a) a proclamation of emergency has effect in accordance with Article 105 of the Constitution;
- or
- (b) a declaration of disaster has effect in accordance with section 19;

“Prime Minister” includes any Minister acting as Prime Minister;

“Proclamation of Emergency” means a proclamation declaring a state of emergency made by the Head of State in accordance with Article 105 of the Constitution;

“recovery” means the medium and long term activities undertaken for physical, social, economic and environmental regeneration after a period of emergency;

“response agencies” mean the agencies referred to in section 11;

“response agency plans” mean the plans referred to in section 12

3. Act to bind the Government - This Act binds the Government.

4. Objects - The objects of this Act are to:

- (a) establish an efficient structure for the management of disasters and emergencies by promoting cooperation amongst agencies with a role in disaster management, and enhancing their capacities to maintain the provision of essential services during periods of disaster and emergency;
- (b) require the preparation and implementation of a national disaster management plan consisting of the response agency plans prepared by the response agencies and other groups and institutions in accordance with the requirements of this Act;
- (c) vest authority in persons and agencies to act during times of disaster and emergency in accordance with the plans approved under this Act, and to require the observance and implementation of directives given and initiatives taken by persons authorised under this Act;
- (d) to otherwise enhance the capacity of the government, relevant agencies and the community to effectively manage the impacts of disasters and emergencies and to take all necessary action to prevent or minimise threats to life, health and the environment from natural disasters and other emergencies;
- (e) to implement mechanisms to reduce risks and hazards that may cause, contribute to or exacerbate disaster or emergency situations in Samoa; and

- (f) to facilitate procedures aimed at implementing recovery activities in the aftermath of disasters and emergencies.

Part 2 – Disaster Management Structure

5. The National Disaster Council-(1) A National Disaster Council is established consisting of:

- (a) the Prime Minister, who shall be Chairperson;
- (b) the Minister, who shall be Deputy Chairperson; and
- (c) such other Ministers as the Prime Minister may appoint.

(2) The National Disaster Council shall have the following functions, responsibilities and powers:

- (a) to review, approve and endorse where appropriate any recommendation or advice given by the Disaster Advisory Committee, and to give directions to Government Ministries and agencies to ensure that its decisions are immediately carried out;
- (b) to require the implementation of the planning requirements provided for in Parts 3 and 4 and to approve the National Disaster Management Plan, and any modifications of the Plan;
- (c) to oversee the application of the National Disaster Management Plan during any period of Natural disaster or emergency and give any order or direction necessary for the plan to be implemented;
- (d) to oversee the implementation of risk reduction, preparedness, response and recovery activities by all government agencies and other agencies performing roles related to disaster management;
- (e) to discharge any other responsibility or exercise any other power as provided by this Act or the National Disaster Management Plan.

(3) The Deputy Chairperson may exercise the powers of the Chairperson when the Chairperson is unable to exercise those powers.

6. The Disaster Advisory Committee-(1) A Disaster Advisory Committee is established and shall consist of heads of relevant government and other organisations determined by the Minister.

(2) The appointed members of the Disaster Advisory Committee may nominate a representative to discharge his or her functions as a member of the Disaster Advisory Committee.

(3) The Disaster Advisory Committee shall be chaired by the Chief Executive Officer, who may delegate to any member of the Committee the responsibility for calling and chairing any meeting of the Committee.

(4) The Disaster Advisory Committee may appoint a Deputy Chairperson from among its members who may discharge the responsibilities of the Chairperson.

(5) The Disaster Advisory Committee may establish such committees or working groups as it may consider necessary and may:

- (a) appoint the members of the committees or working groups;
- (b) determine the roles, functions and responsibilities of the committees or working groups which shall be consistent with this Act and the National Disaster Management Plan; and
- (c) impose any requirement on the committees or working groups that is consistent with this Act and the National Disaster Management Plan.

(6) The functions and responsibilities of the Disaster Advisory Committee are to:

- (a) assess and review any approaching disaster or emergency to expedite the giving of advice to the National Disaster Council, and the timely implementation of the National Disaster Management Plan;

- (b) ensure that the planning requirements provided for under Parts 3 and 4 are undertaken in compliance with the provisions of those Parts;
- (c) review and endorse any plan prepared under Part 4 and any draft of the National Disaster Management Plan, or any modification to it, prior to them being submitted to the National Disaster Council;
- (d) endorse proposals made by the Disaster Management Office for undertaking any activity relating to raising the capacity within Samoa to effectively respond to disasters and emergencies;
- (e) ensure that the National Disaster Management Plan is publicised and that all sectors of the community are made aware of the possible threats arising from disasters and emergencies, and of the need to be prepared to respond to such threats so as to protect human life and health and the environment;
- (f) ensure that a coordinated inter-agency approach is undertaken in relation to all disaster and emergency planning, risk reduction and preparedness, and response and recovery activities;
- (g) implement the decisions of the National Disaster Council and the Minister to give proper effect to the provisions of this Act and the National Disaster Management Plan;
- (h) ensure that all response agencies and bodies represented on the Disaster Advisory Committee regularly undertake risk reduction activities;
- (i) ensure that preparedness activities are undertaken as required, including awareness raising, training, simulation exercises, planning and the establishment of facilities and communications;
- (j) co-ordinate recovery activities according to the requirements of Part 4;
- (k) attend and give advice at meetings of the National Disaster Council; and

- (l) implement directions and decisions of the National Disaster Council during a period of emergency to co-ordinate response activities and the implementation of the National Disaster Management Plan during disasters and emergencies.

(7) Each member of the Committee shall be paid from the funds of the Ministry, such remuneration and allowances as are approved by Cabinet from time to time for members of government Boards and Committees.

7. The role of the Ministry-(1) A Disaster Management Office shall be established within the Ministry.

(2) The Disaster Management Office shall be headed by the Chief Executive Officer, who shall be responsible for the direction and control of the Office.

(3) The Chief Executive Officer may delegate in writing all or any of the powers relating to the management of the Disaster Management Office to another officer of the Ministry, and any such delegation:

- (a) may be made subject to such conditions, exceptions or qualifications as are specified in the written notice of delegation;
 - (b) is revocable at will; and
 - (c) does not affect the exercise of a power or the performance of a function by the Chief Executive Officer.
- (4) The staff of the Disaster Management Office include:
- (a) such officers of the Ministry as are appointed from time to time to positions within the Disaster Management Office; and
 - (b) other officers who may be seconded to the Disaster Management Office from the Police Service, any response agency or any other body as may be approved from time to time by the Minister, and subject to any terms and conditions agreed to between the Chief Executive Officer and the seconding agency.

(5) The functions and responsibilities of the Disaster Management Office are to:

- (a) assist response agencies and the community generally to identify, implement and participate in disaster risk reduction activities and programmes;
- (b) assist the response agencies and other entities to prepare plans in accordance with Part 4;
- (c) collate the plans prepared under Part 4 and refer them to the Disaster Advisory Committee for review and then to the National Disaster Council for approval;
- (d) provide administrative support to the Disaster Advisory Committee and the National Disaster Council;
- (e) undertake such activities as are necessary to prepare for responses to disasters and emergencies;
- (f) coordinate response activities and the implementation of the National Disaster Management Plan during disasters and emergencies;
- (g) provide facilities and staff for the National Emergency Operations Centres;
- (h) publicise the National Disaster Management Plan and liaise with communities and private industry representatives to raise awareness about disaster planning and the approved processes for responding to disasters and emergencies;
- (i) undertake such activities as are necessary to assist sectors of the community to recover from the effects of disasters and emergencies; and
- (j) implement decisions of the National Disaster Council, the Disaster Advisory Committee, and the Minister to give proper effect to the provisions of this Act and the National Disaster Management Plan.

8. National Emergency Operation Centres - On the advice of the Disaster Advisory Committee, the National Disaster Council may endorse one or more facilities to be a National Emergency Operation Centre.

Part 3 - National Disaster Management Planning

9. The National Disaster Management Plan-(1) There shall be a National Disaster Management Plan for Samoa which shall be prepared, approved and applied in accordance with this Part.

(2) The National Disaster Council shall have the responsibility of approving the National Disaster Management Plan and may delegate to the Disaster Advisory Committee the power to approve:

- (a) any modification that is necessary to be made to the Plan from time to time; and
- (b) any of the parts of the Plan that are to be added to it in accordance with this section.

(3) The National Disaster Management Plan shall consist of the plans prepared and approved in accordance with Part 4 relating to:

- (a) the objectives of the National Disaster Management Plan; and
- (b) a comprehensive risk profile for all parts of Samoa; and
- (c) arrangements to be implemented aimed at disaster risk reduction; and
- (d) operational arrangements, including matters related to -
 - (i) preparedness arrangements;
 - (ii) response arrangements;
 - (iii) recovery arrangements; and
 - (iv) the roles, responsibilities and organisation of government agencies, non-government organisations and district or village committees; and

- (e) the procedures for approving and managing international assistance sought or offered in responses to any needs arising in Samoa from disasters and emergencies; and
 - (f) other appropriate financial arrangements to support all aspects of the Plan; and
 - (g) any other aspect of disaster and emergency management which the National Disaster Council considers will achieve the objects of this Act.
- (4) After any approval has been given in accordance with subsection (2), the Chief Executive Officer shall:
- (a) ensure that the approved Plan, any approved part of it or any approved modification to it, is published in Samoan and in English in the Savali and one other newspaper circulating in Samoa;
 - (b) arrange for the Minister to certify any publication made under paragraph (a); and
 - (c) circulate the published Plan, part of the Plan or modification of the Plan to all response agencies and any other organisation or person that the Chief Executive Officer considers appropriate.

10. Exercising powers under the National Disaster Management Plan-(1) Notwithstanding the provisions of any other Act, during any period of emergency the powers conferred on any agency, organisation or person under the National Disaster Management Plan shall be exercisable in accordance with the terms and requirements stated in the National Disaster Management Plan.

(2) The powers conferred on any agency, organisation or person under the National Disaster Management Plan shall be exercisable for the period of the emergency unless they are rescinded or altered by any Emergency Order made by the Head of State under Article 106 of the Constitution.

(3) During any period of a declaration of disaster, the National Disaster Council may determine that only some of the powers conferred on any of the agencies, organisations or persons under the National Disaster Management Plan may be exercised as the situation requires.

10A. Overseas emergency personnel-(1) Notwithstanding the provisions of any other Act, during any period of emergency, the Chairperson of the National Disaster Council may waive any entry or other requirement for emergency personnel entering Samoa at the request of the Government.

(2) Any waiver granted under subsection (1) only operates for the period of emergency.

Part 4 - Response Agency and Community Planning

11. Response agencies-(1) The agencies listed in the Schedule are the response agencies for the purposes of this Act.

(2) The Schedule may be amended by regulations.

(3) Where any response agency ceases to exist or changes its title, the entity taking the place of the response agency shall be deemed to be a response agency for the purposes of this Act.

12. Response agency plans-(1) Unless exempted under the National Disaster Management Plan or by the National Disaster Council, each response agency shall prepare a response agency plan which shall incorporate the following matters to apply during times of disaster and emergency:

- (a) arrangements to secure the health, safety and well being of employees; and
- (b) arrangements to continue the provision of services as effectively and efficiently as possible; and
- (c) determination of priorities for the provision of essential services in the event of a lessening of capacity to provide normal service; and
- (d) identification of other agencies and companies with whom cooperative action is required and the means by which such cooperation can be fully achieved; and

- (e) identification of external agencies to undertake the provision of certain essential services in the event that capacity within Samoa is diminished below operational levels; and
- (f) the need to exercise specific powers to maximise capacity to provide services and to minimise risks to human life and health and to the environment, and the identification of the appropriate person or office-holder to exercise such powers; and
- (g) any other necessary matter identified by the response agency or the Disaster Advisory Committee.

(2) In addition to the response arrangements specified under subsection (1) the response agency plans prepared by the response agencies shall:

- (a) identify the types of disasters or emergencies likely to require a response by the agency and the nature of the anticipated effects of the disasters or emergencies on the agency;
- (b) identify activities and procedures aimed at reducing risks and minimising the impacts of any disaster or emergency on the operations of the agency;
- (c) include an implementation plan in relation to the matters identified pursuant to paragraphs (a) and (b);
- (d) plan for the most speedy possible recovery from the impacts of disasters and emergencies.

(3) Plans prepared under this section shall be submitted to the Disaster Advisory Committee, in accordance with any direction made by the Committee and communicated to the agency by the Chief Executive Officer.

(4) Plans submitted under subsection (3) shall be reviewed by the Disaster Advisory Committee to ensure that they comply with the requirements of subsection (1) and are appropriate to be included in the National Disaster Management Plan.

13. Plans by educational institutions-(1) All schools and tertiary institutions shall prepare response agency plans in accordance with any requirements imposed by the Disaster Advisory Committee.

- (2) The Plans prepared under subsection (1) shall aim to:
- (a) protect the welfare of students and staff during times of disaster or emergency through, inter alia, the provision of shelter, food, drinking water, clothing and other necessities of life; and
 - (b) arrange for the safe accommodation of students until their tuition resumes or arrangements can be made for their return to their places of residence; and
 - (c) continue or resume teaching as soon as practicable after the disaster or emergency abates; and
 - (d) minimise any interruptions to the education offered to students; and
 - (e) raise awareness amongst students and staff of the procedures to be undertaken and applied during disasters and emergencies.

14. Other agencies and organisations to develop plans-(1) The Disaster Advisory Committee may invite any agency or organisation to develop a disaster management plan.

(2) A plan developed under subsection (1) may become a part of the National Disaster Management Plan in accordance with the provisions of this Part.

- (3) Bodies responsible for representing the interests of:
- (a) hotel and tourist service operators; and
 - (b) commercial and industrial interests; and
 - (c) employees and workers in sectors likely to be affected by disasters and emergencies; and
 - (d) non-government organisations with an identified role to play in relation to disaster and emergency management; and
 - (e) villages and other sectors of the community,
- may liaise with the Disaster Advisory Committee in preparing their plans.

15. Approval of plans-(1) Subject to subsection (3), all plans prepared under this Part shall be reviewed and endorsed by the Disaster Advisory Committee prior to being submitted for approval by the National Disaster Council.

(2) All plans approved by the National Disaster Council under subsection (1) shall become part of the National Disaster Management Plan and shall take effect in accordance with the provisions of this Act.

(3) Notwithstanding subsection (1), the National Disaster Management Plan may provide, and the National Disaster Council may decide, that any particular plan or classification of plan required to be prepared under this Part may be approved by the Disaster Advisory Committee, and upon that approval being given, such a plan shall become part of the National Disaster Management Plan in accordance with the provisions of this Part.

16. Implementation of plans-(1) It is the responsibility of each response agency, educational institution and other agencies or organisations to which section 14 applies to effectively implement their plans.

(2) The implementation of all plans shall be done in accordance with:

- (a) the provisions of this Act; and
- (b) the provisions of the National Disaster Management Plan; and
- (c) any Emergency Order made under Article 106 of the Constitution applying during a period of emergency.

17. Review and amendment of plans-(1) All plans prepared and approved in accordance with this Part shall be reviewed at periods determined by the Disaster Advisory Committee.

(2) The Disaster Advisory Committee shall ensure that the National Disaster Management Plan, and each of its component parts, are reviewed:

- (a) whenever a review is considered necessary by the Disaster Advisory Committee; or
 - (b) no later than 3 years after the adoption of the National Disaster Management Plan in accordance with this Act; or
 - (c) after each period of emergency.
- (3) The Disaster Management Office shall provide assistance to the response agencies, educational institutions and the other agencies and organisations who have approved plans under this Part, to review and amend their respective plans in accordance with this section.
- (4) All amendments to any plan arising from the reviews undertaken under this section shall be submitted to the Disaster Advisory Committee for review and endorsement.
- (5) The Disaster Advisory Committee shall submit all amended plans to the National Disaster Council for approval.
- (6) The National Disaster Management Plan shall be amended in accordance with any approved amendment made in accordance with this section.

Part 5 – Disasters and Emergencies

18. Proclamations of emergency-(1) Nothing in this law affects the power of the Head of State to make proclamations of emergency under Article 105 of the Constitution or Emergency Orders under Article 106 in the event of any disaster or emergency.

(2) The provisions of this Act are to be read subject to the provisions of Part X of the Constitution and all functions, responsibilities and powers provided for under this Act are to be discharged and exercised subject to any exercise of the powers under Part X of the Constitution in relation to any natural catastrophe or other emergency.

19. Declarations of disaster-(1) Subject to subsection (2), the Chairperson of the National Disaster Council may issue a declaration of disaster which would activate with immediate effect the disaster response provisions of the National Disaster Management Plan in the event of any disaster.

(2) A declaration of disaster shall only be made under subsection (1) if the Chairperson of the National Disaster Council is of the opinion that:

- (a) it is not possible to make a Proclamation of Emergency in accordance with Part X of the Constitution due to the absence or unavailability of the Head of State; or
- (b) the circumstances to be addressed do not warrant the formal Proclamation of an Emergency in accordance with Part X of the Constitution due to the limited extent of their impacts or likely impacts; and
- (b) the matters that need to be implemented to address the threats arising in accordance with subsection (4) can be implemented within a 48 hour period.

(3) Upon the issuing of a declaration of disaster, section 10 takes immediate effect and applies throughout the period of the declaration of disaster.

(4) Subject to subsection (5), a declaration or disaster terminates:

- (a) 48 hours after it is made; or
- (b) when a Proclamation of Emergency is made during the currency of the declaration or disaster.

(5) The Chairperson of the National Disaster Council may extend the operation of the declaration for another 48 hour period in circumstances where the disaster has not ceased and circumstances which are beyond the control of any person have prevented the making of Proclamation of Emergency.

(6) A declaration of disaster may apply to the whole or any part of Samoa.

20. Coordination of recovery activities-(1) The Disaster Advisory Committee has responsibility for coordinating recovery activities in the aftermath of any disaster or emergency.

(2) The Disaster Advisory Committee shall undertake its responsibilities under subsection (1):

- (a) in accordance with any directions given from time to time by the National Disaster Council; and
- (b) subject to the authority of the Ministry of Finance to exercise controls over securing loan or grant funds from any source.

Part 6 - Regulatory Powers and Offences

21. Powers of police officers - Subject to any operational direction given by the Commissioner, during any period of emergency police officers have the power to:

- (a) give necessary and reasonable directions to any person who is considered to be at risk or to be placing other persons at risk;
- (b) take reasonable steps to secure compliance with any direction given under paragraph (a), including the use of reasonable force to remove a person to safety and ensure the continuity of that persons safety;
- (c) take any reasonable steps necessary to protect property threatened during the emergency events;
- (d) require any person to leave or to refrain from entering any area declared by the Commissioner, or any officer authorised by the Commissioner, to be an area in which risk to human life or health exist; and
- (e) do any thing authorised by the National Disaster Management Plan.

22. Appointment of auxiliary police officers and temporary employees-(1) During any period of emergency the Commissioner may:

- (a) appoint such persons as auxiliary police officers under section 10 of the Police Service Act 1977 as may be required; or

(b) order such auxiliary police officer into active service under section 10 of the Police Service Act 1977 as may be required; or

(c) engage such temporary employees under section 11 of the Police Service Act 1977 as may be required.

(2) The Police Service Act 1977 is to be read subject to this section.

23. Offences-(1) A person who:

(a) interferes with the operation of any National Emergency Operations Centre;

(b) interferes with any equipment at a National Emergency Operations Centre so as to affect the operational capacity of the centre;

(c) hinders the work of any person lawfully discharging any function or responsibility at a National Emergency Operations Centre,

commits an offence and is liable to a fine not exceeding 50 penalty units or to a term of imprisonment not exceeding 1 year, or both.

(2) A person who:

(a) hinders or obstructs any police officer in the performance of his or her duty during a period of emergency; or

(b) fails to comply with any direction given by a police officer under section 21; or

(c) hinders or obstructs any other person authorised to exercise any power in accordance with the National Disaster Management Plan during a period of emergency; or

(d) fails to comply with any lawful direction given by any person authorised to exercise any power in accordance with the National Disaster Management Plan during a period of emergency,

commits an offence and is liable to a fine not exceeding 100 penalty units or to a term of imprisonment not exceeding 2 years, or both.

Part 7 – Miscellaneous

24. Indemnity – A person exercising a function or power under this Act or the National Disaster Management Plan does not incur civil or criminal liability for an act or omission done honestly and without negligence for this Act or the Plan.

25. Regulations – The Head of State acting on the advice of Cabinet may make regulations prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

SCHEDULE

Section 11

Response Agencies

Ministry of Agriculture and Fisheries
Ministry of Commerce, Industry and Labour
Ministry of Communication and Information Technology
Ministry of Education, Sports and Culture
Ministry of Finance
Ministry of Foreign Affairs and Trade
Ministry of Health
Ministry of Justice and Courts Administration
Ministry of Natural Resources and Environment
Ministry of Police and Prisons
Ministry of Prime Minister and Cabinet
Ministry for Revenue
Ministry of Women, Community and Social Development
Ministry of Works, Transport and Infrastructure
Digicel (Samoa) Limited
Electric Power Corporation
Origin Energy Samoa Limited
Samoa Airport Authority
Samoa National Health Services
Samoa Broadcasting Corporation
Samoa Fire and Emergency Services Authority

Samoa Ports Authority
Samoa Red Cross
Samoa Shipping Corporation
Samoa Water Authority
SamoaTel Limited
Petroleum Products Supplies
BOC Gases
National Council of Churches

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Environment**

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